

Report on the Draft *Occupational Health and Safety Regulations*

Volume 1

Digest of the Consultations on the proposed *Occupational Health and Safety Regulations*

Prepared by the Safety Advisory Committee

Northwest Territories and Nunavut

September 2011

Disclaimer

The contents of this volume do not reflect the views of the Workers' Safety and Compensation Commission or the Governments of the Northwest Territories and Nunavut. They are the views of the Safety Advisory Committee. One should not construe anything in this volume as legal advice, a legal opinion or an authoritative interpretation of any enactment or prospective enactment. Its intention is to report to stakeholders on the consultation on the proposed *Occupational Health and Safety Regulations*.

Abstract

From September 2010 to March 2011, the Safety Advisory Committee carried out a public consultation on the proposed *Occupational Health and Safety Regulations*. This volume is the first of three volumes to report on the consultation. Forty-eight stakeholders provided approximately seven hundred and fifty comments. This volume lists the revisions and summarizes responses to the most commented sections of the draft regulations.

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PART ONE

I. Introduction

This digest is the first volume in a series of three, which make up the report of the Safety Advisory Committee of the Northwest Territories and Nunavut. It includes a summary of the proposed *Occupational Health and Safety Regulations* consultation carried out between September 2010 and March 2011.

The consultation resulted in approximately 750 comments from 48 stakeholders, representing industry, business, government and unions. A list of stakeholders who provided comments is included in this digest.

The Committee thanks all stakeholders for their comments during the consultations process and looks forward to continuing the process in the development of the codes of practice.

In studying all the comments, the Committee made extensive revisions to the draft regulations and plans to meet in early October to finalize volumes two and three of the Committee's report.

Volume one has two parts. The first part introduces the development of the proposed regulations and discusses the consultation process and the legislative framework the Committee used. Part two contains the provisions of the proposed regulations that received the most comments. It shows the consultation draft, the proposed revision and summary of the corresponding stakeholder comments and Committee analysis.

Volume two will include all comments received and the Committee's corresponding analysis. It should be available by mid-November 2011.

The Committee plans to make volume three available by the end of 2011. This volume will include the revised draft *Occupational Health and Safety Regulations* and proposed recommendations to the Ministers.

II. History

The Northwest Territories (NWT) and Nunavut (NU) each have their own *Safety Act* and regulations. This legislation sets the minimum workplace health and safety standards for employers and workers. The Ministers responsible appoint a joint Safety Advisory Committee to review regulations made under the Act and make recommendations for their change. A chronology of the events leading to the new draft OHS regulations is set out in Table 1 below.

Table 1 - Chronology of Events Leading to Consultation

Year	Timeline of Events
1990	The current NWT <i>General Safety Regulations</i> come into force.
1992	Amendments are made to the 1990 <i>General Safety Regulations</i> .
1999	Nunavut territory established. NWT <i>Safety Act</i> and regulations duplicated for Nunavut.
2004	The Ministers responsible establish a Joint Advisory Committee to review the regulations and make recommendations for required changes.
2006	The Committee hires a consultant to research and draft new regulations. This draft is modeled after the <i>Alberta Safety Regulations</i> .
2007	Review of the draft reveals technical incompatibility. The three year terms of the Committee members expire.
2008	The Ministers responsible appoint a new Committee. After review of options, the Committee requests the NWT Department of Justice to prepare a new draft, based on the Saskatchewan <i>Occupational Health and Safety Regulations</i> . The Saskatchewan regulations were used as a model due to the similarities between the two OHS statutes; an effort was made to keep the Saskatchewan wording where possible and appropriate.
2009	The Committee completes its first review of the proposed draft.
2010	<p>June: The Committee completes its second review of the draft OHS regulations and recommends public consultation to the Ministers.</p> <p>September: Consultation begins. The draft OHS regulations are made publicly available through the WSCC website and distributed to 199 employers and stakeholders.</p> <p>October: Consultation period extended to January 10, 2011.</p>
2011	<p>January: Consultation period further extended to March 31, 2011.</p> <p>April - May: Comments are compiled and reviewed by the Committee.</p> <p>May - August: Revisions to the proposed draft OHS regulations are made based on review of the comments.</p> <p>September: Committee distributes volume one of its report on the consultation of the proposed OHS regulations.</p>

III. Development of Proposed OHS Regulations

The following is a description of roles and responsibilities, a clarification of the legislative framework, and the design goals used in the development of the current proposed OHS regulations.

Roles and Responsibilities

Ministers

Under sections 25 of the *Safety Act* of the NWT and the *Safety Act* of Nunavut, the regulation making authority is the Commissioner in each territory, on the recommendation of the Minister for that territory.

The Ministers are responsible for the administration of each of the Acts in each of their jurisdictions.

The Ministers, under section 26 of each *Safety Act*, establish a joint Safety Advisory Committee. This Committee comprises the following:

- The Chief Safety Officer as Chair of the Committee;
- Three members whom the Ministers consider as representing the interests of workers;
- Three members whom the Ministers consider as representing the interests of employers;
- Other members as the Ministers consider it advisable to appoint.

Safety Advisory Committee

The role of the Safety Advisory Committee is to make recommendations to the Ministers respecting amendments to the *Safety Act* and the regulations.

The current Safety Advisory Committee includes members from the NWT and Nunavut and represents the interests of workers and employers, ranging from small business, construction, and industry through to health care, organized labour, government, and emergency services.

Workers' Representatives	
Adam Chubbs	Senior Electrical Technologist, Qulliq Energy Corporation
Mary Lou Cherwaty	President, Northern Territories Federation of Labour
Sonja Boucher	Registered Nurse , Stanton Territorial Health Authority

Employers' Representatives	
Clarence Synard	Construction Manager, NCC Development Limited
Stephen Moss	Chief Fire Marshal, Municipal and Community Affairs, Government of the Northwest Territories
Imo Adla	Manager, Workplace, Health, Safety and Wellness, Government of Nunavut

Chief Safety Officer	
Judy Kainz	Chief Safety Officer, Prevention Services, WSCC, NWT and NU

Additional Member	
Jack Rowe	President, Rowe's Construction

Workers' Safety and Compensation Commission

The Workers' Safety and Compensation Commission (WSCC) provides support services to the Safety Advisory Committee. Administrative and technical support is provided through clerical assistance and access to technical and program resources.

The Chief Safety Officer, as Chair of the Safety Advisory Committee, is responsible for organizing and chairing meetings of the Safety Advisory Committee.

WSCC Prevention Services coordinates the development of codes of practice. These codes provide practical guidelines and information on worker protection and safety.

WSCC Technical Support and Advisor	
Bruce Graney	Senior Safety Officer, Prevention Services, WSCC

WSCC Technical Support and Advisor	
Charlotte van Schalkwyk	Codes of Practice Advisor, Prevention Services, WSCC

Justice

NWT and NU Departments of Justice provided legislative counsel to assist with the drafting of the proposed regulations.

Legislative Counsel	
Ian Rennie	Department of Justice, Legislation Division, Government of the Northwest Territories

Legislative Counsel	
Ann McIntosh	Department of Justice, Legislation Division, Government of Nunavut

Legislative Framework

Legislation sets out the framework for the Internal Responsibility System (IRS). The IRS is about shared responsibility of worksite occupational health and safety by everyone. Statutes and regulations set out the law, quasi-legislation sets out commonly accepted standards and industry best practices, as explained below:

Statutes: The *Safety Act* is a statute that sets out obligations of workers and employers. The Safety Act works in a complementary fashion with other statutes. Many other statutes deal with work site issues such as employment and labour standards or fire prevention, but the *Safety Act* focuses on work site occupational health and safety.

Regulations: The regulations provide detail on how to comply with the *Safety Act* and how to ensure safe and healthy work sites. The regulations are law but cannot change the *Safety Act*.

Quasi-legislation: This includes documents such as standards, industry codes and codes of practice. They are not law, but might be used as evidence in legal proceedings. Codes of practice are written for everyday use and provide practical guidelines for those who work with the *Safety Act* and regulations.

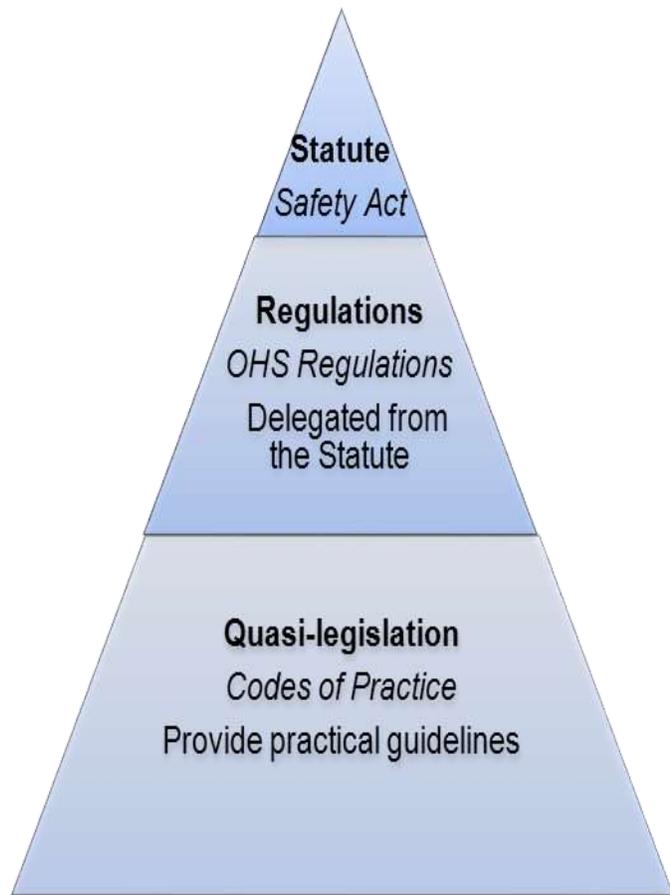


Figure 1 - Hierarchy of Legislation

In Figure 1, statutes and regulations govern and quasi-legislation provides tools that government, employers, workers and enforcers use to apply the IRS at a work site. The IRS holds that everyone involved with the work site has some degree of responsibility for occupational health and safety.

Policy Models

A number of policy models guide and influence the development of OHS legislation across Canada. In the drafting and reviewing of the regulations, the Hybrid/Regulatory Partnering model was followed because it is consistent with the *Safety Act*. The different policy models are described in the table below:

Table 2 - OHS Policy Models

Policy Models	Description
Collective Bargaining	<ul style="list-style-type: none"> • Based on the idea that markets are able to self-regulate (free-market economics) • Assumes parties have equal bargaining power • Workers and Unions may be forced to choose between a safer workplace or higher wages • National consistency of programs is not feasible
Health and Safety Tax	<ul style="list-style-type: none"> • Based on the idea of corporations maximizing profit • Imposes financial penalties on unsafe employers • Does not promote accident and injury prevention • Only focuses on corporations • Does not fully deal with OHS at the worksite
Criminal Sanctions	<ul style="list-style-type: none"> • Work site hazards and accidents are unacceptable and should be legislated as crimes • Resource and labour intensive • Difficult to prove intent • Very costly to enforce
Hybrid/Regulatory Partnering	<ul style="list-style-type: none"> • OHS Policy model followed by all jurisdictions in Canada • Incorporates aspects of the other models listed: <ul style="list-style-type: none"> - Some negotiating rights - Monetary penalties for contraventions - Prosecutions for offences • Based on the Internal Responsibility System (IRS) Employers, workers and governments share responsibility for: <ul style="list-style-type: none"> - Prevention and loss control - Communicating OHS standards and best practices - Establishment of policies and enforcement

IV. Consultation

Process

The Safety Advisory Committee carried out a public consultation on the proposed draft *Occupational Health and Safety Regulations* from September 2010 to March 2011.

The Committee posted the draft regulations on the WSCC website with a background document requesting comments from stakeholders. The Committee used a direct mail-out notification with a compact disk (CD) of the draft to 103 companies and 21 interest groups. WSCC safety officers and Committee members distributed an additional 75 CDs.

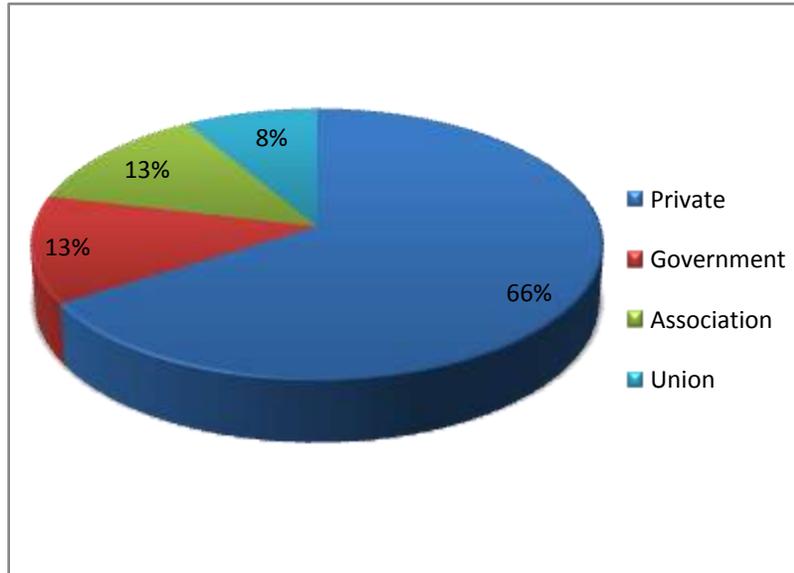


Figure 2 - Relative Distribution of Types of Stakeholders that Provided Feedback During Consultation

Presentations were made to various stakeholders in the NWT and NU on the draft OHS regulations.

The Committee reviewed all written submissions, including submissions received after the consultation period had finished.

In total 48 stakeholders responded with approximately 750 comments. The stakeholders are listed in Table 3 below. The largest number of comments received was from businesses. Government and government agencies provided the next largest number, followed by associations and unions.

Table 3 - Stakeholders Providing Comments

Stakeholder	Stakeholder
Arctic Co-operatives Limited	North Country Gold Corp
Arctic Sunwest Charters	Northern Air Transport Association (NATA)
Baffinland Iron Mines Corporation	Northern Property REIT & NPR Commercial Property
Buffalo Air Express	Northland Utilities
Buffalo Airways Ltd.	Northwest Territories and Nunavut Construction Association
Canadian Autoworkers Union	Northwest Territories Power Corporation (NTPC)
Canadian Federation of Independent Business	Nuna Group of Companies
City of Yellowknife	NWT Chamber of Commerce
City of Yellowknife Fire Division	Polar Developments Ltd.
Consulting Engineers of the NWT	Polar Painting Ltd.
Enbridge Pipelines (NW) Inc.	Public Service Alliance of Canada North Region and the Union of Northern Workers (NWT-NU)
Fire Prevention Services Ltd.	Qikiqtaaluk Corporation
GNWT (Department of Human Resources and on behalf of other Departments)	Quilliq Energy Corporation
Government of Nunavut (Department of Health and Social Services)	Reliable Group of Companies
Government of Nunavut (Department of Human Resources and on behalf of other Departments)	Ron's Auto Service Ltd.
High Engineering Corp.	RTL Robinson Enterprises Ltd.
Hope Bay Mining Ltd. (Newmont North America)	St. John Ambulance NWT MB NU
Imperial Oil Resources/Exxon Mobil	Starfield Resources Inc.
Kingland Ford Sales Ltd.	Stornoway Diamond Corporation
Malcolm and Associates (David G. Malcolm, PhD, PEng, CMC)	Torque'm Right Mechanical
Manitoba Regional Council of Carpenters, Lathers, Millwrights and Allied workers	Tundra Transfer Ltd.
Mid Arctic Transportation Co. Ltd. (MATCO)	United Steelworkers
Nasittuq Corporation	Workers Safety and Compensation Commission
New Nadina Explorations Limited	Workers Safety and Compensation Commission (Mine Health and Safety)

Analysis of Comments

The Safety Advisory Committee started its review of the comments by dividing them according to the sections of the consultation draft to which they referred.

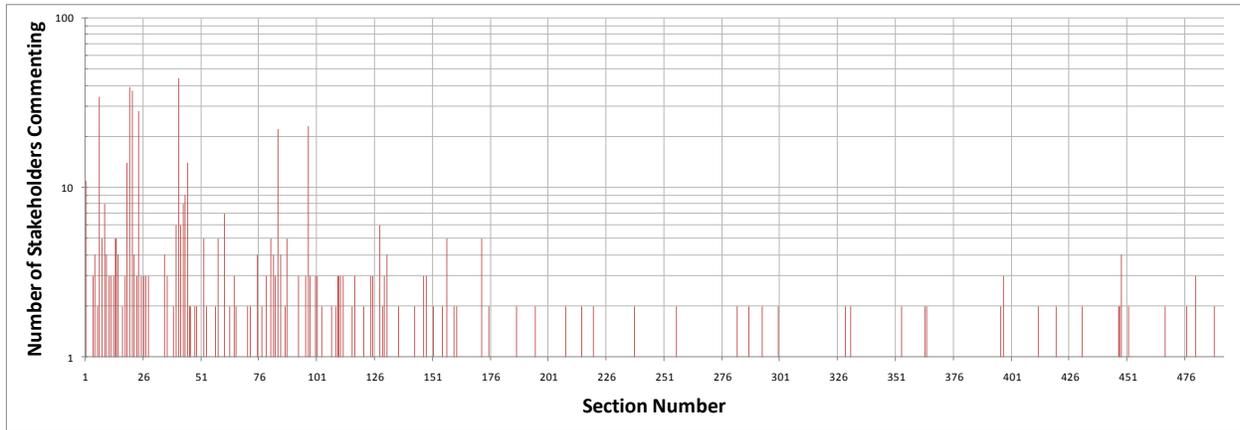


Figure 3 - Numbers of Comments from Stakeholders for each Section of the Consultation Draft

Each section was then prioritized by the number of comments directed at it. Each sections was ranked and reviewed in order of that ranking. Figure 3 above shows the number of comments directed at each section of the draft.

Stakeholders put considerable work into their review of the draft. Comments ranged from focusing on technical aspects of specific provisions to the overall drafting approach. The Committee considered every comment. Spelling and referencing errors were noted for correction, but are not referenced in the summaries.

The Committee met in person from May 17 to May 19, 2011, to analyze those sections most commented. The remaining comments were reviewed during a series of teleconferences from June to August 2011. Decisions to modify or delete sections of the draft were made by consensus. The stakeholder comments were very helpful to the Committee's work.

Glossary

ACGIH	American Conference of Governmental Industrial Hygienists
ATIPPA	<i>Access to Information and Protection of Privacy Act</i>
CCOHS	Canadian Centre for Occupational Health and Safety
CSA	Canadian Standards Association
CSO	Chief Safety Officer
DRDC	Defence Research and Development Canada (Toronto)
GN	Government of Nunavut
GNWT	Government of the Northwest Territories
GSRs	<i>General Safety Regulations</i>
IRS	Internal Responsibility System
NFPA	National Fire Protection Association
NU	Nunavut
NWT	Northwest Territories
OHS	Occupational Health and Safety
OSHA	Occupational Safety and Health Administration (USA)
PME	Powered Mobile Equipment
PPE	Personal Protective Equipment
WHMIS	Workplace Hazardous Materials Information System
WSCC	Workers' Safety and Compensation Commission

PART TWO

V. Most Commented Sections

This Part sets out those sections of the consultation draft that received the most comments. Each discussion item in this Part (except item 5. *Personal Protective Equipment (Section 97 - Part 7)* at page 30) is arranged in three columns for easy viewing. The first column sets out the June 2010 draft sections that attracted comments from stakeholders. The second column shows the revision to the draft sections, if any, as proposed by the Safety Advisory Committee after review and analysis in September 2011. The third column summarizes stakeholder comments and Committee analysis. In the comments, references to “the Act” mean the *Safety Act* of the NWT or Nunavut, unless otherwise indicated.

1. Cold Weather Work (Sections 41 and 81)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Cold Weather Work</p> <p>41. (1) In this section,</p> <p>"emergency work" means any work involving</p> <ul style="list-style-type: none"> (a) the rescue of a person from a life-threatening situation, or (b) the prevention of a person from being in a life-threatening situation; <p>"wind chill" means the chilling effect and apparent temperature felt on exposed skin due to the combination of air temperature and wind speed and is calculated in the approved manner.</p>	<p>Removed.</p>	<p><u>Committee</u>: This draft section was the most contentious provision in the draft regulations.</p> <p><u>Stakeholders</u>: This provision would have an adverse impact on their activities and affect the conduct of business in the Northwest Territories and Nunavut for the duration of the harsh winters.</p> <p><u>Stakeholders</u>: Support for this section. Note that Manitoba, for example, sets an absolute temperature that is much higher than -45°C. Other stakeholders do not agree with setting an absolute temperature.</p> <p><u>Stakeholders</u>: Emergency services (such as restoring damaged power lines) would be adversely affected.</p>
<p>(2) Where workers work at a work site and the wind chill is below -28°C, the employer shall</p> <ul style="list-style-type: none"> (a) monitor the wind chill and the 		<p><u>Stakeholders</u>: Include wind chill exposure information.</p> <p><u>Committee</u>: The level of regulating in the</p>

<p>exposure of his or her workers to the wind chill; and</p> <p>(b) monitor all workers for signs of frostbite or hypothermia.</p>		
<p>(3) An employer to whom subsection (2) applies shall</p> <p>(a) schedule shifts of not more than four hours each; and</p> <p>(b) schedule work periods and work breaks, as is practicable.</p>		
<p>(4) Every work break under subsection (3) must last at least ten minutes and be in a warm and sheltered location.</p>		
<p>(5) Where the wind chill is less than -45°C, no person shall work unless it is emergency work.</p>		
<p>(6) An employer shall ensure that a worker who works in cold weather is trained in</p> <p>(a) hazard recognition and safe work practices and procedures in cold weather; and</p> <p>(b) rescue survival techniques in case of emergency.</p>		
<p>Thermal Conditions</p> <p>81. (1) Subject to subsection (3), at an indoor work site, an employer shall provide and maintain thermal conditions, including air temperature, radiant temperature, humidity and air movement, that</p> <p>(a) are appropriate to the nature of the work performed;</p>	<p>Thermal Conditions</p> <p>81. (1) Subject to subsection (3), at an indoor work site, an employer shall provide and maintain thermal conditions, including air temperature, radiant temperature, humidity and air movement, that</p> <p>(a) are appropriate to the nature of the work performed;</p>	<p><u>Stakeholders:</u> this is already covered under section dealing with wind chill (section 41).</p> <p><u>Committee:</u> By removing section 41 that is no longer true.</p> <p><u>Stakeholder:</u> Provide a risk table including humidity, wind speed, temperature for both hot and cold works.</p>

<p>(b) provide effective protection for the health and safety of workers; and</p> <p>(c) provide reasonable thermal comfort for workers.</p>	<p>(b) provide effective protection for the health and safety of workers; and</p> <p>(c) provide reasonable thermal comfort for workers.</p>	<p><u>Committee:</u> Such level of detail is not appropriate for the regulations (there are just too many). It could be put in a code of practice.</p> <p><u>Stakeholders:</u> "reasonable" is ambiguous.</p> <p><u>Committee:</u> "Reasonable" is a word that invokes a legal test, dependent on the facts of the case. It is not considered ambiguous. The alternative would be greater to make the provision more prescriptive, which is considered undesirable in this case.</p> <p><u>Stakeholders:</u> Humidity provisions be deleted.</p> <p><u>Committee:</u> An unreasonably humid work site might not be dangerous, but does pose a distraction to workers and that distraction could result in a dangerous working environment. Provisions are needed.</p> <p><u>Stakeholders:</u> Indicate acceptable temperature ranges or conditions for workers who work within closed areas (such as offices) and heat indexes for workers who work outside in extreme heat.</p> <p><u>Committee:</u> This information can be referenced from Environment Canada and Canadian Centre for Occupational Health and Safety (CCOHS).</p> <p>http://www.ec.gc.ca/meteo-weather/default.asp?lang=En&n=86C0425B-1#h2</p> <p>http://irc.nrc-cnrc.gc.ca/pubs/ctus/64_e.html</p>
<p>(2) At an indoor work site where the thermal environment is likely to be a health or safety concern to the workers, an</p>	<p>(2) At an indoor work site where the thermal environment is likely to be a health or safety concern to the workers, an</p>	<p><u>Committee:</u> No change.</p>

<p>employer shall provide and maintain an appropriate and suitably located instrument for measuring the thermal conditions.</p>	<p>employer shall provide and maintain an appropriate and suitably located instrument for measuring the thermal conditions.</p>	
<p>(3) Where it is not reasonably practicable to control thermal conditions or where work is being performed outdoors, an employer shall provide and maintain measures for</p> <ul style="list-style-type: none"> (a) the effective protection of the health and safety of workers; and (b) the reasonable thermal comfort of workers. 	<p>(3) Where it is not reasonably practicable to control thermal conditions or where work is being performed outdoors, an employer shall provide and maintain measures for</p> <ul style="list-style-type: none"> (a) the effective protection of the health and safety of workers; and (b) the reasonable thermal comfort of workers. 	<p><u>Committee</u>: No change.</p>
<p>(4) Measures for the purposes set out in subsection (3) may include</p> <ul style="list-style-type: none"> (a) frequent monitoring of thermal conditions; (b) the provision of special or temporary equipment, including screens, shelters and temporary heating or cooling equipment; (c) the provision of suitable clothing or personal protective equipment; (d) the provision of hot or cold drinks; (e) the use of acclimatization or other physiological procedures; (f) the use of limited work schedules with rest and recovery periods, changes in workloads, changes in hours or other arrangements for work; 	<p>Removed.</p>	<p><u>Committee</u>: Section 81 is sufficient to cover all thermal conditions at a work site. Subsection (4) should be removed and dealt with in a code of practice.</p>

<p>(g) frequent observation of workers by a person who is trained to recognize the symptoms of physiological stress resulting from extreme temperatures; or</p> <p>(h) the provision of emergency supplies for use when travelling under extremely cold or inclement weather conditions.</p>		
<p>(5) Where a worker is required to work in thermal conditions that are different from those associated with the worker’s normal duties, an employer shall provide, and require the worker to use, suitable clothing or other personal protective equipment necessary to protect the health and safety of the worker.</p>	<p>(4) Where a worker is required to work in thermal conditions that are different from those associated with the worker’s normal duties, an employer shall provide, and require the worker to use, suitable clothing or other personal protective equipment necessary to protect the health and safety of the worker.</p>	<p><u>Stakeholders</u>: This subsection could be interpreted as requiring the employer to purchase all winter and summer clothing.</p> <p><u>Stakeholders</u>: Suggested alternative: “Where a worker is required to work in thermal conditions that are different from those associated with the worker’s normal duties, an employer shall ensure that the worker uses suitable clothing or other personal protective equipment necessary to protect the health and safety of the worker.”</p> <p><u>Committee</u>: The proposed revision is related to comments concerning PPE and the subtle difference between "An employer shall provide..." and "An employer shall ensure that a worker is provided with..." (see item 5. <i>Personal Protective Equipment (Section 97 - Part 7)</i> at page 30, on PPE).</p> <p>This provision is of limited applicability because the thermal conditions have to be different from those associated with the worker's normal duties – if the worker normally works outside in subzero temperatures, the employer is not required to provide ordinary cold-weather clothing. To suggest that all employers will be required to purchase all</p>

		<p>winter and summer clothing is not what this subsection says.</p> <p>No change except to subsection number.</p>
<p>(6) Nothing in this section affects the application of section 41.</p>	<p>Removed.</p>	<p><u>Committee</u>: With removal of draft section 41, there is no basis for subsection (6).</p>

2. Supervisors (Sections 1, 19, 20 and 21)

June 2010	September 2011	Comments and Analysis
<p>1. In these regulations, ...</p> <p>"supervisor" means an individual who is authorized by an employer to oversee or direct workers and includes a diving supervisor;</p>	<p>1. In these regulations, ...</p> <p>"supervisor" means an individual who is authorized by an employer to oversee or direct workers;</p>	<p><u>Committee:</u> The phrase "and includes a diving supervisor" is unnecessary: removed.</p>
<p style="text-align: center;">Supervision of Work</p> <p>19. (1) An employer shall ensure that, at a work site,</p> <ul style="list-style-type: none"> (a) all work is sufficiently and competently supervised; (b) supervisors have sufficient knowledge of the following: <ul style="list-style-type: none"> (i) the Act and any regulations made pursuant to the Act that apply to the work site, (ii) any occupational health and safety program at the work site, (iii) the safe handling, use, storage, production and disposal of hazardous substances, (iv) the need for, and safe use of, personal protective equipment, (v) emergency procedures required by these regulations, (vi) any other matters that are necessary to ensure 	<p style="text-align: center;">Supervision of Work</p> <p>19. (1) An employer shall ensure that, at a work site,</p> <ul style="list-style-type: none"> (a) all work is sufficiently and competently supervised; (b) supervisors have sufficient knowledge of the following: <ul style="list-style-type: none"> (i) any occupational health and safety program at the work site, (ii) the safe handling, use, storage, production and disposal of hazardous substances, (iii) the need for, and safe use of, personal protective equipment, (iv) emergency procedures required by these regulations, (v) any other matters that are necessary to ensure the health and safety of workers; (c) all supervisors have completed an approved regulatory 	<p><u>Stakeholders:</u> Supervisor's Certificate program could interfere with trades and occupations certification legislative regime. Such interference is outside of the scope of regulation making powers under the Act.</p> <p><u>Stakeholders:</u> Concern with the cost of administering the Supervisor's Certificate program, both to stakeholders and to government.</p> <p><u>Committee:</u> Section 19 is a critical section and needs to be retained.</p> <p>Draft subparagraph 19(1)(b)(i) is unnecessary as it restates section 6 of the Act: removed.</p> <p>A new paragraph 19(1)(c) is added, to shift to employers, responsibility to ensure supervisors complete an appropriate regulatory familiarization program; this is consistent with the section 6 of the Act.</p> <p>The WSCC will set up and run a regulatory familiarization program (covering substantially the same ground as the Supervisor's Certificate under the consultation draft provisions), to assist employers in ensuring that supervisory personnel are familiar with</p>

<p>the health and safety of workers;</p> <p>(c) supervisors comply with the Act and any regulations made pursuant to the Act that apply to the work site.</p>	<p>(d) familiarization program; and supervisors comply with the Act and any regulations made pursuant to the Act that apply to the work site.</p>	<p>the Act and regulations. Employers will also have the option to have their supervisors complete a substitute approved program (i.e. approved by the Chief Safety Officer).</p>
<p>(2) A supervisor shall ensure that workers comply with the Act and any regulations made pursuant to the Act that apply to the work site.</p>	<p>(2) A supervisor shall ensure that workers comply with the Act and any regulations made pursuant to the Act that apply to the work site.</p>	
<p>Supervisor's Certificate</p> <p>20. (1) If high hazard work is being undertaken at a work site, then each employer shall ensure that every supervisor is in possession of a supervisor's Certificate.</p>	<p>Removed.</p>	<p><u>Stakeholders</u>: Concern that if the Chief Safety Officer plays an interventionist role, it takes away some of the responsibilities of the employers.</p> <p><u>Committee</u>: The Supervisor's Certificate requirement is removed in view of changes in section 19.</p>
<p>(2) The Chief Safety Officer shall issue a Supervisor's Certificate to a person who</p> <p>(a) successfully passes an examination as set by the Chief Safety Officer, which assesses the person's familiarity with the Safety Act, regulations pursuant to the Act and codes of practice;</p> <p>(b) is a first aid attendant as defined under section 61 who holds a valid Level 2 first aid certificate or higher; and</p> <p>(c) has applied to the Chief Safety Officer for a Supervisor's Certificate.</p>		<p><u>Committee</u>: The concept of "high hazard work", is redrafted, and is now applicable only to first aid requirements.</p>

<p>(3) An employer may issue a Provisional Supervisor's Certificate to a person who</p> <ul style="list-style-type: none"> (a) demonstrates to the employer's satisfaction an adequate knowledge of the <i>Safety Act</i> and regulations pursuant to the Act and codes of practice; (b) is a first aid attendant defined under section 61 who holds a valid Level 2 first aid certificate or higher; and (c) has applied to the Chief Safety Officer for a Supervisor's Certificate and has not failed the examination under paragraph (2)(a). 		
<p>(4) An employer shall ensure that a copy of each Provisional Supervisor's Certificate is sent to the Chief Safety Officer immediately after issue.</p>		
<p>(5) The Chief Safety Officer shall ensure that a Supervisor's Certificate issued under subsection (2) has an expiry date printed on it of not more than five years from the date of issue.</p>		
<p>(6) An employer shall ensure that a Provisional Supervisor's Certificate issued under subsection (3) has an expiry date printed on it of no later than 90 days from the date of issue.</p>		
<p>(7) An employer shall not issue more than one Provisional Supervisor's Certificate to any one person.</p>		

<p>Suspension or Cancellation of Supervisor’s Certificate</p> <p>21. (1) A safety officer may suspend or cancel a Supervisor’s Certificate or a Provisional Supervisor’s Certificate if</p> <ul style="list-style-type: none"> (a) the safety officer reasonably believes that the supervisor is unwilling or unable to carry out supervisory duties under section 19; or (b) the supervisor ceases to meet the requirements of subsection 20(2) or 20(3). 	<p>Removed.</p>	<p><u>Committee:</u> For the reasons stated above, sections 20 and 21 are removed from the draft.</p>
<p>(2) Where a safety officer suspends or cancels a Supervisor’s Certificate under subsection (1) written notice of the suspension or cancellation, with reasons, must be delivered immediately by the safety officer to all of the following:</p> <ul style="list-style-type: none"> (a) the person who is the subject of the suspension or cancellation; (b) the employer; (c) the Chief Safety Officer. 		
<p>(3) A written notice of suspension or cancellation issued under subsection (1) takes effect immediately on delivery of the written notice under subsection (2)(a).</p>		
<p>(4) Where a Supervisor’s Certificate is suspended or cancelled under subsection (1) a person may appeal in writing to the Chief Safety Officer under section 16 of the Act.</p>		

3. New Operations and High Hazard Work (Section 7 and Schedule A)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">New Operations</p> <p>7. (1) An employer shall, as soon as is practicable, give notice to the Chief Safety Officer of an intention to</p> <ul style="list-style-type: none"> (a) begin work at a construction site, manufacturing plant or processing plant where ten or more workers are to be employed for six months or more; (b) dig an excavation, a trench or an excavated shaft <ul style="list-style-type: none"> (i) more than 5 m deep, and (ii) into which a worker will be required or permitted to enter; or (c) dig a tunnel into which a worker will be required or permitted to enter. 	<p style="text-align: center;">New Operations</p> <p>7. (1) As soon as is reasonably possible, an employer shall give notice to the Chief Safety Officer of an intention to</p> <ul style="list-style-type: none"> (a) begin work at a construction site, manufacturing or processing plant where 20 or more workers are to be employed for six months or more; (b) dig an excavation, a trench or an excavated shaft <ul style="list-style-type: none"> (i) that is more than five metres deep, and (ii) that a worker will be required or permitted to enter; or (c) dig a tunnel that a worker will be required or permitted to enter. 	<p><u>Committee:</u> In subsection 7(1) the requirement has been changed from "as soon as is practicable" to "as soon as is reasonably possible".</p> <p><u>Stakeholders:</u> Increase threshold to "20 or more workers" from ten.</p> <p><u>Committee:</u> In paragraph 7(1)(a) the Committee adopted suggestions to change to a threshold of "20 or more workers", which is consistent with other jurisdictions in Canada.</p> <p><u>Stakeholders:</u> "...reasonably practicable" or "reasonably possible" are ambiguous.</p> <p><u>Committee:</u> The use of "reasonably practicable" and "reasonably possible" is acceptable and commonplace in legislation across Canada and has been supported in court cases. Terms will be defined within applicable codes of practice. Elaboration on the interpretation of these terms can be found with Human Resources and Skills Development Canada guidelines (http://www.hrsdc.gc.ca/eng/labour/ipg/057.shtml).</p>
<p>(2) An employer shall give notice to the Chief Safety Officer of an intention to begin an activity that constitutes high hazard work not less than 30 days before the activity begins.</p>	<p>(2) An employer shall, before commencing any asbestos process listed in Schedule B, give notice to the Chief Safety Officer at least 30 days before the process commences.</p>	<p><u>Committee:</u> In subsection 7(2), the specific notice requirement reduced to the start of any asbestos project. The reference to "high hazard work" dropped, and is now used only in relation to first aid equipment and personnel.</p> <p><u>Stakeholders:</u> In many cases it may be impossible to give notice 30 days in advance, for instance where emergency or isolated work is undertaken.</p>

		<u>Committee:</u> The 30-day notice requirement has been eliminated for all but asbestos processes. This subsection also allows for notice after the fact to be given under certain conditions.
<p>(3) A notice required by subsection (1) or (2) must include</p> <ul style="list-style-type: none"> (a) the legal name and business name of the employer; (b) the location of the intended site, plant, process or work site; (c) the mailing address of the employer; (d) the nature of the activity to be undertaken; (e) the number of workers to be employed; (f) the telephone number and fax number of the employer; and (g) the estimated starting date and expected duration of the activity. 	<p>(3) A notice required by subsection (1) or (2) must include</p> <ul style="list-style-type: none"> (a) the legal name and business name of the employer; (b) the location of the intended site, plant, process or work site; (c) the mailing address of the employer; (d) the nature of the activity to be undertaken; (e) the number of workers to be employed; (f) the telephone number and fax number of the employer; and (g) the estimated starting date and expected duration of the activity. 	
	<p>(4) Where an employer cannot give the notice required under subsection (2) in the time required, the employer shall, as soon as is practicable,</p> <ul style="list-style-type: none"> (a) give notice to the Chief Safety Officer of the work or process; and (b) provide an explanation why the notice was not given in the time required. 	
<p>Schedule A</p> <p>Activities that Constitute High Hazard Work</p>	<p>Schedule A</p> <p>Activities that Constitute High Hazard Work</p>	<u>Committee:</u> The list reduced and the activities that are covered in other legislation or areas of the regulations removed, i.e. gas, oil, mineral and mining.

<ol style="list-style-type: none"> 1. Cnstruction 2. Exploration drilling, shaft sinking, quarrying and crushing of rocks 3. High risk asbestos processes 4. Iron and steel processing and fabrication 5. Isolated work in extremely cold weather 6. Local and territorial hauling and trucking 7. Logging 8. Manufacturing of concrete block, brick, artificial stone and other clay and cement products 9. Power line construction and maintenance 10. Road construction, earthwork, tunnelling and trenching 11. Sawmilling 12. Water well drilling and servicing 	<ol style="list-style-type: none"> 1. Building construction 2. Road construction, earthwork, tunnelling and trenching 3. Local and territorial hauling and trucking 4. Quarrying and crushing of rocks 5. Power line construction and maintenance 6. Manufacturing of concrete block, brick, artificial stone and other clay and cement products 7. Logging 8. Milling of timber 9. Iron and steel processing and fabrication. 	<p>Note, due to the changes to section 7, the only application of the high hazard work criteria is in respect of first aid requirements.</p>
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4. "Competent Workers" and Training of Workers (Sections 1 and 24)

June 2010	September 2011	Comments and Analysis
<p>1. In these regulations, ...</p> <p>"competent" means possessing knowledge, experience and training to perform a specific duty;</p> <p>"competent worker", with respect to a particular task or duty, includes a worker who is being trained to perform that task or carry out that duty and who is under close and competent supervision during that training;</p> <p>"supervisor" means an individual who is authorized by an employer to oversee or direct workers and includes a diving supervisor;</p>	<p>1. In these regulations, ...</p> <p>"competent" means possessing knowledge, experience and training to perform a specific duty;</p> <p>"competent worker", with respect to a particular task or duty, includes a worker who is being trained to perform that task or carry out that duty and who is under close supervision during that training;</p> <p>"supervisor" means an individual who is authorized by an employer to oversee or direct workers;</p>	<p><u>Committee</u>: Possible confusion over the effect of section 24 caused by the placement of "and competent" before "supervision" in the definition of "competent worker". Corrected.</p> <p><u>Committee</u>: The definition of "supervisor" is included in this item for ease of reference.</p>
<p>24. (1) An employer shall ensure that a worker is trained in all matters that are necessary to protect the health and safety of the worker at a work site when the worker</p> <ul style="list-style-type: none"> (a) begins work at the work site; or (b) is moved from one work activity or work site to another that differs with respect to hazards, facilities or procedures. 	<p>24. (1) An employer shall ensure that a worker is trained in those matters that are necessary to protect the health and safety of the worker at a work site when the worker</p> <ul style="list-style-type: none"> (a) begins work at the work site; or (b) is moved from one work activity or work site to another that differs with respect to hazards, facilities or procedures. 	<p><u>Stakeholders</u>: "all" in that part of subsection 24(1) preceding paragraph (a) be changed to "those". "All" is a difficult requirement to meet.</p> <p><u>Committee</u>: Agrees.</p> <p><u>Stakeholders</u>: Concern that this provision might result in over-reaching into the realm of professional training or the training of persons in trades and occupations. Such overreaching is beyond the regulation making authority of the Act.</p>
<p>(2) The training required by subsection (1) must include</p> <ul style="list-style-type: none"> (a) procedures to be taken in the event of a fire or other emergency; 	<p>(2) The training required by subsection (1) must include</p> <ul style="list-style-type: none"> (a) procedures to be taken in the event of a fire or other emergency; 	<p><u>Committee</u>: The training described under subsection 24(1) is limited to OHS matters at a particular worksite. There is no authority under the <i>Safety Act</i>, and no intent under the proposed regulations, to regulate any other aspect of professional, trades or</p>

<ul style="list-style-type: none"> (b) the location of first aid facilities; (c) identification of prohibited or restricted areas; (d) precautions to be taken for the protection of the worker from hazardous substances; (e) any procedures, plans, policies and programs that the employer is required to develop under the Act or any regulations made pursuant to the Act that apply to work at the work site; and (f) any other matters that are necessary to ensure the health and safety of the worker at the work site. 	<ul style="list-style-type: none"> (b) the location of first aid facilities; (c) identification of prohibited or restricted areas; (d) precautions to be taken for the protection of the worker from hazardous substances; (e) any procedures, plans, policies and programs that the employer is required to develop under the Act or any regulations made pursuant to the Act that apply to work at the work site; and (f) any other matters that are necessary to ensure the health and safety of the worker at the work site. 	<p>occupational training.</p> <p><u>Stakeholders:</u> This section might also inhibit the ability to have apprentices or trainees work on the job.</p> <p><u>Committee:</u> See revised definition of "competent worker".</p> <p><u>Stakeholders:</u> Suggest there should be a requirement for employers to maintain records.</p> <p><u>Committee:</u> It is good management practice for an employer to maintain training records, but a requirement is unnecessary.</p>
<p>(3) An employer shall ensure that the time spent by a worker in the training required by subsection (1) is credited to the worker as time at work, and that the worker does not lose pay or benefits with respect to that time.</p>	<p>(3) An employer shall ensure that the time spent by a worker in the training required by subsection (1) is credited to the worker as time at work, and that the worker does not lose pay or benefits with respect to that time.</p>	
<p>(4) An employer shall ensure that no worker is permitted to work unless he or she is a competent worker.</p>	<p>(4) An employer shall ensure that no worker is permitted to work unless he or she is a competent worker.</p>	

5. Personal Protective Equipment (Section 97 - Part 7)

The Committee studied all the stakeholders' comments concerning PPE and, after analysis concluded that no significant changes were required. Below is a summary of the analysis, which provides clarification of the draft.

Section 97 sets out general responsibilities concerning PPE: paragraph 97(1)(a) provides

97. (1) Where an employer is required by these regulations or any other regulations made pursuant to the Act to provide personal protective equipment to workers, the employer shall
- (a) supply approved personal protective equipment at no cost to the workers;

A number of stakeholders expressed concerns about PPE being required to be provided to workers at the expense of employers. This concern affects numerous provisions of the draft regulations. Other provisions requiring employers to provide PPE include: ss. 81(5), 101(1), 101(2), 101(3), 104(1), 105(1), 105(2), 105(3), 107(1), 107(2), 108(1), 108(2), 109, 327, 389(1), 389(3), 469(2), 487, 489(1) and 490.

Using Part 7 (and section 97) as a starting point, two drafting formulas appear in the regulations:

- I. "...an employer shall ensure that the worker is provided with..." (or sometimes, "...shall ensure that the worker uses...")
- II. "...an employer shall provide..."

There is a subtle, but significant difference in meaning between these two provisions. Both impose an obligation on an employer. The first only obligates the employer to ensure that the worker *has* the item, but it is not necessarily the employer that provides it. The second drafting formula obligates the employer to actually provide the item of concern.

The obligation to provide should apply only to specialized PPE. It is unreasonable to expect a worker to provide specialized PPE at his or her own cost, particularly in remote areas like the two territories, where such gear is not readily available to workers at a reasonable cost. The regulations are silent about who retains ownership of the PPE provided by an employer.

Example:

Section 107, dealing with footwear, is a good example of the two types of provisions, and the difference between them.

Subsection 107(1) uses the formula "...an employer shall ensure that the worker uses ..." appropriate footwear. The employer is not required to provide footwear for a worker's normal, day-to-day work. In subsection 107(2), the employer "shall provide" the footwear, but the conditions are not normal working conditions.

The employer is required to provide protective footwear, but the conditions and risks to workers from crushing, or from hot, corrosive or toxic substances, are not normal working conditions and risks. It is appropriate employers provide the specialised footwear to protect workers against such unusual risks.

107. (1) Subject to this section, an employer shall ensure that
- (a) a worker uses footwear that is appropriate to the risks associated with the work site and the worker's work; and
 - (b) a worker who may be at risk from a heavy or falling object or who may tread on a sharp object uses approved protective footwear.
- (2) An employer shall
- (a) provide outer foot guards if there is substantial risk of a crushing injury to the foot of a worker; and
 - (b) provide approved protective footwear if the feet of a worker may be endangered by hot, corrosive or toxic substances.

Table 4 - Personal Protective Equipment an Employer is Required to Provide

Provision	Type of PPE	Conditions where Required
81(5)	Suitable clothing or other personal protective equipment necessary to protect the health and safety of the worker	Where a worker is required to work in thermal conditions that are different from those associated with the worker's normal duties
101(1)	Approved industrial head protection	Where there is a risk of injury to the head of a worker
101(2)	Approved industrial head protection that is of adequate dielectric strength to protect the worker	Where a worker may contact an exposed energized electrical conductor
101(3)	Suitable liner and a retention system	Where a worker is required by these regulations to use industrial head protection
104(1)	Approved industrial eye or approved industrial face protector	Where there is a risk of irritation or injury to the face or eyes of a worker from flying objects or particles, splashing liquids, molten metal or ultraviolet, visible or infrared radiation
105(1)	Approved protective clothing or covers or any other safeguard	Where there is a risk of injury to the skin of a worker from sparks, molten metal or radiation
105(2)	Approved fire resistant clothing	Where there is a risk of injury to the skin of a worker from fire or explosion
105(3)	Approved flash protection	Where there is a risk of injury to the skin of an electrical worker from arc flash
107(2)	Approved protective footwear	Where there is substantial risk of a crushing injury to the foot. If the feet of a worker may be endangered by hot, corrosive or toxic substance
108(1)	Suitable and properly fitted hand or arm	Where there is a risk of contact with chemical or biological processes/exposure to

	protection to protect the worker from injury to the hand or arm	work processes involving extreme temperatures/prolonged exposure to water/puncture, abrasion or irritation of the skin
108(2)	Approved rubber insulating gloves and mitts and approved rubber insulating sleeves	Where a worker may contact an exposed energized high voltage electrical conductor
109	Protective clothing, gloves and eye wear or face shields that are adequate to prevent exposure of a worker's skin and mucous membranes to the hazardous material or substance	Where workers are routinely exposed to a hazardous material or substance
327	Approved respiratory protective device that meets the requirements of Part 7	Where there is a risk of exposure to a listed chemical substance or biological substance
389(1)	A respiratory protective device and other personal protective equipment that meet the requirements of Part 7	Where there is a risk of exposure to silica dust
389(3)	Respiratory protective devices that meet the requirements of Part 7	Where there is a risk of exposure to dust resulting from abrasive blasting
469(2)	Personal protective equipment appropriate to the risks associated with the worker's work	Where one is working with hospital waste
487	Approved personal protective equipment that is appropriate to the nature of the risk to which the firefighter will be exposed and that is adequate to protect the health and safety of the firefighter	Where a firefighter who engages in or is exposed to the hazards of emergency operations
489(1)	An approved personal alarm safety system device	Where a firefighter enters a structure during firefighting
490	Harnesses and hardware that are appropriate to the nature of the risk to which the firefighter will be exposed and adequate to protect the health and safety of the firefighter	Where a firefighter engages in firefighting

6. Clothing (Section 84)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Clothing</p> <p>84. (1) Subject to subsection (2), an employer shall provide at a work site and maintain for the use of workers clean, appropriately located and suitable accommodation for street clothing that is not worn at work and for clothing worn at work.</p>	<p style="text-align: center;">Clothing</p> <p>84. (1) Subject to subsection (2), an employer shall provide at a work site and maintain for the use of workers clean, appropriately located and suitable accommodation for street clothing that is not worn at work and for clothing worn at work.</p>	
<p>(2) Where street clothing not worn at work is likely to become wet, dirty or contaminated from being kept in the same accommodation as clothing worn at work, the accommodation for street clothing must be separate from the accommodation provided for clothing worn at work.</p>	<p>(2) Where street clothing not worn at work is likely to become wet, dirty or contaminated from being kept in the same accommodation as clothing worn at work, the accommodation for street clothing must be separate from the accommodation provided for clothing worn at work.</p>	
<p>(3) Where a worker’s work clothing or skin is likely to be contaminated by hazardous or offensive substances, an employer shall</p> <ul style="list-style-type: none"> (a) provide protective clothing and head cover appropriate to the work and hazard; (b) provide a suitable changing area; and (c) ensure that the protective clothing and head cover are handled and cleaned or disposed of in a manner that will prevent worker exposure to the hazardous or offensive substances. 	<p>(3) Where a worker’s work clothing or skin is likely to be contaminated by hazardous substances, an employer shall</p> <ul style="list-style-type: none"> (a) provide protective clothing and head cover appropriate to the work and hazard; (b) provide a suitable changing area; and (c) ensure that the protective clothing and head cover are handled and cleaned or disposed of in a manner that will prevent worker exposure to the hazardous substances. 	<p><u>Stakeholders:</u> The use of "offensive" substances in this section could lead to a subjective evaluation.</p> <p><u>Committee:</u> As long as there is no risk to the worker, the substance can be deemed safe. Contamination by hazardous substances, whether considered offensive or not, is the main concern. Therefore the word offensive is removed.</p>
	<p>(4) This section does not apply to work</p>	<p><u>Stakeholders:</u> Issue with potential modifications to</p>

	sites that were constructed prior to the coming into force of these regulations.	their facilities.
	(5) This subsection and subsection (4) are repealed five years after the coming into force of these regulations.	<u>Committee:</u> Adds subsections (4) and (5) to accommodate implementation of modifications over time if there is not an immediate danger to worker health. A five year grace period takes into account retrofitting of buildings.

7. OHS Representative and Committees (Sections 1 and 45-60)

June 2010	September 2011	Comments and Analysis
<p>1. In these regulations, "occupational health and safety representative" means the occupational health and safety representative designated under section 46;</p>	<p>1. In these regulations, "representative" means the occupational health and safety representative designated under section 46;</p>	<p><u>Committee</u>: "Occupational health and safety representative" is simplified to "representative".</p>
<p>Establishment of Committees</p> <p>45. (1) Where ten or more workers work at a work site or if so directed by the Chief Safety Officer, the employer shall</p> <ul style="list-style-type: none"> (a) establish a Committee at the work site; and (b) designate persons as members of the Committee in accordance with this section. 	<p>Establishment of Committees</p> <p>45. An employer shall establish a Committee</p> <ul style="list-style-type: none"> (a) at a work site where 20 or more workers work or are likely to work for more than 90 days; or (b) if so directed by a safety officer. 	<p><u>Committee</u>: Draft section 45 is separated into two sections to further clarify how OHS Committees are established and their members are designated.</p> <p><u>Stakeholders</u>: Suggested that the threshold limit be raised from 10 to 20.</p> <p><u>Committee</u>: Agrees.</p>
<p>(2) An employer who is required to establish a committee shall,</p> <ul style="list-style-type: none"> (a) in designating the members, <ul style="list-style-type: none"> (i) select persons to represent the employer on the committee; and (ii) ensure that there is a sufficient number of members representing workers on the committee to equitably represent groups of workers who have substantially different occupational health and safety concerns; and 		<p><u>Stakeholders</u>: Wondered about work sites where there are multiple employers – is the number of employees counted for each employer or collectively.</p> <p><u>Committee</u>: Where multiple employers are present at a worksite, all are responsible (see section 4 of the draft regulations and section 7 of the Act).</p> <p>Current section 7 of the Act (providing that the principal contractor is responsible for the establishment of a committee where there is more than one employer), must be ignored for the purposes of this draft. It is recommended that <i>An Act to Amend the Safety Act</i>, S.N.W.T 2003, c. 25; S.Nu. 2003 c.25 come into force when these regulations come into force. That amending Act repeals section 7 of the <i>Safety Act</i> and inserts a more general section 7. It will require multiple employers at a site to work</p>

<p>(b) designate members for a term not exceeding three years.</p>		<p>together to establish a single work safety program for the work site.</p>
<p>(3) Members of the Committee hold office until a successor is designated, and may be re-designated for a second or subsequent term.</p>		
	<p style="text-align: center;">Composition of Committee</p> <p>45.1. (1) Where an employer is required to establish a Committee, it must be composed of an equal number of</p> <p style="padding-left: 40px;">(a) workers chosen by the workers at the work site who are representative of and who shall represent the occupational health and safety concerns of all the workers at the work site; and</p> <p style="padding-left: 40px;">(b) persons chosen by the employer, or by each employer where workers of two or more employers are employed at the same work site, to represent the employer.</p>	<p><u>Committee:</u> This section is added in the NWT version of the draft regulations. It is not required in the NU version as the provision is present in subsection 7(3) of the Safety Act for NU once section 6 of <i>An Act to Amend the Safety Act</i>, S.Nu. 2003, c.25 comes into force. This provision should be a statutory provision in the <i>Safety Act</i> for the NWT and an amendment to the Act is recommended. Once that amendment is made in the NWT and comes into force, this particular section can be repealed and the following substituted:</p> <p style="text-align: center;">Composition of Committee</p> <p style="padding-left: 40px;">45.1. An employer who is required to establish a Committee shall ensure that the Committee is composed as required under subsection 7(3) of the Act.</p> <p>The NU version would look like this immediately.</p>
	<p>(2) An employer who is required to establish a Committee shall ensure that the Committee is composed as required under subsection (1).</p>	<p>Provisions regarding the term of office are not necessary and have been deleted. The OHS Committee can deal with these matters.</p>
<p style="text-align: center;">Designation of Occupational Health and Safety Representative</p> <p>46. (1) Where fewer than ten workers work at a work site and there is no</p>	<p style="text-align: center;">Designation of Representative</p> <p>46. (1) Where no Committee is required at a work site, the employer shall designate at</p>	<p><u>Committee:</u> The use of "occupational health and safety representative" is required in this section due to its use in the definition of "representative".</p>

<p>Committee, the employer shall designate at least one worker as the occupational health and safety representative for these workers.</p> <p>(2) An occupational health and safety representative shall act in the stead of the Committee for the purposes of the Act and these regulations.</p>	<p>least one worker as the occupational health and safety representative for the workers.</p>	
	<p>(2) An occupational health and safety representative shall act in place of a Committee for the purposes of the Act and these regulations.</p>	
<p>Duty to Post Names</p> <p>47. An employer who is required to establish a Committee or to designate an occupational health and safety representative shall post the name of each member of the Committee or of the occupational health and safety representative in a conspicuous location at the work site.</p>	<p>Duty to Post Names</p> <p>47. An employer shall ensure that the name of each member of the Committee or of the representative is readily accessible to workers at the work site.</p>	<p><u>Committee</u>: Revised to accommodate other means of notifying workers.</p>
<p>Quorum</p> <p>48. (1) A quorum consists of one-half of the members of the Committee, if</p> <p>(a) representatives of both employers and workers are present; and</p> <p>(b) at least one-half of the members present represent workers.</p>	<p>Quorum and Certain Votes</p> <p>48. (1) A quorum consists of one-half of the members of a Committee, where</p> <p>(a) representatives of both employers and workers are present; and</p> <p>(b) at least one-half of the members present represent workers.</p>	<p><u>Committee</u>: While the function of the Committee is mostly to facilitate communications, it does have a role under the Act in respect of investigating work refusals.</p> <p>Under subsection (3), dealing with refusal to work in unusual danger situations, a decision by an OHS Committee should be based on unanimity. There are other options in the Act for employers, workers and the Committee to take should the Committee be unable to deal with a refusal to work (see section 13 of the Act).</p>
<p>(2) Where a quorum does not exist when the Committee meets, no decisions or recommendations made have validity.</p>	<p>(2) Any business of a Committee that is transacted where a quorum is not present is not validly transacted, and any meeting of a Committee that is held where a quorum is not present is not a valid meeting of the</p>	

	Committee.	
(3) Decisions of the Committee with respect to any matter relating to section 13 of the Act must be made by a majority vote of Committee members present.	(3) Decisions of a Committee with respect to refusals to work pursuant to section 13 of the Act must be by unanimous vote of members of the committee who are present.	
<p>Frequency of Meetings</p> <p>49. (1) Subject to subsection (2), an employer shall ensure that the Committee</p> <ul style="list-style-type: none"> (a) holds its first meeting within ten days after being established; (b) holds three subsequent meetings at intervals not exceeding one month; and (c) after the third subsequent meeting in paragraph (b), holds regular meetings at intervals not exceeding three months. 	<p>Frequency of Meetings</p> <p>49. (1) Subject to subsection (2), a Committee shall</p> <ul style="list-style-type: none"> (a) hold its first meeting within 14 days after being established; (b) hold three subsequent meetings at intervals not exceeding one month; and (c) after the third subsequent meeting referred to in paragraph (b), hold regular meetings at intervals not exceeding three months. 	<p><u>Stakeholders:</u> Concern about a lack of worker interest in committees or about the possibility that placing requirements on OHS Committees might undermine the responsibility of the employer (who is the dominant force on the OHS Committees).</p> <p><u>Stakeholders:</u> Concern about use of the OHS Committees for purposes other than OHS by employer or workers, for such things as collective agreements and labour bargaining.</p> <p><u>Committee:</u> The OHS Committee in this legislative scheme is merely a facilitator of communications between employer and workers on OHS matters.</p> <p><u>Stakeholders:</u> It is difficult for an employer ensure an OHS Committee meets regularly.</p> <p><u>Committee:</u> Agrees and subsection (1) is reformulated to drop that requirement. Subsection (1) is one of the few obligations of an OHS Committee – the other is section 50 in respect of minutes.</p>
<p>(2) The Chief Safety Officer may require the Committee to meet more frequently than required under subsection (1) due to</p> <ul style="list-style-type: none"> (a) the existence of particular hazards or circumstances at the work site; (b) the complexity of the work carried out at the work site; or (c) the number of workers at the work site. 	<p>(2) The Chief Safety Officer may require the Committee to meet more frequently than required under subsection (1) due to any of the following factors at the work site:</p> <ul style="list-style-type: none"> (a) the existence of particular hazards or circumstances; (b) the complexity of the work carried out; or (c) the number of workers. 	
<p>Minutes</p> <p>50. An employer shall ensure that the</p>	<p>Minutes</p> <p>50. An employer shall ensure that the</p>	No change.

<p>Committee</p> <ul style="list-style-type: none"> (a) records minutes of each meeting and keeps the minutes on file; (b) sends a copy of the minutes to the Chief Safety Officer if required by the Chief Safety Officer; and (c) posts a copy of the minutes at a location that is readily accessible to workers at the work site. 	<p>Committee</p> <ul style="list-style-type: none"> (a) record minutes of each meeting and keeps the minutes on file; (b) sends a copy of the minutes to the Chief Safety Officer, if required by the Chief Safety Officer; and (c) post a copy of the minutes at a location that is readily accessible to workers at the work site. 	
<p>Co-chairpersons</p> <p>51. (1) At the first meeting of the Committee,</p> <ul style="list-style-type: none"> (a) members of the Committee representing workers shall elect a worker co-chairperson from among their number; and (b) the employer shall appoint an employer co-chairperson from the members of the Committee representing the employer. 	<p>Co-chairpersons</p> <p>51. (1) At the first meeting of the Committee,</p> <ul style="list-style-type: none"> (a) members of the Committee representing workers shall elect a worker co-chairperson from among their number; and (b) the employer shall appoint an employer co-chairperson from the members of the Committee representing the employer. 	<p>No change.</p>
<p>(2) An employer co-chairperson shall keep the employer informed of the activities, concerns and recommendations of the Committee and of any information addressed to the Committee.</p>	<p>(2) An employer co-chairperson shall keep the employer informed of the activities, concerns and recommendations of the Committee and of any information addressed to the Committee.</p>	
<p>(3) A worker co-chairperson shall keep the workers informed of the activities, concerns and recommendations of the Committee and of any information addressed</p>	<p>(3) A worker co-chairperson shall keep the workers informed of the activities, concerns and recommendations of the Committee and of any information addressed</p>	

to the Committee.	to the Committee.	
(4) An employer shall facilitate the discharge of the worker co-chairperson's duties during normal work hours by permitting meetings of workers or by other means that are appropriate in the circumstances.	(4) An employer shall facilitate the discharge of the worker co-chairperson's duties during normal work hours by permitting meetings of workers or by other means that are appropriate in the circumstances.	
	<p style="text-align: center;">Special Meetings</p> <p>51.1. Either co-chairperson may call a special meeting of a Committee to deal with urgent concerns, imminent dangers to health or safety, investigations of accidents causing serious bodily injury or dangerous occurrences or refusals to work pursuant to section 13 of the Act.</p>	<u>Committee:</u> See comment at section 52.
<p style="text-align: center;">Meetings</p> <p>52. (1) The employer shall meet with the Committee or occupational health and safety representative regularly to discuss health and safety matters.</p>	<p style="text-align: center;">Meetings of Employers and Representatives</p> <p>52. (1) Where a representative is designated, an employer shall meet with the representative regularly to discuss health and safety matters.</p>	<u>Committee:</u> Section 52 was broken up into two sections: one dealing with special OHS Committee meetings called by a co-chairperson, and one dealing with meetings of employers and representatives. That part of subsection 52(1) requiring an employer to meet with a Committee was unnecessary, as the employer will meet with the employer co-chairperson as needed to exchange information.
(2) An occupational health and safety representative, designated under section 46, may call a special meeting with an employer to deal with urgent concerns, imminent dangers to health or safety or investigations of accidents or dangerous occurrences.	(2) A representative may call a special meeting with an employer to deal with urgent concerns, imminent dangers to health or safety or investigations of accidents or dangerous occurrences.	<u>Stakeholders:</u> This section is vague, especially in respect of accidents or dangerous occurrences.
(3) A co-chairperson may call a special meeting of the Committee to deal with urgent concerns, imminent dangers to health or safety, investigations of accidents or		<u>Committee:</u> These comments have been addressed through the significant revisions to sections 8 and 9, 35 to 37, and the definitions of "accident causing serious bodily injury" and "dangerous occurrences" – globally defined terms in section 1 of the redraft.

<p>dangerous occurrences or refusals to work pursuant to section 13 of the Act and these regulations.</p>		
<p style="text-align: center;">Opportunity for Necessary Activities</p> <p>53. (1) An employer shall ensure that</p> <p style="padding-left: 20px;">(a) the members of the Committee or the occupational health and safety representative are allowed to examine any log book, inspection report or other record that the employer is required to keep at the work site pursuant to the Act or any regulations made pursuant to the Act;</p> <p style="padding-left: 20px;">(b) the members of the Committee or the occupational health and safety representative have reasonable opportunity, during normal working hours and without loss of pay or other benefits, to receive and investigate concerns, to inform workers of the provisions of the Act or any regulations made pursuant to the Act or to conduct other business proper to the functioning of the Committee or the representative;</p> <p style="padding-left: 20px;">(c) the members of the Committee have reasonable opportunity to hold a special meeting pursuant to section</p>	<p style="text-align: center;">Opportunity for Necessary Activities</p> <p>53. (1) An employer shall ensure that</p> <p style="padding-left: 20px;">(a) the members of the Committee or the representative are allowed to examine any log book, inspection report or other record that the employer is required to keep at the work site pursuant to the Act or any regulations made pursuant to the Act;</p> <p style="padding-left: 20px;">(b) the members of the Committee or the representative have reasonable opportunity, during normal working hours and without loss of pay or other benefits, to receive and investigate concerns, to inform workers of the provisions of the Act or any regulations made pursuant to the Act or to conduct other business —necessary to the functioning of the Committee or the representative;</p> <p style="padding-left: 20px;">(c) the members of the Committee have reasonable opportunity to hold a special meeting pursuant to section 51.1 at any time; and</p> <p style="padding-left: 20px;">(d) the representative has</p>	<p><u>Stakeholders:</u> Complaints could be investigated by the OHS Committee without informing the employer.</p> <p><u>Committee:</u> There cannot be a quorum for a meeting of an OHS Committee without both employer and worker representatives present, so an employer will have knowledge of any decision made by the Committee. Allowing an investigation or any other OHS Committee business to be carried on without the knowledge of the employer or workers, undermines the IRS.</p> <p>The purpose of the OHS Committee is to facilitate communications and aid the employer in meeting his or her responsibilities under the <i>Safety Act</i> and regulations.</p>

<p>(d) 52(2) at any time; and the occupational health and safety representative has reasonable opportunity to hold a special meeting pursuant to subsection 52(2) at any time.</p>	<p>reasonable opportunity to hold a meeting pursuant to subsection 52 at any time.</p>	
<p>(2) An employer shall ensure that a worker who participates in a regular meeting held pursuant to section 49 or section 52 does not lose any pay or other benefits as a result of that participation.</p>	<p>(2) An employer shall ensure that a worker who participates in a regular meeting held pursuant to sections 49, 51.1, 52, or 54 does not lose any pay or other benefits as a result of that participation.</p>	
<p>Meetings Called by Safety Officer</p> <p>54. A safety officer may call a meeting of the Committee or occupational health and safety representative to</p> <ul style="list-style-type: none"> (a) ensure the proper functioning of the Committee or occupational health and safety representative; (b) provide information to the Committee or occupational health and safety representative; or (c) provide education concerning occupational health or safety at work to the Committee or occupational health and safety representative. 	<p>Meetings Called by Safety Officer</p> <p>54. A safety officer may call a meeting of a Committee, of several Committees jointly, of the co-chairpersons of committees or with a representative for the purpose of:</p> <ul style="list-style-type: none"> (a) ensure the necessary functioning of the Committee, Committees or representative; (b) provide information to the Committee, Committees or representative; or (c) provide education concerning occupational health or safety at work to the Committee, Committees, co-chairpersons or representative. 	<p><u>Committee:</u> Restores this section to similar wording to section 49 of the Saskatchewan <i>OHS Regulations</i>. This renders section 55 unnecessary.</p>
<p>Attendance of Safety Officer</p> <p>55. (1) A safety officer may attend any meeting under this Part.</p>	<p>Removed.</p>	<p><u>Stakeholders:</u> Concerned that safety officers should have constraints on the powers they can exercise.</p> <p><u>Committee:</u> Section 55 of the original draft gave was in tension with section 54 – section 54 limits the</p>

<p>(2) A safety officer may attend any meeting of the employer and workers under this Part, where the meeting concerns the health and safety of the workers or safety at the work site.</p>		<p>power of the safety officer to attend meetings only for specific purposes, yet original draft section 55 undermines that. Section 54 should not be undermined and therefore section 55 is removed.</p>
<p style="text-align: center;">Duty to Inspect Work Site</p> <p>56. An employer shall ensure that the Committee or occupational health and safety representative</p> <ul style="list-style-type: none"> (a) performs at least one inspection of the work site before each regular meeting pursuant to subsection 52(1); and (b) submits a written report of each inspection to the employer. 	<p style="text-align: center;">Duty to Inspect the Work Site</p> <p>56. An employer shall ensure that the Committee or representative</p> <ul style="list-style-type: none"> (a) performs at least one inspection of the work site every three months; and (b) submits a written report of each inspection to the employer. 	<p><u>Committee:</u> The revision holds that now if a regular meeting is held more frequently than quarterly, at the very least the inspections must occur quarterly (not necessarily as often as the meetings).</p>
<p style="text-align: center;">Representation During Inspection or Investigation</p> <p>57. (1) Subject to subsection (2), where a safety officer inspects a work site or investigates an accident at a work site, a Committee member or occupational health and safety representative may be present at the inspection or investigation.</p>	<p style="text-align: center;">Representation During Inspection or Investigation</p> <p>57. Where a safety officer inspects a work site or investigates an accident at a work site, he or she may require a Committee member or the representative to be present at the inspection or investigation.</p>	<p><u>Stakeholders:</u> Is subsection (2) an empowerment of a safety officer to exclude a person from accompanying him or her during either inspection or investigation?</p> <p><u>Committee:</u> Subsection (2) is not needed as it is covered under the Act. If a person accompanies a safety officer and obstructs, he or she is committing an offence under section 10 of the Act.</p>
<p>(2) A safety officer may inspect a work site or investigate an accident at a work site in the absence of a Committee member or occupational health and safety representative if, in the safety officer’s opinion, special circumstances exist that prevent the safety officer from making a proper inspection or investigation with a Committee member or occupational health and safety representative</p>		

<p>present at the inspection or investigation.</p>		
<p>Training of Members and Representatives</p> <p>58. (1) Where a Committee is established at a work site, the employer shall ensure that the co-chairpersons of the Committee receive training respecting the duties and functions of the Committee.</p>	<p>Training of Co-chairpersons and Representatives</p> <p>58. (1) Where a Committee is established at a work site, the employer shall ensure that the co-chairpersons of the Committee receive training respecting the duties and functions of the Committee.</p>	<p><u>Stakeholders:</u> Training should be mandatory for all members of the Committee under subsection (1).</p> <p><u>Committee:</u> It should be mandatory for the co-chairpersons to receive training and they can instruct the remaining members of the Committee. If an employer wishes to have more members receive training, the employer may do so but is not required to do so.</p>
<p>(2) Where an occupational health and safety representative is designated at a work site, the employer shall ensure that the representative receives training respecting the duties and functions of a representative.</p>	<p>(2) Where a representative is designated at a work site, the employer shall ensure that the representative receives training respecting the duties and functions of a representative.</p>	
	<p>(3) Where a member of a Committee or representative attends a training program, seminar or course of instruction on health and safety matters conducted or provided by the Commission or by an approved training agency, an employer shall credit the member's or representative's attendance as time at work and ensure that the member or representative loses no pay or other benefits.</p>	
<p>Replies by Employer</p> <p>59. (1) The employer shall reply, in writing, to all recommendations made by the Committee or occupational health and safety representative within 21 days of receipt of the recommendation.</p>	<p>Replies by Employer</p> <p>59. The employer shall reply, in writing, to all recommendations made by the Committee or representative within a reasonable time after receipt of the recommendation.</p>	<p><u>Committee:</u> No comments from stakeholders on this section. In light of the general comments of stakeholders and original draft section 59 was too detailed and legally formalistic. Section 13 of the Act (in particular subsection 13(4)) deals with this subject and therefore original draft subsections (2), (3) and (4) are unnecessary.</p>
<p>(2) If the employer does not reply to the recommendations made pursuant to subsection (1), any of the following may refer</p>		

<p>the matter to a safety officer:</p> <ul style="list-style-type: none"> (a) the employer; (b) the Committee; (c) a member of the Committee; (d) the occupational health and safety representative; (e) a worker. 		
<p>(3) If the matter is referred to a safety officer, the safety officer shall, after considering the reply and recommendations, if any, made under subsection (1), issue a written direction in accordance with the Act or any other regulation.</p>		
<p>(4) Nothing in this section limits the right of a worker to refer any matter respecting occupational health and safety directly to a safety officer.</p>		
<p>Communication by Safety Officer</p> <p>60. (1) In this section, "communication" includes any direction, notice or report.</p>	<p>Communication by Safety Officer</p> <p>60. (1) In this section, "communication" includes any direction, notice or report.</p>	<p><u>Committee</u>: Only the term "representative" has changed in subsection (3).</p>
<p>(2) Where an employer receives a written communication from a safety officer, the employer shall make that communication available to the workers for at least 30 days after the date of receipt.</p>	<p>(2) Where an employer receives a written communication from a safety officer, the employer shall make that communication available to the workers for at least 30 days after the date of receipt.</p>	
<p>(3) Where a safety officer issues a written communication to an employer relating to the health and safety of workers, the employer shall ensure that a copy of the communication is sent to the Committee or occupational health and safety</p>	<p>(3) Where a safety officer issues a written communication to an employer relating to the health and safety of workers, the employer shall ensure that a copy of the communication is sent to the Committee or representative, if established or designated</p>	

representative, if established or designated under this Part.	under this Part.	
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8. "Medical Practitioner" definition, and Violence at Work Sites (Sections 1 and 44)

Affected provisions: primarily section 44; references to “physician”, “health care provider” or similar terms in sections 10, 26, 61, 62, 67, 70, 92, 94, 95, 124, 295, 296, 303, 315, 350, 363.1, 363.2 and 365.1 are modified to “medical practitioner”.

June 2010	September 2011	Comments and Analysis
<p>1. In these regulations, ...</p> <p>"physician" means a physician as defined in subsection 1(1) of the <i>Workers' Compensation Act</i>;</p>	<p>1. In these regulations, ...</p> <p>"medical practitioner" means a medical practitioner as defined in section 1 of the <i>Medical Profession Act</i>;</p>	<p><u>Stakeholders</u>: Suggestion to replace "physician" with "medical practitioner" in section 44.</p> <p><u>Committee</u>: Agrees. "Medical practitioner" is a broader class of persons, including physicians and nurses. This is reasonable given the limited availability of physicians in the North.</p>
<p>44. (1) In this section, "violence" means attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he or she is at risk of injury.</p>	<p>44. (1) In this section, "violence" means attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he or she is at risk of injury.</p>	<p><u>Committee</u>: Reverses the sequence of subsections 44(2) and (3).</p> <p>In subsections 44(4) and (5) the term "worker's physician" is removed and is substituted with "worker's medical practitioner". Other sections affected by this global change are sections 10, 26, 61, 62, 67, 70, 92, 94, 95, 124, 295, 296, 303, 315, 350, 363.1, 363.2 and 365.1.</p> <p><u>Stakeholders</u>: The definition of violence should include psychological harm.</p> <p><u>Committee</u>: Including psychological harm in the definition would be too vague. The threat or conduct has to cause or be likely to cause injury to be considered violence. Psychological abuse may be a form of harassment, dealt with in section 43 (see item 10. <i>Harassment (Section 43)</i> at page 57) but not necessarily cross the threshold of violence. Including this here might obscure the distinction between harassment and violence.</p>

		<p><u>Stakeholders:</u> Why is the <i>Criminal Code</i> not referenced?</p> <p><u>Committee:</u> Canadian OHS legislation is not rooted in criminal law (i.e. criminal law sanctions model), although quasi-crimes may exist. The <i>Criminal Code</i> and criminal law generally is a matter of federal law in Canada. Mention of the Code might raise undesired complications. Criminal law applies to criminal acts committed at a work site, as anywhere else; it is not necessary to mention it here.</p>
<p>(2) An employer at a work site shall, where violent situations have occurred or may reasonably be expected to occur, develop and implement a policy statement to deal with potentially violent situations after consultation with the Committee or occupational health and safety representative or, where there is no Committee and no occupational health and safety representative, the workers.</p>	<p>(2) Work sites where a violent situation may reasonably be expected to occur include the following:</p> <ul style="list-style-type: none"> (a) services provided by health care facilities defined in section 465; (b) pharmaceutical dispensing services; (c) education services; (d) police services; (e) corrections services; (f) other law enforcement services; (g) security services; (h) crisis intervention and counselling services; (i) retail sales in establishments that are open between the hours of 11:00 p.m. and 6:00 a.m.; (j) financial services; (k) the sale of alcoholic beverages or the provision of premises for the consumption of alcoholic beverages; (l) taxi services; 	<p><u>Stakeholders:</u> Some thought the list in subsection (3) of the consultation draft (now subsection (2)) is too prescriptive. Others thought the list was not prescriptive enough.</p> <p><u>Committee:</u> The list in revised subsection (2) (formerly subsection (3) in the consultation draft) uses the word "including" which is a word that indicates a non-exhaustive listing. If a violent situation may reasonably be expected to occur at a work site, it does not matter whether the work site is stated in the list. The employer will still be required by subsection (3) to develop and implement a policy statement.</p>

	(m) transit services.	
<p>(3) Work sites where a violent situation may reasonably be expected to occur include the following:</p> <ul style="list-style-type: none"> (a) services provided by health care facilities defined in section 465; (b) pharmaceutical dispensing services; (c) education services; (d) police services; (e) corrections services; (f) other law enforcement services; (g) security services; (h) crisis intervention and counselling services; (i) retail sales in establishments that are open between the hours of 11:00 p.m. and 6:00 a.m.; (j) financial services; (k) the sale of alcoholic beverages or the provision of premises for the consumption of alcoholic beverages; (l) taxi services; (m) transit services. 	<p>(3) An employer at a work site shall, where violent situations have occurred or may reasonably be expected to occur, develop and implement a policy statement to deal with potentially violent situations after consultation with the Committee or representative or, where there is no Committee and no representative available, the workers.</p>	
<p>(4) The policy statement required by subsection (2) must be in writing and must include</p> <ul style="list-style-type: none"> (a) the employer's commitment to minimize or eliminate the risk; (b) the identification of the work site or work sites where 	<p>(4) The policy statement required by subsection (2) must be in writing and must include</p> <ul style="list-style-type: none"> (a) the employer's commitment to minimize or eliminate the risk; (b) the identification of the work site or work sites where violent situations have 	

<p>violent situations have occurred or may reasonably be expected to occur;</p> <p>(c) the identification of any staff positions at the work site that have been, or may reasonably be expected to be, exposed to violent situations;</p> <p>(d) the procedure to be followed by the employer to inform workers of the nature and extent of risk from violence, including, except where the disclosure is prohibited by law, any information in the employer’s possession related to the risk of violence from persons who have a history of violent behaviour and whom workers are likely to encounter in the course of their work;</p> <p>(e) the actions the employer will take to minimize or eliminate the risk, including the use of personal protective equipment, administrative arrangements and engineering controls;</p> <p>(f) the procedure to be followed by a worker who has been exposed to a violent incident to report the incident to the employer;</p> <p>(g) the procedure the employer will follow to document and investigate a violent incident reported under paragraph (f);</p>	<p>occurred or may reasonably be expected to occur;</p> <p>(c) the identification of any staff positions at the work site that have been, or may reasonably be expected to be, exposed to violent situations;</p> <p>(d) the procedure to be followed by the employer to inform workers of the nature and extent of risk from violence, including, except where the disclosure is prohibited by law, any information in the employer’s possession related to the risk of violence from persons who have a history of violent behaviour and whom workers are likely to encounter in the course of their work;</p> <p>(e) the actions the employer will take to minimize or eliminate the risk, including the use of personal protective equipment, administrative arrangements and engineering controls;</p> <p>(f) the procedure to be followed by a worker who has been exposed to a violent incident to report the incident to the employer;</p> <p>(g) the procedure the employer will follow to document and investigate a violent incident reported under paragraph (f);</p> <p>(h) a recommendation that any worker who has been exposed</p>	
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<p>(h) a recommendation that any worker who has been exposed to a violent incident consult the worker's physician for treatment or referral for post-incident counselling;</p> <p>(i) the employer's commitment to provide a training program for workers that includes</p> <ul style="list-style-type: none"> (i) the means to recognize potentially violent situations, (ii) procedures, work practices, administrative arrangements and engineering controls that have been developed to minimize or eliminate the risk to workers, (iii) the appropriate responses of workers to incidents of violence, including how to obtain assistance, and (iv) procedures for reporting violent incidents. 	<p>to a violent incident consult the worker's medical practitioner for treatment or post-incident counselling;</p> <p>(i) the employer's commitment to provide a training program for workers that includes</p> <ul style="list-style-type: none"> (i) the means to recognize potentially violent situations, (ii) procedures, work practices, administrative arrangements and engineering controls that have been developed to minimize or eliminate the risk to workers, (iii) the appropriate responses of workers to incidents of violence, including how to obtain assistance, and (iv) procedures for reporting violent incidents. 	
<p>(5) If a worker receives treatment or counselling from the worker's physician referred to in paragraph (4)(h) or attends a training program referred to in paragraph (4)(l), the employer shall ensure that the time spent receiving treatment and counselling is credited to the worker as time at work, and that the worker does not lose pay or benefits</p>	<p>(5) If a worker receives treatment or counselling from the worker's medical practitioner referred to in paragraph (4)(h) or attends a training program referred to in paragraph (4)(i), the employer shall ensure that the time spent receiving treatment or counselling or attending the training program, is credited to the worker as time at</p>	<p><u>Stakeholders:</u> Concern expressed in relation to subsection (5) about time spent in treatment or counselling being classed as "time at work" rather than "sick leave". Some existing contracts of employment may provide otherwise.</p> <p><u>Committee:</u> Time spent in treatment or counselling or training cannot be classified as anything other than</p>

with respect to that time.	work, and that the worker does not lose pay or benefits with respect to that time.	"time at work".
(6) An employer shall make readily available for reference by workers a copy of the policy statement required by subsection (2).	(6) An employer shall make readily available for reference by workers a copy of the policy statement required by subsection (2).	
(7) An employer shall ensure that the policy statement required by subsection (2) is reviewed and, where necessary, revised every three years or whenever there is a change of circumstances that may affect the health or safety of workers.	(7) An employer shall ensure that the policy statement required by subsection (2) is reviewed and, where necessary, revised every three years or whenever there is a change of circumstances that may affect the health or safety of workers.	

9. Accident Causing Serious Bodily Injury and Dangerous Occurrences (Sections 1, 8 and 9)

June 2010	September 2011	Comments and Analysis
	<p>1. In these regulations, ...</p> <p>"accident causing serious bodily injury" means an accident at a work site that</p> <ul style="list-style-type: none"> (a) causes or may cause the death of a person, or (b) will require a person to be admitted to a hospital as an in-patient for a period of 24 hours or more; 	<p><u>Stakeholders</u>: The definitions of "accident causing serious bodily injury" and "dangerous occurrence" should be globally defined terms.</p> <p><u>Committee</u>: Agrees. The terms are used in Part 1 and Part 4. The definitions are added to section 1. This also has the effect of making sections 8 and 9 more readable.</p>
	<p>"dangerous occurrence" means an occurrence that does not result in, but could have resulted in, an accident causing serious bodily injury, and includes</p> <ul style="list-style-type: none"> (a) the structural failure or collapse of <ul style="list-style-type: none"> (i) a structure, scaffold, temporary falsework or concrete formwork, or (ii) an excavated shaft, tunnel, caisson, coffer dam, trench or excavation, (b) the failure of a crane or hoist or the overturning of a crane or powered mobile equipment, (c) the accidental contact of an energized electrical conductor, (d) the bursting of a grinding wheel, (e) the uncontrolled spill or escape of a toxic, corrosive or 	<p><u>Stakeholders</u>: the definition of "dangerous occurrence" is too limiting.</p> <p><u>Committee</u>: The list of situations in the definition of "dangerous occurrence" "includes" paragraphs (a) to (h), but is not an all-encompassing list. Other situations that could result in an "accident causing serious bodily injury" are not excluded by the definition.</p>

	<ul style="list-style-type: none"> (f) explosive substance, the premature detonation or accidental detonation of explosives, (g) the failure of an elevated or suspended platform, or (h) the failure of an atmosphere-supplying respirator; 	
<p>Accidents Causing Serious Bodily Injury</p> <p>8. (1) An employer shall, as soon as is practicable, give notice to the Chief Safety Officer of any accident at a work site that</p> <ul style="list-style-type: none"> (a) causes or may cause the death of a person; or (b) will require a person to be admitted to a hospital as an in-patient for a period of 24 hours or more. 	<p>Accidents Causing Serious Bodily Injury</p> <p>8. (1) An employer shall, as soon as is reasonably possible, give notice to the Chief Safety Officer of any accident causing serious bodily injury.</p>	<p><u>Stakeholders:</u> Sections 8 and 9 are a bit confusing.</p> <p><u>Committee:</u> Agrees. Definitions added and sections 8 and 9 redrafted.</p> <p><u>Stakeholders:</u> "As soon as practicable" and "without delay" proposed in respect of the reporting requirement.</p> <p><u>Committee:</u> The "as soon as "is reasonably possible" requirement is needed as it is something more than "as soon as is reasonably practicable". These types of events are unusual and will result in an investigation by a safety officer. In addition to that investigation, the OHS Committee or representative will carry out its investigation.</p>
<p>(2) The notice given pursuant to subsection (1) must include the following:</p> <ul style="list-style-type: none"> (a) the name of each injured or deceased person; (b) the name of the employer of each injured or deceased worker; (c) the date, time and location of the accident; (d) the circumstances of the accident; (e) the apparent injuries; (f) the name, telephone number and fax number of the employer or a person designated by the employer to be contacted for additional 	<p>(2) The notice given pursuant to subsection (1) must include the following:</p> <ul style="list-style-type: none"> (a) the name of each injured or deceased person; (b) the name of the employer of each injured or deceased worker; (c) the date, time and location of the accident; (d) the circumstances of the accident; (e) the apparent injuries; (f) the name, telephone number and fax number of the employer or a person designated by the employer to be contacted for 	<p><u>Committee:</u> In the current GSRs, the two concepts of "accidents causing serious bodily harm" and "dangerous incidents" are merged into one. That approach is not consistent with other jurisdictions in western Canada.</p> <p><u>Stakeholders:</u> Wondered about what "practicable", "reasonably practicable" etc. meant.</p> <p><u>Committee:</u> The use of both "reasonably practicable" and "reasonably possible" are acceptable and commonplace in legislation across Canada and have</p>

information.	additional information.	
<p>(3) An employer shall provide the Committee or occupational health and safety representative or, where there is no Committee or occupational health and safety representative, the workers, with a copy of the notice required by subsection (1).</p>	<p>(3) An employer shall provide a copy of the notice required by subsection (1), without the name of the injured or deceased workers, to the Committee or representative.</p>	<p>been supported in court cases. A code of practice could elaborate on the various reporting and notice requirements under the regulations. Additional information is also available on the website of Human Resources and Skills Development Canada (http://www.hrsdc.gc.ca/eng/labour/igp/057.shtml)</p>
<p style="text-align: center;">Dangerous Occurrences</p> <p>9. (1) In this section, "dangerous occurrence" means any occurrence that does not result in, but could have resulted in, a condition or circumstance set out in subsection 8(1), and includes any of the following:</p> <ul style="list-style-type: none"> (a) the structural failure or collapse of <ul style="list-style-type: none"> (i) a structure, scaffold, temporary falsework or concrete formwork, or (ii) an excavated shaft, tunnel, caisson, coffer dam, trench or excavation; (b) the failure of a crane or hoist or the overturning of a crane or powered mobile equipment; (c) the accidental contact of an energized electrical conductor; (d) the bursting of a grinding wheel; (e) the uncontrolled spill or escape of a toxic, corrosive or explosive substance; 	<p style="text-align: center;">Dangerous Occurrences</p> <p>9. (1) An employer shall, as soon as is reasonably possible, give notice to the Chief Safety Officer of any dangerous occurrence that takes place at a work site, whether or not a worker sustains injury.</p> <p>(2) The notice given pursuant to subsection (1) must include</p> <ul style="list-style-type: none"> (a) the name of each employer, principal contractor and owner at the work site; (b) the date, time and location of the dangerous occurrence; (c) the circumstances related to the dangerous occurrence; and (d) the name, telephone number and fax number of the employer or a person designated by the employer to be contacted for additional information. 	<p><u>Stakeholders:</u> Sections 8 and 9 require "near misses" to be reported.</p> <p><u>Committee:</u> These events are not routine; the severity is indicated by the hospitalization requirement in the definition of "accident causing serious bodily injury", which also governs the definition of a "dangerous occurrence".</p> <p>In respect of a "dangerous occurrence", no injuries may have occurred, but there may be a potentially serious defect in equipment that could affect other work sites and workers.</p> <p>"As soon as is reasonably possible" replaces "as soon as is reasonably practicable" in the revision to enhance clarity.</p> <p><u>Stakeholders:</u> The consultation draft of section 9 could lead to ridiculous outcomes (for example, a reporting requirement when a person receives a 6V shock).</p> <p><u>Committee:</u> The definition of a dangerous occurrence is limited to those situations that "could have resulted in an accident causing serious bodily injury". Minor scrapes and bruises or "fender-bender" type accidents would not attract the reporting requirement of section 9.</p>

<p>(f) the premature detonation or accidental detonation of explosives;</p> <p>(g) the failure of an elevated or suspended platform;</p> <p>(h) the failure of an atmosphere-supplying respirator.</p>		<p><u>Stakeholders:</u> Concerned that information provided to the Chief Safety Officer under sections 8 and 9 could be legally sensitive information for use in insurance claims or legal actions.</p>
<p>(2) An employer shall, as soon as is practicable, give notice to the Chief Safety Officer of any dangerous occurrence that takes place at a work site, whether or not a worker sustains injury.</p>	<p>(3) An employer shall provide a copy of the notice required by subsection (1) to the Committee or representative.</p>	<p><u>Committee:</u> Under paragraph 11(1)(a) of the <i>Safety Act</i>, disclosure of information obtained by a person – in this case the CSO - can be authorized by the Commission to be disclosed for the purpose of administering other legislation administered by the Commission. The Commission can also authorize disclosure to agencies or departments of the GNWT and GN, Canada or another province or territory, or to approved regulatory bodies or in accordance with the <i>Access to Information and Protection of Privacy Act</i> (subsection 11(1)).</p>
<p>(3) The notice given pursuant to subsection (2) must include</p> <p>(a) the name of each employer, principal contractor and owner at the work site;</p> <p>(b) the date, time and location of the dangerous occurrence;</p> <p>(c) the circumstances related to the dangerous occurrence; and</p> <p>(d) the name, telephone number and fax number of the employer or a person designated by the employer to be contacted for additional information.</p>		<p>If there is a dangerous occurrence at a work site that must be reported to the Chief Safety Officer under these regulations, the safety of the workers must take priority. Those who obtain that information are legally bound to protect it under section 11 of the <i>Safety Act</i>.</p>
<p>(4) An employer shall provide the Committee or occupational health and safety representative or, where there is no Committee or occupational health and safety representative, the workers, with a copy of the notice required by subsection (2).</p>		

10. Harassment (Section 43)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Harassment</p> <p>43. (1) An employer, in consultation with the Committee or occupational health and safety representative and workers, shall develop a policy in writing to prevent harassment that includes the following:</p> <ul style="list-style-type: none"> (a) a definition of harassment that is consistent with section 14 of the <i>Human Rights Act</i>; (b) a statement that every worker is entitled to employment free of harassment; (c) a commitment that the employer will make every reasonably practicable effort to ensure that no worker is subjected to harassment; (d) a commitment that the employer will take corrective action respecting any person under the employer's direction who subjects any worker to harassment; (e) an explanation of how harassment complaints may be brought to the attention of the employer; (f) a statement that the employer will not disclose the name of a complainant or an alleged harasser or the circumstances relating to the complaint to any person except where 	<p style="text-align: center;">Harassment</p> <p>43. (1) In this section, "harassment" means, subject to subsections (4) and (5), a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome, and that constitutes a threat to the health or safety of a worker at a work site.</p>	<p><u>Stakeholders:</u> This section may result in regulations under the <i>Safety Act</i> attempting to deal with subject matter in the domain of the <i>Human Rights Act</i>.</p> <p><u>Committee:</u> The regulations should only deal with harassment that is a threat to the health or safety of a worker at a work site. However, harassment for OHS purposes is not limited to harassment based on grounds protected by the <i>Human Rights Act</i>. It could include bullying. A definition of "harassment" for these purposes is added in a new subsection (1).</p> <p>This provision works in a complementary fashion with the <i>Human Rights Act</i>.</p> <p><u>Stakeholders:</u> What constitutes adequate "consultation"?</p> <p><u>Committee:</u> Prescribing what constitutes adequate consultation is too prescriptive and undermines the IRS. Workers, employers and government have a role in ensuring OHS at a work site.</p> <p><u>Stakeholder:</u> Some parts of the consultation draft require a "policy statement", while this provision requires a "policy in writing" Is there a difference?</p> <p><u>Committee:</u> There should be consistent usage. The term is changed to a "policy statement" in revised subsection (2). Paragraphs (1)(g) and (h), referring to the <i>Human Rights Act</i>, are deleted in the revised subsection (2). Mention of the <i>Human Rights Act</i> is not appropriate in this context.</p>

<p>disclosure is</p> <ul style="list-style-type: none"> (i) necessary for the purposes of investigating the complaint or taking corrective action with respect to the complaint, or (ii) required by law; <p>(g) a reference to Part 4 of the <i>Human Rights Act</i> respecting how a worker may bring a complaint of harassment before the Northwest Territories Human Rights Commission;</p> <p>(h) a reference to the provisions of the Northwest Territories <i>Human Rights Act</i> respecting discriminatory practices and a worker's right to file a complaint with the Northwest Territories Human Rights Commission;</p> <p>(i) a description of the procedure that the employer will follow to inform a complainant and alleged harasser of the results of an investigation;</p> <p>(j) a statement that the employer's harassment policy is not intended to discourage or prevent a complainant from exercising any other legal rights pursuant to any other law.</p>		<p>Subsection (2) becomes subsection (3) and is modified to parallel subsection 44(6), dealing with the policy on violence in the workplace.</p> <p>New subsections (4) and (5) are added, to make it clear that the conduct involved must be of a serious or on-going nature, and to ensure that reasonable workplace management practices are not considered to be harassment.</p>
<p>(2) An employer shall</p>	<p>(2) An employer, in consultation with</p>	

<p>(a) implement the policy developed pursuant to subsection (1); and</p> <p>(b) post a copy of the policy in a conspicuous place that is readily available for reference by all workers.</p>	<p>the Committee or representative and workers, shall develop and implement a policy statement to prevent and deal with harassment that includes the following:</p> <ul style="list-style-type: none"> (a) a definition of harassment that is consistent with subsection (1). (b) a statement that every worker is entitled to employment free of harassment; (c) a commitment that the employer will make every reasonably practicable effort to ensure that no worker is subjected to harassment; (d) a commitment that the employer will take corrective action respecting any person under the employer’s direction who subjects any worker to harassment; (e) an explanation of how harassment complaints may be brought to the attention of the employer; (f) a statement that the employer will not disclose the name of a complainant or an alleged harasser or the circumstances relating to the complaint to any person except where disclosure is <ul style="list-style-type: none"> (i) necessary for the purposes of investigating the complaint or taking corrective action with respect to the 	
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	<p>complaint, or (ii) required by law; (g) a description of the procedure that the employer will follow to inform a complainant and alleged harasser of the results of an investigation; (h) a statement that the employer's harassment policy is not intended to discourage or prevent a complainant from exercising any other legal rights pursuant to any other law.</p>	
	<p>(3) An employer shall make readily available for reference by workers a copy of the policy statement required by subsection (2).</p>	
	<p>(4) To constitute harassment for the purposes of subsection (1), (a) repeated conduct, comments, displays, actions or gestures must be established; or (b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker must be established.</p>	
	<p>(5) For the purpose of subsection (1), harassment does not include any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of</p>	

	the employer's workers or the work site.	
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11. First Aid (Sections 1, 61-66, and 71 (Part 5) and Schedules C-I)

June 2010	September 2011	Comments and Analysis
	<p>1. In these regulations, ...</p> <p>"emergency medical technician" or "EMT" means a person who</p> <ul style="list-style-type: none"> (a) holds at least a valid Level 3 first aid qualification, (b) has completed an approved course of emergency medical technologist training, (c) possesses an approved amount of experience as an emergency medical technician, and (d) is licensed by an approved agency; 	<p><u>Stakeholders</u>: Questioned the manner in which the definitions were set up with respect to global application and Part-specific application.</p> <p><u>Committee</u>: Agrees.</p> <p>The definition section is reworked. A number of the definitions are moved to section 1, so as to have global effect. This has a rippling effect throughout the draft and in some cases cross-references are eliminated. The most significant effects are in Part 5 and its associated schedules. Additional schedules are added can be viewed in Volume 3.</p> <p><u>Stakeholders</u>: Ambiguity in the definitions.</p>
	<p>"first aid attendant" means a holder of a valid</p> <ul style="list-style-type: none"> (a) first aid qualification, (b) licence or approval as an emergency medical technician, or (c) licence, certificate or other qualification that, in the opinion of the Chief Safety Officer, is equivalent to or superior to a qualification set out in paragraphs (a) or (b); 	<p><u>Committee</u>: Agrees. The reworking of the definitions addresses these concerns.</p>
	<p>"first aid qualification" means a qualification in first aid issued by an approved agency to a person who has followed a course of instruction set out in</p> <ul style="list-style-type: none"> (a) Schedule D for a Level 1 qualification, or 	

	<p>(b) Schedule E for a Level 2 qualification;</p>	
	<p>"isolated work site" means a work site</p> <p>(a) that is more than 2 hours' travel time from a hospital or medical facility under normal travel conditions using available means of surface transportation, or</p> <p>(b) for which transport by aircraft is the normal mode of transport;</p>	
	<p>"Level 1 qualification" means a certificate or certificates that</p> <p>(a) are issued by an agency, as defined in section 61, with respect to the successful completion of a first aid training course and a cardiopulmonary resuscitation training course that meet the minimum requirements for course duration and content set out in Schedule D, and</p> <p>(b) qualify the holder to perform the services set out in Schedule D.1;</p>	
	<p>"Level 2 qualification" means a certificate or certificates that</p> <p>(a) are issued by an agency, as defined in section 61, with respect to the successful completion of a first aid training course and a cardiopulmonary resuscitation</p>	

	<p>training course that meet the minimum requirements for course duration and content set out in Schedule E, and</p> <p>(b) qualify the holder to perform the services set out in Schedule E.1;</p>	
<p>Interpretation</p> <p>61. In this Part,</p> <p>"agency" means a body, person, association, society or other organization that is approved by the Chief Safety Officer and provides instruction by one or more competent instructors in first aid and cardiopulmonary resuscitation;</p>	<p>Interpretation</p> <p>61. In this Part,</p> <p>"agency" means a body, person, association, society or other organization that is approved by the Chief Safety Officer and provides instruction by one or more competent instructors in first aid and cardiopulmonary resuscitation;</p>	<p><u>Stakeholders:</u> Identified inconsistencies in Schedules C, D, E and I. In Schedule C, references were made to Levels A, B and C rather than Levels 1 and 2. In some of the course descriptions for the different levels for first aid qualifications, some of the subjects are not universally applicable at every work site (e.g. child birth).</p> <p><u>Committee:</u> Agrees. These schedules are redrafted, New schedules D.1 and E.1. are added, and schedule F (Level 3 qualifications) is deleted.</p>
<p>"close", in relation to a work site, means a work site that is not more than 30 minutes' travel time from a hospital or medical facility under normal travel conditions using available means of transportation;</p>	<p>"close", in relation to a work site, means a work site that is not more than 30 minutes' travel time from a hospital or medical facility under normal travel conditions using available means of transportation;</p>	<p><u>Committee:</u> The current requirement of section 67 of the <i>General Safety Regulations</i> establishes what is essentially "close" using 20 minutes travel time, rather than 30 minutes travel time. This is a more onerous requirement than in other jurisdictions.</p> <p>The use of "medical practitioner" has also been adopted in the redraft.</p>
<p>"distant", in relation to a work site, means a work site that is more than 30 minutes' but not more than 2 hours' travel time from a hospital or medical facility under normal travel conditions using available means of transportation;</p>	<p>"distant", in relation to a work site, means a work site that is more than 30 minutes' but not more than 2 hours' travel time from a hospital or medical facility under normal travel conditions using available means of transportation;</p>	
<p>"emergency medical technician" or "EMT" means a person who</p>		

<ul style="list-style-type: none"> (a) holds at least a valid Level 3 first aid qualification, (b) has completed an approved course of emergency medical technologist training, (c) possesses an approved amount of experience as an emergency medical technician, and (d) is licenced by an approved agency; 		
<p>"first aid attendant" means a holder of a valid</p> <ul style="list-style-type: none"> (a) first aid qualification, (b) licence or approval as an emergency medical technician, or (c) licence, certificate or other qualification that, in the opinion of the Chief Safety Officer, is equivalent to or superior to a qualification set out in paragraphs (a) to (b); 		
<p>"first aid qualification" means a qualification in first aid issued by an approved agency to a person who has followed a course of instruction as set out in</p> <ul style="list-style-type: none"> (a) Schedule D for a Level 1 first aid qualification, (b) Schedule E for a Level 2 first aid qualification, or (c) Schedule F for a Level 3 first aid qualification; 		
<p>"instructor" means a person who has successfully completed first aid and cardiopulmonary resuscitation instructor</p>	<p>"instructor" means a person who holds a current certification as a first aid instructor that is issued by an approved agency;</p>	<p><u>Stakeholders</u>: An instructor has a separate and independent qualification and is not necessarily equivalent to a first aid qualification.</p>

<p>training and holds at least a Level 3 first aid qualification;</p>		<p><u>Committee:</u> Simplified the definition of an "instructor" in the redraft.</p>
<p>"isolated" in relation to a work site, means a work site</p> <ul style="list-style-type: none"> (a) that is more than 2 hours' travel time from a hospital or medical facility under normal travel conditions using available means of surface transportation, or (b) for which transport by aircraft is the normal mode of transport; 		
<p>"medical facility" means a medical clinic or office where a physician or nurse is always readily available.</p>	<p>"medical facility" means a medical clinic or office where a medical practitioner is always readily available.</p>	
<p style="text-align: center;">Application</p> <p>62. This Part does not apply to</p> <ul style="list-style-type: none"> (a) a hospital, medical clinic, medical practitioner's office, nursing home or other health care facility where a medical practitioner is always readily available; or (b) a close work site at which the work performed is low hazard work. 	<p style="text-align: center;">Application</p> <p>62. This Part does not apply to</p> <ul style="list-style-type: none"> (a) a hospital, medical clinic, medical practitioner's office, nursing home or other health care facility where a medical practitioner is always readily available; or (b) a close work site at which the work performed is entirely low hazard work. 	<p><u>Stakeholders:</u> 62(b) should be "entirely" low hazard work.</p> <p><u>Committee:</u> Added "entirely" to paragraph (b).</p>
<p style="text-align: center;">Provision of First Aid</p> <p>63. Subject to section 64, an employer shall</p> <ul style="list-style-type: none"> (a) provide the personnel, supplies, equipment, facilities 	<p style="text-align: center;">Provision of First Aid</p> <p>63. Subject to section 64, an employer shall</p> <ul style="list-style-type: none"> (a) provide the first aid attendants, supplies, 	<p><u>Stakeholders:</u> Ambiguity with wording.</p> <p><u>Committee:</u> The redraft of this section makes use of the "representative" rather than "occupational health and safety representative". "Personnel" is changed</p>

<p>and transportation required by this Part to render prompt and appropriate first aid to workers at a work site;</p> <p>(b) in consultation with the Committee, occupational health and safety representative or, where there is no Committee or occupational health and safety representative, the workers, review the provisions of this Part;</p> <p>(c) if the provisions of this Part are not adequate to meet any specific hazard at a work site, provide additional personnel, supplies, equipment and facilities that are appropriate for the hazard; and</p> <p>(d) ensure that, where a worker may be entrapped or incapacitated in a situation that may be dangerous to a person involved in the rescue operation,</p> <p>(i) an effective written procedure for the rescue of that worker is developed, and</p> <p>(ii) suitable personnel and rescue equipment are provided.</p>	<p>equipment, facilities and transportation required by this Part to render prompt and appropriate first aid to workers at a work site;</p> <p>(b) in consultation with the Committee or representative, or where there is no Committee or representative available, with the workers, review the provisions of this Part;</p> <p>(c) if the provisions of this Part are not adequate to meet any specific hazard at a work site, provide additional first aid attendants, supplies, equipment and facilities that are appropriate for the hazard; and</p> <p>(d) ensure that, where a worker may be entrapped or incapacitated in a situation that may be dangerous to a person involved in the rescue operation,</p> <p>(i) an effective written procedure for the rescue of that worker is developed, and</p> <p>(ii) suitable first aid attendants and rescue equipment are provided.</p>	<p>to "first aid attendants", to be consistent with that defined term.</p>
<p>Multiple Employers</p> <p>64. (1) Where more than one employer has</p>	<p>Multiple Employers</p> <p>64. (1) Where more than one employer has</p>	<p><u>Committee</u>: The use of " personnel" is changed to "first aid attendants" to be consistent with that defined term in the redraft.</p>

<p>workers at a common work site</p> <p>(a) the employers may agree in writing to provide collectively the personnel, supplies, equipment, facilities and transportation for injured workers required by this Part; or</p> <p>(b) a safety officer may, by notice in writing, require the employers to provide collectively the personnel, supplies, equipment, facilities and transportation for injured workers required by this Part.</p>	<p>workers at a common work site</p> <p>(a) the employers may agree in writing to provide collectively the first aid attendants, supplies, equipment, facilities and transportation for injured workers required by this Part; or</p> <p>(b) a safety officer may, by notice in writing, require the employers to provide collectively the first aid attendants, supplies, equipment, facilities and transportation for injured workers required by this Part.</p>	
<p>(2) Where subsection (1) applies, the total number of workers of all employers at the work site is deemed to be the number of workers at the work site.</p>	<p>(2) Where subsection (1) applies, the total number of workers of all employers at the work site is deemed to be the number of workers at the work site.</p>	
<p style="text-align: center;">First Aid Personnel</p> <p>65. (1) An employer shall provide and make available to workers at a work site, first aid personnel, facilities and equipment as set out in Schedule C as appropriate to</p> <p>(a) whether the work site is close, distant or isolated; and</p> <p>(b) the number of workers at the work site.</p>	<p style="text-align: center;">First Aid Attendants</p> <p>65. (1) An employer shall provide the first aid attendants and supplies set out in Schedule C for</p> <p>(a) the type of work carried out at the work site,</p> <p>(b) the distance of the work site from the nearest medical facility, and</p> <p>(c) the number of workers at the work site at any one time.</p>	<p><u>Committee:</u> This section is redrafted to use "first aid attendants". The redraft makes a number of minor wording changes from the consultation draft and in the Schedules referenced.</p>
<p>(2) An employer shall ensure that any first aid attendant required pursuant to subsection (1) has a valid and appropriate</p>	<p>(2) An employer shall ensure that the first aid attendants required pursuant to subsection (1) have the qualifications set out</p>	

first aid qualification.	in Schedule D or E, as the case may require.	
(3) Where rescue personnel are required by these regulations to be provided at a work site, an employer shall ensure that at least one first aid attendant with a Level 3 first aid qualification is readily available during working hours, in addition to what is required under subsection (1).	(3) Where rescue personnel are required by these regulations to be provided at a work site, an employer shall ensure that at least one first aid attendant with a Level 1 qualification is readily available during working hours, in addition to what is required under subsection (1).	
(4) Notwithstanding any other provision of this Part, where an employer provides lodging for workers at or near an isolated or distant work site, the employer shall provide first aid attendants, supplies, equipment and facilities required as set out in Schedules C, G, H, I and J.	(4) Where an employer provides lodging for workers at or near a distant or isolated work site, the employer shall provide first aid attendants, supplies, equipment and facilities required as set out in Schedules C, G, H, I and J based on the total number of workers at or near the work site, whether or not the workers are all working at any one time.	
(5) An employer shall (a) allow a first aid attendant and any other worker who assists the first aid attendant the necessary time to provide prompt and adequate first aid to a worker who has been injured or taken ill; and (b) ensure that time spent by a first aid attendant and any other worker who assists the first aid attendant, is credited as time at work and that the workers do not lose pay or benefits with respect to the time.	(5) An employer shall (a) allow a first aid attendant and any other worker that the first aid attendant needs for assistance to provide prompt and adequate first aid to a worker who has been injured or taken ill; (b) ensure that the first aid attendant and any worker assisting the first aid attendant have adequate time, with no loss of pay or other benefits, to provide first aid.	
Certificates of Qualification 66. (1) An agency shall issue a certificate of	Certificates of Qualification 66. (1) No certificate issued by an agency is	<u>Stakeholders</u> : This is an unreasonable obligation to be put on an agency.

<p>qualification in an approved form to a person who has obtained a first aid qualification.</p>	<p>valid for the purposes of this Part unless the certificate specifies the level of the first aid qualification for which it is issued and the expiry date of the certificate.</p>	<p><u>Committee:</u> Agrees. Subsection (1) revised accordingly. Subsection (2) is removed</p> <p>The revised draft reflects current practice.</p>
<p>(2) A certificate of qualification must specify</p> <ul style="list-style-type: none"> (a) an expiry date not exceeding three years after the first aid qualification was obtained; (b) the conditions for the renewal of the certificate; and (c) the level of first aid qualification corresponding to the course of first aid instruction followed. 	<p>(2) A certificate is valid for a period not exceeding three years.</p>	
<p>(3) A certificate of qualification issued by an agency under this section is evidence that the person to whom it is issued has the first aid qualification at the level indicated on it.</p>		
<p style="text-align: center;">First Aid Equipment and Supplies</p> <p>71. An employer shall ensure that</p> <ul style="list-style-type: none"> (a) all first aid supplies and equipment are protected and kept in a clean and dry state; and (b) no supplies, equipment or materials other than supplies and equipment for first aid are kept in the first aid box referred to in this Part and described in Schedule G. 	<p style="text-align: center;">First Aid Equipment and Supplies</p> <p>71. (1) An employer shall ensure that</p> <ul style="list-style-type: none"> (a) all first aid supplies and equipment are protected and kept in a clean and dry state; and (b) no supplies, equipment or materials other than supplies and equipment for first aid are kept in the first aid box. 	<p><u>Committee:</u> This section was modified by the Committee to reflect the reversion to the 2 levels of first aid qualification (present in the current GSRs and also in the Saskatchewan <i>OHS Regulations</i>).</p> <p><u>Committee:</u> Subsection (3) is removed because the requirement is already present in Schedule C.</p>

<p>(2) An employer shall, at a work site where a first aid attendant is required pursuant to section 65, provide the additional first aid supplies and equipment as set out</p> <ul style="list-style-type: none"> (a) in Schedule H where a first aid attendant with a Level 1 first aid qualification is required; (b) in Schedule I where a first aid attendant with a Level 2 first aid qualification or an emergency medical technician's licence is required; and (c) in Schedule J where a first aid attendant with a Level 3 first aid qualification or an emergency medical technician's licence is required. 	<p>(2) An employer shall, at a work site where a first aid attendant is required pursuant to section 65, provide the additional first aid supplies and equipment set out</p> <ul style="list-style-type: none"> (a) in Schedule H where a first aid attendant with a Level 1 qualification is required; and (b) in Schedule I where a first aid attendant with a Level 2 qualification is required. 	
<p>(3) An employer shall, at a distant or isolated work site and where there are at least two workers, provide and make readily accessible to workers two blankets, a stretcher and splints for the upper and lower limbs.</p>		

12. Work on Ice Over Water (Section 40)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Work on Ice over Water</p> <p>40. (1) This section does not apply to work on a seasonal highway on a frozen body of water built and maintained under the <i>Seasonal Highway Regulations</i>.</p>	<p style="text-align: center;">Work on Ice over Water</p> <p>40. (1) This section does not apply to</p> <p>(a) highways, as defined in section 1 of the <i>Motor Vehicles Act</i>, built and maintained by the Department of Transportation; or</p> <p>(b) roads that are built and maintained to an approved standard.</p>	<p><u>Stakeholders:</u> Concern about how sweeping is this provision. Should emergency workers be exempt?</p> <p><u>Stakeholders:</u> Objected to the special exemption for work on seasonal highways (i.e. ice roads).</p> <p><u>Committee:</u> The GNWT Department of Transportation has its own protocols for safety on ice roads: <i>A Field Guide to Ice Construction Safety</i> (2007) available at: www.dot.gov.nt.ca. Private companies might build ice roads to similar standards. Paragraph (1)(b) is added so that OHS standards for private roads may be approved by the Chief Safety Officer.</p>
<p>(2) Prior to any work on ice where the water beneath the ice is more than 1 m deep and a load is to be placed on the ice, an employer shall ensure that the load</p> <p>(a) is supported by the ice; or</p> <p>(b) will not sink in the water under the ice should the ice break.</p>	<p>(2) Before a worker is required or permitted to work or travel on ice that is over water or over other material into which a worker could sink more than one metre, an employer shall have the ice tested to ensure that the ice will support the load that the work or travel will place on the ice.</p>	<p>A new subsection (3) is added to allow exemption of emergency workers or others from the requirement of subsection (2).</p>
<p>(3) An employer shall test the ice for the purposes of subsection (2)</p> <p>(a) before work begins; and</p> <p>(b) during the work as often as necessary to ensure the safety of the workers.</p>	<p>(3) The requirement of subsection (2) may be waived by the Chief Safety Officer if an employer or worker</p> <p>(a) needs to work or travel over ice that is over water or over other materials more than one metre in depth; and</p> <p>(b) satisfies the Chief Safety Officer that other measures have been taken to mitigate the risk to the worker should the ice fail to support the load.</p>	<p>Subsections (4), (5) and (6) are addressed elsewhere in the regulations (e.g. life jackets are mentioned in section 117). These subsections are deleted.</p>

<p>(4) An employer shall develop, implement and communicate to workers safe work practices and procedures prior to allowing any work on ice.</p>		
<p>(5) Where a worker is required to work on ice, an employer shall ensure that the worker is trained in</p> <ul style="list-style-type: none"> (a) hazard recognition and safe work practices and procedures on ice; and (b) rescue survival techniques in case of emergency. 		
<p>(6) A worker on ice shall, while measuring or testing ice thickness, wear a personal flotation device.</p>		

13. Working Alone or at Isolated Work Site (Section 42)

June 2010	September 2011	Comments and Analysis
<p>42. (1) In this section,</p> <p>"isolated" means isolated as defined under section 61;</p> <p>"work alone" means to work at a work site as the only worker at that work site, in circumstances where assistance is not readily available in the event of injury, ill health or emergency.</p>	<p>42. (1) In this section,</p> <p>"work alone" means to work at a work site as the only worker at that work site, in circumstances where assistance is not readily available in the event of injury, ill health or emergency.</p>	<p><u>Stakeholders</u>: Commented on definition of "isolated".</p> <p><u>Committee</u>: Due to the restructuring in Part 5, the definition of "isolated" is unnecessary, as "isolated work site" is now a globally defined term in section 1 of the revised draft.</p> <p><u>Stakeholders</u>: What does "work site" mean?</p> <p><u>Committee</u>: It is defined in the <i>Safety Act</i> as "a location where a worker is, or is likely to be, engaged in work, or a thing at, on, in or near which a worker is, or is likely to be, engaged in work".</p>
<p>(2) Where a worker is required to work alone or at an isolated work site, an employer, in consultation with the Committee or occupational health and safety representative or, where there is no Committee or occupational health and safety representative, the workers, shall identify the risks arising from the conditions and circumstances of the work at the work site.</p>	<p>(2) Where a worker is required to work alone or at an isolated work site, an employer, in consultation with the Committee or representative or, where there is no Committee or representative available, the workers, shall identify the risks arising from the conditions and circumstances of the work at the work site.</p>	<p><u>Stakeholders</u>: Does this provision apply to an office setting?</p> <p><u>Committee</u>: It could apply to an office setting, though in most office settings, a worker has telephone access and can call for assistance. It could also apply to workers working from home, or in clients' or patients' homes.</p>
<p>(3) An employer shall take all reasonable measures to eliminate or reduce the risks identified under subsection (2), including the establishment of an effective communication system that consists of</p> <ul style="list-style-type: none"> (a) radio communication; (b) phone or cellular phone communication; or (c) any other means that provides effective communication considering the risks involved. 	<p>(3) An employer shall take all reasonable measures to eliminate or reduce the risks identified under subsection (2), including the establishment of an effective communication system that consists of</p> <ul style="list-style-type: none"> (a) radio communication; (b) phone or cellular phone communication; or (c) any other means that provides effective communication considering the risks involved. 	<p><u>Stakeholders</u>: Wondered about on-duty travel to an isolated work site.</p> <p><u>Committee</u>: The space in which the worker is situated, (i.e. the vehicle), is a work site.</p> <p><u>Stakeholders</u>: The isolated worker must be visited regularly by a supervisor.</p> <p><u>Committee</u>: This is not necessary or feasible in all</p>

		<p>cases. However, the employer needs to take into consideration all aspects of hazards presented by the situation.</p> <p><u>Stakeholders:</u> What about wildlife?</p> <p><u>Committee:</u> Under section 12, the employer has various duties towards the worker, including OHS at any work site. If wildlife constitutes a hazard, this would be part of the risk identification under subsection (2), and under subsection (3), the employer would have to determine what arrangements are required to ensure the safety of the worker, perhaps including PPE or other things (such as pepper spray, bear bells, etc.).</p>
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14. Protection Against Falling (Section 128)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Protection Against Falling</p> <p>128. (1) In this section and sections 129 to 131.</p> <p>"anchor point" or "anchor plate" means a secure connecting point capable of safely withstanding the impact forces applied by a fall protection system;</p> <p>"control zone" means the area within 2 m of an unguarded edge of a level, elevated work surface of 3 m or more in height;</p> <p>"fall protection system" means</p> <ul style="list-style-type: none"> (a) a control zone as required pursuant to section 130, (b) a personal fall arrest system, (c) a safety net, or (d) a travel restraint system; <p>"permanent" means intended and designed to last indefinitely;</p> <p>"similar barrier" means any barrier that the employer or contractor can demonstrate provides a level of protection that is at least equivalent to a guardrail;</p> <p>"temporary" means intended and designed</p> <ul style="list-style-type: none"> (a) not to last indefinitely, and (b) to last not more than one year; 	<p style="text-align: center;">Protection Against Falling</p> <p>128. (1) In this section and sections 129 to 131.</p> <p>"anchor point" or "anchor plate" means a secure connecting point capable of safely withstanding the impact forces applied by a fall protection system;</p> <p>"control zone" means the area within 2 m of an unguarded edge of a level, elevated work surface of 3 m or more in height;</p> <p>"fall protection system" means</p> <ul style="list-style-type: none"> (a) a control zone as required pursuant to section 130, (b) a personal fall arrest system, (c) a safety net, or (d) a travel restraint system; <p>"permanent" means intended and designed to last indefinitely;</p> <p>"similar barrier" means any barrier that the employer can demonstrate provides a level of protection that is at least equivalent to a guardrail;</p> <p>"temporary" means intended and designed</p> <ul style="list-style-type: none"> (a) not to last indefinitely, and (b) to last not more than one year; 	<p><u>Committee:</u> The only change to this section is in subsection (1), the definition "similar barrier" – the words "or contractor" are deleted, as they are artefacts from the Saskatchewan <i>OHS Regulations</i>.</p> <p><u>Stakeholders:</u> The use of a hierarchy of control zones is a great improvement over the current GSRs.</p>

<p>"travel restraint system" means a system that prevents a worker from travelling to the edge of a structure or to a work position from which the worker could fall.</p>	<p>"travel restraint system" means a system that prevents a worker from travelling to the edge of a structure or to a work position from which the worker could fall.</p>	
<p>(2) An employer shall ensure that workers use a fall protection system at a work site here</p> <ul style="list-style-type: none"> (a) a worker may fall 3 m or more; or (b) there is a possibility of injury if a worker falls less than 3 m. 	<p>(2) An employer shall ensure that workers use a fall protection system at a work site where</p> <ul style="list-style-type: none"> (a) a worker may fall 3 m or more; or (b) there is a possibility of injury if a worker falls less than 3 m. 	<p><u>Stakeholders:</u> There should be a requirement for a fall to be stopped within an available clearance. The stakeholder questioned the fall distances mentioned in subsections (2), (3) and (6), and suggested that the CSA standard (Z259.16) may require something more onerous.</p>
<p>(3) An employer shall ensure that a worker at a permanent work site is protected from falling by a guardrail or similar barrier if the worker may fall a vertical distance of more than 1.2 m and less than 3 m.</p>	<p>(3) An employer shall ensure that a worker at a permanent work site is protected from falling by a guardrail or similar barrier if the worker may fall a vertical distance of more than 1.2 m and less than 3 m.</p>	<p><u>Committee:</u> There is no need to modify the distances set in the draft. These distances are directly from the Saskatchewan <i>OHS Regulations</i> and appear to be consistent throughout western Canada and to some degree in the United States (OSHA). There is nothing wrong with an employer following stricter requirements that exceed what is required by these regulations (i.e. industry best practices). These industry best practices could be itemized in the codes of practice.</p>
<p>(4) Notwithstanding subsection (3), where the use of a guardrail or similar barrier is not reasonably practicable, an employer shall ensure that a worker uses a travel restraint system.</p>	<p>(4) Notwithstanding subsection (3), where the use of a guardrail or similar barrier is not reasonably practicable, an employer shall ensure that a worker uses a travel restraint system.</p>	
<p>(5) Notwithstanding subsection (4), where the use of a travel restraint system is not reasonably practicable, an employer shall ensure that a safety net or control zone or other equally effective means that protects the worker from falling is used.</p>	<p>(5) Notwithstanding subsection (4), where the use of a travel restraint system is not reasonably practicable, an employer shall ensure that a safety net or control zone or other equally effective means that protects the worker from falling is used.</p>	
<p>(6) Subsection (2) does not apply to competent workers who are engaged in</p> <ul style="list-style-type: none"> (a) installing or attaching a fall protection system to the anchor point; (b) removing or disassembling the 	<p>(6) Subsection (2) does not apply to competent workers who are engaged in</p> <ul style="list-style-type: none"> (a) installing or attaching a fall protection system to the anchor point; (b) removing or disassembling 	

<p>(c) associated parts of a fall protection system when it is no longer required; or activities within the normal course of business on a permanent loading dock that is not greater than 1.2 m in height.</p>	<p>(c) the associated parts of a fall protection system when it is no longer required; or activities within the normal course of business on a permanent loading dock that is not greater than 1.2 m in height.</p>	
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15. Employment of Young Persons (Section 14)

June 2010	September 2011	Comments and Analysis
<p>Employment of Young Persons</p> <p>14. (1) An employer shall ensure that no person under the age of 17 years is employed or permitted to work</p> <ul style="list-style-type: none"> (a) in any activity that constitutes high hazard work; (b) in a confined space; (c) in a production process for meat, fish or poultry; (d) as an operator of any powered mobile equipment, crane or hoist; or (e) in any process or activity referred to in subsection (2). 	<p>Employment of Young Persons</p> <p>14. (1) An employer shall ensure that no person under the age of 16 years is employed or permitted to work</p> <ul style="list-style-type: none"> (a) on a construction site; (b) in a production process at a pulp mill, sawmill or woodworking establishment; (c) in a production process at a smelter, foundry, refinery or metal processing or fabricating operation; (d) in a confined space; (e) in a forestry or logging operation; (f) as an operator of powered mobile equipment, a crane or a hoist; (g) where exposure to a chemical or biological substance is likely to endanger the health or safety of the person; or (h) in power line construction or maintenance. 	<p><u>Stakeholders:</u> Concerned with the age being set at 17 and not 16.</p> <p><u>Committee:</u> Age reduced to 16 years. Because "high hazard work" is no longer a defined term, it cannot be used in section 14. However, subsections (1) and (2) recognise that some activities are inherently more dangerous than others, and may require a degree of maturity and training that a young person may not have. Otherwise the young person may endanger himself or herself or other workers.</p> <p><u>Stakeholders:</u> Rather than prevent a young person from working in an entire industry the specific jobs should be identified.</p> <p><u>Committee:</u> This is difficult to do. If a person under 15 can work as a message runner, can that person still run messages at a construction site? The Committee concluded that it is not necessarily the task that is the source of the hazard, but rather the young person's presence at a specific high risk work site.</p> <p><u>Stakeholders:</u> Section 14 would adversely impact the ability to hire students in communities, and this kind</p>

<p>(2) An employer shall ensure that no person under the age of 18 years is employed</p> <ul style="list-style-type: none"> (a) as an occupational worker as defined in section 351; (b) in an asbestos process as defined in section 366; (c) in a silica process as defined in section 382; or (d) in any activity for which these regulations or any other regulations made pursuant to the Act require the use of an atmosphere-supplying respirator. 	<p>(2) An employer shall ensure that no person under the age of 18 years is employed</p> <ul style="list-style-type: none"> (a) as an occupational worker as defined in section 351; (b) in an asbestos process as defined in section 366; (c) in a silica process as defined in section 382; or (d) in any activity for which these regulations or any other regulations made pursuant to the Act require the use of an atmosphere-supplying respirator. 	<p>of provision is better governed by labour laws.</p> <p><u>Committee:</u> The NWT <i>Employment Standards Act</i>, and the NU <i>Employment of Young Persons Regulations</i> under the <i>Labour Standards Act</i>, require that special permission must be obtained from an employment/labour standards officer to employ youth in construction work. These provisions are for the protection of the young worker, not of workers generally. Revised section 14 is consistent with the <i>Employment/Labour Standards Acts</i> and is authorized under the <i>Safety Act</i>.</p>
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16. Smoking (Section 88)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Smoking</p> <p>88. (1) An employer shall control the exposure of workers to environmental tobacco smoke at an enclosed work site.</p>	<p style="text-align: center;">Smoking</p> <p>88. (1) An employer shall, where reasonably practicable, control the exposure of workers to environmental tobacco smoke at an enclosed work site.</p>	<p><u>Committee:</u> There were many comments on this section by stakeholders but it remains unchanged. This is the text of the current <i>Environmental Tobacco Smoke Worksite Regulations</i>, which will be repealed on the coming into force of the proposed regulations.</p>
<p>(2) Subject to this section, an employer shall</p> <p>(a) prohibit smoking in an enclosed work site; and</p> <p>(b) prohibit smoking outside the enclosed work site within an area inside a 3 m radius of any entrance to or exit from the enclosed work site, if that area is under the control of the employer.</p>	<p>(2) Subject to this section, an employer shall</p> <p>(a) prohibit smoking in an enclosed work site; and</p> <p>(b) prohibit smoking outside the enclosed work site within an area inside a 3 m radius of any entrance to or exit from the enclosed work site, if that area is under the control of the employer.</p>	<p><u>Stakeholders:</u> How are home care workers dealt with, for instance if they have to work in a home where the client is a smoker?</p> <p><u>Stakeholders:</u> Do subsections 88(5) and (7) make it impossible to provide health care where the client is a smoker?</p> <p><u>Committee:</u> These are difficult issues, and concluded that the matter may be put in a code of practice, as is done in the UK, British Columbia, Ontario, Saskatchewan and even Alberta. The issue also arises in hotels and other residential facilities.</p>
<p>(3) Subject to this section, a worker employed at an enclosed work site shall not smoke in any area other than where expressly permitted by an employer.</p>	<p>(3) Subject to this section, a worker employed at an enclosed work site shall not smoke in any area other than where expressly permitted by an employer.</p>	<p>Subsection (1) is modified to allow exceptions in certain cases, to be elaborated upon in codes of practice.</p>
<p>(4) An employer may permit smoking in a designated smoking structure outside an enclosed work site, within an area inside a 3 m radius of an entrance to or exit from the enclosed work site, if smoke from the structure does not come into contact with workers entering or leaving the enclosed work site.</p>	<p>(4) An employer may permit smoking in a designated smoking structure outside an enclosed work site, within an area inside a 3 m radius of an entrance to or exit from the enclosed work site, if smoke from the structure does not come into contact with workers entering or leaving the enclosed work site.</p>	<p>The intent of these regulations is not to prohibit smoking but rather to deal with smoking in the workplace as an OHS matter involving other workers.</p> <p><u>Stakeholders:</u> How about an outright ban on smoking?</p> <p><u>Committee:</u> That is something that an employer might consider.</p>
<p>(5) If persons, other than workers</p>	<p>(5) If persons, other than workers</p>	

<p>employed at an enclosed work site, smoke and reside at the work site on a temporary or permanent basis, an employer shall not permit workers to work at the work site unless there is a designated smoking area that</p> <ul style="list-style-type: none"> (a) is structurally separated from other areas of the enclosed work site; (b) is constructed so that smoke does not enter other areas of the enclosed work site; and (c) is clearly identified by signs or other effective means. 	<p>employed at an enclosed work site, smoke and reside at the work site on a temporary or permanent basis, an employer shall not permit workers to work at the work site unless there is a designated smoking area that</p> <ul style="list-style-type: none"> (a) is structurally separated from other areas of the enclosed work site; (b) is constructed so that smoke does not enter other areas of the enclosed work site; and (c) is clearly identified by signs or other effective means. 	<p><u>Stakeholders:</u> Expressed concern about particulate matter and its contamination of workers.</p> <p><u>Committee:</u> PPE is one approach but so are threshold exposure limits (see Part 21).</p>
<p>(6) If workers smoke and reside at an enclosed work site on a temporary or permanent basis, an employer shall designate a smoking area that</p> <ul style="list-style-type: none"> (a) is structurally separated from other areas of the enclosed work site, including other break areas; (b) is constructed so that smoke does not enter other areas of the enclosed work site; and (c) is clearly identified by signs or other effective means. 	<p>(6) If workers smoke and reside at an enclosed work site on a temporary or permanent basis, an employer shall designate a smoking area that</p> <ul style="list-style-type: none"> (a) is structurally separated from other areas of the enclosed work site, including other break areas; (b) is constructed so that smoke does not enter other areas of the enclosed work site; and (c) is clearly identified by signs or other effective means. 	
<p>(7) An employer shall not require a worker to enter a designated smoking structure or a designated smoking area unless</p> <ul style="list-style-type: none"> (a) entrance into the designated smoking area is required to respond to an emergency that may endanger life, health or property; 	<p>(7) An employer shall not require a worker to enter a designated smoking structure or a designated smoking area unless</p> <ul style="list-style-type: none"> (a) entrance into the designated smoking area is required to respond to an emergency that may endanger life, health or property; 	

<p>(b) entrance into the designated smoking area is required to investigate for illegal activity; or</p> <p>(c) smoke is effectively removed from the designated smoking area before the worker enters it.</p>	<p>(b) entrance into the designated smoking area is required to investigate for illegal activity; or</p> <p>(c) smoke is effectively removed from the designated smoking area before the worker enters it.</p>	
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17. Locking Out (Section 157)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Locking Out</p> <p>157. (1) In this section, "lockout device" means any device used to put a machine into a locked out state.</p>	<p style="text-align: center;">Locking Out</p> <p>157. (1) Subject to section 158, an employer shall, before a worker undertakes the maintenance, repair, test or adjustment of a machine other than a power tool, ensure that the machine is locked out and remains locked out during that activity.</p>	<p><u>Committee:</u> Subsection (1) is unnecessary. In section 1, there is a definition for "locked out":</p> <p style="padding-left: 40px;">"locked out" means to have isolated all energy sources from equipment, to have dissipated any residual energy in a system and to have secured the isolation by a device that is operated by a key or other process;</p> <p>This definition is quite different from that in section 1 of the current GSRs:</p> <p style="padding-left: 40px;">"locked out" means a condition that prevents movement of control devices to the "operating" or "on" position;</p> <p>The new definition adds the idea of isolation and dissipation of energy from the system, versus simply preventing the movement of control devices.</p> <p><u>Stakeholders:</u> Is this realistic given the realities of the North?</p> <p><u>Committee:</u> An energized piece of electrical equipment could be "locked out" under the current GSRs, but is still energized and still poses a hazard. Under the consultation draft, the energy has to be dissipated before it is "locked out". The consultation draft definition provides more protection for workers.</p>
<p>(2) Subject to section 158, an employer shall, before a worker undertakes the maintenance, repair, test or adjustment of a machine other than a power tool, ensure that</p>	<p>(2) Before a worker undertakes the maintenance, repair, test or adjustment of a power tool, an employer shall ensure that the energy source has been isolated from the</p>	<p><u>Stakeholders:</u> Suggest removing "... "if not doing so would put the worker at risk" from what was subsection (2).</p>

<p>the machine is locked out and remains locked out during that activity if not doing so would put the worker at risk.</p>	<p>power tool, any residual energy in the power tool has been dissipated and the energy source remains isolated during that activity.</p>	<p><u>Committee</u>: This is a reasonable suggestion and is done in the new subsection (1).</p>
<p>(3) An employer shall, before a worker undertakes the maintenance, repair, test or adjustment of a power tool, ensure that the energy source has been isolated from the power tool, any residual energy in the power tool has been dissipated and the energy source remains isolated during that activity.</p>	<p>(3) An employer shall (a) provide a written lockout process to each worker who is required to work on a machine to which subsection (1) applies; and (b) where the lockout process uses a lock and key, issue to that worker a lock that is operable only by that worker's key.</p>	<p><u>Stakeholders</u>: Suggest that in subsection (3), now (2), "all" energy sources should be isolated. <u>Committee</u>: Under subsection 27(3) of the <i>Interpretation Act</i>, the plural means the singular and the singular means the plural. The use of "the energy source" is sufficient and includes multiple energy sources used by the system. Throughout this section, mention of the "supervisor" is changed, because in some work locations the designated duplicate key-holder may not be a supervisor of the primary key-holder.</p>
<p>(4) An employer shall (a) provide a written lockout process to each worker who is required to work on a machine to which subsection (2) applies; and (b) where the lockout process uses a lock and key, issue to that worker a lock that is operable only by that worker's key.</p>	<p>(4) Where a lockout process does not use a lock and key, an employer shall designate a person to coordinate and control the lock out process.</p>	<p><u>Stakeholders</u>: Suggest that the role of the OHS Committee here is ineffective because it meets only quarterly. <u>Committee</u>: The OHS Committee, although it may only meet at least quarterly, is still concerned with OHS on a continuing basis. Only formal business is carried out at the formal meetings. Subsection (6) gives the OHS Committee a role where the key control aspect of a lock-out system has failed and a back-up system must be used.</p>
<p>(5) Where the lockout process does not use a lock and key, an employer shall designate a person to coordinate and control the lock out process.</p>	<p>(5) Where a lockout process uses a lock and key, an employer shall designate a person to keep a duplicate of the key mentioned in paragraph (3)(b) and ensure that (a) the duplicate key is accessible only to the designated person; and (b) a log book is kept to record the use of the duplicate key and</p>	

	the reasons for that use.	
<p>(6) Where it is not practicable to use a worker's key to remove a lock, an employer may permit a supervisor to remove the lock if the employer and supervisor</p> <ul style="list-style-type: none"> (a) have determined the reason that the worker's key is not available; (b) have determined that it is safe to remove the lock and activate the machine; and (c) have informed the Committee members or the occupational health and safety representative before removal. 	<p>(6) Where it is not practicable to use a worker's key to remove a lock, an employer may permit the person designated pursuant to subsection (5) to remove the lock if the designated person</p> <ul style="list-style-type: none"> (a) has determined the reason that the worker's key is not available; (b) has determined that it is safe to remove the lock and activate the machine; and (c) if a Committee is in place, has informed the co-chairpersons of the proposed use of the duplicate key before it is used. 	
<p>(7) An employer shall ensure that the supervisor referred to in subsection (6)</p> <ul style="list-style-type: none"> (a) records in the log book the removal of the lock including, the reason and date; and (b) signs the log book. 	<p>(7) An employer shall ensure that the designated person who is permitted to use a duplicate key pursuant to subsection (6)</p> <ul style="list-style-type: none"> (a) records in the log book the removal of the lock, including; the reason for use of the duplicate key and the date of its use; and (b) signs the log book each time that the duplicate key is used. 	
<p>(8) Where a central automated system controls more than one machine, an employer shall ensure that the machine to be maintained, repaired, tested or adjusted is isolated from the central system before the lockout process required by subsection (4) are implemented.</p>	<p>(8) Where a central automated system controls more than one machine, an employer shall ensure that the machine to be maintained, repaired, tested or adjusted is isolated from the central system before the lockout process required by subsection (3) is implemented.</p>	

<p>(9) Before undertaking any maintenance, repairs, tests or adjustments to a machine to which subsection (2) applies, a worker shall render the machine into a locked out state following the lockout process referred to in paragraph (4)(a).</p>	<p>(9) Before undertaking any maintenance, repairs, tests or adjustments to a machine to which subsection (1) applies, a worker shall lock out the machine following the lockout process referred to in paragraph (3)(a).</p>	
<p>(10) After a lockout process has been initiated, the worker who installed the first lock or initiated the process shall check the machine to ensure that the machine is inoperative.</p>	<p>(10) After a lockout device has been installed or a lockout process has been initiated, the worker who installed the device or initiated the process shall check the machine to ensure that the machine is inoperative.</p>	
<p>(11) No person shall deactivate a lockout process that does not use a lock and key except the person designated pursuant to subsection (5).</p>	<p>(11) No person shall deactivate a lockout process that does not use a lock and key except the person designated pursuant to subsection (4).</p>	
<p>(12) No person shall remove a lockout device except</p> <ul style="list-style-type: none"> (a) the worker who installed the lockout device; or (b) the supervisor referred to in subsection (6). 	<p>(12) No person shall remove a lockout device except</p> <ul style="list-style-type: none"> (a) the worker who installed the lockout device; or (b) the designated person acting in accordance with subsection (6). 	

18. Operation of Powered Mobile Equipment (PME) by Competent Workers (Section 172)

June 2010	September 2011	Comments and Analysis
<p>Operation by Competent Workers</p> <p>172. (1) In this section, "trained operator" means a worker who</p> <p>(a) has successfully completed a training program that includes all of the elements as set out in Schedule L for the type of powered mobile equipment that the worker is required or permitted to operate, or</p> <p>(b) is completing the practical training required as set out in Schedule L under the direct supervision of a competent operator within the meaning of paragraph (a).</p>	<p>Operation by Competent Workers</p> <p>172. An employer shall ensure that only competent workers operate powered mobile equipment or are required or permitted to operate that equipment.</p>	<p><u>Stakeholders:</u></p> <ul style="list-style-type: none"> - Concern about the draft regulations intruding into the area of the <i>Apprenticeship, Trade and Occupation Act</i>. - Who decides if a training program is effective? - Focus should be on whether the operator is a competent worker for the operation of the PME. - Concerns that the training requirements in Schedule L were excessive. <p><u>Committee:</u> Subsections (1) and (3) of the consultation draft and Schedule L removed.</p> <p><u>Note:</u> "Competent" and "competent worker" are both defined terms in section 1 of the draft regulations. See additional related comments in item 4. "<i>Competent Workers and Training of Workers (Sections 1 and 24)</i>", at page 28.</p>
<p>(2) An employer shall ensure that only trained operators are required or permitted to operate powered mobile equipment.</p>		
<p>(3) An employer shall ensure that</p> <p>(a) the training as set out in Schedule L is provided by competent persons; and</p> <p>(b) a written record of all training delivered to workers pursuant to this section and Schedule L is kept readily available.</p>		

19. Codes of Practice (Section 5)

June 2010	September 2011	Comments and Analysis
<p data-bbox="390 321 575 342">Codes of Practice</p> <p data-bbox="233 383 730 505">5. The Chief Safety Officer may consult with industry and others prior to approving and issuing a code of practice under subsection 18(3) of the Act.</p>	<p data-bbox="915 321 1100 342">Codes of Practice</p> <p data-bbox="760 383 1257 505">5. The Chief Safety Officer may consult with industry and others prior to approving and issuing a code of practice under subsection 18(3) of the Act.</p>	<p data-bbox="1283 321 1545 342"><u>Committee:</u> No change.</p> <p data-bbox="1283 383 1856 472"><u>Stakeholders:</u> Requirement to consult industry stakeholders should be made mandatory rather than discretionary by using "shall" instead of "may".</p> <p data-bbox="1283 513 1866 634"><u>Committee:</u> Using "shall" limits the discretion given to the Chief Safety Officer under section 18 of the Act. Limiting that discretion by the regulation-making authority is not authorized under the Act.</p> <p data-bbox="1283 675 1866 797">The input of stakeholders is critical to the development of the codes of practice and is a significant aspect of the regulatory partnership model and the internal responsibility system.</p> <p data-bbox="1283 837 1856 992">While it is not possible to regulate development of codes of practice, because there is no authority to do so, it is strongly recommended that the CSO consult with industry and others prior to approving and issuing codes of practice.</p> <p data-bbox="1283 1032 1803 1089"><u>Stakeholders:</u> Copies of all standards and codes should be attached as schedules.</p> <p data-bbox="1283 1130 1856 1284"><u>Committee:</u> This is impossible. Many standards and codes are created by other agencies and are subject to copyright. The required method of making standards and codes available is set out in section 18 of the <i>Safety Act</i>.</p> <p data-bbox="1283 1325 1824 1414"><u>Stakeholders:</u> Concerned that there were no standards accompanying the draft, and that there was a lack of references to standards in the draft.</p>

		<p><u>Committee:</u> The effect of standards and the codes of practice is identified in section 22.1 of the Act. Standards and codes are not part of the regulations.</p> <p>If formally adopted pursuant to section 18 of the Act, they may be admissible as evidence in the course of a prosecution.</p> <p>The lack of a code of practice does not make regulations ineffective. Indeed there are no codes at present for the GSRs. The lack of codes of practice makes both compliance with the regulations by employers and workers and prosecution for non-compliance more difficult, as the appropriate standards of practice are not set out in clear and simple terms.</p> <p>Generally a court considers a referenced code or standard to determine if a decision-maker took into account relevant factors in reaching a decision.</p> <p>Conformity to a code may also be accepted as evidence of safe practices by an employer or worker, even if an accident or injury occurred.</p> <p>For additional information see: <i>Key Considerations in the Development and Use of Standards in Legislative Instruments Understanding the Partnership of the Regulatory and Voluntary Standards Systems</i> (National Standards Council of Canada, December 2006) at: http://www.scc.ca/edocs/brochures/</p>
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20. Medical Information (Section 10)

June 2010	September 2011	Comments and Analysis
<p>10. (1) Subject to subsection 26(2), no person who acquires information of a personal medical nature with respect to a worker pursuant to these regulations shall disclose that information except</p> <ul style="list-style-type: none"> (a) to the worker; (b) to a safety officer; (c) with the informed consent of the worker, to another person; or (d) where otherwise required by law. 	<p>10. (1) Subject to subsection 26(2), no person who acquires information of a personal medical nature with respect to a worker pursuant to these regulations shall disclose that information except</p> <ul style="list-style-type: none"> (a) to the worker; (b) to a safety officer; (c) with the informed consent of the worker, to another person; or (d) where otherwise required by law. 	<p><u>Committee:</u> Subsection (1) is unchanged but subsection (2) is redrafted. "Health care professional" is changed to "medical practitioner", to be consistent with changes elsewhere.</p> <p><u>Stakeholders:</u> Concern about the protection of privacy and also about compelling medical practitioners to disclose personal information to the CSO.</p> <p><u>Committee:</u> The obligation to inform the CSO in subsection (2) is contingent on the condition being related to present or past employment, and is limited to conditions listed in a new Schedule, Schedule B.1, a listing of common occupational diseases.</p>
<p>(2) A health care professional who attends or treats a worker who is suffering from or is believed to be suffering from a medical condition that is related to his or her present or past employment shall, as soon as is practicable, inform the Chief Safety Officer of</p> <ul style="list-style-type: none"> (a) the medical condition from which the worker is believed to be suffering; and (b) the name and address of the most recent work site where exposure related to the medical condition is believed to have occurred. 	<p>(2) A medical practitioner who attends or treats a worker who is suffering from or believed to be suffering from a medical condition that is related to the present or past employment of the worker and is listed in Schedule B.1 shall, without undue delay, inform the Chief Safety Officer of</p> <ul style="list-style-type: none"> (a) the medical condition from which the worker is believed to be suffering; and (b) the name and address of the most recent work site where exposure related to the medical condition is believed to have occurred. 	<p>There is no violation of privacy law, as section 48 of the <i>Access to Information and Protection of Privacy Act</i> (ATIPPA) contemplates this type of disclosure. Personal privacy is not an absolute right and personal information can, and must, sometimes be disclosed. In the case of OHS, personal privacy cannot be used as an impediment to the purposes and objects of the <i>Safety Act</i>, subject to ATIPPA. Personal privacy cannot be used as a shield when the health and safety of other workers, is at stake.</p>

21. Duty to Provide Information (Sections 15, 16 and 17)

June 2010	September 2011	Comments and Analysis
<p>Duty to Provide Information</p> <p>15. (1) In this section, "required information" means any information that an employer or supplier knows or ought to know, and that</p> <p>(a) may affect the health or safety of any person who works at a work site, or</p> <p>(b) is necessary to identify and control any existing or potential hazards with respect to any plant, process, procedure or substance used at a work site.</p>	Removed.	<p><u>Stakeholders</u>: "ought to know" established an accusatory tone directed at employers.</p> <p><u>Committee</u>: Agrees. This sort of language is more appropriate in a criminal sanctions model.</p> <p>The information requirements in this section are covered by paragraph 12 (c) of the draft, so section 15 is removed.</p>
<p>(2) Subject to section 16, an employer shall provide all required information to the Committee or occupational health and safety representative, or where there is no Committee and no occupational health and safety representative, the workers.</p>		
<p>Exemption</p> <p>16. (1) An employer or supplier may apply for an exemption from the requirements of subsection 15(2) with respect to information that contains trade secrets of the applicant by submitting a written request to the Chief Safety Officer.</p>		<p><u>Committee</u>: This section paralleled the exemption from disclosure in the WHMIS provisions (Part 22 of the consultation draft), to protect trade secrets. As this section only applies to section 15, with it removed, this section must also be removed.</p>
<p>(2) After consultation with any</p>		

<p>interested persons the Chief Safety Officer considers appropriate, the Chief Safety Officer may exempt an applicant referred to in subsection (1) from the requirements of subsection 15(2).</p>		
<p>(3) An exemption pursuant to subsection (2) (a) must be in writing; and (b) may be made subject to any terms and conditions that, in the opinion of the Chief Safety Officer, are necessary to secure the health and safety of the workers.</p>	<p>Removed.</p>	
<p>(4) An employer shall provide all required information referred to in section 15 to (a) all other employers and workers at the worksite; and (b) any Committees established by or occupational health and safety representatives designated by the other employers.</p>		
<p>(5) The owner of a plant used as a work site shall provide all required information to all employers who employ workers at the plant.</p>		
<p>(6) A supplier shall provide written instructions and any other information required by these regulations to all employers to whom the supplier supplies any hazardous substance or plant.</p>		

<p>Duty of Employer to Provide Information</p> <p>17. An employer shall, at a work site,</p> <ul style="list-style-type: none"> (a) make readily available for reference by workers a copy of <ul style="list-style-type: none"> (i) the Act, (ii) any regulations made pursuant to the Act that apply to the work site or to any work done there, and (iii) any standards, safety codes or codes of practice that address work practices or procedures and that apply to the work site or to any work done there; and (b) if the information referred to in paragraph (a) or in section 15 will be posted, provide a suitable bulletin board to be used primarily to post information on health and safety matters relating to the work site. 	<p>Removed.</p>	<p><u>Committee:</u> All of these requirements are set out under section 6 of the Act and other parts of the draft regulations. This section is removed.</p>
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22. Duty to Inform Workers (Section 22)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Duty to Inform Workers</p> <p>22. An employer shall</p> <ul style="list-style-type: none"> (a) ensure that all workers understand the provisions of the Act and the regulations that pertain to his or her establishment; (b) make available a copy of the Act and regulations pursuant to the Act for reference by all workers; and (c) comply with the Act and the regulations pursuant to the Act. 	<p style="text-align: center;">Duty to Inform Workers</p> <p>22. An employer shall ensure that each worker</p> <ul style="list-style-type: none"> (a) is informed of the provisions of the Act and any regulations pursuant to the Act that apply to the worker’s work at the work site; and (b) complies with the Act and those regulations. 	<p><u>Stakeholders:</u> Placing an obligation on an employer to ensure understanding is too onerous.</p> <p><u>Committee:</u> Agrees, however, the intent of this provision is for the employer to do more than simply inform. Paragraph (b) in the consultation draft is present in section 6 of the Act and is removed.</p>
<p style="text-align: center;">Informal Meetings to be Documented</p> <p>23. An employer shall ensure that, where informal meetings are used concerning health and safety related issues, the meetings are documented and records are made available to all workers at the work site.</p>	<p>Removed.</p>	<p><u>Stakeholders:</u> Generally, if a meeting is informal, why should it be documented?</p> <p><u>Committee:</u> It is in the interests of an employer to document such meetings, but requiring the employer to do so is too prescriptive. Section 23 is removed.</p>

23. Investigation of Certain Accidents and Dangerous Occurrences (Sections 35, 36 and 37)

June 2010	September 2011	Comments and Analysis
<p>Investigation of Certain Accidents</p> <p>35. (1) Subject to section 36, an employer shall ensure that every accident or occurrence described under section 8 or 9 is investigated as soon as is reasonably possible by</p> <ul style="list-style-type: none"> (a) the Committee or occupational health and safety representative and the employer ; or (b) where there is no Committee or occupational health and safety representative, the employer. 	<p>Investigation of Accidents Causing Serious Bodily Injury</p> <p>35. (1) Subject to section 36, an employer shall ensure that every accident causing serious bodily injury is investigated as soon as is reasonably possible by</p> <ul style="list-style-type: none"> (a) the Committee or representative and the employer ; or (b) where there is no Committee or representative available, the employer. 	<p><u>Stakeholders:</u> Section 35 is not reasonable as there is no indication of the severity of the accident or occurrence.</p> <p><u>Committee:</u> In the original draft “the accidents or occurrence” in subsection (1) is coupled to sections 8 or 9, dealing with either an “accident causing serious bodily injury” or a “dangerous occurrence”. However, including "or occurrence" in the draft, section 35, a reference to “dangerous occurrence” created an inconsistency with draft section 37 that is corrected in the revision. The term "accident or occurrence” has been dropped and the sections clarified by using the more specific terms, “accident causing serious bodily injury” in section 35, “accident causing a death” in section 36, and “dangerous occurrence” in section 37.</p>
<p>(2) After the investigation of an accident, an employer shall, in consultation with the Committee or occupational health and safety representative or, where there is no Committee or occupational health and safety representative, the workers, prepare a written report that includes</p> <ul style="list-style-type: none"> (a) a description of the accident; (b) any graphics, photographs or other evidence that may assist in determining the causes of the accident; (c) an explanation of the causes of the accident; (d) the immediate corrective action taken; and (e) any long-term action that will 	<p>(2) After the investigation of an accident causing serious bodily injury, an employer shall, in consultation with the Committee or representative or, where there is no Committee or representative available, the workers, prepare a written report that includes</p> <ul style="list-style-type: none"> (a) a description of the accident; (b) any graphics, photographs or other evidence that may assist in determining the causes of the accident; (c) identification of any unsafe conditions, acts or procedures which contributed in any manner to the accident; (d) an explanation of the causes of 	<p><u>Stakeholders:</u> Recommendation of the inclusion of another paragraph after paragraph 35(2)(b), to ensure that unsafe conditions that contributed to an accident are identified.</p> <p><u>Committee:</u> Agrees and includes it in the revision as paragraph (2)(c).</p>

<p>be taken to prevent the occurrence of a similar accident or the reasons for not taking action.</p>	<p>the accident; (e) the immediate corrective action taken; and (f) any long-term corrective action that will be taken to prevent the occurrence of a similar accident or the reasons for not taking action.</p>	
<p>Preserving Scene of Accident</p> <p>36. (1) Unless expressly authorized by statute or by subsection (2), no person shall, except for the purpose of saving life or relieving human suffering, interfere with, destroy, carry away or alter the position of any wreckage, article, document or thing at the scene of or connected with an accident causing a death until a safety officer has completed an investigation of the circumstances surrounding the accident.</p>	<p>Preserving Scene of Accident Causing Death</p> <p>36. (1) Unless expressly authorized by statute or by subsection (2), no person shall, except for the purpose of saving life or relieving human suffering, interfere with, destroy, carry away or alter the position of any wreckage, article, document or thing at the scene of or connected with an accident causing a death until a safety officer has completed an investigation of the circumstances surrounding the accident.</p>	<p><u>Committee:</u> The original heading is inaccurate as the type of accident involved is an accident causing death. The heading has been changed in the revision.</p> <p><u>Stakeholders:</u> Concern that this provision might allow persons to interfere with an accident site before a police or coroner's investigation is complete.</p> <p><u>Committee:</u> Under subsection (1), the interference with the site for the purpose of saving life or relieving suffering is a legitimate purpose that overrides any investigative purpose.</p>
<p>(2) Where an accident causing a death occurs and a safety officer is not able to complete an investigation of the circumstances surrounding the accident, the safety officer may, unless prohibited by statute, grant permission to move any wreckage, articles or other things at the scene or connected with the accident, to any extent that may be necessary to allow work to proceed, if he or she is satisfied that</p> <p>(a) graphics, photographs or other evidence showing details at the scene of the accident are made before the safety officer grants</p>	<p>(2) Where an accident causing a death occurs and a safety officer is not able to complete an investigation of the circumstances surrounding the accident, the safety officer may, unless prohibited by statute, grant permission to move any wreckage, articles or other things at the scene or connected with the accident, to any extent that may be necessary to allow work to proceed, if he or she is satisfied that</p> <p>(a) graphics, photographs or other evidence showing details at the scene of the accident are made before the safety officer grants permission; and</p>	<p><u>Stakeholders:</u> Does subsection (1) conflict with directions made by law enforcement officials or the coroner?</p> <p><u>Committee:</u> Directions made by these persons are made under a different statute (e.g. the section 129 of the <i>Criminal Code</i> or section 17 of the <i>Coroners Act</i>), and are covered by the "Unless expressly authorized by statute" provision of subsection (1).</p>

<p>permission; and</p> <p>(b) the Committee or occupational health and safety representative, if one exists, has inspected the site of the accident and agreed that things may be moved.</p>	<p>(b) the Committee or representative, if available, has inspected the site of the accident and agreed that things may be moved.</p>	
<p>Investigation of Dangerous Occurrences</p> <p>37. (1) An employer shall ensure that every dangerous occurrence described in subsection 9(1) is investigated as soon as is reasonably possible by</p> <p>(a) the Committee or the occupational health and safety representative and the employer; or</p> <p>(b) where there is no Committee or occupational health and safety representative, the employer.</p>	<p>Investigation of Dangerous Occurrences</p> <p>37. (1) An employer shall ensure that every dangerous occurrence is investigated as soon as is reasonably possible by</p> <p>(a) the Committee or representative and the employer; or</p> <p>(b) where there is no Committee or representative available, the employer.</p>	<p><u>Committee:</u> The changes to this section are mostly changes in the use of "representative" instead of "occupational health and safety representative".</p> <p><u>Stakeholders:</u> Question the need for section 37, given section 35.</p> <p><u>Committee:</u> Agrees that there was confusion between the two in the consultation draft. The problem has been addressed by limiting section 35 to cases of an "accident causing serious bodily injury" and section 37 to "dangerous occurrence".</p> <p>A new paragraph 2(c) has been added in section 37, paralleling the new 35(2)(c).</p>
<p>(2) After the investigation of a dangerous occurrence, an employer shall, in consultation with the Committee or occupational health and safety representative or, where there is no Committee or occupational health and safety representative, the workers, prepare a written report that includes</p> <p>(a) a description of the dangerous occurrence;</p> <p>(b) any graphics, photographs or other evidence that may assist in determining the causes of the dangerous occurrence;</p> <p>(c) an explanation of the causes</p>	<p>(2) After the investigation of a dangerous occurrence, an employer shall, in consultation with the Committee or representative or, where there is no Committee or representative available, the workers, prepare a written report that includes</p> <p>(a) a description of the dangerous occurrence;</p> <p>(b) any graphics, photographs or other evidence that may assist in determining the causes of the dangerous occurrence;</p> <p>(c) identification of any unsafe conditions, acts or procedures</p>	<p>An example of a "dangerous occurrence" might be the failure of a crane with no injuries sustained. No "accident causing serious bodily injury" occurred, because there were no workers present at the work site when the crane failed, but a "dangerous occurrence" has occurred. That dangerous occurrence must be investigated by the OHS Committee, etc. It also must be reported to the CSO under section 9.</p> <p>For more discussion of the difference between an "accident causing serious bodily injury" and a "dangerous occurrence", see item 9. <i>Accident Causing Serious Bodily Injury and Dangerous</i></p>

<p>(d) of the dangerous occurrence; the immediate corrective action taken; and</p> <p>(e) any long-term action that will be taken to prevent the occurrence of a similar dangerous occurrence or the reasons for not taking action.</p>	<p>which contributed in any manner to the dangerous occurrence;</p> <p>(d) an explanation of the causes of the dangerous occurrence;</p> <p>(e) the immediate corrective action taken; and</p> <p>(f) any long-term action that will be taken to prevent the occurrence of a similar dangerous occurrence or the reasons for not taking action.</p>	<p><i>Occurrences (Sections 1, 8 and 9)</i> at page 53.</p> <p><u>Stakeholders</u>: What is done with this report?</p> <p><u>Committee</u>: The OHS Committee makes this report available to the employer and makes recommendations for follow-up. The employer is required to make details of the report available to the workers. A safety officer may also review the report.</p>
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24. Sanitation (Section 75)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Sanitation</p> <p>75. (1) An employer shall ensure that a work site is sanitary and kept clean and shall ensure, to the extent that is reasonably practicable, that</p> <ul style="list-style-type: none"> (a) dirt and debris are removed at least daily by a suitable method from all floors, working surfaces, stairways and passages; (b) floors are cleaned at least once each week by washing, vacuum cleaning or any other effective and suitable method; and (c) all inside walls, partitions, ceilings, passages and staircases are clean and are suitably finished and maintained. 	<p style="text-align: center;">Sanitation</p> <p>75. (1) An employer shall, to the extent that is reasonably practicable, ensure that a work site is sanitary and kept clean.</p>	<p><u>Stakeholders:</u> Why is this provision included, given that it is not included in the GSRs?</p> <p><u>Committee:</u> It is present in similar regulations in western Canada.</p> <p><u>Stakeholder:</u> The provision is too prescriptive.</p> <p><u>Committee:</u> Agreed. Subsection (1) simplified as shown in the revision.</p>
<p>(2) Where a worker may be exposed to refuse, spills or waste materials that may pose a risk to a worker's health or safety, an employer shall ensure that the refuse, spill or waste material is removed by a suitable method from the work site as soon as is practicable.</p>	<p>(2) Where a worker may be exposed to refuse, spills or waste materials that may pose a risk to a worker's health or safety, an employer shall ensure that the refuse, spill or waste material is removed by a suitable method from the work site as soon as is practicable.</p>	

25. Toilet Facilities (Section 82)

June 2010	September 2011	Comments and Analysis
<p>Toilet Facilities</p> <p>82. (1) An employer shall ensure that suitable and readily accessible toilet facilities for workers</p> <p>(a) are provided at a work site, maintained and kept clean;</p> <p>(b) are sufficient in number for the number of workers at the place of employment at any one time; and</p> <p>(c) have adequate provision for privacy, heat, light and ventilation.</p>	<p>Toilet Facilities</p> <p>82. (1) An employer shall, to the extent that is reasonably practicable, ensure that suitable and readily accessible toilet facilities for workers</p> <p>(a) are provided at a work site, maintained and kept clean;</p> <p>(b) are sufficient in number for the number of workers at the work site at any one time; and</p> <p>(c) have adequate provision for privacy, heat, light and ventilation.</p>	<p><u>Stakeholders:</u> Concerns about retrofits.</p> <p><u>Committee:</u> Added "to the extent that is reasonably practicable" to subsection (1) to accommodate older buildings.</p> <p>There are building code requirements under the <i>National Building Code</i> in respect of toilets in new buildings.</p> <p><u>Stakeholders:</u> How could this be applied to remote areas or to work carried out in the field?</p> <p><u>Committee:</u> "reasonably practicable" in subsection (1) deals with this. Remote work sites could be equipped with dry toilets dug into the ground or portable flush toilets.</p>
<p>(2) Subject to subsections (3) to (5), the minimum number of toilet facilities required pursuant to subsection (1) is set out in Schedule K.</p>	<p>(2) Subject to subsections (3) to (5), the minimum number of toilet facilities required pursuant to subsection (1) is set out in Schedule K.</p>	<p>The use of "flush toilet" in draft subsection (3) removed in this revision to avoid possible conflict with sections 21 and 22 of the <i>General Sanitation Regulations</i>.</p>
<p>(3) Where toilet facilities are likely to be used by persons other than workers, an employer shall ensure that for each group of fifteen or fewer persons other than workers, the toilet facilities in subsection (2) are augmented by at least one additional flush toilet.</p>	<p>(3) Where toilet facilities are likely to be used by persons other than workers, an employer shall provide additional toilets that are proportionate to the number set out in Schedule K and, where use by those other persons is substantial and frequent, the employer shall provide separate toilet facilities for those other persons.</p>	<p><u>Stakeholders:</u> Suggest that this section was better dealt with by the <i>Public Health Act</i>.</p> <p><u>Committee:</u> It is debatable whether work site health and safety is part of public health and safety.</p>
<p>(4) Where there are more than ten workers and both male and female persons are employed at any time, an employer shall provide separate toilet facilities for workers of each sex in numbers that are</p>	<p>(4) Where there are more than ten workers and both male and female persons are employed at any time, an employer shall provide separate toilet facilities for workers of each sex in numbers that are</p>	<p>The <i>Public Health Act</i> and the <i>General Sanitation Regulations</i> concern public health hazards, and when coupled with work site safety legislation provide protection for both workers and the general public.</p>

<p>proportionate to the numbers of male and female persons employed.</p>	<p>proportionate to the numbers of male and female persons employed.</p>	<p>The <i>Public Health Act</i> and the <i>Safety Act</i> are good examples of complementary legislation. Consider, for instance, restaurants, grocery stores, or hospitals.</p>
<p>(5) Where more than 100 male persons work or are likely to work on any shift and the Chief Safety Officer is satisfied that sufficient urinal accommodations are provided, the minimum number of toilet facilities under subsection (2) may be reduced at the direction of the Chief Safety Officer.</p>	<p>(5) Where more than 100 male persons work or are likely to work on any shift and the Chief Safety Officer is satisfied that sufficient urinal accommodations are provided, the minimum number of toilet facilities under subsection (2) may be reduced at the direction of the Chief Safety Officer.</p>	<p>Public health inspectors inspect these places to ensure they operate in a way that avoids infection or tainted food from injuring the public. Safety officers inspect these places to ensure they are designed, and operate to prevent workers from being injured.</p>
<p>(6) An employer shall ensure that each toilet facility required by this section</p> <ul style="list-style-type: none"> (a) is used exclusively for the purposes for which the facility is designed; (b) is free from any obstacle or obstruction that could prevent the facility from being used; (c) is kept free of vermin; (d) is supplied with toilet tissue at all times and with easily cleanable, covered receptacles for waste materials; and (e) except in the case of a urinal, is equipped with an individual compartment and a door that can be locked from the inside. 	<p>(6) An employer shall ensure that each toilet facility required by this section</p> <ul style="list-style-type: none"> (a) is used exclusively for the purposes for which the facility is designed; (b) is free from any obstacle or obstruction that could prevent the facility from being used; (c) is kept free of vermin; (d) is supplied with toilet tissue at all times and with easily cleanable, covered receptacles for waste materials; and (e) except in the case of a urinal, is equipped with an individual compartment and a door that can be locked from the inside. 	<p>There are multiple instances of complementary legislation affecting matters dealt with in the draft OHS regulations, for example: the <i>Fire Prevention Act</i>, the <i>Hospital Insurance and Social Services Act</i>, the <i>Electrical Protection Act</i>, the <i>Access to Information and Protection of Privacy Act</i>, the <i>Coroners Act</i>.</p> <p>Schedule K received no comments and remains unchanged.</p>

26. Change and Shower Facilities (Section 85)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Change and Shower Facilities</p> <p>85. Where a worker’s skin is likely to be contaminated by harmful or offensive substances as part of a regular work process at a work site, an employer shall</p> <ul style="list-style-type: none"> (a) where reasonably practicable, provide and maintain suitable, adequate and clean change and shower facilities; and (b) allow sufficient time, during normal working hours without loss of pay or benefits, for the worker to use the change and shower facilities. 	<p style="text-align: center;">Change and Shower Facilities</p> <p>85. Where a worker’s skin is likely to be contaminated by harmful substances as part of a regular work process at a work site, an employer shall</p> <ul style="list-style-type: none"> (a) where reasonably practicable, provide and maintain suitable, adequate and clean change and shower facilities; and (b) allow sufficient time, during normal working hours without loss of pay or benefits, for the worker to use the change and shower facilities. 	<p><u>Committee:</u> Removed "or offensive" from the part of the provision that precedes paragraph (a). "Offensive" considered too subjective a term.</p> <p><u>Stakeholders:</u> In older buildings or work sites where no such facilities exist, it would be unreasonable to require an employer to install showers, which are not required now.</p> <p><u>Committee:</u> Section 85 only applies where "...a worker's skin is likely to be contaminated by harmful substances as part of a regular work process...". It is unreasonable to suggest that showers are unnecessary where workers are at risk of being exposed to chemicals or other substances that might harm their skin. No grandfathering provision, of the type added in section 84 (see item 6. <i>Clothing (Section 84)</i> at page 33), is necessary.</p> <p><u>Stakeholders:</u> It is unreasonable to require an employer to pay its employees for showering and changing clothes.</p> <p><u>Committee:</u> If an employee needs to shower and change clothes as a result of exposure to hazardous substances at a work site, the showering and changing is reasonably considered part of the person’s work.</p>

27. Anchor Points and Anchor Plates (Section 131)

June 2010	September 2011	Comments and Analysis
<p style="text-align: center;">Anchor Points and Anchor Plates</p> <p>131. (1) Where a worker uses a personal fall arrest system or a travel restraint system, an employer, shall ensure that an anchor point or anchor plate that meets the requirements of this section is used as part of that system.</p>	<p style="text-align: center;">Anchor Points and Anchor Plates</p> <p>131. (1) Where a worker uses a personal fall arrest system or a travel restraint system, an employer, shall ensure that an anchor point or anchor plate that meets the requirements of this section is used as part of that system.</p>	<p><u>Committee:</u> No change.</p> <p><u>Stakeholder:</u> There is a real risk that someone who needs a fall arrest anchorage may choose to use the temporary restraint anchorage if it is all that is available.</p> <p><u>Committee:</u> Agreed. Note "temporary" and "permanent" are defined terms in Part 9 (see section 128 in item 14. <i>Protection Against Falling (Section 128)</i> at page 76). The stakeholder's concern could be addressed in a code of practice.</p>
<p>(2) An employer shall ensure that a temporary anchor point used in a travel restraint system</p> <ul style="list-style-type: none"> (a) has an ultimate load capacity of at least 3.5 kN per worker attached in any direction in which the load may be applied; (b) is installed and used according to the manufacturer's specifications; (c) is permanently marked as being for travel restraint only; and (d) is removed by the last worker from use on the earlier of <ul style="list-style-type: none"> (i) the date the work project for which it is intended is completed, and (ii) the time specified by 	<p>(2) An employer shall ensure that a temporary anchor point used in a travel restraint system</p> <ul style="list-style-type: none"> (a) has an ultimate load capacity of at least 3.5 kN per worker attached in any direction in which the load may be applied; (b) is installed and used according to the manufacturer's specifications; (c) is permanently marked as being for travel restraint only; and (d) is removed by the last worker from use on the earlier of <ul style="list-style-type: none"> (i) the date the work project for which it is intended is completed, and (ii) the time specified by 	

the manufacturer.	the manufacturer.	
<p>(3) An employer shall ensure that a permanent anchor point used in a travel restraint system associated with any new construction project on or after the date this section comes into force</p> <ul style="list-style-type: none"> (a) has an ultimate load capacity of at least 8.75 kN per worker attached in any direction in which the load may be applied; (b) is installed and used according to the manufacturer's specifications; and (c) is permanently marked as being for travel restraint only. 	<p>(3) An employer shall ensure that a permanent anchor point used in a travel restraint system associated with any new construction project on or after the date this section comes into force</p> <ul style="list-style-type: none"> (a) has an ultimate load capacity of at least 8.75 kN per worker attached in any direction in which the load may be applied; (b) is installed and used according to the manufacturer's specifications; and (c) is permanently marked as being for travel restraint only. 	<p><u>Stakeholders:</u> In respect of subsection (3), it is not clear why it states, 'marked as being for travel restraint only', when a permanent anchor point could also be used for a fall arrest system.</p> <p><u>Committee:</u> Travel restraint and fall arrest systems are very different. Subsections (2) and (3) deal only with travel restraint systems, while subsections (4) and (5) deal with personal fall arrest systems.</p> <p>The anchor points for temporary travel restraint systems and permanent travel restraint systems must be clearly marked as such under subsections (2) and (3), as they each have very different load capacities, and the load capacity of both is significantly lower than required for a personal fall arrest system. A worker who needs to make use of an anchor point can then readily identify the load capacity from the marking on the system.</p>
<p>(4) In the case of a personal fall arrest system installed on or after one year after the date this section comes into force, an employer or supplier shall ensure that anchor points to which the personal fall arrest system is attached have an ultimate load capacity of at least 22.2 kN per worker attached in any direction in which the load may be applied.</p>	<p>(4) In the case of a personal fall arrest system installed on or after one year after the date this section comes into force, an employer or supplier shall ensure that anchor points to which the personal fall arrest system is attached have an ultimate load capacity of at least 22.2 kN per worker attached in any direction in which the load may be applied.</p>	
<p>(5) An employer or supplier shall ensure that the following types of equipment that are components of fall protection systems, and their installation, conform to the manufacturer's specifications or are certified by a professional engineer:</p>	<p>(5) An employer or supplier shall ensure that the following types of equipment that are components of fall protection systems, and their installation, conform to the manufacturer's specifications or are certified by a professional engineer:</p>	<p><u>Stakeholders:</u> Why should temporary anchor points not also be required to be certified by a professional engineer under subsection (5)? Paragraph 5(a) should refer to permanent and temporary anchor points for fall protection systems.</p>

<ul style="list-style-type: none"> (a) permanent anchor points; (b) anchors with multiple attachment points; (c) permanent horizontal lifeline systems; (d) support structures for safety nets. 	<ul style="list-style-type: none"> (a) permanent anchor points; (b) anchors with multiple attachment points; (c) permanent horizontal lifeline systems; (d) support structures for safety nets. 	<p><u>Committee:</u> It is not necessary to include a temporary anchor point in this provision. Under subsection (4) <u>all</u> anchor points to which a personal fall arrest system can be attached will have to have an ultimate load capacity of 22.2 kN. Subsection (5) places an obligation on employers or suppliers to ensure that the components of the system, after installation, conform to manufacturer's specifications or are certified by a professional engineer, and one of those components is the permanent anchor point.</p> <p>To add "temporary" to paragraph (5)(a) would be hampering to industry and is not necessary given subsection (4).</p> <p>There are no provisions in the current GSRs that discuss anchor points with the exception of paragraph 461(k), which gives no ultimate load capacity and refers to anchor points in relation to material hoists used in the construction of chimneys and similar structures.</p>
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28. Electrical Workers (Sections 447 and 448)

June 2010	September 2011	Comments and Analysis
<p>Interpretation</p> <p>447. (1) In this Part,</p> <p>"approved" means as approved under the <i>Electrical Protection Regulations</i>;</p>	<p>Interpretation</p> <p>447. (1) In this Part,</p> <p>"approved" means as approved under the <i>Electrical Protection Regulations</i>;</p>	<p><u>Stakeholders</u>: Expressed concern that the regulations would require all persons carrying out electrical work to be qualified electricians or apprentices.</p> <p><u>Committee</u>: Agrees with this criticism and notes that over-reaching into the realm of apprenticeships and trades may have unintentionally occurred in the consultation draft. The revision to the definition of "electrical worker" addresses the concern.</p> <p><u>Stakeholders</u>: Concerned about the application of this part to "electrical workers" as defined in the <i>Electrical Protection Act</i>. In particular they thought that qualified electrical workers should be exempt from application of the entire regulations as is done in Saskatchewan.</p> <p><u>Committee</u>: Section 46 of the Saskatchewan <i>Occupational Health and Safety Act</i>, S.S. 1993, c.O-1.1 was alluded to:</p> <p style="padding-left: 40px;">46. (1) In order to meet the special circumstances in a particular case, the director may, on receipt of a written application and after any consultation with interested persons that the director considers advisable, exempt conditionally or otherwise any person or class of persons from any provision of the regulations or a code of practice.</p> <p style="padding-left: 40px;">(2) An exemption pursuant to subsection (1) shall be made only where the director is satisfied that the standard of</p>
"electrical equipment" means electrical equipment as defined in subsection 1(1) of the <i>Electrical Protection Act</i> ;	"electrical equipment" means electrical equipment as defined in subsection 1(1) of the <i>Electrical Protection Act</i> ;	
"electrical worker" means a "qualified electrical worker" as defined in subsection 1(1) of the <i>Electrical Protection Act</i> ;	"electrical worker" means <ul style="list-style-type: none"> (a) in the case of electrical work as defined in subsection 1(1) of the <i>Electrical Protection Act</i>, a qualified electrical worker as defined in that Act, or (b) in the case of any work with electrical equipment that is not regulated by the <i>Electrical Protection Act</i>, a competent worker; 	
"guarded" means covered, shielded, fenced, enclosed or otherwise protected by suitable covers, casings, barriers, rails, screens, mats, platforms or other equally effective means;	"guarded" means covered, shielded, fenced, enclosed or otherwise protected by suitable covers, casings, barriers, rails, screens, mats, platforms or other equally effective means;	
"high voltage" means any voltage over 750 V;	"high voltage" means any voltage over 750 V;	
"lamp" means an artificial source of electric light;	"lamp" means an artificial source of electric light;	

<p>"luminaire" means a complete lighting unit that is designed to accommodate a lamp and to connect the lamp to an electrical power supply;</p>	<p>"luminaire" means a complete lighting unit that is designed to accommodate a lamp and to connect the lamp to an electrical power supply;</p>	<p>health and safety of any worker is not materially affected by the exemption. (The "Director" in Saskatchewan is equivalent to the Chief Safety Officer in the NWT and Nunavut.)</p>
<p>"readily accessible" means capable of being reached quickly for operation, renewal, or inspection, without requiring a worker to climb over or remove obstacles or to resort to portable means of access.</p>	<p>"readily accessible" means capable of being reached quickly for operation, renewal, or inspection, without requiring a worker to climb over or remove obstacles or to resort to portable means of access.</p>	<p>There is no provision comparable to section 46 of the Saskatchewan OHS Act in the NT or NU <i>Safety Act</i>.</p>
<p>(2) Nothing in this Part shall be construed as authorizing</p> <ul style="list-style-type: none"> (a) the performance of work by a person if it is unlawful for the person to perform that work because of the <i>Electrical Protection Act</i> or the regulations made pursuant to that Act or any other Act or regulation; (b) the use of electrical equipment if it is unlawful to use that equipment because of the <i>Electrical Protection Act</i>, the regulations made pursuant to that Act or any other Act or regulation; or (c) the performance of work in a particular manner if it is unlawful to perform the work in that manner because of the <i>Electrical Protection Act</i>, the regulations made pursuant to that Act or any other Act or regulation. 	<p>(2) Nothing in this Part shall be construed as authorizing</p> <ul style="list-style-type: none"> (a) the performance of work by a person if it is unlawful for the person to perform that work because of the <i>Electrical Protection Act</i> or the regulations made pursuant to that Act or any other Act or regulation; (b) the use of electrical equipment if it is unlawful to use that equipment because of the <i>Electrical Protection Act</i>, the regulations made pursuant to that Act or any other Act or regulation; or (c) the performance of work in a particular manner if it is unlawful to perform the work in that manner because of the <i>Electrical Protection Act</i>, the regulations made pursuant to that Act or any other Act or regulation. 	<p>The Chief Safety Officer does not have sufficient authority to make such an exemption. There is not sufficient authority to make regulations authorizing such exemptions under section 25 of the <i>Safety Act</i>, because such a power is not explicitly stated and would be a significant departure from objects of the Act.</p> <p>Authority to make an exemption could only be achieved through an amendment to the Act authorizing the Minister or Chief Safety Officer to grant such an exemption. Under the present <i>Safety Act</i> no such exemption may be granted.</p> <p>The Chief Safety Officer made inquiries to her counterpart in Saskatchewan to determine if such an exemption had been granted. It was indicated exemptions were granted but those exemptions are very limited.</p> <p>Comparing the <i>Electrical Protection Act</i>, R.S.N.W.T. 1988, c.E-8 and its Saskatchewan counterpart, <i>The Electrical Inspection Act</i>, 1993, S.S. 1996, c.E-6.3, the Saskatchewan Act, "electric utility" is a defined term and subsection 3(2) of that Act states:</p> <ul style="list-style-type: none"> (2) This Act does not apply to <ul style="list-style-type: none"> (a) the work of electrical installation: <ul style="list-style-type: none"> (i) in power houses, substations

	<p>(3) This Part does not apply to any electrical work carried on by an electrical worker</p> <ul style="list-style-type: none"> (a) in power houses, substations or other facilities <ul style="list-style-type: none"> (i) in which electricity is produced or from which electricity is distributed, and (ii) from which some or all of the electricity mentioned in paragraph (a) is sold; (b) on railway cars or locomotives or street railway cars or locomotives; or (c) on transmission lines and distribution systems of electric utilities. 	<p>or other facilities:</p> <ul style="list-style-type: none"> (A) in which electricity is produced or from which electricity is distributed; and (B) from which some or all of the electricity mentioned in paragraph (A) is sold; <ul style="list-style-type: none"> (ii) on railway cars or locomotives or street railway cars or locomotives; (iii) on transmission lines and distribution systems of electric utilities; or (iv) on elevators as defined in <i>The Passenger and Freight Elevator Act</i>; or <p>(b) any prescribed electrical equipment.</p> <p>Section 2 of the NWT <i>Electrical Protection Act</i> states:</p> <p>2. This Act does not apply to the installation or use of electrical equipment</p> <ul style="list-style-type: none"> (a) in an aircraft or a marine vessel; or (b) in a mine as defined in the <i>Mine Health and Safety Act</i>. <p>There is an issue in respect of a missing equivalent to subsection 3(2) of the Saskatchewan <i>Electrical Inspection Act</i> from the NWT and NU <i>Electrical Protection Act</i>. That exemption in the Saskatchewan Act exists because the enumerated classes of electrical installation are specialist installations, and the electrical workers at those installations are specially qualified.</p>
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		<p>Affected stakeholders may consider contacting the GNWT Department of Public Works and Services or the GN Department of Community and Government Services, the departments that administer the <i>Electrical Protection Act</i> in each territory. Any recommendation for amendment to that Act is outside of the statutory mandate of the Committee.</p> <p>This analysis is important because it raises a question: "to whom Part 30 is intended to apply?" Part 30 should not apply to specialist electrical workers at electrical utility installations. It applies to electrical workers at a general work site and any other worker carrying out electrical work other than that defined in the <i>Electrical Protection Act</i> (such as changing a light bulb). Furthermore, while the exemption should apply to a lineman on a transmission line, the exemption should not apply to other workers who might work on a pole or tower – including an electrical worker who may be undertaking work other than electrical work.</p> <p>Part 30 of the draft regulations is revised to add a non-application provision, in the new subsection 447(3). Such an exemption would be much more authoritative, in a statute, but amendments to the <i>Electrical Protection Act</i> are beyond the mandate of the Committee. If the <i>Electrical Protection Act</i> is amended at some future date, this subsection can be removed or amended accordingly.</p>
<p style="text-align: center;">Electrical Workers</p> <p>448. (1) Subject to subsection (2), an employer shall permit only electrical workers to construct, install, alter, repair or maintain electrical equipment.</p>	<p style="text-align: center;">Electrical Workers</p> <p>448. (1) Subject to subsection (2), an employer shall permit only electrical workers to construct, install, alter, repair or maintain electrical equipment.</p>	<p><u>Committee:</u> "...Who is not an electrical worker", is removed from that part preceding paragraph (2)(a) because it is no longer necessary due to changes in section 447. The word "small" in paragraph (2)(e) is removed.</p>

<p>(2) An employer may permit a competent worker who is not an electrical worker</p> <ul style="list-style-type: none"> (a) to operate powered mobile equipment and perform non-electrical work on or near de-energized electrical equipment; (b) to extend a portable power cable for routine advancement by interconnection of approved cord connectors, cord caps or similar devices; (c) to change light bulbs or tubes; (d) to insert or replace an approved fuse, to a maximum of 750 V, that controls circuits or equipment; or (e) to connect small portable electrical equipment that operates at less than 750 V to supply circuits by means of attachment plugs, where the connection does not overload the circuit conductors, or to use or operate small portable electrical equipment that is connected in that way. 	<p>(2) An employer may permit a competent worker</p> <ul style="list-style-type: none"> (a) to operate powered mobile equipment and perform non-electrical work on or near de-energized electrical equipment; (b) to extend a portable power cable for routine advancement by interconnection of approved cord connectors, cord caps or similar devices; (c) to change light bulbs or tubes; (d) to insert or replace an approved fuse, to a maximum of 750 V, that controls circuits or equipment; or (e) to connect portable electrical equipment that operates at less than 750 V to supply circuits by means of attachment plugs, where the connection does not overload the circuit conductors, or to use or operate small portable electrical equipment that is connected in that way. 	
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29. Generality of Duties Not Limited (Section 4)

June 2010	September 2011	Comments and Analysis
<p>Generality of Duties Not Limited</p> <p>4. (1) A specific duty imposed by these regulations does not limit the generality of any other duty imposed by the Act or other regulations made pursuant to the Act.</p>	<p>Generality of Duties Not Limited</p> <p>4. (1) A specific duty imposed by these regulations does not limit the generality of any other duty imposed by the Act or other regulations made pursuant to the Act.</p>	<p><u>Committee</u>: No changes, except a minor correction at the beginning of subsection (5).</p> <p><u>Stakeholders</u>: Question the meaning of the "person with the greatest degree of control" in subsection 4(4), and suggested that this phrase is vague.</p>
<p>(2) A provision of these regulations that prohibits a worker from carrying out a specified action applies, with any necessary modification, to an employer.</p>	<p>(2) A provision of these regulations that prohibits a worker from carrying out a specified action applies, with any necessary modification, to an employer.</p>	<p><u>Committee</u>: This phrase is left undefined deliberately. It is a legal question determined on the facts of any given case.</p>
<p>(3) A provision of these regulations that requires an employer to ensure that a worker carries out or refrains from carrying out a specified action is deemed to require an employer to carry out or refrain from carrying out that action.</p>	<p>(3) A provision of these regulations that requires an employer to ensure that a worker carries out or refrains from carrying out a specified action is deemed to require an employer to carry out or refrain from carrying out that action.</p>	<p><u>Stakeholders</u>: Wondered about the extent of subsection (5). Where does responsibility end? Does it include individual members of the board of directors of a corporation?</p>
<p>(4) Where a provision of these regulations imposes a duty or requirement on more than one person, the duty or requirement is meant to be imposed primarily on the person with the greatest degree of control over the matters that are the subject of the duty or requirement.</p>	<p>(4) Where a provision of these regulations imposes a duty or requirement on more than one person, the duty or requirement is meant to be imposed primarily on the person with the greatest degree of control over the matters that are the subject of the duty or requirement.</p>	<p><u>Committee</u>: Both sets of comments are inter-related in they seek the delimitation of the boundaries of the duty and contingent responsibility. Note similar provisions in other jurisdictions and, in the Yukon, the case of <i>Director of Occupational Health and Safety v. Government of Yukon, William R. Cratty and P. S. Sidhu Trucking Ltd.</i>, 2010 YKTC 97 (CanLII).</p>
<p>(5) Notwithstanding subsection (4) but subject to subsection (7), if the person with the greatest degree of control fails to comply with a provision described in subsection (4), the other persons are not relieved of the obligation to comply with the provision if it is possible for them to comply, and they shall</p>	<p>(5) Subject to subsection (7), if the person with the greatest degree of control fails to comply with a provision described in subsection (4), the other persons are not relieved of the obligation to comply with the provision if it is possible for them to comply, and they shall comply with the provision.</p>	<p>In the above case, all employers at a work site were held responsible. The Yukon Territorial Government, the employer with the greatest degree of control, was not physically present at the work site. This decision was upheld on appeal (<i>Director of Occupational Health and Safety v. Yukon</i>, 2011 YKSC 50).</p> <p>This section is consistent with current common law and western Canadian OHS legislation.</p>

<p>comply with the provision.</p>		
<p>(6) If the person with the greatest degree of control complies with a provision described in subsection (4), the other persons are relieved of the obligation to comply with the provision</p> <ul style="list-style-type: none"> (a) only for the time in which the person with the greatest degree of control is in compliance with the provision; (b) only if simultaneous compliance by more than one person would result in unnecessary duplication of effort and expense; and (c) only if the health and safety of workers is not put at risk by compliance by only one person. 	<p>(6) If the person with the greatest degree of control complies with a provision described in subsection (4), the other persons are relieved of the obligation to comply with the provision</p> <ul style="list-style-type: none"> (a) only for the time in which the person with the greatest degree of control is in compliance with the provision; (b) only if simultaneous compliance by more than one person would result in unnecessary duplication of effort and expense; and (c) only if the health and safety of workers is not put at risk by compliance by only one person. 	
<p>(7) If the person with the greatest degree of control fails to comply with a provision described in subsection (4) but one of the other persons complies with the provision, the other persons, if any, to whom the provision applies, are relieved of the obligation to comply with the provision in the circumstances set out in paragraphs (6)(1)(a) to (c), with any necessary modification.</p>	<p>(7) If the person with the greatest degree of control fails to comply with a provision described in subsection (4) but one of the other persons complies with the provision, the other persons, if any, to whom the provision applies, are relieved of the obligation to comply with the provision in the circumstances set out in paragraphs (6)(1)(a) to (c), with any necessary modification.</p>	
<p>(8) If a provision of these regulations imposes a duty or requirement on a person to ensure that another person carries out or refrains from carrying out a specified action, the person on whom the duty or requirement is placed has complied</p>	<p>(8) If a provision of these regulations imposes a duty or requirement on a person to ensure that another person carries out or refrains from carrying out a specified action, the person on whom the duty or requirement is placed has complied</p>	

with the provision if that person establishes that he or she took all reasonable steps to ensure that the second person carried out or refrained from carrying out the specified act.	with the provision if that person establishes that he or she took all reasonable steps to ensure that the second person carried out or refrained from carrying out the specified act.	
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