

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

TECHNICAL STANDARDS AND SAFETY ACT, 2000

Amending O. Reg. 220/01

(BOILERS AND PRESSURE VESSELS)

1. (1) Ontario Regulation 220/01 is amended by adding the following heading before section 1:

INTERPRETATION AND APPLICATION

(2) The definition of “certificate of inspection” in subsection 1 (1) of the Regulation is revoked and the following substituted:

“certificate of inspection” means a certificate described in section 5 in respect of a boiler, pressure vessel, fitting or piping; (“...”)

(3) The definition of “insurer” in subsection 1 (1) of the Regulation is amended by striking out “as defined by that Act” and substituting “within the meaning of that Act”.

(4) Subsection 1 (1) of the Regulation is amended by adding the following definition:

“operator”, in respect of a boiler, pressure vessel, fitting or piping, means the person who is responsible for aspects of its day-to-day operation; (“...”)

(5) The definition of “owner” in subsection 1 (1) of the Regulation is revoked.

(6) Subsection 1 (1) of the Regulation is amended by adding the following definitions:

“periodic inspection” means an inspection conducted under subsection 10 (1); (“...”)

“record of inspection” means a record described in clause 10 (7) (b) in respect of a boiler, pressure vessel, fitting or piping; (“...”)

“secondary insurer” means an insurer who is retained by the primary insurer of a thing to conduct a periodic inspection of the thing on behalf of the primary insurer; (“...”)

“third party inspection provider” means a person who conducts a periodic inspection of a thing on behalf of the insurer of it, where the person is so authorized by the director in accordance with this Regulation and is retained by the insurer to conduct the inspection; (“...”)

2. (1) Clause 2 (2) (i) of the Regulation is amended by adding “or a capacity of five tons (18 kW) or less of refrigeration in an air conditioning system” at the end.

(2) Clause 2 (2) (n) of the Regulation is revoked and the following substituted:

- (n) automatic fire protection systems that are designed and installed in accordance with Ontario Regulation 332/12 (Building Code) and Ontario Regulation 213/07 (Fire Code);

(3) Clause 2 (2) (p) of the Regulation is amended by striking out “600 psi (4,120 kPa)” and substituting “740 psi (5,100 kPa)”.

(4) Subsection 2 (2) of the Regulation is amended by adding the following clauses:

- (s) inert-gas filled high voltage switchgear and control gear with an internal pressure that does not exceed 150 psi (1030 kPa), rated 15 kW and above that are located within an electric utility installation that has controlled access for maintenance or repair and that is not accessible to the public;
- (t) flexible hoses and portable air piping used in mines;
- (u) piping, pressure vessels and fittings regulated by any one of the following regulations made under the Act:
 - (i) Ontario Regulation 210/01 (Oil and Gas Pipeline Systems),
 - (ii) Ontario Regulation 211/01 (Propane Storage and Handling),
 - (iii) Ontario Regulation 212/01 (Gaseous Fuels),
 - (iv) Ontario Regulation 213/01 (Fuel Oil), or
 - (v) Ontario Regulation 214/01 (Compressed Gas).

3. (1) The Regulation is amended by adding the following heading before subsection 3 (1):

OPERATING AND OTHER REQUIREMENTS

(2) Subsection 3 (3) of the Regulation is revoked and the following substituted:

(3) Every owner and operator of a boiler, pressure vessel, fitting or piping shall ensure that the boiler, pressure vessel, fitting or piping, as the case may be, is maintained in safe working condition and operated safely.

4. Section 5 of the Regulation is revoked and the following substituted:

Requirement for certificate of inspection

5. (1) No person shall operate or use or permit a boiler, pressure vessel, fitting or piping to be operated or used unless the director has issued a current certificate of inspection to the owner or operator stating the boiler, pressure vessel, fitting or piping, as the case may be, has passed an inspection.

(2) An owner or operator of a boiler, pressure vessel, fitting or piping who holds a record of inspection for it issued before the day section 10.1 comes into force is deemed to hold a certificate of inspection for it until three months after that day.

5. (1) Subsection 6 (1) of the Regulation is amended by striking out “licence” at the end and substituting “certificate of inspection”.

(2) Subsection 6 (2) of the Regulation is amended by striking out “the owner or other person responsible for it or in charge of it” in the portion before clause (a) and substituting “the owner, the operator or any other person responsible for it or in immediate charge of it”.

6. Subsections 8 (1) and (2) of the Regulation are revoked and the following substituted:

Reporting requirements

(1) Upon permanently removing a boiler, pressure vessel, fitting or piping from operation or use, the owner, the operator or any other person responsible for it or in immediate charge of it shall forthwith notify the director of the removal in the form published by the Corporation.

(2) Where an explosion or rupture of a boiler, pressure vessel, fitting or piping occurs or where an accident arises out of its operation or use that causes injury or death to a person or property damage, the owner, the operator or any other person responsible for it or in immediate charge of it shall,

- (a) forthwith notify the director, in person or by telephone, of the occurrence and provide full details of it; and
- (b) within 48 hours after the explosion, rupture or accident occurs, send the director and insurer, if it is insured, a written report of the circumstances of the occurrence.

7. (1) The Regulation is amended by adding the following heading before section 9:

INSPECTIONS

(2) Subsection 9 (2) of the Regulation is revoked and the following substituted:

(2) An inspector shall inspect every new and used boiler, pressure vessel, fitting or piping before it is put into operation or use.

(2.1) The owner of the thing inspected under subsection (2) shall pay the fee set by the Corporation for the inspection.

(3) Subsection 9 (3) of the Regulation is amended by striking out “carried out” and substituting “conducted”.

(4) Subsections 9 (4), (5) and (6) of the Regulation are revoked and the following substituted:

(4) If a required inspection of a boiler, pressure vessel, fitting or piping has not been conducted during its manufacture or its installation, the director, if satisfied that it may be operated or used safely, may issue a certificate of inspection on payment of the fee set by the Corporation.

(5) Even if the director has issued a certificate of inspection, the director may order a subsequent inspection of a boiler, pressure vessel, fitting or piping at any time or an inspector may conduct a subsequent inspection at any time, and the owner shall pay the fee set by the Corporation for the inspection.

(6) The director may employ the services of an insurer or of any person qualified to engage in the business of inspecting boilers and pressure vessels in Ontario to conduct an inspection and to report on it within 14 days after its completion.

(5) Subsection 9 (7) of the Regulation is amended by striking out the portion before clause (a) and substituting the following:

(7) An inspector may require the owner, the operator or any other person responsible for a boiler, pressure vessel, fitting or piping or in immediate charge of it to do all things necessary for a proper inspection, including,

.

(6) Clause 9 (7) (d) of the Regulation is amended by striking out “an unsafe condition” and substituting “an unacceptable condition within the meaning of section 11”.

8. (1) Sections 10 and 11 of the Regulation are revoked and the following substituted:

Periodic inspections

10. (1) Every owner of a boiler, pressure vessel, fitting or piping that is in operation or use shall have it inspected,

- (a) if it is not insured, by an inspector and at the intervals that are set out in the code adoption document; or
- (b) if it is insured, by the insurer of it or by a third party inspection provider or a secondary insurer, the applicable one of whom the insurer retains, and at the intervals that are set out in the code adoption document, unless the director requires an inspector to conduct the inspection.

(2) When inspecting fitting or piping during an inspection under subsection (1), the inspection shall be conducted in accordance with the requirements, if any, of the code adoption document.

(3) If an inspector conducts an inspection under subsection (1), the owner shall pay the fee set by the Corporation for the inspection.

(4) When a boiler, pressure vessel, fitting or piping is being inspected, any person who is the owner, the operator or any other person responsible for it or in immediate charge of it shall point out to the person doing the inspection any defect of which the first person has knowledge or that the first person believes to exist in it.

(5) If a third party inspection provider conducts an inspection under clause (1) (b) on behalf of the insurer, the provider shall notify the insurer upon completion of the inspection and shall provide the insurer with a report on the inspection within 10 days of completing the inspection.

(6) If a secondary insurer conducts an inspection under clause (1) (b) on behalf of the primary insurer, the secondary insurer shall notify the primary insurer upon completion of the inspection and shall provide the primary insurer with a report on the inspection within 10 days of completing the inspection.

(7) Following an inspection, the inspector, in the case of an inspection under clause (1) (a) or the insurer, in the case of an inspection under clause (1) (b), shall,

- (a) issue an inspection report on the inspection to the owner and the operator of the boiler, pressure vessel, fitting or piping that was inspected; and
- (b) if satisfied that the boiler, pressure vessel, fitting or piping can continue to be operated or used safely, issue a record of inspection to the owner, the operator, the director and the Corporation no later than 30 days after the day on which the inspection is conducted.

(8) The inspection report and record of inspection shall,

- (a) be in writing;
- (b) be prepared in the form and manner set out in the code adoption document; and
- (c) disclose the information, if any, set out in the code adoption document.

(9) The owner and the operator who receive the inspection report and the insurer, if any, who issues it shall retain the inspection report for six years from the date of the inspection to which the report relates.

(10) The director may request that an owner, operator or insurer who is required to retain an inspection report under subsection (9) provide a copy of it at any time within the retention period specified in that subsection.

Application for certificate of inspection

10.1 (1) Subject to subsection (2), an owner or operator may obtain a certificate of inspection in respect of a boiler, pressure vessel, fitting or piping only by applying to the Corporation for the certificate by,

- (a) filing with the Corporation the record of inspection that the owner or operator receives for the boiler, pressure vessel, fitting or piping, as the case may be;
- (b) paying the fee set by the Corporation; and
- (c) submitting a completed application form, if any, published by the Corporation.

(2) An owner or operator shall not apply to the Corporation later than,

- (a) 30 days after receiving the record of inspection, if the owner or operator receives it on or after the day this section comes into force; or

(b) 30 days after this section comes into force, if the owner or operator received the record of inspection before the day this section comes into force.

(3) If an owner or operator has applied to the Corporation for a certificate of inspection in accordance with subsection (1), the director shall issue a certificate of inspection to the applicant.

(4) A certificate of inspection remains valid for the period specified by the director.

(5) The owner of every boiler, pressure vessel, fitting or piping in respect of which a certificate of inspection has been issued shall keep the certificate in good condition and post it in a conspicuous place near the boiler, pressure vessel, fitting or piping, as the case may be, or, if that is impractical, at the place that an inspector or the insurer of it directs in writing.

Notice to director of changes

10.2 (1) If a change occurs with respect to the operation of a boiler, pressure vessel, fitting or piping or the name of the operator of it, the current operator shall notify the director in writing, within 10 days after the change, of the details and the effective date of the change.

(2) If a change occurs in the ownership of a boiler, pressure vessel, fitting or piping, the current owner shall notify the director in writing, within 10 days after the change, of the details and the effective date of the change, including the name of the operator as of the date of the change.

(3) If a boiler, pressure vessel, fitting or piping is insured, the insurer shall forthwith notify the director in writing if the insurance is cancelled, suspended or not renewed or if there is a change in the insurer or in the insurance.

(4) The notice shall be prepared in the form and manner set out in the code adoption document and shall include any information required by the code adoption document.

(5) If the director receives a notice under subsection (4) and is of the opinion that the boiler, pressure vessel, fitting or piping cannot be operated or used safely, the director shall seal the boiler, pressure vessel, fitting or piping or suspend or revoke the certificate of inspection issued for it.

(6) If at any time, other than when a boiler, pressure vessel, fitting or piping is being inspected under section 10, any person who is the owner, the operator or any other person responsible for it or in immediate charge of it learns of any defect that might render it unsafe to operate or use, the person shall forthwith notify the director and insurer, if it is insured, of the circumstances, in person, by telephone or by any other means appropriate to ensure a record of the communication.

Unacceptable condition

11. (1) In this section,

“unacceptable condition” with respect to a boiler, pressure vessel, fitting or piping, means a boiler, pressure vessel, fitting or piping where,

- (a) it is being used in an unsafe manner,
- (b) there is any deterioration that is likely to impair its safe operation,
- (c) an alteration to it has not been registered and inspected in accordance with section 7, or
- (d) the condition of the relief valves or piping is likely to impair its safe operation.

(2) If, in the opinion of an inspector, the insurer of a boiler, pressure vessel, fitting or piping or a third party inspection provider or secondary insurer retained by the insurer, it is in an unacceptable condition,

- (a) the third party inspection provider or the secondary insurer, as the case may be, shall notify the insurer forthwith if it is the third party inspection provider or the secondary insurer that forms that opinion;
- (b) the inspector or insurer shall notify the director forthwith and shall not issue a record of inspection in respect of it;
- (c) an inspector shall take those steps that are necessary to remove the danger, including affixing a seal, disconnecting the power or other means; and
- (d) the director may cancel any certificate of design registration issued for it under section 4 or any certificate of inspection issued for it.

Cancellation of certificate of inspection

11.1 If an inspector has inspected a boiler, pressure vessel, fitting or piping and is satisfied that it can no longer be operated or used safely, the inspector shall condemn it, notify the director that it has been condemned, seal it with a seal or label indicating that it is condemned and take possession of the certificate of inspection issued for it.

(2) Clause 10 (8) (a) of the Regulation, as remade by subsection (1), is amended by adding “subject to subsection (11)” at the beginning.

(3) Section 10 of the Regulation, as remade by subsection (1), is amended by adding the following subsection:

(11) An inspector or insurer that issues a record of inspection to the director and the Corporation under clause (7) (b) shall do so in electronic format.

(4) Section 10.1 of the Regulation, as remade by subsection (1), is amended by adding the following subsection:

(1.1) An owner or operator may make the application in electronic format.

9. (1) Subsections 12 (1), (2) and (3) of the Regulation are revoked and the following substituted:

Certificate of competency for periodic inspections

(1) No person shall conduct a periodic inspection of a boiler, pressure vessel, fitting or piping unless the person holds a current certificate of competency.

(2) No person shall conduct a periodic inspection if the person has any direct commercial interest in boilers or pressure vessels.

(3) An application for a certificate of competency to conduct a periodic inspection on behalf of an insurer shall be in the form published by the Corporation and shall be accompanied by the fee set by the Corporation.

(2) Subsection 12 (4) of the Regulation is amended by striking out the portion before clause (a) and substituting the following:

(4) The director may issue a certificate of competency to any person to conduct a periodic inspection on behalf of an insurer if the person pays the fee set by the Corporation and the person,

.

(3) Clause 12 (4) (a) of the Regulation is revoked and the following substituted:

(a) is employed by the insurer of the thing being inspected or by a third party inspection provider or secondary insurer acting on behalf of the insurer;

(4) Clause 12 (4) (c) of the Regulation is revoked and the following substituted:

(c) has the education and experience required by the code adoption document;

(5) Subsection 12 (6) of the Regulation is revoked and the following substituted:

(6) A certificate of competency to conduct a periodic inspection on behalf of an insurer shall be in the form published by the Corporation.

(6) Subsection 12 (8) of the Regulation is amended by striking out “carry out inspections” and substituting “conduct a periodic inspection”.

10. The Regulation is amended by adding the following sections:

Duties of insurers for periodic inspections

12.1 (1) An insurer shall ensure that every person employed by it to conduct a periodic inspection holds a current certificate of competency issued under section 12.

(2) If an insurer retains the services of a third party inspection provider to conduct a periodic inspection, the insurer shall ensure that,

- (a) the provider holds a certificate of authorization issued under section 12.2; and
- (b) every person employed by the provider to conduct the inspection holds a certificate of competency issued under section 12.

(3) If an insurer retains the services of a secondary insurer to conduct a periodic inspection, the primary insurer and the secondary insurer shall ensure that every person employed by the secondary insurer to conduct the inspection holds a certificate of competency issued under section 12.

Authorization of third party inspection providers

12.2 (1) No third party inspection provider shall conduct a periodic inspection unless,

- (a) the provider holds a certificate of authorization issued under this section; and
- (b) the provider has been retained by the insurer of the thing being inspected to conduct the inspection on the insurer’s behalf.

(2) A third party inspection provider shall ensure that every person employed by it to conduct a periodic inspection holds a current certificate of competency issued under section 12.

(3) An application for a certificate of authorization issued under this section or renewal of such a certificate shall be made to the director in the form published by the Corporation and shall be accompanied by the fee set by the Corporation.

(4) The director shall issue a certificate of authorization or a renewal of a certificate if the applicant pays the fees set by the Corporation and is not in arrears of any such fees owed to the Corporation.

(5) A certificate of authorization issued under this section or a renewal of the certificate expires on the date specified in it.

(6) A certificate of authorization issued under this section is not transferrable.

(7) Any person that has been issued a certificate of authorization from the director before the day this section comes into force shall be deemed to hold a certificate of authorization issued under this section.

(8) The deemed certificate of authorization expires on the date specified in it.

11. (1) The Regulation is amended by adding the following heading before section 13:

MISCELLANEOUS

(2) The following provisions of section 13 of the Regulation are amended by striking out “the designated administrative authority” wherever that expression appears and substituting in each case “the Corporation”:

1. Subsection (2).
2. Subsection (4).
3. Subsection (5).

12. Section 15 of the Regulation is revoked and the following substituted:

Audit

15. (1) In this section,

“audit” includes a compliance survey.

(2) Every insurer shall file information with the director in a form published by the Corporation and at the frequency set out in the code adoption document.

(3) Every insurer that files a form in accordance with subsection (2) shall attest to the accuracy of the information in the form.

(4) The director may require that an insurer be audited by a person designated by the director for that purpose, which may include an employee of the Corporation or a third party.

(5) An insurer shall pay the fee set by the Corporation for an audit under this section.

Confidentiality

16. A person who obtains information in the course of exercising a power or carrying out a duty under this Regulation shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required to comply with this Regulation;
- (b) as authorized under the *Regulatory Modernization Act, 2007*;
- (d) to a law enforcement agency;
- (e) to the counsel of the person communicating the information; or
- (f) with the consent of the person to whom the information relates.

13. The Table to the Regulation is revoked.

14. The Regulation is amended by adding the following French version:

[Commencement]