



990615-02

**THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**

**RESOLUTION OF THE PANEL OF ADMINISTRATORS**

**Re: Approval of Amendments to the Occupational  
Health and Safety Regulation**

**DEPOSITED**

**JUN 22 1999**

B.C. REG. 185/99

**WHEREAS:**

The Panel of Administrators has previously adopted the Occupational Health and Safety Regulation (B.C. Reg. 296/97);

**AND WHEREAS:**

On July 30, 1998 Royal Assent was given to the *Workers Compensation (Occupational Health and Safety) Amendment Act, 1998* (the "Amendment Act") which will, when brought fully into force, create a new Part 3 to the *Workers Compensation Act* titled Occupational Health and Safety;

**AND WHEREAS:**

On September 1, 1998, by Order in Council certain provisions of the Amendment Act were brought into force; namely,

- the part of section 15 that enacts sections 225, 227 and 230 of the *Workers Compensation Act*, and
- section 26 of the Transitional Provisions;

**AND WHEREAS:**

Section 26 of the Amendment Act requires the Board to review its regulations as soon as is reasonably practicable to identify provisions that conflict with the new Part 3 of the *Workers Compensation Act* and to amend the regulations within its jurisdiction to remove or resolve the conflict;

**AND WHEREAS:**

The Board has reviewed the Occupational Health and Safety Regulation and has consulted with representatives of the employer and worker communities on proposed amendments to it;

**AND WHEREAS:**

On May 28, 1999 by B.C. Reg. 162/99, the following additional provisions of the Amendment Act were ordered to come into effect on October 1, 1999:


- sections 1 to 14;
- the part of section 15 that enacts Part 3 of the *Workers Compensation Act*, except the definition of "right to refuse unsafe work" in section 106, sections 141 to 149 and section 199(d);
- sections 16 to 25 and 27 to 37;

**THE PANEL OF ADMINISTRATORS RESOLVES THAT:**

1. The Occupational Health and Safety Regulation is amended as shown in Appendix A to this resolution, which is to be provided to the Registrar of Regulations for the purpose of deposit.
2. The amendments to the Occupational Health and Safety Regulation take effect on October 1, 1999.
3. The amended Occupational Health and Safety Regulation will be published in a format that includes the workplace provisions of Part 3 of the *Workers Compensation Act*.

Dated at Richmond, British Columbia June 15, 1999.

**By the Workers' Compensation Board**

  
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**DON COTT,**  
**CHAIR, PANEL OF ADMINISTRATORS**

APPENDIX A  
AMENDMENTS TO THE OCCUPATIONAL HEALTH AND SAFETY REGULATION

- 1 *The Occupational Health and Safety Regulation (B.C. Reg. 296/97) is amended in section 1.1 by repealing the definitions of "committee", "employer", "occurrence", "officer", "owner", "worker", "worker health and safety representative" and "workplace" and by adding the following new definition:*

*"incident" includes an accident or other occurrence which resulted in or had the potential for causing an injury or occupational disease.*

- 2 *Section 2.1 is amended by striking out "Part I" and substituting "Part 3", and by striking out "and where applicable, to all persons within the scope of the Workplace Act".*

- ✓ 3 *Sections 2.4 and 2.5 are repealed.*

- ✓ 4 *Subsections (2) and (3) of section 2.6 are repealed, and section 2.6 is renumbered as section 2.4.*

- ✓ 5 *Section 2.7 is amended*

*(a) by repealing subsection (1),*

*(b) in subsection (3) by striking out "When an occupational health and safety committee or representative" and substituting "When a joint committee or a worker health and safety representative",*

*(c) by renumbering subsections (2) and (3) as subsections (1) and (2) respectively, and*

*(d) by renumbering the section as section 2.5.*

- ✓ 6 *Section 2.8 (b) is repealed, and section 2.8 is renumbered as section 2.6.*

- ✓ 7 *Section 2.9 is renumbered as section 2.7.*

- ✓ 8 *Sections 2.10 and 2.11 are repealed.*

- ✓ 9 *Section 2.12 is amended*

*(a) in subsections (1), (2) and (3) by striking out " , or by the Workplace Act, where applicable",*

*(b) in subsection (4) by striking out " , or of the Workplace Act, where applicable," and by striking out "applicable Act." and substituting "Act.", and*

*(c) by renumbering section 2.12 as section 2.8.*

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- 10 *Section 3.1 is amended by striking out "section 3.4" and substituting "section 3.3".*
- ✓ 11 *Section 3.3 is repealed.*
- ✓ 12 *Section 3.4 is amended*  
*(a) in paragraph (b) by striking out "as required by sections 3.15 to 3.19,"*  
*(b) in paragraph (d) by striking out "accident" and substituting "incident",*  
*(c) in paragraph (e) by striking out "accidents" and substituting "incidents" and by striking out "as required by sections 3.7 to 3.14,"*  
*(d) by repealing paragraph (f) and substituting the following:*  
*(f) the maintenance of records and statistics, including reports of inspections and incident investigations, with provision for making this information available to the joint committee or worker health and safety representative, as applicable and, upon request, to an officer, the union representing the workers at the workplace or, if there is no union, the workers at the workplace, and,*  
*(e) by repealing paragraph (g),*  
*(f) in paragraph (h) by striking out "as required by section 3.22", and by renumbering it as paragraph (g), and*  
*(g) by renumbering the section as section 3.3.*
- ✓ 13 *The headings before sections 3.5 and 3.7 are repealed and sections 3.5 to 3.10 are repealed.*
- ✓ 14 *Section 3.11 is amended*  
*(a) in subsection (1) by striking out everything before paragraph (a) and substituting "An employer must ensure that an incident investigation report required by Division 10 of Part 3 of the Workers Compensation Act contains",*  
*(b) in subsection (1) (a), (b) and (d) to (h) by striking out "accident" and "accidents" wherever they appear and substituting "incident" and "incidents" respectively,*  
*(c) by repealing subsection (2), and*  
*(d) by renumbering the section as section 3.4.*
- ✓ 15 *Sections 3.12 to 3.14 are repealed.*
- ✓ 16 *Sections 3.15 to 3.17 are renumbered as sections 3.5 to 3.7 respectively.*
- ✓ 17 *Section 3.18 is repealed and the following substituted:*

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**Committee participation**

**3.18** An inspection required by section 3.5 and a major inspection required by section 3.7 must, where feasible, include the participation of members of the joint committee or the worker health and safety representative, as applicable, but

- (a) if there is no committee or worker health and safety representative the employer must designate an employer representative and the union must designate a worker representative, or
- (b) if there is no union the employer must invite the workers to designate one of their number.

✓ **18** *Sections 3.18 to 3.21 are renumbered as sections 3.8 to 3.11 respectively.*

✓ **19** *Sections 3.22 and 3.23 are repealed, and section 3.24 is renumbered as section 3.12.*

**20** *Section 3.25 is amended*

- (a) *by renumbering it as section 3.13,*
- (b) *by striking out "section 3.24" in both places and substituting "section 3.12", and*
- (c) *by striking out "disciplinary action" in subsection (1) and substituting "discriminatory action as defined in section 150 of Part 3 of the Workers Compensation Act", and by striking out "disciplinary" in subsection (2) and substituting "discriminatory".*

**21** *Section 4.19 (1) is amended by adding "or employer" after "supervisor".*

**22** *Section 4.29 (c) is amended by adding "of the Workers Compensation Act and Part 3 of this Regulation" after "Part 3".*

**23** *Section 4.53<sup>(1)</sup> is amended by striking out everything before paragraph (a) and substituting "The employer must consult with the joint committee or the worker health and safety representative, as applicable, with respect to the following when they are required by the Ergonomics (MSI) Requirements:".*

**24** *Section 4.78 (1) is repealed and the following substituted: "To maintain acceptable air quality, the employer or, if the employer is not responsible for maintenance of the ventilation system, the owner of the ventilation system must establish an effective preventive maintenance program for the ventilation system".*

**25** *Section 4.84 is repealed and the following substituted:*

**Definitions**

**4.84** In sections 4.84 to 4.106 (the Occupational Environment Requirements), unless the context otherwise requires:

**"factory"** means a building, premises, workshop, structure, room or place where

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- (a) any manufacturing process or assembling in connection with the manufacturing of products is carried on,
- (b) thermal, hydraulic, electrical or other form of energy or power is used to move or work any machinery or device in the preparing, inspecting, manufacturing or finishing, or in a process incidental to the preparing, inspecting, manufacturing or finishing, of a product or is used to aid the manufacturing carried on there, or
- (c) manual labour is performed by way of trade or for purposes of gain in or incidental to the making of a product, or the altering, repairing, ornamenting, finishing, storing, cleaning, washing or adapting for sale of a product, and includes a facility used for the maintenance of aircraft, locomotives and motor vehicles;

**“industrial establishment”** means a factory, office or shop, but does not include a private house, or place used as a dwelling unless it is in a class specified by regulation to be a factory, office or shop;

**“office”** includes a building occupied and used for office purposes or that part of a building occupied and used for office purposes;

**“shop”** means a place where

- (a) goods are handled or exposed or offered for sale, or
- (b) services are offered for sale.

26 *Section 4.85 (1) is repealed and the following substituted:*

(1) Sections 4.86 to 4.106 apply to a factory, office and shop.

✓ 27 *Section 4.87 is repealed.*

28 *Section 4.88 is amended by striking out “in the Workplace Act” and substituting “in Part 3 of the Workers Compensation Act”.*

29 *Section 4.89 is amended by striking out “the Act” and substituting “Part 3 of the Workers Compensation Act”.*

✓ 30 *Sections 4.88 and 4.89 are renumbered as sections 4.87 and 4.88 respectively.*

✓ 31 *Section 4.90 (1) is renumbered as section 4.89, and subsections (2) to (13) of section 4.90 are renumbered as subsections (1) to (12) respectively of that section.*

32 *Section 5.1 is amended by repealing the definition of “hazardous substance”.*

33 *Section 5.16 is amended*

(a) *by repealing subsection (1) (b) and substituting the following:*

(b) *to the joint committee or to the worker health and safety representative, as applicable, , and*

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*(b) by repealing subsection (2) (c) (ii) and substituting the following:*

*(ii) members of the joint committee or the worker health and safety representative, as applicable.*

34 *Section 5.18 (2), (3) and (4) are amended by striking out "subsection (1)" and substituting "section 5.18".*

✓ 35 *Section 5.18 (1) is renumbered as section 5.18, and subsections (2) to (5) of section 5.18 are renumbered as sections (1) to (4) respectively of section 5.19.*

✓ 36 *Sections 5.19, 5.20 and 5.21 are repealed.*

✓ 37 *Subsections (1), (2) and (3) of section 5.22 are renumbered as sections 5.20, 5.21 and 5.22 respectively.*

38 *Section 5.53 (1) and section 5.55 (1) are amended by striking out "harmful" and substituting "hazardous".*

39 *Section 5.54 (3) is amended by striking out "occupational health and safety committee, if any, or the worker health and safety representative, if any" and substituting "joint committee or the worker health and safety representative, as applicable".*

40 *Section 5.59 is amended*

*(a) in subsections (1) and (2) by striking out "harmful" and substituting "hazardous", and*

*(b) in subsection (2) by striking out "occupational health and safety committee, if any, or worker health and safety representative, if any" and substituting "joint committee or the worker health and safety representative, as applicable".*

41 *Section 5.97 (3) is amended by striking out "occupational health and safety committee, if any, or the worker health and safety representative, if any" and substituting "joint committee or the worker health and safety representative, as applicable".*

42 *The third sentence of the first paragraph of the Preamble to Table 5-4: Exposure Limits and Designations, is amended by striking out "harmful" and substituting "hazardous".*

43 *Section 6.10 (2) is amended by striking out "occupational health and safety committee, if any, or health and safety representative, if any" and substituting "joint committee or the worker health and safety representative, as applicable".*

44 *Section 6.72 is repealed and the following substituted:*

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**Pesticide labels**

6.72 The employer must ensure that a pesticide for use in the workplace has been registered and labelled by the manufacturer in accordance with the *Pest Control Products Act* (Canada).

45 *Section 6.76 is repealed and sections 6.74 and 6.75 are renumbered as sections 6.75 and 6.76 respectively.*

46 *The following is added as section 6.74:*

**Pesticide use**

6.74 The employer must ensure that a pesticide for use in the workplace is used in accordance with the requirements stated on the label and with good application practice.

47 *Section 7.8 (2) is amended by striking out "the occupational health and safety committee, if any, or the health and safety representative, if any" and substituting "and the joint committee or the worker health and safety representative, as applicable".*

48 *Section 7.23 is amended by striking out "an occupational health and safety committee or representative" and substituting "a joint committee or worker health and safety representative".*

49 *Sections 8.4 and 8.6 (1) are amended by striking out "the occupational health and safety committee, if any, or the health and safety representative, if any" and substituting "the joint committee or the worker health and safety representative, as applicable".*

50 *Section 8.9 (1) (d) is amended by adding "or employer" after "supervisor".*

51 *Section 8.18 is amended by striking out "harmful" and substituting "hazardous".*

52 *Section 9.11 (1) (b) is repealed and the following substituted:*

(b) in consultation with the person assigned overall responsibility for administration of the confined space entry program and with the joint committee or the worker health and safety representative, as applicable.

53 *Sections 16.34 (2) and 17.24 (2) are amended by adding "or employer" after "supervisor".*

54 *Section 20.1 is amended by repealing the definition of "principal contractor".*

55 *The following section is added:*



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**Qualified contractor**

**20.1A** If a person agrees with the owner to be the prime contractor as provided in section 118 of Part 3 of the *Workers Compensation Act*, then that person must be qualified.

**56** *Section 20.2 is amended*

- (a) in subsection (1) by striking out "a principal contractor, the principal contractor" and substituting "another person to be the prime contractor, then that person", and*
- (b) in subsection (2) (a) by striking out "the principal contractor" and substituting "any other person engaged to be the prime contractor".*

**57** *Section 20.3 is amended*

- (a) by repealing subsection (1),*
- (b) by repealing subsection (2) and substituting the following:*
  - (2) If a construction project involves the work of 2 or more employers or their workers, each employer must notify the owner, or the person engaged by the owner to be the prime contractor, in advance of any undertaking likely to create a hazard for a worker of another employer.*
- (c) in subsection (3) (a) by striking out "a principal contractor, the principal contractor" and substituting "another person to be the prime contractor, then that person",*
- (d) in subsection (3) (a) (ii) by striking out "subsection (5)" and substituting "subsection (4)",*
- (e) in subsection (3) (b) by striking out "subsection (3) (a) (i)" and substituting "paragraph (a) (i)",*
- (f) in subsections (4), (5) and (5) (a) by striking out "subsection (3) (a)" and substituting "subsection (2) (a)", and*
- (g) by renumbering subsections (2) to (5) as subsections (1) to (4) respectively.*

**58** *Section 20.30 (2) is amended by adding "or employer" after "supervisor".*

**59** *Section 21.1 is amended by repealing the definition of "dangerous occurrence" and substituting the following:*

*"dangerous incident" means an accident or near miss occurrence caused by or as a result of the use of explosives, and also includes an unexpected result or problem with explosive products;.*

**60** *Section 21.3 by striking out "occurrence" wherever it appears and substituting "incident".*

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61 *Section 21.13 is amended by striking out everything after "employer must" and substituting "immediately investigate the incident and may suspend the blaster from performing the duties of a blaster."*

62 *Section 21.15 is repealed, section 21.14 is renumbered as section 21.15 and the following new section 21.14 is added:*

**Submitting reports**

21.14 The employer must submit to the board a report of the investigation carried out under section 21.13.

63 *Section 22.5 is amended*

*(a) by repealing subsection (1) and substituting the following:*

(1) Before commencing an underground working, the owner, or if the owner engages another person to be the prime contractor, then that person, must meet with designated officers to review the requirements of this Regulation and other information pertinent to the underground working. , and

*(b) in subsection (2) by striking out "principal" and substituting "prime", and by striking out "or the owner's agent".*

64 *Section 22.6 is amended*

*(a) by repealing subsection (1) and substituting the following:*

(1) No later than 30 days before commencing an underground project, written notification of the project must be given to the board by the owner or another person engaged by the owner to be the prime contractor, except that if there is more than one prime contractor employed on the project the notice must be given by the owner. ,

*(b) by repealing subsection (2) (c) and substituting the following:*

(c) the name and address of the owner and of any other person engaged to be the prime contractor, and of the bonding company, if appropriate, ,

*(c) in subsection (2) (f) by striking out "principal contractor or the owner" and substituting "owner or another person engaged to be the prime contractor", and*

*(d) in subsection (2) (h) (iii) by striking out "principal contractor or owner" and substituting "owner or another person engaged to be the prime contractor".*

65 *Section 22.7 (2) (d) is repealed and the following substituted:*

(d) any incident required to be reported by Part 3 of the *Workers Compensation Act* or by this Regulation, and .

66 *Section 22.13 (1) is amended by striking out "worker health and safety representative" and substituting "underground worker safety representative".*

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67 *Section 22.15 is amended by striking out "principal contractor, or if there is no one principal contractor," and substituting "person engaged by the owner to be the prime contractor or, if there is no one such person, then".*

68 *Section 23.4 is amended*

*(a) by repealing subsection (1),*

*(b) by repealing subsection (2) and substituting the following:*

*(2) If an activity involves the work of 2 or more employers or their workers, each employer must notify the owner, or the person engaged by the owner to be the prime contractor, in advance of any undertaking likely to create a hazard for a worker of another employer.,*

*(c) in subsection (3) (a) by striking out "a principal contractor, the principal contractor," and substituting "another person to be the prime contractor, then that person,"*

*(d) in subsection (3) (a) (ii) by striking out "subsection (5)" and substituting "subsection (4)",*

*(e) in subsection (3) (b) by striking out "subsection (3) (a) (i)" and substituting "paragraph (a) (i)",*

*(f) in subsections (4), (5) and (5) (a) by striking out "subsection (3) (a)" and substituting "subsection (2) (a)", and*

*(g) by renumbering subsections (2) to (5) as subsections (1) to (4) respectively.*

✓ 69 *Section 24.7 is repealed.*

✓ 70 *Sections 24.5 and 24.6 are renumbered as sections 24.6 and 24.7 respectively, and subsections (6) and (7) of section 24.4 are renumbered respectively as subsections (1) and (2) of a new section 24.5.*

71 *Section 24.34 is amended*

*(a) in subsection (1) by striking out everything before paragraph (a) and substituting "An incident investigation report meeting the requirements of Part 3 of the *Workers Compensation Act* and Part 3 of this Regulation (Rights and Responsibilities) must be submitted to the board as soon as possible if any of the following occurs during a diving operation:"*

*(b) in subsection (1) (e) by striking out "incidents" and substituting "events",*

*(c) in subsection (2) by striking out "occurrence" and substituting "incident", and*

*(d) in subsection (3) by striking out "dangerous diving occurrence" and substituting "diving incident".*

- 72 *Section 26.4 (1) is amended by striking out everything after "acceptable to the board," and substituting the following:*
- (a) by the employer, or
  - (b) if the operation involves workers of more than one employer, or workers and independent operators, by the owner or the person engaged by the owner to be the prime contractor.
- 73 *Section 26.85 (2) (a) is amended by adding "or employer" after "supervisor".*
- 74 *Section 29.16 (1) is amended by striking out "The principal contractor, or the owner if there is no principal contractor," and substituting "The owner, or the person engaged by the owner to be the prime contractor,".*
- 75 *Sections 30.17 (1) and 30.18 (1) are amended by striking out "harmful" and substituting "hazardous".*
- 76 *Section 31.1 is amended*
- (a) *in the definition of "incident" by adding "emergency" before "incident", and*
  - (b) *in the definition of "incident commander" by adding "emergency" after "an".*
- 77 *Section 31.3 (1) is repealed and the following substituted:*
- (1) *If an employer is required under Part 3 of the **Workers Compensation Act** to establish a joint committee or worker health and safety representative, then a fire department or industrial fire brigade operated by the employer must have a separate joint committee or a worker health and safety representative, as applicable.*
- 78 *Section 31.5 is amended*
- (a) *in subsection (1) (a) and (c) by adding "emergency" before "incident", and*
  - (b) *in subsections (1) (d) and (2) (c) by adding "emergency" before "incidents".*
- 79 *Sections 31.6, 31.7, 31.15 and 31.16 are amended by adding "emergency" before "incident".*
- 80 *Section 31.9 is amended by striking out "members of the occupational health and safety committee" and substituting "the joint committee or worker health and safety representative, as applicable".*
- 81 *Section 33.1 is amended by repealing the definition of "principal contractor".*
- 82 *Section 33.3 is repealed.*

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83     *Subsections (5) and (6) of section 33.2 are renumbered respectively as subsections (1) and (2) of a new section 33.3.*

84     *Section 33.20 is repealed and the following substituted:*

**Multiple employer workplaces**

33.20 In workplaces where there are workers of more than one employer, for the purpose of the application of Schedule 1, the number of workers per shift includes all workers on shift at the workplace.

85     *Section 33.24 (5) is amended by striking out "health and safety committee" and substituting "joint committee".*

86     *Section 33.27 is repealed.*

87     *Sections 33.25 and 33.26 are renumbered as sections 33.26 and 33.27 respectively, and subsection (5) of section 33.24 is renumbered as a new section 33.25.*