

Consultation on Proposed Miscellaneous Amendments to the Construction Projects Regulation (O. Reg. 213/91)

Summary of Proposal

The Ministry of Labour (MOL) is proposing to make miscellaneous amendments to the Construction Projects Regulation, O. Reg. 213/91 (“the Regulation”), under the [Occupational Health and Safety Act](#) (OHSA), to correct errors, omissions, and inconsistencies and update outdated references in the Regulation. A few of the proposed amendments would provide clarity for stakeholders and improve enforcement by MOL inspectors.

An outline of the ministry’s proposed regulatory changes is provided in the “[Details of Proposal](#)” section below. The MOL would appreciate receiving feedback on the proposed regulatory amendments and any potential cost implications by December 29, 2014. For more information on how to submit your comments, please see the “[How to participate](#)” section at the end of this document.

Background

The MOL regularly reviews the OHSA and its regulations to ensure accuracy and consistency with current industry practices and standards, increase clarity for stakeholders and improve enforcement by MOL inspectors. The MOL has identified a number of housekeeping-type issues that it is seeking to address through regulatory amendments.

Details of Proposal

Proposed Changes to Regulatory Definitions

Current Regulatory Definition

“adequate”, in relation to a procedure, material, device, object or thing, means,
 (a) sufficient for both its intended and its actual use, and
 (b) sufficient to protect a worker from occupational illness or occupational injury,
and “adequately” has a corresponding meaning;

Proposed Change

The MOL proposes to amend the definition of “adequate” by adding “plan” to the

introductory line of the definition. The proposed change would harmonize the definition with the definition of “adequate” in other sector regulations under the OHSA (e.g., Industrial Establishments Regulation, [Regulation 851](#)).

Current Regulatory Definition

“Building Code” means Ontario Regulation 403/97 made under the *Building Code Act, 1992*;

Proposed Change

The ministry proposes to delete the current definition of “Building Code.” The definition was made redundant when a new definition of “Building Code” was added to the OHSA in 2011, which applies to all regulations under the act.

Proposed Changes to Section 6 – Notices

Current Regulatory Requirement – Subsection 6(1)

- 6 (1) This section applies with respect to a project if,
- (a) the total cost of labour and materials for the project is expected to exceed \$50,000;
 - (b) the work is the erection or structural alteration of a building more than two storeys or more than 7.5 metres high;
 - (c) the work is the demolition of a building at least four metres high with a floor area of at least thirty square metres;
 - (d) the work is the erection, structural alteration or structural repair of a bridge, an earth-retaining structure or a water-retaining structure more than three metres high or of a silo, chimney or a similar structure more than 7.5 metres high;
 - (e) work in compressed air is to be done at the project;
 - (f) a tunnel, caisson, cofferdam or well into which a person may enter is to be constructed at the project;
 - (g) a trench into which a person may enter is to be excavated at the project and the trench is more than 300 metres long or more than 1.2 metres deep and over thirty metres long; or
 - (h) a part of the permanent or temporary work is required by this Regulation to be designed by a professional engineer.

Proposed Regulatory Change

The ministry proposes to revise subsection 6(1) to require a constructor to file a Notice of Project at the MOL office closest to the project when it involves the construction of an

ice road over frozen water, a combination of frozen water and slush, or wetlands intended for the passage of vehicles, machinery or equipment. The proposal responds to a 2013 Coroner's Jury recommendation for the ministry to require constructors to notify the MOL prior to constructing an ice road, regardless of the cost of construction.

Proposed Changes to Sections 26.1 & 26.3 – Guardrail System

Current Regulatory Requirement – Subsection 26.1(2)

26.1 (2) Despite subsection (1), if it is not reasonably possible to install a guardrail system as that subsection requires, a worker shall be adequately protected by at least one of the following methods of fall protection:

1. A travel restraint system that meets the requirements of section 26.4.
2. A fall restricting system that meets the requirements of section 26.5.
3. A fall arrest system, other than a fall restricting system designed for use in wood pole climbing, that meets the requirements of section 26.6.
4. A safety net that meets the requirements of section 26.8.

Proposed Regulatory Change

The ministry proposes to revise subsection 26.1(2) to provide a ranked list of permitted fall protection methods.

Currently, subsection 26.1(2) requires that a worker be adequately protected by at least one of four fall protection methods when it is not reasonably possible to install a guardrail system required by subsection 26.1(1). As of now, the four fall protection methods are not listed in any preferred order or ranking. The proposed regulatory change would rank the fall protection measures, ensuring more protective measures are used as much as possible. The list of ranked fall protection methods, in order of preference, would be:

- a travel restraint system,
- a fall restricting system,
- a fall arrest system, and
- a safety net.

The proposed change reflects common safety practices currently used in the industry and would provide better fall protection for workers than the current requirement.

Current Regulatory Requirement – Subsection 26.1(3)

26.1 (3) The components of any system listed in subsection (2) shall be designed by a professional engineer in accordance with good engineering practice, and shall

meet the requirements of any of the following National Standards of Canada standards that are applicable:

2. CAN/CSA-Z259.2.1-98 (R2008): Fall Arresters, Vertical Lifelines and Rails. ...

Proposed Regulatory Change

The ministry proposes to revise paragraph 2 of subsection 26.1(3) by replacing the reference to CSA Standard “CAN/CSA-Z259.2.1-98 (R2008): Fall Arresters, Vertical Lifelines and Rails” with “CAN/CSA-Z259.2.5-12 - Fall arresters and vertical lifelines.”

In 2012, the CSA replaced all previous versions of its standard “CAN/CSA-Z259.2.1-98” regarding fall arresters, vertical lifelines and vertical rigid rails with two separate standards, “CAN/CSA-Z259.2.5-12 - Fall arresters and vertical lifelines” and “CAN/CSA standard CSA Z259.2.4-12 - Fall arresters and vertical rigid rails.”

The ministry believes that vertical lifeline systems that meet the requirements in CSA Standard “CAN/CSA-Z259.2.5-12 - Fall arresters and vertical lifelines” provide adequate protection to workers from falling. The proposed change would bring the provision into alignment with current industry standards and practice.

However, the ministry does not intend to reference the CSA Standard “CSA Z259.2.4-12 - Fall arresters and vertical rigid rails” in the Regulation. The ministry believes that some vertical rigid rail systems that meet the requirements in “CSA Z259.2.4-12 - Fall arresters and vertical rigid rails” may not adequately protect workers who are secured to the vertical rail system from falling in situations where the workers may fall or roll backward, or fall from a squatting position. With respect to such systems, the ministry recommends the employer confirm with the equipment manufacturer that the vertical rigid rail system is able to protect a worker who may fall or roll backward, or fall from a squatting position. Otherwise, employers are to take reasonable precautions to protect workers in these circumstances. This may include using alternative fall protection or access systems, as appropriate, for the adequate protection of the health and safety of workers using a vertical rigid rail system.

Current Regulatory Requirement – Subsection 26.3(1)

26.3 (1) Despite paragraph 1 of section 26, a guardrail system that meets the requirements of this section shall be used if a worker has access to the perimeter or an open side of any of the following work surfaces and is exposed to a fall of 2.4 metres or more:

1. A floor, including the floor of a mezzanine or balcony.
2. The surface of a bridge.
3. A roof while formwork is in place.
4. A scaffold platform or other work platform, runway or ramp.

Proposed Regulatory Change

The MOL proposes to revise subsection 26.3(1) by replacing "...and is exposed to a fall..." with wording that would clarify that this provision applies where there is a hazard of falling. The proposed change would clarify that a guardrail system must be used if there is a falling hazard, e.g., a worker has access to the perimeter or an opening described in clauses (1) to (4) of subsection 26.3(1) and could fall 2.4 metres or more.

Proposed Changes to Section 26.8 – Safety Net

Current Regulatory Requirement – Subsection 26.8(1)

26.8 (1) A safety net shall be designed, tested and installed in accordance with ANSI Standard 10.11-1989, Personnel and Debris Nets for Construction and Demolition Operations.

Proposed Regulatory Change

The ministry proposes to update subsection 26.8 (1) to reference the latest edition of the American National Standards Institute standard "ANSI/ASSE A10.11-2010, Safety Requirements for Personnel and Debris Nets." The proposed change would bring the provision into alignment with current industry standards and practices.

Proposed Changes to Section 53 – Fire Extinguisher

Current Regulatory Requirement – Subsection 53(2)

- 53 (2) Every fire extinguisher,
- (a) shall be a type whose contents are discharged under pressure; and
 - (b) shall have an Underwriters' Laboratories of Canada 4A40BC rating.

Proposed Regulatory Change

The ministry proposes to add the phrase "at least" to clause 53(2)(b) to allow the use of fire extinguishers with an Underwriters' Laboratories of Canada rating of "at least" 4A40BC.

The current requirement restricts the type of fire extinguisher that can be used to only one with an Underwriters' Laboratories of Canada rating of 4A40BC. The proposed change would provide greater compliance flexibility for employers since other fire extinguishers with ratings higher than 4A40BC would also be acceptable (e.g., 4A60BC or 6A40BC).

The proposed amendment would be consistent with a similar change being proposed for subsection 250(2) of the Regulation.

Proposed Changes to Section 67 – Traffic Control

Current Regulatory Requirements – Subsections 67(7) to (10) and (12)

67 (7) Subject to subsection (8), adequate barriers shall be installed to protect workers at a project from vehicular traffic if the project,

- (a) is on a freeway;
- (b) is not a mobile operation; and
- (c) is expected to require more than five days to complete.

(8) Until January 1, 2003, if a project to which subsection (7) would otherwise apply is expected to require five days or less to complete, or if it is not practical to install barriers as that subsection requires, the following measures shall be taken to protect workers at the project:

- 1. An adequate longitudinal buffer area shall be provided if physically possible.
- 2. If information about the annual average daily travel rate of vehicular traffic on the freeway is available and the rate is less than 25,000, blocker trucks shall be adequately positioned between vehicular traffic and workers.
- 3. If the annual average daily travel rate of vehicular traffic on the freeway is 25,000 or more or if information about the rate is unavailable, crash trucks shall be adequately positioned between vehicular traffic and workers.

(9) If subsection (8) applies and information about the annual average daily travel rate of vehicular traffic on the freeway is available, a record of the rate shall be maintained at the project and be made available to an inspector upon request.

(10) On and after January 1, 2003, if it is not practical to install barriers as subsection (7) requires, or if the project is expected to require five days or less to complete, crash trucks shall be adequately positioned to protect workers.

(12) The following measures shall be taken to protect a worker at a project if the project is on a freeway and involves a mobile operation:

- 1. Until January 1, 2003, an adequate number of blocker trucks shall be adequately positioned between vehicular traffic and the worker.
- 2. On and after January 1, 2003, an adequate number of crash trucks shall be adequately positioned between vehicular traffic and the worker.
- 3. If the operation involves intermittent stops averaging 30 minutes or less, an adequate number of barricades or delineators shall be adequately positioned between vehicular traffic and the worker.
- 4. If the operation involves intermittent stops averaging more than 30 minutes,

- i. an adequate longitudinal buffer area shall be provided if physically possible,
- ii. the lane on which work is being done shall be adequately identified with lane closure signs and a lane closure taper, and
- iii. an adequate number of barricades or delineators shall be adequately positioned between vehicular traffic and the work area.

Proposed Regulatory Changes

The ministry proposes to revise subsections 67(7), (8), (9), (10) and (12) to delete references to the January 1, 2003 transitional compliance period and its associated requirements, as the compliance period is no longer relevant.

In 2000, the government announced strengthened vehicular traffic safety provisions on construction projects, but delayed having them come into effect until January 1, 2003, to give industry an adequate transition period.

The ministry proposes to:

- delete “subject to subsection (8)” in subsection 67(7);
- delete subsection 67(8);
- delete subsection 67(9);
- delete “On and after January 1, 2003” in subsection 67(10);
- delete paragraph 1 of subsection 67(12); and
- delete “on and after January 1, 2003” in paragraph 2 of subsection 67(12).

Proposed Changes – Ladder Safety

Current Regulatory Requirements – Section 80

80. A ladder used as a regular means of access between levels of a structure,
- (a) shall extend at the upper level at least 900 millimetres above the landing or floor;
 - (b) shall have a clear space of at least 150 millimetres behind every rung;
 - (c) shall be located so that an adequate landing surface that is clear of obstructions is available at the top and bottom of the ladder; and
 - (d) shall be secured at the top and bottom to prevent movement.

Proposed Regulatory Change

The MOL proposes to revise the introductory paragraph of Section 80 as follows:

- Delete “regular” from the phrase “regular means of access. The proposed change would clarify the regulatory requirement for the industry and enhance worker safety by broadening the application of the prescribed safety measures for ladders.
- Clarify that the section applies to workers using ladders positioned on the ground to climb to a higher level of a structure, as well as positioned in an excavation to climb to grade level. The proposed change would address current enforcement uncertainty.

In certain excavations, ladders are placed directly on top of sloped excavation walls, leaving no space between the rungs and the earthen wall contrary to clause (b). The ministry proposes to exempt ladders that are used in this way from clause (b).

Lastly, the MOL proposes to revise clause (d) by adding the phrase “of the ladder” to the end of the requirement to clarify that the requirement is intended to prevent movement of the ladder.

New Regulatory Proposal

The ministry proposes to introduce a new section that would require all manufactured portable ladders used on a construction project to meet the requirements of a Grade 1 ladder in the CSA Standard Z11-2012, Portable Ladders, and to be used in accordance with the manufacturer’s instructions. The proposed amendment would ensure appropriate, commercial grade CSA certified Grade 1 portable ladders are used on construction projects and improve worker protection.

Proposed Changes – Equipment, General

Current Regulatory Requirements – Section 96

96. (1) No worker shall operate a vehicle at a project unless he or she is competent to do so.

(2) However, a worker being trained in the operation of a vehicle may operate it while being instructed and supervised by a competent person.

Proposed Regulatory Change

The ministry proposes to replace “vehicle” with the phrase, “vehicle, machine, tool or equipment” in subsections 96(1) and (2) for greater enforcement clarity.

Subsections 96 (1) and (2) refer to the operation of a vehicle. The regulation defines “vehicle” to mean “a vehicle propelled by mechanical power and includes a trailer, a traction engine and a road-building machine”. Given the diverse examples provided in the regulatory definition, there is uncertainty in how broadly “vehicle” may be interpreted to include other machines and equipment.

The current general requirements in this part of the regulation (i.e., sections 93 to 101) consistently apply to vehicles, machines, tools and equipment except for sections 96

and 97. The proposed change would clarify that a worker must be competent to operate not only vehicles, but any machine, tool or equipment they are required to operate on a project.

Proposed Changes – Elevating Work Platforms

Current Regulatory Requirements – Subsection 144(6)

144 (6) The National Standards of Canada standard applicable to the type of elevating work platform listed in Column 1 of the Table to this subsection are the standards set out opposite it in Column 2:

TABLE

Column 1	Column 2
Elevating Work Platform	National Standards of Canada standard
Elevating Rolling Work Platform	CAN3-B354.1-M82
Self-Propelled Elevating Work Platform	CAN3-B354.2-M82 and CAN3-B354.3-M82
Vehicle-Mounted Aerial Device	CAN-CSA-C225-M88

Proposed Regulatory Change

The ministry proposes to revise the last row in the Table to update the reference to the CSA standard “CAN-CSA-C225-M88, Vehicle-Mounted Aerial Devices” to the most recent edition, CAN/CSA-C225-10. The proposed change would bring the provision into alignment with current industry standards and practice.

Current Regulatory Requirements – Subsection 148(1)

148. An elevating work platform,

- (a) shall not be loaded in excess of its rated working load;
- (b) shall be used only on a firm level surface;
- (c) shall be used only in accordance with the written instructions of the manufacturer;
- (d) shall not be loaded and used in such a manner as to affect its stability or endanger a worker; and
- (e) shall not be moved unless all workers on it are protected against falling by a safety belt attached to the platform.

Proposed Regulatory Change

The ministry proposes the following revisions:

- Delete clause (b) as it is redundant and is currently addressed under clause (c). Contrary to the requirement in clause (b), some manufacturers of elevating work platforms allow their equipment to be used on non-level surfaces. Clause (c) currently addresses this issue, as it requires elevating work platforms to be used in accordance with the manufacturer's written instructions.
- Add the phrase "and moved" to clause (c) to strengthen requirements for the safe operation of elevating work platforms and ensure they travel and are moved in accordance with manufacturers' instructions.
- Revise clause (e) to clarify fall protection requirements for workers on elevating work platforms that are being moved while providing an exception for mast climbing work platforms and mast climbing transport platforms through a cross reference to a new provision.
- Add a new provision, with a cross reference to clause (e), to clarify fall protection requirements for workers on mast climbing work platforms and mast climbing transport platforms that are equipped with guardrails on all open sides where there is a hazard of falling 2.4 metres or more.
- Add a new clause that would require fall protection for workers when using a boom type elevating work platform or vehicle-mounted aerial device.

Proposed Changes – Cables, Slings & Rigging

Current Regulatory Requirements – Sections 176 & 177

176. Only an alloy steel chain or a chain manufactured for the purpose shall be used for hoisting.

177. (1) No alloy chain shall be annealed or welded.

- (2) A chain used for hoisting shall be selected, annealed, normalized and repaired in accordance with the specifications of its manufacturer

Proposed Regulatory Change

The ministry proposes to relocate subsection 177(2) to section 176 as a new subsection. This is necessary to correct a historical drafting error that had incorrectly placed this subsection originally in section 177 instead of section 176.

At the same time, the ministry proposes to revise the current subsection 177(2) which would become the new subsection 176(2) to require that the chain used for hoisting would:

- be labelled to indicate its load rating capacity;

- be repaired and reconditioned in accordance with the chain manufacturer's specifications;
- after being repaired or reconditioned, be proof tested in accordance with the chain manufacturer's specifications; and
- be visually inspected by a competent worker as frequently as recommended by the chain manufacturer and in any case, at least once a week when the chain is in service.

The proposed changes clarify the current provisions regarding the repair, modification and inspection of steel chains.

Proposed Changes – Electrical Utility Safety Rules

Current Regulatory Requirements – Section 181

181. (1) Except where otherwise required by this Regulation, electrical work performed on or near electrical transmission or distribution systems shall be performed in accordance with the document entitled "Electrical Utility Safety Rules" published by the Electrical and Utilities Safety Association of Ontario Incorporated and revised January, 2009.

Proposed Regulatory Change

The ministry proposes to update the reference to the Electrical and Utilities Safety Association of Ontario Incorporated in subsection 181(1). In the government's reorganization of the Health and Safety Associations in 2010, the Electrical and Utilities Safety Association together with the Transportation Safety Association and the Construction Safety Association of Ontario were amalgamated into the Infrastructure Health and Safety Association.

The ministry proposes to replace the reference to the "Electrical and Utilities Safety Association of Ontario Incorporated and revised January, 2009" with a reference to the "Infrastructure Health and Safety Association and revised 2014" with respect to the "Electrical Utility Safety Rules."

Proposed Changes – Soil Types

Current Regulatory Requirements – Section 226

226. (4) Type 3 soil,

- (a) is stiff to firm and compact to loose in consistency or is previously-excavated soil;
- (b) exhibits signs of surface cracking;
- (c) exhibits signs of water seepage;
- (d) if it is dry, may run easily into a well-defined conical pile; and

(e) has a low degree of internal strength.

Proposed Regulatory Change

The ministry proposes to revise the current subsection (4) to clarify the criteria for classifying soil as Type 3. The revision would clarify that previously excavated soil is Type 3 soil regardless of its characteristics or whether it meets the other characteristics listed in subsection (4).

Currently, subsection 226(4) requires that “previously excavated soil” meet all the other characteristics listed in clauses (b) to (e) to be considered Type 3 soil. This is inconsistent with the industry’s and the ministry’s current operational interpretation that “previously excavated soil” is a standalone criteria for determining Type 3 soil. Previously excavated soil is automatically considered Type 3 soil regardless of its other characteristics. The proposed change would codify in regulation current operational practice of the industry and the ministry.

Proposed Changes – Fire Protection

Current Regulatory Requirements – Section 250

250. (2) A fire suppression system shall include a dry chemical fire extinguisher with an Underwriters’ Laboratories of Canada 4A40BC rating.

Proposed Regulatory Change

The ministry proposes to add the phrase “at least” to this subsection to allow the use of fire extinguishers with an Underwriters’ Laboratories of Canada rating of “at least” 4A40BC. The proposed amendment would provide greater compliance flexibility.

The current requirement restricts the type of fire extinguisher that can be used to one with only an Underwriters’ Laboratories of Canada rating of 4A40BC. This is unnecessarily restrictive since other fire extinguishers with ratings higher than 4A40BC would also be acceptable (e.g., 4A60BC or 6A40BC).

The proposed amendment would be consistent with a similar change being proposed for clause 53(2)(b).

Proposed Changes – Shafts

Current Regulatory Requirements – Section 286

286. (3) Every opening and ladderway shall be wide enough to permit the passage of a worker wearing rescue equipment and shall be at least 750 cm by 750 cm.

Proposed Regulatory Change

The ministry proposes to revise subsection 286(3) to correct a typographical error. The subsection should read “...at least 750 mm by 750 mm” instead of the current “at least 750 cm by 750 cm”.

Proposed Changes – Shafts

Current Regulatory Requirements – Section 341

341. (3) The following code shall be used to give signals between a work chamber, an air lock and the lock tender's work position:

1 signal	When no people are in the air lock, MATERIAL IS COMING OUT.
	When people are in the air lock, STOP COMPRESSING.
3 signals	PEOPLE ARE COMING OUT OF THE AIR LOCK.

Proposed Regulatory Change

The ministry proposes to correct a typographical error by adding “2 signals” to the empty cell in the left-hand column of the table. The proposed amendment would clarify that 2 signals must be given when people are in the air lock.

How to participate

The consultation period ends on December 29, 2014.

Send us your comments:

Email: WebHSpolicy@ontario.ca

Fax: 416-326-7650

Write to us:

Ministry of Labour
Health and Safety Policy Branch
Construction Health and Safety Regulatory Proposal Project
400 University Ave., 12th floor
Toronto, ON
M7A 1T7

Notice to Consultation Participants

Submissions provided to the Ministry of Labour ("ministry") in the context of this consultation are intended to facilitate the ministry's development of proposed amendments to the Construction Projects Regulation. This process may involve the ministry publishing your submissions or summaries of submissions (in hard copy and on the internet). In addition, the ministry may disclose your submissions to third parties as part of the consultation process or where required by law.

If you identify yourself or other individuals in the body of the submission, this identifying information may be published or otherwise disclosed to the public. Any name and contact information provided outside of the body of the submission will not be disclosed by the ministry unless required by law. Any individual who provides a submission and indicates an affiliation with an organization will be considered a representative of that organization and his or her name and other identifying information may be published or otherwise disclosed.

Personal information collected during this consultation is under the authority of Section 70 of the Occupational Health and Safety Act and is in compliance with Section 38 (2) of the Freedom of Information and Protection of Privacy Act.

If you have any questions regarding privacy matters, you may contact the ministry's Freedom of Information and Privacy Office at 416-326-7786.