

Gouvernement du Québec

O.C. 821-2023, 10 May 2023

Act respecting occupational health and safety
(chapter S-2.1)

Occupational health and safety — Amendment

Regulation to amend the Regulation respecting occupational health and safety

WHEREAS, under subparagraphs 7, 9, 19 and 42 of the first paragraph of section 223 of the Act respecting occupational health and safety (chapter S-2.1), the Commission des normes, de l'équité, de la santé et de la sécurité du travail may make regulations

—prescribing measures for the supervision of the quality of the work environment and standards applicable to every workplace so as to ensure the health, safety and physical and mental well-being of workers, particularly with regard to work organization, lighting, heating, sanitary installations, quality of food, noise, ventilation, variations in temperature, quality of air, access to the establishment, means of transportation used by workers, eating rooms and cleanliness of a workplace, and determining the hygienic and safety standards to be complied with by the employer where the employer makes premises available to workers for lodging, meal service or leisure activities;

—determining, by category of establishments or construction sites, the individual and common protective means and equipment that the employer must put at the disposal of the workers, free of charge;

—prescribing standards respecting the safety of such products, processes, equipment, materials, contaminants or dangerous substances as it specifies, indicating the directions for their use, maintenance and repair, and prohibiting or restricting their use;

—generally prescribing any other measure to facilitate the application of the Act;

WHEREAS, under the second paragraph of section 223 of the Act, the content of the regulations may vary according to the categories of persons, workers, employers, workplaces, establishments or construction sites to which they apply. The regulations may also provide times within which they are to be applied, and these times may vary according to the object and scope of each regulation;

WHEREAS, under the third paragraph of section 223 of the Act, a regulation may refer to an approval, certification or homologation of the Bureau de normalisation du Québec or of another standardizing body;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), the draft Regulation to amend the Regulation respecting occupational health and safety was published in Part 2 of the *Gazette officielle du Québec* of 9 March 2022 with a notice that it could be made by the Commission and submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the Commission made the Regulation with amendments at its sitting on 15 December 2022;

WHEREAS, under section 224 of the Act respecting occupational health and safety, every draft regulation made by the Commission under section 223 is to be submitted to the Government for approval;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour:

THAT the Regulation to amend the Regulation respecting occupational health and safety, attached to this Order in Council, be approved.

YVES OUELLET
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting occupational health and safety

Act respecting occupational health and safety
(chapter S-2.1, s. 223, 1st par., subpars. 7, 9, 19 and 42,
and 2nd and 3rd pars.)

1. The Regulation respecting occupational health and safety (chapter S-2.1, r. 13) is amended in section 1 by inserting the following definition in alphabetical order:

““ASTM” means the American Society for Testing and Materials;”.

2. The following is inserted after section 312.100:

**“DIVISION XXVI.II
ARBORICULTURE WORK**

§1. Definitions

312.101. For the purposes of this Division,

“approach distance” means the distance, determined by the electrical power company operating the power line, that shall be kept at all times between a live element and the worker or the conducting or non-conducting part of an element used or carried by the worker; (*distance d’approche*)

“arboriculture work” means the manual work for vegetation management of the rights of way of power distribution systems or telecommunications networks, pruning, non-forest trimming of trees, non-forest felling of predetermined trees, grubbing, non-forest chipping, tree and shrub surgery, and guying; (*travaux d’arboriculture*)

“electrical power company” means a person, firm, company, cooperative society or municipality operating an electric energy transportation or distribution network; (*entreprise d’exploitation d’énergie électrique*)

“work area” means the area within which arboriculture work is performed and where the workers who perform that work circulate; (*aire de travail*)

“work near a power line” means work during which a branch, log, tool, equipment, machine or person might be less than 3 metres from a power line of more than 750 V but less than 125,000 V. (*travaux à proximité d’une ligne électrique*)

§2. Scope and general provisions

312.102. Scope: This Division applies to all arboriculture work, except work carried out in a nursery and horticulture work.

312.103. Certificate of qualification: An employer may not have a worker perform arboriculture work unless the worker holds a certificate of qualification in arboriculture of the appropriate class or a valid qualification as an apprentice issued under a vocational training and qualification program established by the Minister of Employment and Social Solidarity under section 29.1 of the Act respecting workforce vocational training and qualification (chapter F-5).

Workers who carry out arboriculture work shall be able to show that they hold such a certificate or qualification.

312.104. Organization of the work: Before undertaking work, the employer shall ensure that the employer’s representative or, failing that, the person in charge of the team, holds a meeting on the work site to be attended by all team members and during which the employer’s representative or person in charge of the team shall provide instructions on the duties to be performed and the safety precautions to be taken with regard to

- (1) the delimitation of the work area and danger zones;
- (2) the presence of potential risks, in particular,
 - (a) an electric network;
 - (b) working at a height;
 - (c) sharp objects;
 - (d) tools, equipment and machinery requiring particular attention;
 - (e) poor weather; and
 - (f) the health of the tree;
- (3) the special characteristics of the place where the work is to be carried out, such as material property, steep grades or dead trees;
- (4) the working methods to adopt in order to eliminate the identified risks;
- (5) the use of personal protective equipment;
- (6) the sharing of responsibilities among the team members; and
- (7) the establishment of the emergency measures and procedures.

The person in charge of holding the meeting referred to in the first paragraph shall hold a valid certificate of qualification in arboriculture. That person shall remain on the work site at all times while the work is being carried out.

312.105. Work area: Before any work is undertaken, the work area shall be delimited by means of cones, tape or other means that prevent the public from accessing it.

312.106. Rescue procedure: A tested rescue procedure making it possible to rapidly assist any worker performing work at a height shall be established by a person with the required knowledge, training or experience.

The procedure shall be implemented as soon as any situation so requires.

§3. Personal protective equipment

312.107. Applicable standards: For the purposes of this subdivision, the compliance of personal protective equipment with a standard is determined using the most recent version of that standard or the previous version if the equipment has not reached its expiry date.

312.108. Compulsory personal protective equipment in the work area: Every worker in the work area shall wear the following personal protective equipment:

(1) a safety hat that is equipped with a permanent chin strap and complies with CSA Standard Z94.1, Industrial Protective Headwear – Performance, Selection, Care and Use, ANSI/ISEA Standard Z89.1, American National Standard for Industrial Head Protection, or EN Standard 397, Industrial safety helmets;

(2) eye protective equipment that complies with CSA Standard Z94.3, Eye and face protectors, ANSI/ISEA Standard Z87.1, American National Standard for Occupational and Educational Personal Eye and Face Protection Devices, or EN Standard 166, Personal eye protection – Specifications;

(3) protective footwear that complies with CSA Standard Z195, Protective footwear, or EN ISO Standard 20345, Personal protective equipment: Safety footwear;

(4) a class 1 high-visibility safety garment that complies with CSA Standard Z96, High-visibility safety apparel, and does not have suspenders; and

(5) gloves adapted to the work to be carried out.

312.109. Additional requirements when using a chain saw: When a worker uses a chain saw, the worker shall wear footwear for chain saw users that complies with CSA Standard Z195, Protective footwear, or ISO Standard 17249, Safety footwear with resistance to chain saw cutting, and pants for chain saw users that comply with ISO Standard 11393-2, Protective clothing for users of hand-held chainsaws — Part 2: Performance requirements and test methods for leg protectors, or category A, C or D of ASTM Standard F3325, Standard Specification for Leg-Protective Devices for Chainsaw Users.

312.110. Additional requirements when performing work near a power line: Every worker who performs work near a power line shall wear the following personal protective equipment:

(1) electric-shock resistant footwear that complies with CSA Standard Z195, Protective footwear;

(2) a safety hat that complies with class E of ANSI/ISEA Standard Z89.1, American National Standard for Industrial Head Protection, or CSA Standard Z94.1, Industrial Protective Headwear – Performance, Selection, Care and Use;

(3) fire-resistant upper body clothing that complies with CAN/ULC Standard S801, Standard on Electric Utility Workplace Electrical Safety for Generation, Transmission and Distribution;

(4) a class 2 high-visibility safety garment that complies with CSA Standard Z96, High-visibility safety apparel, and does not have suspenders; and

(5) eye protective equipment that is made from non-conducting materials and complies with CSA Standard Z94.3, Eye and face protectors.

312.111. Additional requirements when using a stump grinder: Every worker who uses a stump grinder shall wear a polycarbonate face shield that complies with CSA Standard Z94.3, Eye and face protectors.

312.112. Full body harness: The use of a full body harness is required when the work is carried out in a tree or from a portable ladder or a basket.

The full body harness shall comply with CSA Standard Z259.10, Full Body Harnesses, ANSI/ASSP Standard Z359.11, Safety Requirements for Full Body Harnesses, or NF EN Standard 361, Personal protective equipment against falls from a height - Full body harnesses.

When work is carried out in a tree, the full body harness is also compliant if it meets NF EN Standard 813, Personal fall protection equipment - Sit harnesses.

312.113. Anchorage of a harness on a basket: When work is carried out from a basket, the full body harness shall be secured by a fall arrest connecting device to an anchorage system provided by the device's manufacturer or, failing that, to an anchorage system complying with section 349. The fall arrest connecting device shall comply with section 348.

312.114. Anchorage of a harness on a tree: When work is carried out in a tree, the anchorage point of the full body harness shall be installed on the axil of a healthy division formed by a main axis, such as the trunk, and a branch. The anchorage point may also be a constriction around a main healthy axis at least 10 cm in diameter.

The anchorage system shall be installed in such a way as to limit pendular movements and be tested mechanically when installed from the ground.

312.115. Anchorage of a harness on the axil of a healthy division of a tree: When the anchorage of a harness is installed on the axil of a healthy division of a tree formed by a main axis, such as the trunk, and a branch, the fork of the division shall be “U”-shaped and shall not have included bark. At the anchorage point, the main axis shall be approaching vertical and at least 10 cm in diameter.

When the anchorage system is installed around the trunk, the branch forming the division shall be at least 5 cm in diameter. When the anchorage system is installed around a branch, the branch shall be at least 10 cm in diameter.

The anchorage system shall be installed at a height that enables the characteristics listed in the first and second paragraphs to be checked from the ground.

§4. *Work near a power line*

312.116. Prior authorization: No person may undertake work near a power line without first obtaining written authorization from the electrical power company that operates the line.

312.117. Training: Only persons who have received the training required by the electrical power company may perform work near a power line operated by the electrical power company. The training shall at least pertain to

(1) the description of the situations requiring the power line to be turned off or the reactivation device to be switched off-circuit from the circuit breaker device that powers it;

(2) the list of components of the power line that have an anomaly in order to detect any situation likely to compromise the worker’s safety;

(3) the safety precautions required to ensure that the worker is isolated from the power line being cleared;

(4) the necessity, on the basis of the work to be carried out and the risks identified, to have a worker on the ground supervise the worker who is clearing the power line; and

(5) the approach distances applied by the electrical power company and the additional safety precautions to be taken if the worker cannot clear the power line while respecting the applicable approach distance.

312.118. Equipment and tools: Any equipment or tool likely to be used within the approach distances of a power line shall be designed, tested and maintained in accordance with ASTM Standard F711, Standard Specification for Fiberglass-Reinforced Plastic (FRP) Rod and Tube Used in Live Line Tools.

The insulated arms of the aerial basket lifting devices used near a power line shall comply with CSA Standard C225, Vehicle-mounted aerial devices.

§5. *Aerial basket lifting device*

312.119. Aerial basket lifting device: An aerial basket lifting device used to carry out the work referred to in this Division shall be inspected and maintained in accordance with the manufacturer’s instructions and at the frequency set out in those instructions. Despite the foregoing, an inspection shall be carried out at least once a year.

A label indicating the date of the last inspection shall be affixed to the aerial basket lifting device at an easily visible place on the equipment.

Maintenance shall be performed by the manufacturer, a person authorized by the manufacturer or a person who has shown the knowledge and skills required to solve problems related to the equipment.”

3. The requirement to hold the certificate of qualification or qualification as an apprentice referred to in section 312.103, made by section 2 of this Regulation, takes effect from (*insert the date that occurs two years after the coming into force of this Regulation*).

4. Despite section 312.109, made by section 2 of this Regulation, a worker may wear, until (*insert the date occurring 2 years after the date of coming into force of this Regulation*), pants for chain saw users that comply with Category A of CAN/BNQ Standard 1923-450-M91, Leg Protective Device for Chain Saw Users, provided the pants were purchased before (*insert the date of coming into force of this Regulation*).

5. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106266