

# **Manitoba Workplace Safety and Health Act and Regulation**

## **2020**

**NOTICE**

All persons making use of this consolidation are reminded that it has no legislative sanction; that the amendments have been embodied only for convenience of reference; and that the original text should be consulted for all purposes of interpreting and applying the law.

Printed: September 2020.

Current as of date of printing.





# **CHAPTER W210**

## **10/02**

# **The Workplace Safety And Health Act**

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## CHAPTER W210 THE WORKPLACE SAFETY AND HEALTH ACT

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

### DEFINITIONS

#### Definitions

1 In this Act, unless otherwise specified,

**“agency of the government”** means any board, commission, association, or other body, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board directors of which,

- (a) are appointed by an Act of the Legislature or by the Lieutenant Governor in Council, or
- (b) if not so appointed, are, in the discharge of their duties, public officers or servants of the Crown, or, for the proper discharge of their duties are, directly or indirectly, responsible to the Crown; (« organisme gouvernemental »)

**“Board”** means The Manitoba Labour Board established under *The Labour Relations Act*; (« Commission »)

**“branch”** means the Workplace Safety and Health Branch; (« Direction »)

**“chief occupational medical officer”** means the person designated as Chief Occupational Medical Officer under this Act; (« médecin du travail en chef »)

**“chief prevention officer”** means the Chief Prevention Officer appointed under section 17.1; (« conseiller principal en prévention »)

**“committee”** means a workplace safety and health committee established under section 40; (« comité »)

**“construction project”** means

- (a) the construction, demolition, repair, alteration or removal of a structure, building, complex, street, road, highway, pipeline, sewage system or electrical telecommunication or transmission line,
- (b) the digging of, working in or filling a trench or excavation,

- (c) the installation, modification, repair or removal of any equipment or machinery, or
- (d) any work prescribed by regulation as a construction project; (« projet de construction »)

**“construction project site”** means a workplace where work is performed on a construction project; (« chantier de construction »)

**“contractor”** means a person who, pursuant to one or more contracts, directs the activities of one or more employers or self-employed persons involved in work at a workplace; (« entrepreneur »)

**“department”** means such department of the government of Manitoba as may be designated by the Lieutenant Governor in Council for the purpose of this Act; (« ministère »)

**“director”** means the Director of the Workplace Safety and Health Branch appointed under subsection 14(4.1); (« directeur »)

**“discriminatory action”** means any act or omission by an employer or any person acting under the authority of the employer or any union which adversely affects any term or condition of employment, or of membership in a union, and without restricting the generality of the foregoing includes lay-off, suspension, dismissal, loss of opportunity for promotion, demotion, transfer of duties, change of location of workplace, reduction in wages, or change in working hours but does not include the temporary relocation of a worker to other similar or equivalent work without loss of pay or benefits until a condition that threatens the safety or health of the worker is remedied; (« mesure discriminatoire »)

**“employer”** includes

- (a) every person who, by himself or his agent or representative employs or engages one or more workers, and
- (b) the Crown and every agency of the government; (« employeur »)

**“health”** means the condition of being sound in body, mind and spirit, and shall be interpreted in accordance with the objects and purposes of this Act; (« santé »)

**“improvement order”** means an order made under section 26; (« ordre d’amélioration »)

**“minister”** means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

**“occupational health nurse”** practising registered nurse under *The Regulated Health Professions Act*;

**“occupational health service”** means a service organized in or near a workplace for the purposes of

- (a) protecting workers against any health hazard that may arise out of their work or the conditions under which it is carried on,
- (b) ensuring the physical and mental adjustment of workers in their employment and ensuring their assignment to jobs for which they are suited, and
- (c) contributing to the establishment and maintenance of a high degree of physical and mental well-being of the workers;  
(« service d’hygiène »)

**“owner”**, in relation to any land or premises used or to be used as a workplace, includes

- (a) a trustee, receiver, mortgagee in possession, tenant, lessee, licensee or occupier of the land or premises, and
- (b) a person who acts for or on behalf of an owner as an agent or delegate,

but does not include a person who occupies premises used as a private residence, unless that person carries on a business, profession or trade at that residence; (« propriétaire »)

**“person”** includes a partnership or an unincorporated association;  
(« personne »)

**“physician”** means a duly qualified medical practitioner; (« médecin »)

**“prime contractor”** means the prime contractor for a construction project referred to in section 7; (« entrepreneur principal »)

**“representative”** means a worker safety and health representative designated or appointed under section 41; (« délégué »)

**“safety”** means the prevention of physical injury to workers and the prevention of physical injury to other persons arising out of or in connection with activities in the workplace; (« sécurité »)

**“safety and health officer”** means a person designated as a safety and health officer under this Act; (« agent de sécurité et d’hygiène »)

**“stop work order”** means an order made under section 36; (« ordre d’arrêt du travail »)

**“supervisor”** means a person who has charge of a workplace or authority over a worker; (« surveillant »)

**“supplier”** means a person who supplies, sells, leases, installs or provides

- (a) any tool, equipment, machine or device, or
- (b) any biological substance or chemical substance,

to be used in a workplace; (« fournisseur »)

**“union”** means a union as defined under *The Labour Relations Act*; (« syndicat »)

**“welfare”** means the conditions or facilities, in or near a workplace, provided for the feeding, rest, hygiene or sanitary requirements of a worker; (« bien-être »)

**“worker”** includes

- (a) any person who is employed by an employer to perform a service whether for gain or reward, or hope of gain or reward or not,
- (b) any person engaged by another person to perform services, whether under a contract of employment or not
  - (i) who performs work or services for another person for compensation or reward on such terms and conditions that he is, in relation to that person, in a position of economic dependence upon that person more closely resembling the relationship of any employee than that of an independent contractor, and
  - (ii) who works or performs services in a workplace which is owned or operated by the person who engages him to perform services,
- (c) any person undergoing training or serving an apprenticeship at an educational institution or at any other place; (« travailleur »)

**“worker safety and health representative”** means the person designated as a worker safety and health representative under this Act; (« délégué à la sécurité et à la santé des travailleurs »)

**“workplace”** means any building, site, workshop, structure, mine, mobile vehicle, or any other premises or location whether indoors or outdoors in which one or more workers, or self-employed persons, are engaged in work or have worked. (« lieu de travail »)

S.M. 2002, c. 33, s. 3; S.M. 2009, c. 15, s. 251; S.M. 2013, c. 9, s. 2; S.M. 2018, c. 8, s. 28.

## PURPOSE OF THIS ACT

### **General objects and purposes**

**2(1)** The objects and purposes of this Act are

- (a) to secure workers and self-employed persons from risks to their safety, health and welfare arising out of, or in connection with, activities in their workplaces; and
- (b) to protect other persons from risks to their safety and health arising out of, or in connection with, activities in workplaces.

### **Specific objects and purposes**

**2(2)** Without limiting the generality of subsection (1), the objects and purposes of this Act include

- (a) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers;
- (b) the prevention among workers of ill health caused by their working conditions;
- (c) the protection of workers in their employment from factors promoting ill health;
- (d) the placing and maintenance of workers in an occupational environment adapted to their physiological and psychological condition; and
- (e) the promotion of workers' rights
  - (i) to know about safety and health hazards in their workplaces,
  - (ii) to participate in safety and health activities at their workplaces,
  - (iii) to refuse dangerous work, and
  - (iv) to work without being subject to discriminatory action.

S.M. 2013, c. 9, s. 3.

## APPLICATION OF THIS ACT

### Application of Act

**3** This Act applies to

- (a) the Crown in right of Manitoba and every agency of the government;
- (b) every employer, worker and self-employed person whose workplace safety, health and welfare standards are ordinarily within the exclusive jurisdiction of the Legislature to regulate; and
- (c) the Crown in right of Canada, every agency of the government of Canada, and every other person whose workplace safety, health and welfare standards are ordinarily within the jurisdiction of the Parliament of Canada, to the extent that the Crown in right of Canada may submit to the application of this Act.

## DUTIES OF EMPLOYERS

### General duties of employers

**4(1)** Every employer shall in accordance with the objects and purposes of this Act

- (a) ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his workers; and
- (b) comply with this Act and regulations.

### Further duties of employer

**4(2)** Without limiting the generality of an employer's duty under subsection (1), every employer shall

- (a) provide and maintain a workplace, necessary equipment, systems and tools that are safe and without risks to health, so far as is reasonably practicable;
- (b) provide to all his workers such information, instruction, training, supervision and facilities to ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his workers;
- (c) ensure that all his workers, and particularly his supervisors, foremen, chargehands or similar persons, are acquainted with any safety or health hazards which may be encountered by the workers in the course of their service, and that workers are familiar with the use of all devices or equipment provided for their protection;
- (d) conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons who are not in his service are not exposed to risks to their safety or health arising out of, or in connection with activities in his workplace;

- (e) consult and co-operate with the workplace safety and health committee where such a committee exists, regarding the duties and matters with which that committee is charged under this Act;
- (f) consult and co-operate with the worker safety and health representative where such a representative has been designated, regarding the duties and matters with which that representative is charged under this Act;
- (g) co-operate with any other person exercising a duty imposed by this Act, or the regulations;
- (h) ensure that all of the employer's workers are supervised by a person who
  - (i) is competent, because of knowledge, training or experience, to ensure that work is performed in a safe manner, and
  - (ii) is familiar with this Act and the regulations that apply to the work performed at the workplace;
- (i) if the employer's workers are working on a construction project that has a prime contractor, advise the prime contractor of the name of the supervisor of the employer's workers on the project.

#### **Employer as supervisor**

**4(3)** For the purposes of clause (2)(h), an employer may supervise his or her workers if he or she satisfies the criteria set out in that clause.

#### **Employer's duty re training**

**4(4)** Without limiting the generality of clause (2)(b), every employer shall provide information, instruction and training to a worker to ensure, so far as is reasonably practicable, the safety, and health of the worker, before the worker

- (a) begins performing a work activity at a workplace;
- (b) performs a different work activity than the worker was originally trained to perform; or
- (c) is moved to another area of the workplace or a different workplace that has different facilities, procedures or hazards.

#### **Performing work activity during training**

**4(5)** Notwithstanding subsection (4), a worker may perform a work activity while being trained if the worker is under the direction of a supervisor or another person who is fully trained and has sufficient experience in performing that work activity to ensure that the safety or health of the worker and any other person is not at risk.

## **Wages and benefits during training**

- 4(6)** A worker is entitled to the same wages and benefits for any time spent in training that he or she would be entitled to had the worker been performing his or her regular work duties during that time.

S.M. 2002, c. 33, s. 7.

## **DUTIES OF SUPERVISORS**

### **Duties of supervisors**

- 4.1** Every supervisor shall
- (a) so far as is reasonably practicable,
    - (i) take all precautions necessary to protect the safety and health of a worker under his or her supervision,
    - (ii) ensure that a worker under his or her supervision works in the manner and in accordance with the procedures and measures required by this Act and the regulations, and
    - (iii) ensure that a worker under his or her supervision uses all devices and wears all clothing and personal protective equipment designated or provided by the employer or required to be used or worn by this Act or the regulations;
  - (b) advise a worker under his or her supervision of all known or reasonably foreseeable risks to safety and health in the area where the worker is performing work;
  - (c) co-operate with any other person exercising a duty imposed by this Act or the regulations; and
  - (d) comply with this Act and the regulations.

S.M. 2002, c. 33, s. 7.

## **DUTIES OF WORKERS**

### **General duties of workers**

- 5** Every worker while at work shall, in accordance with the objects and purposes of this Act,
- (a) take reasonable care to protect his safety and health and the safety and health of other persons who may be affected by his acts or omissions at work;



- (b) at all times, when the nature of his work requires, use all devices and wear all articles of clothing and personal protective equipment designated and provided for his protection by his employer, or required to be used and worn by him by the regulations;
- (c) consult and co-operate with the workplace safety and health committee, where such a committee exists, regarding the duties and matters with which that committee is charged under this Act;
- (d) consult and co-operate with the worker safety and health representative, where such a representative has been designated, regarding the duties and matters with which that representative is charged under this Act;
- (e) comply with this Act and the regulations; and
- (f) co-operate with any other person exercising a duty imposed by this Act or the regulations.

#### DUTIES OF SELF-EMPLOYED PERSONS

##### **General duties of self-employed persons**

- 6** Every self-employed person shall, in accordance with the objects and purposes of this Act,
- (a) conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he or any other person is not exposed to risks to his or that person's safety or health, arising out of, or in connection with, activities in his workplace;
  - (a.1) when he or she is working on a construction project that has a prime contractor, advise the prime contractor that he or she is working on the project;
  - (b) comply with this Act and the regulations; and
  - (c) co-operate with any other person exercising a duty imposed by this Act or the regulations.

S.M. 2002, c. 33, s. 10.

#### DUTIES OF PRIME CONTRACTORS

##### **Requirement for prime contractor**

- 7(1)** There shall be a prime contractor for a construction project if more than one employer or self-employed person is involved in work at the construction project site at the same time.

### **Prime contractor for construction project**

**7(2)** The prime contractor for a construction project is

- (a) the person who enters into a contract to serve as the prime contractor with the owner of the construction project site; or
- (b) if there is no contract referred to in clause (a), or if that contract is not in effect, the owner of the construction project site.

### **Duties of prime contractor**

**7(3)** The prime contractor for a construction project shall

- (a) ensure, so far as is reasonably practicable, that every person involved in work on the project complies with this Act and the regulations;
- (b) co-ordinate, organize and oversee the performance of all work at the construction project site and conduct his or her own activities in such a way as to ensure, so far as is reasonably practicable, that no person is exposed to risks to his or her safety or health arising out of, or in connection with activities at the construction project site;
- (c) co-operate with any other person exercising a duty imposed by this Act or the regulations; and
- (d) comply with this Act and the regulations.

S.M. 2002, c. 33, s. 11.

## **DUTIES OF CONTRACTORS**

### **Duties of contractors**

**7.1** Every contractor shall

- (a) ensure, so far as is reasonably practicable,
  - (i) that every workplace where an employer, employer's worker or self-employed person works pursuant to a contract with the contractor, and
  - (ii) that every work process or procedure performed at a workplace by an employer, employer's worker or self-employed person pursuant to a contract with the contractor,

that is not in the direct and complete control of that employer or self-employed person does not create a risk to the safety or health of any person;

- (b) if the contractor is involved in work on a construction project that has a prime contractor, advise the prime contractor of the name of every employer or self-employed person with whom the contractor has contracted to perform work on the project;
- (c) co-operate with any other person exercising a duty imposed by this Act or the regulations; and
- (d) comply with this Act and the regulations.

S.M. 2002, c. 33, s. 12.

## DUTIES OF OWNERS

### **Duties of owners**

**7.2** Every owner of a workplace shall

- (a) ensure, so far as is reasonably practicable, that the land or premises used as a workplace that is under his or her control is provided and maintained in a manner that does not create a risk to the safety or health of any person;
- (b) co-operate with any other person exercising a duty imposed by this Act or the regulations; and
- (c) comply with this Act and the regulations.

S.M. 2002, c. 33, s. 12.

## DUTIES OF SUPPLIERS

### **Duties of suppliers**

**7.3** Every supplier shall

- (a) ensure, so far as is reasonably practicable, that any tool, equipment, machine, device or chemical or biological substance provided by the supplier for use at a workplace
  - (i) is safe when used in accordance with the instructions provided by the supplier, and
  - (ii) conforms with the requirements of this Act and the regulations;
- (b) when prescribed by regulation, provide written instructions and information prescribed by regulation to every employer, self-employed person, contractor or prime contractor to whom the supplier supplies any tool, equipment, machine, device or chemical or biological substance; and

- (c) comply with this Act and the regulations.

S.M. 2002, c. 33, s. 12.

## WORKPLACE SAFETY AND HEALTH PROGRAM

### **Establishment of workplace safety and health program**

**7.4(1)** An employer shall establish a written workplace safety and health program for each workplace where 20 or more workers of that employer are regularly employed.

### **Determining number of workers**

**7.4(2)** For the purposes of subsection (1), the number of workers employed at a workplace shall be determined by averaging, over the previous 12 months, the number of full-time and part-time workers present each working day.

### **Program for multiple workplaces**

**7.4(3)** Notwithstanding subsection (1), the director may issue a written order permitting an employer to establish a workplace safety and health program for more than one workplace or parts of more than one workplace.

### **Considerations of director**

**7.4(4)** In determining whether to make an order under subsection (3), the director shall take into account

- (a) the nature of the work performed at the workplace;
- (b) any request for an order by an employer, worker or union representing workers at the workplace; and
- (c) the frequency of injury or illness in the workplace or in the industry in question.

### **Content of program**

**7.4(5)** A workplace safety and health program must include

- (a) a statement of the employer's policy with respect to the protection of the safety and health of workers at the workplace;
- (b) the identification of existing and potential dangers to workers at the workplace and the measures that will be taken to reduce, eliminate or control those dangers, including procedures to be followed in an emergency;
- (c) the identification of internal and external resources, including personnel and equipment, that may be required to respond to an emergency at the workplace;

- (d) a statement of the responsibilities of the employer, supervisors and workers at the workplace;
- (e) a schedule for the regular inspection of the workplace and of work processes and procedures at the workplace;
- (f) a plan for the control of any biological or chemical substance used, produced, stored or disposed of at the workplace;
- (g) a statement of the procedures to be followed to protect safety and health in the workplace when another employer or self-employed person is involved in work at the workplace that includes
  - (i) criteria for evaluating and selecting employers and self-employed persons to be involved in work at the workplace, and
  - (ii) procedures for regularly monitoring employers and self-employed persons involved in work at the workplace;
- (h) a plan for training workers and supervisors in safe work practices and procedures;
- (i) a procedure for investigating accidents, dangerous occurrences and refusals to work under section 43;
- (j) a procedure for worker participation in workplace safety and health activities, including inspections and the investigation of accidents, dangerous occurrences and refusals to work under section 43;
- (k) a procedure for reviewing and revising the workplace safety and health program every three years or more often if circumstances at a workplace change in a way that poses a risk to the safety or health of workers at the workplace; and
- (l) any other requirement prescribed by regulation.

**Requirement for consultation**

**7.4(6)** The employer shall design the workplace safety and health program in consultation with

- (a) the committee for the workplace; or
- (b) if there is no committee, the representative for the workplace.

**Program available on request**

**7.4(7)** The employer shall make a workplace safety and health program available to the following persons on request:

- (a) the committee;

- (b) if there is no committee, the representative;
- (c) a worker at the workplace;
- (d) a safety and health officer.

### **Co-ordination of programs by prime contractor**

**7.4(8)** If workers from two or more employers that have workplace safety and health programs are working at a construction project site that has a prime contractor, the prime contractor shall co-ordinate the programs of those employers.

S.M. 2002, c. 33, s. 12; S.M. 2013, c. 9, s. 4.

### **DUTY TO PROVIDE REQUIRED INFORMATION**

#### **Definition: “required information”**

**7.5(1)** In this section, “required information” means any information

- (a) that may affect the safety and health of a person at a workplace;
- (b) that is necessary to identify and control any existing or potential hazards with respect to a workplace or any process, procedure or biological or chemical substance used at a workplace; or
- (c) prescribed by regulation as required information.

#### **Required information by prime contractor**

**7.5(2)** Every prime contractor for a construction project shall provide, so far as is reasonably practicable, all required information that he or she knows or may reasonably be expected to know to

- (a) the owner of the construction project site; and
- (b) every contractor, employer and self-employed person who is involved in work on the project.

#### **Required information by contractor**

**7.5(3)** Every contractor shall provide, so far as is reasonably practicable, all required information that he or she knows or may reasonably be expected to know to

- (a) every owner of a workplace with whom the contractor has a contract;
- (b) every employer and self-employed person at a workplace with whom the contractor has a contract; and

- (c) the prime contractor for a construction project, if the contractor is involved in work on a construction project for which there is a prime contractor.

#### **Required information by owner**

- 7.5(4)** Every owner of a workplace shall provide, so far as is reasonably practicable, all required information that he or she knows or may reasonably be expected to know to
- (a) every employer who employs workers at the workplace; and
  - (b) every self-employed person who works at the workplace.

#### **Required information by owner of construction project**

- 7.5(5)** Despite subsection (4), if a workplace is a construction project site where work is performed on a construction project that is required to have a prime contractor, an owner of that workplace shall provide, so far as is reasonably practicable, all required information that he or she knows or may reasonably be expected to know only to the prime contractor.

S.M. 2002, c. 33, s. 12.

### **PERSONS WITH MULTIPLE FUNCTIONS**

#### **Definition: “function”**

- 7.6(1)** In this section, “**function**” means the function of employer, supervisor, worker, self-employed person, prime contractor, contractor, owner or supplier under this Act and the regulations.

#### **Multiple functions**

- 7.6(2)** If a person has two or more functions under this Act in respect of one workplace, that person shall satisfy the duties imposed by this Act and the regulations for each function.

S.M. 2002, c. 33, s. 12.

#### **Responsibility if duties apply to more than one person**

**7.7** If

- (a) one or more provisions in this Act or the regulations imposes the same duty on more than one person; and
- (b) one of the persons subject to that duty complies with the applicable provision;  
  
the other persons subject to that duty are relieved of their duty only during the time when
- (c) simultaneous compliance of that duty by more than one person would result in unnecessary duplication of effort and expense; and

- (d) the safety and health of any person at the workplace is not put at risk by compliance with that duty by only one person.

S.M. 2002, c. 33, s. 12.

#### RELATIONSHIP OF THIS ACT TO *THE WORKERS COMPENSATION ACT*

##### **Effect on compensation**

- 8** The failure to comply with any provision of this Act or the regulations does not affect the right of a worker to compensation under *The Workers Compensation Act*.

##### **Effect on liabilities**

- 9** The liabilities and obligations of any person under *The Workers Compensation Act* are not decreased, reduced, or removed, by reason only of his compliance with the provisions of this Act or the regulations.

- 10** Renumbered as subsection 14(4).

- 11(1)** [Repealed] S.M. 1991-92, c. 36, s. 65.

- 11(2)** Renumbered as subsection 14(5).

S.M. 1991-92, c. 36, s. 65.

#### DUTIES AND POWERS OF THE DIRECTOR

##### **Duties of director**

- 12** The director shall, in accordance with the objects and purposes of this Act,
- (a) be concerned with workplace safety and health generally, and with the maintenance of reasonable standards for the protection of the safety and health of workers and self-employed persons in Manitoba;
  - (b) be responsible for the administration of this Act and the regulations;
  - (c) submit from time to time to the minister such recommendations as he considers appropriate for the making of regulations;
  - (d) ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the safety and health of workers generally;



- (e) prepare and maintain or cause to be prepared and maintained illness, death and accident statistics relating to workers and self-employed persons, and do so either alone or in conjunction with The Workers Compensation Board, the Department of Health, Healthy Living and Seniors, or any other department, agency or commission; and
- (f) do such other things in connection with safety and health in the workplace as the minister may direct, for the purposes of carrying out the provisions of this Act and the regulations and the provisions of any other Act or regulations assigned to the minister for administration.

S.M. 2013, c. 9, s. 5; S.M. 2014, c. 32, s. 38.

### **Powers of director**

- 13** The director may, in accordance with the objects and purposes of this Act,
- (a) provide assistance to persons concerned with safety and health in the workplace, and provide services to assist workplace safety and health committees, employers and workers in maintaining reasonable standards for the protection of the safety and health of workers;
  - (b) carry out studies and research, or cause studies and research to be carried out, and make arrangements for the publication of results of research, in matters relating to the safety and health of workers;
  - (c) encourage, develop and conduct, either alone or in co-operation with organizations concerned with the purposes of this Act, education and information programs for promoting the safety and health of workers and for improving the qualifications of persons concerned with workplace safety and health;
  - (d) make recommendations to the minister regarding grants of moneys for any of the purposes referred to in this section;
  - (d.1) make recommendations to the minister regarding workplace safety and health and the prevention of workplace injury and illness;
  - (d.2) coordinate examinations and investigations
    - (i) for determining the cause and particulars of any accident or ill health occurring to a worker, or self-employed person, and arising out of or in connection with activities in the workplace, or
    - (ii) for the prevention of accidents or ill health arising out of or in connection with activities in the workplace; and

- (e) perform such other functions as the minister may direct for the proper administration of this Act and the regulations.

S.M. 2013, c. 9, s. 6.

### **Public reporting of orders and penalties**

- 13.1** The director may issue public reports disclosing details of improvement orders, stop work orders and administrative penalties made or imposed under this Act. The reports may disclose personal information as defined in *The Freedom of Information and Protection of Privacy Act*.

S.M. 2013, c. 9, s. 7.

## **DUTIES AND POWERS OF THE MINISTER**

### **Powers of minister**

- 14(1)** The minister may, in accordance with the objects and purposes of this Act,
- (a) authorize the director or any other person to investigate and make a special report to him on any accident, occurrence, or any matter of safety and health in the workplace;
  - (b) appoint the director or any other person to conduct a public inquiry into any matter of safety or health in the workplace, and the director or the person so appointed, for the purpose of an inquiry, has all the powers of a commissioner under Part V of *The Manitoba Evidence Act*;
  - (c) appoint consultants and advisors who are professionally or technically qualified to advise him in the making of regulations, or to advise him on the administration of this Act or regulations;
  - (d) [repealed] S.M. 2018, c. 8, s. 28;
  - (e) approve, with or without modifications, any recommendation submitted to the minister by the chief prevention officer;
  - (f) do such other things as he deems necessary for the proper carrying out of this Act.

### **Remuneration and expenses**

- 14(2)** Subject to the approval of the Lieutenant Governor in Council, consultants or advisors may be paid such remuneration and out-of-pocket expenses as may be authorized by the minister.

### **Payment of certain costs**

**14(3)** The minister may authorize the payment of certain costs

- (a) for investigative and consultative services; and
- (b) for medical examinations and reports made under this Act, the costs of which are not payable from public funds;

that may be carried out or rendered for the purposes of this Act.

### **Administration of Act**

**14(4)** This Act is to be administered through the Workplace Safety and Health Branch of the department.

### **Minister to appoint director**

**14(4.1)** The minister must appoint a person, in accordance with *The Civil Service Act*, as the Director of the Workplace Safety and Health Branch.

### **Consolidated Fund**

**14(5)** To assist in defraying the expenses incurred in the administration of this Act moneys may be paid from the Consolidated Fund, if authorized by an Act of the Legislature to be so paid and applied.

S.M. 2002, c. 33, s. 14 and 15; S.M. 2013, c. 9, s. 8; S.M. 2018, c. 8, s. 28.

### **Review**

**14.1** At least once every five years, the minister must undertake a review of this Act that includes consultations with representatives of employers and workers.

S.M. 2018, c. 8, s. 28.

**15** [Repealed]

S.M. 2015, c. 43, s. 66; S.M. 2018, c. 8, s. 28.

**16** [Repealed]

S.M. 2002, c. 33, s. 19; S.M. 2018, c. 8, s. 28.

### **CHIEF OCCUPATIONAL MEDICAL OFFICER**

#### **Chief occupational medical officer**

**17(1)** The minister shall appoint as chief occupational medical officer for the purpose of this Act, a person who is a duly qualified medical practitioner and who has training and experience in occupational medicine.

#### **Powers of chief occupational medical officer**

**17(2)** The chief occupational medical officer has all the powers of a workplace safety and health officer as set out in this Act, and such other powers as may be conferred upon him by the minister or the regulations.

## **Authorization for occupational health nurse**

- 17(3)** The chief occupational medical officer may provide written authority to a person who is an occupational health nurse to enter a workplace for the purpose of enforcing provisions of this Act, and a person so authorized shall have such duties and powers as are prescribed for the person by the chief occupational medical officer, but the duties and powers prescribed shall not include any duties and powers that are not prescribed for a person who is appointed as a safety and health officer under this Act.

## **CHIEF PREVENTION OFFICER**

### **Chief prevention officer**

- 17.1(1)** The minister must appoint a person as the Chief Prevention Officer.

### **Term of appointment**

- 17.1(2)** The chief prevention officer may be appointed for a term not exceeding five years and may be appointed for successive terms not exceeding five years.

### **Responsibilities**

- 17.1(3)** The chief prevention officer has the following responsibilities:

- (a) to provide advice to the minister
  - (i) on the prevention of workplace injury and illness, and
  - (ii) on any other matter, as requested by the minister;
- (b) to develop recommendations, at the minister's request, respecting the prevention of workplace injury and illness;
- (c) to provide an annual report to the minister respecting the prevention of workplace injury and illness that includes
  - (i) an analysis of serious incidents at workplaces, including injury data, in order to identify current and emerging issues and trends respecting workplace injury and illness,
  - (ii) information on the progress being made in implementing government measures to prevent workplace injury and illness, and
  - (iii) an analysis of the effectiveness of prevention activities undertaken during the year;
- (d) to do any other thing in connection with the prevention of injury and illness in the workplace, as requested by the minister.

**Annual report by chief prevention officer**

**17.1(4)** The minister must make the chief prevention officer's annual report available to the public by posting it on the department's website and by any other means the minister considers advisable.

**Workplace injury and illness prevention recommendations**

**17.1(5)** The chief prevention officer's recommendations respecting the prevention of workplace injury and illness must include

- (a) a statement of the goals for preventing injury and illness in the workplace;
- (b) key performance indicators for measuring the achievement of the goals; and
- (c) any other matter specified by the minister.

**Consultation**

**17.1(6)** In preparing the recommendations, the chief prevention officer must consult with

- (a) organizations representing workers;
- (b) organizations representing employers;
- (c) technical and professional bodies whose members are concerned with the general purposes of this Act;
- (d) other departments of the government and agencies of the government; and
- (e) any other persons or organizations that the minister considers advisable.

S.M. 2013, c. 9, s. 9.

**REGULATIONS, CODES AND STANDARDS****Regulations**

**18(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting standards and practices to be established and maintained by employers, supervisors, self-employed persons, prime contractors, contractors, owners and suppliers to protect the safety and health of any person at a workplace;
- (b) respecting procedures, measures and precautions that are required, or prohibited, when performing any work activity;

- (c) imposing requirements respecting conditions at workplaces, including such matters as the structural condition and stability of premises, available exits from premises, cleanliness, temperature, lighting, ventilation, overcrowding, noise, vibrations, ionizing and other radiations, dust and fumes;
- (c.1) respecting the prohibition of smoking and e-cigarette use at workplaces, including deeming a contravention of *The Smoking and Vapour Products Control Act* relating to workplaces to be a contravention of this Act for the purpose of issuing an improvement order under section 26;
- (d) prescribing minimum standards of welfare facilities at workplaces, including the supply of water, sanitary conveniences and facilities for washing, bathing, changing, storing personal property, breaks and refreshment;
- (e) regulating or prohibiting the manufacture, supply, or use of any plant, tool, equipment, machine or device;
- (f) respecting the design, construction, guarding, siting, installation, commissioning, examination, repair, maintenance, alteration, adjustment, dismantling, testing, inspection, use, or approval prior to installation or use, of any plant, tool, equipment, machine or device;
- (g) prescribing requirements with respect to the marking of any plant, tool, equipment, machine or device used or manufactured in any workplace, and regulating or restricting the use of specified markings;
- (h) regulating or prohibiting the manufacture, supply, keeping, handling or use of any substance or material that may adversely affect the safety or health of any person at a workplace;
- (i) respecting the testing, labelling and examination of any substance or material that may affect the safety or health of any person at a workplace;
- (j) respecting the prevention, study and treatment of industrial diseases, including arrangements for medical examinations and health surveillance of persons involved in work at a workplace;
- (k) respecting the monitoring of atmospheric and other conditions in workplaces;
- (l) respecting the instruction, training and supervision of workers;
- (m) respecting the provision by employers, and the use by workers, of protective clothing or devices, including clothing affording protection against the weather;

- (n) prohibiting the performance of specified functions by any person who does not possess specified qualifications or experience;
- (o) respecting licences, certificates or designations required by persons performing specified functions at a workplace, and the fees and conditions required to obtain a licence, certificate or designation;
- (p) requiring a person to obtain a permit to carry on a specified activity affecting the safety or health of any person at a workplace, including the terms and conditions and the fee for the permit;
- (q) respecting the suspension or cancellation of any licence, certificate or permit issued under this Act;
- (r) respecting the preparation, maintenance and submission of records and reports dealing with accidents, industrial diseases and workplace safety and health standards;
- (s) restricting, prohibiting or requiring any activity if an accident or any other specified dangerous occurrence has occurred, or may occur;
- (t) respecting committees, including but not limited to
  - (i) the operation of committees,
  - (ii) the frequency of meetings of committees, including more frequent meetings for specified classes of workplaces,
  - (iii) the participation of committees members in inspections, investigations and other related matters, and
  - (iv) the submission of committee records to the director;
- (u) respecting representatives, including but not limited to
  - (i) the participation of representatives in inspections, investigations and other related matters, and
  - (ii) the submission of representatives' records to the director;
- (v) respecting workplace safety and health programs;
- (w) prescribing the persons to whom, circumstances in which, and methods by which specified information concerning safety and health shall be communicated;

- (x) prescribing the fees payable for examinations required under this Act;
- (y) respecting arrangements for ambulance service and first-aid treatment at workplaces;
- (z) respecting the employment or the provision of alternate employment to
  - (i) a pregnant or nursing worker, and
  - (ii) a worker whose safety or health is put at risk by exposure to a chemical or biological substance;
- (aa) respecting the establishment of policies and procedures in workplaces or classes of workplaces to prevent and respond to potentially violent situations;
- (bb) respecting measures that employers shall take to prevent harassment in the workplace;
- (bb.1) for the purpose of section 21, respecting the criteria to be used and the procedures to be followed when determining whether to make an order, or to reconsider an order, exempting a person or class of persons from any provision of a regulation;
- (bb.2) for the purpose of section 40,
  - (i) respecting the procedures to be followed in determining whether to issue an order, or to reconsider an order, under subsection 40(6) or (7.1), and
  - (ii) respecting any additional criteria to be considered by the director under subsection 40(7);
- (cc) for the purpose of section 53.1,
  - (i) specifying the form and content of notices of administrative penalties,
  - (i.1) prescribing provisions of this Act or the regulations for the purposes of subclauses 53.1(1)(a)(ii) and (2)(a)(ii),
  - (ii) respecting the determination of amounts of administrative penalties, which may vary according to the number of workers affected by, or the nature or frequency of, the matter that gave rise to the issuance of the notice of administrative penalty, and



- (iii) respecting any other matter necessary for the administration of a system of administrative penalties provided for under this Act;
- (dd) defining the meaning of any word or phrase used but not defined in this Act;
- (ee) respecting any matter required or authorized by this Act to be prescribed or dealt with by regulation;
- (ff) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

### **Application of regulations**

**18(2)** A regulation made under subsection (1) may be made applicable generally to all workplaces, or particularly to one or more workplaces, or to such classes thereof as may be specified therein.

S.M. 2002, c. 33, s. 22; S.M. 2004, c. 17, s. 10; S.M. 2013, c. 9, s. 10; S.M. 2015, c. 36, s. 20; S.M. 2018, c. 18, s. 14.

### **Approval of codes of practice**

**19(1)** For the purpose of providing practical guidance with respect to the requirements of any provision of the regulations, the director may approve and issue such codes of practice or any amendment or revision thereof as in his opinion are suitable for that purpose.

### **Notice in Gazette**

**19(2)** Where a code of practice is approved by the director under subsection (1), he shall cause to be published in the Manitoba Gazette a notice identifying the code, specifying the provisions of the regulations to which it applies and stating the effective date of the approval.

### **Failure to observe code, no offence**

**20(1)** The failure by any person to observe any provision of an approved code of practice is not of itself an offence.

### **Admissibility of codes as evidence**

**20(2)** Where a person is charged with a breach of any provision of the regulations in respect of which the director has issued a code of practice, that code is admissible as evidence in a prosecution for the violation of the provision of the regulation.

### **Certified copy of code required**

**20(3)** A copy of a code of practice, or any amendment or revision thereto as approved by the director, certified to be a true copy by the director shall be received as evidence in any court without proof of the signature or of the official character of the person purporting to have signed the certificate.

## **Onus**

- 20(4)** Where a code of practice is admitted as evidence under subsection (2), and a prima facie case of non-compliance with the code of practice is established, the onus is on the accused to prove that he has complied with the regulation.

## **Exemption from regulation**

- 21(1)** After consulting with any parties he or she considers appropriate, the director may, in accordance with the regulations, make a written order exempting a person or class of persons from any provision of a regulation to meet the special circumstances in a particular case.

## **Considerations on exemptions**

- 21(2)** The director may make an order under subsection (1) only if he or she is satisfied that no worker's health or safety is materially affected by the exemption and any criteria set out in the regulations are met.

## **Terms and conditions of order**

- 21(3)** The director may impose any terms or conditions in connection with the order that the director considers necessary to maintain the safety or health of a worker.

## **Reconsideration of exemption order**

- 21(4)** If, after making an order under this section, additional information comes to the attention of the director, the director may, in accordance with the regulations, reconsider the order and
- (a) confirm the order; or
  - (b) vary, suspend or revoke the order if the director believes that
    - (i) he or she would have come to a different decision if the information had been known when the order was made, or
    - (ii) a worker's safety or health is materially affected by the order.

S.M. 2002, c. 33, s. 23; S.M. 2013, c. 9, s. 11.

## **SAFETY AND HEALTH OFFICERS**

### **Appointment of safety and health officers**

- 22(1)** The minister may appoint persons as safety and health officers for the purpose of enforcing this Act and the regulations.

### **Agreements with other provinces**

- 22(2)** The minister may enter into an agreement with any province authorizing a person employed by that province to act as a safety and health officer for the purpose of this Act.

### **Inspections for other jurisdictions**

- 22(3)** The minister may consent to have a safety and health officer carry out safety and health inspections or other work on behalf of another province or the Government of Canada upon such terms and conditions as he deems advisable.

### **Credentials to be provided to safety and health officer**

- 22(4)** The minister shall provide each safety and health officer with written credentials of his appointment which the officer shall produce upon request when exercising or seeking to exercise any of the powers conferred on him under this Act.

### **Duties of safety and health officers**

- 23** A safety and health officer shall
- (a) make such inspections and inquiries, and carry out such tests, as he deems necessary to ascertain whether compliance is being made with the provisions of this Act and the regulations; and
  - (b) carry out such other duties as may be assigned to safety and health officers under this Act or the regulations.

### **Powers of safety and health officers**

- 24(1)** For the purpose of enforcing this Act and the regulations, a safety and health officer may, at any reasonable time, or where in his opinion a situation exists that is or may be dangerous at any time
- (a) without a warrant and without prior notification enter any place or premises in which he has reason to believe workers or self-employed persons are working or were working, other than premises used for personal residential purposes;
  - (b) under the authority of an order made under subsection (2), enter any premises used for personal residential purposes in which he has reason to believe workers or self-employed persons are working or were working;
  - (c) take with him any other person, and such equipment and materials, as he needs to assist him; and arrange with the employer, or person in charge of the place or premises, for that other person to re-enter alone to perform specified duties;
  - (d) make such examinations and investigations as he deems necessary for determining the cause and particulars of any accident or ill health occurring to a worker, or self-employed person, and arising out of or in connection with activities in the workplace, or for the prevention of accidents or ill health arising out of or in connection with activities in the workplace;

- (e) take such measurements and photographs, make such tests and recordings, and take such samples of articles or substances found in the place or premises, or of the atmosphere in or near the place or premises as he deems necessary;
- (f) test or cause to be tested any equipment in the place or premises, or for the purposes of testing, require the equipment to be removed to a place designated by the director;
- (f.1) require the employer or a person designated by the employer to demonstrate the use of any machinery, equipment, appliance or thing at a workplace;
- (g) cause any article, substance or sample taken pursuant to clause (e), to be dismantled or subjected to any process or test but not in such manner as to damage or destroy it unless under the circumstances damage thereto is unavoidable or necessary;
- (h) in the case of any article, substance or equipment mentioned in clauses (e) and (g), to take possession thereof and detain it for so long as is necessary for use as evidence in any proceedings or prosecution under this Act;
- (i) require any documents, books, or records that relate in any way to the safety and health in workplaces of workers, or self-employed persons, to be produced for inspection and to make copies thereof or take extracts therefrom;
- (j) require any person to provide him with facilities or assistance with respect to any matters or things within that person's control, or in relation to which that person has responsibilities;
- (k) in conducting any inspection, inquiry, investigation, or examination under this section, or under section 23 require any person, whom the officer has reasonable cause to believe to possess any information respecting the conditions of workplace safety, health and welfare, to attend an interview and to provide full and correct answers, either orally or in writing, to such questions as the officer thinks fit to ask; and the interview shall take place in the absence of persons other than a person nominated by the person being interviewed to be present, and any other person whom the officer may allow to be present;
- (l) direct that any workplace, or part thereof, or anything therein, be left undisturbed for such time as is reasonably necessary for any of the purposes specified in clauses (d), (e) and (g);
- (m) do such other things as may be authorized by the minister.

### **Order for entry into residential premises**

**24(2)** A safety and health officer may apply to a judge of the Court of Queen's Bench for an order requiring the person in possession of any residential premises in which the safety and health officer has reason to believe workers or self-employed workers are working or were working to permit the safety and health officer to enter the residential premises for the purposes of inspecting them and, if the judge is satisfied that it is reasonable and necessary for the administration of the Act to grant such an order, he may grant the order.

S.M. 2002, c. 33, s. 25.

### **Power of commissioner under Evidence Act**

**25** A safety and health officer, for the purpose of conducting an inspection, inquiry or investigation under this Act or the regulations, has all the powers of a commissioner under Part V of *The Manitoba Evidence Act*.

## **IMPROVEMENT ORDERS**

### **Improvement orders**

**26(1)** Where a safety and health officer is of the opinion that a person

- (a) is contravening any provision of this Act or the regulations; or
- (b) has contravened any provision of this Act or the regulations in circumstances which make it likely that the contravention will continue or be repeated;

the officer may make an improvement order against that person, requiring that person to remedy the contravention within such period as may be specified in the order and stating the reasons for making the order and requiring the person to maintain compliance with the improvement order.

### **Stop work warning**

**26(2)** Where the officer believes that the contravention referred to in clause (1)(a) or (b), involves or is likely to involve a serious risk to the safety or health of any person in or about the workplace, he may, in the improvement order specify that if the contravention is not remedied within the period mentioned therein, a stop work order may be issued in accordance with section 36.

S.M. 2013, c. 9, s. 12.

**27 to 31** [Repealed]

S.M. 2002, c. 33, s. 27.

**32** Renumbered as section 36.3.

## **Remedial measures**

- 33** An improvement order may, but need not, include directions as to the measures to be taken to remedy any contravention or matter to which the order relates, and those directions
- (a) may be made by reference to any approved code of practice; and
  - (b) may set out different ways of remedying the contravention or matter.

## **Period for compliance with improvement orders**

- 34** Where an improvement order provides a period for compliance therewith
- (a) the period shall begin at the time the order is communicated to the person against whom it is made;
  - (b) the order may be withdrawn by the safety and health officer at any time before the end of the specified period; or
  - (c) the period may be extended by the safety and health officer, unless an appeal against the order is made and not finally disposed of.

## **Reporting compliance with improvement orders**

- 35(1)** The person against whom an improvement order is made shall
- (a) within seven days after the expiry of the period specified in the order or any extension thereof prepare a written report on the measures taken to remedy the contravention and on any measures yet to be taken;
  - (b) send a copy of the report to the workplace safety and health officer who made the order;
  - (c) provide a copy of the report to the workplace safety and health committee for the workplace with respect to which the order was made or to the worker safety and health representative, if no safety and health committee exists; and
  - (d) post in a prominent place at or near the workplace a copy of the report if there is no safety and health committee or a worker safety and health representative for the workplace.

## **Achieving compliance with improvement orders**

- 35(2)** Despite the submission of a report under subsection (1), the report is not determinative of whether or not the improvement order has been complied with. The person against whom an improvement order is made only achieves compliance with the order when an officer determines that compliance has been achieved.

S.M. 2002, c. 33, s. 29; S.M. 2013, c. 9, s. 13.

## STOP WORK ORDERS

### Stop work order

- 36(1)** Where a safety and health officer is of the opinion that activities that involve, or are likely to involve, an imminent risk of serious physical or health injury are being carried on, or are about to be carried on, in a workplace, or where a contravention specified in an improvement order was not remedied and a warning was given in accordance with subsection 26(2), the officer may make a stop work order providing for any one or more of the following matters:
- (a) the cessation of those activities;
  - (b) that all or part of the workplace be vacated;
  - (c) that no resumption of those activities be permitted by the employer.

### Stop work order — multiple workplaces

- 36(1.1)** Where a safety and health officer is of the opinion that activities that involve, or are likely to involve, an imminent risk of serious physical or health injury are being carried on, or are about to be carried on, by workers of the same employer at more than one workplace, the officer may make a stop work order providing for any one or more of the following matters:
- (a) the cessation of those activities;
  - (b) that all or part of any of the employer's workplaces be vacated;
  - (c) that no resumption of those activities be permitted by the employer at any of the employer's workplaces.

### Improvement work not affected

- 36(2)** A stop work order does not prevent the doing of any work or thing that may be necessary in order to remove the risk of injury referred to in subsection (1) or (1.1).
- 36(3)** [Repealed] S.M. 2002, c. 33, s. 31.

### Duration of stop work order

- 36(4)** A stop work order remains in effect until it is
- (a) withdrawn or discontinued by the safety and health officer who issued it; or
  - (b) set aside or varied by the director or the Board under subsection 37(4) or 39(5).

### **Duration of varied order**

**36(5)** When the director or the Board varies a stop work order, the varied order remains in effect until a safety and health officer withdraws or discontinues it.

### **Workers must be paid**

**36(6)** While a stop work order is in effect,

- (a) any worker who is directly affected by the order is entitled to the same wages and benefits that he or she would have received had the stop work order not been issued; and
- (b) the employer may re-assign the worker to alternate work.

### **If alternate work not available**

**36(7)** If the employer provides satisfactory evidence to the director that alternate work is not available, the director may order that clause 6(a) does not apply for any period that the director specifies in the order, but until the director makes an order the employer is required to provide a worker with all wages and benefits under that clause.

### **Appeal**

**36(8)** A person affected by an order of the director under subsection (7) may appeal it to the Board. In that case, section 39 applies with necessary changes.

S.M. 2002, c. 33, s. 31; S.M. 2013, c. 9, s. 14.

## **COMMUNICATING IMPROVEMENT ORDERS AND STOP WORK ORDERS**

### **Communication of orders**

**36.1(1)** Subject to subsection (2), an improvement order or stop work order may be communicated to the person against whom the order is made

- (a) by delivering a copy of the order to the person or an agent of the person;
- (b) by sending a copy of the order by registered mail to the last known address of the person; or
- (c) if, despite reasonable efforts, the order cannot be communicated by delivery or mail under clause (a) or (b), by posting a copy of the order in a conspicuous place at or near the workplace with respect to which the order was made.

### **Communication to worker and self-employed person**

**36.1(2)** An improvement order or a stop work order against a worker or self-employed person may be communicated

- (a) by delivering a copy of the order to the worker or the self-employed person; or



- (b) if, despite reasonable efforts, the order cannot be delivered to the worker or self-employed person, by sending a copy of the order by registered mail to the last known address of the worker or self-employed person.

#### **Communication of improvement order**

**36.1(3)** If an improvement order is posted at a workplace under subsection (1), it is deemed to have been communicated to the person against whom the order was made 24 hours after the order was posted.

#### **Communication of stop work order**

**36.1(4)** A stop work order is deemed to have been communicated at the time it is delivered, received or posted in accordance with this section and takes effect immediately upon delivery, receipt or posting.

#### **Directions for communication**

**36.1(5)** Despite subsections (1) and (2), the director may direct that an order be communicated to a person in a manner not described in this section and may direct when the order is deemed to have been communicated.

S.M. 2002, c. 33, s. 31.

#### **Communication of orders to prime contractor**

**36.2** If a safety and health officer makes an order against any person involved in work on a construction project that has a prime contractor, the officer shall provide a copy of the order to the prime contractor.

S.M. 2002, c. 33, s. 31.

#### **Communication to workplace committees**

**36.3(1)** A copy of every improvement order shall be provided by the safety and health officer to

- (a) the workplace safety and health committee for the workplace with respect to which the order was made; or
- (b) the worker safety and health representative, if no safety and health committee exists for the workplace.

#### **Posting improvement order**

**36.3(2)** Where there is no workplace safety and health committee or a worker safety and health representative for the workplace, the officer shall post in a prominent place at or near the workplace a copy of every improvement order.

S.M. 2002, c. 33, s. 28.

## APPEALS

### **Appeal can be made to director**

**37(1)** A person directly affected by an order or decision of a safety and health officer made under

- (a) section 26 (improvement order);
- (b) section 36 (stop work order);
- (c) section 42.1 (discriminatory action); or
- (d) section 43 (right to refuse dangerous work);

may appeal the order or decision to the director.

### **How to appeal**

**37(2)** The person appealing shall send a written appeal notice to the director within 14 days after the date of the order or decision, or within any further period that the director may allow. The notice must state the reasons for the appeal and list the persons interested in the appeal.

### **Submissions from interested persons**

**37(2.1)** The director must give the interested persons listed in the notice of appeal an opportunity to provide oral or written submissions, as determined by the director, about the matter that is the subject of the appeal.

### **Hearing not required**

**37(3)** The director is not required to hold a hearing before deciding an appeal.

### **Decision**

**37(4)** On an appeal, the director may

- (a) make an order confirming, varying or setting aside the order or decision; or
- (b) make any other order the director considers reasonable.

### **Reasons**

**37(5)** The director must make a decision about the appeal, and give written reasons, within a reasonable time after receiving the appeal notice, unless the appeal has been referred to the Board under section 38.

### **Original decision remains in effect pending appeal**

**37(6)** Unless the director orders otherwise, an appeal under this section does not suspend the operation of the order or decision under appeal.

S.M. 1995, c. 33, s. 23; S.M. 2002, c. 33, s. 32; S.M. 2013, c. 9, s. 15.

### **Referring an appeal to Board**

**38(1)** Instead of deciding an appeal under section 37, the director may refer it to the Board. In that case, subsections 39(2) to (8) apply to the appeal, with necessary changes.

### **Reasons**

**38(2)** The director must give written reasons for a decision to refer an appeal to the Board under subsection (1).

### **Director to give information to Board**

**38(3)** On referring an appeal to the Board, the director shall

- (a) inform the person appealing that the appeal has been referred to the Board;
- (b) give the Board
  - (i) the appeal notice under section 37,
  - (ii) any written information the director has that is relevant to the appeal, and
  - (iii) a list of persons who the director thinks are directly affected by the order or decision under appeal; and
- (c) give each person on that list a copy of the appeal notice and any written information the director has that is relevant to the appeal.

S.M. 2002, c. 33, s. 32.

### **Appeal to Board**

**39(1)** Any person directly affected by an order or decision of the director under section 37 may appeal it to the Board.

### **How to appeal**

**39(2)** The person appealing must send a written appeal notice to the Board within 14 days after the date of the order or decision, or within any further period that the Board may allow. The notice must state the reasons for the appeal and must be in the form and contain the information the Board requires.

### **Notice of hearing date**

**39(3)** On receiving a notice of appeal, the Board shall

- (a) fix a date, time and place for hearing the appeal; and
- (b) give written notice of the hearing to the person appealing, the director and any other person directly affected, at least five days before the hearing date.

**Director is party**

**39(4)** The Director is a party to an appeal under this section.

**Right to be heard**

**39(5)** At the hearing, the Board shall give any interested person an opportunity to be heard, to present evidence and to make presentations.

**Decision**

**39(6)** After hearing an appeal, the Board may make an order confirming, varying or setting aside the order or decision appealed from. It may also make any other order it considers necessary that is mentioned in subsection 31(4) of *The Labour Relations Act* (remedies for unfair labour practice).

**Order remains in effect pending appeal**

**39(7)** Unless otherwise ordered by the Board chairperson, an appeal to the Board under this section does not suspend the operation of the order or decision under appeal.

**Order filed in Queen's Bench**

**39(8)** An order of the Board may be filed in the Court of Queen's Bench and enforced in the same manner and to the same extent as a judgment of that court.

**Appeal to Court of Appeal**

**39(9)** A person who is a party to an order of the Board made under subsection (6) may appeal the order to The Court of Appeal, but only on a question of law or jurisdiction and by leave of a judge of the Court.

S.M. 2002, c. 33, s. 32; S.M. 2013, c. 9, s. 16.

**WORKPLACE SAFETY AND HEALTH COMMITTEES AND REPRESENTATIVES****Workplace safety and health committee**

**40(1)** An employer must establish a workplace safety and health committee

(a) for each workplace where

- (i) in the case of a seasonal workplace, at least 20 of the employer's workers are involved, or are expected to be involved, in work and the work is expected to continue for at least 90 days, and
- (ii) in the case of any other workplace, at least 20 of the employer's workers are regularly employed; and

(b) for any other individual workplace or class of workplace designated by a written order of the director.

**Exception for construction project with prime contractor**

40(2) Subsection (1) does not apply to a construction project site that is required to have a prime contractor.

**Committee for construction project site**

40(3) A prime contractor shall establish a committee at a construction project site if

- (a) at least 20 workers are involved, or expected to be involved, in work on a construction project; and
- (b) the project is expected to require more than 90 days to complete.

**Determining number of workers**

40(4) For the purposes of subsection (1), the number of workers employed at a workplace shall be determined by averaging, over the previous 12 months, the number of full-time and part-time workers present each working day.

**More than one committee in a workplace**

40(5) The director may issue a written order requiring an employer or prime contractor to establish more than one committee for a workplace. The order may provide for the composition, practice and procedures of those committees.

**Committee for multiple workplaces**

40(6) Notwithstanding subsections (1) and (3), the director may, in accordance with the regulations, issue a written order permitting an employer or prime contractor to establish one committee for more than one workplace or parts of more than one workplace. The order may provide for the composition, practice and procedures of that committee.

**Considerations of director**

40(7) In determining whether to make an order under subsection (5) or (6), the director shall take into account

- (a) the nature of the work performed at the workplace;
- (b) any request for an order by an employer, prime contractor, worker or union representing workers at the workplace;
- (c) the frequency of injury or illness in the workplace or in the industry in question; and
- (d) with respect to an order under subsection (6), any additional criteria set out in the regulations.

### **Reconsideration re one committee for multiple workplaces**

**40(7.1)** If, after making an order under subsection (6), additional information comes to the attention of the director, the director may, in accordance with the regulations, reconsider the order and

- (a) confirm the order; or
- (b) vary, suspend or revoke the order if the director believes that
  - (i) he or she would have come to a different decision if the information had been known when the order was made, or
  - (ii) a worker's safety or health is materially affected by the order.

### **Membership of committee**

**40(8)** A committee

- (a) shall consist of not fewer than four or more than 12 persons, of whom at least 1/2 shall be persons
  - (i) representing workers who are not associated with the management of the workplace, and
  - (ii) appointed in accordance with the constitution of the union that is the certified bargaining agent or that has acquired bargaining rights on behalf of those workers, or where no such union exists, persons elected by the workers they represent; and
- (b) shall have two co-chairpersons — one chosen by the employer members on the committee, and the other chosen by the worker members on the committee — who shall alternate in serving as chairperson at meetings of the committee and shall participate in all decisions of the committee.

### **Posting of names of members**

**40(9)** The employer or prime contractor shall ensure that the names of the committee members are posted conspicuously in the workplace.

### **Duties of committee**

**40(10)** The duties of a committee include

- (a) the receipt, consideration and disposition of concerns and complaints respecting the safety and health of workers;
- (b) participation in the identification of risks to the safety or health of workers or other persons, arising out of or in connection with activities in the workplace;

- (c) the development and promotion of measures to protect the safety and health and welfare of persons in the workplace, and checking the effectiveness of such measures;
- (d) co-operation with the occupational health service, if such a service has been established within the workplace;
- (e) co-operation with a safety and health officer exercising duties under this Act or the regulations;
- (f) the development and promotion of programs for education and information concerning safety and health in the workplace;
- (g) the making of recommendations to the employer or prime contractor respecting the safety and health of workers;
- (h) the inspection of the workplace at regular intervals;
- (i) the participation in investigations of accidents and dangerous occurrences at the workplace;
- (j) the maintenance of records in connection with the receipt and disposition of concerns and complaints and the attendance to other matters relating to the duties of the committee; and
- (k) such other duties as may be specified in this Act or prescribed by regulation.

#### **Time off for committee work**

**40(11)** A member of a committee is entitled to take the following time off from his or her regular duties:

- (a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
- (b) the time required to attend each meeting of the committee;
- (c) the time required to attend workplace safety and health training in accordance with section 44, as approved by the committee and the employer;
- (d) such time as the committee determines is necessary to carry out his or her duties as a committee member under this Act and the regulations.

#### **Entitlement to pay for work as committee member**

**40(12)** A member of a committee is deemed to be at work during the times described in subsection (11) and is entitled to be paid for those times by his or her employer at the member's regular or premium pay, as applicable.

### **Training of committee members**

**40(13)** The employer or prime contractor must ensure that committee members are trained to competently fulfill their duties as committee members.

S.M. 2002, c. 33, s. 32; S.M. 2013, c. 9, s. 17.

### **Workplace safety and health representative**

**41(1)** Each employer shall cause a worker not associated with management to be designated as the worker safety and health representative

- (a) at a workplace, other than a construction project, where a safety and health committee is not required but where five or more workers are regularly employed;
- (b) at a construction project, notwithstanding the requirements for a safety and health committee; and
- (c) at any other individual workplace or classes of workplaces designated by a written order of the director.

### **Appointment of representative**

**41(2)** The worker safety and health representative shall be appointed in accordance with the constitution of the union which is the certified bargaining agent or has acquired bargaining rights on behalf of those workers, or if no such union exists, shall be elected by the workers he represents.

### **Posting of name of representative**

**41(3)** The employer shall cause the name of the representative to be posted prominently in the workplace.

**41(4)** [Repealed] S.M. 2002, c. 33, s. 33.

### **Duties of representative**

**41(5)** The worker representative shall, in co-operation with a representative of the employer, perform the same duties as set out for the workplace safety and health committees in section 40.

### **Time off for work as representative**

**41(6)** A representative is entitled to take the following time off from his or her regular duties:

- (a) one hour to prepare for each safety and health meeting with the employer;
- (b) the time required to attend each safety and health meeting with the employer;
- (c) the time required to attend workplace safety and health training in accordance with section 44, as approved by the employer;



- (d) such time as is necessary to carry out his or her duties as a representative under this Act and the regulations.

#### **Entitlement to pay for work as representative**

- 41(7)** A representative is deemed to be at work during the times described in subsection (6) and is entitled to be paid for those times by his or her employer at the representative's regular or premium pay, as applicable.

#### **Training of representative**

- 41(8)** The employer must ensure that the representative is trained to competently fulfill his or her duties as a representative.

S.M. 2002, c. 33, s. 33; S.M. 2013, c. 9, s. 18.

#### **Definition: "employer"**

- 41.1(1)** In this section, "**employer**" means an employer or prime contractor who is required to establish a committee or to designate a representative.

#### **Recommendation by co-chair of committee**

- 41.1(1.1)** If a committee has failed to reach a decision about whether or not to make a recommendation under clause 40(10)(g) after attempting in good faith to do so, either co-chairperson may make written recommendations to the employer.

#### **Employer response to recommendations**

- 41.1(2)** Within 30 days after receiving a recommendation from a representative, a committee or a committee co-chairperson that identifies anything that may pose a danger to the safety or health of any person, the employer must respond in writing to the representative, committee or committee co-chairperson who made the recommendation.

#### **Contents of employer response**

- 41.1(3)** The response of an employer must
- (a) contain a timetable for implementing the recommendations that the employer accepts;
  - (a.1) contain any interim control measures that the employer will implement to address the danger posed to the safety or health of a person; and
  - (b) give reasons why the employer disagrees with any recommendations that the employer does not accept.

#### **Referral to safety and health officer**

- 41.1(4)** If no agreement can be reached regarding the response of an employer under subsection (3), any of the following may refer the matter to a safety and health officer:

- (a) the employer;
- (b) the committee;
- (c) a member of the committee;
- (d) if there is no committee, the representative.

#### **Order from officer**

**41.1(5)** If a dispute regarding a recommendation is referred to a safety and health officer, the officer may issue an order or a decision in accordance with this Act.

#### **No limitation**

**41.1(6)** Nothing in this section limits the right of a worker to refer any matter respecting safety and health directly to a safety and health officer.

S.M. 2002, c. 33, s. 33; S.M. 2013, c. 9, s. 19.

#### **Information on request**

**41.2** If requested by a committee or a representative, or a worker if there is no committee or representative, the employer or prime contractor must disclose the following to the committee, representative or worker:

- (a) information concerning the testing of any equipment, device or chemical or biological substance used at a workplace;
- (b) an inspection or investigation report respecting safety and health at the workplace, other than a harassment investigation report;
- (c) a report respecting workplace safety and health monitoring or audits;
- (d) a report providing summary information on the results of a harassment investigation, without disclosing the circumstances relating to the complaint or any information that could identify a worker or other person involved with the matter.

S.M. 2002, c. 33, s. 33; S.M. 2013, c. 9, s. 20.

#### **Accompanying an officer**

**41.3(1)** A safety and health officer who conducts an inspection or investigation at a workplace, may request that he or she be accompanied by

- (a) the worker co-chairperson of the committee or his or her designate;
- (b) if there is no committee at the workplace, the representative;
- (c) if there is no committee or representative at the workplace, a worker selected by the union; or

- (d) if there is no committee, representative or union representing workers at the workplace, a worker not associated with the management of the workplace.

### **Employer co-operation**

- 41.3(2)** If a safety and health officer makes a request under subsection (1), the employer shall permit the person requested to accompany the officer on the inspection or investigation and shall pay the person in accordance with subsection 40(11).

S.M. 2002, c. 33, s. 33.

## **DISCRIMINATORY ACTION**

### **Discriminatory action against worker prohibited**

- 42(1)** No employer, union or person acting on behalf of an employer or union shall take or threaten discriminatory action against a worker for
- (a) exercising a right under or carrying out a duty in accordance with this Act or the regulations;
  - (b) testifying in a proceeding under this Act;
  - (c) giving information about workplace conditions affecting the safety, health or welfare of any worker to
    - (i) an employer or a person acting on behalf of an employer,
    - (ii) a safety and health officer or another person concerned with the administration of this Act,
    - (iii) another worker or a union representing a worker, or
    - (iv) a committee or a representative;
  - (d) performing duties or exercising rights as a member of a committee or as a representative;
  - (e) refusing to do dangerous work under section 43;
  - (f) taking reasonable action at the workplace to protect the safety or health of another person;
  - (g) complying with this Act or the regulations or a code of practice under this Act, or an order or decision made under this Act; or
  - (h) attempting to have this Act or the regulations enforced.

### **Failure to pay wages or benefits**

**42(2)** In addition to the circumstances giving rise to discriminatory action as set out in subsection (1), an employer who fails to pay wages or benefits to a worker when required to do so by this Act is deemed to have taken discriminatory action against the worker under this section.

S.M. 2002, c. 33, s. 34; S.M. 2013, c. 9, s. 21.

### **Referring a complaint to an officer**

**42.1(1)** A worker who believes on reasonable grounds that the employer or union has taken discriminatory action against him or her for a reason described in section 42 may refer the matter to a safety and health officer.

#### **Order**

**42.1(2)** If a safety and health officer decides that an employer or union has taken discriminatory action against a worker for a reason described in section 42, the officer shall make an order requiring the employer or union to do one or more of the following:

- (a) stop the discriminatory action;
- (b) reinstate the worker to his or her former employment on the same terms and conditions on which the worker was formerly employed;
- (c) pay the worker any wages the worker would have earned had he or she not been wrongfully discriminated against and compensate the worker for loss of any benefits;
- (d) remove any reprimand or other reference to the matter from any employment records the employer maintains about the worker.

### **Officer to advise if no discriminatory action**

**42.1(3)** If a safety and health officer decides that no discriminatory action was taken against a worker for a reason described in section 42, the officer shall inform the worker in writing of the reasons for that decision.

### **Onus on employer or union**

**42.1(4)** If, in a prosecution or other proceeding under this Act, a worker establishes

- (a) that discriminatory action was taken against him or her; and
- (b) that the worker conducted himself or herself in a manner described in section 42;

it shall be presumed that the discriminatory action was taken because of the worker's conduct. The onus is then on the employer or union to prove that the decision to take the discriminatory action was not influenced by the conduct.

**Court order to reinstate, etc.**

**42.1(5)** If an employer or union is convicted of taking discriminatory action against a worker contrary to this Act, the convicting justice shall order the employer or union to do one or more of the following:

- (a) stop the discriminatory action;
- (b) reinstate the worker to his or her former employment on the same terms and conditions on which the worker was formerly employed;
- (c) pay the worker any wages the worker would have earned had he or she not been wrongfully discriminated against and compensate the worker for loss of any benefits;
- (d) remove any reprimand or other reference to the matter from any employment records the employer maintains about the worker.

S.M. 2002, c. 33, s. 34.

**RIGHT TO REFUSE DANGEROUS WORK****Right to refuse dangerous work**

**43(1)** Subject to this section, a worker may refuse to work or do particular work at a workplace if he or she believes on reasonable grounds that the work constitutes a danger to his or her safety or health or to the safety or health of another worker or another person.

**Reporting the refusal**

**43(2)** A worker who refuses to work or do particular work under subsection (1) shall promptly report the refusal and the reasons for it to his or her employer or immediate supervisor, or to any other person in charge at the workplace.

**Inspecting dangerous conditions**

**43(3)** If the employer does not remedy the dangerous condition immediately, the person who receives the report of refusal to work, or a person designated by that person, shall immediately inspect the dangerous condition in the presence of the worker and one of the following persons:

- (a) if there is a committee under section 40, the worker co-chairperson of the committee or, if that person is unavailable, a committee member who represents workers;
- (b) if there is a representative designated under section 41, that representative or, if he or she is unavailable, another worker selected by the worker refusing to do the work;
- (c) if there is no committee or representative, another worker selected by the worker who is refusing to work.

### **Remedial action**

**43(4)** The person required to inspect the dangerous condition shall take any action necessary to remedy any dangerous condition, or ensure that such action is taken.

### **Worker may continue to refuse**

**43(5)** Until the dangerous condition is remedied, the worker who reported it may continue to refuse to work or do particular work.

### **Other workers not to be assigned**

**43(6)** When a worker has refused to work or do particular work under subsection (1), the employer shall not request or assign another worker to do the work unless

- (a) the employer has advised the other worker, in writing, of
  - (i) the first worker's refusal,
  - (ii) the reasons for the refusal,
  - (iii) the other worker's right to refuse dangerous work under this section, and
  - (iv) the reason why, in the opinion of the employer, the work does not constitute a danger to the safety or health of the other worker, another worker or any person;
- (b) where practicable, the first worker has advised the other worker of
  - (i) the first worker's refusal, and
  - (ii) the reasons for the refusal; and
- (c) the actions required by subsections (3) and (4) have been taken.

S.M. 2002, c. 33, s. 34; S.M. 2013, c. 9, s. 22.

### **Report of dangerous condition to an officer**

**43.1(1)** If the dangerous condition is not remedied after an inspection under subsection 43(3), any of the persons present during the inspection may notify a safety and health officer of the refusal to work and the reasons for it.

### **Investigation by officer**

**43.1(2)** On receiving a notice under subsection (1), the officer shall investigate the matter and decide whether the work the worker has refused to do constitutes a danger to the safety or health of the worker or any other worker or person at the workplace.

**Order by officer**

**43.1(3)** If the officer decides that the work is dangerous, he or she shall

- (a) make a written report stating the officer's findings;
- (b) make any improvement order under section 26 or stop work order under section 36 that the officer considers necessary or advisable; and
- (c) give a copy of the report and any order to
  - (i) the worker who refused to do the work,
  - (ii) the employer, and
  - (iii) the co-chairpersons of the committee, or the representative.

**Decision not to issue an order**

**43.1(4)** If the officer decides that the work is not dangerous, he or she shall, in writing,

- (a) inform the employer and the worker of that decision; and
- (b) inform the worker that he or she is no longer entitled to refuse to do the work.

S.M. 2002, c. 33, s. 34; S.M. 2013, c. 9, s. 23.

**Worker entitled to be paid despite refusal**

**43.2** If a worker has refused to work or do particular work under section 43,

- (a) the worker is entitled to the same wages and benefits that he or she would have received had the worker continued to work; and
- (b) the employer may re-assign the worker temporarily to alternate work.

S.M. 2002, c. 33, s. 34.

**Employer not to make worker work in unsafe conditions**

**43.3(1)** When the employer at a workplace or his or her agent, or the supervisor or another person representing the employer at the workplace in a supervisory capacity, knows or ought to know of a condition at the workplace that is or is likely to be dangerous to the safety or health of a worker, he or she shall not require or permit any worker to do that work until the dangerous condition is remedied.

**Employer may remedy dangerous condition**

**43.3(2)** Subject to subsection 43(5), nothing in subsection (1) prevents the doing of any work or thing at a workplace that may be necessary to remedy a condition that is or is likely to be dangerous to the safety or health of a worker.

S.M. 2002, c. 33, s. 34.

## EDUCATIONAL LEAVE

### **Educational leave**

- 44(1)** Subject to this section, every employer at a workplace where there is a committee or a representative, must allow each member of the committee, the representative, or their respective designates, to take educational leave each year, without loss of pay or benefits, for the purpose of attending workplace safety and health training seminars, programs or courses of instruction
- (a) offered by the branch;
  - (b) approved by the committee; or
  - (c) provided for in the current collective bargaining agreement respecting the workers at the workplace.

### **Time allowed for educational leave**

- 44(1.1)** The amount of time allowed for educational leave under subsection (1) is the greater of
- (a) 16 hours; and
  - (b) the number of hours the worker normally works during two shifts.

### **Total number of safety and health committee members**

- 44(2)** The total number of safety and health committee members for whom the employer is required to provide educational leave in accordance with subsection (1) during any year is equal to the number of members constituting the normal size of the committee.

### **Pay while attending educational leave programming**

- 44(2.1)** The employer must pay a committee member, representative or designate who attends a workplace safety and health training program referred to in subsection (1) at the worker's regular or premium pay, as applicable, for the greater of
- (a) the actual number of hours spent attending the training; and
  - (b) the number of hours the worker normally works during a normal shift.

### **Exception**

- 44(2.2)** Subsection (1) does not apply to an employer on a construction project or an employer at a seasonal workplace as described in subclause 40(1)(a)(i).

### **Education program on construction sites**

- 44(3)** On a construction project, each employer who employs five or more workers on that project shall institute a safety and health education program at the worksite at which all workers shall attend without loss of pay or other benefits for a period or periods equivalent



to 30 minutes every two weeks, of which no period shall be less than 15 minutes.

#### **Education program at seasonal workplace**

**44(4)** At a seasonal workplace as described in subclause 40(1)(a)(i), each employer must institute a safety and health education program at the workplace. All workers must attend the program without loss of pay or other benefits for a period or periods equivalent to 30 minutes every two weeks, of which no period may be less than 15 minutes, for the duration of the seasonal workplace.

S.M. 2002, c. 33, s. 36; S.M. 2013, c. 9, s. 24.

**45** [Repealed]

S.M. 2002, c. 33, s. 37.

### **NEEDLES IN MEDICAL WORKPLACES**

#### **Use of safety-engineered needles**

**45.1(1)** When hollow-bore or intravenous needles are used in a medical workplace, the employer must ensure

- (a) so far as is reasonably practicable, that workers use only safety-engineered needles; and
- (b) that safe work procedures and practices relating to the use of those safety-engineered needles are implemented in the workplace.

#### **If safety-engineered needles not practicable**

**45.1(2)** If it is not reasonably practicable to use safety-engineered needles in a medical workplace, the employer must ensure that safe work procedures and practices relating to the use of hollow-bore or intravenous needles are implemented in the workplace.

#### **Procedures — needlestick injuries**

**45.1(3)** The employer must develop procedures to be followed in a medical workplace when a worker suffers a needlestick injury, including instructions for the worker suffering the injury.

#### **Investigation and report required**

**45.1(4)** The employer must investigate and prepare a report on every needlestick injury to a worker in a medical workplace.

#### **Definitions**

**45.1(5)** The following definitions apply in this section.

**“medical workplace”** means

- (a) a hospital, a personal care home, a psychiatric facility, a medical clinic, a medical laboratory, a community health centre and CancerCare Manitoba;
- (b) a physician’s office;

- (c) if prescribed by regulation, a registered dentist's office;
- (d) an ambulance as defined in *The Ambulance Services Act*; and
- (e) any other workplace where physical or mental health treatment or care is provided to a person. (« lieu de travail en milieu médical »)

**"needlestick injury"** means an injury caused by a hollow-bore or intravenous needle puncturing a person's skin or mucous membrane. (« blessure par piqûre d'aiguille »)

**"safety-engineered needle"** includes a shielded needle device, a retractable needle system and a needleless device. (« seringue conçue en vue d'un usage sécuritaire »)

S.M. 2005, c. 15, s. 2.

#### INAPPROPRIATE OR UNSAFE FOOTWEAR

##### **Inappropriate or unsafe footwear**

- 45.2** An employer must not require a worker to wear footwear that
- (a) is not of a design, construction and material appropriate to the protection required for the worker's work; or
  - (b) does not allow the worker to safely perform their work.

S.M. 2018, c. 22, s. 2.

#### GENERAL PROVISIONS

##### **Obtaining information**

- 46** To obtain information that the director needs to perform duties or exercise powers under this Act or the regulations, the director may require a person to provide any information in the manner and within the time period that the director may specify.

S.M. 2002, c. 33, s. 38.

##### **Order to conduct tests**

- 46.1(1)** The director may, by order, require an employer to do the following at the employer's expense:
- (a) have tests conducted by a person who has the professional knowledge, experience or qualifications specified by the director;
  - (b) give the director a report or assessment prepared by that person; and to do so in the manner and within the time period specified in the order.

## **Service of order**

**46.1(2)** The order must be served on the employer personally or be sent by registered mail to the employer's last known address.

S.M. 2002, c. 33, s. 38.

**47** [Repealed]

S.M. 2002, c. 33, s. 39.

## **Confidential information**

**48(1)** No person shall disclose any information with respect to any manufacturing or trade secret obtained by him by virtue of the exercise of any power conferred by this Act, except for the purpose of administering this Act and the regulations, or as required by law.

## **Names to remain confidential**

**48(2)** No person by whom information is obtained in confidence by virtue of any power conferred by this Act shall divulge the name of the informant to any person except for the purposes of this Act or the regulations.

## **Exemption from liability**

**49(1)** No action lies or shall be instituted against any person whether in his public or private capacity, where the person is acting under the authority of this Act or the regulations for any loss or damage suffered by any person by reason of anything done or omitted to be done by him in good faith, in the exercise of the powers given to him by this Act or the regulations.

## **No exemption in case of negligence**

**49(2)** Subsection (1) does not apply where the person exercising any of the powers given to him under this Act or the regulations is negligent in the performance thereof.

## **Officials cannot be compelled to testify**

**49.1** A safety and health officer, a person assisting a safety and health officer, the chief occupational medical officer, the director, or any other person acting under the authority of this Act or the regulations, is not a compellable witness in a civil action or proceeding — other than an inquest or inquiry under *The Fatality Inquiries Act* — respecting any document, information, or test obtained, received or made under this Act or the regulations, and may not be compelled to produce any such document.

S.M. 2002, c. 33, s. 40.

## **Medical examinations and health surveillance**

**50(1)** The chief occupational medical officer may carry out, or may arrange for another physician or other qualified person to carry out, any medical examinations or health surveillance of workers

or former workers as he or she considers desirable for the purpose of administering this Act and the regulations. But no medical examination of a worker may be carried out without the worker's consent.

### **Examinations during working hours**

**50(2)** Medical examinations shall, wherever reasonably practicable, be conducted during working hours without loss in pay to the worker being examined and the employer shall, if required by the physician or other qualified person, provide suitable accommodation for such examinations at the workplace, and otherwise facilitate the conduct of those examinations.

### **Health surveillance**

**50(3)** Health surveillance during working hours must be conducted without loss of pay to the workers who participate. In addition, the employer shall facilitate and provide suitable accommodation at the workplace for health surveillance, if required to do so by the chief occupational medical officer or a physician or other qualified person.

S.M. 2002, c. 33, s. 41.

### **Reports**

**51(1)** Every physician or other qualified person attending or consulted respecting a person who,

- (a) became ill or injured while employed at a workplace or while being otherwise engaged as a worker; or
- (b) who has been examined pursuant to section 50;

shall furnish to the chief occupational medical officer upon request of the officer such reports concerning the condition of the person as the chief occupational medical officer may require for the purposes of this Act and the regulations.

### **Reports by hospitals**

**51(2)** Notwithstanding the provisions of any other Act, where a worker referred to in clause (1)(a) or (b) is, or has been, a patient in a hospital, the person in charge of the administrative affairs of that hospital shall furnish without charge to the chief occupational medical officer upon request such reports concerning the condition of the person as the chief occupational medical officer may require for the purposes of this Act and the regulations.

### **Information confidential**

**51(3)** Unless disclosed in a form calculated to prevent the information from being identified as relating to a particular person or case or unless disclosed as required by law, any information obtained by the chief occupational medical officer pursuant to section 50 and this section

shall not be disclosed without the consent of the person examined or attended.

#### **Power to require alternative work**

**52** Where it appears to the director upon the advice of the chief occupational medical officer that a worker has been over-exposed to a harmful substance and that a temporary removal from the hazard will enable the worker to resume his usual work, the director may by order require the employer to provide without loss of pay to the worker temporary alternative work which in the opinion of the director is suitable, for such period of time as the director may specify.

#### **Requirement of occupational health service**

**53(1)** The minister may designate a workplace, or a class of workplaces, as requiring an occupational health service, having regard to the type of work being carried on therein, the number of workers employed thereat, and the degree or uncertainty of hazard thereof; and upon such designation, the employer shall cause an occupational health service to be established and maintained for the workplace in accordance with this section.

#### **Minister may specify health services to be provided**

**53(2)** The minister may specify the services that are to be provided by the occupational health service for any workplace, or for any class of workplaces designated under subsection (1).

#### **Continued operation of health service**

**53(3)** The establishment and continued operation of an occupational health service is subject to the approval of the minister.

### **ADMINISTRATIVE PENALTIES**

#### **Administrative penalty**

**53.1(1)** If a person

- (a) has failed to comply with
  - (i) an improvement order within the period specified in the order, or
  - (ii) a prescribed provision of this Act or the regulations, and a safety and health officer is of the opinion that the failure involves, or is likely to involve, an imminent risk of serious physical or health injury to a worker or other person;
- (b) has failed to maintain compliance with an improvement order after initially complying with it;

- (c) has resumed an activity that previously was the subject of a stop work order which was discontinued because the person had complied with it; or
- (d) was ordered to take action under section 42.1 because the person took discriminatory action against a worker;

the officer shall provide evidence of the matter to the director.

### **Imposing a penalty**

**53.1(2)** When the director determines that a person

- (a) has failed to comply with
  - (i) an improvement order within the period specified in the order, or
  - (ii) a prescribed provision of this Act or the regulations, and the director is of the opinion that the failure involves, or is likely to involve, an imminent risk of serious physical or health injury to a worker or other person;
- (b) has failed to maintain compliance with an improvement order after initially complying with it;
- (c) has resumed an activity that previously was the subject of a stop work order but was discontinued because the person had complied with it; or
- (d) was ordered to take action under section 42.1 because the person took discriminatory action against a worker;

the director may issue a notice in writing requiring the person to pay an administrative penalty in the amount set out in the notice.

### **When penalty may be imposed**

**53.1(3)** Notice of an administrative penalty may be issued only after any period for appealing the matter that gave rise to the notice under subsection (2) has expired or, if an appeal has been filed, after a decision has been made on appeal.

### **Maximum amount**

**53.1(4)** An administrative penalty may not exceed \$5,000.

### **Notice**

**53.1(5)** A notice of administrative penalty must set out

- (a) the amount of the penalty determined in accordance with the regulations;
- (b) when and how the penalty must be paid; and

- (c) a statement that the person may appeal the matter to the board within 14 days after being served with the notice.

### **Serving the notice**

**53.1(6)** A notice of administrative penalty must be served on the person required to pay the penalty. The notice may be served personally or may be sent by registered mail to the person's last known address.

### **Appeal to the board**

**53.1(7)** Within 14 days after being served with a notice, the person required to pay the administrative penalty may appeal the matter to the board by sending the board a notice of the appeal together with reasons for the appeal. The requirement to pay the penalty is stayed until the board decides the matter.

### **Notice of hearing**

**53.1(8)** On receiving a notice of appeal, the board shall

- (a) fix a date, time and place for hearing the appeal; and
- (b) give the person appealing, and the director, written notice of the hearing at least five days before the hearing date.

### **Decision of the board**

**53.1(9)** After hearing the appeal, the board shall decide the matter and

- (a) confirm or revoke the administrative penalty; or
- (b) vary the amount of the penalty if the board considers that it was not established in accordance with the regulations.

### **Payment**

**53.1(10)** Subject to an appeal under subsection (7), a person named in a notice of administrative penalty shall pay the amount of the penalty within 30 days after the notice is served. The government must use the amounts paid for the purpose of educating the public on matters relating to workplace safety and health.

### **Debt due to the government**

**53.1(11)** If an administrative penalty is not paid within 30 days after notice of the penalty is served, or, if the penalty is appealed to the board, within 30 days after the board's decision, the amount of the penalty is a debt due to the government.

### **Certificate registered in court**

**53.1(12)** The director may certify a debt referred to in subsection (11), or any part of such a debt that has not been paid. The certificate may be registered in the Court of Queen's Bench and, once registered, may be enforced as if it were a judgment of the Court.

### **No offence to be charged if penalty is paid**

**53.1(13)** A person who pays an administrative penalty under this section may not be charged with an offence in respect of the matter that gave rise to the issuance of the notice of administrative penalty unless the matter continues after the penalty is paid.

### **Lien for debt**

**53.1(14)** The government has, in addition to any other remedy it has for the recovery of a debt arising under this section, a lien and charge on every estate or interest in real property and personal property of the person required to pay the debt (referred to in this section as the "debtor"), including property acquired by the debtor after the debt arose.

### **Extent of security**

**53.1(15)** The lien secures the payment of

- (a) the amount of the debt when the lien takes effect;
- (b) interest on the debt from the time the debt arose until it is paid in full, as determined under *The Financial Administration Act* and the regulations under that Act; and
- (c) costs reasonably incurred by the director
  - (i) for the registration and discharge of the lien, and
  - (ii) in retaking, holding, repairing, processing, preparing for disposition or disposing of property in respect of which the lien is registered.

### **When lien takes effect**

**53.1(16)** The lien takes effect

- (a) in relation to the debtor's interest in real property, when a certificate in respect of the lien is registered against specific lands of the debtor; and
- (b) in relation to the debtor's personal property, when a financing statement in respect of the lien is registered in the Personal Property Registry.

### **Registration and enforcement of lien**

**53.1(17)** Subsections 28(6) to (14) of *The Pension Benefits Act* apply, with necessary changes, to the registration and enforcement of a lien arising under this section as if

- (a) the references in those provisions to "employer" were references to the debtor under this section; and



- (b) the references in those provisions to “the superintendent” were references to the director under this Act.

S.M. 2002, c. 33, s. 42; S.M. 2013, c. 9, s. 25.

## OFFENCES AND PENALTIES

### Offences

**54** Every person who

- (a) contravenes this Act or the regulations;
- (b) fails to comply with an order made under this Act or the regulations;
- (c) knowingly obstructs or makes a false statement to a safety and health officer engaged in the exercise or performance of his or her powers or duties; or
- (d) knowingly makes or causes to be made a false entry in any register, book, notice or other document to be kept by him under the Act or the regulations, or deletes or destroys or causes to be deleted or destroyed any true or proper entry in any such document;

is guilty of an offence and is liable on summary conviction to the penalties set out in section 55.

S.M. 2002, c. 33, s. 44.

### Penalty

**55(1)** A person guilty of an offence is liable

- (a) for a first offence to a fine of not more than \$250,000. and, in the case of a continuing offence to a further fine not exceeding \$25,000. for each day during which the offence continues; and
- (b) for a second or subsequent offence to a fine of not more than \$500,000. and, in the case of a continuing offence to a further fine not exceeding \$50,000. for each day during which the offence continues.

**55(2)** [Repealed] S.M. 2002, c. 33, s. 45.

### Additional penalty

**55(3)** Where a person is convicted for an offence under this Act, in addition to the penalties set out in subsection (1), he may be imprisoned for a term not exceeding six months.

### Further penalty

**55(4)** If a person is convicted of an offence for a contravention of subsection 43.3(1), he or she shall not work in a supervisory capacity at any workplace for a six month period after the date of conviction.

### **Time limit for prosecution**

**55(5)** A prosecution under this Act may be commenced not later than two years after the day the alleged offence was committed.

S.M. 1997, c. 32, s. 2; S.M. 2002, c. 33, s. 45; S.M. 2010, c. 3, s. 2.

### **Additional penalties**

**55.1(1)** When a person is convicted of an offence under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, order the offender to pay to the minister an amount that the government must use for the purpose of educating the public on matters relating to workplace safety and health. Such a penalty may be required in addition to any other penalty that may be imposed under this Act.

### **Limit**

**55.1(2)** The total of

- (a) any additional amount required to be paid under subsection (1); and
- (b) any penalty required to be paid under section 55;

must not exceed the amount of the maximum penalty for which the offender could be liable under section 55.

S.M. 2002, c. 33, s. 45.

### **Offences by directors, etc., of corporations**

**56** Where a corporation commits an offence under this Act, any officer, director or agent of the corporation, who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and liable, on summary conviction, to the penalty provided for the offence.

### **Onus**

**57(1)** In any proceedings for an offence under any of the provisions of this Act or regulations consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

### **Person deemed to be employer**

**57(2)** Where a person is charged as an employer in respect of an offence under this Act he shall be deemed to be an employer within the meaning of this Act unless it is otherwise proven.

**Application of subsection (1)**

**57(3)** Subsection (1) applies with such modifications as the circumstances require to any appeal involving an improvement order or a stop work order.

S.M. 2002, c. 33, s. 46.

**Laying of information**

**58** Any person may lay an information in respect of any offence or alleged offence against this Act or the regulations.

**59** [Repealed]

S.M. 2002, c. 33, s. 47.



# **Manitoba Regulation 217/2006**

## **Workplace Safety And Health Regulation**

### **NOTICE**

All persons making use of this consolidation are reminded that it has no legislative sanction; that the amendments have been embodied only for convenience of reference; and that the original text should be consulted for all purposes of interpreting and applying the law.

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## PART 1

### DEFINITIONS AND GENERAL MATTERS

#### Definitions

1.1 The following definitions apply in this regulation.

**“3 decibel exchange rate”** means that when the sound energy doubles, the decibel level increases by three. (« taux d’échange de 3 décibels »)

**“abnormal audiogram”** means an audiogram that indicates

- (a) the threshold in either ear is more than 25 dB at 500, 1000 or 2000 Hz;
- (b) the threshold in either ear is more than 60 dB at 3000, 4000 or 6000 Hz; or
- (c) there is one-sided hearing loss with the difference in hearing threshold level between the better and the poorer ear exceeding the average of 30 dB at 3000, 4000 and 6000 Hz.  
(« audiogramme anormal »)

**“abnormal shift”** means a threshold shift, in either ear, of 15 dB at two consecutive test frequencies from 1000 Hz up to and including 6000 Hz when compared to the baseline test. (« déplacement anormal »)

**“ACGIH”** means the American Conference of Governmental Industrial Hygienists. (« ACGIH »)

**“Act”** means *The Workplace Safety and Health Act*. (« Loi »)

**“aerial device”** means a vehicle-mounted or trailer-mounted telescoping or articulating device that is used to position a worker at an elevated worksite, and includes

- (a) a work basket or bucket;
- (b) an aerial ladder;
- (c) an extendable and articulating boom platform;
- (d) a vertical tower; and
- (e) any combination of the devices listed in clauses (a) to (d).  
(« engin élévateur »)

**“airborne”** means carried by, or forming part of, the air. (« aéroporté » ou « en suspension dans l’air »)

**“ANSI”** means the American National Standards Institute. (« ANSI »)

**“arboriculture”** means the pruning, repair, maintenance or removal of trees. (« arboriculture »)

**“ASA”** means the Acoustical Society of America.

**“asbestos”** means the fibrous form of crocidolite, amosite, chrysotile, anthophyllite, actinolite, tremolite or a mixture containing any of those minerals. (« amiante »)

**“asbestos-containing material”** means

- (a) a friable material containing 0.1% or greater asbestos;
- (b) a non-friable material containing 1.0% or greater asbestos; and (« matériau contenant de l’amiante »)
- (c) vermiculite insulation that contains asbestos.

**“ASC”** means the Accredited Standards Committee.

**“audiogram”** means a written or printed record of the hearing level of a person expressed as a function of frequency. (« audiogramme »)

**“audiologist”** means a person who is registered as a speech and hearing therapist under *The Manitoba Speech and Hearing Association Act*, R.S.M. 1990, c. 101. (« audiologiste »)

**“base plate”** means a device used to distribute a vertical load over a large area of a sill. (« socle »)

**“bearer”** means a horizontal scaffold member on which the scaffold’s work platform rests. (« traverse »)

**“biological substance”** means a substance containing living organisms or parts of living organisms in their natural or modified forms. (« substance biologique »)

**“blast site”** means the area that may be affected by a blast, and includes any area in which an unexploded charge is or may be located. (« lieu de dynamitage »)

**“blaster”** means a person who holds a valid blaster’s certificate issued under Part 34 (Explosives). (« dynamiteur »)

**“boatswain’s chair”** means a seat designed for one worker which is supported by slings or a frame and is attached to a single point of suspension. (« sellette »)

**“boom”** means the part of a structure that is attached to a crane or hoist superstructure and is used to support the upper end of the hoisting tackle. (« flèche »)

**“bootleg”** means the bottom remnant or an intact portion of a hole that has been charged and blasted, and that contains no visible explosives. (« culot »)

**“borehole”** means a hole or cavity created by manual or mechanical means for the insertion of explosives charges. (« trou de mine »)

**“buoyant apparatus”** mean an apparatus that

- (a) is capable of supporting the weight of a worker in water;
- (b) is constructed to remain stable when floating;
- (c) has no projections that prevent it from sliding easily over the side of a boat or ship; and
- (d) requires no adjustment before use. (« engin flottant »)

**“CAN”** means a standard approved by the Standards Council of Canada. (« CAN »)

**“CGSB”** means the Canadian General Standards Board. (« CGSB »)

**“charge”** means an explosive that has been prepared for detonation. (« charge »)

**“chemical substance”** means any natural or artificial substance, whether in the form of a solid, liquid, gas or vapour, other than a biological substance. (« substance chimique »)

**“close workplace”** means a workplace from which, under normal travel conditions and using the means of transportation used at the workplace in an emergency, an ill or injured worker can be transported to a medical facility in 30 minutes or less. (« lieu de travail rapproché »)

**“co-chairperson”** means the co-chairperson of a committee. (« coprésident »)

**“combustible liquid”** means a liquid that has a flashpoint at or above 37.8°C and below 93.3°C. (« liquide combustible »)

**“competent”** means possessing knowledge, experience and training to perform a specific duty. (« compétent »)

**“compressed air environment”** means an environment in which air has been mechanically compressed so as to raise the air pressure higher than atmospheric pressure. (« atmosphère d'air comprimé »)

**“confined space”** means an enclosed or partially enclosed space that

- (a) except for the purpose of performing work, is not primarily designed or intended for human occupancy; and
- (b) has restricted means of access or egress. (« espace clos »)

**“contaminated laundry”** means laundry that has been contaminated by waste. (« linge sale contaminé »)

**“crane”** means equipment that is designed to lift loads, lower loads, and move loads horizontally when they are lifted, and includes

- (a) a mobile, tower, bridge, barge-mounted, overhead or rail-mounted crane, overhead travelling crane and gantry crane;
- (b) a jib, wall and pillar crane, exceeding 907 kg (one ton) capacity; and
- (c) a boom truck. (« grue »)

**“CSA”** means the Canadian Standards Association. (« CSA »)

**“dBA”** means the sound level in decibels as measured using the “A”-weighting network and slow meter response on a sound level meter that meets the requirements for a Type 2 meter as specified by ANSI/ASA S1.4-2014/PART 1/IEC 61672:1-2013, *American National Standard Electroacoustics — Sound level meters — Part 1: Specifications*.

**“decibel”** or **“dB”** means a unit of measurement of sound pressure level that is equal to 20 times the logarithm to the base 10 of the ratio of the pressure of a sound, divided by the reference pressure of 20 micropascals. (« décibel » ou « dB »)

**“deep foundation”** means a foundation unit that provides support for a building or structure by transferring loads either by end bearing to soil or rock at substantial depth below the building or structure, or by adhesion or friction or both, in the soil or rock in which it is placed, and includes a pile or caisson. (« fondation profonde »)

**“deep foundation excavation”** means an excavation for a deep foundation. (« excavation de fondation profonde »)

**“demolition site”** means the premises on which demolition work is carried out, and for certainty includes the building or structure being demolished. (« chantier de démolition »)

**“demolition work”** means the demolition of the whole or a part of a building or structure. (« travaux de démolition »)

**“derrick”** means a stationary or portable structure that is used to support the hoisting and lowering mechanism on a rig. (« tour de forage »)

**“designated material”** means a chemical or biological substance which meets the criteria as a carcinogen, mutagen, respiratory sensitizer or reproductive toxin under the *Hazardous Products Regulations*.

**“detonator”** means a device used to detonate a charge. (« détonateur »)

**“distant workplace”** means a workplace from which, under normal travel conditions and using the means of transportation used at the workplace in an emergency, an ill or injured worker can be transported to a medical facility in two hours or less. (« lieu de travail éloigné »)

**“drilling rig”** means the derrick and all equipment directly involved with drilling a well. (« appareil de forage »)

**“electrical worker”** means a person authorized to do electrical work or restricted electrical work under *The Electricians’ Licence Act*. (« électricien »)

**“elevated work platform”** means

- (a) a self-elevating work platform; and
- (b) a suspended work platform;

and includes a work platform that is mounted to an aerial device or a forklift or is suspended from a crane. (« plateforme de travail élevée »)

**“emergency stop”** means the operation of a circuit that

- (a) overrides all other controls;
- (b) removes drive power;
- (c) causes all moving parts to stop; and
- (d) removes power from other hazardous functions present in the safeguarded space. (« arrêt d’urgence »)

**“excavation”** means a dug out area of ground and includes a deep foundation excavation, trench, tunnel, and shaft. (« excavation »)

**“explosive »** means any substance that is made, manufactured or used to produce an explosion or detonation, and includes gunpowder and other propellant powders, blasting agents, slurries, water gels, dynamite, detonating cord, lead azide, detonators, ammunition and rockets. (« explosif »)

**“explosive-operated tool”** means a tool that uses an explosive charge to bring about its action. (« outil à cartouches explosives »)

**“fall arrest system”** means a fall protection system that is designed to stop a worker’s fall before the worker hits the surface below. (« dispositif antichute »)

**“fall protection system”** means a fall protection system set out in section 14.6. (« dispositif de protection contre les chutes » ou « matériel de protection contre les chutes »)

**“falsework”** means the structural supports and bracing required to safely support temporary loads during construction, and includes the placement of concrete. (« ouvrage provisoire »)

**“firefighter”** means a worker who provides one or more of the following services at the site of an emergency:

- (a) fire suppression;
- (b) search and rescue;
- (c) emergency medical care;
- (d) hazardous materials response. (« pompier »)

**“firefighting vehicle”** means a specialized vehicle that carries an assortment of tools and equipment for use by firefighters when responding to an emergency. (« véhicule d’incendie »)

**“first aid services”** means the services of a first aider and the first aid equipment, facilities and supplies required under Part 5. (« services de premiers soins »)

**“first aid training provider”** means a person, society or organization that provides a training course in first aid or cardiopulmonary resuscitation, or both, that is acceptable to the director. (« fournisseur de cours de premiers soins »)

**“first aider”** means a worker who

- (a) has the qualifications of a basic, intermediate or advanced first aider, as set out in Part 5; or
- (b) has equivalent qualifications approved by the director under subsection 5.5(3).

**“flagperson”** means a person whose work involves directing the movement of traffic on any portion of a street or highway.

**“flammable liquid”** means a liquid that has a flashpoint below 37.8°C and has a vapour pressure not exceeding 275.8 kilopascals at 37.8°C. (« liquide inflammable »)

**“flammable substance”** means

- (a) a flammable or combustible solid, liquid or gas; or
- (b) dust that is capable of creating an explosive atmosphere when suspended in air in concentrations within the explosive limit of the dust. (« substance inflammable »)

**“flyform system”** means a complete falsework structure, which is intended to be moved as a unit. (« coffrage mobile »)

**“forestry”** means the cutting and harvesting of trees, the transportation of logs for processing and includes site preparation for tree planting and seeding. (« foresterie »)

**“full body harness”** means a device consisting of connected straps designed to contain the torso and pelvic area of a worker with provision for attaching a lanyard, lifeline or other component. (« harnais de sécurité complet »)

**“harassment”** means

- (a) objectionable conduct that creates a risk to the health of a worker; or
- (b) severe conduct that adversely affects a worker’s psychological or physical well-being. (« harcèlement »)

**“haul road”** means a temporary road used to haul forest products from the location where the products were cut or harvested. (« chemin de débardage »)

**“hazardous confined space”** means a confined space that is or may become hazardous to a worker who enters or is in the space due to

- (a) the design, construction or atmosphere of the space;
- (b) materials or substances in the space;
- (c) the work activities or processes in the space; or
- (d) any other conditions within or related to the space.

**“Hazardous Products Regulations”** means the Hazardous Products Regulations, SOR/2015-17 made under the Hazardous Products Act (Canada). (« Règlement sur les produits dangereux »)

**“health care facility”** means

- (a) a hospital, a personal care home, a psychiatric facility, a medical clinic, a medical laboratory, a community health centre and CancerCare Manitoba;

- (b) a physician's office;
- (c) an ambulance as defined in *The Emergency Medical Response and Stretcher Transportation Act*;
- (d) a dentist's office;
- (e) a veterinary office or clinic;
- (f) a laundry facility that is located in, or that provides services to, a facility referred to in clause (a); and
- (g) any other workplace where physical or mental health treatment or care is provided to a person, other than a place where first aid services are provided to employees in accordance with Part 5 (First Aid). (« établissement de santé »)

**"hoist"** means equipment that is designed to lift and lower loads.  
(« appareil de levage »)

**"hot work"** means work that produces arcs, sparks, flames, heat or other sources of ignition. (« travail à chaud »)

**"hours of darkness"** means

- (a) the period beginning 30 minutes after sunset and ending 30 minutes before sunrise; or
- (b) any period when, because of insufficient light or unfavourable atmospheric conditions, persons or vehicles cannot be seen at a distance of 150 m. (« heures d'obscurité »)

**"IEC"** means the International Electrotechnical Commission.

**"industrial audiometric technician"** means a person who is licensed as an industrial audiometric technician under Part 12 (Hearing Conservation and Noise Control). (« technicien en audiométrie industrielle »)

**"infectious material"** means a biohazardous infectious material or organism under the *Hazardous Products Regulation*. (« matière infectieuse »)

**"ISEA"** means the International Safety Equipment Association.

**"ISO"** means the International Organization for Standardization.

**"isolated workplace"** means a workplace

- (a) that is normally accessible only by air; or



- (b) from which, under normal travel conditions and using the means of transportation used at the workplace in an emergency, an ill or injured worker cannot be transported from the workplace to a medical facility within two hours or less. (« lieu de travail isolé »)

**“lanyard”** means a flexible line of webbing, synthetic fibre or wire rope that is used to secure a full body harness to a lifeline or anchor. (« cordon d’assujettissement »)

**“ledger”** means a horizontal scaffold member that rests on a vertical support. (« poutrelle horizontale »)

**“Lex”** means the level of a worker’s total exposure to noise in dBA, averaged over the entire work day based on a 3 decibel exchange rate as measured by a noise dosimeter meeting the requirements of a Type 2 instrument, as specified by ANSI/ASA S1.25-1991 (R2017), *Specification for Personal Noise Dosimeters*.

**“licensed ambulance service”** means an ambulance service licensed under *The Emergency Medical Response and Stretcher Transportation Act*. (« service d’ambulance autorisé »)

**“life jacket”** means a device approved by Transport Canada, or an agency permitted by Transport Canada to approve such devices, that is intended to be worn by a person and that

- (a) provides a specified buoyancy; and
- (b) in water, turns the wearer face-up on entry and keeps the wearer in that position without any direct effort of the wearer.

**“lifeline”** means a flexible synthetic line or rope made of fibre, wire or webbing, rigged from one or more anchors to which a worker’s lanyard or other part of a fall protection system is attached. (« corde d’assurance »)

**“lockout”** means the disconnection, blocking or bleeding of all sources of energy that may create a motion or action by any part of a machine and its auxiliary equipment. (« verrouillage »)

**“lodged tree”** means a tree that has not fallen to the ground after being partly or wholly separated from its stump or displaced from its natural position. (« arbre encroué »)

**“low hazard work”** means work of an administrative, clerical or professional nature that does not ordinarily require substantial physical exertion or exposure to a potentially hazardous condition or substance. (« travaux comportant peu de risques »)

**“manufacturer’s specifications”** means

- (a) the written specifications, instructions or recommendations provided by the manufacturer of equipment or supplies that describe how the equipment or supplies are to be constructed, erected, installed, assembled, examined, inspected, started, operated, used, handled, stored, stopped, calibrated, adjusted, maintained, repaired or dismantled; and
- (b) an instruction, maintenance and operating manual, including any diagrams, for the equipment or supplies. (« directives du fabricant »)

**“medical facility”** means

- (a) a hospital;
- (b) a medical clinic;
- (c) a physician’s office; or
- (d) a nursing station operated and administered by the Government of Manitoba or Canada or both, or operated by a person or entity under an agreement with one or both governments. (« installation médicale »)

**“misfire”** means the remnant of a hole containing an explosive that has not been successfully detonated. (« raté »)

**“musculoskeletal injury”** means an injury or disorder of the muscles, tendons, ligaments, joints, nerves, blood vessels or related soft tissue, including a sprain, strain or inflammation that may occur to a worker in a workplace and that is caused or aggravated by any of the following:

- (a) a repetitive motion;
- (b) a forceful exertion;
- (c) vibration;
- (d) mechanical compression;
- (e) a sustained or awkward posture;
- (f) a limitation on motion or action;
- (g) any other factor that creates a risk of musculoskeletal injury. (« blessure musculosquelettique »)

**“occupational exposure limit”** means the limit of exposure of a worker to an airborne chemical or biological substance established under Part 36. (« seuil d’exposition professionnelle »)

**“open excavation”** means an excavation in which the width is greater than the depth. (« excavation à ciel ouvert »)

**“patient”** means a person receiving physical or mental treatment or care at a health care facility. (« patient »)

**“personal flotation device”** means a device approved by Transport Canada, or an agency permitted by Transport Canada to approve such devices, that is intended to be worn by a person and that

- (a) provides a specified buoyancy; and
- (b) in water, supports a conscious person in an upright or backward leaning position, without any direct effort of the person.

**“portable ladder”** means a ladder that is not fixed in place, and includes a stepladder. (« échelle portative »)

**“portable wood ladder”** means a portable ladder constructed out of wood. (« échelle portative en bois »)

**“powered mobile equipment”** means a self-propelled machine or combination of machines, including a prime mover or a vehicle, used to

- (a) manipulate or move material;
- (b) move workers; or
- (c) provide a powered aerial device for workers. (« équipement mobile à moteur »)

**“precast concrete part”** means a concrete element, including a tilt-up precast panel, that is cast in a location other than its final position in a structure. (« pièce en béton préfabriqué »)

**“professional engineer”** has the same meaning as in *The Engineering and Geoscientific Professions Act*. (« ingénieur »)

**“rated load”** means the load that machinery or a piece of equipment is rated to bear in accordance with its design. (« charge nominale »)

**“residential construction”** means construction work where the construction materials, methods and procedures used are those used for single and multiple family dwelling construction projects and the dwelling is designed with an eave elevation of not more than 6 m. (« construction résidentielle »)

**“restricted work envelope”** means the portion of a work envelope to which a robot is restricted by devices that establish limits that cannot be exceeded if the robot’s control fails. (« enveloppe de travail restreinte »)

**“rig”** includes a drilling rig and a well servicing rig. (« installations de forage »)

**“rigging”** means any combination of rope, wire rope, cable, chain, sling, sheave, hook, container and associated fittings and accessories used in a hoisting operation. (« câblage »)

**“robot”** means an automatically controlled, reprogrammable multi-purpose manipulator programmable in three or more axes, which may be either fixed in place or mobile for use in automation applications. (« robot »)

**“robot system”** includes a robot and all accessories required for the robot’s operation, including end-effectors, pendants, devices, sensors, safeguards, power and control panels and communication interfaces to sequence and monitor the robot. (« système robotisé »)

**“SAE”** means the Society of Automotive Engineers. (« SAE »)

**“scaffold”** means a temporary work platform, including its supporting structure and all other components, used for supporting workers, materials and equipment, and, unless the context requires otherwise, includes the following types of scaffolds:

- (a) a bracket scaffold, being a platform that is supported by two or more triangular brackets projecting out from a building or structure to which the brackets are securely fastened;
- (b) a ladder-jack scaffold, being a platform that is supported by brackets attached to ladders;
- (c) a mobile scaffold, being a freestanding scaffold that is equipped with castors or wheels at the base of the scaffold;
- (d) an outrigger scaffold, being a platform that is supported by rigid members that are cantilevered out from the building or structure or from vertical supports;
- (e) a pump jack scaffold, being a scaffold consisting of vertical poles, platform planking and movable platform brackets that travel on the vertical poles;
- (f) a single-pole scaffold, being a work platform that is supported by bearers attached at the outer end to a single row of braced vertical supports and at the inner end to the building or structure;

- (g) a tubular frame scaffold, being a work platform that is supported by welded tubular frames, cross-braces and accessories. (« échafaud »)

**“SCBA”** means self-contained breathing apparatus. (« ARA »)

**“self-elevating work platform”** means a work platform that can be self-elevated, and includes a boom-type elevating work platform and one that rolls or is self-propelled. (« plateforme de travail auto-élevatrice »)

**“shaft”** means a vertical or inclined opening that leads to an underground work area and is excavated below ground level. (« puits d’accès »)

**“shoring”** means an assembly of structural members designed to prevent earth or material from falling, sliding or rolling into an excavation. (« étalement »)

**“sill”** means a footing used to distribute the load from a vertical support or a base plate of a scaffold to the ground. (« sole »)

**“sound control measure”** means an administrative or engineering control introduced in the workplace to eliminate, control or reduce a worker’s exposure to noise, including

- (a) the replacement, modification or elimination of noisy equipment;
- (b) the modification of a building or structure; and
- (c) the modification of any operation or work practice;

but does not include the use of any form of hearing protection worn by a worker. (« mesure de protection contre le bruit »)

**“strut”** means a horizontal cross-member of shoring that directly resists pressure. (« étrésillon »)

**“support structure”** means a structure or device designed to provide protection to workers in an excavation, tunnel or shaft from cave-ins, collapse, sliding or rolling materials, and includes shoring, bracing, piles, planking and trench cages. (« ouvrage de soutènement »)

**“suspended work platform”** includes a swing stage, powered platform, boatswain’s chair, personnel basket or cage or similar work platform that is suspended by means of ropes or cables to reach an elevated worksite and is used for supporting workers, equipment and materials. (« plateforme de travail suspendue »)

**“tag-out”** means the placement of a tag on a machine, tool or piece of equipment that states that workers are not to start or operate the machine, tool or piece of equipment. (« étiquetage »)

**“temporary support system”** means a system designed to be used as a temporary support for all loads that will be or are likely to be imposed on it and includes falsework, flyforms, formwork, ramps, platforms, runways, scaffolds, braces, shoring and stairs. (« système de soutien temporaire »)

**“threshold limit value”** means the threshold limit value for a chemical or biological substance established in the ACGIH publication 2019 *Threshold Limit Values for Chemical Substances and Physical Agents & Biological Exposure Indices*.

**“travel restraint system”** means a fall protection system that is designed to prevent a worker from travelling to a location where there is a risk of falling. (« harnais de retenue »)

**“trench”** means an excavation that is deeper than its width at the bottom. (« tranchée »)

**“trench cage”** means a steel support structure designed to resist the pressure from the walls of a trench and capable of being moved as a unit. (« cage pour tranchée »)

**“trench jack”** means a screw or hydraulic jack used as a brace for shoring. (« vérin pour tranchée »)

**“tunnel”** means a generally horizontal excavation that is more than one metre long and located underground. (« tunnel »)

**“violence”** means

- (a) the attempted or actual exercise of physical force against a person; and
- (b) any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person. (« violence »)

**“well”** means a well as defined under *The Oil and Gas Act*. (« puits »)

**“well servicing rig”** means a derrick and all rig equipment directly involved with servicing a well. (« appareil d’entretien de puits »)

**“worker member”** means a member of a committee elected by a union or the workers at the workplace. (« membre représentant les travailleurs »)

**“working alone”** means the performance of any work function by a worker who

- (a) is the only worker for that employer at that workplace at any time; and
- (b) is not directly supervised by the employer, or another person designated as a supervisor by the employer, at any time. (« travailler seul »)

**“working in isolation”** means working in circumstances where assistance is not readily available in the event of injury, ill health or emergency. (« travailler en isolement »)

M.R. 147/2010; 165/2012; 129/2015; 159/2018; 128/2019

### **Interpretation: “harassment”**

**1.1.1(1)** For the purpose of the definition **“harassment”** in section 1.1, conduct is

- (a) objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place of origin; or
- (b) severe, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

**1.1.1(2)** Reasonable conduct of an employer or supervisor in respect of the management and direction of workers or the workplace is not harassment.

**1.1.1(3)** In this section and in the definition **“harassment”** in section 1.1, conduct includes a written or verbal comment, a physical act or gesture or a display, or any combination of them.

M.R. 147/2010

### **Notice requirements**

**1.2(1)** When this regulation requires a person to give notice to the branch or the director, the notice must be given

- (a) to the director or a safety and health officer, in the case of a notice that is to be given to the branch; or
- (b) to the director, in the case of notice that is to be given to the director.

- 1.2(2)** Subject to section 2.7 (notice of serious incident), notice may be given
- (a) verbally, by giving it in person or by telephone; or
  - (b) in writing, by delivering it personally or by sending it by fax, e-mail, courier or mail.
- 1.2(3)** Notice is deemed to have been given only when the notice is received by the director or a safety and health officer.

M.R. 90/2014

### **Conformity to publications, codes and standards**

- 1.3(1)** When this regulation requires a tool, machine or other thing to meet the requirements of a publication, code or standard, the tool, machine or thing must satisfy the requirements of the most recent edition of the publication, code or standard in existence at the time it was manufactured.
- 1.3(2)** When this regulation requires a person to perform work or other services in accordance with the requirements of a publication, code or standard, the person must perform the work or services in accordance with the requirements of the edition or version of the publication, code or standard cited in the regulation.
- 1.3(2.1)** A person does not contravene subsection (2) if the person performs the work or services in accordance with the requirements of a more recent edition or version of the publication, code or standard cited in the regulation.
- 1.3(3)** When this regulation requires a person to comply with a publication, code or standard, the person may, as an alternative, comply with another equivalent publication, code or standard that the director has approved in writing.

M.R. 128/2019

### **Inconsistency**

- 1.4** If there is an inconsistency between a requirement under this regulation and a requirement contained in a publication, code or standard referenced in this regulation, the provisions of this regulation prevail.

### **Certification by professional engineer**

- 1.5** Unless otherwise specified in this regulation, when this regulation requires that specifications or procedures be certified by a professional engineer,
- (a) the certification must be in writing and must be signed and sealed by the professional engineer; and



- (b) an employer who is responsible for obtaining the certification must ensure that a copy of it is readily available at the workplace.

### **Regulation applies to self-employed persons**

- 1.6** A provision of this regulation that applies to an employer or a worker also applies, with necessary changes, to a self-employed person.

### **Employer's obligations extended**

- 1.7** A provision of this regulation that applies to a worker also applies, with necessary changes, to an employer who performs work or other services.

## **ORDERS FOR EXEMPTIONS FROM REGULATIONS**

### **Exemption orders**

- 1.8(1)** The director may make an exemption order under section 21 of the Act on request, or on his or her own initiative.
- 1.8(2)** Unless varied or waived by the director, a person requesting an exemption order must provide the director with the following information with respect to each workplace for which an exemption order is requested:
- (a) the name and contact information for
    - (i) the worker co-chairperson of the committee,
    - (ii) if there is no committee at the workplace, the representative,
    - (iii) if there is no committee or representative at the workplace, a worker at the workplace not associated with the management of the workplace, and
    - (iv) any union or association representing workers;
  - (b) the location of the workplace;
  - (c) the type and nature of the work;
  - (d) the provision of the regulation for which the exemption order is requested;
  - (e) the special circumstances of the particular case for which the exemption order is requested;
  - (f) a description of any proposed alternative to the provision of the regulation for which the exemption order is requested;

- (g) how the proposed alternative is sufficient to ensure that no worker's safety or health will be materially affected by the proposed exemption order;
- (h) any technical information relevant to the proposed alternative;
- (i) a plan for training and supervising workers on the proposed alternative;
- (j) the period of time for which the exemption order is requested;
- (k) any other information requested by the director.

**1.8(3)** In addition to the considerations set out in subsection 21(2) of the Act, the director must consider the following in determining whether to make an exemption order:

- (a) any information provided under subsection (2);
- (b) any relevant history of compliance or non-compliance with the Act and regulations;
- (c) any other criteria the director considers necessary to be satisfied that no worker's safety or health will be materially affected by the exemption order.

**1.8(4)** If additional information comes to the attention of the director, the director may reconsider an exemption order on request, or on his or her own initiative.

**1.8(5)** A person requesting a reconsideration of an exemption order must provide the director with

- (a) information demonstrating why reconsideration is appropriate; and
- (b) any other information requested by the director.

**1.8(6)** Unless it is suspended or revoked, an order made under section 21 of the Act is valid for the period specified in the order, which must not be more than three years.

**1.8(7)** The director must provide a copy of an order made under section 21 of the Act

- (a) to the person, if any, who requested the order or applied for reconsideration;
- (b) to any person whose contact information was provided to the director under clause (2)(a); and
- (c) to any person the director considers appropriate.

- 1.8(8)** While the order remains in effect, the employer must ensure that a copy is readily available to workers at the workplace.

M.R. 90/2014

**PART 2**  
**GENERAL DUTIES**  
**GENERAL SAFETY DUTIES**

**Eliminating or control of risks**

- 2.1(1)** Where there is a risk to the safety or health of a worker, the employer must, if reasonably practicable, eliminate it through
- (a) the design of the workplace;
  - (b) the design of the work process; or
  - (c) the use of engineering controls.
- 2.1(2)** If the measures under subsection (1) fail to eliminate the risk, the employer must control any risk that remains
- (a) through one or a combination of the following, and to the extent practicable:
    - (i) the design of the workplace,
    - (ii) the design of the work process,
    - (ii) the use of engineering controls; and
  - (b) to the extent risk remains after taking the measures under clause (a), by implementing safe work procedures that reduce the remaining risk as much as reasonably practicable.
- 2.1(3)** After taking the measures required under subsection (2), the employer must ensure that workers who may be exposed to any remaining uncontrolled risk use personal protective equipment that meets the requirements of Part 6.

M.R. 147/2010

**Safe work procedures**

- 2.1.1** An employer who is required to implement safe work procedures must
- (a) develop the safe work procedures for the work that is done at the workplace;
  - (b) train workers in the safe work procedures in a manner that ensures that workers are able to apply the training provided to protect the safety and health of themselves and others; and

- (c) ensure that workers comply with those safe work procedures.

M.R. 147/2010

### **Consultations required**

- 2.2** In developing and implementing the safe work procedures required under section 2.1 and any other Part of this regulation, an employer must consult with the following:
- (a) the committee at the workplace;
  - (b) the representative at the workplace;
  - (c) when there is no committee or representative at the workplace, the workers at the workplace.

### **New worker orientation**

- 2.2.1(1)** In this section, “**new worker**” means a worker who
- (a) is new to the workplace;
  - (b) is moved from one area of a workplace to another area of the workplace that has different processes or hazards;
  - (c) is relocated to a different workplace that has different processes or hazards; or
  - (d) is returning to the same workplace but the processes or hazards in the workplace changed while the worker was away.
- 2.2.1(2)** An employer must ensure that when a new worker begins work in a workplace, the worker is given safety and health orientation specific to that worker’s workplace.
- 2.2.1(3)** The following topics must be included in the worker’s orientation:
- (a) the employer’s and worker’s rights and responsibilities under the Act and applicable regulations;
  - (b) the name and contact information of the new worker’s supervisor;
  - (c) the procedure for reporting unsafe conditions at the workplace;
  - (d) the procedure for exercising the right to refuse dangerous work at the workplace;
  - (e) contact information for the committee or the representative, as applicable;

- (f) any policies, programs and safe work procedures that the employer is required to develop pursuant to the Act and applicable regulations that apply to the work to be done by the worker;
- (g) the hazards to which the worker may be exposed and the control measures undertaken to protect the worker;
- (h) the location of first aid facilities, means of summoning first aid and procedures for reporting illnesses and injuries;
- (i) emergency procedures;
- (j) identification of prohibited or restricted areas or activities;
- (k) any other matters that are necessary to ensure the safety and health of the worker while at work.

**2.2.1(4)** An employer must keep a record of all orientations provided to new workers.

M.R. 90/2014

### **Duty of employer to provide information**

**2.3** An employer must provide workers with ready access to the following at the workplace:

- (a) the Act;
- (b) each regulation made under the Act that applies to the workplace or to work done at the workplace;
- (c) each code of practice approved and issued by the director that relates to a regulation under the Act that applies to the workplace or any work done at the workplace.

### **Inspections of workplace**

**2.4(1)** An employer must

- (a) ensure that regular inspections of the workplace and of work processes and procedures at the workplace are conducted to identify any risk to the safety or health of any person at the workplace; and
- (b) if a risk is identified, correct any unsafe condition as soon as is reasonably practicable and, in the interim, take immediate steps to protect the safety and health of any person who may be at risk.

**2.4(2)** A prime contractor must

- (a) ensure that regular inspections of the construction project site and the work processes and procedures at the site are conducted to identify any risk to the safety or health of any person at the site; and
- (b) if a risk is identified, ensure that any unsafe condition is corrected as soon as is reasonably practicable, and in the interim, ensure that immediate steps are taken to protect the safety and health of any person who may be at risk.

PREGNANT OR NURSING WORKERS

**Pregnant or nursing workers**

**2.5** When a worker informs her employer that she is pregnant or nursing, the employer must

- (a) inform the worker of any known or foreseeable risk that conditions at the workplace pose or may pose to the safety or health of the worker or to her unborn or nursing child; and
- (b) so far as is reasonably practicable,
  - (i) take steps to minimize the exposure of the worker to the condition that creates the risk, or
  - (ii) if alternate work is available that involves no risk or less risk and the worker is reasonably capable of performing that work, assign the worker temporarily to that alternative work without loss of pay or benefits.

SERIOUS INCIDENTS AT WORKPLACE

**Definition: “serious incident”**

**2.6** In sections 2.7 to 2.9, “**serious incident**” means an incident

- (a) in which a worker is killed;
- (b) in which a worker suffers
  - (i) an injury resulting from electrical contact,
  - (ii) unconsciousness as the result of a concussion,
  - (iii) a fracture of his or her skull, spine, pelvis, arm, leg, hand or foot,

- (iv) amputation of an arm, leg, hand, foot, finger or toe,
- (v) third degree burns,
- (vi) permanent or temporary loss of sight,
- (vii) a cut or laceration that requires medical treatment at a hospital as defined in *The Health Services Insurance Act*, or
- (viii) asphyxiation or poisoning; or
- (c) that involves
  - (i) the collapse or structural failure of a building, structure, crane, hoist, lift, temporary support system or excavation,
  - (ii) an explosion, fire or flood,
  - (iii) an uncontrolled spill or escape of a hazardous substance, or
  - (iv) the failure of an atmosphere-supplying respirator.

### **Notice of serious incident**

**2.7(1)** When a serious incident occurs at a workplace, an employer must immediately and by the fastest means of communication available, notify the branch of the incident and provide the following information:

- (a) the name and address of each person involved in the incident;
- (b) the name and address of the employer, and if any person involved in the incident is employed by another employer, the name and address of that other employer;
- (c) the name and address of each person who witnessed the incident;
- (d) the date, time and location of the incident;
- (e) the apparent cause of the incident and the circumstances that gave rise to it.

**2.7(2)** An employer who becomes aware that information provided under subsection (1) was inaccurate or incomplete must immediately notify the branch of the correct or complete information.

M.R. 90/2014



## **Site of serious incident to be preserved**

- 2.8** Except to the extent necessary to free a trapped person or to avoid the creation of an additional hazard, and subject to a directive issued by a safety and health officer under clause 24(1)(l) of the Act, an employer must ensure that nothing involved in a serious incident is altered or moved until at least 24 hours after the notice under subsection 2.7(1) is given.

## **Investigations: serious incidents and accidents**

- 2.9(1)** An employer must ensure that each of the following is investigated as soon as reasonably practicable after it occurs:
- (a) a serious incident;
  - (b) an accident or other dangerous occurrence
    - (i) that injures a person, and results in the person requiring medical treatment, or
    - (ii) that had the potential to cause a serious incident.
- 2.9(2)** An investigation must be carried out by
- (a) the co-chairpersons of the committee at the workplace or their designates;
  - (b) the employer and the representative at the workplace; or
  - (c) the employer, in the presence of a worker employed at the workplace who is not associated with the management of the workplace, when there is no committee or representative at the workplace.
- 2.9(3)** After an investigation is completed, an employer, in consultation with the co-chairpersons or their designates, the representative or the worker, as applicable, must prepare a written report that includes the following:
- (a) the name of any person injured or killed;
  - (b) the date, time and place of the incident, accident or dangerous occurrence;
  - (c) a description of the incident, accident or dangerous occurrence;
  - (d) any graphics, photographs or other evidence that may assist in determining the cause or causes of the incident, accident or dangerous occurrence;

- (e) an explanation of the cause of the incident, accident or dangerous occurrence, including any factors or events that indirectly contributed to it occurring;
- (f) any immediate corrective action taken;
- (g) any long-term action that will be taken to prevent the occurrence of a similar incident, accident or dangerous occurrence, or the reasons for no action being taken.

## RECORDS

### Retention of records

- 2.10** An employer must ensure that a record required to be made or retained under this regulation is not destroyed or disposed of
- (a) for the period prescribed in this regulation for the specific class of records; or
  - (b) if there is no prescribed period, for five years after the record is made or comes into the possession of the employer.

### Transferring custody of records

- 2.11** When an employer who has control of a record required to be kept under this regulation ceases to operate in Manitoba,
- (a) the employer must transfer the record to the successor employer, when there is a successor employer; or
  - (b) when there is no successor employer, the employer must
    - (i) preserve the record,
    - (ii) notify the director, and
    - (iii) deliver the record at the time and to the place identified by the director.

## MISCELLANEOUS

### Pressure plants and pressure vessels

- 2.12** An employer and an owner must ensure that a pressure plant or pressure vessel used at a workplace that is not subject to *The Steam and Pressure Plants Act* is properly constructed, installed, used, stored, repaired and maintained in accordance with the manufacturer's specifications.

## **Non-smokers health protection in workplace**

- 2.13** A contravention of sections 2 to 6.2 of *The Non-Smokers Health Protection Act* relating to a workplace is deemed to be a contravention of the Act for the purpose of issuing an improvement order to a person under section 26 of the Act.

## **Clean and sanitary workplace**

- 2.14** An employer must ensure that, so far as is reasonably practicable, a workplace is
- (a) kept in a clean and sanitary state; and
  - (b) kept free from any condition that may create a risk to a worker's safety or health.

## **Control of airborne dust**

- 2.15** An employer and a prime contractor must ensure that appropriate methods are used at a construction project site to control airborne dust that creates or may create a risk to the safety or health of a worker.

## **Protrusions**

- 2.16** An employer must ensure that any protrusion from concrete or other surfaces, such as nails, pins, cables or other temporary obstructions, is removed or cut off at the surface if it
- (a) creates a tripping or other hazardous condition for a worker; and
  - (b) is not necessary for the work being done.

## **Snow and ice accumulation**

- 2.17** An employer must ensure that
- (a) all work areas are, so far as is reasonably practicable, kept clear of snow and ice accumulations; and
  - (b) where an overhead accumulation of snow or ice creates a risk to a person,
    - (i) the accumulation is removed, or
    - (ii) an overhead barrier designed to withstand any load that will be or is likely to be imposed is installed.

## **Sign at construction project site**

- 2.18** The prime contractor, or if there is no prime contractor, the employer, must ensure that the following information is clearly and prominently identified on a sign located in a conspicuous place at a construction project site:
- (a) the name of the prime contractor or the employer, as applicable;
  - (b) the location of any first aid service;
  - (c) the name and telephone number of the person who can be contacted about safety and health matters at the site; and
  - (d) contact information for the committee and the representative, as applicable.

## **Alcohol and drug consumption**

- 2.19(1)** An employer must take all reasonable steps to ensure that a worker does not work while under the influence of alcohol or a drug that impairs or could impair the worker's ability to perform work safely.
- 2.19(2)** A worker must not work while under the influence of alcohol or a drug that impairs or could impair the worker's ability to perform work safely.

M.R. 128/2019

**PART 3**  
**WORKPLACE SAFETY AND HEALTH**  
**COMMITTEES AND REPRESENTATIVES**

COMMITTEES

**Formation of committee**

- 3.1(1)** When a committee is required to be established, an employer or prime contractor must immediately consult with each of the existing unions, or the workers if there is no union, to jointly determine its size.
- 3.1(2)** If no union exists, an employer or prime contractor must appoint one or more workers to conduct the election of worker members to the committee. The workers appointed must not be associated with the management of the workplace and the election must be conducted in a manner consistent with recognized democratic practices.
- 3.1(3)** An employer or prime contractor must not influence or attempt to influence the election of the worker members of a committee.
- 3.1(4)** An employer, prime contractor or worker who disputes
- (a) the number of worker members to be elected; or
  - (b) the election of, or manner of electing, worker members;
- may refer the dispute to a safety and health officer who may issue an order in accordance with the Act.

COMMITTEE FOR MULTIPLE WORKPLACES

**Order for a committee exemption**

- 3.1.1(1)** The director may make an order under subsection 40(6) of the Act on request, or on his or her own initiative.
- 3.1.1(2)** A person requesting an order under subsection 40(6) of the Act must provide the director with the following information with respect to each workplace affected by the requested order:
- (a) the name and contact information for
    - (i) any existing worker co-chairperson of a committee, and
    - (ii) any union or association representing workers;
  - (b) the location of the workplace;
  - (c) the number of workers at the workplace;

- (d) the type and nature of the work;
- (e) the minutes of each committee meeting for the previous year;
- (f) the number and nature of the incidents, accidents or dangerous occurrences that were investigated under subsection 2.9(1) in the previous year;
- (g) the proposed procedure for workers to communicate local safety and health issues to the committee;
- (h) documentation showing support for the application by workers at the workplace, or a union or association representing the workers;
- (i) any other information requested by the director.

**3.1.1(3)** In addition to the considerations set out in subsection 40(7) of the Act, the director must consider the following in determining whether to make an order under subsection 40(6) of the Act:

- (a) any information provided under subsection (2);
- (b) any effect the order could have on the safety or health of a worker or another person who would be affected by the order;
- (c) any relevant history of compliance or non-compliance with the Act and regulations;
- (d) any other criteria the director considers appropriate.

**3.1.1(4)** The director may impose any terms or conditions in connection with the order that the director considers necessary.

**3.1.1(5)** If additional information comes to the attention of the director, the director may reconsider the order on request, or on his or her own initiative.

**3.1.1(6)** A person requesting a reconsideration of an order must provide the director with

- (a) information demonstrating why reconsideration is appropriate; and
- (b) any other information requested by the director.

**3.1.1(7)** Unless it is suspended or revoked, an order under section 40 of the Act is valid for the period specified in the order which must not be more than three years.

**3.1.1(8)** The director must provide a copy of an order made under section 40 of the Act

- (a) to the person, if any, who requested the order or applied for reconsideration;
- (b) to any person whose name and contact information was provided to the director under clause (2)(a); and
- (c) to any person the director considers appropriate.

M.R. 90/2014

## HOW COMMITTEES ARE TO FUNCTION

### Term of office

**3.2(1)** A committee member is to serve for a term of two years and continues to hold office until reappointed or re-elected or until a successor is appointed or elected.

**3.2(2)** Despite subsection (1), if a union exists and the union's constitution specifies a term of office for worker members of the committee, the term of office of the worker member is the term specified in the union's constitution.

**3.2.1** Repealed.

M.R. 147/2010; 90/2014

### Committee inspection of workplace

**3.2.2** The members of a committee must inspect the workplace and the work processes and procedures at the workplace at least once before each regularly scheduled meeting of the committee.

M.R. 147/2010

### Meetings

**3.3(1)** A committee must meet within one month after it has been established and, after that,

- (a) at regular intervals not exceeding three months; or
- (b) at such shorter intervals as ordered by the director.

**3.3(2)** An order of the director under clause (1)(b) may be made for a particular workplace or a class of workplaces.

**3.3(3)** A committee member must be given at least three days' prior notice of a regularly scheduled committee meeting.

- 3.3(4)** An employer or prime contractor must provide a committee with a suitable location for committee meetings and appropriate resources for carrying out its duties and functions.

### **Special meetings**

- 3.4** A co-chairperson of a committee may call a special meeting to deal with matters of urgent concern, including but not limited to serious incidents, accidents, dangerous occurrences or matters believed to constitute a serious risk to the safety or health of a worker or other persons.

### **Quorum**

- 3.5** The quorum of a committee is one-half of the worker members and one-half of the members appointed by the employer or the prime contractor.

### **Committee must establish rules**

- 3.6(1)** A committee must establish written rules of procedure for discharging its duties under the Act.
- 3.6(2)** The committee must in its rules provide for
- (a) regular meetings of the committee, and the day, time and place of the meetings;
  - (b) the procedure to be followed and the type and amount of notice to be given to change the day, time or place of a regular meeting of the committee; and
  - (c) rules respecting the conduct of committee meetings.
- 3.6(3)** The committee may in its rules provide for such other matters as the committee considers necessary or desirable.

### **Minutes**

- 3.7(1)** A committee must ensure that
- (a) the minutes of each committee meeting are
    - (i) recorded in a format acceptable to the branch,
    - (ii) signed by the co-chairpersons, and
    - (iii) kept at the workplace for a period of at least 10 years from the date of the meeting; and
  - (b) a copy of the minutes prepared in accordance with clause (a) is given to the employer or prime contractor.



- 3.7(2)** An employer or prime contractor must, within seven days of receiving a copy of the minutes of a committee meeting, ensure that a copy is sent to each committee member.

M.R. 90/2014; 128/2019

### **Distributing information to committee members**

- 3.8** An employer or prime contractor must distribute to committee members at the workplace any information or document addressed to the committee or to committee members as soon as reasonably practicable but no later than seven days after the information or document is received.

## **REPRESENTATIVES**

### **Meetings with representative**

- 3.9(1)** When a representative is designated at a workplace, an employer must meet with the representative at regular intervals not exceeding three months to discuss safety and health matters.
- 3.9(2)** A representative may call a special meeting with the employer to deal with matters of urgent concern, including but not limited to serious incidents, accidents, dangerous occurrences or matters believed to constitute a serious risk to the safety or health of a worker or another person.
- 3.9(3)** An employer must meet with a representative when the representative calls a special meeting.
- 3.9.1** Repealed.

M.R. 147/2010; 90/2014

## **GENERAL**

### **Officer may call meeting**

- 3.10** For the purpose of ensuring the proper functioning or to provide information or education concerning workplace safety and health, a safety and health officer may call a special meeting of
- (a) a committee;
  - (b) several committees jointly;
  - (c) the co-chairpersons of one or more committees; or
  - (d) one or more representatives.

## **Bulletin board**

**3.11(1)** An employer or prime contractor must provide a bulletin board in a prominent place in the workplace that is readily accessible to workers for the exclusive use of committee members, the representative, or both, in connection with safety and health matters.

**3.11(2)** When a bulletin board is provided under subsection (1), the following information must be posted on it:

- (a) when a committee exists,
  - (i) the name of each committee member and the date each member's term of office expires,
  - (ii) the scheduled dates of committee meetings,
  - (iii) the agenda for each meeting, and
  - (iv) a copy of the minutes of each committee meeting, which must be signed by the co-chairpersons and must remain posted until all matters of concern recorded in the minutes are resolved,
  - (v) repealed, M.R. 147/2010;
- (b) if a representative has been designated,
  - (i) the name of the representative,
  - (ii) the scheduled dates of meetings, and
  - (iii) the agenda for each meeting,
  - (iv) repealed, M.R. 147/2010;
- (c) any improvement order, report or other documentation applicable to the workplace, issued by or recommended to be posted by a safety and health officer;
- (d) any order made by the director under section 21 or 40 of the Act.

**3.11(3)** A committee member or the representative may also post information on a bulletin board provided under subsection (1).

M.R. 147/2010; 90/2014

## **Examination of information and materials**

- 3.12** An employer and a prime contractor must ensure that a committee member and a representative is allowed to examine any logbook, assessment, inspection report or other record that the employer or prime contractor is required to keep at the workplace under the Act or the regulations.

## **Lost-time injury information**

- 3.13** An employer must provide information respecting lost-time injuries at the workplace to the committee members and to the representative.

## **Handling of personal health information**

- 3.14** A committee member and a representative must not disclose a worker's personal health information unless the disclosure is required or permitted by law.

## PART 4 GENERAL WORKPLACE REQUIREMENTS

### Air quality and ventilation

- 4.1** An employer must, as much as is reasonably practicable, ensure that
- (a) a workplace has appropriate air quality and is adequately ventilated; and
  - (b) contaminants and impurities are prevented from accumulating in the air at a workplace.

### Mechanical ventilation

- 4.2** When an employer or an owner provides a mechanical ventilation system at a workplace, the employer or owner must ensure that
- (a) it is designed and installed in accordance with the requirements of
    - (i) the *Manitoba Building Code*, Manitoba Regulation 31/2011, and
    - (ii) any applicable standard, code or municipal by-law;
  - (b) it provides sufficient amounts of air to replace the air it exhausts from the workplace;
  - (c) it, and any associated humidification equipment, is inspected and maintained by a competent person at a frequency that is sufficient to
    - (i) protect the safety and health of workers, and
    - (ii) minimize the growth of biological contaminants and their dissemination through the system; and
  - (d) its ventilation openings are kept free of obstructions and sources of contamination.

M.R. 128/2019

### Air cleaning systems

- 4.3** An employer and an owner must ensure that any mechanical ventilation system designed to recirculate air in the workplace removes particulate and gaseous contaminants through an air cleaning system that is designed, installed and maintained to protect the safety and health of workers.

## **Arrangement of work areas**

- 4.4** When there is a risk to the safety or health of a worker because of vehicular traffic or the nature of the work performed in the workplace, an employer must ensure that
- (a) work areas are arranged to allow for the safe movement of persons, equipment and materials; and
  - (b) aisle or walkway routes designated for pedestrian traffic are clearly indicated by conspicuous markings or other effective means.

## **Slipping and tripping hazards**

- 4.5(1)** An employer must ensure that floors, platforms, walkways, ramps and stairs available for use by a worker are maintained in a state of good repair and kept free of slipping and tripping hazards.
- 4.5(2)** If it would be unsafe or hazardous for a worker to use an area described in subsection (1), the employer must
- (a) take reasonable steps to prevent the area from being entered or used; and
  - (b) post a conspicuous sign at or near the area clearly indicating that it is not to be used.

## **Drinking water**

- 4.6(1)** An employer must ensure that an adequate supply of potable drinking water is available to workers at a workplace.
- 4.6(2)** Unless water is provided by a drinking fountain, an employer must ensure that an adequate supply of single-use, sanitary drinking cups is located by each supply of drinking water.
- 4.6(3)** When it is necessary to identify the supply of drinking water, an employer must ensure that the supply has a prominent label that clearly indicates it contains drinking water.

## **Number of toilet facilities and washbasins**

- 4.7** Subject to the provisions of the *Manitoba Building Code*, an employer must ensure that a workplace has the number of toilets and washbasins in separate facilities for each sex as provided in the following table.

Table		
# of Workers of the Gender	Minimum # of Toilets for that Gender	Minimum # of Washbasins for that Gender
1 - 10	1	1
11 - 25	2	2
26 - 50	3	3
51 - 75	4	4
76 - 100	5	5
Over 100	6, plus an additional one for each additional 30 workers	6, plus an additional one for each additional 30 workers

### Toilet facilities

**4.8(1)** Despite section 4.7, a workplace may have one toilet facility for the use of both sexes if

- (a) the total number of workers present at the workplace at one time is never more than 10; and
- (b) the door to the toilet facility can be locked from the inside.

**4.8(2)** If two or more toilets are required for men, an employer may substitute not more than half of the toilets with stall urinals.

**4.8(3)** An employer must ensure that each toilet facility at a workplace

- (a) has a legible sign posted on or near the door leading to each facility, which denotes the sex of those entitled to use a toilet facility;
- (b) is used only as a toilet facility;
- (c) is kept free from obstacles or obstructions;
- (d) is kept clean, sanitary and in good working order;
- (e) is supplied with
  - (i) toilet tissue at each toilet at all times,
  - (ii) easily cleanable containers for waste materials, and
  - (iii) a covered disposal container for feminine hygiene products near each toilet used by women;

- (f) except for a urinal, is equipped with an individual compartment and a door that can be locked from the inside; and
- (g) is adequately heated, illuminated and ventilated.

**4.8(4)** An employer must not place unreasonable restrictions on a worker's use of or access to toilet facilities at a workplace.

### **Hand washing facilities**

**4.9(1)** An employer may substitute circular wash fountains for washbasins required by section 4.7 on the basis that each 500 mm of the fountain's circumference is equivalent to one washbasin.

**4.9(2)** An employer must ensure that a washbasin

- (a) is located in close proximity to each toilet;
- (b) has a supply of clean hot and cold water;
- (c) is supplied with soap and individual disposable clean towels or other suitable means of cleaning and drying hands; and
- (d) is kept clean, sanitary and operational.

### **Hand cleaning facilities at construction project site**

**4.10** If it is not reasonably practicable to provide washbasins at a construction project site, an employer and prime contractor must ensure that alternative adequate washing facilities are provided, such as waterless hand cleaners, hand sanitizers, clean water, soap and towels or other suitable facilities.

### **Change and washing facilities**

**4.11** If, due to a hazardous substance coming in contact with the worker's skin, a work process may create a risk to a worker's safety or health, an employer must, when reasonably practicable, provide and maintain suitable, adequate and clean change and washing facilities.

### **Thermal stress**

**4.12** When a workplace or work process exposes a worker to conditions that may create a risk to the worker's safety or health because of heat or cold, an employer must implement safe work procedures and control measures to ensure that

- (a) the threshold limit values for thermal stress established by the ACGIH in its publication, *2019 Threshold Limit Values for Chemical Substances and Physical Agents & Biological Exposure Indices*, are followed; and

- (b) the worker is provided with information, instruction and training in the symptoms of thermal stress and the precautions to be taken to avoid injury from thermal stress.

M.R. 128/2019

### **Thermal conditions — indoor workplaces**

- 4.13** Subject to subsection 4.12, an employer must establish and maintain thermal conditions, including air temperature, radiant temperature, humidity and air movement, in an indoor workplace that are appropriate to the nature of the work being done.

### **Lighting**

- 4.14** An employer must ensure that
- (a) a workplace is equipped with
    - (i) sufficient lighting to allow a worker to perform his or her job safely, and
    - (ii) adequate emergency lighting that operates if the regular lighting system fails and provides sufficient lighting to enable workers to do the following:
      - (A) perform necessary emergency shut-down procedures,
      - (B) leave the workplace safely,
      - (C) restore the regular lighting system; and
  - (b) all parts of a workplace where a worker passes have illumination of at least five decalux.

### **Eating prohibited in contaminated area**

- 4.15** An employer must ensure that a worker does not eat or drink in a part of a workplace that is, or may be, contaminated by a hazardous substance.



## **PART 5 FIRST AID**

### **Employer to provide first aid services**

- 5.1(1)** An employer must supply first aid services in the workplace in accordance with this Part.
- 5.1(2)** Subsection (1) does not apply when more than one employer has workers at the same workplace if
- (a) the employers, including the prime contractor at the workplace, agree in writing to collectively provide the first aid services required by this Part; or
  - (b) the director, by written notice, requires that the employers, including the prime contractor at the workplace, collectively provide the first aid services required by this Part.

### **Workers to be advised of location for first aid**

- 5.2** An employer must ensure that a worker is aware of the location at which first aid services are available in the workplace.

### **Ill or injured worker must report**

- 5.3** A worker who becomes ill or is injured at the workplace must, as soon as is reasonably practicable, report to
- (a) the first aid room, when a first aid room is provided at the workplace; or
  - (b) the location identified under section 5.2, when there is no first aid room at the workplace.

### **Assistance**

- 5.4** An employer must ensure a worker who becomes ill or is injured at the workplace receives assistance, as required, from
- (a) a first aider; or
  - (b) a supervisor, if no first aider is required to be present in the workplace.

### **Number of first aiders that must be present**

- 5.5(1)** An employer must ensure that the minimum number of first aiders, as set out in the following tables, are present during working hours at a workplace.

TABLE 1		
	Close Workplace	
Number of workers per shift	Low hazard work	Other work
1-10	—	—
11-40	1 Basic	1 Intermediate
41-100	1 Basic	2 Intermediate
101-199	2 Basic	2 Intermediate
200 or more	3 Basic	3 Intermediate

TABLE 2		
	Distant workplace	
Number of workers per shift	Low hazard work	Other work
1-10	—	1 Basic
11-40	1 Basic	1 Intermediate
41-100	1 Basic	2 Advanced
101-199	2 Basic	2 Advanced
200 or more	3 Basic	3 Advanced

TABLE 3		
	Isolated Workplace	
Number of workers per shift	Low hazard work	Other work
1-10	1 Basic	1 Intermediate
11-40	1 Basic	1 Advanced
41-100	2 Basic	2 Advanced
101-199	2 Basic	3 Advanced
200 or more	3 Basic	4 Advanced

**5.5(2)** In the tables in subsection (1),

- (a) the number of workers per shift is to be determined
  - (i) at a close or distant workplace, on the basis of the number of workers working at the beginning of the shift, and
  - (ii) at an isolated workplace, on the basis of the total number of workers employed at the isolated workplace;

- (b) [repealed] M.R. 159/2018;
- (c) a person is considered to be a **“basic”, “intermediate”** or **“advanced”** first aider if the person holds the applicable valid qualifications as set out in CSA Z1210-17, *First aid training for the workplace — Curriculum and quality management for training agencies* for a basic, intermediate or advanced first aider.

**5.5(3)** A person who possesses one or more credentials in first aid that are, in the opinion of the director, equivalent to the requirements for obtaining a certificate under clause (2)(c), may act, and be counted, as a first aider at a workplace.

**5.5(4)** An employer must

- (a) maintain a list of the name and work location of each first aider; and
- (b) ensure that a copy of the list is
  - (i) provided upon request to a committee member or representative at the workplace, and
  - (ii) posted in a conspicuous location at the workplace.

**5.5(5)** A certificate issued to a basic, intermediate or advanced first aider ceases to be valid on the day that is three years after the day it was issued.

M.R. 159/2018

### **Employer obligations to first aiders**

**5.6(1)** An employer must

- (a) allow a first aider to provide prompt and adequate first aid to an ill or injured worker;
- (b) ensure that the first aider suffers no loss of pay or other benefits as a result of providing the first aid; and
- (c) ensure that a first aider has adequate time off from regular work duties to receive required first aider training, with no loss of pay or other benefits.

**5.6(2)** Clauses (1)(a) and (b) also apply to any other worker who, at the request of a first aider, assists the first aider in providing first aid to an ill or injured worker.

## **Employer to keep record of illness and injury**

- 5.7** An employer must ensure that any illness or injury suffered by a worker in the course of the worker's work is promptly recorded and that the records are retained for five years from the date the record is made.

## **Transportation of seriously ill or injured worker**

- 5.8(1)** An employer must, at his or her expense, ensure that a seriously ill or injured worker is transported to a medical facility.
- 5.8(2)** If a licensed ambulance service is operated from a location within 30 minutes' travel time of a workplace under normal travel conditions, an employer must ensure that a means of communicating with the ambulance service is available at the workplace.
- 5.8(3)** If a licensed ambulance service is not operated from a location within 30 minutes' travel time of a workplace, an employer must provide for a means of transporting an ill or injured worker that is
- (a) readily available at the times work is performed at the workplace; and
  - (b) capable of accommodating an occupied stretcher, if a workplace is a distant or isolated workplace.

## **Appropriate first aid for occupational hazard**

- 5.9** When a workplace has an occupational hazard that creates a risk that is not adequately addressed by the first aid services required under this Part, the employer must
- (a) consult, in order to determine the appropriate first aid service required, with
    - (i) the committee or representative or, where there is no committee or representative, the workers at the workplace, and
    - (ii) any safety and health professional employed by the employer; and
  - (b) provide the additional first aid services that are determined to be appropriate.

## **Contamination by blood or bodily fluids**

- 5.10** An employer must ensure that anything in the workplace that has been contaminated by blood or bodily fluids is disposed of or cleaned by a competent person in a manner that prevents a worker from being exposed to the blood or bodily fluids.

## **Asphyxia or poisoning**

- 5.11** If a worker at a workplace is at risk of asphyxiation or poisoning, an employer must ensure that, so far as is reasonably practicable, arrangements are made to immediately provide first aid, medical attention and other measures appropriate to the nature and probable effects of a worker being asphyxiated or poisoned.

### **FIRST AID KITS AND FIRST AID ROOM**

#### **First aid kits required**

- 5.12(1)** An employer must provide and keep readily accessible the type, size, and number of first aid kits meeting the requirements set out in CSA Z1220-17, *First aid kits for the workplace*.
- 5.12(2)** In respect of the number of first aid kits that must be provided under subsection (1), a vehicle, boat or aircraft used by an employer to transport one or more workers is deemed to be a workplace, and the number of workers employed at that workplace is deemed to equal the seating capacity of the vehicle, boat or aircraft.
- 5.12(3)** [Repealed]

M.R. 159/2018

#### **Transition for first aid kits**

- 5.12.1** During the 12 months immediately following the coming into force of this section, an employer who is in compliance with subsection 5.12(1) or section 5.13, as those provisions read immediately before the coming into force of this section, is deemed to be in compliance with the requirements for first aid kits under section 5.12.

M.R. 159/2018

- 5.13** [Repealed] M.R. 159/2018

M.R. 159/2018

#### **When employer must provide first aid room**

- 5.14** An employer must provide a first aid room at
- (a) a workplace at which 100 or more workers per shift are employed to perform work that is not low hazard work; and
  - (b) a construction camp or industrial camp at which 100 or more workers reside together, if no first aid room is provided at the workplace and the camp is
    - (i) provided by the employer as a residence to be used only by the workers,

- (ii) separate from the workplace, and
- (iii) not a hotel, motel or other similar accommodation.

### **Requirements for first aid room**

#### **5.15(1) Every first aid room must**

- (a) be located in an area that is
  - (i) easily accessible to workers at all times, and
  - (ii) near both the work area it is to serve and toilet facilities;
- (b) have adequate lighting, ventilation and heating, and be covered by a floor made of non-porous material;
- (c) be of an adequate size to accommodate a stretcher;
- (d) be equipped with
  - (i) instructions on how and where to access a first aider,
  - (ii) a communication system capable of communicating with the medical facility to which an injured worker would be transported,
  - (iii) a permanently installed sink with hot and cold potable running water,
  - (iv) a cot or bed with a moisture-protected mattress and two pillows, and
  - (v) the items set out in Schedule C to this Part.

#### **5.15(2) An employer must ensure that a first aid room**

- (a) is clearly identified as a first aid room;
- (b) is used exclusively for the purposes of administering first aid and medical examinations and to provide rest for persons who are ill or injured;
- (c) during working hours, is supervised by a first aider who is readily available to provide first aid; and
- (d) is kept clean and sanitary.

## DIRECTOR'S POWERS

### **Additional first aid services**

- 5.16(1)** If the director is of the opinion that the first aid services required to be provided under this Part are inadequate given the particular risks associated with a workplace, the director may, by written notice, specify additional first aid services to be provided by the employer.
- 5.16(2)** An employer must forthwith provide the additional first aid services specified in a notice under subsection (1).

### **Alternative first aid services**

- 5.17** If the director is of the opinion that the first aid services required to be provided under this Part are not warranted given the particular risks associated with a workplace, the director may, by written notice, vary the requirements of the first aid services to be provided by the employer.

### **Manner of giving notice**

- 5.18** A notice under this Part may be communicated to the employer by
- (a) delivering it to the employer; or
  - (b) by sending it by prepaid mail addressed to the employer, at the address of the employer last known to the director.

### **Publication of first aid training providers**

- 5.19** The director may, in a manner he or she determines, publish the name and other relevant information of a person, society or organization that provides a training course in first aid or cardiopulmonary resuscitation, or both, that is consistent with the requirements of first aider training set out in this Part.

M.R. 159/2018

SCHEDULES A and B  
[Repealed]

M.R. 159/2018

SCHEDULE C  
FIRST AID ROOM

**Contents**

- 1** Every first aid room must contain the following items:
- (a) a first aid record book;
  - (b) a space blanket;
  - (c) hot and cold packs;
  - (d) a spine board and straps;
  - (e) an adjustable cervical collar or set of different sized cervical collars;
  - (f) a stretcher;
  - (g) a splint set;
  - (h) a sphygmomanometer (blood pressure cuff);
  - (i) a stethoscope;
  - (j) a thermometer;
  - (k) dressing forceps;
  - (l) tongue depressors;
  - (m) paper towels;
  - (n) single use, sanitary drinking cups;
  - (o) a flashlight;
  - (p) two washbasins, preferably stainless steel;
  - (q) one kidney basin;
  - (r) one instrument sterilizer;
  - (s) one cabinet for dressings;
  - (t) one magnifying loop with built-in lamp;
  - (u) one sanitary receptacle with lid and disposable plastic liners;
  - (v) hospital grade disinfectant;
  - (w) the contents of the first aid kits required under subsection 5.12(1).

M.R. 159/2018



## **PART 6 PERSONAL PROTECTIVE EQUIPMENT**

### **GENERAL**

#### **Personal protective equipment required**

- 6.1** An employer must ensure that a worker wears and uses personal protective equipment at the following times:
- (a) when required to do so under subsection 2.1(3);
  - (b) in any of the circumstances described in sections 6.7 to 6.18;
  - (c) in the event of an emergency in the workplace, including a spill or discharge of a hazardous substance.

M.R. 147/2010

#### **Safe work procedures**

- 6.2(1)** An employer must
- (a) develop and implement safe work procedures for the use of personal protective equipment in the workplace;
  - (b) train workers in those safe work procedures; and
  - (c) ensure that workers comply with those safe work procedures.
- 6.2(2)** If the manufacturer of personal protective equipment has established safe work procedures for the equipment's use, an employer must ensure that the safe work procedures developed and implemented under clause (1)(a) are not inconsistent with those established by the manufacturer.

#### **Employer obligations re protective equipment**

- 6.3** If personal protective equipment is required to be worn or used in the workplace, an employer must
- (a) provide a worker, at no cost, the equipment appropriate for the risks associated with the workplace and the work;
  - (b) ensure that the equipment is
    - (i) stored in a location that is clean, secure, and readily accessible by the worker,
    - (ii) immediately repaired or replaced if it is defective, and

- (iii) immediately replaced with clean or decontaminated equipment if it is rendered ineffective because of contamination with a hazardous substance; and
- (c) make, so far as is reasonably practicable, appropriate adjustments to the work procedures and rate of work to eliminate or reduce any risk to the safety or health of a worker that may arise from the worker's use of the equipment.

### **Employer obligations re equipment provided**

**6.4** An employer must ensure that

- (a) before providing personal protective equipment to a worker, the equipment is fit for its purpose, as determined by the employer inspecting it and testing it or carrying out any pre-use procedure in accordance with the manufacturer's specifications;
- (b) the equipment provided fits the worker correctly and can be used by the worker without an adverse effect to the worker's safety or health from the use of the equipment; and
- (c) the worker is informed of and understands the safety or health risk for which the equipment is designed and the limitations, if any, in the protection it provides.

### **Worker obligations re equipment**

**6.5(1)** A worker who is provided with personal protective equipment must

- (a) wear or use it in accordance with the manufacturer's specifications;
- (b) take reasonable steps to prevent damage to it; and
- (c) inform the employer if it becomes defective or fails to provide the protection that it was intended to provide.

**6.5(2)** Subsection (1), except clause (c), applies in respect of protective headwear and footwear that a worker is required to provide for himself or herself under subsections 6.11(1) and 6.12(2).

### **Obligations when worker provides personal protective equipment**

**6.6** When a worker is required to provide protective headwear or protective footwear for himself or herself,

- (a) an employer has no obligations under clause 6.3(a), subclauses 6.3(b)(i) and (ii) and section 6.10 in respect of that equipment, but must ensure that the equipment provided by the worker meets, and is used in accordance with, the requirements of this Part; and

- (b) the worker must ensure that he or she takes reasonable steps to prevent damage to the equipment and that it
  - (i) meets and is used in accordance with the manufacturer's specifications and the requirements of this Part,
  - (ii) is immediately repaired or replaced if it is defective, and
  - (iii) is immediately replaced with clean or decontaminated equipment, if it is rendered ineffective because of contamination by a hazardous substance.

## SPECIFIC TYPES OF PERSONAL PROTECTIVE EQUIPMENT

### High visibility safety apparel

- 6.7(1)** An employer must provide to a worker high visibility safety apparel appropriate for the risk when a worker is
- (a) exposed to the risk of injury from a moving vehicle or mobile equipment, or
  - (b) not visible to other persons because of environmental or other conditions in the workplace or at the worksite.
- 6.7(2)** The high visibility safety apparel provided under subsection (1) must meet the specifications for design and performance of CAN/CSA-Z96-02, *High Visibility Safety Apparel* and be selected, use and maintained in accordance with CSA Z96.1, *Guideline on Selection, Use and Care of High Visibility Safety Apparel*.

M.R. 159/2018

### Skin protection

- 6.8(1)** If there is a risk of injury to a worker's skin from sparks, molten metal or ionizing or non-ionizing radiation, an employer must provide personal protective equipment that
- (a) meets the requirements of CAN/CSA W117.2-12 (R2017), *Safety in Welding, Cutting and Allied Processes*; and
  - (b) is appropriate for the risk;
- or a safeguard that provides equivalent protection.
- 6.8(2)** An employer must provide personal protective equipment that is appropriate for the risk if there is a risk of injury to a worker's skin from radiant heat or a sharp or jagged object which may puncture or abrade the skin.

M.R. 128/2019

## Protective clothing

- 6.9(1)** If a work process may create a risk to the safety or health of a worker from contamination of the worker's skin or clothing by a hazardous substance, an employer must
- (a) provide the worker with protective clothing appropriate for the risk; and
  - (b) launder or dispose of the protective clothing on a regular basis.
- 6.9(2)** If an employer is required to provide protective clothing under subsection (1), the employer must provide a place to store the worker's street clothing that is separate from the place where the worker's personal protective clothing is stored.

## Protective headwear — workplaces that are not construction project sites

- 6.10(1)** At a workplace that is not a construction project site, an employer must provide a worker with protective headwear that is appropriate for the risk and meets the requirements of CSA Z94.1-15, *Industrial Protective Headwear — Performance, Selection, Care and Use* or ANSI Z89.1-2003, *American National Standard for Industrial Head Protection*, if there is a risk of injury
- (a) to the worker's head, including a significant possibility of lateral impact to the worker's head; or
  - (b) to the worker from contact with an exposed energized electrical conductor.
- 6.10(2)** An employer required to provide a worker with protective headwear must also provide a worker with
- (a) a liner for that headwear, if it is necessary to protect the worker from cold conditions; and
  - (b) a retention system to secure the protective headwear firmly to the worker's head, if the worker is likely to work in conditions that may cause the headwear to dislodge.
- 6.10(3)** Instead of complying with subsection (1), an employer may provide to the worker a bump hat or other protective headwear appropriate for the risk, if the risk of injury to a worker's head is limited to injury to the worker's scalp.

M.R. 147/2010; 128/2019

## Protective headwear — construction project site

- 6.11(1)** A worker at a construction project site must wear protective headwear that meets the requirements of CSA Standard Z94.1-05,

*Industrial Protective Headwear — Performance, Selection, Care and Use or ANSI/ISEA Z89.1-2014 (R2019), American National Standard for Industrial Head Protection.*

- 6.11(2)** A worker is responsible for providing the protective headwear he or she is required to wear under subsection (1) and, if necessary, is also responsible for providing
- (a) a liner for the headwear to protect the worker from cold conditions; and
  - (b) a retention system to secure the headwear firmly to the worker's head, where the worker works in conditions that may cause the headwear to dislodge.

M.R. 147/2010; 128/2019

**Footwear: responsibilities of employers and workers**

- 6.12(1)** An employer must provide a worker with
- (a) outer foot guards that provide metatarsal protection, when there is substantial risk of a crushing injury to the worker's foot; and
  - (b) protective footwear, when the worker's feet may be endangered by a hot, corrosive or toxic substance.
- 6.12(2)** Subject to subsection (1), a worker is responsible for providing for himself or herself protective footwear that
- (a) is appropriate for the risk associated with the worker's workplace and work; and
  - (b) meets the requirements of
    - (i) CSA Z195.1-16, *Guideline for selection, care, and use of protective footwear*, or
    - (ii) CSA Z195:14 (R2019), *Protective Footwear*,if the worker may be at risk of injury from a heavy or falling object or from treading on a sharp object.
- 6.12(3)** Despite subsection (2), an employer may permit, with appropriate conditions and after consulting with the committee, the representative or, where there is no committee or representative, the workers, a worker to use soft-soled, slip resistant protective footwear without puncture-proof plates in the soles and toecaps provided by the worker, if the worker is
- (a) a steel erector engaged in the connection of structural components of a skeletal structure; or

- (b) engaged in the installation of roof finishing materials.

M.R. 128/2019

### **Eye and face protectors**

- 6.13(1)** An employer must provide a worker an eye or face protector that meets the requirements of CSA Z94.3-15, *Eye and Face Protectors* and CSA Z94.3.1-16, *Guideline for selection, use, and care of eye and face protectors*, and that is appropriate for the risk, if there is a risk of irritation or injury to the worker's face or eyes from
- (a) flying objects or particles;
  - (b) splashing liquids or molten metal;
  - (c) ultraviolet, visible or infrared radiation; or
  - (d) any other material, substance or matter.
- 6.13(2)** For certainty, prescription lenses or prescription eyewear are not included as eye protectors under this section.

M.R. 128/2019

### **Hand, arm, leg and body protection**

- 6.14(1)** An employer must provide a worker with hand, arm, leg or body protective equipment that is appropriate for the risk and to the workplace if there is a risk of injury to the worker's hands, arms, legs or torso.
- 6.14(2)** Without limiting subsection (1), an employer must provide a worker with appropriate gloves or mitts and sleeves if there is a risk of injury to the worker from contact with an exposed energized electrical conductor.

### **Respiratory protective equipment**

- 6.15(1)** An employer must ensure that respiratory protective equipment provided to a worker is selected, used and maintained in accordance with CAN/CSA-Z94.4-11, *Selection, Use, and Care of Respirators*.
- 6.15(2)** An employer must ensure that a worker using the respiratory protective equipment
- (a) is adequately trained by a competent person in the proper fit, testing, maintenance, use and cleaning of the equipment and in its limitations;
  - (b) is able to test, maintain and clean the equipment;
  - (c) is able to use the equipment safely; and

- (d) inspects and tests the equipment before each use.

M.R. 128/2019

### **Atmosphere-supplying respirators**

- 6.15.1** An employer must ensure that air in an atmosphere-supplying respirator that is provided to a worker meets the purity requirements set out in CAN/CSA Standard-Z180.1-13, *Compressed Breathing Air and Systems*.

M.R. 159/2018

### **Working in dangerous atmospheres**

- 6.16(1)** An employer must provide a worker who is required to enter an atmosphere that is immediately dangerous to his or her safety or health with one of the following atmosphere-supplying respirators:

- (a) an open-circuit SCBA, which
  - (i) is sufficiently charged to enable the worker to perform the work safely,
  - (ii) operates in a pressure demand or positive pressure mode, and
  - (iii) has a minimum rated capacity of 30 minutes;
- (b) an airline respirator equipped with a full face piece that
  - (i) operates in a pressure demand or positive pressure mode, and
  - (ii) has an auxiliary supply of air that is carried on the person or within arm's reach that is sufficient to allow the worker to escape in case of failure of the primary air supply equipment;
- (c) a closed-circuit SCBA.

- 6.16(2)** [Repealed] M.R. 159/2018

M.R. 159/2018

### **Flotation devices**

- 6.17(1)** When a worker is required to work at a place from which the worker could drown, an employer must
- (a) ensure that the worker is provided with an appropriate life jacket or personal flotation device suitable to the workplace situation;

- (b) ensure that the worker wears the jacket or device at all times while working, except where
  - (i) there are other sufficient measures in place to protect a worker from the risk of drowning, or
  - (ii) the personal flotation device or life jacket would be ineffective or unreasonable;
- (c) ensure that, when a worker is permitted to not wear a life jacket or personal flotation device under clause (b), the jacket or device is kept within immediate reach of the worker;
- (d) ensure the worker is provided with and wears appropriate personal protective equipment suitable to the workplace situation which protect the worker from hypothermia if rescue or removal from cold or icy water may not be achieved immediately;
- (e) ensure that the following rescue equipment is readily available:
  - i) a buoyant apparatus attached to a nylon rope, where the rope is not less than 9 mm in diameter and not less than 15 m in length,
  - (ii) a notification or signalling device,
  - (iii) an appropriately powered boat equipped with a boathook, in the case of work performed in, on or above a navigable body of water; and
- (f) ensure that a sufficient number of properly equipped and trained rescue personnel are readily available to undertake a rescue in the event one is required.

**6.17(2)** Clauses (1)(e) and (f) do not apply where workers are working on a boat.

**6.17(3)** Repealed] M.R. 159/2018

**6.17(4)** Clause (1)(d) applies in respect of a worker who is required or permitted to work on ice.

**6.17(5)** [Repealed] M.R. 159/2018

#### **Definition: "ice"**

**6.17(6)** In subsection (4), "ice" means ice that is

- (a) over water, where the water is more than one metre deep; or



- (b) over any other material into which a worker could sink more than one metre.

M.R. 147/2010; 159/2018

### **All-terrain vehicles and snowmobiles**

- 6.18(1)** An employer must ensure that a worker who is required or permitted to travel in or on the following is provided with protective headwear, including, where required, a liner, cold weather face guard and an eye protector for working in cold conditions:
- (a) an all-terrain vehicle or a snowmobile, as defined in *The Off-Road Vehicles Act*;
  - (b) a towed conveyance, being a sled, cutter, trailer, toboggan or carrier that may be towed by a snowmobile or an all-terrain vehicle.
- 6.18(2)** Subsection (1) does not apply where the all-terrain vehicle is equipped with roll-over protective structures and enclosed by a cab that is an integral part of the vehicle.

## PART 7

### STORAGE OF MATERIALS, EQUIPMENT, MACHINES AND TOOLS

#### General requirement re storage

- 7.1** An employer must ensure that all workplace materials, equipment, machines and tools are stored in a manner that does not create a risk to the safety or health of a worker or affect the safe operation of the workplace.

#### Safe loading conditions — permanent or temporary building or structure

- 7.2(1)** An employer must ensure that the safe loading conditions for a permanent or temporary building or structure, as specified in the *Manitoba Building Code* or the design specifications of a professional engineer, are not exceeded
- (a) during its construction; or
  - (b) when it is used to store materials, equipment, machines or tools.

- 7.2(2)** If it appears that the loading conditions specified in subsection (1) may be exceeded when the use of a building or structure is changed, the employer must ensure that the loading conditions respecting the changed use are certified in advance of the change in use as being safe by a professional engineer.

#### Storage beneath electrical lines

- 7.3** An employer must obtain the written approval of the electrical authority having jurisdiction before storing machinery, materials or equipment beneath an outdoor overhead electrical line.

#### Design of racking

- 7.4(1)** An employer must ensure that all racks and frames used to store materials, equipment, machines or tools are
- (a) designed, constructed and maintained to support the load placed on them; and
  - (b) placed on firm foundations that can support the load.
- 7.4(2)** An employer must ensure that commercially manufactured racks and frames are installed, used and maintained in accordance with the manufacturer's specifications.
- 7.4(3)** An employer must ensure that racks that exceed a 3:1 height-to-depth ratio are suitably anchored, externally braced or properly secured to a building or structure.

- 7.4(4)** An employer must ensure that all racks and frames used outdoors to store materials, equipment, machines or tools are designed, constructed and maintained to support loads placed on them by wind, wind gusts and other environmental conditions.

**Risks re powered mobile equipment**

- 7.5** When there is a risk that powered mobile equipment may collide with a rack column, an employer must provide
- (a) a post or guardrail connected to the floor around the exposed column that is capable of absorbing the impact of the powered mobile equipment; or
  - (b) a suitable means of reinforcing the exposed column by a device secured to the column.

**Stacking material, including brick, steel and bags**

- 7.6** An employer must ensure that
- (a) materials are stored on level and stable platforms and are not piled to a height that could endanger the stability of the pile;
  - (b) without limiting clause (a),
    - (i) bricks or other masonry building materials are not piled more than 2 m high, unless the pile is tapered back to one-half block per tier above the two metre level,
    - (ii) structural steel material, including poles, pipe, or bar stock, are stacked in racks or frames, or otherwise suitably restrained to prevent movement, and
    - (iii) bagged or loose materials are supported to prevent movement; and
  - (c) if materials are stored outdoors, the effect of wind, wind gusts and other environmental conditions are considered when determining the manner of stacking and storing the material.

## **PART 8**

### **MUSCULOSKELETAL INJURIES**

#### **Risk assessment**

- 8.1(1)** When an employer is aware, or ought reasonably to have been aware, or has been advised, that a work activity creates a risk of musculoskeletal injury, the employer must
- (a) ensure that the risk is assessed by a competent person; and
  - (b) on the basis of the assessment, implement control measures to eliminate or reduce, so far as is reasonably practicable, the risk of musculoskeletal injury to the worker.
- 8.1(2)** The control measures may include one or more of the following:
- (a) providing, positioning and maintaining equipment that is designed and constructed to reduce or eliminate the risk of musculoskeletal injury;
  - (b) developing and implementing safe work procedures to eliminate or reduce the risk of musculoskeletal injuries;
  - (c) implementing work schedules that incorporate rest and recovery periods, changes to workload or other arrangements for alternating work;
  - (d) providing personal protective equipment in accordance with Part 6 (Personal Protective Equipment).
- 8.1(3)** An employer must
- (a) monitor the effectiveness of any control measure implemented to eliminate or reduce the risk of musculoskeletal injury; and
  - (b) where the monitoring identifies that a risk of musculoskeletal injury is not being or has not been eliminated or reduced, implement further control measures, where it is reasonably practicable to do so.

M.R. 128/2019

#### **Duty to inform workers**

- 8.2** An employer must ensure that every worker who may be exposed to a risk of musculoskeletal injury
- (a) is informed of the risk and of the signs and common symptoms of any musculoskeletal injury associated with the worker's work; and

- (b) receives instruction and training respecting any control measure implemented by the employer.

## **PART 9 WORKING ALONE OR IN ISOLATION**

### **Application**

- 9.1** This Part applies to every workplace where a worker works alone or works in isolation.

### **Risk identification**

- 9.2(1)** When a worker works alone or works in isolation, an employer must identify the risks arising from the conditions and circumstances of the worker's work in consultation with
- (a) the committee at the workplace;
  - (b) the representative at the workplace; or
  - (c) when there is no committee or representative, the workers at the workplace.
- 9.2(2)** An employer must, so far as is reasonably practicable, take steps to eliminate or reduce the identified risks to workers working alone or working in isolation.

### **Safe work procedures**

- 9.3(1)** An employer must
- (a) develop and implement safe work procedures to eliminate or reduce the identified risks to workers working alone or working in isolation;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.
- 9.3(2)** The safe work procedures must include
- (a) the establishment of an effective communication system that consists of
    - (i) radio communication,
    - (ii) telephone or cellular phone communication, or
    - (iii) any other means that provides effective communication given the risks involved;

- (b) any of the following:
  - (i) a system of regular contact by the employer with the worker working alone or in isolation,
  - (ii) limitations on or prohibitions of specified activities,
  - (iii) the establishment of training requirements; and
- (c) where applicable, the provision of emergency supplies for use in travelling or working under conditions of extreme cold or other inclement weather conditions.

**9.3(3)** An employer must post a copy of the safe work procedures in a conspicuous place at the workplace.

**9.3(4)** An employer must review and revise the procedures not less than every three years or sooner if circumstances at a workplace change in a way that poses a risk to the safety or health of a worker working alone or in isolation.

## **PART 10 HARASSMENT**

### **Harassment prevention policy**

- 10.1(1)** An employer must
- (a) develop and implement a written policy to prevent harassment in the workplace; and
  - (b) ensure that workers comply with the harassment prevention policy.
- 10.1(2)** The harassment prevention policy must be developed in consultation with
- (a) the committee at the workplace;
  - (b) the representative at the workplace; or
  - (c) when there is no committee or representative, the workers at the workplace.

### **Required statements**

- 10.2(1)** The harassment prevention policy must include the following statements:
- (a) every worker is entitled to work free of harassment;
  - (b) the employer must ensure, so far as is reasonably practicable, that no worker is subjected to harassment in the workplace;
  - (c) the employer will take corrective action respecting any person under the employer's direction who subjects a worker to harassment;
  - (d) the employer will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is
    - (i) necessary to investigate the complaint or take corrective action with respect to the complaint, or
    - (ii) required by law;
  - (e) a worker has the right to file a complaint with the Manitoba Human Rights Commission;



- (f) the employer's harassment prevention policy is not intended to discourage or prevent the complainant from exercising any other legal rights pursuant to any other law.

**10.2(2)** The harassment prevention policy must provide information on the following procedures under the policy:

- (a) how to make a harassment complaint;
- (b) how a harassment complaint will be investigated;
- (c) how the complainant and alleged harasser will be informed of the results of the investigation.

### **Posting policy**

**10.3** An employer must post a copy of the harassment prevention policy in a conspicuous place at the workplace.

## PART 11 VIOLENCE IN THE WORKPLACE

### Application

- 11.1** A workplace is subject to this Part if
- (a) the workplace is used to provide healthcare services, which for certainty includes the workplaces described in section 11.8;
  - (b) the workplace is used to provide the following services:
    - (i) pharmaceutical-dispensing services,
    - (ii) education services,
    - (iii) financial services,
    - (iv) police, corrections or other law enforcement services,
    - (v) security services,
    - (vi) crisis counselling and intervention services,
    - (vii) public transportation, if the workplace is a taxi cab or a transit bus;
  - (c) the workplace is open to the public for the purpose of retail sales between the hours of 11:00 p.m. and 6:00 a.m.;
  - (d) the workplace is a licensed premises within the meaning of *The Liquor, Gaming and Cannabis Control Act*; or
  - (e) the workplace is made subject to this Part as the result of an assessment done under section 11.2.

M.R. 107/2011; 128/2019

### Employer must assess risk of violence

- 11.2** An employer at a workplace that is not described in clauses 11.1(a) to (d) must assess the risk of violence to a worker at the workplace. The assessment must be carried out in consultation with
- (a) the committee at the workplace;
  - (b) the representative at the workplace; or
  - (c) when there is no committee or representative, the workers at the workplace.

A workplace is subject to this Part if a risk of violence to a worker is identified as a result of the assessment.

M.R. 107/2011

### **Violence prevention policy**

- 11.3(1)** For a workplace that is subject to this Part, the employer must
- (a) develop and implement a violence prevention policy at the workplace;
  - (b) train workers in the violence prevention policy; and
  - (c) ensure that workers comply with the violence prevention policy.
- 11.3(2)** The violence prevention policy must be developed in consultation with
- (a) the committee at the workplace;
  - (b) the representative at the workplace; or
  - (c) when there is no committee or representative, the workers at the workplace.

M.R. 107/2011

### **Content of violence prevention policy**

- 11.4** A violence prevention policy must set out the actions and measures the employer will take to eliminate the risk of violence to a worker or to control that risk if it is not reasonably practicable to eliminate it. Without limitation, the violence prevention policy must include
- (a) a description of
    - (i) any particular worksite at the workplace where an incident of violence has occurred or may reasonably be expected to occur, and
    - (ii) any particular job functions at the workplace where the worker performing the function has been, or may reasonably be expected to be, exposed to incidents of violence;
  - (b) the measures that the employer must implement to eliminate the risk of violence to a worker at the workplace, or to control that risk if it is not reasonably practicable to eliminate it;
  - (c) the measures and procedures that the employer has in place for summoning immediate assistance when an incident of violence occurs or is likely to occur;

- (d) the procedure a worker is to follow in reporting an incident of violence to the employer, including how and when an incident is to be reported;
- (e) the procedure the employer will follow to document and investigate any incident of violence to a worker that the employer becomes aware of;
- (f) the procedure the employer will follow to implement any control measures identified as a result of the investigation that will eliminate or control the risk of violence to a worker;
- (g) a recommendation that a worker who has been harmed as a result of an incident of violence at the workplace is advised to consult the worker's health care provider for treatment or referral for post-incident counselling, if appropriate;
- (h) in respect of an incidence of violence, a statement that the employer must not disclose the name of a complainant or the circumstances related to the complaint to any person, other than where the disclosure is
  - (i) necessary in order to investigate the complaint,
  - (ii) required in order to take corrective action in response to the complaint, or
  - (iii) required by law;
- (i) a statement that the personal information that is disclosed under clause (h) in respect of an incidence of violence must be the minimum amount necessary for the purpose; and
- (j) a statement that the violence prevention policy is not intended to discourage or prevent a complainant from exercising any other rights, actions or remedies that may be available to him or her under any other law.

M.R. 107/2011

## **Policy and information to be given to workers**

**11.5(1)** If a workplace is subject to this Part, the employer must

- (a) post a copy of the violence prevention policy in a conspicuous place at the workplace or, if posting is not practicable, provide a copy of the violence prevention policy to each worker; and
- (b) inform each of worker about the nature and extent of the risk of violence to a worker in the workplace.

- 11.5(2)** Unless otherwise prohibited by law, the duty to inform a worker about the risk of violence under clause (1)(b) includes a duty to provide any information in the employer's possession, including personal information, 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.
- 11.5(3)** The personal information provided under clause (1)(b) must be the minimum amount necessary to accomplish the purpose.

M.R. 107/2011

### **Employer's obligation to investigate and implement control measures**

- 11.6** As soon as reasonably practicable after an incident of violence to a worker, the employer must
- (a) investigate the incident; and
  - (b) implement any control measure that is identified as a result of the investigation that will eliminate or control the risk of violence to a worker.

M.R. 107/2011

### **Annual report on violent incidents**

- 11.7(1)** Annually, the employer must prepare a report that compiles
- (a) the records of the incidents of violence to a worker in the workplace, if any;
  - (b) the results of any investigation into an incident of violence, including a copy of
    - (i) any recommendations for control measures or changes to the violence prevention policy, and
    - (ii) any report prepared under section 2.9 in respect of such an incident; and
  - (c) the control measures, if any, implemented as a result of an investigation into an incident.
- 11.7(2)** The annual report respecting violence in the workplace must be provided to
- (a) the committee at the workplace;
  - (b) the representative at the workplace; and
  - (c) when there is no committee or representative, the workers at the workplace.

**Workplaces used to provide healthcare services**

- 11.8** Without limiting clause 11.1(a), healthcare services are provided from the following workplaces:
- (a) an institution or other facility designated as a hospital by regulation under *The Health Services Insurance Act*;
  - (b) a personal care home as defined in *The Health Services Insurance Act*;
  - (c) a psychiatric facility designated as a facility by regulation under *The Mental Health Act*;
  - (d) a medical clinic;
  - (e) a community health centre;
  - (f) a physician's office;
  - (g) an ambulance as defined in *The Emergency Medical Response and Stretcher Transportation Act*;
  - (h) a residential care facility for children, youth or adults;
  - (i) a place where home care services are provided;
  - (j) any other workplace where physical or mental health treatment or care is provided to a person, other than a place where first aid services are provided to employees in accordance with Part 5 (First Aid).

## PART 12

### HEARING CONSERVATION AND NOISE CONTROL

#### Sound control design

- 12.1** An employer must ensure that a new workplace, a significant physical alteration, renovation or repair to an existing workplace or a work process or any significant equipment that is introduced to the workplace is designed and constructed so that the continuous noise level generated
- (a) is not more than 85 dBA; or
  - (b) is as low as is reasonably practicable, where it is not reasonably practicable to meet the standard under clause (a).

#### Noise exposure assessed and reported

- 12.2** An employer must conduct a noise exposure assessment at the workplace in accordance with CAN/CSA Z107.56-13, *Measurement of noise exposure*, and prepare and post in a conspicuous place in the workplace a written report of the assessment, if
- (a) a worker is or is likely to be exposed to noise at a workplace in excess of 80 dBA;
  - (b) there is
    - (i) an alteration, renovation or repair of the workplace,
    - (ii) new equipment introduced in the workplace, or
    - (iii) a modification done to a work process, that may result in a significant change in a worker's exposure to noise; or
  - (c) a worker provides the employer with evidence of an occupationally induced hearing loss.

M.R. 128/2019

#### Hearing protection

- 12.3** If a worker is or is likely to be exposed to noise in a workplace that exceeds 80 dBA Lex but does not exceed 85 dBA Lex, the employer must
- (a) inform a worker about the hazards of the level of noise; and
  - (b) on the request of the worker, provide him or her with a hearing protector that performs and is selected, used and maintained in accordance with the care and use requirements of CAN/CSA

### **Control measures if exposure exceeds 85 dBA Lex**

- 12.4(1)** When a noise exposure assessment conducted under this Part indicates a worker is exposed to noise in the workplace that is more than 85 dBA Lex, and if reasonably practicable, an employer must implement sound control measures that reduce the noise to which the worker is exposed to 85 dBA Lex or less.
- 12.4(2)** When it is not reasonably practicable to implement sound control measures, or the sound control measures implemented by an employer do not reduce the worker's noise exposure to 85 dBA Lex or less, an employer must
- (a) inform the worker about the hazards of the level of noise;
  - (b) provide the worker with
    - (i) a hearing protector that
      - (A) performs and is selected, used and maintained in accordance with requirements of CAN/CSA Z94.2-14, *Hearing Protection Devices — Performance, Selection, Care and Use*, and
      - (B) reduces the worker's noise exposure to 85 dBA Lex or less,
    - (ii) training on the performance, care and use of the hearing protector in accordance with the requirements of CAN/CSA Z94.2-14, *Hearing Protection Devices - Performance, Selection, Care and Use*;
  - (c) at the employer's expense, provide the worker with the following audiometric tests:
    - (i) an initial baseline test as soon as is reasonably practicable but not later than six months after the worker is initially exposed to that noise level,
    - (ii) a further test at least once every two years after the initial baseline test.
- 12.4(3)** In order to ensure the tests and reports required under this Part are completed, an employer obligated to provide audiometric testing must, at the employer's expense, engage a physician or audiologist.



- 12.4(4)** Only a physician, an audiologist or an industrial audiometric technician engaged by the employer may perform the audiometric testing described in clause (2)(c).

M.R. 159/2018; 128/2019

### Testing and results

- 12.5(1)** An audiometric test required under clause 12.4(2)(c) must be conducted
- (a) using an audiometer that
    - (i) meets the requirements of CAN/CSA CAN3-Z107.4-M86 (R2001), *Pure Tone Air Conduction Audiometers for Hearing Conservation and for Screening*, and
    - (ii) provides pure tones of selected frequencies at calibrated outputs and is used to measure pure tone air conduction hearing threshold levels; and
  - (b) in a location where the octave band sound pressure level is not more than the octave band sound pressure level indicated in Column 1 of the following table for each octave band centre frequency set out in Column 2.

Column 1 Octave Band Sound Pressure Level (Decibels)	Column 2 Octave Band Center Frequency (Hz)
30	500
30	1000
35	2000
42	4000
45	8000

- 12.5(2)** An industrial audiometric technician, physician or audiologist administering an audiometric test must
- (a) comply with the requirements of subsection (1);
  - (b) record the results of the test;
  - (c) retain a copy of the test record for a period of at least 10 years from the date of the test; and
  - (d) provide a copy of the test results to the worker.

- 12.5(3)** If the results of an audiometric test indicate an abnormal audiogram or show an abnormal shift, the industrial audiometric technician, physician or audiologist administering the test must
- (a) advise the worker of the test results;
  - (b) request that the worker provide a relevant medical history; and
  - (c) if he or she is not the physician or audiologist engaged by the employer under subsection 12.4(3), forward the results, the relevant medical history and a baseline audiogram to that physician or audiologist.
- 12.5(4)** Every worker must provide a relevant medical history if requested to do so under clause (3)(b).
- 12.5(5)** When a physician or audiologist engaged by an employer receives results of an audiometric test that indicate an abnormal audiogram or show an abnormal shift, the physician or audiologist must
- (a) review the test results, the worker's medical history and the baseline audiogram;
  - (b) prepare a written report setting out
    - (i) his or her interpretation of the results, including his or her opinion as to whether the abnormal audiogram or abnormal shift is a result of exposure to noise at the workplace, and
    - (ii) any recommendations with respect to actions to be taken by the employer to conserve the worker's hearing; and
  - (c) provide a copy of the report to the employer and the worker.
- 12.5(6)** The physician or audiologist who prepares the report under subsection (5) must retain the test record and the report for a period of at least 10 years from the date the report is prepared.

## **Report**

- 12.6(1)** An employer who is required to provide audiometric testing must ensure that a written report is prepared at least once every two years that sets out a detailed account of the steps taken by the employer to comply with the requirements of this Part.
- 12.6(2)** A report prepared under subsection (1) must include
- (a) the sound control measures taken at the workplace; and
  - (b) statistics in respect of the number of workers

- (i) who received audiometric testing under clause 12.4(2)(c),
- (ii) who experienced an abnormal audiogram or an abnormal shift, and
- (iii) whose abnormal audiogram and abnormal shift was, in the opinion of the physician or audiologist who reviewed the test results, a result of exposure to noise at the workplace.

**12.6(3)** Within 30 days after having the report prepared, an employer must provide a copy of it to

- (a) the physician or audiologist engaged by the employer under subsection 12.4(3);
- (b) the committee or, if there is no committee, the representative; and
- (c) the director.

M.R. 159/2018

### **Part 6 applies to hearing protectors provided**

**12.7** A hearing protector provided by an employer under this Part is personal protective equipment and the obligations of the employer and the worker under Part 6 (Personal Protective Equipment) apply to the hearing protector provided.

### **Warning signs**

**12.8** An employer must post a warning sign — indicating that any person entering the workplace or work area risks exposure to a noise level that is harmful to hearing — at the entrance to any workplace or work area where the noise level is more than 85 dBA.

## **INDUSTRIAL AUDIOMETRIC TECHNICIANS**

### **Industrial audiometric technician licences**

**12.9(1)** The director may issue an industrial audiometric technician's licence to a person who

- (a) makes application to the director in a form approved by the director;
- (b) satisfies the director that he or she has successfully completed a course of study in industrial audiometry approved by the director; and
- (c) pays a fee of \$100.

- 12.9(2)** An industrial audiometric technician's licence issued or renewed under this section remains valid for a period of five years, unless the director
- (a) extends it; or
  - (b) revokes or suspends it sooner.
- 12.9(3)** The director must grant a renewal of an industrial audiometric technician's licence if the licence holder
- (a) files with the director an application for renewal, in the form approved by the director, at least 60 days before his or her existing licence expires; and
  - (b) pays a fee of \$100.
- 12.9(4)** The director may extend the time for filing an application for renewal under clause (3)(a).

### **Requirement re ongoing training**

- 12.10** Every person who holds a licence issued under section 12.9 must, when and within the time specified by the director, complete a refresher course of study in industrial audiometry specified by the director.

### **Director's suspension of licence**

- 12.11(1)** The director may suspend or revoke an industrial audiometric technician's licence if the director is of the opinion that the licence holder has failed to
- (a) complete the course of study required to be completed within the time specified by the director;
  - (b) perform audiometric tests competently and in accordance with the provisions of this regulation; or
  - (c) comply with the provisions of this Part.
- 12.11(2)** When the director suspends or revokes the licence of an industrial audiometric technician, the director must promptly notify the person of the suspension or revocation and the procedure for seeking a reconsideration of the decision.
- 12.11(3)** A person may request the director reconsider a suspension or revocation of his or her licence by filing a request with the director within 14 days after receiving notice that his or her licence has been suspended or revoked.

- 12.11(4)** A request for a reconsideration must be in writing and must set out the grounds upon which the request is made.
- 12.11(5)** The director must decide the request for reconsideration and may
- (a) confirm or rescind the suspension or revocation;
  - (b) alter the length of the suspension; or
  - (c) set out terms and conditions to be fulfilled by the person before allowing the person to hold an industrial audiometric technician's licence.
- 12.11(6)** The director may hold a hearing when reconsidering a suspension or revocation under this section but is not required to do so.
- 12.11(7)** If the director decides to hold a hearing the director
- (a) is not bound by the rules of evidence that apply to judicial proceedings; and
  - (b) may establish rules of practice and procedure for the hearing.

**Prohibition — industrial audiometric technicians**

- 12.12** No person other than a person who holds a valid industrial audiometric technician's licence issued by the director may act as an industrial audiometric technician, or represent that he or she is entitled to act as an industrial audiometric technician under this Part.

## **PART 13**

### **ENTRANCES, EXITS, STAIRWAYS AND LADDERS**

#### **ENTRANCES, EXITS AND STAIRWAYS**

##### **Safe access and egress**

- 13.1(1)** An employer and an owner must provide and maintain a safe means of access to and egress from
- (a) the workplace; and
  - (b) all work-related areas at a workplace.
- 13.1(2)** An employer and an owner must ensure that each means of access and egress
- (a) complies with the *Manitoba Building Code* and *Manitoba Fire Code*;
  - (b) is free from all obstructions, including obstructions from materials and equipment and accumulations of waste and ice and snow; and
  - (c) has sufficient traction to allow workers to move safely.

##### **Temporary doorways: construction project site**

- 13.2** An employer and a prime contractor must ensure that a temporary doorway used for access or egress at a construction project site
- (a) is designed and constructed to open outward from the workplace; and
  - (b) is not locked in the closed position when a worker is at the site.

##### **Doors**

- 13.3(1)** An employer must ensure that doors to and from a workplace or work area can be opened without substantial effort and are not obstructed.
- 13.3(2)** When an enclosed area may create a risk to the safety or health of a worker entering it, an employer must ensure that a door used to enter or leave the area
- (a) is kept in good working order; and
  - (b) has a means of opening it from the inside.

## **Secondary means of egress**

- 13.4** An employer must ensure that there is a ready, convenient and safe secondary means of egress from the workplace that is conspicuously marked and readily usable at all times if
- (a) the primary means of egress from a workplace becomes unusable because of a malfunction of equipment or a work process; or
  - (b) a worker could be isolated from the primary means of egress.

## **Emergency exits**

- 13.5** An employer and an owner must ensure that emergency exits and means of egress from a workplace are conspicuously marked and designed to enable quick and unimpeded evacuation of the workplace.

## **Stairs to be provided**

- 13.6(1)** When work at a construction project site on a multi-storey building or structure has progressed to 10 or more metres above ground level, an employer and a prime contractor must ensure that permanent or temporary stairs to the ground are provided from each working level of the project.
- 13.6(2)** Subsection (1) does not apply to the erection of structural framing.
- 13.6(3)** Where the stairs would interfere with work on the uppermost working levels, an employer is not required to provide stairs within two storeys or 7 m vertically to the uppermost level.

## **LADDERS — GENERAL**

### **Loads**

- 13.7** Every ladder provided by an employer for use at a workplace must be designed and constructed and maintained to safely support any load that will be or is likely to be imposed on it.

### **Worker to inspect ladder**

- 13.8** An employer must ensure that a worker inspects a ladder for defects prior to each use. A ladder found to be broken or defective may not be used until it has been repaired and restored to its original design specifications.

### **Metal ladders near electrical equipment**

- 13.9** An employer must ensure that no worker uses a metal ladder or metal reinforced rails on a ladder near any exposed energized electrical circuits or equipment.

## Coatings on wood ladders

- 13.10** An employer may not apply anything to a wood ladder, except
- (a) a transparent protective coating; and
  - (b) a small identifying mark or symbol, which may be non-transparent.

## PORTABLE LADDERS

### Commercially manufactured portable ladder

- 13.11** An employer must ensure that a commercially manufactured portable ladder used at a workplace
- (a) complies with the applicable requirements of the following standards:
    - (i) CSA Z11-18, *Portable Ladders*,
    - (ii) ANSI-ASC A14.1-2017, *American National Standard for Ladders — Wood — Safety Requirements*,
    - (iii) ANSI-ASC A14.2-2017, *American National Standard for Ladders — Portable Metal — Safety Requirements*,
    - (iv) ANSI-ASC A14.5-2017, *American National Standard for Ladders — Portable Reinforced Plastic — Safety Requirements*; and
  - (b) is used and maintained in accordance with the manufacturer's specifications and safe operating instructions.

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### Site-fabricated portable wood ladder

- 13.12** An employer must ensure that a portable wood ladder fabricated on the worksite for use by a worker
- (a) is constructed entirely from straight-grained, construction grade or better lumber that is free of
    - (i) loose knots, or knots greater than one-third the width or thickness of the material, and
    - (ii) sharp edges, splinters or shakes;
  - (b) has side rails that are
    - (i) at least 400 mm but not more than 500 mm apart, and



- (ii) not notched, tapered, lapped or spliced;
- (c) has evenly spaced rungs that are
  - (i) nailed directly to the edge of the side rails,
  - (ii) not more than 300 mm on centre,
  - (iii) at least nominal 25 mm x 100 mm, and
  - (iv) supported by filler blocks, of the same thickness as the rung, fastened between the rungs or secured by a single continuous wire; and
- (d) if its length is
  - (i) 5 m or less, has side rails measuring at least nominal 50 mm x 100 mm, or
  - (ii) more than 5 m, has side rails measuring at least nominal 50 mm x 150 mm.

### **Double width site-fabricated portable ladder**

- 13.13** An employer must ensure that a portable wood ladder fabricated on the worksite for use by a worker which is of double width
- (a) is constructed entirely from straight-grained, construction grade or better lumber that is free of
    - (i) loose knots, or knots greater than one-third the width or thickness of the material, and
    - (ii) sharp edges, splinters or shakes;
  - (b) has side rails that are not notched, tapered, lapped or spliced;
  - (c) if its length is
    - (i) 5 m or less, has side rails measuring at least nominal 50 mm x 100 mm, or
    - (ii) more than 5 m, has side rails measuring at least nominal 50 mm x 150 mm;
  - (d) is composed of three rails that are evenly spaced;
  - (e) is at least 1.5 m wide; and
  - (f) has evenly spaced rungs that

- (i) are not more than 300 mm on centre,
- (ii) are at least nominal 50 mm x 100 mm,
- (iii) extend the full width of the ladder, and
- (iv) are supported by filler blocks, of the same thickness as the rung, fastened between the rungs or secured by a single continuous wire.

### **Extension ladders**

**13.14(1)** An employer must ensure that an extension ladder used by a worker

- (a) is equipped with locks that securely hold the sections of the ladder in the extended position; and
- (b) does not exceed
  - (i) 14.6 m in length, if it consists of two sections, or
  - (ii) 20 m in length, if it consists of more than two sections.

**13.14(2)** An employer must ensure that, if a section of an extension ladder is extended, the extended section overlaps another section for at least

- (a) one metre, for a ladder less than 11 m in length;
- (b) 1.25 m, for a ladder between 11 m and 15 m in length; or
- (c) 1.5 m, for a ladder over 15 m in length.

### **General limitation re length**

**13.15** An employer must ensure that no single portable ladder and no section of an extension ladder exceeds 9 m in length.

### **Portable ladders**

**13.16(1)** When in use at a workplace, an employer must ensure that a portable ladder is secured against movement at all times during use and is placed on a stable, level base.

**13.16(2)** Without limiting subsection (1), an employer must ensure that

- (a) where a portable ladder is used as a means of access to a platform, roof or other landing, it extends at least one metre above the platform, roof or other landing; and
- (b) for a portable ladder other than a stepladder, it is placed against a structure so that the slope of the ladder is no more than 1:4.

## **Stepladders**

- 13.17** An employer must ensure that a stepladder
- (a) is not more than 6 m high when set for use; and
  - (b) has legs that are securely held in position by metal braces or an equivalent rigid support.

## **Workers using portable ladder**

- 13.18** An employer must ensure that a worker using
- (a) a stepladder or other commercially manufactured portable ladder does so in accordance with the manufacturer's specifications and safe operating instructions; and
  - (b) a portable ladder other than a stepladder
    - (i) does not extend any part of his or her body, except his or her arms, beyond the side rails of the ladder, and
    - (ii) maintains a three-point contact on the ladder at all times.

## **Prohibitions re use of portable ladder**

- 13.19** An employer must ensure that a worker does not perform work from either of the top two rungs, steps or cleats of
- (a) a portable ladder other than a stepladder unless the manufacturer's specifications for the ladder permit it; or
  - (b) a stepladder, unless
    - (i) it has a railed platform at the top, or
    - (ii) the manufacturer's specifications for the stepladder permit it.

## **FIXED LADDERS**

### **Fixed ladders**

- 13.20(1)** An employer and an owner must ensure that a ladder that is permanently fixed to a supporting building or structure
- (a) is designed by a professional engineer, as is its permanent attachment system to the building or structure;
  - (b) is constructed, erected and installed in accordance with the specifications certified by a professional engineer;

- (c) is equipped with a suitable safety gate, or equally effective means of protection from falling, at all access openings in floors, platforms and rest platforms;
- (d) where it is in a vertical position or at an angle of not more than 25° to the vertical, it
  - (i) meets the requirements of ANSI-ASC A14.3-2008 (R2018), *Ladders - Fixed - Safety Requirement*,
  - (ii) has side rails that extend at least one metre above any platform, roof or other landing on the building or structure to which it is fixed,
  - (iii) has an opening in the platform, roof or other landing that does not exceed 750 mm x 750 mm,
  - (iv) is equipped, if it is more than 5 m high, with a ladder cage or a fall protection system that meets the requirements of Part 14 (Fall Protection), and
  - (v) is equipped, if it is more than 9 m high, with one rest platform at a height of 9 m or less and additional rest platforms at intervals of not more than 5 m; and
- (e) where it is fixed at an angle of more than 25° to the vertical or more than one horizontal to two vertical, it is equipped with
  - (i) a handrail that extends its entire length and is between 800 mm and 920 mm above the front edge of the treads,
  - (ii) treads that are level and uniform in width and depth and in the vertical distances between them throughout the length of the ladder, and
  - (iii) on an open side, both a handrail and an intermediate rail or equivalent safeguard.

**13.20(2)** Clause (1)(c) does not apply to

- (a) a landing that is serviced by more than one fixed ladder; or
- (b) a fixed ladder installed before the coming into force of this regulation.

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## **Fixed ladders re multi-level buildings**

- 13.21** An employer and an owner must ensure that a fixed ladder that complies with the requirements of section 13.20 is used to provide access to every level of a multi-level building that is more than 4 m above the preceding level.

## **PART 14**

### **FALL PROTECTION**

#### **Application**

**14.1(1)** This Part applies to every workplace where there is a risk of a worker falling

- (a) a vertical distance of 3 m or more;
- (b) a vertical distance of less than 3 m where there is an increased risk of injury due to the surface or item on which the worker might land;
- (c) into operating machinery or moving parts of the machinery;
- (d) into water or another liquid;
- (e) into or onto a hazardous substance or object;
- (f) through an opening on a work surface; or
- (g) a vertical distance of more than 1.2 m from an area used as a path for a wheelbarrow or similar equipment.

**14.1(2)** Repealed, M.R. 147/2010.

M.R. 147/2010

#### **Safe work procedures**

**14.2(1)** An employer must

- (a) develop and implement safe work procedures to prevent falls at the workplace;
- (b) train workers in the safe work procedures; and
- (c) ensure that workers comply with the safe work procedures.

**14.2(2)** The safe work procedures must identify the fall hazards at the workplace and set out the measures that will be used to prevent falls at the workplace.

**14.2(3)** When this Part requires the use of a guardrail system or fall protection system at a workplace, the safe work procedures must address the following issues:

- (a) the location of each guardrail system or fall protection system to be used at the workplace;

- (b) the procedures used to assemble, maintain, inspect, use and disassemble a fall protection system;
- (c) where applicable, the rescue procedures to be used for rescuing a worker after a fall has been arrested.

## GUARDRAIL SYSTEMS

### **Guardrail system requirements**

- 14.3** Subject to section 14.6, an employer must ensure that a guardrail system is used where there is a risk of a worker falling in any of the circumstances set out in subsection 14.1(1).

### **Guardrail requirements**

- 14.4(1)** An employer must ensure that a guardrail
- (a) is at least 900 mm high and not more than 1,060 mm above the working surface, with an intermediate rail at between 450 and 530 mm above the working surface; and
  - (b) is constructed and secured to resist a static load of 900 N in any direction in which the load may be applied at any point on the top rail and on any intermediate rail.
- 14.4(2)** A guardrail must have a toe board securely fastened to the posts and extending from the surface of the working area to a height of at least 125 mm when there is a risk of falling objects.
- 14.4(3)** If a guardrail is made from wood, it must
- (a) be free from splinters and protruding nails; and
  - (b) have a top and mid rail of at least 38 mm x 89 mm securely supported on posts of at least 38 mm x 89 mm and spaced at not more than 2.4 m.

### **Temporary guardrail removal**

- 14.5** An employer may temporarily remove a guardrail when it is necessary to do so to facilitate work in the immediate area. The employer must ensure that any worker in the area uses a fall protection system while the guardrail is removed.

### Fall protection systems

- 14.6** When the use of a guardrail system is not reasonably practicable or would not be effective, an employer must ensure that the worker is protected by at least one of the following fall protection systems:
- (a) a travel restraint system;
  - (b) a fall arrest system;
  - (c) a safety net;
  - (d) another fall protection system approved by the director.

### Requirements for fall protection systems

- 14.7(1)** An employer must ensure that a fall protection system
- (a) is designed, installed, tested, used and maintained in accordance with the applicable requirements of the following standards:
    - (i) CSA Z259.1-05 (R2015), *Body Belts and Saddles for Work Positioning and Travel Restraint*,
    - (ii) CAN/CSA-Z259.2.1-98 (R2011), *Fall Arresters, Vertical Lifelines, and Rails*,
    - (iii) CSA Z259.2.2-17, *Self-retracting devices*,
    - (iv) CAN/CSA-Z259.2.3:16, *Descent devices*,
    - (v) CSA Z259.10-18, *Full Body Harnesses*,
    - (vi) CSA Z259.11-05 (R2015), *Energy Absorbers and Lanyards*,
    - (vii) CSA Z259.12-16, *Connecting Components for Personal Fall Arrest Systems (PFAS)*,
    - (viii) CSA Z259.16-15, *Design of Active Fall-Protection Systems*,
    - (ix) CSA Z259.13-16, *Manufactured horizontal lifeline systems*,
    - (x) ANSI/ASSE A10.11-2010 (R2016), *Safety Requirements for Personnel Nets - American National Standard for Construction and Demolition Operations*;
  - (b) designed and certified as safe by a professional engineer and installed, tested, used and maintained in accordance with the specifications certified by the professional engineer.



- 14.7(2)** Despite the reference to safety belts in CSA Standard Z259.1-05, *Body Belts and Saddles for Work Positioning and Travel Restraint*, an employer must ensure that a safety belt is not used as part of a fall protection system at the workplace.

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### **Inspection and maintenance**

- 14.8(1)** An employer must ensure that the equipment used as part of a fall protection system is
- (a) inspected before use on each work shift by
    - (i) subject to subsection (2), the worker who uses the fall protection system, or
    - (ii) a competent person other than the worker using the system;
  - (b) kept free from any substance or condition that could contribute to deterioration of the equipment; and
  - (c) maintained in good working order and in accordance with the manufacturer's specifications.
- 14.8(2)** When a safety net is used, the net must be inspected by a competent person before each work shift.

### **Inspection after fall arrest**

- 14.9** After a fall protection system has arrested the fall of a worker, an employer must ensure that the system is not returned to service until it has been inspected and certified as safe by the manufacturer or a professional engineer.

### **Defective components**

- 14.10** When a component of a fall protection system is defective in condition or function, an employer must not use the component and must immediately remove it from service and either return it to the manufacturer to be repaired or replaced or destroy it.

### **Training**

- 14.11** An employer must ensure that a worker using a fall protection system is trained in its use, care and inspection by a competent person.

### **Travel restraint systems**

- 14.12** When a travel restraint system is used, an employer must ensure that
- (a) the travel restraint system consists of a full body harness with adequate attachment points;

- (b) the full body harness is attached by a lifeline or lanyard to a fixed support that meets the requirements of section 14.14 (fixed support system requirements); and
- (c) the length of the lifeline or the lanyard is selected so that the worker can only proceed to within one metre of an opening or edge.

## Fall arrest systems

**14.13(1)** When a fall arrest system is used, an employer must ensure that the system

- (a) consists of a full body harness with adequate attachment points;
- (b) is attached by a lifeline or lanyard to an independent fixed support that meets the requirements of subsection 14.14(1);
- (c) is designed in accordance with CSA Z259.16-15, *Design of Active Fall-Protection Systems* and CSA Z259.13-16, *Manufactured Horizontal Lifeline Systems*;
- (d) is manufactured so that a worker's free fall distance does not exceed 1.2 m excluding the increase in the total fall distance resulting from the use of shock absorbers; and
- (e) is arranged so that a worker cannot
  - (i) hit the ground or an object or level below the work, or
  - (ii) swing in a manner that poses a risk to the safety or health of a worker.

**14.13(2)** When a lanyard referred to in clause (1)(b) is equipped with a shock absorber or other similar device, the shock absorber or device must comply with CSA Standard Z259.11-05, *Energy Absorbers and Lanyards*.

**14.13(3)** An employer must ensure that a fall arrest system does not include a shock absorber if wearing or using one could cause a worker to hit the ground or an object or level below the work.

**14.13(4)** An employer must ensure that the fall arrest system does not subject a worker who falls to a peak dynamic fall arrest force greater than 8 kN.

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## Fixed support system requirements

- 14.14(1)** The owner of a building or structure must ensure that a permanent anchorage system used as the fixed support in a travel restraint system or fall arrest system for that building meets the following requirements:
- (a) the anchor has an ultimate capacity of at least 22.2 kN in any direction in which the load may be applied for each worker attached;
  - (b) the anchorage system is certified by a professional engineer as having the required load capacity;
  - (c) where the anchorage system is used in conjunction with a suspended work platform, the system is designed, constructed and used in accordance with CAN/CSA Standard-Z91-02, *Health and Safety Code for Suspended Equipment Operations* and CAN/CSA-Z271-10 (R15), *Safety code for suspended platforms*.
- 14.14(2)** When a permanent anchorage system cannot be used at a workplace, an employer must ensure that the temporary fixed support in a travel restraint system or fall arrest system meets the following requirements:
- (a) when a fall arrest system without a shock absorber is used, a support used in a fall arrest system must be capable of supporting a static force of at least 8 kN without exceeding the allowable unit stress for each material used in the fabrication of the anchor point;
  - (b) when a shock absorber is used in a fall arrest system, the support must be capable of supporting a static force of at least 6 kN without exceeding the allowable unit stress for each material used in the fabrication of the anchor point;
  - (c) a support used in a travel restraint system must be capable of supporting a static force of at least 2 kN without exceeding the allowable unit stress for each material used in the fabrication of the anchor point.

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## No sharp edges

- 14.15** An employer must ensure that no component of a travel restraint system or a fall arrest system comes into contact with a sharp edge that could cut, chafe or abrade any component of the system.

## **Fall arrest systems and powered mobile equipment**

- 14.16** When a fall arrest system is used on powered mobile equipment, an employer must ensure that the system is attached to an anchor in accordance with the specifications of the manufacturer of the powered mobile equipment.

## **Fall protection on vehicles**

- 14.17** When a worker may have to climb on a vehicle or its load at any location other than a garage, warehouse or other permanent facility and it is not reasonably practicable to provide a fall protection system for the worker, an employer must
- (a) take steps to eliminate or reduce the need for a worker to climb onto the vehicle or its load; and
  - (b) provide information, instruction and training to a worker on safe work procedures for climbing or working on the vehicle or its load.

## **Full body harness**

- 14.18** When a worker uses a full body harness, an employer must ensure that
- (a) the full-body harness and connecting linkage are used, maintained, adjusted and stored in accordance with the manufacturer's specifications; and
  - (b) the full-body harness is properly fitted to the worker.

## **Lanyards**

- 14.19** When a worker uses a lanyard, an employer must ensure that the lanyard is
- (a) as short as work conditions permit;
  - (b) equipped with suitable snap hooks;
  - (c) free of imperfections, knots and splices, other than end terminations;
  - (d) protected by padding where it passes over sharp edges;
  - (e) protected from heat, flame, abrasive or corrosive materials during use;
  - (f) used, maintained, adjusted and stored in accordance with the manufacturer's specifications; and
  - (g) used by only one worker at a time.

## **Lifeline requirements**

- 14.20** When a worker uses a lifeline, an employer must ensure that the lifeline is
- (a) suitable for the conditions in which the lifeline is to be used, having regard to factors including strength, abrasion resistance, extensibility and chemical stability;
  - (b) free of imperfections, knots and splices, other than end terminations;
  - (c) protected by padding where the lifeline passes over sharp edges;
  - (d) protected from heat, flame, abrasive or corrosive materials during use;
  - (e) fastened to a secure anchor point or anchor points as required under this Part; and
  - (f) installed, used and maintained in accordance with the manufacturer's specifications or specifications certified by a professional engineer.

## **Vertical lifelines**

- 14.21** When a worker uses a vertical lifeline, an employer must ensure that
- (a) the lower end of the vertical lifeline extends to the ground or to a safe landing; and
  - (b) the vertical lifeline is protected at the lower end to ensure that the line cannot be fouled by equipment.

## **Horizontal lifelines**

- 14.22(1)** When a worker uses a horizontal lifeline system, an employer must ensure that the specifications for the system are kept at the worksite and are readily accessible by a worker.
- 14.22(2)** The specifications for a horizontal lifeline system must address the following issues:
- (a) the arrangement of the system, including the anchorage or fixed support system;
  - (b) the components used;
  - (c) the number of workers that can safely be attached to it;
  - (d) the instructions for installation or erection;
  - (e) the maximum load capacity of the system.

**14.22(3)** When a permanent horizontal lifeline system from a manufacturer is installed at a workplace, an employer must ensure that, before the system is put into use, the system is certified as being properly installed according to the manufacturer's specifications by one of the following:

- (a) the manufacturer;
- (b) a person authorized by the manufacturer;
- (c) a professional engineer.

**14.22(4)** When a permanent horizontal lifeline system designed by a professional engineer is installed at a workplace, the employer must ensure that, before the system is put into use, the system is certified as being properly installed according to the engineer's specifications by a professional engineer.

### **Inspection and testing of safety nets**

**14.23(1)** When a safety net is used, an employer must ensure that a professional engineer or a competent person under a professional engineer's supervision inspects and tests the installation of the safety net before it is put in service.

**14.23(2)** An employer must ensure that the safety net

- (a) is installed not more than 7.70 m below the work area; and
- (b) extends at least 2.5 m on all sides beyond the work area.

## **RESIDENTIAL CONSTRUCTION**

### **Erection of second floor exterior wall**

**14.24(1)** When a worker is required to erect a second floor exterior wall on a residential construction project in circumstances where it is not reasonably practicable to provide a fall protection system for the worker, an employer must ensure that an alternate safe work procedure is implemented to protect the safety and health of the worker.

**14.24(2)** A safe work procedure implemented under subsection (1) must offer protection to the worker that is equal or greater to the protection provided by a fall protection system that meets the requirements of this Part.

## **Installation of wood trusses**

- 14.25(1)** When a worker is required to install wood trusses on a residential construction project in circumstances where it is not reasonably practicable to provide a fall protection system for the worker before the installation of roof sheeting, an employer must ensure that an alternate safe work procedure is implemented to protect the safety and health of the worker.
- 14.25(2)** A safe work procedure implemented under subsection (1) must
- (a) ensure that no work is performed by a worker while standing on the top plate of the exterior walls of the structure; and
  - (b) offer protection to the worker that is equal or greater to the protection provided by a fall protection system that meets the requirements of this Part.

## **Training and compliance**

- 14.26** When an employer implements an alternate safe work procedure under section 14.24 or 14.25, the employer must
- (a) provide information, instruction and training on the safe work procedures to workers; and
  - (b) ensure that workers comply with the safe work procedures.

## **BUILDING REQUIREMENTS**

### **Required roof protection**

- 14.27(1)** The owner of a building that is more than five storeys tall or 15 m in height that is constructed after the coming into force of this regulation must either
- (a) provide a permanent perimeter guardrail system that meets the requirements of this Part; or
  - (b) provide roof-level protection consisting of
    - (i) a continuous parapet or fencing not less than 900 mm in height, or
    - (ii) a system of lifeline anchors with one anchor set back a minimum of 3 m from the edge of the roof for every six linear metres of unprotected roof edge.
- 14.27(2)** When roof-level protection on a building consists of a system of lifeline anchors, the owner of the building must ensure that
- (a) each lifeline anchor is

- (i) capable of resisting a force of 22.2 kN in any direction in which the load may be applied for each worker attached, and
  - (ii) made of stainless steel or other material resistant to corrosion;
- (b) the anchorage system is certified by a professional engineer as having the required load capacity; and
- (c) where an eyebolt is used as an anchor, that the interior opening of the eye measures at least 38 mm.

### **Steel frame building requirements**

- 14.28** During the construction of a steel frame building, the owner of the building and the prime contractor responsible for the construction of the building must ensure that the structural components of the building designed to accommodate a fall protection system
- (a) are designed, approved and certified as safe by a professional engineer; and
  - (b) include
    - (i) double connections at each column and at beam webs over a column,
    - (ii) at least four anchor bolts per column, and
    - (iii) perimeter columns that extend at least one metre above the finished floor to permit the installation of perimeter safety cables.

### **Definition: “anchor”**

- 14.29** In this Part, “**anchor**” means a secure point of attachment for a lifeline or lanyard.



## **PART 15 CONFINED SPACES**

### **GENERAL REQUIREMENTS**

#### **Application**

- 15.1** This Part applies to every workplace where a worker works in a confined space or a hazardous confined space.

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#### **Safe work procedures**

- 15.2(1)** An employer must
- (a) develop and implement safe work procedures for working in confined spaces and hazardous confined spaces;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.
- 15.2(2)** The safe work procedures must include
- (a) procedures for recognizing the risks associated with working in confined spaces and hazardous confined spaces;
  - (b) procedures for isolating — including blanking, disconnecting, interrupting and locking out — pipes, lines and sources of energy from such spaces; and
  - (c) safety and personal protective equipment to be used.
- 15.2(3)** The safe work procedures must include the following additional requirements when workers are working in a hazardous confined space:
- (a) procedures for communicating with a standby worker;
  - (b) an emergency response plan and rescue procedures to be implemented in the event of an accident or other emergency in the space;
  - (c) information about the entry permit system under section 15.6.

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#### **General requirements**

- 15.3(1)** Before requiring or permitting a worker to enter or work in a confined space or a hazardous confined space, an employer must
- (a) identify and assess the risks to safety or health a worker is likely to be exposed to while in the space;

- (b) identify and take measures to reduce, control or eliminate the risks to safety or health associated with the space, including
  - (i) using alternative means of performing the work to be done that will not require the worker to enter the space, and
  - (ii) making alterations to the physical characteristics of the space that may be necessary to ensure safe access to and egress from all accessible parts of the space;
- (c) identify the appropriate type and frequency of tests and inspections necessary to determine the likelihood of a worker being exposed to any of the identified risks, and ensure those tests and inspections are completed by a competent person; and
- (d) identify the safety and personal protective equipment required to be used or worn in the space by a worker while he or she performs work and ensure that equipment is at the site of the space.

**15.3(2)** An employer must ensure that the structural integrity of a confined space or a hazardous confined space is maintained when its physical characteristics are altered in order to ensure safe access and egress by a worker.

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### **No unauthorized entry**

**15.4** An employer and an owner must take all steps reasonably practicable to prevent any person, other than a worker who is required or permitted to do so, from entering a confined space or a hazardous confined space.

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## REQUIREMENTS FOR HAZARDOUS CONFINED SPACES

### **Requirements before work can begin in hazardous confined space**

- 15.5** Before requiring or permitting a worker to enter or work in a hazardous confined space, an employer must
- (a) ensure that the worker entering the space wears a full body harness attached to a lifeline that is attached to a personal hoisting device, unless an alternate safe method of access and egress is provided from all accessible parts of the space;

- (b) identify and take measures to ensure that a worker will not be exposed to the risk of drowning or becoming engulfed or entrapped in any liquid or free-flowing solid that may be present in the space; and
- (c) identify and take measures to ensure that all energy sources that present a hazard to a worker entering, occupying or leaving the space have been locked out, and the energy sources have been put in a zero energy state.
- (d) identify emergency and personal protective equipment required by a worker who undertakes rescue operations in the event of an accident or other emergency within the space and ensure that equipment is at the site of the space;
- (e) establish and implement an entry permit system for the space, in accordance with section 15.6.

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### **Entry permit system requirements**

- 15.6(1)** An entry permit system established by an employer for a hazardous confined space under clause 15.5(e) must
- (a) ensure that an entry permit containing the following information is completed and signed by a competent person before a worker enters the space:
    - (i) the location of the space,
    - (ii) the name of each worker who will enter the space and the reason for their entry,
    - (iii) the date and time during which the permit is valid; and
  - (b) specify
    - (i) the work being done in the space,
    - (ii) the safe work procedures for entering, being in and leaving the space, and
    - (iii) all hazards to the safety and health of a worker identified by the risk assessment carried out under clause 15.3(1)(a).
- 15.6(2)** An employer must ensure that a copy of the completed and signed entry permit is readily available at the site of the hazardous confined space.

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## **Review of entry permit**

- 15.7(1)** An employer must review and revise an entry permit when
- (a) a work activity in a hazardous confined space changes;
  - (b) circumstances at the workplace or in the hazardous confined space change in a way that poses a risk to the safety or health of a worker; or
  - (c) any of the workers or information listed in the permit changes.
- 15.7(2)** An employer must ensure that a worker who may be affected by a change to an entry permit or a work activity in a hazardous confined space is informed of the change.

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## **Standby worker**

- 15.8(1)** An employer must ensure that
- (a) a standby worker is designated for every hazardous confined space; and
  - (b) the standby worker remains present at the entrance to a hazardous confined space at all times while a worker is in the space.
- 15.8(2)** An employer must ensure that
- (a) a worker designated as a standby worker is
    - (i) qualified as a first aider, as set out in Part 5 (First Aid), and
    - (ii) trained in hazardous confined space work procedures, entry permit system requirements and emergency and rescue procedures;
  - (b) the designated standby worker has a suitable system to summon assistance if necessary; and
  - (c) the worker in the hazardous confined space and the designated standby worker are able to directly communicate with each other at all times.

M.R. 159/2018; 128/2019

## **Purging and ventilating unsafe atmosphere**

- 15.9(1)** In any of the following circumstances, an employer must ensure that a hazardous confined space is purged, ventilated or both before a worker is required or permitted to enter it:

- (a) where there is or may be a concentration of a flammable or explosive substance present at more than 10% of its lower explosive limit, the space must be purged, ventilated or both so that the concentration is reduced to less than 10%;
- (b) where there is or may be an oxygen deficiency — oxygen content less than 19.5% by volume — or oxygen enrichment — oxygen content greater than 23% by volume — the space must be purged, ventilated or both so that the oxygen content is at least 19.5% but not more than 23%;
- (c) where there is or may be a chemical or biological substance that creates a risk to the safety or health of the worker, the space must be purged, ventilated or both to eliminate or reduce the risk associated with the substance, to the extent possible.

**15.9(2)** When a worker occupies a hazardous confined space that has an atmosphere that may create a risk to the safety or health of a worker, the employer must ensure

- (a) the space is continuously ventilated to maintain a safe atmosphere; and
- (b) the atmosphere is continuously monitored by a competent person.

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### **Personal protective equipment and other control measures**

**15.10** When purging, ventilating or both cannot bring the atmosphere within a hazardous confined space into compliance with clauses 15.9(1)(a) to (c), an employer must ensure that additional control measures are undertaken to protect the safety and health of the worker entering the space, including providing to a worker personal protective equipment appropriate for the conditions in the space.

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### **Entry prohibited**

**15.11** Despite any other provision of this Part, an employer must not require or permit

- (a) a worker to enter a hazardous confined space if the oxygen content level in the space is above 23%; or
- (b) a worker, other than a firefighter responding to an emergency, to enter a hazardous confined space if a concentration of a flammable or explosive substance in the space cannot be reduced to less than 10% of its lower explosive limit.

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## **Emergency response plan for hazardous confined spaces**

- 15.12** An employer must ensure that, in the event of an accident or other emergency at a hazardous confined space, the emergency response plan and rescue procedures developed under clause 15.2(3)(b) are implemented.

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## **Emergency response — top entry into confined space**

- 15.13(1)** When entry into a hazardous confined space or a confined space is from the top, an employer must ensure that, in the event of an accident or other emergency within the space,
- (a) the worker entering the space and workers carrying out a rescue use a full body harness and are attached to a lifeline unless another appropriate personal protective equipment system is provided;
  - (b) where a lifeline is used, the lifeline is attended by a worker who is trained in the emergency response plan and rescue procedures; and
  - (c) where reasonably practicable, a personal hoisting device is
    - (i) available to assist with a rescue, and
    - (ii) located at the entrance to the space when a worker is in the space.
- 15.13(2)** Despite clause (1)(a), when the use of a full body harness attached to a lifeline would create an additional risk to the worker in the space or would not be reasonably practicable, an employer must ensure that an alternate method of rescue is available to immediately remove a worker from the space into which entry is from the top.

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## **PART 16**

### **MACHINES, TOOLS AND ROBOTS**

#### **DIVISION 1**

#### **Application**

- 16.1** This Division applies to every workplace where a machine or tool is used.

#### **Safe work procedures**

- 16.2(1)** An employer must
- (a) develop and implement safe work procedures respecting all machines and tools used in the workplace;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.
- 16.2(2)** The safe work procedures must include practices and procedures dealing with the lockout of machines used in the workplace.

#### **Duty to inform workers**

- 16.3** An employer must ensure that a worker is
- (a) informed of any risks associated with a machine or tool used in the workplace; and
  - (b) provided with information, instruction and training in the safe use and operation of the machine or tool.

#### **MACHINE AND TOOL SAFETY**

#### **Machine and tool safety**

- 16.4(1)** An employer must ensure that any machine or tool in the workplace is
- (a) capable of safely performing the functions for which it is used; and
  - (b) used, inspected and operated in accordance with
    - (i) the manufacturer's specifications, and
    - (ii) the safe work procedures for the workplace.

- 16.4(2)** An employer and the supplier of any machine or tool must ensure that the installation, testing, repair and maintenance of or any modification to any machine or tool is carried out in accordance with
- (a) the manufacturer's specifications; or
  - (b) the specifications certified by a professional engineer.
- 16.4(3)** An employer and a supplier must ensure that any machine or tool under his or her control is inspected at regular intervals to ensure that, so far as reasonably practicable, the machine or tool is capable of
- (a) withstanding any stress that is or is likely to be imposed on it; and
  - (b) safely performing the functions for which it is used.

### **Safeguards required**

- 16.5(1)** Subject to section 16.6, an employer must ensure that a machine has safeguards on it that will prevent a worker from coming into contact with the following hazards:
- (a) moving parts on the machine;
  - (b) points of the machine at which material is cut, shaped or bored;
  - (c) surfaces with temperatures that may cause skin to freeze, burn or blister;
  - (d) energized components;
  - (e) debris, material or objects thrown from a machine;
  - (f) material being fed into or removed from the machine;
  - (g) any other hazard that may pose a risk to the safety or health of the worker.
- 16.5(2)** An employer must ensure that any safeguard required under this Part is designed, constructed, installed, used and maintained in accordance with CSA Z432-16, *Safeguarding of machinery*.

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### **Alternative mechanism**

- 16.6(1)** When it is not reasonably practicable to provide a safeguard on a machine, an employer must ensure that an alternative mechanism, system or change in work procedure is put into place to protect the safety and health of a worker.



- 16.6(2)** An alternative mechanism, system or change in work procedure must offer protection to a worker that is equal, or greater to, the protection provided by a safeguard that meets the requirements of section 16.5.

### **Removing a safeguard**

- 16.7(1)** No person may remove a safeguard or make it ineffective unless it is necessary to perform servicing, repairs, tests, cleaning, maintenance or adjustments on or to the machinery that cannot be done with the safeguard in place.
- 16.7(2)** When a safeguard is removed or made ineffective for the purposes of subsection (1), an employer must ensure that
- (a) alternative protective measures are in place until the safeguard is replaced;
  - (b) the safeguard is replaced immediately after the task is completed; and
  - (c) the safeguard functions properly once replaced.
- 16.7(3)** When a safeguard is removed or made ineffective for the purposes of subsection (1) by a worker who does not directly control the machine, an employer must ensure that the worker who removes the safeguard or makes it ineffective locks out the machine in accordance with the requirements of this Part.

### **Operating controls**

- 16.8** An employer must ensure that
- (a) the operating controls of a machine
    - (i) are readily and clearly identifiable,
    - (ii) are located within reach of the operator, and
    - (iii) cannot be activated by inadvertent contact; and
  - (b) subject to subsection 16.19(1), a machine is equipped with a stopping device that is
    - (i) readily and clearly identifiable, and
    - (ii) located in the direct view and within reach of the operator at all times.

## **Worker apparel**

- 16.9** When there is a risk that a worker or a worker's apparel may come into contact with a moving part of a machine, an employer must ensure that the worker
- (a) wears close-fitting clothing;
  - (b) confines long hair with a hairnet, close-fitting cap, close-fitting headwear or some other effective means; and
  - (c) does not wear dangling neckwear, jewelry, wristwatches, rings or other similar items that may create a potential hazard.

## **Starting a machine**

- 16.10** The operator of a machine must ensure that the starting of the machine does not endanger the operator or any other person.

## **Warning system**

- 16.11(1)** When the operator of a machine does not have a clear view of all parts of the machine and the surrounding area, an employer must ensure that the machine is equipped with
- (a) an audible alarm system that provides a warning of sufficient volume and for a sufficient period before start-up of the machine to alert a person of the imminent start-up; or
  - (b) a distinctive and conspicuous visual warning system to alert a person of the imminent start-up.
- 16.11(2)** An employer must place clearly visible warning signs at each point of access to a machine that starts automatically. The warning signs must give clear instructions to a worker on the nature of the hazard posed by the machine.

## **Vibrations**

- 16.12** An employer must not install or place any machine in a workplace that may cause vibrations that would pose a risk to the safety or health of any person.

## **Unattended or suspended machines**

- 16.13** An employer must ensure that a worker does not leave a machine or any part of a machine unattended or in a suspended position unless the machine or part has been
- (a) immobilized and secured against movement; or
  - (b) enclosed by a safeguard to prevent access by any other worker to the machine or part.

## LOCKOUT

### Locking out — safety precautions

- 16.14(1)** Subject to subsections (3) and (4), when a machine is serviced, repaired, tested, cleaned, maintained or adjusted, an employer must ensure that no worker performs work on the machine until it has come to a complete stop and the worker performing work on the machine has
- (a) locked out the machine and removed and rendered safe any hazardous condition; or
  - (b) otherwise rendered the machine inoperative in a manner that prevents reactivation and provides protection that is equal to, or greater than, the protection provided by clause (a).
- 16.14(2)** An employer must ensure that a worker does not perform work on a machine that is to be serviced, repaired, tested, cleaned, maintained or adjusted until
- (a) the machine is tested to ensure that it is inoperative; and
  - (b) the worker is assured that it is inoperative.
- 16.14(3)** An employer must develop and implement safe work procedures for the service, repair, testing, cleaning, maintenance or adjustment of a machine when
- (a) the manufacturer's specifications require the machine to remain operative when it is serviced, repaired, tested, cleaned, maintained or adjusted; or
  - (b) there are no manufacturer's specifications and it is not reasonably practicable to lockout the machinery when it is serviced, repaired, tested, cleaned, maintained or adjusted.
- 16.14(4)** When it is not reasonably practicable to lockout the machinery when it is serviced, repaired, tested, cleaned, maintained or adjusted, an employer must ensure that the safe work procedures developed in subsection (3) offer protection to a worker that is equal to or greater than the protection provided by a lockout procedure.

### Removing a lock

- 16.15(1)** No person may remove a lock from locked out machinery unless the person is the worker who installed the lock.
- 16.15(2)** Despite subsection (1), a competent person designated by the employer may remove the lock in an emergency or when the worker who installed the lock is not available.

- 16.15(3)** An employer must ensure that no worker returns a machine to operation after it has been locked out or rendered inoperable until the worker determines that no other person may be endangered by the operation of the machine.

### **Lock and key process**

- 16.16(1)** When the lockout procedure uses a lock and key, an employer must
- (a) issue to each worker who is required or permitted to work on a machine a lock that is operable only by that worker's key or a duplicate key;
  - (b) designate a worker to keep the duplicate key;
  - (c) ensure that the duplicate key is accessible only to the designated worker;
  - (d) ensure that the lock used has a unique mark or identification tag on it that identifies the worker to whom the lock is assigned; and
  - (e) ensure that a logbook is kept to record the use of the duplicate key.
- 16.16(2)** Where it is not reasonably practicable to use a worker's key to remove a lock, the employer may permit the designated worker to remove the lock if the designated worker has determined that
- (a) the key used to lock the lock is not available; and
  - (b) it is safe to remove the lock and activate the machine.
- 16.16(3)** When the lock has been removed, an employer must ensure that the worker who locked out the machine is informed of the removal of the lock.

### **Control of more than one machine**

- 16.17** When a central automated system controls more than one machine, an employer must ensure that any machine to be serviced, repaired, tested, cleaned, maintained or adjusted is isolated from the central system before the lockout procedures are implemented.
- 16.18** [Repealed]

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## ADDITIONAL SAFEGUARDS FOR CONVEYORS

### Emergency stopping system for conveyor

- 16.19(1)** An employer must ensure that a conveyor has an emergency stopping system that is readily accessible to workers working at the conveyor unless worker access to the conveyor is prevented by guarding or other means.
- 16.19(2)** An employer must ensure that a conveyor emergency stopping system is designed and installed so that manual resetting is required before the conveyor can be restarted after an emergency stop.
- 16.19(3)** An employer must ensure that a conveyor cannot be restarted after an emergency stop until an inspection has determined that the conveyor can be operated safely.

### Emergency pull-cords

- 16.20** When the emergency stopping system uses emergency stop pull-cords, an employer must ensure that
  - (a) the pull-cords are clearly visible and readily accessible at the operator's normal control station and at other appropriate points; and
  - (b) the system is activated when
    - (i) the pull-cord is pulled in any direction,
    - (ii) the pull-cord breaks, or
    - (iii) the failure of a single spring in the pull-cord assembly occurs.

### Elevated conveyors

- 16.21** If an elevated conveyor crosses over a place where a worker may pass or work, an employer must ensure that a suitable guarding system is provided to prevent materials on the conveyor from falling on the worker.

## MISCELLANEOUS MACHINES AND TOOLS

### Grinding machines

- 16.22(1)** When a worker is operating a fixed or portable grinding machine, an employer must ensure that
  - (a) an abrasive wheel is operated only where it is equipped with a safeguard;

- (b) an abrasive wheel is not operated in excess of the maximum speed specified by the manufacturer of the wheel;
- (c) the maximum speed of each grinder shaft in revolutions per minute is permanently marked on the grinder; and
- (d) the mounting flanges for an abrasive wheel have an equal and correct diameter for the wheel.

**16.22(2)** When a tool rest is installed on a fixed grinder, an employer must ensure that the tool rest is

- (a) installed in a manner that is compatible with the work process;
- (b) securely attached to the grinder; and
- (c) set not more than 3 mm from the face of the wheel or below the horizontal centre line of the wheel.

**16.22(3)** An employer must ensure that a worker does not use the sides of an abrasive wheel for grinding unless the abrasive wheel is designed for that use.

### **Storage of explosive-operated tools**

**16.23** An employer must ensure that when an explosive-operated tool is not in use it is not left unattended unless it is stored in a locked container.

### **Pneumatic powered tools**

**16.24(1)** An employer must ensure that a worker does not use a pneumatic powered tool unless

- (a) the compressed air supply for the tool does not exceed the tool's pressure rating; and
- (b) the tool's hose connections have a positive locking device or rated safety chains or cable to restrain the hose from uncontrolled movement if the section becomes disconnected.

**16.24(2)** An employer must ensure that a pneumatic powered tool is disconnected from a compressed air supply before any adjustment to the tool is made or the tool is serviced.

### **Hand or portable power tools**

**16.25(1)** An employer must ensure that

- (a) a hand tool or a portable power tool is inspected before use to make certain it is in safe working condition; and
- (b) a defective hand or power tool is removed from service.

- 16.25(2)** Before refuelling or servicing a gas-operated power tool, an employer must ensure that the worker stops the motor and allows the motor to cool in accordance with the manufacturer's specifications.

### **Pressurized hoses**

- 16.26(1)** An employer must ensure that an effective restraining device is used on a hose, pipe or connection that is under pressure if inadvertent disconnection of the hose, pipe, or connection could result in a risk to the safety or health of a worker or any other person.
- 16.26(2)** An employer must ensure that the restraining device is used in accordance with the supplier's instructions or the manufacturer's specifications.

### **Chain saw requirements**

- 16.27(1)** An employer must ensure that a chain saw used at a workplace is
- (a) manufactured, used and maintained in accordance with CSA Z62.1-15, *Chain Saws*;
  - (b) equipped with a safety chain, chain brake and chain catcher;
  - (c) operated and maintained in accordance with the manufacturer's specifications; and
  - (d) equipped with a mechanism that minimizes the risk of injury from kickback when the saw is in use.
- 16.27(2)** When a chain saw is used by a worker operating from an elevated work platform or personnel basket, an employer must ensure that appropriate start-up procedures are developed and implemented to protect the safety and health of the worker.

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### **Lasers**

- 16.28** An employer must ensure that a laser used in a workplace is installed, used and maintained in accordance with ANSI Z136.1-2014, *American National Standard for Safe Use of Lasers*.

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## DIVISION 2 ROBOTS

### Application

**16.29(1)** Subject to subsection (2), this Division applies to every workplace where a robot or robot system is used.

**16.29(2)** This Division does not apply to any of the following:

- (a) a personal or mobile robot;
- (b) an automatic guided vehicle system;
- (c) an automated storage and retrieval system;
- (d) a numerically controlled machine.

### Safe work procedures

**16.30** An employer must

- (a) develop and implement safe work procedures respecting the installation, operation, use, teaching and maintenance of robots and robot systems used in the workplace;
- (b) train workers in the safe work procedures; and
- (c) ensure that workers comply with the safe work procedures.

### Employer's duties

**16.31** An employer must ensure that every robot and robot system in the workplace

- (a) meets the requirements of CAN/CSA-Z434-03, *Industrial Robots and Robot Systems — General Safety Requirements*; and
- (b) is installed, anchored, wired and used in accordance with the manufacturer's specifications.

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### Safeguards

**16.32(1)** An employer must ensure that every robot and robot system in the workplace has safeguards that prevent a worker from entering the restricted work envelope while the robot or robot system is in motion.

**16.32(2)** When a safeguard is removed or made ineffective to permit maintenance, repair, testing, teaching or adjustment, the employer must ensure that the safeguard is replaced or made effective before a worker uses the robot or robot system again.



## Controls

- 16.33(1)** An employer must ensure that the primary controls of a robot or robot system, including a restart control,
- (a) are located outside the restricted work envelope;
  - (b) are arranged so that the robot or robot system is clearly visible to the worker operating the primary controls; and
  - (c) cannot be activated inadvertently.
- 16.33(2)** An employer must ensure that a worker operating a robot or robot system is provided with a readily accessible emergency stop device.

## DEFINITIONS

### Definitions

- 16.34** The following definitions apply in this Part.

**“machine”** means any combination of mechanical parts that transmits from one part to another or otherwise modifies force, motion or energy, but does not include a vehicle. (« machine »)

**“tool”** includes an implement that is powered by the energy of a person, such as a hammer, axe or screwdriver. (« outil »)

## **PART 17**

### **WELDING AND ALLIED PROCESSES**

#### **Application**

- 17.1** This Part applies to every workplace where welding or allied processes take place.

#### **Safe work procedures**

- 17.2** An employer must
- (a) develop and implement safe work procedures respecting welding and allied processes performed in the workplace;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

#### **CSA standard**

- 17.3** An employer must ensure that all welding and allied processes in the workplace comply with the requirements of CSA W117.2-12, *Safety in Welding, Cutting, and Allied Processes*.

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#### **Contained welding or allied process**

- 17.4** When a container, pipe, valve or fitting
- (a) holds or may have held an explosive, flammable or otherwise hazardous substance; or
  - (b) may become pressurized to the point of being a hazard to a person at a workplace;
- an employer must ensure that any welding or allied process performed by a worker is performed in accordance with the safe work procedures developed under section 17.2.

#### **Electric arc welding**

- 17.5** An employer must, so far as is reasonably practicable, ensure that a worker does not perform electric arc welding if another worker may be exposed to radiation from the arc unless the other worker is using an appropriate eye protector or is protected from the radiation by an appropriate barrier.

## **Appropriate welding and ground leads**

- 17.6** An employer must ensure that appropriate welding and ground leads are used to fasten the electric supply cable securely so that the inner wires of an electric welding machine are not exposed to damage and the cable cannot be separated from the fittings.

## **Testing for gas welding and allied process**

- 17.7** An employer must ensure that a person performing a gas welding or allied process tests a regulator and its flexible connecting hose immediately after it is connected to a gas cylinder to ensure that there is no leak of the gas supply.

## **Flashback arresters**

- 17.8** When gas welding or an allied process is carried out, an employer must
- (a) provide a flashback between the torch and the fuel gas and oxygen supply that
    - (i) prevents the reverse flow of fuel, gas, oxygen or air from the torch to the supply lines, and
    - (ii) stops a flame from burning back from a torch into the supply lines;
  - (b) ensure that hose lines or pipelines for conveying the gases to the burner and the couplings are legibly marked or identified to ensure the hoses are not interchanged; and
  - (c) ensure that the torch is ignited by a lighting device that is designed for that purpose.

## **Definition: “welding or allied process”**

- 17.9** In this Part, “**welding or allied process**” means any type of electric or fuel gas welding or cutting process, including
- (a) arc welding, brazing, solid-state welding, soldering, resistance welding, and other welding; and
  - (b) allied processes such as thermal spraying and thermal adhesive bonding, and arc cutting, laser cutting, oxygen cutting or other cutting.

## **PART 18 RADIATION**

### **Application**

- 18.1(1)** Subject to subsection (2), this Part applies to every workplace where ionizing or non-ionizing radiation is used.
- 18.1(2)** This Part does not apply to
- (a) radiation sources subject to the *Nuclear Safety and Control Act* (Canada); and
  - (b) radiation provided to a medical or dental patient.

### **Safe work procedures**

- 18.2** An employer must
- (a) develop and implement safe work procedures respecting the use of radiation in the workplace to ensure that workers are not exposed to radiation in excess of limits established in the ACGIH publication *2019 Threshold Limit Values for Chemical Substances and Physical Agents & Biological Exposure Indices*;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

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### **Exposure controls**

- 18.3** When workers in a workplace are, or may be, exposed to levels of radiation in excess of the limits referred to in clause 18.2(a), an employer must implement procedures that control exposure to radiation in the workplace.

### **Duty to inform workers**

- 18.4** An employer must inform a worker who may be exposed to radiation in the workplace of the potential hazards of radiation exposure.

## **PART 19**

### **FIRE AND EXPLOSIVE HAZARDS**

#### **Application**

- 19.1** This Part applies to every workplace where
- (a) combustible liquids, flammable liquids or flammable substances are present; or
  - (b) hot work is performed.

#### **Safe work procedures**

- 19.2** An employer must
- (a) develop and implement safe work procedures for fire and explosive hazards in the workplace, including hot work if hot work is performed in the workplace;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

#### **Fire protection equipment and fire extinguishers**

- 19.3(1)** An employer must ensure that
- (a) fire protection equipment of an appropriate type and sufficient size and capacity to be effective is installed in the workplace in accordance with the *Manitoba Fire Code*; and
  - (b) portable fire extinguishers are located in the workplace in accordance with the *Manitoba Fire Code*.
- 19.3(2)** An employer must ensure that all fire protection equipment and portable fire extinguishers are maintained in accordance with the manufacturer's specifications and the *Manitoba Fire Code*.

#### **Containers for contaminated materials**

- 19.4** An employer must ensure that any material contaminated by a flammable or combustible liquid is placed in a container that is stored in accordance with the *Manitoba Fire Code*.

#### **Containers for combustible or flammable liquids**

- 19.5** An employer must ensure that any flammable or combustible liquid is kept in a container that meets the requirements of the *Manitoba Fire Code*.

## Use of gasoline

- 19.6(1)** An employer must ensure that gasoline is not used to start a fire or used as a cleaning agent.
- 19.6(2)** An employer must ensure that a worker does not
- (a) refill a tank connected to a heating device with a combustible or flammable liquid while the device is in operation or is hot enough to ignite the liquid; or
  - (b) place a tar pot that is in use within 3 m of an entrance to or exit from a building or structure.

## Control of ignition sources, static charges

- 19.7** An employer must ensure that
- (a) static charge accumulations during the transfer of a flammable liquid or explosive substance from one container to another are prevented by either electrically bonding or grounding the containers;
  - (b) metallic or conductive containers used to transfer flammable liquids are electrically bonded to each other or are electrically grounded while their contents are being transferred from one container to the other; and
  - (c) only flammable fuel transfer equipment and portable fuel transfer tanks approved by the CSA or the Underwriters Laboratories of Canada are used to transfer flammable liquids.

## Flammable or explosive substances in atmosphere

- 19.8(1)** An employer must ensure that a worker does not enter a workplace where a flammable or explosive substance is present in the atmosphere at a level that is more than 10% of the lower explosive limit of that substance.
- 19.8(2)** Subsection (1) does not apply to a firefighter engaged in an emergency operation that is subject to Part 42 (Firefighters).

## Hot work

- 19.9(1)** An employer must ensure that hot work is performed in accordance with the *Manitoba Fire Code*.
- 19.9(2)** Before any hot work begins, an employer must ensure that a container or piping that contains or has contained a flammable substance is purged using an effective removal method.

- 19.9(3)** An employer must ensure that welding or cutting of metal that has been cleaned with a flammable or combustible liquid or flammable gases does not take place until the metal has thoroughly dried.

**Compressed gas equipment**

- 19.10** An employer must ensure that all compressed gas cylinders are stored in accordance with the *Manitoba Fire Code*.

**Definition: “container”**

- 19.11** In this Part, “**container**” means a stationary or portable vessel or receptacle used to contain a flammable substance such as a tank, tank car, tank truck or a cylinder.

## **PART 20**

### **VEHICULAR AND PEDESTRIAN TRAFFIC**

#### **Application**

- 20.1** This Part applies to
- (a) every workplace where there is a risk to the safety or health of a person due to the movement of vehicular traffic; or
  - (b) every construction project site where there is a risk to the safety or health of a person due to the proximity of pedestrian or vehicular traffic to the project site.

#### **Walkway protection required**

- 20.2** Except for residential construction, an employer must ensure that no work is carried out at a construction project site located within 4.5 m of a pedestrian walkway unless the part of the walkway adjacent to the project site is covered.

#### **Requirements re covered walkway**

- 20.3** An employer must ensure that, when a pedestrian walkway is required to be covered under section 20.2,
- (a) the cover of the pedestrian walkway
    - (i) is wide enough to completely cover the pedestrian walkway,
    - (ii) is installed at such a height as to provide at least 2.4 m of unobstructed passage beneath it,
    - (iii) is capable of supporting any load that is likely to be imposed on it, but in no circumstances less than 2.4 kN per square metre, and
    - (iv) provides a weather-tight roof; and
  - (b) the covered walkway has
    - (i) a partition that covers the side adjacent to the construction project site,
    - (ii) where it is adjacent to a street, a railing one metre high from ground level on the street side, and
    - (iii) adequate lighting.



## **Fencing**

- 20.4** An employer must ensure that a fence at least one metre in height is installed and maintained on any perimeter side of a construction project site where there is a risk to the safety or health of a person travelling — whether by walking or by vehicle — adjacent to the site.

## **Safe work procedures: traffic control**

- 20.5(1)** Whenever the movement of vehicular traffic constitutes a risk to the safety or health of a worker, an employer must
- (a) develop and implement safe work procedures that provide an effective means of traffic control;
  - (b) train workers in those safe work procedures; and
  - (c) ensure that workers comply with those safe work procedures.
- 20.5(2)** Without limiting subsection (1), if vehicular traffic creates a risk to the safety or health of a worker, an employer must ensure that one or more of the following are used to protect the worker:
- (a) warning signs;
  - (b) barriers;
  - (c) lane control devices;
  - (d) flashing lights;
  - (e) flares;
  - (f) conspicuously identified pilot vehicles;
  - (g) automatic or remote controlled traffic control systems;
  - (h) speed restrictions;
  - (i) one or more workers who are designated and act as flagpersons, in accordance with section 20.6.

## **Flagpersons**

- 20.6(1)** No employer shall require or permit a worker to work as a flagperson unless the worker
- (a) holds a valid flagperson's training certificate issued by a person or organization that has been approved by the director under section 20.6.2; and

- (b) has demonstrated competency in applying the training referred to in clause 20.5(1)(b) and subsection 20.6.2(2) to the employer's workplace.

**20.6(2)** An employer must ensure that a flagperson

- (a) carries his or her flagperson's training certificate at all times;
- (b) is provided with
  - (i) a paddle with reflective surfaces, on one side of which is written "STOP" in white letters on a red background, and on the other side is written "SLOW" in black letters on a fluorescent yellow-green background,
  - (ii) high visibility safety apparel that meets the Class 3 Level 2 requirements of CSA Z96-15, *High Visibility Safety Apparel*, and that is fluorescent yellow-green in colour,
  - (iii) protective headwear of a fluorescent colour, augmented during hours of darkness with a retro-reflective material or combined materials securely attached to the headwear in such a manner as to provide 360° visibility to others, and
  - (iv) a means of communication with any other flagperson at the workplace, when the worker does not have a clear view of that other flagperson; and
- (c) in the case of a flagperson who works during hours of darkness, a fully operational flashlight fitted with a red signalling wand of sufficient brightness to be clearly visible to approaching traffic.

**20.6(3)** Except for the means of communication provided under subclause (2)(b)(iv), an employer must ensure that a flagperson does not use any personal electronic device, including

- (a) a portable radio, cassette player, compact disk player or recorder, mp3 player or other digital music recorder and player, that is worn on the body,
- (b) a personal digital assistant or other similar handheld device, or
- (c) a cellular telephone.

**20.6(4)** Section 6.7 does not apply to a flagperson, but the high visibility safety apparel, protective headwear and flashlight provided by an employer under clause (2)(b) and (c) are personal protective equipment and the obligations of the employer and the worker under sections 6.3 to 6.5 apply to the apparel, headwear and flashlight.

- 20.6(5)** The employer must ensure that the high visibility apparel or headwear referred to in clause (2)(b) is immediately replaced if it
- (a) is faded, torn, dirty or otherwise rendered ineffective, or
  - (b) does not display a CSA certification label.

M.R. 165/2012; 128/2019

### **Use of warning signs**

- 20.6.1** When an employer posts warning signs to advise persons that a flagperson is present, the signs must
- (a) have reflective surfaces; and
  - (b) be fluorescent yellow-green in colour.

M.R. 165/2012

### **Training certificate for flagpersons**

- 20.6.2(1)** The director may approve a person or organization to provide a flagperson training program if the training program is consistent with the requirements of flagperson training set out in subsection (2).
- 20.6.2(2)** A flagperson training program must consist of a combination of in-class coursework and practical application in the following:
- (a) the requirements of
    - (i) the *Manual of Temporary Traffic Control in Work Areas on City Streets* referred to in City of Winnipeg Traffic By-Law 1573/77, as it applies to flagpersons in the case of work within the City of Winnipeg, or
    - (ii) the *Manitoba Flagperson Training Manual* issued by Manitoba Infrastructure and Transportation, in the case of work outside the City of Winnipeg;
  - (b) the impacts of environmental factors, including heat, cold, sun, and hours of darkness;
  - (c) the use of personal protective clothing and equipment;
  - (d) working around heavy equipment;
  - (e) proper hand signal communication;
  - (f) communication with the travelling public, including responding to aggressive drivers and violence prevention;
  - (g) positioning, signage and barrier usage;

- (h) identifying an escape route;
- (i) reporting near misses and incidents;
- (j) emergency procedures.

**20.6.2(3)** A person or organization that provides a training program that is approved by the director must issue a certificate to a person who successfully completes the program, and each such certificate must

- (a) identify the person or organization that issued the certificate;
- (b) specify the date it was issued and its expiry date, which must not be more than three years after it was issued.

**20.6.2(4)** The director may, in a manner he or she determines, publish the name and other relevant information of a person or organization that provides a training program that is approved by the director.

M.R. 165/2012; 90/2014; 128/2019

### **Signal person on construction site**

**20.7(1)** An employer must ensure that a worker is designated to act as a signal person when powered mobile equipment at a construction project site travels in a reverse direction or moves in a manner that may create a risk to the safety or health of its operator or any other worker in its vicinity.

**20.7(2)** A worker designated as a signal person must

- (a) have a clear view of the operator and the intended path of travel of the powered mobile equipment; and
- (b) direct the operator of the equipment through the use of
  - (i) pre-arranged visual signals, if the signals will be clearly visible to the operator, or
  - (ii) a radio communication system, if visual signals will not be clearly visible to the operator.

### **Reverse warnings**

**20.8** An employer must ensure that powered mobile equipment, except a vehicle that has less than a 907 kg (one ton) carrying capacity, is equipped with a suitable warning device that operates automatically when it moves in reverse.

M.R. 147/2010

## **PART 21**

### **EMERGENCY WASHING FACILITIES**

#### **Application**

- 21.1** This Part applies to every workplace where hazardous, irritating or corrosive substances are used.

#### **Duty to provide emergency washing facilities**

- 21.2(1)** An employer must provide emergency washing facilities at a workplace where hazardous, irritating or corrosive substances are used.
- 21.2(2)** An employer must assess the risk of exposure to hazardous, irritating or corrosive substances in the workplace in consultation with
- (a) the committee at the workplace;
  - (b) the representative at the workplace; or
  - (c) when there is no committee or representative, the workers at the workplace.
- 21.2(3)** An employer must provide the number and type of emergency washing equipment that is sufficient to address the risk of exposure to hazardous, irritating or corrosive substances as determined by the assessment under subsection (2).
- 21.2(4)** An employer must ensure that the emergency washing equipment provided at the workplace meets the requirements and is installed, tested and maintained in accordance with
- (a) ANSI/ISEA Z358.1-2014, *American National Standard for Emergency Eyewash and Shower Equipment*; and
  - (b) the equipment manufacturer's specifications.

M.R. 128/2019

#### **Location and identification of washing equipment**

- 21.3** An employer must ensure that
- (a) the emergency washing equipment is located in the workplace and clearly identified in accordance with the requirements of ANSI/ISEA Z358.1-2014, *American National Standard for Emergency Eyewash and Shower Equipment*; and
  - (b) unimpeded access to the equipment is provided.

M.R. 128/2019

## Training

- 21.4** An employer must ensure that a worker who may be required to use emergency washing equipment is trained in the use of the equipment in accordance with the requirements of
- (a) ANSI/ISEA Z358.1-2014, *American National Standard for Emergency Eyewash and Shower Equipment*; and
  - (b) the equipment manufacturer's specifications.

M.R. 128/2019

## Personal eyewash unit

- 21.5(1)** In addition to the emergency washing equipment required under section 21.2, an employer may provide a personal eyewash unit to a worker and a worker may use the unit to immediately flush an eye injury.
- 21.5(2)** When a worker has used a personal eyewash unit to flush an eye injury, an employer must ensure that the worker immediately uses the emergency washing equipment provided in the workplace.

## **PART 22 POWERED MOBILE EQUIPMENT**

### **GENERAL**

#### **Application**

- 22.1** This Part applies to every workplace where powered mobile equipment is used.

#### **Safe work procedures**

- 22.2** An employer with a workplace that is subject to this Part must
- (a) develop and implement safe work procedures for the use of powered mobile equipment in the workplace;
  - (b) train workers in those safe work procedures; and
  - (c) ensure that workers comply with those safe work procedures.

#### **Inspection and maintenance**

- 22.3(1)** An employer must ensure that powered mobile equipment is inspected by a competent person for defects and unsafe conditions
- (a) as often as is necessary to ensure that the equipment is in safe operating condition; and
  - (b) without limiting clause (a), in accordance with the manufacturer's specifications.
- 22.3(2)** If an inspection of powered mobile equipment identifies a defect or unsafe condition that is hazardous or may create a risk to the safety or health of a worker, an employer must ensure that the powered mobile equipment is not operated until the defect is repaired or the unsafe condition is corrected.
- 22.3(3)** An employer must ensure that a written record of the inspections, repairs and maintenance carried out on the powered mobile equipment is kept at the workplace and made readily available to the operator of the equipment.

#### **Operator's manual**

- 22.4** An employer must ensure the operator's manual for powered mobile equipment is readily available to a worker who operates the equipment.

## SAFETY REQUIREMENTS FOR EQUIPMENT

### Guarding moving parts

- 22.5(1)** An employer must ensure that the exposed moving parts of powered mobile equipment, including gears, pulleys, belts, chains and shafts, are effectively shielded, enclosed or guarded in a manner that prevents a worker from coming in contact with the moving parts.
- 22.5(2)** Where it is not reasonably practicable to provide a shield, enclosure or guard, an employer must ensure that an alternative mechanism, system or change in work procedure that offers protection to a worker that is equal to or greater than the protection from a shield, enclosure or guard is put into place to protect the safety and health of a worker.

### Exhaust and other hot equipment surfaces

- 22.6(1)** An employer must ensure that every surface of powered mobile equipment, including exhaust systems and hydraulic lines, that may burn a worker who comes in contact with it is shielded or guarded in a manner that provides effective protection from burns.
- 22.6(2)** An employer must ensure that powered mobile equipment which has an enclosed compartment that is used to transport workers has the exhaust outlet of the engine located so that exhaust gases cannot enter the compartment.

### Safety requirements

- 22.7(1)** An employer and a supplier must ensure that powered mobile equipment is equipped with
- (a) a horn or other audible warning device;
  - (b) a portable fire extinguisher that meets the applicable requirements for extinguishers contained in the *Manitoba Fire Code*;
  - (c) an effective braking system; and
  - (d) an effective parking device.
- 22.7(2)** An employer and a supplier must ensure that powered mobile equipment that is used to drive ancillary equipment, including a power take-off, crane or auger or any digging, lifting or cutting equipment, is equipped with a device, within easy reach of the operator, that allows the operator to immediately stop the ancillary equipment.



## **Seats, seatbelts and restraining devices**

- 22.8** If, at the time it was manufactured or subsequently, powered mobile equipment is equipped with a seat with a seatbelt or another type of restraining device, an employer must ensure that
- (a) the seat and seatbelt or restraining device are not removed; and
  - (b) when the powered mobile equipment is in use, the operator and any other worker required or permitted to be in or on the equipment use the seats and seatbelts or other restraining devices.

## **Lights**

- 22.9(1)** An employer must ensure that powered mobile equipment which is operated during hours of darkness or in an area that is not adequately illuminated is equipped with suitable headlights and back-up lights that clearly illuminate the path of travel.
- 22.9(2)** A supplier must ensure that powered mobile equipment that is intended to be operated during hours of darkness is equipped with suitable headlights and back-up lights that clearly illuminate the path of travel.

## **Windshield and other transparent materials**

- 22.10(1)** An employer and a supplier must ensure that powered mobile equipment which is equipped with a windshield is also equipped with suitable windshield wipers and washers.
- 22.10(2)** An employer and a supplier must ensure that any transparent material used as part of the enclosure for a cab or canopy on powered mobile equipment is made of safety glass or another material that gives at least the equivalent protection against shattering.

## **Falling objects protective structures**

- 22.11(1)** An employer must ensure that, when there is a risk to the safety or health of the operator of powered mobile equipment or any other worker who is required or permitted to be in or on the equipment from a falling object, the equipment is equipped with a falling objects protective structure that
- (a) complies with the applicable requirements of
    - (i) SAE Standard J167\_201701, *Overhead Protection for Agricultural Tractors - Test Procedures and Performance Requirements*,
    - (ii) ISO 3449:2005, *Earthmoving Machinery - Falling-Object Protective Structures - Laboratory Test and Performance Requirements*, or

(iii) SAE Standard J1042\_201206 - *Operator Protection for General-Purpose Industrial Machines*; or

- (b) is certified by a professional engineer as providing the equivalent or better protection than that of a structure that complies with the requirements of clause (a).

**22.11(2)** An employer must ensure that any addition, modification or structural repair of a falling objects protective structure is done in accordance with the instructions of, and is recertified as restored to its original performance requirements by, the equipment manufacturer or a professional engineer.

M.R. 128/2019

### **Protection against shifting equipment**

**22.12(1)** An employer must ensure that powered mobile equipment used to transport tools, equipment or materials that may shift during a stop is equipped with a bulkhead or a restraining device that effectively protects the operator and any other worker who is required or permitted to be in or on powered mobile equipment.

**22.12(2)** An employer must ensure that no worker places equipment or material in the cab of powered mobile equipment in which the operator or any other worker is being transported unless they are positioned or secured to restrict their movement and prevent injury to the operator or other worker.

### **Hazardous materials not be placed in enclosed part**

**22.13** An employer must ensure that no flammable liquids, hazardous chemicals or any other potentially harmful materials are transported in an enclosed part of powered mobile equipment where a worker is present.

### **Fuel tanks not to be in enclosed cabs**

**22.14** If an enclosed cab is provided, the employer and supplier must ensure that the fuel tank of the powered mobile equipment is not located in its enclosed cab.

## **WHEN POWERED MOBILE EQUIPMENT IS USED**

### **Visual inspection**

**22.15** An employer must ensure that before powered mobile equipment is operated, its operator completes a visual inspection of the equipment and the surrounding area to ensure that it is in safe operating condition and that no one, including the operator, will be endangered when the powered mobile equipment is started.

## **Dangerous movement**

- 22.16(1)** An employer must ensure that, if the movement of a load or the cab, counterweight or any other part of the powered mobile equipment creates a risk to the safety or health of a person,
- (a) the person does not remain within the range of the moving load or part; and
  - (b) the operator of the equipment does not move the load or the equipment if a person is at risk.
- 22.16(2)** An employer must ensure that, if a person could be caught between a moving part of the powered mobile equipment and another object,
- (a) entry to the area is restricted; and
  - (b) the operator of the equipment maintains an appropriate clearance distance between the powered mobile equipment and the object.
- 22.16(3)** An employer must ensure that no person is in the immediate path of travel of powered mobile equipment or under any material or equipment that is being loaded or unloaded from it.

## **Barrier if used above grade height**

- 22.17** An employer must ensure that, when powered mobile equipment is used above grade height in or on a building or other structure, an appropriate barrier is installed to prevent the equipment from falling.

## **Requirements re transporting workers**

- 22.18(1)** An employer must ensure that no worker is transported by powered mobile equipment or any attachment unless
- (a) the equipment or attachment is designed for that purpose; and
  - (b) if there is a separation between the operator and the passenger or passengers, there is a suitable means of communication between the operator and the passenger or passengers.
- 22.18(2)** Without limiting subsection (1), an employer must ensure that no worker is transported on top of a load that is being moved by powered mobile equipment.

## **Unattended equipment**

- 22.19** An employer must ensure that the operator does not leave the controls of powered mobile equipment unattended unless
- (a) the equipment is secured against unintentional movement by an effective method of immobilizing the equipment; and
  - (b) all suspended or elevated parts, if any, are fully lowered.

## **Extending boom**

- 22.20** An employer must ensure that no worker operates powered mobile equipment equipped with an extending boom unless the equipment is stable under all operating conditions.

## **Ladders attached to extending boom**

- 22.21(1)** An employer must ensure that
- (a) if a ladder is a permanent part of an extending boom on powered mobile equipment, no worker is on the ladder when the equipment is being moved or the boom is being articulated, extended or retracted; and
  - (b) if outriggers or stabilizers are incorporated into powered mobile equipment, no worker climbs a ladder attached to an extending boom unless the outriggers or stabilizers are deployed and used in accordance with the manufacturer's specifications.
- 22.21(2)** An employer must ensure that a worker who works from a ladder attached to an extending boom on power mobile equipment complies with Part 14 (Fall Protection).
- 22.21(3)** Clause (1)(a) does not apply to firefighters working on firefighting equipment.

## **MAINTENANCE**

### **Maintenance on elevated parts**

- 22.22** An employer must ensure that if an elevated part of powered mobile equipment is being maintained or repaired by a worker, the part and the powered mobile equipment are securely blocked in place and cannot move.

### **Tire servicing**

- 22.23(1)** An employer must ensure that
- (a) a competent person services, inspects, disassembles and reassembles a tire or tire and wheel assembly of powered mobile equipment in accordance with the specifications of both

the tire manufacturer and the manufacturer of the powered mobile equipment; and

- (b) the manufacturer's service manuals for the tires and wheels are readily available to the competent person.

**22.23(2)** An employer must ensure that a competent person

- (a) uses a clamp-on type of connector to inflate split-rim and locking ring wheels; and
- (b) only inflates a tire mounted on a split-rim or locking ring wheel if
  - (i) the wheel assembly is in a tire cage or is similarly restrained, and
  - (ii) potential flying parts from split-rim or locking ring failure or tire rupture are contained.

**22.23(3)** An employer must ensure that, where a clamp-on type of connector is used to inflate a tire, the person doing so

- (a) uses
  - (i) an in-line pressure gauge, and
  - (ii) positive pressure control; and
- (b) inflates the tire from a position that is safe and that is not within the potential trajectory of the tire.

## ROLLOVER PROTECTIVE STRUCTURES

### **Definition: "Rollover protective structure"**

**22.24** In sections 22.25 and 22.26, "**rollover protective structure**" means a structure designed to reduce the possibility of injury to an operator of powered mobile equipment in the event of a rollover or upset of the equipment.

### **Requirement for ROPS**

**22.25(1)** Unless equipped with a rollover protective structure that meets the requirements of this section, no person may operate, and no employer may authorize or permit a worker to operate,

- (a) the following types of powered mobile equipment with a machine mass of 700 kg or more:
  - (i) a tractor,

- (ii) a motor grader,
  - (iii) a prime mover,
  - (iv) a skidder,
  - (v) a tracked dozer or loader,
  - (vi) a wheeled dozer or loader;
- (b) the following types of powered mobile equipment with a machine mass of 2,700 kg or more:
- (i) a compactor,
  - (ii) a roller; or
- (c) powered mobile equipment that is an agricultural tractor with engine power greater than 15 kW.

**22.25(2)** Where a rollover protective structure is required to be provided under subsection (1), the employer and the supplier of powered mobile equipment must ensure that the equipment is equipped with a rollover protective structure that

- (a) if commercially manufactured, complies with the applicable requirements of
  - (i) CSA B352.0-16, *Rollover protective structures (ROPS), falling object protective structures (FOPS), operator protective structures (OPS), and tip-over protective structures (TOPS) for mobile machinery - General Canadian requirements*, and
  - (A) CSA B352.1-95 (R2006), *Rollover Protective Structures (ROPS) for Agricultural, Construction, Earthmoving, Forestry, Industrial, and Mining Machines - Part 2: Testing Requirements for ROPS on Agricultural Tractors*, or
  - (B) CSA B352.2-95 (R2006), *Rollover Protective Structures (ROPS) for Agricultural, Construction, Earthmoving, Forestry, Industrial, and Mining Machines - Part 3: Testing Requirements for ROPS on Construction, Earthmoving, Forestry, Industrial, and Mining Machines*,
  - (ii) SAE Standard J1042\_201206, *Operator Protection for General-Purpose Industrial Machines*,

- (iii) SAE Standard J1194\_201611, *Rollover Protective Structures (ROPS) for Wheeled Agricultural Tractors*,
  - (iv) ISO 3471:2008, *Earth-moving machinery - Roll-over protective structures - Laboratory tests and performance requirements*, or
  - (v) a predecessor of a standard described in this clause that was in effect when the powered mobile equipment was manufactured; or
- (b) if not commercially manufactured, is designed by a professional engineer and constructed and maintained so that when the equipment on which it is installed is travelling at a forward speed of 16 km/h, engages a 30° slope and rolls 360° about the longitudinal axis on a hard clay surface,
- (i) the rollover protective structure will withstand the impact forces,
  - (ii) upon impact, no part of the rollover protective structure will enter the space of the equipment that is normally used by the operator, and
  - (iii) the rollover protective structure will support the equipment when the equipment is upside down.

**22.25(3)** A rollover protective structure is not required to conform with the requirements of subsection (2) if

- (a) it was manufactured before May 1, 1991;
- (b) it was manufactured in accordance with
  - (i) a standard approved by an agency of the Government of Canada or of a province or territory of Canada, or
  - (ii) the design specifications certified by a professional engineer; and
- (c) it is maintained in accordance with the standard or specifications applicable under clause (b).

**22.25(4)** When a rollover protective structure is required to be provided under subsection (1), the employer and the supplier must ensure that

- (a) the rollover protective structure is securely fastened to the frame of the mobile equipment;

- (b) the rollover protective structure has a permanently attached legible identification marker containing the following information:
  - (i) if commercially manufactured,
    - (A) the name of the commercial manufacturer,
    - (B) its model and serial number,
    - (C) the title and clause of the standard to which it was designed, manufactured and installed, and
    - (D) the equipment make and model for which it is designed to be used, or
  - (ii) if designed by a professional engineer, the name and registration number of the professional engineer who designed it; and
- (c) the powered mobile equipment is equipped with a seat with a seat belt for the operator and any other worker required or permitted to be in or on the powered mobile equipment.

**22.25(5)** A rollover protective structure manufactured before May 1, 1991 is not required to have an identification marker as described in clause (4) (b), but the employer using it or its owner must, on the request of a safety and health officer, provide evidence that the rollover protective structure meets the requirements of clauses (3)(b) and (c).

M.R. 128/2019

### **Structural integrity of ROPS**

**22.26(1)** Where the structural integrity of a rollover protective structure required under section 22.25 is compromised, no person may operate the powered mobile equipment, and no employer may permit the powered mobile equipment to be operated, unless

- (a) the rollover protective structure is replaced; or
- (b) a professional engineer certifies that it has not been compromised in such a manner that it no longer complies with the requirements of subsection 22.25(2).

**22.26(2)** An employer and a supplier must ensure that any addition, modification or structural repair of a rollover protective structure is done in accordance with the instructions of, and is recertified as restored to its original performance requirements by, the equipment manufacturer or a professional engineer.



## Exceptions

**22.27** Sections 22.25 and 22.26 do not apply to

- (a) a farm tractor, as defined in *The Highway Traffic Act*, manufactured before January 1, 2001 and used exclusively for agricultural work;
- (b) a compactor or roller manufactured before January 1, 1979;
- (c) powered mobile equipment described in subsection 22.25(1), other than a compactor or roller to which clause (b) applies, that was manufactured before January 1, 1974;
- (d) powered mobile equipment in use on ice, as “ice” is defined in section 22.33; or
- (e) powered mobile equipment in use in a building or structure built before May 1, 1991 that does not have sufficient overhead clearance for the safe operation of equipment equipped with a rollover protective structure.

## POWERED LIFT TRUCKS

### Definition: “powered lift truck”

**22.28** In sections 22.29 and 22.30, “**powered lift truck**” means powered mobile equipment that is

- (a) designed to allow the operator to lift, carry and unload a load; and
- (b) within a class of trucks to which the code of practice referred to in subsection 22.29(2) applies.

### Powered lift truck operating certificate

**22.29(1)** No employer shall require or permit a worker to operate a powered lift truck unless the employer has issued a certificate to the worker under this section.

**22.29(2)** No employer shall issue a certificate to a worker to operate a powered lift truck unless the employer has first ensured that the worker

- (a) has received instruction, training and testing in the operation of the powered lift truck in accordance with a code of practice approved and issued under the Act;
- (b) is familiar with the operating procedures of the truck that the worker will be operating; and

- (c) has demonstrated competency in the operation of the truck that the worker will be operating in accordance with the code of practice referred to in clause (a).

**22.29(3)** An employer who issues a certificate to a worker must

- (a) establish and implement an evaluation system to ensure that the worker maintains competency in the operation of the powered lift truck;
- (b) maintain a record of the training the worker receives in the operation of the truck; and
- (c) produce a copy of the certificate and record on the request of a safety and health officer.

### **Load rating chart**

**22.30** An employer and a supplier must ensure that a powered lift truck is provided with a clearly visible and legible load rating chart that is affixed to the truck.

## **CONCRETE PUMP TRUCKS**

### **Concrete pump trucks**

**22.31(1)** In this section, “**concrete pump truck**” means powered mobile equipment that is comprised of a concrete pump, a distribution boom or mast, delivery pipes and the equipment on which they are mounted.

**22.31(2)** An employer must ensure that the operator of a concrete pump truck inspects the concrete distribution boom or mast and the boom or mast’s safety and control devices before each use.

**22.31(3)** Before using a concrete pump truck at a workplace, an employer must ensure that the outriggers of the equipment are extended in accordance with the manufacturer’s specifications.

**22.31(4)** While a concrete pump truck is in use at a workplace, an employer must ensure that

- (a) no worker or other person is positioned under a distribution boom or mast connected to the concrete pump truck; and
- (b) except for a worker placing the concrete, no worker or other person is in the work area of the distribution boom or mast when it is being used.

- 22.31(5)** An employer must ensure that a concrete pump truck is not moved when its distribution boom or mast is partially or fully extended, unless the truck is designed to be moved with its distribution boom or mast partially or fully extended.
- 22.31(6)** An employer must ensure that a worker who is assisting the operator of a concrete pump truck does not
- (a) straighten a kinked end hose by increasing the pressure in the hose; or
  - (b) clear a blockage of the end of the hose with any part of his or her body.

## DUMP TRUCKS

### Dump trucks

- 22.32(1)** When a dump truck is used at a workplace, the safe work procedures developed and implemented under section 22.2 must include procedures respecting the use of other powered mobile equipment to free a load trapped in the dump box of the truck.
- 22.32(2)** When more than one dump truck is being operated at a workplace at the same time, an employer must ensure that the trucks maintain a sufficient distance between them to avoid contact if one of the trucks tips over.
- 22.32(3)** Before a dump truck dumps a load, an employer must ensure that the ground on which the load is to be dumped is stable and capable of withstanding the weight of both the truck and the load.

## WORKING ON ICE

### Definition: “ice”

- 22.33** In sections 22.34 to 22.37, “ice” means ice that is
- (a) over water, where the water is more than one metre deep; or
  - (b) over any other material into which a worker could sink more than one metre.

### Safe work procedures on ice

- 22.34(1)** Without limiting section 22.2, where a worker is required or permitted to use powered mobile equipment on ice, an employer must
- (a) develop and implement safe work procedures for the use of powered mobile equipment on ice;

- (b) train workers in those safe work procedures; and
- (c) ensure that workers comply with those safe work procedures.

**22.34(2)** The safe work procedures under clause (1)(a) must include

- (a) procedures for testing the thickness of the ice to ensure that it will support the load to be placed on it
  - (i) before any work begins, and
  - (ii) as often during the work as necessary to ensure that there is no risk to the safety of the workers; and
- (b) a plan for dealing with an emergency arising from powered mobile equipment breaking through the surface of the ice.

**22.34(3)** For certainty, the safe work procedures under clauses (1)(b) and (c) include the protection from drowning procedures prescribed in subsections 6.17(3) and (4).

### **Gross vehicle weight to be legibly marked**

**22.35(1)** An employer must ensure that powered mobile equipment used on ice has its weight, when fully fuelled, legibly marked on it.

**22.35(2)** An employer must ensure that the weight of an attachment that is attached to powered mobile equipment used on ice is legibly marked on the attachment.

### **Refuelling on ice prohibited**

**22.36** An employer must ensure that powered mobile equipment is not refuelled while it is on ice.

### **Pilot vehicle required**

**22.37(1)** When building a winter road on ice, an employer must ensure that a worker in a pilot vehicle accompanies workers operating powered mobile equipment on the ice.

**22.37(2)** The pilot vehicle must be equipped with a means of communication that enables the operator to communicate with

- (a) the workers who will implement the plan for dealing with an emergency arising from powered mobile equipment breaking through the ice; or
- (b) the applicable emergency response services.

## **PART 23**

### **CRANES AND HOISTS**

#### **Application**

**23.1** This Part applies to every workplace where a crane or hoist is used.

#### **Safe work procedures**

**23.2(1)** An employer must

- (a) develop and implement safe work procedures respecting the use of cranes and hoists;
- (b) train workers in the safe work procedures; and
- (c) ensure that workers comply with the safe work procedures.

**23.2(2)** The safe work procedures must deal with the installation, removal or replacement of the mast or boom section of a crane or hoist and all related parts.

#### **Operator requirements**

**23.3(1)** An employer must ensure that only a person who is authorized to practise the trade of crane and hoist operator under the *Trade of Crane and Hoisting Equipment Operator Regulation*, Manitoba Regulation 91/2000, is allowed to operate

- (a) a mobile crane with a rated load of 7,300 kg or more;
- (b) a boom truck hoist with a rated load of 7,300 kg or more; or
- (c) a tower crane.

**23.3(2)** An employer must ensure that the operator of a crane or hoist does not leave the controls of the crane or hoist unattended while a load is being hoisted.

#### **Applicable standards**

**23.4** An employer and a supplier must ensure that

- (a) a commercially manufactured crane or hoist is designed, constructed, erected, used, maintained, examined, inspected, operated and repaired in accordance with the manufacturer's specifications and the applicable requirements of the following standards:
  - (i) CSA W178.1-14, *Certification of Welding Inspection Organizations*,
  - (ii) CSA W178.2-14, *Certification of Welding Inspectors*,

- (iii) CSA B167-16, *Overhead cranes, gantry cranes, monorails, hoists, and jib cranes*,
  - (iv) CSA C22.2 No. 33-M1984 (R2014), *Construction and Test of Electric Cranes and Hoists*,
  - (v) CAN/CSA Z150-16, *Safety Code on Mobile Cranes*,
  - (vi) CAN/CSA Z185-M87 (R2016), *Safety Code for Personnel Hoists*;
  - (vii) CSA Z248-17, *Code for Tower Cranes*,
  - (viii) CAN/CSA Z256-M87 (R2016), *Safety Code for Material Hoists*,  
or
- (b) a crane or hoist that is not commercially manufactured is
- (i) designed by a professional engineer in accordance with the applicable requirements of the standards set out in clause (a),
  - (ii) certified by a professional engineer, and
  - (iii) constructed, erected, used, maintained, examined, inspected, operated and repaired in accordance with the professional engineer's requirements.

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## **Repairs and modifications**

- 23.5** An employer must ensure that structural repairs or modifications to the components of a crane or hoist are
- (a) made only under the direction and control of a professional engineer; and
  - (b) certified by the professional engineer that the workmanship and quality of the materials used has restored the components to not less than their original capacity.

## **Maintenance and inspection schedule**

- 23.6** An employer and a supplier must, while a crane or hoist is in their possession,
- (a) develop and implement a maintenance and inspection schedule for a crane or hoist in accordance with the manufacturer's specifications or the specifications of the applicable standard under clause 23.4(a) where no manufacturer's specifications exist; and

- (b) maintain the crane or hoist in a safe operating condition.

### **Duty to inspect**

- 23.7(1)** An employer must ensure that a crane or hoist is inspected by the operator before the start of each work shift in order to detect any defect, malfunction or hazardous condition.
- 23.7(2)** A supplier must ensure that a crane or hoist is inspected for any defect, malfunction or hazardous condition before the crane or hoist is supplied to any person.

### **Logbook for cranes**

- 23.8(1)** When a crane with a rated load capacity of 907 kg (one ton) or more is in the possession of an employer or a supplier, the employer or supplier must provide and maintain a logbook for the crane that records the following information:
  - (a) the date and time when any work was performed on the crane;
  - (b) the length of time in hoisting service;
  - (c) all defects or deficiencies and when they were detected;
  - (d) all inspections performed on the crane, including examinations, checks and tests;
  - (e) a record of any certification of repairs or modifications under section 23.5;
  - (f) a description of the work performed by the crane each day;
  - (g) in the case of a tower crane,
    - (i) whether or not the weight testing device was lifted for each working day, before the work of lifting loads began, and
    - (ii) a record of certification under section 23.25;
  - (h) any matter or incident that may affect the safe operation of the crane.
- 23.8(2)** An employer and supplier must ensure that every entry in the logbook is signed by the person performing the work.
- 23.8(3)** When a supplier provides a crane to a person, the supplier must ensure that the most current version of the logbook accompanies the crane.

- 23.8(4)** When ownership of a crane is transferred, the person transferring ownership must ensure that all logbooks for the crane are transferred to the new owner.

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### **Rated load**

- 23.9(1)** An employer and a supplier must ensure that a crane or hoist has a plate or weatherproof label permanently secured to it that legibly shows
- (a) in the case of a commercially manufactured crane or hoist,
    - (i) the manufacturer's name,
    - (ii) the model, serial number and the year of manufacture or shipment date, and
    - (iii) the manufacturer's rated load; and
  - (b) in the case of a crane or hoist that is not commercially manufactured, the rated load certified by a professional engineer.
- 23.9(2)** An employer and a supplier must ensure that a mobile crane or boom truck is equipped at all times with a load chart showing the rated load at all permitted boom angles and boom radiuses.
- 23.9(3)** An employer must ensure that a tower crane has a load chart conspicuously and permanently secured to the cab that shows the manufacturer's rated loads at various radiuses of a single line, a two-part line and a four-part line separately.
- 23.9(4)** An employer must ensure that the structural components of an A-frame, gin pole or guyed derrick are designed to withstand at least four times the rated load of the equipment.

### **Weight load information**

- 23.10** An employer must ensure that the operator of a crane or hoist is provided with the information necessary to enable the operator to determine readily and accurately the weight of any load that the operator is required or permitted to raise.

### **Warning devices**

- 23.11(1)** When the movement of a crane or hoist may create a risk of safety or health of a person, an employer must ensure that the crane or hoist is equipped with an effective warning device that
- (a) is readily accessible to the operator at the operator's working position; and



- (b) is designed to warn a worker of the impending movement of the crane or hoist.

**23.11(2)** If an employer uses an auditory warning device, the device must have a distinct sound that is distinguishable from all other sounds at the workplace.

### **Boom and jib stops**

**23.12** When the design or operation of a crane or other hoist may result in the boom or jib falling backwards because of its return movement, an employer and a supplier must ensure that the crane or hoist is equipped with

- (a) a boom stop and a limit device; and
- (b) where a jib is attached, a jib stop and a limit device.

### **Signal person communication**

**23.13(1)** Unless the operator of a crane or hoist has an unobstructed and clear view of its operation, an employer must designate a signal person to give the operator signals to provide for the safe operation of the crane or hoist.

**23.13(2)** Except for an emergency stop signal, an operator must not follow any signal given by any worker other than the designated signal person.

### **Load movement**

**23.14** When there is a risk to the safety or health of a person because of the movement of a load by a crane or hoist, an employer must ensure that the movement of the load is controlled by a tag line or clamp device.

### **Outrigger or stabilizer procedures**

**23.15** When a crane or hoist is equipped with outriggers or stabilizers, an employer must ensure that

- (a) the outriggers or stabilizers
  - (i) are used in accordance with the manufacturer's specifications, and
  - (ii) are set on a solid footing or pad; and
- (b) the area around the outriggers or stabilizers is kept clear of obstructions.

### **Riding prohibited**

**23.16** An employer must ensure that no person rides on a load, hook, rigging or bucket attached to a crane or hoist.

## **Barricading base**

- 23.17** When there is a risk of a worker being trapped or crushed by any moving part of the crane or hoist when it swings, an employer must ensure that a barricade is erected around the base of the crane or hoist.

## **Vehicular and pedestrian traffic safety**

- 23.18** When hoisting takes place adjacent to or in the vicinity of a pedestrian walkway, street, highway or other public thoroughfare, an employer must provide signs, barricades and properly identified flagpersons or other measures in accordance with Part 20 (Vehicular and Pedestrian Traffic).

## **Temperature and weather conditions**

- 23.19** An employer must ensure that a crane or hoist does not operate
- (a) when the temperature is at or below the temperature for the safe loading conditions recommended in the manufacturer's specifications;
  - (b) when the wind velocity exceeds the limit recommended in the manufacturer's specifications for safe operation; and
  - (c) when weather conditions or other circumstances are such that the operation of the crane or hoist creates a risk to the safety or health of any person.

## **Procedures for multiple crane lift**

- 23.20** An employer must ensure that
- (a) a plan of procedures for the operation of a lift of a load involving two or more cranes is prepared in accordance with CAN/CSA Z150-16, *Safety Code on Mobile Cranes*;
  - (b) every worker involved in the lift is trained in the plan of procedures; and
  - (c) the lift is carried out in accordance with the plan and the standard referenced in clause (a).

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## **Operator protection**

- 23.21** An employer must ensure that the operator of a crane or hoist is protected from any falling material or equipment.

### **Tower crane requirements**

- 23.22(1)** An employer must ensure that the foundation for a tower crane is designed and certified by a professional engineer.
- 23.22(2)** An employer must ensure that a tower crane is equipped with the following devices located at the operator's work position in clear view of the operator:
- (a) a permanent load gauge that indicates the weight of the load being hoisted and immediately displays that weight to the operator;
  - (b) a wind velocity gauge to measure the wind velocity at or above the height of the jib.
- 23.22(3)** An employer must ensure that a tower crane is equipped with the following safety devices:
- (a) an overload device consisting of a hoist overload switch that automatically restricts the lift of the load;
  - (b) a travel limit device consisting of a movement overload switch that automatically restricts the radius within which the load can travel;
  - (c) a height limit switch that automatically prevents the cable from being over wound on the drum;
  - (d) a trolley travel limit device consisting of a trolley-in and a trolley-out limit switch that prevents the trolley from running to the end of its track and falling off.
- 23.22(4)** An employer must ensure that the safety devices set out in subsection (3) are adjusted and set in accordance with the manufacturer's specifications and have their limit switches sealed.

### **Means of verbal communication**

- 23.23** An employer must
- (a) provide, install and maintain a direct means of verbal communication between a tower crane operator and each hook-up, rigger or signal person; and
  - (b) provide a direct means of verbal communication between the operators of two or more tower cranes with overlapping radiuses.

## **Multiple cranes**

- 23.24** When two or more tower cranes are erected in such a manner that the radiuses of operations overlap, an employer must ensure that the operators operate the cranes so that there are no collisions between the cranes or their loads.

## **Structural testing and examination**

- 23.25(1)** An employer must ensure that all structural and rigging components of a tower crane undergo non-destructive testing under the direction and control of a professional engineer in accordance with the manufacturer's specifications as close as reasonably practicable to the construction project site
- (a) before the crane is used for the first time in Manitoba; and
  - (b) if the crane is moved from project to project, before it is used after the move.
- 23.25(2)** If a tower crane is in operation on a construction project for more than one year from the date on which the crane starts operating, an employer must ensure its structural components are examined under the direction and control of a professional engineer in accordance with the manufacturer's specifications.
- 23.25(3)** An employer must ensure that the results of the testing or examination required under subsections (1) and (2) are certified by a professional engineer in a report that clearly identifies the crane and the components to which the information relates.

## **OVERHEAD CRANES**

### **Positive lockout system**

- 23.26** An employer must ensure that an overhead electric crane is provided with a positive lockout system so that power is shut off when a worker is maintaining or servicing the crane.

### **Rail stops**

- 23.27** An employer must ensure that a craneway at a workplace is equipped with adequate rail stops to prevent the overhead electric crane from contacting any obstruction or overrunning the end of the rails.

### **Upper limit devices**

- 23.28** An employer must ensure that
- (a) an overhead crane has a hoist equipped with a working upper limit device; and
  - (b) the upper-limit switch is not used as a braking device.

## **Safety latch**

- 23.29** An employer must ensure that a hoisting hook is equipped with a safety latch or similar security device.

## **MATERIAL HOISTS**

### **Inspection and testing**

- 23.30(1)** Subject to subsection (2), an employer must ensure that a material hoist is tested before being used.
- 23.30(2)** A material hoist does not have to be tested if it has been tested within seven days before its last use.

### **Barricading base**

- 23.31(1)** An employer must provide a fence or other suitable barricade at the base of a material hoist to prevent unauthorized entry of any person.
- 23.31(2)** A worker must not use the base of a material hoist to access an adjacent structure.

## **ROOFER'S HOISTS**

### **Employer obligations**

- 23.32(1)** An employer must ensure that the following requirements are complied with when a roofer's hoist is used:
- (a) bolts or pins used to interconnect component parts of a roofer's hoist are equipped with safety pins that prevent them from being dislodged;
  - (b) drivers, pulleys and belts are effectively guarded;
  - (c) a roofer's hoist is only used for vertical lifting;
  - (d) a roofer's hoist is in a level position.
- 23.32(2)** An employer must ensure that a roofer's hoist has counterweights that are
- (a) designed as a component part of the hoist to remain securely attached to the hoist until all hoisting is completed; and
  - (b) heavy enough to counterbalance four times the maximum weight of the load being lifted.
- 23.32(3)** An employer must ensure that roofing material, bagged material or any other construction material is not used as counterweight on a roofer's hoist.

## RIGGING

### Rigging specifications

**23.33(1)** An employer must ensure that rigging

- (a) meets the applicable requirements of the following standards:
  - (i) ASME B30.26-2015, *Rigging Hardware*,
  - (ii) ASME B30.21-2014, *Lever Hoists*,
  - (iii) ASME B30.20-2018, *Below-the-Hook Lifting Devices*,
  - (iv) ASME B30.9-2018, *Slings*,
  - (v) ASME B30.10-2014, *Hooks*,
  - (vi) ASME B30.23-2016, *Personnel Lifting Systems*; and
- (b) is assembled, used, maintained, inspected and dismantled in accordance with the manufacturer's specifications.

**23.33(2)** Subsection (1) does not apply to rigging that is

- (a) designed by a professional engineer in accordance with the requirements of the standards set out in subsection (1); and
- (b) assembled, used, maintained, inspected and dismantled in accordance with the specifications of the professional engineer.

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### Spreader bar requirements

**23.34** An employer must ensure that a spreader bar is designed and certified by a professional engineer, and constructed, assembled, maintained, inspected, used and dismantled in accordance with the professional engineer's specifications.

### Rigging and spreader bar requirements

**23.35** An employer must ensure that rigging and spreader bars are

- (a) suitable for and capable of supporting the load being rigged;
- (b) capable of supporting at least five times the maximum weight of the load which will be or is likely to be imposed; and
- (c) labelled or marked with their rated load and weight.

## Containers

- 23.36** An employer must ensure that a container used for a load being lifted is designed for that particular purpose and is labelled or marked with its weight and rated load.

## Hook block

- 23.37** An employer must ensure that a hook block has its rated load and weight legibly cast or stamped on it in a conspicuous location.

## VEHICLE LIFTS

### Vehicle lift requirements

- 23.38(1)** An employer must ensure that a vehicle lift meets the requirements of the following standards:
- (a) ANSI Standard ANSI/ALI ALCTV-2011, *Automotive Lifts — Safety Requirements for Construction, Testing and Validation*;
  - (b) ANSI Standard ANSI/ALI ALOIM-2008 (R2013), *Automotive Lifts — Safety Requirements for Operation, Inspection and Maintenance*;
  - (c) ANSI Standard ANSI/ALI ALIS:2009 (R2015), *Standard for Automotive Lifts — Safety Requirements for Installation and Service*.
- 23.38(2)** An employer must ensure that a pneumatic or hydraulic vehicle lift has controls operated by constant manual pressure.
- 23.38(3)** An employer must ensure that the operator of a vehicle lift
- (a) remains at the controls while the vehicle lift is in motion; and
  - (b) does not block the controls during raising and lowering.
- 23.38(4)** An employer must ensure that no worker is under a suspended load unless the load is supported by
- (a) a vehicle lift designed for that purpose; or
  - (b) rated stands or blocks, other than jacks, that are designed, constructed and maintained to support the load and placed on firm foundations.

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## **PART 24**

### **PILE DRIVING**

#### **Application**

- 24.1** This Part applies to every workplace where piles are driven into, or removed from, the ground.

#### **Safe work procedures**

- 24.2** An employer must
- (a) develop and implement safe work procedures respecting the use of pile driving equipment;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

#### **Pile hoisting**

- 24.3** An employer must ensure that
- (a) no worker operating pile driving equipment hoists piles in the leads when a worker who is not directly involved in the pile driving operation
    - (i) is on the superstructure of the pile driving equipment, or
    - (ii) within range of the pile if it falls; and
  - (b) no worker
    - (i) remains or rides on a load or part of a load being moved, raised or lowered by pile driving equipment, or
    - (ii) is on the superstructure of the pile driving equipment or within range of a pile if it falls, if the worker is not directly involved in the pile hoisting.

#### **Ladder systems**

- 24.4(1)** An employer must provide an appropriate ladder system for use by a worker who is required or permitted to climb on a lead.
- 24.4(2)** A worker must use the ladder system when one is provided.

#### **Support of piles and sheet-piles**

- 24.5** An employer must ensure that piles and sheet-piles are adequately supported to prevent their uncontrolled movement while they are being hoisted, placed, cut, removed or withdrawn.



## **Rigging suspended pile hammer**

- 24.6** An employer must ensure that a pile hammer that is suspended by the hammer line is securely rigged when the equipment is not operating.

## **Pile driving**

- 24.7** An employer must ensure that
- (a) workers in the area of a pile being struck by a pile driver are protected from any risk to their safety or health that may result from the pile shattering;
  - (b) before piles are placed in position for driving, pile heads are trimmed to fit the follower on the pile-driving cap and are free of debris;
  - (c) a follower or pile-driving cap is of a size and type suitable for the type of piling to be driven.

## **Extraction of piles**

- 24.8** An employer must ensure that a pile may only be extracted by the use of a device approved by a professional engineer.

## **Crane boom inspection**

- 24.9(1)** An employer must ensure that a crane boom used for driving piles with a vibratory hammer is inspected and certified by a professional engineer as safe for continued use
- (a) at intervals of not more than 600 operating hours while it is in use; and
  - (b) when not in use, before being returned to hoisting service.
- 24.9(2)** An employer must ensure that a crane boom with a vibratory pile extractor is inspected and certified by a professional engineer as safe for continued use
- (a) at intervals of not more than 200 operating hours while it is in use; and
  - (b) when not in use, before being returned to hoisting service.
- 24.9(3)** An employer must ensure that a crane boom used for dynamic compaction is inspected and certified by a professional engineer as safe for continued use
- (a) at intervals of not more than 200 operating hours while it is in use; and
  - (b) before it is returned to hoisting service.

## Definitions

**24.10** The following definitions apply in this Part.

**“lead”** means a wood or steel frame with one or two parallel members for guiding the hammer or piles in the correct alignment. (« jumelles »)

**“pile”** means a slender deep foundation unit made of materials or a combination of materials such as wood, steel or concrete, which is pre-manufactured and placed by driving, jacking or screwing. (« pieu »)

## **PART 25**

### **WORK IN THE VICINITY OF OVERHEAD ELECTRICAL LINES**

#### **Application**

- 25.1** This Part applies to every workplace where work is done
- (a) within 3 m of an overhead electrical line; or
  - (b) using equipment or machinery from a location from which it, or any part of it, is capable of coming within 3 m of an overhead electrical line.

#### **Safe work procedures**

- 25.2** An employer must
- (a) develop and implement safe work procedures for working near overhead electrical lines;
  - (b) train workers who may perform work or operate equipment or machinery near overhead electrical lines in those safe work procedures; and
  - (c) ensure that the workers comply with those safe work procedures.

#### **General obligation to preventing contact**

- 25.3** When a workplace is subject to this Part, an employer must ensure that the work is carried out, and equipment or machinery used is operated, in a manner that prevents
- (a) contact with the overhead electrical line; or
  - (b) electricity arcing from the line to the equipment or machinery.

#### **When notification of electrical authority required**

- 25.4(1)** An employer must notify the electrical authority having jurisdiction over an overhead electrical line before authorizing or permitting a worker to
- (a) work within 3 m of the line; or
  - (b) use equipment or machinery from a location from which it, or any part of it, is capable of coming within 3 m of an overhead electrical line.
- 25.4(2)** A notice under subsection (1) must specify the site of the work and the location of the line.

## **Confirmation or instructions**

**25.5(1)** When a notice has been given under section 25.4, an employer must receive the following from the electrical authority before authorizing or permitting the work to be commenced or the equipment or machinery to be used:

- (a) a written confirmation that complies with subsection (2) that
  - (i) contacting the line will not endanger the safety or health of the worker, or
  - (ii) the electrical authority will, if contact would be sufficient to endanger the safety or health of the worker,
    - (A) de-energize the line,
    - (B) effectively guard the line against contact, or
    - (C) reroute or displace the electricity from the worksite;
- (b) instructions on how to safely proceed, where
  - (i) contact with the line would be sufficient to endanger the safety or health of the worker, and
  - (ii) the electrical authority is unable to take any of the measures described in subclause (a)(ii).

**25.5(2)** A written confirmation must contain the following information:

- (a) the site where the work is to be done or the equipment or machinery is to be used;
- (b) the name of the employer;
- (c) if contact would be sufficient to endanger the safety or health of the worker, the date and time when the electrical authority will take one or more of the measures described in subclause (1)(a)(ii).

**25.5(3)** An employer must ensure that the written confirmation received from the electrical authority is available at the site where the work is to be done or the equipment or machinery is to be used.

## **Employer: comply with instructions and signals**

**25.6(1)** When an employer receives instructions under clause 25.5(1)(b), the employer must

- (a) ensure that those instructions are complied with when the work is done or the equipment or machinery is used; and

- (b) without limiting clause (a), assign a signal person to give pre-arranged signals to the operator of equipment or machinery that is used in the vicinity of the overhead electrical line.

**25.6(2)** A signal person responsible for giving signals to the operator of equipment or machinery under this section must

- (a) have an unobstructed view of the operator;
- (b) signal the operator when the equipment or machinery being operated may come into contact with the electrical line; and
- (c) make all reasonable efforts to
  - (i) notify persons who are not required to be engaged in the work that they are prohibited from entering the worksite, and
  - (ii) prevent persons, other than the operator, from touching the equipment or machinery until it is safe to do so.

**25.6(3)** When it is not possible for the signal person and the operator of the equipment or machinery to have an unobstructed view of each other, an employer must ensure that

- (a) the signal person and the operator of the equipment or machinery are provided with a suitable means of communication; or
- (b) a person
  - (i) is posted in a location where he or she can see both the signal person and the equipment or machinery, and
  - (ii) relays all signals between the signal person and the operator.

### **Emergency precautions**

**25.7** If equipment or machinery comes into contact with an energized overhead electrical line, an employer must

- (a) ensure that a worker on the equipment or machinery
  - (i) remains on it, or
  - (ii) if required to leave it, jumps clear of it, so that no part of the worker's body touches the equipment or machinery and the ground at the same time; and

- (b) take immediate precautions to prevent any other worker from coming close to, or in contact with, the electrical line or the equipment or machinery that is in contact with it.

### **Inspection after contact**

- 25.8** An employer must ensure that a machine or any tool or equipment that has contacted an energized overhead electrical line is inspected to ensure that there is no risk to the safety or health of a worker before permitting it to be used again.

## **PART 26**

### **EXCAVATIONS AND TUNNELS**

#### **GENERAL MATTERS**

##### **Application**

- 26.1(1)** Subject to subsection (2), this Part applies to every workplace where excavation work takes place.
- 26.1(2)** This Part does not apply to a mine as defined in *The Mines and Minerals Act*.

##### **Safe work procedures**

- 26.2(1)** An employer must
- (a) develop and implement safe work procedures for the work to be done at an excavation, including the installation, use and removal of shoring;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.
- 26.2(2)** Before any excavation work begins, an employer must ensure that workers are made aware of the potential hazards of the job functions they are to perform.

#### **REGISTRATION**

##### **Registration requirement**

- 26.3(1)** In order to perform excavation work, an employer must
- (a) notify the branch that the employer intends to do excavation work; and
  - (b) receive a registration number from the branch.
- 26.3(2)** An employer must not begin any excavation work unless the employer has a valid registration number.
- 26.3(3)** A safety and health officer may revoke an employer's registration number if the officer is of the opinion that the employer is performing excavation work in a manner that creates or may create a risk to the safety or health of a worker.
- 26.3(4)** When a registration number has been revoked, an employer may not be issued a new registration number unless a safety and health officer is satisfied that the employer will perform excavation work in accordance with the requirements of this Part.

M.R. 90/2014

## NOTIFICATION

### Notice of excavation

- 26.4(1)** An employer who proposes to make an excavation that is more than 1.5 m deep in which a worker is required or permitted to enter must notify the branch not more than 48 hours before the day that excavation work is scheduled to begin and provide the following information to the branch:
- (a) the name and address of the owner of the land where the excavation is to be made;
  - (b) the name and address of the employer;
  - (c) the location of the excavation;
  - (d) the starting date of the excavation and its proposed completion date;
  - (e) the proposed depth, length and width of the excavation;
  - (f) a description of the proposed support structure, including the method of shoring and type of shoring materials, if shoring is to be used;
  - (g) verification that the owners of underground facilities have been notified and that the location of any pipes, conduits, or previous excavations in or adjacent to the proposed excavation site has been determined;
  - (h) the name of the person who will be supervising the work.

**26.4(2)** An employer required to notify the branch under this section must not begin excavation work until the branch has assigned a serial number to the excavation project.

**26.4(3)** This section does not apply to the digging of a burial lot or plot in a cemetery as defined in *The Cemeteries Act*.

M.R. 90/2014

## SUPERVISION

### Employer to appoint supervisor

**26.5(1)** An employer must supervise or designate a competent person to supervise work at an excavation site. The supervisor must be present at the site whenever a worker is in the excavation or work on the excavation is being performed.



- 26.5(2)** When a worker is in an excavation that is more than 1.5 m deep, an employer must ensure that a competent person is located at the surface of the excavation to alert the worker of any potentially unsafe condition and provide assistance in an emergency.

## UNDERGROUND FACILITIES

### Underground facilities

- 26.6(1)** Before any excavation work begins, an employer must
- (a) give notice of the proposed excavation to the owners of underground facilities, such as gas, oil, steam, water, sewer, communication and electrical systems, in the area where the work is to be done;
  - (b) ensure that the owner of the underground facilities has conspicuously marked the location of the facilities; and
  - (c) obtain from the owner of the underground facilities any relevant information, instructions and documents that the owner may provide respecting the facilities and precautions to be taken when excavating.
- 26.6(2)** An employer must keep the information, instructions and documents received from the owner under clause (1)(c) at the excavation site.
- 26.6(3)** If an underground facility in the area of an excavation is likely to be exposed by excavation work, an employer must ensure that adequate support and protection is provided for the facility in accordance with the instructions of the owner of the facility.
- 26.6(4)** If there is inadvertent exposure of, contact with or damage to an underground pipe, cable or conduit or any other underground facility when excavation work is performed, an employer must
- (a) immediately evacuate all workers from the excavation site until any hazard or unsafe condition that arises or may arise has been identified and remedied; and
  - (b) immediately notify the owner of the pipe, cable, conduit or other underground facility.

## HAZARDS

### Flooding risks

- 26.7** When flooding may occur in an excavation, an employer must ensure that no worker enters the excavation unless

- (a) the worker is equipped with a full body harness attached to a lifeline that meets the requirements of Part 14 (Fall Protection);
- (b) the worker is in direct communication with the person who is required to be located on the surface of the excavation under subsection 26.5(2); and
- (c) the worker's safety equipment is rigged so that the worker can be immediately removed from the excavation if a hazardous situation occurs.

### **Hazardous atmosphere risks**

- 26.8(1)** When the atmosphere in an excavation is toxic or hazardous or may reasonably be suspected to be toxic or hazardous, an employer must ensure that no worker enters the excavation until after a competent person tests the atmosphere in the excavation to determine whether a breathing or other hazard exists.
- 26.8(2)** If a test under subsection (1) finds that a breathing hazard exists in an excavation, an employer must ensure that no worker enters the excavation unless the requirements of section 26.7 are met and
- (a) suitable ventilation is installed, operated and maintained that will supplement and maintain a satisfactory supply of breathable air to the excavation and to workers in the excavation; or
  - (b) any worker entering the excavation is provided with suitable respiratory protective equipment that meets the requirements of Part 6 (Personal Protective Equipment).
- 26.8(3)** If a test under subsection (1) finds that no breathing or other hazard exists in an excavation, an employer must ensure that periodic and frequent tests of the atmosphere in the excavation are carried out by a competent person to determine if the atmosphere in the excavation remains safe.
- 26.8(4)** An employer must ensure that the results of any tests required to be conducted under this section are
- (a) recorded;
  - (b) kept at the excavation site; and
  - (c) readily accessible to a worker who requests the results of the tests.

## **Water hazards**

- 26.9** An employer must ensure that an excavation that a worker may be required or permitted to enter is kept free of an accumulation of water that may create a risk to the safety or health of the worker.

## **Hazardous objects**

- 26.10(1)** An employer must ensure that trees, utility poles, boulders and other objects located near an excavation site that may create a risk to the safety or health of a worker are removed or adequately supported before excavation work begins.
- 26.10(2)** An employer must ensure that excavated material is placed at least one metre away from the edge of an excavation and piled so that it cannot fall into the excavation.
- 26.10(3)** An employer must ensure that no worker places equipment or other material near the edge of an excavation so that the item can fall into the excavation.
- 26.10(4)** When a concrete truck delivers concrete to an excavation site, an employer must ensure that
- (a) the distance between the truck and the edge of a vertical excavation is at least equal to the depth of the excavation; or
  - (b) the excavation is sloped at an angle not greater than 45° measured from the horizontal plane.

## **Powered mobile equipment and machinery**

- 26.11** An employer must ensure that no worker drives, operates or locates powered mobile equipment or machinery so that it endangers the stability of the walls of an excavation.

## **Guarding excavations**

- 26.12(1)** When excavation work is being carried out adjacent to an area where the public or a worker who is not usually engaged in the work may pass, an employer must ensure that the excavation is adequately guarded by a fence, guardrail or covering sufficient to prevent a person from falling into the excavation.
- 26.12(2)** If there is a danger of a worker falling into an excavation that is more than 3 m deep, an employer must ensure that the excavation is adequately guarded by a fence, guardrail or covering sufficient to prevent a worker from falling into the excavation.
- 26.12(3)** When an excavation poses a hazard to traffic because it is located close to a roadway, an employer must ensure that reflective traffic control devices are installed around the excavation.

## Walkways

- 26.13(1)** If a worker is required or permitted to cross over an excavation, an employer must ensure that the excavation is equipped with an adequate walkway with suitable guardrails that meet the requirements of Part 14 (Fall Protection).
- 26.13(2)** An employer must ensure that the walkway required under subsection (1) is kept clear of obstructions, excavated materials and equipment.

## Safe means of entering and leaving an excavation

- 26.14(1)** If a worker is required or permitted to enter an excavation, an employer must provide the worker with a safe means of entering and leaving the excavation.
- 26.14(2)** If a worker is required or permitted to enter an open excavation or trench that is more than 1.5 m deep, an employer must provide a ladder, stairway or ramp as a means of entering and leaving the excavation or trench.
- 26.14(3)** If a ladder is used as the means for entering and leaving an open excavation or trench, an employer must ensure that the ladder
- (a) extends 1 m above the top of the excavation or trench; and
  - (b) is located not more than 3 m from the worker, when a ladder is used in a trench.

## SUPPORT STRUCTURES

### Open excavations

- 26.15(1)** An employer who requires or permits a worker to enter an open excavation that has a depth of 1.5 m or less must ensure that the excavation has a support structure installed in it, but only if there is a danger of cave-in, collapse or material sliding or rolling into the excavation due to soil or work conditions at the construction project site.
- 26.15(2)** An employer who requires or permits a worker to enter an open excavation that has a depth of more than 1.5 m but not more than 3 m must ensure that
- (a) the walls of the excavation are sloped at an angle not greater than 45° measured from the horizontal plane;
  - (b) a combination of slope and vertical face is used for stabilizing the walls of the excavation, so that the vertical face is not more than one metre high and the remaining walls are sloped at an angle not greater than 45° measured from the horizontal plane;

- (c) shoring that is constructed of components that meet the minimum requirements for the applicable soil conditions set out in the Schedule to this Part is installed;
- (d) a support structure other than shoring is installed; or
- (e) the walls of the excavation are stabilized in a manner that has been designed and certified by a professional engineer.

**26.15(3)** Subsection (2) applies to frozen ground, but does not apply to apply to an open excavation that is cut in solid rock or other equally stable material.

**26.15(4)** An employer who requires or permits a worker to enter an open excavation that has a depth of more than 3 m must ensure that

- (a) a support structure or an alternative method for stabilizing the walls has been designed and certified by a professional engineer for the excavation; and
- (b) as applicable, the support structure or alternative method is constructed, installed, used, maintained and dismantled in accordance with specifications provided by the professional engineer.

**26.15(5)** An employer who is subject to subsection (4) must ensure that

- (a) the professional engineer's specifications for the support structure or alternative method for stabilizing the walls specify
  - (i) its size and specifications, including the type and grade of materials used in its construction, and
  - (ii) the loads and types of soil conditions for which it is designed;
- (b) the structure or alternative method is inspected and certified by a professional engineer before a worker begins working in the excavation.

M.R. 147/2010

## Trenches

**26.16(1)** An employer who requires or permits a worker to enter a trench that has a depth of 1.5 m or less must ensure that a support structure is installed in it, but only if there is a danger of cave-in, collapse or material sliding or rolling into the trench due to soil or work conditions at the construction project site.

- 26.16(2)** An employer who requires or permits a worker to enter a trench that has a depth of more than 1.5 m but not more than 4.5 m must ensure that
- (a) shoring that is constructed of components that meet the minimum requirements for the applicable soil conditions set out in the Schedule to this Part is installed; or
  - (b) an alternative that is designed and certified by a professional engineer is used for stabilizing the walls of the trench.
- 26.16(3)** Subsection (2) applies to frozen ground, but does not apply to a trench that is cut in solid rock or other equally stable material.
- 26.16(4)** An employer who requires or permits a worker to enter a trench that has a depth of more than 4.5 m must ensure that the walls of the trench are stabilized using a method designed and certified by a professional engineer.

M.R. 147/2010; 128/2019

### **Supporting adjacent structures**

- 26.16.1** If a building, foundation or other structure adjacent to an excavation may be affected by it, an employer must ensure that, before any work on the excavation begins, the building, foundation or other structure is supported by a support structure that is
- (a) designed and certified by a professional engineer; and
  - (b) constructed, installed, used and dismantled in accordance with the professional engineer's specifications.

M.R. 147/2010

### **Support structure requirements**

- 26.17(1)** An employer must ensure that a support structure is
- (a) structurally sound;
  - (b) suitable for the type and condition of the soil to be supported; and
  - (c) of sufficient strength to prevent the walls of the excavation from caving in, collapsing or otherwise moving into the excavation.
- 26.17(2)** Subject to subsection (3), an employer must ensure that any support structure extends at least 300 mm above the top of the excavation.
- 26.17(3)** When under section 26.15,

- (a) a combination slope and vertical face is used for wall stability in an excavation; and
- (b) the depth of the excavation below the sloped sides exceeds one metre;

an employer must ensure that a support structure is installed and extends at least 600 mm above the bottom of the sloped sides in a continuous manner to prevent any material from falling into the excavation.

M.R. 147/2010

### **Required inspection**

**26.18(1)** An employer must ensure that a support structure is immediately inspected by a professional engineer if

- (a) a safety and health officer is of the opinion that the support structure may create a risk to the safety or health of a worker; or
- (b) there is a change in ground stability in the excavation in which the support structure has been installed.

**26.18(2)** If an inspection results in a recommendation that the support structure be redesigned, an employer must ensure that

- (a) the structure is redesigned and certified by a professional engineer; and
- (b) the structure is constructed, installed, used, maintained and dismantled in accordance with the professional engineer's specifications.

### **Reshoring**

**26.19** If an employer installs reshoring in an excavation, the employer must ensure that, before a worker enters the excavation, the reshoring or any other support structure in the excavation is

- (a) designed and certified by a professional engineer; and
- (b) constructed, used, maintained and dismantled in accordance with the professional engineer's specifications.

### **Support structure when earth exposed**

**26.20** When 1.5 m of earth is exposed on a side of a vertical excavation in which a worker is required or permitted to enter, an employer must ensure that a support structure is immediately installed in the excavation to support the exposed earth.

## **Installing shoring**

- 26.21** An employer must ensure that shoring is installed from the top to the bottom of an excavation in descending order and removed in the reverse order from which it was installed.

## **Scaling walls**

- 26.22** If a worker is required or permitted to enter an excavation with a support structure, an employer must ensure that the walls of the excavation are scaled and trimmed, where necessary, to reduce the danger of falling material.

## **Support structure in firm contact**

- 26.23(1)** An employer must ensure that a support structure in an excavation is installed firmly in contact with the walls of an excavation and any voids between the structure and the walls are back-filled.

- 26.23(2)** Subsection (1) does not apply to a trench cage.

## **Wood shoring**

- 26.24(1)** If wood shoring is used in an excavation, an employer must ensure that

- (a) the shoring components are of a size, composition and arrangement to safely support the walls of the excavation; and
- (b) the lumber used meets the requirements set out in the Schedule to this Part.

- 26.24(2)** An employer may provide a steel trench jack of equivalent strength to wood shoring to be used as a strut in a trench.

## **No worker to enter**

- 26.25** An employer must ensure that a worker does not enter any part of a trench beyond the point to which shoring has advanced.

## **Trench excavation by mechanical equipment**

- 26.26(1)** When a trench is being excavated by a trench digger, backhoe or similar equipment, the operator of the equipment must

- (a) ensure that the digging portion of the machinery or equipment remains in the excavation while shoring is proceeding; and
- (b) maintain a clear view of all workers in and near the trench.

- 26.26(2)** The operator of equipment excavating a trench must ensure that the equipment does not come into contact with the shoring.



## **Trench cages**

- 26.27(1)** An employer must ensure that a trench cage is constructed and used in accordance with design specifications certified by a professional engineer.
- 26.27(2)** An employer must ensure that the sides of a trench cage are continuous and extend at least 300 mm above the vertical wall of an excavation.
- 26.27(3)** If a trench cage is used, an employer must ensure that a worker does not work in the excavation unless the worker works from inside the trench cage.
- 26.27(4)** When trench cages are stacked, an employer must ensure that the trench cages have been
  - (a) designed for stacking by a professional engineer; and
  - (b) stacked in accordance with a stacking method specified by the professional engineer.

## **DEEP FOUNDATION EXCAVATIONS**

### **Support structure for deep foundation excavations**

- 26.28(1)** An employer must ensure that the support structure for a deep foundation excavation is designed and certified by a professional engineer and constructed, installed, used, maintained and dismantled in accordance with the professional engineer's specifications.
- 26.28(2)** If a worker is required or permitted to enter a deep foundation excavation, an employer must ensure that the professional engineer's design specifications for the support structure to be used in the excavation for the deep foundation include a method for the worker to enter and leave the excavation.
- 26.28(3)** If a worker is required or permitted to enter a deep foundation excavation, an employer must ensure that the support structure for the excavation
  - (a) extends from a point 300 mm above ground level to the point where work is being carried out;
  - (b) has a minimum diameter of 700 mm; and
  - (c) is secured against movement.

### **Worker to wear body harness**

- 26.29(1)** An employer must ensure that a worker in a deep foundation excavation always wears a full body harness attached to a secured lifeline. The harness and lifeline must both meet the requirements of Part 14 (Fall Protection).

- 26.29(2)** When a worker is in a deep foundation excavation, an employer must ensure that the worker's lifeline
- (a) extends to the top of the excavation and is secured in a suitable manner to an anchorage point as required under Part 14 (Fall Protection); and
  - (b) is attended to continuously by at least one other worker.

### **Hoisting device**

- 26.30(1)** If a worker is required or permitted to enter a deep foundation excavation, an employer must ensure that a tripod-type or similar hoist is used to lower and raise the worker.
- 26.30(2)** An employer must ensure that a hoist used in a deep foundation excavation, and all of the hoist's cables, hooks and components, are
- (a) designed and certified by a professional engineer;
  - (b) installed, used, maintained and dismantled in accordance with the professional engineer's specifications;
  - (c) inspected regularly to ensure that the hoist and its components are in safe operating condition;
  - (d) of a sufficient height to safely raise a worker completely above the ground surface; and
  - (e) equipped with a brake capable of supporting at least four times the maximum load likely to be imposed on it.

### **Hook to have positive means of securement**

- 26.31** An employer must ensure that a hook used for hoisting a worker or any other object in a deep foundation excavation is fitted with a positive means of securement.

### **Guarding deep foundation excavation**

- 26.32** An employer must ensure that a deep foundation excavation is adequately guarded or covered whenever work on the excavation is not being performed.

## **SHAFTS AND TUNNELS**

### **Professional engineer to design support structure**

- 26.33(1)** An employer must ensure that, during the excavation of a shaft or a tunnel, the walls of the shaft or tunnel are retained by a support structure that is

- (a) designed and certified by a professional engineer as being of sufficient strength to prevent the walls from collapsing or caving in; and
- (b) constructed, installed, used, maintained and dismantled in accordance with the professional engineer's specifications.

**26.33(2)** An employer must ensure that the professional engineer's design specifications are kept at the site of the excavation of the shaft or tunnel and are made readily accessible to a worker, on request.

### **Work areas to be free of mud and debris**

**26.34** An employer must ensure that the following areas of a shaft or tunnel excavation are kept free of loose mud and other accumulations of debris:

- (a) the access landing;
- (b) the bottom of the shaft or tunnel excavation;
- (c) other similar work areas.

### **Ventilation to be provided**

**26.35** An employer must provide a suitable ventilation system in a shaft or tunnel to ensure that

- (a) the ventilation rate is at least 0.25 m<sup>3</sup> per second per square metre of face of the shaft or tunnel; and
- (b) the concentrations of toxic vapours, gases, aerosols, dusts or other hazardous substances are reduced to and remain at levels that will not be hazardous to the safety or health of a worker.

### **Accessway**

**26.36(1)** An employer must ensure that an accessway is provided for the full depth of a shaft that a worker is required or permitted to enter.

**26.36(2)** An employer must ensure that the accessway

- (a) is completely separated from a hoistway so that a load or hoist will not come in contact with a worker; and
- (b) has a landing or rest platform provided at vertical intervals not exceeding 5 m or a protective cage or other suitable safety device.

**26.36(3)** An employer must ensure that the accessway is securely covered when it is not in use.

## **Guardrail at shaft opening**

- 26.37** An employer must ensure that the opening to a shaft is protected by a guardrail and toe board that meet the requirements of Part 14 (Fall Protection).

## **Illumination**

- 26.38(1)** An employer must ensure that a source of lighting of at least five decalux is provided at the location in a shaft or tunnel where a worker is working.
- 26.38(2)** An employer must provide an adequate emergency lighting system in a tunnel or shaft if the normal lighting system fails.

## **Internal combustion engines**

- 26.39** An employer must ensure that an internal combustion engine is not used in a shaft or tunnel unless
- (a) the engine is equipped with a properly maintained exhaust conditioner;
  - (b) the engine is shut down immediately if the ventilation system ceases to operate or function effectively and is not restarted until the ventilation system is functioning effectively;
  - (c) tests are conducted continuously and recorded at least once during each shift to determine the concentration of hazardous gases in the work area; and
  - (d) an appropriate fire extinguisher is kept near the internal combustion engine.

## **Haulage locomotives**

- 26.40(1)** An employer must ensure that if a haulage locomotive is used in a tunnel it is equipped with the following:
- (a) a properly maintained braking system;
  - (b) interlock power controls that are operational from the driver's station only;
  - (c) an appropriate fire extinguisher.
- 26.40(2)** An employer must ensure that track for haulage equipment is
- (a) constructed in a straight manner and at a uniform height to the established grade; and
  - (b) securely attached to the foundation ties.

## **Fire protection**

- 26.41** An employer must ensure that there is an effective means for extinguishing a fire in a shaft or tunnel.

## **Removal of scrap materials**

- 26.42** An employer must ensure that scrap materials are removed at least daily from, and not allowed to accumulate in, a shaft or tunnel.

## **Communication system**

- 26.43(1)** An employer must ensure that a shaft hoist has a communication system available and working at all times between the hoist operator and workers at landings in the shaft leading to a tunnel or an underground space.
- 26.43(2)** An employer must ensure that the communication system is used during a hoisting operation.

## **Hoisting operations**

- 26.44(1)** An employer must ensure that only a competent person designated by the employer operates hoisting equipment in a shaft or tunnel.
- 26.44(2)** An employer must ensure that, at all times when a hoisting operation is underway in a shaft or tunnel, a worker designated by the employer is present at the top and the bottom of the shaft to supervise the operation.
- 26.44(3)** An employer must ensure that a worker only signals to hoist a conveyance when the worker is on the landing from which the conveyance is to move.

## **MISCELLANEOUS PROVISIONS**

### **Electrical installations**

- 26.45** An employer must ensure that all electrical circuits and equipment in an excavation are installed in accordance with the requirements of the *Manitoba Electrical Code*.

### **Haulage buckets**

- 26.46** An employer must ensure that a worker in an excavation does not load a haulage bucket to the point where material is likely to fall out of the bucket.

### **Storage and dispensing of flammable liquids**

- 26.47** An employer must ensure that flammable and combustible liquids are not used in an excavation unless they are stored in accordance with the *Manitoba Fire Code* and dispensed from safety containers that meet the requirements of CSA Standard B376-M1980 (R2019), *Portable Containers for Gasoline and Other Petroleum Fuels*.

M.R. 128/2019

**Schedule —**  
**Minimum shoring requirements subsection 26.15(2), 26.16(4) and 26.24(1)**

		<b>UPRIGHTS (Vertical Members)</b>		<b>STRINGERS / WALES</b>
Category 1a Stiff clays and stiff to hard clay tills, and stiff fissured clays	Depth	Member minimum dimensions	Maximum spacing horizontally	Member minimum dimensions
	(m)	(mm)	(mm)	(mm)
	1.5 - 3.0 m	38 x 235	384	89 x 140
	3.0 - 4.5 m	38 x 235	344	191 x 191
		<b>UPRIGHTS (Vertical)</b>		<b>STRINGERS / WALES</b>
Category 1b Stiff fissured soils, and stiff clay fills	Depth	Member minimum dimensions	Maximum spacing horizontally	Member minimum dimensions
	(m)	(mm)	(mm)	(mm)
	1.5 - 3.0 m	89 x 140	686	89 x 140
	3.0 - 4.5 m	89 x 140	564	191 x 191
		<b>UPRIGHTS (Vertical)</b>		<b>STRINGERS / WALES</b>
Category 2 Soft cohesive soils, and stiff to wet/loose silt soils	Depth	Member minimum dimensions	Maximum spacing horizontally	Member minimum dimensions
	(m)	(mm)	(mm)	(mm)
	1.5 - 3.0 m	38 x 235	229	89 x 140
	3.0 - 4.5 m	89 x 140	457	191 x 191

(Horizontal Members)*	CROSS-BRACES, STRUTS (Horizontal)*			
Maximum spacing horizontally	Member minimum dimensions (mm)		Maximum spacing vertically (to match Stringers / Wales)	Maximum spacing horizontally along Stringers / Wales
	Width of Trench (m)			
(mm)	less than 1.8 m.	1.8 m. to 3.7 m.	(mm)	(mm)
1200	89 x 89	140 x 140	1200	1291
915	89 x 89	140 x 140	915	1475
(Horizontal)	CROSS-BRACES, STRUTS (Horizontal)			
Maximum spacing horizontally	Member minimum dimensions (mm)		Maximum spacing vertically (to match Stringers / Wales)	Maximum spacing horizontally along Stringers / Wales
	Width of Trench (m)			
(mm)	less than 1.8 m.	1.8 m. to 3.7 m.	(mm)	(mm)
1200	89 x 89	140 x 140	1200	796
915	89 x 89	140 x 140	915	939
(Horizontal)	CROSS-BRACES, STRUTS (Horizontal)			
Maximum spacing horizontally	Member minimum dimensions (mm)		Maximum spacing vertically (to match Stringers / Wales)	Maximum spacing horizontally along Stringers / Wales
	Width of Trench (m)			
(mm)	less than 1.8 m.	1.8 m. to 3.7 m.	(mm)	(mm)
1200	89 x 89	140 x 140	1200	918
915	89 x 89	140 x 140	915	887

		UPRIGHTS (Vertical)		STRINGERS / WALES	
Category 3a Cohesionless: loose to medium dense soils	Depth	Member minimum dimensions	Maximum spacing horizontally	Member minimum dimensions	
	(m)	(mm)	(mm)	(mm)	
	1.5 - 3.0 m	38 x 235	326	89 x 140	
	3.0 - 4.5 m	38 x 235	293	191 x 191	
		UPRIGHTS (Vertical)		STRINGERS / WALES	
Category 3b Cohesionless: dense to very dense soils	Depth	Member minimum dimensions	Maximum spacing horizontally	Member minimum dimensions	
	(m)	(mm)	(mm)	(mm)	
	1.5 - 3.0 m	38 x 235	460	89 x 140	
	3.0 - 4.5 m	38 x 235	415	191 x 191	

**\* Notes for Table:**

1. All spacings shown are centre-to-centre of members.
2. Design based on 086.1-2001 Wood Design Manual; all "uprights" (vertical shoring) to be minimum 2-span continuous (cantilevers not to be included as "spans"). All shoring assumed to have members orientated for weak-axis bending.
3. All members to be graded lumber meeting S.P.F. No. 2 or better.
4. In this Schedule:

**"strut"** means a horizontal cross-member of shoring that directly resists pressure; (« étrésillon »)

**"upright"** means a vertical shoring member that is placed against and directly resists pressure from a wall of an excavation; (« montant »)

**"wale"** means a horizontal shoring member that is placed parallel to the excavation face and whose sides bear against the vertical shoring member or the earth.

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(Horizontal)		CROSS-BRACES, STRUTS (Horizontal)			
	Maximum spacing horizontally	Member minimum dimensions (mm)		Maximum spacing vertically (to match Stringers / Wales)	Maximum spacing horizontally along Stringers / Wales
		Width of Trench (m)			
	(mm)	less than 1.8 m.	1.8 m. to 3.7 m.	(mm)	(mm)
	1200	89 x 89	140 x 140	1200	1193
	915	89 x 89	140 x 140	915	1359
(Horizontal)		CROSS-BRACES, STRUTS (Horizontal)			
	Maximum spacing horizontally	Member minimum dimensions (mm)		Maximum spacing vertically (to match Stringers / Wales)	Maximum spacing horizontally along Stringers / Wales
		Width of Trench (m)			
	(mm)	less than 1.8 m.	1.8 m. to 3.7 m.	(mm)	(mm)
	1200	89 x 89	140 x 140	1200	1414
	915	89 x 89	140 x 140	915	1616

**PART 27**  
**WORK IN A COMPRESSED**  
**AIR ENVIRONMENT**

**Application**

- 27.1** This Part applies to every workplace where work is done in a compressed air environment, but does not apply to divers or to persons working in diving bells.

**Safe work procedures**

- 27.2** An employer must
- (a) develop and implement safe work procedures for working in a compressed air environment;
  - (b) train workers who may perform work in a compressed air environment in those safe work procedures; and
  - (c) ensure that workers comply with those safe work procedures.

**General requirements**

- 27.3(1)** An employer must, before allowing or permitting a worker to enter a compressed air environment,
- (a) ensure that the branch is notified of the nature and location of the work in writing, at least 30 days in advance of the work beginning; and
  - (b) establish a comprehensive work plan for work in compressed air that
    - (i) has been developed and approved by a professional engineer, and
    - (ii) meet the requirements of CSA Z275.3-09 (R2014), *Occupational safety code for work in compressed air environments*.
- 27.3(2)** An employer must ensure that work done in a compressed air environment is done in accordance with the work plan established under clause (1)(b).

M.R. 90/2014; 128/2019

**PART 28**  
**SCAFFOLDS AND OTHER**  
**ELEVATED WORK PLATFORMS**

**GENERAL REQUIREMENTS**

**Application**

- 28.1(1)** This Part applies to every workplace where work takes place using a scaffold or elevated work platform.
- 28.1(2)** Except for work of short duration that can be done safely from a ladder, an employer must ensure that a worker engaged in work that cannot be done from the ground or other safe elevation is provided with a scaffold or an elevated work platform.

**Safe work procedures**

- 28.2(1)** When a scaffold or an elevated work platform is required to be provided at a workplace, the employer must
- (a) develop and implement safe work procedures for using the scaffold or elevated work platform provided;
  - (b) train workers who work on scaffolds and elevated platforms in those safe work procedures; and
  - (c) ensure that the workers comply with those safe work procedures.
- 28.2(2)** An employer must ensure that the safe work procedures developed in subsection (1) include emergency response and rescue procedures appropriate to the risks associated with the failure of a scaffold or other elevated work platform.

**Commercially manufactured scaffolds and elevated work platforms**

- 28.3(1)** An employer must ensure that a commercially manufactured scaffold or elevated work platform is installed, used, maintained and dismantled in accordance with the manufacturer's specifications. But the employer may alter those specifications if the alteration is certified by a professional engineer.
- 28.3(2)** When a commercially manufactured scaffold or elevated work platform is used at a workplace, the employer must ensure that a copy of the manufacturer's specifications, and any alterations certified by a professional engineer, are readily accessible at that workplace.

SCAFFOLDS  
GENERAL PROVISIONS APPLYING TO ALL SCAFFOLDS

**Types that must be designed by engineer**

**28.4(1)** Despite any other provision of this Part, an employer must ensure that the following scaffolds are designed by a professional engineer:

- (a) an open access scaffold more than 10 m in height;
- (b) an enclosed or hoarded access scaffold more than 7.5 m in height.

**28.4(2)** For a scaffold described in subsection (1), an employer must ensure that

- (a) the specifications for constructing, installing, using, maintaining and dismantling it are certified by a professional engineer;
- (b) it is constructed, installed, used, maintained and dismantled in accordance with those specifications; and
- (c) a copy of its design and all the specifications under clause (a) are readily accessible at the construction project site where it is used.

**Standards re scaffolds**

**28.5** Subject to sections 28.3 and 28.4, an employer must ensure that a scaffold complies with the requirements of CSA S269.2-16, *Access Scaffolding for Construction Purposes* or a more specific standard prescribed in this Part.

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**General design and use requirements**

**28.6(1)** An employer must ensure that a scaffold

- (a) can safely support, and its footing, sills and similar supports can support without undue settlement or deformation, at least four times the maximum load that will be or is likely to be imposed on it;
- (b) if partially or fully enclosed, has components and tie-ins that are adequate to support any added load that may be imposed on it by wind, wind gusts or other environmental conditions;
- (c) is installed plumb and is stabilized by
  - (i) having its vertical and horizontal members braced to prevent lateral movement,

- (ii) being anchored and securely guyed or tied back to the building or structure, or to a fixed support, at the intervals recommended

- (A) by a professional engineer, if the scaffold was designed by a professional engineer, or

- (B) by the manufacturer, if the scaffold was commercially manufactured,

but in no case at vertical and horizontal intervals of more than three times the minimum lateral dimension of the scaffold;

- (d) is equipped with

- (i) a ladder, stair, runway or ramp that provides a worker with a safe means of access to and egress from the scaffold platform, and

- (ii) toe-boards on the open sides of the scaffold platform, where there is a risk of tools, materials, equipment and debris falling from the platform or a worker slipping off the platform; and

- (e) has all openings, including stairway openings, appropriately guarded.

**28.6(2)** For the purposes of clause (1)(a), the maximum load of a scaffold is to be determined in reference to the actual weight of all the scaffold's components combined with the following loads that will be or are likely to be imposed on it:

- (a) the actual weight of the workers using it, including their tools, materials and equipment;

- (b) wind, wind gusts and other environmental conditions.

### **Additional criteria: scaffolds of particular height**

**28.7** An employer must ensure that a scaffold is equipped with each of the following that applies:

- (a) if the scaffold platform is 3 m or more above the level a worker may fall, the scaffold platform is equipped with a guardrail on the open sides and ends of the platform that is in line with the outer edge of the platform;

- (b) if a scaffold is more than 6 m in height, it is equipped with a suitable hoisting device for hoisting materials;

- (c) if a scaffold is 9 or more metres in height, it is equipped with
  - (i) an internal stairway or ladders, and
  - (ii) if any ladder under subclause (i) exceeds 3 m in height, the ladder is equipped with fall protection attachments.

### **Characteristics: rope, wire rope and tiebacks**

**28.8(1)** An employer must ensure that a rope or wire rope used in scaffolding is

- (a) protected against abrasion or other physical damage; and
- (b) made of heat- or chemical-resistant material, if there is a possibility of exposure to heat or chemicals.

**28.8(2)** Despite any other provision of this Part, an employer must ensure that wire is not used in a tieback system for securing a scaffold to a building or structure.

### **Platforms: secured and minimum width**

**28.9(1)** An employer must ensure that a scaffold platform is secured to prevent movement and is at least

- (a) 500 mm wide nominally; or
- (b) 1.5 m wide nominally, if it is used by workers who are bricklayers, stonemasons, plasterers or a similar tradespeople, and the scaffold is used to hold their immediate supply of building materials.

**28.9(2)** Despite clause (1)(a), where a scaffold platform forms part of a lean-to scaffold and consists of a commercially manufactured plank, the platform must be at least 400 mm wide.

### **Manufactured or wood planks**

**28.10(1)** Where a scaffold platform consists of commercially manufactured planks, an employer must ensure that the planks are used, stored, inspected and maintained in accordance with the manufacturer's specifications.

**28.10(2)** When a scaffold platform consists of wood planks, an employer must ensure that

- (a) each individual plank is secured to prevent movement;
- (b) the planks
  - (i) are constructed of nominal 50 mm x 250 mm No. 1 construction grade lumber (S-P-F),

- (ii) are 5 m or less in length and have the same thickness as the adjoining planks,
  - (iii) are laid tightly together side-by-side with adjoining planks to cover the full width of the scaffold platform, and
  - (iv) extend at least 150 mm, but not more than 300 mm, beyond the end supports of the scaffold; and'
- (c) if the planks overlap,
  - (i) the overlap must be centred directly over a vertical support of the scaffold, and
  - (ii) despite subclause (b)(iv), the overlapping planks extend at least 300 mm beyond the end supports of a scaffold.

**28.10(3)** Where the platform consists of wood planks, an employer must ensure that the scaffold has vertical supports for the planks at least every 2.5 m.

### **Work limitations**

- 28.11** An employer must ensure that a worker who installs, alters or dismantles a scaffold
- (a) works from a section of the scaffold that conforms with the requirements of this Part; or
  - (b) uses a fall protection system that meets the requirements of Part 14 (Fall Protection).

### **Competent persons to supervise and inspect**

- 28.12** An employer must appoint one or more competent persons who are responsible for
- (a) supervising the installation, dismantling and removal of a scaffold;
  - (b) inspecting the components of a scaffold for defects before the scaffold is first used, and after that, before it is used on any particular day; and
  - (c) ensuring that any component found to be defective is repaired or replaced before the scaffold is used or is continued to be used.

## Workers using scaffolds

**28.13(1)** An employer must ensure that

- (a) no scaffold is loaded in excess of its rated load; and
- (b) a worker who is permitted or required to work on a scaffold
  - (i) is informed of its rated load, and
  - (ii) does not carry any materials or equipment while climbing a scaffold.

**28.13(2)** An employer must ensure that adequate overhead protection is provided where any worker is required or permitted to work

- (a) beneath the affected part of a scaffold that is being installed, altered or dismantled; or
- (b) where there is a risk of material falling on the worker who is working on the scaffold platform or in the area of the scaffold.

### PROVISIONS FOR PARTICULAR TYPES OF SCAFFOLDS

#### Lean-to scaffold

**28.14(1)** An employer must ensure that a lean-to scaffold is not more than 5 m above grade.

**28.14(2)** An employer must ensure that, if there is a risk that a worker using a lean-to scaffold may fall three or more metres, the worker uses a fall protection system that meets the requirements of Part 14 (Fall Protection).

#### Ladder-jack scaffold

**28.15(1)** An employer must ensure that a ladder-jack scaffold is not more than 5 m above grade.

**28.15(2)** For a ladder-jack scaffold, an employer must ensure that it is designed and constructed

- (a) in compliance with the requirements of ANSI-ASSP A10.8-2019, *Scaffolding Safety Requirements*; and
- (b) so that it has ladders that are spaced not more than 2.5 m apart and that it bears on
  - (i) both the side rails and the ladder rungs, or
  - (ii) the ladder rungs only, but only if the bearing area of each rung is at least 254 mm.



**28.15(3)** An employer must ensure that

- (a) a ladder-jack scaffold is maintained in as level a position as possible;
- (b) no more than two workers are on a ladder-jack scaffold at any one time; and
- (c) if there is a risk that a worker using a ladder-jack scaffold may fall three or more metres, the worker uses a fall protection system that meets the requirements of Part 14 (Fall Protection).

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### **Tubular frame scaffold**

**28.16** For a tubular frame scaffold, an employer must ensure that

- (a) any necessary base plates, shore heads, extension devices or screwjacks are securely installed and securely attached to the sills and the legs of the frame; and
- (b) if frames are stacked, there are no gaps between the lower end of one frame and the upper end of the frame below it.

### **Bracket scaffold**

**28.17(1)** For a bracket scaffold, an employer must ensure that the brackets are securely attached to prevent them from dislodging and are not more than 3 m apart.

**28.17(2)** Subsection 28.10(3) does not apply to a bracket scaffold.

### **Outrigger scaffold**

**28.18** Where an outrigger scaffold is used, an employer must ensure that

- (a) counterweights are not used to support it unless prior approval has been obtained from a professional engineer; and
- (b) unless it is designed for the following uses by a professional engineer, it is not used
  - (i) to store construction materials,
  - (ii) as a crane loading platform.

### **Single-pole scaffold**

**28.19** For a single-pole scaffold, an employer must ensure that

- (a) it is adequately supported in two directions by a system of diagonal braces that are not more than 6 m long, and connected to the vertical supports as close to the ledgers as possible; and

- (b) each of its ledgers are supported by a bearer that is securely fastened to the structure.

### **Mobile scaffolds**

**28.20(1)** For a mobile scaffold, an employer must ensure that

- (a) it is stable;
- (b) if its height is more than three times its least lateral dimension measured at the base, it is equipped with outriggers, stabilizers or other necessary means to prevent it from overturning;
- (c) it has castors or wheels that are equipped with suitable braking devices or blocked to prevent it from moving; and
- (d) if it has pneumatic tires, its outriggers or stabilizers are used in a manner that ensures the weight of the scaffold does not rest on the tires during use.

**28.20(2)** An employer must ensure that no worker remains on a mobile scaffold when it is being moved unless

- (a) the surface over which it is to travel is firm, level and free of obstructions;
- (b) the worker on it is secured to the building or structure by an independent fall protection system; and
- (c) the worker remains within the confines of the mobile scaffold.

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### **ELEVATED WORK PLATFORMS** Suspended Work Platforms

### **Standards re suspended work platforms**

**28.21(1)** An employer must ensure that a suspended work platform used at a workplace is designed, and constructed, installed, maintained, used and dismantled in accordance with CAN/CSA Standard-Z271-1998 (R2004), *Safety Code for Suspended Elevating Platforms*, and CSA Z91-17, *Health and Safety Code for Suspended Equipment Operations*.

**28.21(2)** An employer must ensure that

- (a) a suspended work platform constructed at a workplace is designed and certified by a professional engineer; and

- (b) the professional engineer's specifications for the design, construction, installation, maintenance, use and removal of the suspended work platform are in accordance with the standards under subsection (1).

**28.21(3)** Subject to section 28.3, an employer must ensure that the manufacturer's specifications for a commercially manufactured suspended work platform used at a workplace are in accordance with the standards under subsection (1).

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### **Prior notification of suspended work platform use**

**28.22(1)** An employer who proposes to use a suspended work platform at a height in excess of 3 m above ground must give notice of the following to the branch at least eight hours before the platform is suspended:

- (a) the name and address of the employer;
- (b) the location of the workplace where the suspended work platform is to be used;
- (c) a description of the type of suspended work platform to be used, including particulars on lifelines, thrust-outs, counterweights and tiebacks;
- (d) the date when use of the suspended work platform will begin; and
- (e) the name of the worker who will supervise the use of the suspended work platform.

**28.22(2)** Upon receiving a notice that complies with subsection (1), the branch must assign a serial number to the worksite where the suspended work platform is to be used and provide the serial number to the employer.

**28.22(3)** An employer must not require or permit a worker to work on a suspended work platform until the employer receives the serial number for the worksite described in subsection (2).

M.R. 90/2014

### **Requirements for suspended work platforms**

**28.23(1)** For a suspended work platform, an employer must ensure that

- (a) it is equipped with a secondary safety device that will activate if the suspension rope connection or primary hoisting system fails;

- (b) hooks used to support it are equipped with positive and secure safety latches;
- (c) cables, hooks, eyebolts, shackles and similar hoisting components used to support it are
  - (i) rated by the manufacturer for specific load conditions, and
  - (ii) capable of supporting 10 times the rated load;
- (d) every mechanical hoisting device used for raising or lowering it is equipped with an automatically operating locking mechanism to prevent free running of the suspension ropes; and
- (e) if cornice hooks are used to support it,
  - (i) the hooks are securely supported on parts of the building or structure that have adequate strength to carry the load that will be or is likely to be imposed, and
  - (ii) the hooks are secured by an independent tieback from the load ring to a solid anchor on the building or structure.

**28.23(2)** Where a manually operated suspended work platform is to be used, an employer must ensure that

- (a) the platform is equipped with spring-actuated locking pawls;
- (b) the hoisting mechanism is locked in a positive drive position by means of a spring-steel locking pin; and
- (c) the locking pin is permanently attached to the hoisting mechanism by a light chain.

### **Tie-in guides and building requirements**

**28.24(1)** Where a building or structure more than five storeys or 15 m in height will be serviced by a suspended work platform, the owner must ensure that the building or structure is designed and constructed with

- (a) fixed anchor points that meet the requirements of CSA Standard CSA Z271-98 (R2004), *Safety Code for Suspended Elevating Platforms*; and
- (b) tie-in guides that provide a positive means of engagement between the platform and the building or structure during the full vertical or inclined travel of the platform on the face of the building or structure.

**28.24(2)** Subsection (1) also applies to the owner of a building or structure that was constructed on or after July 2, 1985, if

- (a) the building or structure is more than five storeys or 15 m in height; and
- (b) its windows are cleaned or maintained from its exterior.

### **Professional engineer's certification**

**28.25** When a suspended work platform is permanently installed on a building or structure, the owner of the building or structure must ensure that

- (a) a professional engineer certifies, before its first use, that the anchor points, platform, the platform's suspension system and all components of the suspension system are safe; and
- (b) the anchor points are inspected at least annually to ensure the anchor points are safe.

### **Portable outrigger beams and similar supports**

**28.26(1)** An employer must ensure that a portable outrigger beam or other similar support structure of a suspended work platform

- (a) is designed and constructed to support at least four times the weight of the platform and its rated load;
- (b) is located
  - (i) plumb to the stirrups of the platform,
  - (ii) at right angles, or as near as practicable to right angles, to the face of the building or structure, and
  - (iii) so that the outboard portion of the beam does not extend more than 1 m beyond its fulcrum point; and
- (c) is securely tied-back to a secure anchor on the building or structure which is capable of supporting the weight of the suspended work platform.

**28.26(2)** When counterweights are used in conjunction with a portable outrigger beam or similar support structure, an employer must ensure that the length of the inboard portion of the beam or support structure is not less than three times the outboard portion, and the counterweights are

- (a) secured to the beam or support structure when in use; and
- (b) not made up of bagged or loose material.

## **Wire or fibre rope used to suspend platforms**

**28.27(1)** An employer must ensure that only wire rope is used to suspend a suspended work platform. The wire rope used must be

- (a) 8 mm or greater in diameter;
- (b) capable of supporting 10 times the weight of the platform and its rated load;
- (c) continuous and unspliced, except for terminal eye splices; and
- (d) long enough to permit the platform to be lowered to a safe landing.

**28.27(2)** Despite subsection (1), fibre rope may be used to suspend a boatswain's chair if

- (a) the fibre rope is
  - (i) at least 20 mm in diameter, and
  - (ii) capable of supporting 10 times the weight of the chair and its rated load;
- (b) the boatswain's chair is not suspended 30 m or more above the ground; and
- (c) the rope is not exposed to the effects of corrosive chemicals, heat, cold, abrasion or other adverse conditions.

**28.27(3)** An employer must ensure fibre rope is not used as a lifeline if it is exposed to the effects of corrosive chemicals, heat, cold, abrasion or other adverse conditions.

## **Rated load to be marked**

**28.28** An employer must ensure that

- (a) the rated load of a suspended work platform is permanently and legibly marked on the platform;
- (b) a worker who is required to work on a suspended work platform is informed of its rated load; and
- (c) the suspended work platform is not loaded in excess of its rated load.

## **Competent person to install, operate and inspect**

**28.29** When a suspended work platform is to be used at a workplace, an employer must

- (a) appoint one or more competent persons to install it, and once it is installed, to operate it; and
- (b) ensure that when it is in use, the platform and all of its components, and any machine or equipment that is used to hoist the platform, are inspected daily by a competent person.

### **Workers using suspended work platform**

**28.30** When a worker is required to use a suspended work platform, an employer must ensure that

- (a) there is one worker to operate each suspension when raising or lowering the platform;
- (b) the platform is maintained in as level a position as possible, and in no case is it out of level by more than 10% of the platform's length;
- (c) every worker on the platform is secured at all times to an independent vertical lifeline that meets the requirements of Part 14 (Fall Protection), so that the failure of the suspended work platform will not cause a failure of the lifeline support system;
- (d) except in an emergency, a lifeline or a suspension rope of the platform is not used by a worker as a means of access to or egress from the platform; and
- (e) where a boatswain's chair is used, the worker is attached to a separately secured lifeline that is independent of the chair support system.

### **Work area below a suspended work platform**

**28.31** When a suspended work platform is in use, an employer must ensure that

- (a) the work area below the platform is roped off or barricaded in a suitable manner; and
- (b) warning signs are posted in a conspicuous location to advise persons of the overhead hazard.

### **Bridging not to be used**

**28.32** An employer must ensure that two or more suspended work platforms are not bridged together by the use of planks or any other connection.

## WHEN CRANE USED TO SUSPEND A PERSONNEL BASKET OR CAGE

### General restriction re use of crane

- 28.33(1)** An employer may only permit a crane to be used to hoist a personnel basket or cage where it is not reasonably practicable to carry out the required work by use of a scaffold or other type of elevated work platform that does not include the use of a crane.
- 28.33(2)** The prior notification requirements of section 28.22 apply whenever a crane is used to hoist a personnel basket or cage, regardless of the height of the hoisting operation.

### Basket or cage requirements when crane used

- 28.34(1)** Despite section 28.21, when a crane is used to hoist a personnel basket or cage, an employer must ensure that the personnel basket or cage
- (a) is designed by a professional engineer in accordance with CAN/CSA Z150-16, *Safety Code on Mobile Cranes*, and is constructed in accordance with the design specifications certified by the engineer;
  - (b) is equipped with
    - (i) anchor points located above the load hook of the personnel basket or cage for the attachment of a worker's fall arrest system,
    - (ii) a guardrail that meets the requirements of Part 14 (Fall Protection), and
    - (iii) a skid resistant deck;
  - (c) has more than one means of suspension or support, and is designed, constructed and maintained so that the failure of one of the means will not cause the collapse of all or part of it;
  - (d) is designed and constructed so that it remains horizontal at all times;
  - (e) is suspended from, or supported by, a direct attachment to the boom of the crane; and
  - (f) has the following legibly and permanently marked in a conspicuous place on it:
    - (i) the maximum number of workers who may occupy the personnel basket or cage,



- (ii) its weight,
- (iii) the crane type for which it has been designed,
- (iv) any other information necessary for safe operation of the personnel basket or cage.

### **Inspection and certification**

**28.34(2)** An employer must ensure that the professional engineer who designed the personnel basket or cage

- (a) inspects it before its first use; and
- (b) certifies that it has been manufactured in accordance with his or her design specifications.

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### **Crane requirements and documentation**

**28.35(1)** An employer must ensure that a crane used to hoist a personnel basket or cage

- (a) is equipped with
  - (i) fail-safe mechanisms that prevent the boom and the personnel basket or cage from free falling in the event of a power or system failure or the inadvertent release of any operating controls, and
  - (ii) an automatic limit switch that prevents the personnel basket or cage and load from reaching beyond the highest permissible position specified by the crane manufacturer;
- (b) has, on its hoist line, hooks that are equipped with self-closing safety latches at the point where the personnel basket or cage is suspended;
- (c) is not used to hoist material when the personnel basket or cage is being used to support a worker;
- (d) is not loaded in excess of 25% of its rated load; and
- (e) has a clearly visible and legible load chart, revised in accordance with clause (d) by a professional engineer, that is affixed in a conspicuous place on the crane.

**28.35(2)** An employer must keep all design drawings, test reports, written statements and certification documents required under this section and section 23.34 with the crane at all times during a hoisting operation.

## Operating requirements

- 28.36** When a crane is used to hoist a personnel basket or cage, an employer must ensure that
- (a) emergency rescue procedures are developed and implemented for the hoisting operation;
  - (b) the workers involved in the hoisting operation are informed of those emergency rescue procedures;
  - (c) there is an adequate means of communication between the worker or workers in the personnel basket or cage and the crane operator; and
  - (d) every worker in the personnel basket or cage
    - (i) wears a full body harness that is connected independently to a fixed anchor point located above the crane's load hook, and
    - (ii) uses the harness in accordance with Part 14 (Fall Protection).

## AERIAL DEVICES AND SELF-ELEVATING WORK PLATFORMS

### Standards re self-elevating work platforms and aerial devices

- 28.37(1)** An employer must ensure that a self-elevating work platform or aerial device used at a workplace is designed, and constructed, installed, maintained, used and dismantled, in accordance with
- (a) CAN/CSA-B354.1-04 (R2016), *Portable Elevating Work Platforms*;
  - (b) CAN/CSA-B354.2-01 (R2013), *Self-propelled Elevating Work Platforms*;
  - (c) CAN/CSA-B354.4-02 (R2013), *Self-propelled Boom-Supported Elevating Work Platforms*; or
  - (d) CAN/CSA-C225-10 (R15), *Vehicle-Mounted Aerial Devices*.
- 28.37(2)** An employer must ensure that
- (a) a self-elevating work platform or aerial device constructed at a workplace is designed and certified by a professional engineer; and

- (b) the professional engineer's specifications for its construction, installation, maintenance, use and removal are in accordance with the standards under subsection (1).

**28.37(3)** Subject to section 28.3, an employer must ensure that the manufacturer's specifications for a commercially manufactured self-elevating work platform or aerial device used at a workplace are in accordance with the standards under subsection (1).

**28.37(4)** An employer must ensure that structural repairs and modifications to the components of a self-elevating work platform or aerial device are

- (a) made only under the direction and control of a professional engineer; and
- (b) certified by the professional engineer that the workmanship and quality of the materials used has restored the components to not less than their original capacity.

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## **Guarding**

**28.38** An employer must ensure that each self-elevating work platform and aerial device used at a workplace is equipped with

- (a) suitable guards to prevent a worker from contacting the moving parts and machinery, including protection from shearing hazards created by the movement of the platform; and
- (b) guardrails and toe-boards on all open sides or an enclosure that is at least 900 mm in height.

## **Fall protection**

**28.39(1)** An employer must ensure that a worker using a self-elevating work platform or aerial device

- (a) uses a fall arrest system that meets the requirements of Part 14 (Fall Protection) when
  - (i) the platform or aerial device is being elevated, lowered or moved, or
  - (ii) the worker steps beyond the guardrail; and
- (b) has the lanyard of the fall arrest system attached in accordance with the specifications of
  - (i) the manufacturer of the work platform or aerial device, or
  - (ii) a professional engineer.

- 28.39(2)** An employer must ensure that a lifeline is of an appropriate length to prevent a worker from being ejected from the self-elevating work platform or aerial device if it collapses.
- 28.39(3)** Despite subsection (1), a fall arrest system is not required for a worker who remains within the confines of the guardrail of a scissor lift while the lift is being raised or lowered.

### **Maintenance, records and manuals**

- 28.40(1)** An employer and a supplier must, while a self-elevating work platform or aerial device is in their possession,
- (a) maintain it so that it is safe for use;
  - (b) keep a permanent record of all inspections, tests, repairs, modifications and maintenance performed on it; and
  - (c) ensure that its operator's manual is kept with it.
- 28.40(2)** A record under subsection (1)(b) must include the name and signature of the person who maintains it and the person who performs an inspection, test, repair or modification on it.

### **Signs**

- 28.41** An employer and a supplier of a self-elevating work platform or aerial device must ensure that the platform or device has signs that are clearly visible and legible to an operator at its controls indicating the following:
- (a) the identity of the supplier;
  - (b) the name and number of the standard to which the platform or aerial device was designed;
  - (c) its rated load;
  - (d) all limiting operating conditions, including the use of outriggers, stabilizers and extendable axles;
  - (e) the specific firm level surface conditions required for use of the platform or aerial device in the elevated position;
  - (f) any warnings specified by the manufacturer;
  - (g) except for a boom-type elevating work platform, the direction of machine movement for each operating control.

## **Climbing prohibited**

- 28.42** An employer must ensure that no worker climbs on the extension mechanism or the boom of a self-elevating work platform or aerial device.

## **Use of the self-elevating work platform or aerial device**

- 28.43** An employer must ensure that a self-elevating work platform or aerial device
- (a) is used only in accordance with the specifications of its manufacturer or those of the professional engineer who designed it;
  - (b) is not loaded in excess of its rated load, or loaded or used in a manner that affects its stability or endangers a worker;
  - (c) is used only on a firm level surface that complies with the conditions required for its use;
  - (d) is not moved unless all workers on it are protected from falling; and
  - (e) when elevated, is accessed by a worker only if procedures for doing so have been established in accordance with the manufacturer's specifications or those of the professional engineer who designed it, and then only in accordance with those procedures.

## **Inspection**

- 28.44** An employer must ensure that a competent person inspects a self-elevating work platform or aerial device before it is first used and daily when it is in use.

## **FORKLIFT-MOUNTED WORK PLATFORMS**

## **Design and construction**

- 28.45** An employer must ensure that an elevated work platform mounted on a forklift
- (a) is commercially manufactured or constructed in accordance with the specifications certified by a professional engineer;
  - (b) is designed by the manufacturer of the forklift or a professional engineer to support safely the load that it is expected to support;

- (c) is equipped with guardrails and toe-boards that meet the requirements of Part 14 (Fall Protection);
- (d) is equipped with a screen or similar barrier along the edge of the platform adjacent to the mast of the forklift to prevent a worker from coming into contact with the mast drive mechanism;
- (e) has a skid-resistant deck;
- (f) has the following legibly and permanently marked in a conspicuous place on it:
  - (i) the maximum number of workers who may occupy the platform,
  - (ii) the weight of the platform and its rated load,
  - (iii) the forklift type for which it has been designed,
  - (iv) any other information necessary for its safe operation; and
- (g) is securely attached to the forks and carriage of the forklift.

### **Use of forklift-mounted work platform**

**28.46** When a worker is on a work platform mounted on a forklift, an employer must ensure that

- (a) the forklift is on a stable, level surface, unless it is a rough terrain forklift; and
- (b) the operator of the forklift remains at its controls when the platform and the forklift are in the elevated position.

### **Fall arrest system**

**28.47** An employer must ensure that

- (a) a worker on a work platform mounted on a forklift uses a fall arrest system that meets the requirements of Part 14 (Fall Protection); and
- (b) the fall arrest system is attached at an anchor point specified by the professional engineer who designed the work platform.

## **PART 28.1**

### **ROPE ACCESS**

#### **Application**

**28.1.1(1)** Subject to subsection (2), this Part applies to every workplace where a rope access system is used to perform work or to train for work.

**28.1.1(2)** This Part does not apply to the following:

- (a) firefighters;
- (b) persons providing emergency response services or search and rescue services;
- (c) recreational or leisure activities that involve a rope access system, including workplaces where such activities are taught.

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#### **When rope access work may be performed**

**28.1.2** An employer may only allow workers to perform rope access work if it is not practically feasible for the workers to comply with Part 14 (Fall Protection) while performing the work in question.

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#### **Part 14 does not apply**

**28.1.3** Part 14 (fall protection) does not apply to a workplace where rope access work is performed in accordance with the requirements of this Part.

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#### **Safe work procedures**

**28.1.4** An employer must

- (a) develop and implement safe work procedures respecting rope access work, including the rescue procedures to be used in case of equipment malfunction or a fall or injury that leaves a worker suspended or requiring rescue;
- (b) train workers in the safe work procedures; and
- (c) ensure that workers comply with the safe work procedures.

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#### **Training and certification**

**28.1.5(1)** Before allowing a worker to perform rope access work, an employer must ensure that the worker

- (a) has received training in the safe use of a rope access system, including, as appropriate to the work being done, the safe work practices, skills and practical experience hours set out in either of the following groups of publications:
  - (i) *International Code of Practice (2014)* and *Training Assessment and Certification Scheme (2015)*, published by IRATA,
  - (ii) *Safe Practices for Rope Access Work (2017)* and *Certification Requirements for Rope Access Work (2019)*, published by SPRAT; and
- (b) holds a valid certificate of training referred to in clause (a) issued by the association or society referred to in subclauses (i) or (ii) of clause (a).

**28.1.5(2)** The certificate referred to in clause (1)(b) must be available at the workplace and produced for inspection on the request of a safety and health officer.

**28.1.5(3)** A worker must only perform or supervise rope access work within the scope of their certification.

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### **Equipment requirements**

**28.1.6** An employer must ensure that all equipment used in the performance of rope access work is selected, used and maintained in accordance with the requirements of

- (a) *International Code of Practice (2014)*, published by IRATA; or
- (b) *Safe Practices for Rope Access Work (2017)*, published by SPRAT.

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### **Planning and performance of rope access work**

**28.1.7** An employer must ensure that rope access work is planned, performed and supervised in accordance with the requirements of

- (a) *International Code of Practice (2014)*, published by IRATA; or
- (b) *Safe Practices for Rope Access Work (2017)*, published by SPRAT.

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## Definitions

**28.1.8** The following definitions apply in this Part.

**“IRATA”** means the Industrial Rope Access Trade Association.

**“rope access”** means a technique in which a rope access system is used to provide a person with access to and from a workplace, commonly including suspension at the workplace, in such a way that a fall is prevented or arrested.

**“rope access system”** means a system consisting of

- (a) a sit harness or full body harness;
- (b) rope, lanyards and other connecting equipment;
- (c) anchors;
- (d) other components such as ascenders, descenders, belay devices, backup devices and fall arresters;

that employ two separately secured subsystems, the first providing a means of access and the second providing a safety, secondary, belay or backup system, but does not include a boatswain’s chair or a zipline.

**“SPRAT”** means the Society of Professional Rope Access Technicians.

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## **PART 29**

### **FALSEWORK AND FLYFORMS**

#### **Application**

- 29.1** This Part applies to every workplace where falsework or flyform systems are used.

#### **Safe work procedures**

- 29.2** An employer must
- (a) develop and implement safe work procedures for using falsework and flyform systems in the workplace;
  - (b) train the workers who work with falsework and flyform systems in those safe work procedures; and
  - (c) ensure that workers who work with falsework and flyform systems comply with those safe work procedures.

#### **Employer to instruct workers**

- 29.3** An employer must ensure that only a person competent in the use of falsework and flyform systems supervises the construction, installation, maintenance and dismantling of falsework and flyform systems.

## **FALSEWORK**

#### **Design of falsework**

- 29.4(1)** An employer must ensure that falsework is
- (a) designed and certified by a professional engineer and constructed, installed, used, maintained and dismantled in accordance with the professional engineer's specifications; or
  - (b) designed, constructed, installed, used, maintained and dismantled in accordance with CSA Standard S269.1-1975 (R2003), *Falsework for Construction Purposes*.
- 29.4(2)** Without limiting subsection (1), an employer must ensure that falsework is constructed and installed and used in accordance with the latest edition of design drawings, including any field design changes and any other supplementary information certified by a professional engineer.

#### **Design drawings requirements**

- 29.5** An employer must ensure that falsework design drawings and any supplementary information include

- (a) sufficient information to enable the falsework to be assembled to meet the design requirements;
- (b) the minimum dimensions and materials of sills and other foundation members, including the load bearing capacity required of any material upon which sills are to be placed;
- (c) where concrete is to be placed, the sequence, method and rate of concrete placement to prevent overloading any part of the falsework; and
- (d) all field design details and any field modifications to be undertaken during construction and installation.

### **Load support**

**29.6** An employer must ensure that all partially assembled components of falsework are capable of supporting any load that will be or is likely to be imposed on them.

### **Falsework used for concrete**

**29.7** When falsework is used for the placement of concrete, the employer must ensure that

- (a) before each placement of concrete,
  - (i) the falsework is inspected to ensure that it is constructed in accordance with the design drawings and any supplementary information, and
  - (ii) a record of the inspection is kept at the construction project site;
- (b) the falsework is not removed until the concrete has attained sufficient strength to support itself and any load that will be or is likely to be imposed on it; and
- (c) where resupport of concrete is required after falsework has been removed, the method for the resupport has been designed and certified by a professional engineer.

## **FLYFORM SYSTEMS**

### **Flyform design**

**29.8(1)** An employer must ensure that

- (a) a flyform system is designed and certified by a professional engineer and constructed, installed, used, maintained and dismantled in accordance with the professional engineer's specifications;

- (b) the design and installation drawings and any supplementary information relating to the flyform system
  - (i) include a plan view, a longitudinal section and a cross-section of each type of panel to be used, and
  - (ii) indicate the calculated position of the centre of gravity of the panels;
- (c) every panel used in a flyform system
  - (i) can resist a minimum horizontal load of 345 kg applied in any direction on the upper edge,
  - (ii) has a safety factor against overturning of at least 2.0, and its legs placed to attain this safety factor, and
  - (iii) has a safety factor against sliding of at least 1.5; and
- (d) where any of the safety factors in clause (c) cannot be attained,
  - (i) the flyform panel is attached to a permanent structure with properly designed devices or an adjacent flyform panel so that the required safety factor is attained, and
  - (ii) where it is put in place using a crane or hoist, it is attached before it is unhooked from the crane or hoist.

**29.8(2)** When all flyform panels have been assembled to form one continuous piece of falsework, an employer must ensure that the falsework meets the safety factors required under clause (1)(c).

## **Moving flyforms**

**29.9(1)** An employer must ensure that

- (a) a worker rigging a flyform panel or system that is to be moved from one location to another near the edge of a structure is attached to a lifeline that meets the requirements of Part 14 (Fall Protection); and
- (b) the flyform panel or system is cleared of all material that is not part of the designed structure before it is moved.

**29.9(2)** An employer must ensure that no worker detaches a rigging component on a flyform panel or system until the panel or system is stable and secure.

## **Inspection of flyforms**

- 29.10** An employer must ensure that a flyform system is inspected by a competent person immediately after it is relocated to ensure that it is stable and meets the design specifications.

## **PART 30**

### **TEMPORARY STRUCTURES**

#### **Application**

- 30.1** This Part applies to every workplace where temporary structures are constructed or used.

#### **Safe work procedures**

- 30.2** An employer must
- (a) develop and implement safe work procedures for constructing or using temporary structures;
  - (b) train workers who construct or use temporary structures in those safe work procedures; and
  - (c) ensure that workers who construct or use temporary structures comply with those safe work procedures.

#### **Temporary structure to be supported**

- 30.3(1)** An employer must ensure that unfinished structures, including masonry walls, and temporary structures are adequately braced or supported to withstand any load or force that will be or is likely to be imposed on them, including wind and wind gusts.
- 30.3(2)** When a temporary support system is used under subsection (1), an employer must ensure that it is not removed until the structure has been permanently stabilized.

#### **Employer to provide floor**

- 30.4(1)** If a skeleton frame building of more than one storey in height is being erected and persons, other than those engaged in erecting the structure, are required to work or pass beneath the work area, an employer must provide
- (a) a permanent floor; or
  - (b) a temporary floor that
    - (i) extends over an entire working area, except for necessary openings which must be protected by a guardrail in accordance with Part 14 (Fall Protection),
    - (ii) is designed to safely support any load that will be or is likely to be imposed on it, including loads from material, machinery or equipment such as cranes and hoists, and

- (iii) is securely fastened to structural members that are capable of safely supporting any imposed load.

**30.4(2)** When a plank floor is used as a temporary floor, an employer must ensure that the planks used are

- (a) structurally sound and at least 50 mm thick; and
- (b) securely fastened to the frame of the building and laid close together to form a solid floor.

**30.4(3)** When material is stored on a temporary floor, an employer must ensure that the material does not fall off the edge of the floor.

### **Openings in temporary floors**

**30.5** When an opening in a temporary floor cannot be adequately protected by a guardrail, an employer must ensure that

- (a) the opening is completely covered with securely fastened planks or other materials capable of supporting any load that will be or is likely to be imposed on them; and
- (b) the covering is clearly, visibly and legibly marked to identify the hazard.

### **Temporary stairs and landings**

**30.6(1)** An employer must ensure that

- (a) temporary stairs and landings are designed and constructed to support any load that will be or is likely to be imposed on them; and
- (b) temporary stairs have
  - (i) in any one flight, a rise that is uniform and treads that are similar in width, length and height,
  - (ii) a slope not exceeding 50° from the horizontal,
  - (iii) a vertical distance of not more than 4 m between landings or floors,
  - (iv) on open sides, including landings, securely fastened and supported handrails equivalent in strength to the top rail of a guardrail, and
  - (v) a minimum width of at least 750 mm, except where the temporary stairs are prefabricated steel scaffold stairs or unless space restrictions require the stairs to be narrower.

- 30.6(2)** An employer must ensure that steel stairs that are designed to have concrete fill have secured in place temporary wooden tread fillers which extend the full width and length of the treads and landings.

### **Design of temporary runways, ramps and platforms**

- 30.7** An employer must ensure that a temporary runway, ramp or platform
- (a) is designed and constructed to support any load that will be or is likely to be imposed on it;
  - (b) subject to working conditions and usage, is a minimum of 600 mm in width; and
  - (c) is securely fastened in place and adequately supported to prevent horizontal or lateral movement.

### **Temporary ramps**

- 30.8(1)** An employer must ensure that a temporary ramp has a slope not greater than one vertical to three horizontal.
- 30.8(2)** When a temporary ramp has a slope greater than one vertical to eight horizontal, the employer must ensure that cross cleats are provided, with the cross cleats being
- (a) provided at regular intervals not greater than 450 mm ;
  - (b) constructed of 25 x 50 mm (nominal) wood strips securely nailed to a ramp, or other means providing equivalent resistance to slipping; and
  - (c) kept clear of snow, ice and mud accumulations.



## **PART 31 ROOF WORK**

### **Application**

- 31.1** This Part applies to every workplace where roofing material is repaired, applied to or removed from a building or structure.

### **DIVISION 1 GENERAL REQUIREMENTS**

#### **General requirements re roof work**

- 31.2** Before any work begins on the roof of a building, an employer must ensure that the structure of the building and its roof is evaluated to determine if it is capable of withstanding the loads that will be or are likely to be imposed on the roof, including the loads resulting from the workers and the equipment and materials they use.

#### **Safe work procedures**

- 31.3** When roof work is done, an employer must
- (a) develop and implement safe work procedures for roof work;
  - (b) train workers who do roof work in those safe work procedures; and
  - (c) ensure that workers who do roof work comply with those safe work procedures.

### **DIVISION 2**

Repealed.

M.R. 147/2010

## **PART 32**

### **PRECAST CONCRETE**

#### **Application**

**32.1** This Part applies to every workplace where precast concrete is used.

#### **Precast construction: general requirements**

**32.2** An employer must ensure that a precast concrete part of a structure is designed, constructed, installed, used, maintained and inspected in accordance with the specifications of

- (a) the professional engineer who designed it and the manufacturer who manufactured it; and
- (b) the professional engineer who designed the structure.

#### **Safe work procedures**

**32.3** When precast concrete parts are to be constructed, installed, used, altered, maintained, repaired or inspected, an employer must

- (a) develop and implement safe work procedures respecting the precast concrete parts;
- (b) train workers in those safe work procedures; and
- (c) ensure that workers comply with those safe work procedures.

#### **Specifications and precast design engineer**

**32.4** An employer must ensure that the design specifications and drawings relating to a precast concrete part that is to be used are signed and certified by the professional engineer or engineers referred to in section 32.2 and include the following:

- (a) the information necessary to enable the part to be accurately constructed and installed, including installed in the proper sequence;
- (b) the hoisting, site, storage, placement, grouting and field repair procedures for the part;
- (c) the minimum dimensions of the bearing surfaces of the part;
- (d) identification of the components of the part that require shoring, bracing or other temporary support;
- (e) if an opening is to be cut in the part, the method to be used to cut the opening;
- (f) the weight of the part.

## **Supervisor**

- 32.5** An employer must ensure that a worker who works with precast concrete is supervised by a person who is experienced in precast concrete construction.

## **Placement and support**

- 32.6** An employer must ensure that a precast concrete part is
- (a) placed on a supporting component of the structure that is capable of safely supporting its load; and
  - (b) properly braced to withstand any load, including wind and wind gusts, that is or is likely to be imposed on the part when it is placed in its final position.

## **Hoisting of precast concrete parts**

- 32.7** When a precast concrete part is hoisted, an employer must ensure that
- (a) the device used to hoist the part, such as a spreader bar, clamp or other similar device, is
    - (i) designed and certified by a professional engineer,
    - (ii) equipped with a clearly visible and legible load rating chart, if it is an adjustable type of lifting device,
    - (iii) rated for the safe working load and size of the part, and
    - (iv) inspected by a competent person before it is first used and daily when in use; and
  - (b) the part is not hoisted directly over any person.

## **Rigging clamps**

- 32.8** An employer must ensure that rigging clamps used for precast hollow core slab erection are
- (a) designed for hoisting precast concrete parts; and
  - (b) provided with a safety sling of adequate capacity to safely support the load that is or is likely to be imposed.

## **Specific provision re tilt-up precast panels**

- 32.9** For a precast concrete part that is a tilt-up precast panel, an employer must ensure that the panel is

- (a) unless approved by a professional engineer, void of any cold joints;
- (b) protected from damage from welding or any other application of heat or any other work procedure;
- (c) broken from the casting surface by a mechanical bond breaker;
- (d) protected from damage by a lifting insert, bracing insert or other bracing component; and
- (e) hoisted only after the concrete has attained the required strength specifications of the professional engineer referred to in clause 32.2(a).

### **Tension equipment and operation**

**32.10(1)** An employer must develop and implement safe work procedures for pre-tensioning, post-tensioning or detensioning operations in accordance with the specifications of

- (a) the manufacturer of the precast concrete part; or
- (b) a professional engineer.

**32.10(2)** An employer must ensure that

- (a) tensioning equipment is used and maintained in accordance with the manufacturer's specifications;
- (b) a bar, strand, wire or other material used for tensioning a precast concrete part
  - (i) is protected from any damage during handling, storage and transportation, and
  - (ii) is not damaged by welding, burning or any other work procedure; and
- (c) during a tensioning operation, only workers involved in the operation are in the immediate vicinity.

### **Protection from damage**

**32.11** No employer may permit any work to proceed on a tensioning operation until the strands have been adequately protected.

## **PART 33**

### **DEMOLITION WORK**

#### **Application**

**33.1** This Part applies to every workplace where demolition work takes place.

#### **Safe work procedures**

**33.2** An employer carrying out demolition work must

- (a) develop and implement safe work procedures for demolition work;
- (b) ensure that workers involved in demolition work are trained in those safe work procedures; and
- (c) ensure that workers involved in demolition work comply with those safe work procedures.

#### **Employer's general obligation re demolition work**

**33.3** An employer must ensure that the demolition work is

- (a) carried out in accordance with CSA Standard S350-M1980 (R2003), *Code of Practice for Safety in Demolition of Structures*;
- (b) conducted in such a way as to ensure that, so far as is reasonably practicable, workers and other persons are not exposed to risks to their safety or health in connection with the demolition work;
- (c) subject to sections 33.8 and 33.9, carried out in the reverse order of erection of the building or structure; and
- (d) performed floor by floor from the top downward, if a worker is or may be present in the building or structure during its demolition.

#### **Employer's obligation before demolition begins**

**33.4(1)** An employer must ensure that before demolition work begins,

- (a) the following are removed from the building or structure, or part of the building or structure, being demolished:
  - (i) glass, metal cornices or other material that may shatter,
  - (ii) hazardous substances, including asbestos,
  - (iii) any tanks, wells, piping systems, flammable or explosive materials or gas cylinders;

- (b) where anything mentioned in
  - (i) subclause (a)(ii) cannot be removed, it is subjected to control measures in accordance with Part 36 (Chemical and Biological Substances) and Part 37 (Asbestos), and
  - (ii) subclause (a)(iii) cannot be removed, it is made safe;
- (c) authorization from the authority having jurisdiction has been obtained to disconnect any utility or service at the demolition site, the utility or service has been disconnected, and written confirmation of the authorized disconnection is available at the demolition site; and
- (d) the demolition site is
  - (i) free of unauthorized persons, and
  - (ii) appropriately barricaded to prevent access by unauthorized persons.

**33.4(2)** An employer must ensure that a competent person

- (a) inspects the demolition site and confirms that subsection (1) has been complied with before proceeding with demolition work; and
- (b) supervises the demolition work at all times when demolition work is in progress.

**Notice to owners of affected property**

**33.5** An employer must

- (a) provide notice in writing of the intended demolition work to the owner of any building, structure or property connected or adjacent to the demolition site, or that may be affected by the demolition; and
- (b) ensure that the owner has adequate time to ensure the safety of any persons in the building or structure or on the property.

**Stability of adjoining building or structure**

**33.6(1)** When a building or structure adjoins the demolition site and the demolition work may affect its stability, an employer must ensure that the demolition work is carried out in accordance with procedures, as certified by a professional engineer, that safeguard the stability of the adjoining building or structure.

- 33.6(2)** An employer must ensure that a copy of the procedures certified by the professional engineer is kept at the demolition site at all times when demolition work is in progress.

**Ventilation, loads, removal of debris and chutes**

- 33.7(1)** When carrying out demolition work, an employer must ensure that
- (a) adequate ventilation is provided for a machine powered by an internal combustion engine that operates in an enclosed area;
  - (b) every floor, roof or other surface is of sufficient strength to safely support any of the following loads:
    - (i) the load of a worker who is required or permitted to be on it,
    - (ii) the load of any equipment, including powered mobile equipment, placed on it;
  - (c) material or debris is removed promptly and is not allowed to accumulate
    - (i) in an area that might result in the collapse of all or part of the building or structure due to overloading, or
    - (ii) on the ground immediately outside of the building or structure being demolished; and
  - (d) unless it is being demolished at the time, no wall or other part of the building or structure is left unstable or in danger of collapsing.
- 33.7(2)** When demolishing a structure, an employer must provide a chute for use in removing debris and dust if the dropping debris or dust creates a risk to the safety or health of a worker or any other person.
- 33.7(3)** An employer must ensure that a chute provided under subsection (2)
- (a) is properly secured;
  - (b) has all of its openings adequately guarded;
  - (c) has placed adjacent to its outlet, in a conspicuous location, a clearly visible and legible sign bearing the wording "DANGER, NO ENTRY" in a minimum of 5 cm letters; and
  - (d) empties into an area that is appropriately barricaded to prevent access by any person.

**33.7(4)** An employer must ensure that

- (a) workers and equipment are located clear of any falling material or debris; and
- (b) without limiting clause (a), a floor opening is adequately covered to prevent material from falling below, if
  - (i) a wall that is within 3 m of the opening is being demolished, and
  - (ii) there is a risk to the safety or health of a worker.

### **Demolition by explosives**

**33.8** When an explosive is to be used to carry out the demolition work, an employer must ensure that

- (a) a competent person develops a demolition procedure to protect the safety and health of workers; and
- (b) the worker who uses the explosives does so in accordance with the requirements of Part 34 (Explosives).

### **Demolition by pushing or pulling**

**33.9(1)** An employer must ensure that

- (a) when a part of a building or structure is demolished by pushing, the point at which the force is applied is located
  - (i) at least two-thirds up the height of the part, measured from the base of the part being pushed, or
  - (ii) at the point specified by a professional engineer; and
- (b) when a part of a building or structure is demolished by pulling,
  - (i) the horizontal distance from the machine used for the pulling to the face of the part being pulled is at least 20% greater than the height of the part, and
  - (ii) no person stands between the machine and the building or structure.

**33.9(2)** When carrying out demolition work, an employer must ensure that no crane boom is used for pushing or pulling a building or structure.



## **Presence of pre-stressed concrete parts**

**33.10** An employer must

- (a) determine whether pre-stressed or post-tension concrete parts are present in the building or structure being demolished; and
- (b) if present, ensure those parts are demolished in accordance with the specifications of a professional engineer.

## **Structural members**

**33.11** If structural members are present in the building or structure being demolished, an employer must ensure that each member that is being removed is

- (a) not placed under any stress other than its own weight; and
- (b) secured or supported to prevent it from dropping or swinging uncontrollably.

## **PART 34 EXPLOSIVES**

### **INTRODUCTORY PROVISIONS**

#### **Application**

- 34.1(1)** This Part applies to every workplace where explosives are used.
- 34.1(2)** Despite subsection (1), this Part does not apply to any class of work that is covered by the *Operation of Mines Regulation*, Manitoba Regulation 212/2011.
- 34.1(3)** This Part is in addition to the regulations made under the *Explosives Act* (Canada) and is to be read and applied as being ancillary to it.

M.R. 128/2019

#### **Safe work procedures**

- 34.2(1)** An employer must
- (a) develop and implement safe work procedures for the use of explosives, including procedures for removing any misfire;
  - (b) train blasters and other workers who may work in the vicinity of blasting in those safe work procedures; and
  - (c) ensure that the blasters and other workers comply with those safe work procedures.
- 34.2(2)** The safe work procedures developed and implemented by the employer must be consistent with the code of practice respecting the safe use of explosives issued by the director.

### **CERTIFICATION OF BLASTERS**

#### **Classes of blasting**

- 34.3** The director may issue a blaster's certificate for the following classes of work:
- (a) unlimited, under which a blaster may detonate explosives by fuse and cap, a non-electrical detonation system or electrical detonation, with no restriction on the number of shots or series;
  - (b) fuse and cap with limited electrical, under which a blaster may detonate a maximum blast of 50 shots by safety fuse and cap assemblies, non-electrical detonation systems or electrical detonators hooked up in a single series;

- (c) fuse and cap, under which a blaster may detonate a maximum blast of 50 shots by safety fuse and cap assemblies or non-electrical detonation systems;
- (d) seismic, under which a blaster may detonate a single shot electrical blast for seismic purposes;
- (e) a class established by the director.

### **Training programs and examinations**

**34.4** The director may establish blaster safety training programs and examinations for the different classes of blaster's certificates established under section 34.3.

### **Issuing and renewing blaster certificates**

- 34.5(1)** The director may issue a blaster's certificate of a class set out in section 34.3, to a person who
- (a) in a form approved by the director, applies to the director and verifies the information in the application by statutory declaration;
  - (b) satisfies the director that he or she has successfully completed the relevant blaster safety training program; and
  - (c) successfully completes the examination for the class of certificate.
- 34.5(2)** A certificate issued under this section
- (a) is valid for the period fixed by the director; and
  - (b) is subject to any terms and conditions, including terms and conditions for its renewal, imposed by the director.
- 34.5(3)** Subject to subsection (4), the director must grant a renewal of a blaster's certificate held by a blaster who is not otherwise suspended if the blaster
- (a) files with the director an application for renewal, in the form approved by the director, before his or her existing certificate authorization expires; and
  - (b) complies with any term or condition imposed by the director for renewing the certificate.
- 34.5(4)** As a condition of renewing a certificate, the director may require the blaster to successfully complete an examination or re-examination if
- (a) the blaster applies for the renewal after the time for doing so under clause (3)(a) has expired; or

- (b) the director is not satisfied that the blaster carried out sufficient blasting operations, or sufficient blasting operations of the relevant type, under his or her previous certificate to demonstrate safe and competent blasting.

## **Fees**

- 34.6** The fee for enrolling in a blaster's safety program or for taking a blaster's examination or re-examination is \$25.

## **Employer's reporting of blaster**

- 34.7** If an employer is of the opinion that a blasting operation carried out by a blaster has put the safety or health of any person, including the blaster, at risk, the employer must immediately ensure that
- (a) the blaster does not perform any further duties as a blaster; and
  - (b) the actions of the blaster are reported to the director.

## **Director's suspension of blaster**

- 34.8(1)** The director must immediately suspend a blaster's certificate if the director is of the opinion that
- (a) the blaster presents a risk to the safety or health of a worker, the blaster or other person; or
  - (b) without limiting clause (a), the blaster
    - (i) has carried out a blast in an unsafe manner, or
    - (ii) is operating unsafely.
- 34.8(2)** A suspension under subsection (1) must be for a minimum of 30 days, but the director may, in his or her discretion, impose a longer suspension.
- 34.8(3)** Where the director suspends the certificate of a blaster, the director must promptly notify the blaster and the blaster's employer of the suspension, its length and the procedure for requesting a reconsideration of the suspension.
- 34.8(4)** A blaster whose certificate is suspended must immediately surrender the certificate to the director.
- 34.8(5)** At the end of the period of suspension, the director must review the matter and may reinstate or revoke the blaster's certificate.

- 34.8(6)** When a blaster's certificate has been revoked, the director may set out terms and conditions to be fulfilled by the blaster for the reinstatement of a blaster's certificate.

### **Reconsideration**

- 34.9(1)** A blaster may request the director reconsider a suspension of his or her certificate by filing a request with the director within 14 days after receiving notice that his or her certificate has been suspended.
- 34.9(2)** A request for a reconsideration must be in writing and must set out the grounds upon which the request is made.
- 34.9(3)** The director must decide the request for reconsideration and may
- (a) confirm or rescind the suspension;
  - (b) alter its length; or
  - (c) set out terms and conditions to be fulfilled by the blaster before rescinding the suspension of the blaster's certificate.

### **No hearing required**

- 34.10(1)** The director may hold a hearing when reconsidering a suspension but is not required to do so.
- 34.10(2)** If the director decides to hold a hearing, the director
- (a) is not bound by the rules of evidence that apply to judicial proceedings; and
  - (b) may establish rules of practice and procedure for the hearing.

## **BLASTING PROCEDURES**

### **Only blaster may be authorized to blast**

- 34.11(1)** An employer must not authorize or permit a charge to be prepared, fixed or fired, or a misfire to be handled, by anyone other than
- (a) a blaster; or
  - (b) a person who is
    - (i) working under the direct personal supervision of a blaster, and
    - (ii) undergoing training to obtain a blaster's certificate.
- 34.11(2)** A blaster may only carry out a blasting operation that is within the class of work specified in his or her certificate.

### **Blaster not to work alone**

- 34.12(1)** A blaster must not work alone while carrying out a blasting operation.
- 34.12(2)** If a blaster is assisted by a person who is not a blaster, the blaster must ensure that all work carried out by the person is done under the direct personal supervision of the blaster.

### **Proof of certificate must be provided**

- 34.13(1)** Before becoming involved in a blasting operation, a blaster must deliver proof of his or her blaster's certificate to
- (a) the person in charge of the workplace where the blasting operation is to take place; or
  - (b) the employer, where there is no person in charge of the workplace.
- 34.13(2)** Upon the request of a safety and health officer, a blaster must produce his or her blasting certificate for inspection.

### **Employer must ensure proof is received**

- 34.14** No employer or person in charge of a workplace may permit any person to carry out a blasting operation unless he or she has first provided the employer or the person in charge proof that he or she is a blaster.

### **Blaster must supervise**

- 34.15(1)** Before blasting occurs, an employer must designate the blaster as the supervisor of the blast site, and where more than one blaster is working in a blast site, the employer must designate one of the blasters as the supervisor.
- 34.15(2)** An employer must ensure that the supervising blaster has full authority over, and is responsible for the safety of, every other person, including other blasters, assisting with the blasting operation.

### **Blasting operations**

- 34.16(1)** An employer must ensure that
- (a) all explosives, other than the total charge to be loaded, are kept in a magazine;
  - (b) no magazine is located within 8 m of a flammable liquid or compressed gas;

- (c) empty containers, cases, cardboard boxes, bags or other wrappings from explosives and detonators are not reused, but rather are disposed of in accordance with the manufacturer's specifications;
- (d) the blaster
  - (i) uses the oldest explosive in a magazine first,
  - (ii) does not use a deteriorated or damaged explosive,
  - (iii) does not move or carry a charged explosive or a detonator in a manner that creates a risk to the safety or health of the blaster or another person, and
  - (iv) does not leave an explosive unattended while it is being transported from the magazine to the blast site or after it is loaded and ready to be blasted;
- (e) a charge is primed only at the blasting site, and for certainty, no charge is primed in a magazine or any other place where other explosives are stored;
- (f) before a borehole is drilled, all loose rock or other material that may pose a risk to the safety or health of a worker or other person is scaled or removed, and if blasting may have occurred previously in the area of the blast site,
  - (i) the drilling face is thoroughly cleaned in accordance with appropriate procedures,
  - (ii) a blaster has inspected the drilling face and blasted material to locate any misfires and bootlegs, and
  - (iii) if a misfire or bootleg is found, the blaster has dealt with it in accordance with the safe work procedures for the workplace and for the relevant type of explosive; and
- (g) no worker tampers with an explosive, a detonator or any part of an explosive or detonator.

**34.16(2)** Before blasting occurs, an employer must ensure that adequate precautions are taken against possible injury to persons and damage to property, including without limitation, ensuring that

- (a) the blaster or supervising blaster limits the charge used to the minimum required to do the blast;
- (b) a blasting mat or other suitable means of protection is used to control flying debris;

- (c) unauthorized persons are warned not to enter or remain in the area of the blast site by
  - (i) the placement of warning signs or barricades, or
  - (ii) the posting of flagpersons or guards;
- (d) roads, trails, paths and other approaches to the blast site are closed during blasting operations;
- (e) the person who controls any railway within the blast site is given advance notice of the blasting operations to be carried out; and
- (f) sufficient warning is given before a blast takes place.

**34.16(3)** An employer must ensure that the blaster does not fire a charge until

- (a) all surplus explosives or detonators are removed from the blast site; and
- (b) all workers and other persons are at a safe distance from the blast site, or if a worker or other person is required to remain in the blast site, he or she is protected by suitable cover from falling rocks, flying debris, mud or anything else that is disturbed, agitated or displaced by the blast.

**34.16(4)** An employer must ensure that all boreholes that are charged with explosives in one loading operation are fired in one blasting operation.

**34.16(5)** An employer must ensure that a blaster does not perform a blasting operation using electric detonators during or on the approach of an electrical storm or a severe dust storm.

### **Post-blast inspection and clearance by blaster**

**34.17(1)** After a blast an employer must ensure that, before a worker or other person is allowed to return to the blast site, the blaster has

- (a) inspected the blast site for misfires and bootlegs;
- (b) marked each misfire or bootleg with a conspicuous marker; and
- (c) given clearance for workers and other persons to return to the blast site.

**34.17(2)** In the event that a misfire or bootleg is found, an employer must ensure that it is not abandoned, but rather that the blaster deals with it in accordance with the safe work procedures for the workplace and for the relevant type of explosive.



## **No smoking or burning material near explosives**

**34.18(1)** No person may smoke or burn any material within 8 m of an explosive.

**34.18(2)** An employer must ensure that no person smokes or burns any material within 8 m of an explosive.

## **DIRECTOR'S POWERS**

### **Director's powers**

**34.19** For the purpose of this Part, the director may

- (a) establish
  - (i) terms and conditions that may be imposed on a blaster's certificate,
  - (ii) procedures to be followed for the reconsideration of a suspension, and
  - (iii) requirements for issuing or renewing blaster's certificates, including a class of blaster's certificates established under clause 34.3(e); and
- (b) authorize a designated person to exercise powers or perform duties under this Part.

**PART 35**  
**WORKPLACE HAZARDOUS PRODUCTS**  
**INFORMATION SYSTEMS**

APPLICATION

**Application**

**35.1(1)** Subject to subsections (2) and (3), this Part applies to every workplace where a hazardous product is used, stored, handled or produced.

**35.1(2)** This Part does not apply if the hazardous product is any of the following:

- (a) wood or a product made of wood;
- (b) tobacco or a tobacco product as defined in section 2 of the *Tobacco Act* (Canada);
- (c) a manufactured article;
- (d) a product being transported or handled pursuant to *The Dangerous Goods Handling and Transportation Act* or the *Transportation of Dangerous Goods Act, 1992* (Canada), to the extent that its handling, offering for transport or transport is subject to those Acts.

**35.1(3)** The provisions of this Part relating to supplier labels and safety data sheets do not apply to the following:

- (a) an explosive within the meaning of the *Explosives Act* (Canada);
- (b) any food, drug, cosmetic or device, as defined in section 2 of the *Food and Drugs Act* (Canada);
- (c) any pest control product, as defined in subsection 2(1) of the *Pest Control Products Act* (Canada);
- (d) a nuclear substance within the meaning of the *Nuclear Safety and Control Act* (Canada), that is radioactive;
- (e) a consumer product as defined in section 2 of the *Canada Consumer Product Safety Act* (Canada).

**35.1(4)** Sections 35.2 to 35.24 do not apply with respect to hazardous waste except to the extent that an employer must ensure any hazardous waste generated at the workplace is stored and handled safely through the combination of worker training and proper identification of the waste.

M.R. 129/2015; 128/2019

## REQUIREMENTS

### Hazardous product use and storage

- 35.2(1)** An employer must ensure that a hazardous product is not used, stored, handled or produced in a workplace unless all the applicable requirements of this Part have been satisfied.
- 35.2(2)** As an exception, an employer may store a hazardous product in a workplace while not complying with subsection (1) if the employer
- (a) is actively seeking information required by this Part in respect of the product; and
  - (b) ensures that the product is stored in a manner that does not pose a risk to the health and safety of a worker.

## WORKER EDUCATION AND TRAINING

### Education and training

- 35.3(1)** An employer must ensure that a worker who works with or may be exposed to a hazardous product in the course of the worker's work activities is educated in respect of
- (a) the content required to be on a supplier label and a workplace label and the purpose and significance of the information contained on those labels;
  - (b) the content required to be on a safety data sheet and the purpose and significance of the information contained on a safety data sheet;
  - (c) any other form of identification used in the workplace for hazardous products, and the content, purpose and significance of the information conveyed by the form of identification used; and
  - (d) how to access or obtain the information in the workplace referenced in clauses (a) to (c).
- 35.3(2)** For each hazardous product that a worker works with or may be exposed to in the course of his or her work activities, the employer must ensure that the worker receives training in respect of
- (a) the contents on the safety data sheet and the supplier label or workplace label for the hazardous product, and the significance of that information;
  - (b) any further hazard information which the employer is or ought to be aware of respecting the hazardous product;

- (c) the procedures for safely using, storing, handling and disposing of the hazardous product;
- (d) the procedures to be followed if there are fugitive emissions;
- (e) the procedures to be followed in case of an emergency involving the hazardous product.

**35.3(3)** An employer must ensure that

- (a) education and training is delivered in a manner that enables workers to protect their safety and health; and
- (b) workers comply with the education and training when using, storing, handling or disposing of hazardous products.

### **Developing and reviewing education and training**

**35.4** An employer must ensure that the education and training under section 35.3

- (a) is developed and implemented in consultation with
  - (i) the committee at the workplace,
  - (ii) the representative at the workplace, or
  - (iii) if there is no committee or representative, the workers at the workplace; and
- (b) is reviewed and revised in consultation with the following at least annually or more frequently if required by a change in work conditions or available hazard information:
  - (i) the committee at the workplace,
  - (ii) the representative at the workplace,
  - (iii) if there is no committee or representative, the workers at the workplace.

## **LABELLING REQUIREMENTS**

### **Supplier labels**

**35.5(1)** An employer must ensure that a hazardous product, or the container in which a hazardous product is packaged, that is received at the workplace is labelled in accordance with the requirements of the *Hazardous Products Regulations*.

- 35.5(2)** An employer must not remove, deface, modify or alter the supplier label, if any, on a container in which a hazardous product is received in the workplace, as long as any amount of a hazardous product remains in the container.
- 35.5(3)** Despite subsection (2), if a supplier label is on a container that has a capacity of 3 ml or less, the employer may remove it if it interferes with the normal use of the hazardous product.
- 35.5(4)** An employer who receives an unpackaged hazardous product or a hazardous product transported as a bulk shipment at a workplace which does not have a supplier label affixed or attached to it, as permitted under subsection 5.5(2) of the *Hazardous Products Regulations*, must affix or attach a label having the information required on a supplier label to the container of the hazardous product or to the hazardous product in the workplace before it is used by a worker.

### **Labels for imported products**

- 35.6** If a hazardous product is imported and received at a workplace without a supplier label or with a supplier label that does not meet the *Hazardous Products Regulations*, the employer must
- (a) affix a label that complies with this Part to its container before the hazardous product is used by a worker; or
  - (b) affix a label that complies with the *Hazardous Products Regulations* to its container before selling or distributing the product.

### **Workplace labels for employer-produced products**

- 35.7(1)** When an employer produces a hazardous product in a workplace, the employer must ensure that the hazardous product or its container has a workplace label affixed to it.
- 35.7(2)** Subsection (1) does not apply
- (a) in respect of a fugitive emission that is produced at a workplace; or
  - (b) if the hazardous product is in the container that is intended to contain it when it is sold or disposed of and the container is, or is about to be, appropriately labelled.

### **Workplace labels for decanted products**

- 35.8(1)** When a hazardous product is decanted at a workplace into a container other than the container in which it was received from the supplier, an employer must ensure that a workplace label is affixed to the container.

- 35.8(2)** Subsection (1) does not apply to a portable container that is filled directly from a container that has a supplier label or workplace label affixed to it, if
- (a) all of the hazardous product in the portable container is required for immediate use and the contents of the container are clearly identified; or
  - (b) the portable container is under the control of and is used exclusively by the worker who filled it, the hazardous product in it is used in its entirety during the shift in which the container is filled and its contents are clearly identified.

### **Identification of product in piping system or vessel**

- 35.9** When a hazardous product in a workplace is contained or transferred in the following the employer must ensure that colour coding, labels, placards or other modes of identification are used to identify the hazardous product present:
- (a) a pipe;
  - (b) a piping system, including valves;
  - (c) a process vessel;
  - (d) a reaction vessel;
  - (e) a tank car, tank truck, ore car, conveyor belt or similar conveyance.

### **Placard identifiers**

- 35.10(1)** In the following circumstances an employer is considered to have complied with the labelling requirements of sections 35.5 (supplier labels), 35.7 (workplace labels) and 35.8 (workplace labels for decanted products) if the employer posts a placard that complies with subsection (2) in a conspicuous place at the location where the hazardous product is stored:
- (a) a hazardous product is not in a container;
  - (b) a hazardous product is in a form intended for export;
  - (c) a hazardous product is in a container that is intended to contain it for sale or distribution and will be appropriately labelled in the normal course of the employer's business and without undue delay.

**35.10(2)** A placard must

- (a) contain the information required for a workplace label; and
- (b) be of such size that the information on it is clearly legible to workers.

**Altering, replacing or updating labels**

**35.11(1)** If a supplier label or a workplace label becomes illegible or is removed from the hazardous product or its container, the employer must replace it with a supplier label or a workplace label.

**35.11(2)** If a supplier label or a workplace label

- (a) is required to be updated under sections 35.16 or 35.17 (significant new data), the employer must do so in accordance with that provision, or
- (b) is permitted to be altered or replaced under sections 35.19 and 35.20 (confidential business information), the employer may do so in accordance with those provisions.

**35.11(3)** This section applies despite subsection 35.5(2).

LABORATORY SAMPLE LABELS

**Laboratory samples**

**35.12(1)** An employer who receives at a workplace a laboratory sample that is subject to a labelling exemption under the *Hazardous Products Regulations* must ensure that a label provided by the supplier is affixed to, printed on or attached to the sample's container.

**35.12(2)** A label under subsection (1) must

- (a) if known by the supplier, disclose the chemical name or the generic chemical name of any material or substance in the hazardous product that,
  - (i) individually, is classified as a hazardous product under the *Hazardous Products Act* (Canada) and the *Hazardous Products Regulations* and is present above the relevant concentration limit, or
  - (ii) in the case of a mixture, is present at a concentration that results in the mixture being classified as a hazardous product under the *Hazardous Products Act* (Canada) and the *Hazardous Products Regulations*; and

- (b) contain the following statement, in both English and French:  
“Hazardous Laboratory Sample. For hazard information or in an emergency, call:” followed by an emergency telephone number to be used to obtain the information that must be provided on the safety data sheet of the hazardous product.

**35.12(3)** In respect of a hazardous product that has been decanted or produced in the workplace, the employer is exempt from sections 35.7 (workplace labels) and 35.8 (workplace labels for decanted products) if

- (a) the hazardous product is
  - (i) a laboratory sample,
  - (ii) intended by the employer solely for use, analysis, testing or evaluation in a laboratory,
  - (iii) not removed from the laboratory, and
  - (iv) clearly identified by a mode of identification that is visible to workers at the workplace; and
- (b) workers are educated and trained in respect of the safe use, storage and handling of the hazardous product and the mode of identification.

**35.12(4)** An employer must ensure that the mode of identification and worker education and training under subsection (3) enables workers to identify the laboratory sample and obtain the information

- (a) required to be found on a safety data sheet, if one has been produced for the sample or the applicable hazardous product; or
- (b) referred to in clauses (2)(a) and (b).

## SAFETY DATA SHEETS

### Supplier produced safety data sheets

**35.13(1)** An employer who acquires a hazardous product for use, handling or storage at a workplace must obtain a safety data sheet for the product from the supplier that complies with the requirements of the *Hazardous Products Regulations*.

**35.13(2)** An employer is exempt from the requirement to obtain and provide a safety data sheet for a hazardous product if the supplier of it is exempted under the *Hazardous Products Regulations* from the requirement to provide a safety data sheet for it.



- 35.13(3)** An employer may provide a safety data sheet in a format that differs from the format provided by the supplier or that contains additional hazard information if
- (a) the employer-provided safety data sheet contains no less content or information than the supplier safety data sheet; and
  - (b) the supplier safety data sheet is available at the workplace and the employer-provided safety data sheet indicates that availability.

### **Employer produced safety data sheets**

- 35.14(1)** An employer must prepare a safety data sheet for a hazardous product produced at a workplace.
- 35.14(2)** Subsection (1) does not apply in respect of a fugitive emission or to an intermediate product undergoing reaction in a reaction or process vessel.

### **Availability of safety data sheets**

- 35.15(1)** An employer must ensure that workers who work with or may be exposed to a hazardous product, and the committee or representative at the workplace can readily access the safety data sheet required for the product under sections 35.13 or 35.14 by having a physical copy of it that can be handled or an electronic copy of it that can be accessed present in an appropriate place at all times.
- 35.15(2)** An employer must keep a safety data sheet referred to in subsection (1) for at least 30 years after it was received from the supplier or prepared by the employer.

## **SIGNIFICANT NEW DATA**

### **Significant new data — hazardous products received from supplier**

- 35.16** If significant new data in respect of a hazardous product that is present in a workplace is received from the supplier in an appendix to the applicable safety data sheet or as a revision to it, or significant new data becomes available to the employer, the employer must, as soon as reasonably practicable,
- (a) ensure that the existing safety data sheet for the hazardous product maintained by the employer
    - (i) has appended to it the significant new data, in written form, or
    - (ii) is replaced with the revised safety data sheet that contains the significant new data;

- (b) update the label on the container containing the hazardous product by adding the applicable significant new data to it; and
- (c) provide training to the workers who work with or may be exposed to the hazardous product in respect of the significant new data.

### **Significant new data — employer produced hazardous products**

**35.17** If significant new data becomes available in respect of a hazardous product that is produced at a workplace, the employer must,

- (a) as soon as reasonably practicable,
  - (i) provide training to the workers who work with or may be exposed to the hazardous product in respect of the significant new data,
  - (ii) append the significant new data, in written form, to the safety data sheet for the hazardous product, and
  - (iii) update the label on a container containing the hazardous product, by adding the applicable significant new data to it; and
- (b) within 90 days, ensure that the existing safety data sheet for the hazardous product is replaced with a safety data sheet that contains the significant new data.

## **CONFIDENTIALITY**

### **Business Information**

#### **Definitions**

**35.18** The following definitions apply in sections 35.19 and 35.20.

**“claim”** means a claim described in clauses 35.19(1)(a) to (d).  
(«demande»)

**“confidential business information”** means the following information required to be included in a supplier label, workplace label or safety data sheet, that the employer considers to be confidential business information:

- (a) in the case of a material or substance that is a hazardous product,
  - (i) the chemical name of the material or substance,
  - (ii) the CAS registry number, or any other unique identifier, of the material or substance,

- (iii) the chemical name of any impurity, stabilizing solvent or stabilizing additive that is present in the material or substance, that is classified in a category or subcategory of a health hazard class under the *Hazardous Products Act* (Canada) and that contributes to the classification of the material or substance in the health hazard class under that Act;
- (b) in the case of an ingredient that is in a mixture that is a hazardous product,
  - (i) the chemical name of the ingredient,
  - (ii) the CAS registry number, or any other unique identifier, of the ingredient,
  - (iii) the concentration or concentration range of the ingredient;
- (c) in the case of a material, substance or mixture that is a hazardous product, the name of any toxicological study that identifies the material or substance or any ingredient in the mixture;
- (d) the product identifier of a hazardous product;
- (e) information about a hazardous product, other than the product identifier, that constitutes a means of identification;
- (f) information that could be used to identify a supplier of a hazardous product. («renseignements confidentiels de nature commerciale»)

### **Interim exclusions from labels and employer safety data sheets**

**35.19(1)** An employer may exclude the following information that the employer considers to be confidential business information from the label and the safety data sheet for a hazardous product, as otherwise required under this Part, in the following circumstances:

- (a) the information described in clause (a) or subclause (b)(i) or (ii) of the definition "confidential business information", but only if the employer
  - (i) files a claim for exemption under clause 11(2)(a) or subclauses (b)(i) or (ii) of the *Hazardous Materials Information Review Act* (Canada) in respect of that information, and

- (ii) prepares a safety data sheet for the hazardous product that discloses the following in place of the information elements listed in clauses 3(1)(a), (b), (c) and (d) or 3(2) (a), (b) and (c) of the *Hazardous Products Regulations*:
  - (A) in the case of a hazardous product that is a material or substance, the generic chemical name of the material or substance,
  - (B) in the case of a hazardous product that is a mixture, the generic chemical name of each material or substance in the mixture that, individually, is classified in any category or subcategory of a health hazard class and is present above the applicable concentration limit or is present at a concentration that results in the mixture being classified in a category or subcategory of any health hazard class;
- (b) the information described in subclause (b)(iii) of the definition "confidential business information", but only if the employer
  - (i) files a claim for an exemption under the *Hazardous Materials Information Review Act* (Canada) from disclosing the concentration or concentration range of an ingredient that is in a mixture that is a hazardous product, and
  - (ii) prepares a safety data sheet for the hazardous product that does not disclose that concentration or concentration range;
- (c) the information described in clause (d) of the definition "confidential business information", but only if the employer
  - (i) files a claim for exemption under subsection 11(2)(d) of the *Hazardous Materials Information Review Act* (Canada) in respect of that information, and
  - (ii) prepares a safety data sheet for the hazardous product that discloses, in place of the product identifier, a code name or code number for the product;
- (d) the information described in clauses (c), (e) and (f) of the definition "confidential business information", but only if the employer files a claim for an exemption under the *Hazardous Materials Information Review Act* (Canada) in respect of that information.

- 35.19(2)** An employer who files a claim must disclose the following on the label of the applicable hazardous product or its container and on the safety data sheet for the hazardous product:
- (a) the date that the claim was filed; and
  - (b) the registry number assigned to the claim under the *Hazardous Materials Information Review Act* (Canada).
- 35.19(3)** Subject to subsection (2), an exclusion of confidential business information under subsection (1) is an interim exclusion and is effective during the period beginning on the day the applicable claim is filed under the *Hazardous Materials Information Review Act* (Canada) and ending on the later of the following:
- (a) the date specified in the applicable decision made under the *Hazardous Materials Information Review Act* (Canada);
  - (b) 30 days of receiving the final disposition under that Act in relation to the claim for exemption.
- 35.19(4)** An employer who files a claim must abide by the decisions and orders made under the *Hazardous Materials Information Review Act* (Canada).
- 35.19(5)** An appeal from a decision or order referenced in subsection (4) may be made under and in accordance with the provisions of the *Hazardous Materials Information Review Act* (Canada) and any regulations made under that Act.
- 35.19(6)** For certainty, nothing in this section authorizes failing to disclose or removing hazard information on a label or safety data sheet.

### **Non-disclosure of confidential business information**

- 35.20(1)** If, in respect of a hazardous product, an employer's claim is determined to be valid under the *Hazardous Materials Information Review Act* (Canada), then the employer is authorized to do the following during the three years after the final disposition of the claim under that Act is received:
- (a) in the case of a supplier label or workplace label that contains information determined to be confidential business information, replace the label with a workplace label that does not contain the confidential business information;
  - (b) in the case of a safety data sheet that contains information determined to be confidential business information, delete the confidential business information from the safety data sheet.

- 35.20(2)** If only a portion of the claimed information is determined to be confidential business information, then this section only applies to the portion determined to be confidential business information.
- 35.20(3)** An employer who takes an action under subsection (1) must include the following on the safety data sheet provided for the hazardous product and the label on the hazardous product or the container in which it is packaged:
- (a) a statement that claimed confidential business information has been exempted from disclosure in accordance with a determination made under the *Hazardous Material Information Review Act* (Canada);
  - (b) the date of the determination granting the exemption;
  - (c) the registry number assigned to the claim under the *Hazardous Materials Information Review Act* (Canada).

## General

### Information confidential

- 35.21** A safety and health officer or other official working under the authority of the *Hazardous Products Act* (Canada) who obtains information under clause 46(2)(e) of the *Hazardous Materials Information Review Act* (Canada) must keep the information confidential and must not disclose it to any person except
- (a) in accordance with this Part;
  - (b) for the purposes of the administration or enforcement of the Act or the *Hazardous Products Act* (Canada); or
  - (c) as otherwise required by law.
- 35.21(2)** A person who receives information as permitted under subsection (1) must not use or disclose it except in accordance with this Part, for the purposes of administering or enforcing the Act or the *Hazardous Products Act* (Canada) or as otherwise required by law.

### Information to medical professional

- 35.22(1)** An employer must give any information in the employer's possession, including confidential business information exempted from disclosure, to a medical professional for the purpose of making a medical diagnosis or treating a worker in an emergency.
- 35.22(2)** A person to whom confidential business information is given under subsection (1) must not give the information to another person

except for the purpose of treating a worker in an emergency or as otherwise required by law.

### Disclosure for workplace purposes

- 35.23** An employer who manufactures a hazardous product must, on request and as soon as practicable, give the source of toxicological data used in preparing a safety data sheet for the hazardous product on request to any of the following:
- (a) a safety and health officer;
  - (b) the committee at the workplace;
  - (c) the representative at the workplace;
  - (d) when there is no committee or representative, the workers at the workplace.

### Limits on disclosure

- 35.24(1)** A person must not use or disclose confidential business information exempted from disclosure under this Part except in accordance with sections 35.21 and 35.22.
- 35.24(2)** Subsection (1) does not apply to a person who claimed the exemption or a person acting with that person's consent.

## TRANSITION

### Transition

- 35.25** [Repealed]

M.R. 129/2015; 128/2019

## DEFINITIONS

### Definitions for Part 35

- 35.26** The following definitions apply in this Part.
- “bulk shipment”** means a shipment of a hazardous product that is contained in any of the following, without intermediate containment or intermediate packaging:
- (a) a vessel that has a water capacity equal to or greater than 450 liters;

- (b) a freight container, road vehicle, railway vehicle, or portable tank;
- (c) the hold of a ship;
- (d) a pipeline. («en vrac»)

**“CAS registry number”** means the identification number assigned to a chemical by the Chemical Abstracts Service, a division of the American Chemical Society. («numéro d’enregistrement CAS»)

**“container”** includes a bag, barrel, bottle, box, can, cylinder, drum, tank or similar package or receptacle. («contenant»)

**“fugitive emission”** means a gas, liquid, solid, vapour, fume, mist, fog or dust that escapes from process equipment, from emission control equipment or from a product where workers may be readily exposed. («émission fugitive»)

**“hazard information”** means information on the proper and safe use, storage and handling of a hazardous product and includes information relating to its health and physical hazards. («renseignements sur les dangers»)

**“hazardous product”** means any product, mixture, material or substance that is classified in accordance with the regulations made under subsection 15(1) of the *Hazardous Products Act* (Canada) in a category or subcategory of a hazard class listed in Schedule 2 of that Act. («produit dangereux»)

**“hazardous waste”** means a hazardous product that is acquired or generated for recycling or recovery or is intended for disposal. («résidu dangereux»)

**“label”** means a group of written, printed or graphic information elements that relate to a hazardous product, which is designed to be affixed to, printed on, or attached to the hazardous product or the container in which the hazardous product is packaged. («étiquette»)

**“laboratory sample”** means a sample of a hazardous product that is packaged in a container that contains less than 10 kg of the hazardous product and that is intended solely to be tested in a laboratory, but does not include any amount of a hazardous product that is to be used



- (a) by a laboratory for testing other products, mixtures, materials or substances, or
- (b) for educational or demonstration purposes. («échantillon pour laboratoire»)

**“manufactured article”** means any article that is formed to a specific shape or design during manufacture, the intended use of which when in that form is dependent in whole or in part on its shape or design, and that, when being installed, if the intended use of the article requires it to be installed, and under normal conditions of use, will not release or otherwise cause an individual to be exposed to a hazardous product. («article manufacturé»)

**“medical professional”** means a person who is

- (a) a physician who is registered and entitled to practice medicine under the laws of a province and is practising medicine in that province; or
- (b) a nurse who is registered or licensed under the laws of a province to practice nursing and who is practising nursing under those laws in that province. («professionnel de la santé»)

**“product identifier”** means, in respect of a hazardous product, the brand name, chemical name, common name, generic name or trade name. («identificateur du produit»)

**“safety data sheet”** means a document that contains, under the headings that, by virtue of the regulations made under subsection 15(1) of the *Hazardous Products Act* (Canada), are required to appear in the document, information about a hazardous product, including information related to the hazards associated with any use, handling or storage of the hazardous product in a workplace. («fiche signalétique»)

**“significant new data”** means new data regarding the hazard presented by a hazardous product that

- (a) changes its classification in a category or subcategory of a hazard class;
- (b) results in its classification in another hazard class; or
- (c) changes the ways to protect against the hazard it presents. («nouvelles données importantes»)

**“supplier label”** means a label provided by a supplier that contains information elements required under the *Hazardous Products Act* (Canada). («étiquette du fournisseur»)

**“workplace label”** means, in respect of a hazardous product, a label which discloses

- (a) the product identifier which is identical to that found on the safety data sheet of the corresponding hazardous product;
- (b) information for the safe handling of the hazardous product which is conveyed in a manner appropriate to the workplace;
- (c) that a safety data sheet, if supplied or produced, is available. («étiquette du lieu de travail»))

## **PART 36 CHEMICAL AND BIOLOGICAL SUBSTANCES**

### **APPLICATION**

#### **Application**

- 36.1** This Part applies to every workplace in which a chemical or biological substance is present.

#### **Input re threshold limit values**

- 36.1.1** The director must seek input every three years respecting the applicable threshold limit values.

M.R. 128/2019

### **ASSESSMENTS**

#### **Duty to assess chemical and biological substances**

- 36.2(1)** An employer must assess all information that is practicably available to the employer respecting a chemical or biological substance present in the workplace to determine if the substance creates or may create a risk to the safety or health of a worker in the workplace. The assessment must take place in consultation with
- (a) the committee at the workplace;
  - (b) the representative at the workplace; or
  - (c) when there is no committee or representative, the workers at the workplace.
- 36.2(2)** An employer must reassess a chemical or biological substance in accordance with the requirements of subsection (1) if
- (a) there is a change
    - (i) in conditions in the workplace, or
    - (ii) in the health or physical condition of a worker known to the employer; or
  - (b) new information about the substance becomes available to the employer.

## SAFE WORK PROCEDURES

### Safe work procedures

- 36.3** An employer must
- (a) develop and implement safe work procedures respecting the use, production, storage, handling and disposal of any chemical or biological substance that an assessment under section 36.2 has determined creates or may create a risk to the safety or health of a worker in that workplace;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

## CONTROL MEASURES FOR NON-AIRBORNE HAZARDS

### Control measures for non-airborne hazards

- 36.4** If an assessment under section 36.2 determines that non-airborne exposure to a chemical or biological substance creates or may create a risk to the safety or health of a worker, an employer must immediately implement control measures in the workplace to eliminate any risk resulting from non-airborne exposure to the substance.

## OCCUPATIONAL EXPOSURE LIMITS FOR AIRBORNE HAZARDOUS SUBSTANCES

### Establishing airborne occupational exposure limits

- 36.5(1)** Subject to subsection (2), if an assessment under section 36.2 determines that the presence of an airborne chemical or biological substance in the workplace creates or may create a risk to the safety or health of a worker, an employer must
- (a) in the case of an airborne substance for which the ACGIH has established a threshold limit value, establish an occupational exposure limit for the substance that does not exceed the threshold limit value established by the ACGIH;
  - (b) in the case of an airborne designated material, establish an occupational exposure limit for the material that is as close to zero as possible and does not exceed the threshold limit value established by the ACGIH, where one exists; or
  - (c) in the case of an airborne substance for which the ACGIH has not established a threshold limit value,

- (i) implement control measures in the workplace sufficient to eliminate any risk to the safety or health of a worker, or
- (ii) ensure that a competent person establishes an occupational exposure limit for the substance that will ensure that the safety or health of all workers in the workplace will not be placed at risk.

**36.5(2)** When exposure to an airborne chemical or biological substance at a concentration below the threshold limit value for that substance established by the ACGIH creates or may create a risk to the safety or health of a worker in a workplace due to

(a) conditions in the workplace, including,

- (i) heat,
- (ii) ultraviolet and ionizing radiation,
- (iii) humidity,
- (iv) pressure,
- (v) length of work shift, work-rest regime, or
- (vi) additive and synergistic effects of materials and workload;  
or

(b) the health or physical condition of a worker in the workplace known to an employer;

the employer must establish a lower occupational exposure limit for that substance than the limit established by the ACGIH. The occupational exposure limit established by the employer must ensure that the safety or health of workers who are exposed to the substance in that workplace at levels below that limit will not be placed at risk.

## MONITORING AND CONTROL MEASURES

### Monitoring

**36.6(1)** If a worker is, or may be, exposed to an airborne chemical or biological substance in the workplace at a concentration in excess of the occupational exposure limit for the substance established under section 36.5, an employer must

- (a) conduct monitoring of the substance on a regular basis to determine the airborne concentration of the substance; or

- (b) implement control measures in accordance with section 36.7 sufficient to ensure that no worker is exposed to the substance in excess of the occupational exposure limit for that substance.

**36.6(2)** When an employer conducts monitoring under subsection (1), the employer must ensure that

- (a) the concentrations of the chemical or biological substance to which a worker is exposed are determined by a competent person from analyses of air samples representative of the worker's exposure; and
- (b) the air sampling and the analyses of the air samples are conducted in accordance with the requirements of
  - (i) the National Institute for Occupational Safety and Health *Manual of Analytical Methods*, published by the United States Department of Health and Human Services, or
  - (ii) another method established by a recognized occupational hygiene practice.

**36.6(3)** An employer must make a record of all monitoring, which must include the following information:

- (a) the type of monitoring;
- (b) the type of equipment used;
- (c) each result of the monitoring and the time each result was obtained;
- (d) any interpretation of the monitoring data;
- (e) the names of the workers whose exposure was measured.

**36.6(4)** An employer must provide the monitoring records to

- (a) the committee at the workplace;
- (b) the representative at the workplace;
- (c) if no committee or representative exist, to affected workers; and
- (d) upon request, to a worker who was exposed to a chemical or biological substance in the workplace.

**36.6(5)** An employer must maintain a monitoring record for a 30-year period after the monitoring was conducted.

## Control measures

- 36.7** When monitoring under section 36.6 indicates that a worker has been exposed to an airborne chemical or biological substance at a concentration in excess of the occupational exposure limit established for the substance, an employer must implement control measures in the workplace sufficient to ensure that the exposure of the worker to the chemical or biological substance does not exceed the occupational exposure limit in the future.

## Monitoring after control measures implemented

- 36.8** When an employer implements control measures to control the concentration of an airborne chemical or biological substance, the employer must monitor the concentration of the substance in the workplace for a period sufficient to determine that the control measures have reduced the concentration of the substance below the occupational exposure limit for the substance.

## Personal protective equipment

- 36.9(1)** When an employer is required to implement control measures under this Part to control a worker's exposure to an airborne chemical or biological substance, the control measures must not include a requirement for a worker to wear or use personal protective equipment to prevent or reduce exposure to a chemical or biological substance unless no other measure is reasonably practicable.
- 36.9(2)** Any personal protective equipment required under subsection (1), including respiratory protective equipment, must meet the requirements of Part 6 (Personal Protective Equipment).

## Definitions

- 36.10** The following definitions apply in this Part.

**“control measure”** means a measure used to prevent or reduce exposure of a worker to a chemical or biological substance and may include substitution of materials, work practice controls, engineering controls or the use of personal protective equipment. (« mesure de contrôle »)

**“exposure”** means exposure through inhalation, ingestion, injection, skin or mucosal contact, absorption or other route of entry to the human body. (« exposition »)

## **PART 37**

### **ASBESTOS**

#### **Application**

- 37.1(1)** This Part applies to every workplace where asbestos is present.
- 37.1(2)** For the purposes of this Part, any material likely to contain asbestos is deemed to be asbestos-containing material until it is determined to be asbestos-free.
- 37.1(3)** Nothing in this Part limits or alters any provision of Part 36 (Chemical and Biological Substances).

#### **Inventory of asbestos-containing material**

- 37.2(1)** An employer and an owner must ensure that a person who is competent in identifying asbestos-containing material
- (a) prepares an inventory of all the asbestos-containing material in the workplace;
  - (b) keeps the inventory current by updating it each time asbestos-containing material is added to or removed from the workplace; and
  - (c) at least annually, inspects the condition of all asbestos-containing material in the workplace.
- 37.2(2)** The inventory prepared under subsection (1) must identify the location of all asbestos-containing material in the workplace and, without limitation, the location of any asbestos-containing material that may release asbestos into the atmosphere due to it being damaged or in poor repair.

#### **Records**

- 37.3** An employer and an owner must ensure that a copy of the records of the inventory and the annual inspection of the asbestos-containing material prepared under section 37.2 are
- (a) kept for 30 years from the date the records are made; and
  - (b) made available for reference by a worker at the workplace.

#### **Signage**

- 37.4** An employer and an owner must ensure that all asbestos-containing material present in a workplace is identified by signs, labels or by other effective means.



## **Asbestos control plan**

- 37.5** An employer must ensure that
- (a) an asbestos control plan is developed to
    - (i) prevent asbestos-containing material from becoming airborne in the workplace, and
    - (ii) protect the safety and health of a worker if an asbestos-containing material becomes airborne in the workplace; and
  - (b) the asbestos control plan is implemented.

## **Employer's general obligation**

- 37.6(1)** An employer must ensure that every process carried out in the workplace is done in such a manner as to prevent, to the extent possible, an asbestos-containing material from becoming airborne in the workplace.
- 37.6(2)** An employer must ensure that a worker who is or is likely to be exposed to an asbestos-containing material, or to be employed in a process which may result in an asbestos containing material becoming airborne, is provided information, instruction and training in
- (a) the hazards of asbestos;
  - (b) the means of identifying asbestos-containing material at the workplace;
  - (c) the use of personal protective equipment; and
  - (d) the purposes and significance of any health monitoring that the worker may be required to participate in.

## **Abatement or removal**

- 37.7** An employer must ensure the abatement or removal of asbestos-containing material is done in a manner that does not create a risk to the safety or health of any person.

## **Alteration, renovation or demolition**

- 37.8(1)** An employer and an owner must ensure that, before proceeding with
- (a) the alteration or renovation of a building or structure, measures are taken to prevent any asbestos-containing material in the area of the alteration or renovation from being released into the atmosphere; and

- (b) the demolition of a building or structure, any materials with the potential to release asbestos-containing material into the atmosphere are removed in a manner that does not create a risk to the safety or health of any person.

**37.8(2)** An employer or an owner must notify the director at least five days before beginning the work to alter, renovate or demolish a building or structure that contains asbestos-containing material that may release asbestos-containing material into the atmosphere.

### **Prohibitions**

**37.9(1)** An employer must not require or permit

- (a) friable asbestos-containing materials to be applied in any location at a workplace;
- (b) asbestos or asbestos-containing material to be sprayed at a workplace;
- (c) crocidolite asbestos or material containing crocidolite asbestos to be brought into a workplace;
- (d) the use of pressure spraying equipment of any type to remove asbestos-containing material;
- (e) the use of compressed air to clean up asbestos-containing material; or
- (f) dry sweeping or dry mopping of asbestos-containing material.

**37.9(2)** Clause (1)(c) does not apply to a workplace that is authorized to handle waste asbestos-containing material that is intended for disposal.

## **PART 38 ELECTRICAL SAFETY**

### **GENERAL**

#### **Application**

- 38.1** This Part applies to every workplace where electrical work is performed.

#### **Safe work procedures**

- 38.2** An employer must
- (a) develop and implement safe work procedures for electrical work;
  - (b) train workers who do electrical work in those safe work procedures; and
  - (c) ensure that workers comply with those safe work procedures.

#### **Emergency procedures re contact with energized electrical equipment**

- 38.3(1)** Without limiting section 38.2, an employer must
- (a) develop emergency procedures to be followed if an electrical worker or other person may come in contact with exposed energized electrical equipment and that contact may affect his or her safety or health; and
  - (b) implement those procedures if such contact occurs.
- 38.3(2)** The emergency procedures under subsection (1) must include the procedures to be followed for rescuing, administering first aid and obtaining further medical assistance for the worker.
- 38.3(3)** An employer must ensure that workers who will implement the emergency procedures are trained in the procedures.

#### **Electrical workers must do electrical work**

- 38.4** An employer must ensure that, in the workplace, only an electrical worker performs electrical work.

#### **Other requirements to be met**

- 38.5** An employer must ensure that the electrical work performed in the workplace conforms to the requirements of
- (a) *The Electricians' Licence Act*;
  - (b) the *Manitoba Electrical Code*; and

- (c) where applicable, the by-laws of the municipality.

### **Equipment location and protection**

- 38.6** An employer and an owner must ensure that energized electrical equipment is suitably located and guarded so that it is not contacted by a worker.

## **PROCEDURES**

### **Working near exposed energized electrical equipment**

- 38.7** When work is being done near exposed, energized electrical equipment, an employer must ensure that the work is done in a manner that prevents a worker from contacting the equipment.

### **Defect or unsafe condition**

- 38.8(1)** If a defect or unsafe condition is identified in electrical equipment, an employer must ensure that
- (a) steps are immediately taken to protect the safety and health of any worker who may be at risk; and
  - (b) the defect is repaired or the unsafe condition is corrected as soon as is reasonably practicable.
- 38.8(2)** Where an unsafe condition is identified in a portable power cable, cable coupler or cable component, an employer must ensure that the cable, coupler or component is repaired or removed from service.

### **Electrical equipment to be protected and properly installed**

- 38.9** An employer and an owner must ensure that
- (a) each electrical panel and switch controlling a service supply, feeder or branch circuit is protected from physical or mechanical damage and is
    - (i) securely mounted in a vertical position to a substantial support in an area free from an accumulation of water,
    - (ii) readily accessible to an electrical worker and clear of any obstructions, and
    - (iii) fitted with an approved cover over any uninsulated part carrying a current and an approved filler in any unused opening; and
  - (b) electrical distribution switches, including main circuit breakers, have a suitable means for being locked-out in the open or de-energized position.

## **Temporary electrical equipment**

**38.10** An employer must ensure that

- (a) a cable or wire used for temporary electrical distribution at a workplace is adequately guarded or securely suspended overhead to provide adequate clearance for workers and material;
- (b) a temporary light or other temporary electrical device
  - (i) is assembled, installed and maintained in a safe manner and in accordance with the manufacturer's instructions, if any,
  - (ii) is suitably located and guarded to prevent damage to the lamp or device, and
  - (iii) if suspended, is suspended by its electrical cord only if designed to be suspended in that manner;
- (c) an electrical extension cord used by a worker is
  - (i) of an approved type with a proper grounding connection,
  - (ii) visually inspected each day before it is used for possible damage and repaired or replaced, if necessary,
  - (iii) not used if the grounding post has been removed or made inoperative, and
  - (iv) where it passes through a work area, covered or elevated to protect it from damage and prevent a tripping hazard; and
- (d) a receptacle for an attachment plug has a concealed contact and is properly grounded.

## **Work at damp location**

**38.11** When work is being done in a damp location or in a metallic enclosure, including a drum, tank, vessel or boiler, an employer must ensure that electrical circuits are protected by a class "A" ground fault circuit interrupter.

## **High voltage switch gear**

**38.12** An employer and an owner must ensure that, where high voltage electrical switch gear or transformers are located in a workplace,

- (a) access to the gear or transformers is restricted to persons authorized by the employer; and
- (b) a warning sign is posted.

### **Switch not to be locked in closed position**

**38.13** An employer must ensure that no worker locks or otherwise fixes an electrical switch in the closed or energized position unless the design specifications of the switch require it to remain locked in the closed position.

### **Electrical equipment must be de-energized**

**38.14(1)** Subject to subsection (2), an employer must ensure that an electrical worker doing electrical work

- (a) de-energizes and locks-out electrical equipment on which work is to be done in a manner that meets the requirements of Part 16 (Machines, Tools and Robots);
- (b) removes any potential stored power; and
- (c) does not re-energize the equipment until the work has been completed and all persons in the immediate vicinity are in a safe location.

**38.14(2)** If it is not reasonably practicable to de-energize electrical equipment before electrical work is done, an employer must ensure that no electrical worker begins work on energized electrical equipment until

- (a) the employer, in consultation with the worker, has
  - (i) assessed the conditions or circumstances under which the electrical worker is required to work, and
  - (ii) developed safe work procedures that include the use of safety equipment appropriate for the task;
- (b) the safe work procedures developed under subclause (a)(ii) have been agreed to by the employer and the worker;
- (c) the worker has been trained in the safe work procedures;
- (d) the employer has designated a worker who is trained in emergency response procedures as a standby worker at the location where the electrical work is to be done;
- (e) the standby worker designated under clause (d) is present at the location where the work is to be done; and

- (f) the worker wears all personal protective equipment appropriate for the work to be done.

**38.14(3)** The standby worker designated under clause (2)(d) must be present at the location of the electrical work at all times when the work is being done.

**38.14(4)** This section does not apply to electrical equipment that

- (a) operates at extra-low voltage — being voltage of 30 volts or less; and
- (b) when energized, is not considered a risk to the safety or health of a worker.

### **Application**

**38.15** Subsection 38.14(1) does not apply to Manitoba Hydro or an electrical worker employed by Manitoba Hydro where Manitoba Hydro complies with CSA Z460-13 (R2018), *Control of hazardous energy - Lockout and other methods*.

M.R. 128/2019

### **Appropriate electrical equipment and protection**

**38.16(1)** An employer must ensure that the environmental conditions at a workplace are assessed to determine

- (a) the type of protection required to safely use electrical equipment and electrical tools; and
- (b) the appropriate electrical equipment and electrical tools to be used at the workplace.

**38.16(2)** Without limiting subsection (1), an employer must ensure that a worker only uses electrical equipment and electrical tools

- (a) in accordance with the manufacturer's specifications; and
- (b) that are properly grounded, unless the electrical equipment and tools are double-insulated or bear a CSA certified label.

### **Definitions**

**38.17** The following definitions apply in this Part.

**"approved", "electrical equipment", and "electrical work"** have the same meaning as in *The Electricians' Licence Act*.  
(« approuvé », « matériel électrique » et « travaux électriques »)

**“damp location”** means an exterior or interior location that is normally or periodically subject to condensation of moisture in, on, or adjacent to electrical equipment and includes partially protected locations under canopies, marquees, roofed open porches and other similar locations. (« endroit humide »)

**“guarded”** means covered, shielded, fenced, enclosed or otherwise protected by suitable covers, casings, barriers, rails, screens, mats, platforms or other equally effective means. (« protégé »)

**“high voltage”** means a voltage over 750 volts. (« haute tension »)

**“readily accessible”** means capable of being reached quickly for operation, renewal or inspection, without requiring a person to climb over or remove obstacles or resort to portable ladders, chairs or other temporary means of access. (« facilement accessible »)



## **PART 39**

### **HEALTH CARE FACILITIES**

#### **Application**

**39.1** This Part applies to every workplace that is a health care facility.

#### **Safe work procedures**

**39.2** An employer must

- (a) develop and implement safe work procedures in accordance with sections 39.3 to 39.6;
- (b) train workers in the safe work procedures; and
- (c) ensure that workers comply with the safe work procedures .

#### **Safe work procedures for infectious materials**

**39.3(1)** If a worker at a health care facility may be exposed to infectious materials, an employer must develop and implement safe work procedures to eliminate or, so far as is reasonably practicable, reduce the worker's risk of exposure to infectious materials.

**39.3(2)** The safe work procedures on infectious materials must include the following:

- (a) procedures for storing, handling, using and disposing of infectious materials;
- (b) procedures for identifying workers at the workplace who may be exposed to infectious materials;
- (c) infection control measures at the workplace, such as:
  - (i) vaccination,
  - (ii) engineering controls,
  - (iii) personal protective equipment,
  - (iv) personal hygiene,
  - (v) management of the environment and equipment,
  - (vi) patient accommodation,
  - (vii) precautions for blood-borne pathogens, and
  - (viii) infection control practices based on specific modes of transmission that may be used in situations where certain diseases or micro-organisms require extra caution;

- (d) procedures to be followed if any of the following occurs:
  - (i) there has been a spill or leak of infectious material,
  - (ii) a worker has been exposed to infectious material,
  - (iii) a worker believes that he or she has been exposed to infectious material;
- (e) procedures to be followed when a worker has been exposed to blood or bodily fluids;
- (f) procedures for cleaning, disinfecting or disposing of clothing, personal protective equipment or other equipment contaminated with an infectious material;
- (g) procedures for investigating and documenting any incident where a worker is exposed to infectious material; and
- (h) procedures for investigating and documenting any occurrence of an occupationally transmitted infection or infectious disease.

### **Safe work procedures for waste and laundry**

**39.4(1)** If a worker may be exposed to waste or contaminated laundry, an employer must develop and implement safe work procedures with respect to the handling of waste or contaminated laundry.

**39.4(2)** The safe work procedures on waste and contaminated laundry must include the following:

- (a) measures to ensure that waste or contaminated laundry is
  - (i) segregated at the place where the waste or contaminated laundry is located or produced,
  - (ii) contained in a clearly identified, secure package or container that holds the contents safely until the waste or contaminated laundry is cleaned, disposed of or decontaminated, and
  - (iii) cleaned, decontaminated or disposed of in a manner that will not create a risk to the safety or health of a worker or other person;
- (b) procedures respecting the use of personal protective equipment appropriate to the risks associated with waste or contaminated laundry at the workplace.

### **Safe work procedures for patient handling**

- 39.5(1)** If a worker is required or permitted to lift, hold, turn or transfer a patient, an employer must develop and implement safe work procedures respecting patient handling.
- 39.5(2)** The safe work procedures on patient handling must include procedures for assessing whether a patient requires assistance to move.

### **Safe work procedures for lasers**

- 39.6(1)** If laser equipment is used in a health care facility, an employer must develop and implement safe work procedures respecting the use of laser equipment.
- 39.6(2)** The safe work procedures on lasers must meet the requirements of CSA Standard Z386-01 (R2006), *Laser Safety in Health Care Facilities*.

### **Employer to inform worker and arrange for vaccine**

- 39.7** If a worker has been, may have been or may be, exposed to an infectious material, an employer must
  - (a) provide the worker with
    - (i) information about any vaccine recommended in the *Canadian Immunization Guide* published under authority of the Minister of Health (Canada), and
    - (ii) the risks associated with the vaccine; and
  - (b) with the worker's consent, arrange for the worker to receive the recommended vaccine and pay any associated costs.

### **Sharps containers**

- 39.8(1)** An employer must provide readily accessible containers for waste needles and sharps such as syringes, blades, scissors and other items that are capable of causing a cut or puncture.
- 39.8(2)** The containers must be specifically designed for the storage and handling of waste needles or other sharps.

### **Sorting areas to be separate**

- 39.9** An employer must ensure that the area of a laundry facility where contaminated laundry is sorted is separated from the clean laundry area by one or more of the following:
  - (a) a physical barrier;
  - (b) a negative air pressure system in the contaminated laundry area;

- (c) a positive air flow from the clean laundry area through the contaminated laundry area.

### **Moving patients**

- 39.10(1)** When a patient has been assessed as requiring assistance to move, the employer must ensure that the current status of the patient and the appropriate techniques to move the patient are clearly identified in writing or by other visual means at or near the location of the patient.
- 39.10(2)** When an assessment specifies the use of a mechanical device or the assistance of another worker to move a patient, the employer must ensure that a worker does not move the patient without the use of the device or the assistance of another worker.

### **Laser equipment standards**

- 39.11** An employer must ensure that all laser equipment at a health care facility is operated and maintained in accordance with CSA Z386:14 (R2019), *Safe use of lasers in health care*.

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### **Definition: “waste”**

- 39.12** In this Part, “**waste**” means any chemical or biological substance that may create a risk to the safety or health of a worker, including
  - (a) human anatomical waste;
  - (b) animal anatomical waste;
  - (c) microbiological laboratory waste;
  - (d) blood and body fluid waste; and
  - (e) used or contaminated needles and sharps such as knives, blades, scissors and other items that are capable of causing a cut or puncture.

## **PART 40**

### **FORESTRY AND ARBORICULTURE**

#### **Application**

- 40.1** This Part applies to every workplace where forestry or arboriculture operations take place.

#### **Safe work procedures**

- 40.2** An employer must
- (a) develop and implement safe work procedures respecting the forestry or arboriculture operations that occur in the workplace;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

#### **Restricted access**

- 40.3** An employer must ensure that only persons involved in the forestry or arboriculture operation have access to the area where those operations take place.

#### **No work on hillside**

- 40.4** When forestry or arboriculture operations take place on a hillside, an employer must ensure that no logs or trees are allowed to roll downhill if the logs or trees would create a risk to any person below the site of the operations.

#### **Lodged tree procedures**

- 40.5** Where a tree has become lodged, an employer must ensure that
- (a) the lodged tree is felled immediately;
  - (b) the lodged tree is not climbed;
  - (c) the lodged tree is not lowered by felling another tree onto it; and
  - (d) the lodged tree is not removed by cutting the supporting tree.

#### **Position of signal person**

- 40.6** When a signal person is used in the loading or unloading of logs, an employer must ensure that the signal person stands at one end of the logs at a safe distance from the logs and remains visible to the operator of powered mobile equipment who is loading or unloading the logs.

## **Operation of powered mobile equipment**

- 40.7(1)** An employer must ensure that the operator of powered mobile equipment used in forestry or arboriculture operations
- (a) determines that any worker in the area is in a safe position before initiating or continuing the motion of the equipment; and
  - (b) only operates the equipment from the position or seat intended for that purpose.
- 40.7(2)** An employer must ensure that powered mobile equipment is only started and operated by the worker designated by the employer to operate the equipment.

## **Designated checkpoints**

- 40.8(1)** An employer must designate checkpoints marked with signs along a haul road, including a checkpoint at each entrance to a highway.
- 40.8(2)** The operator of powered mobile equipment or another vehicle hauling forest products on a haul road must stop at each checkpoint to inspect the load and, if necessary, resecure the tie-down assemblies.

## **Haul roads**

- 40.9(1)** An employer must
- (a) ensure that a haul road is constructed and maintained so as to provide for the safe movement of persons, vehicles and forest products;
  - (b) provide sufficient bypasses or turnout spaces on the haul road to allow vehicles to pass safely;
  - (c) erect and maintain conspicuous, legible, reflectorized signs to provide adequate warning of each bridge, crossroad, rail crossing, blind curve or steep grade on the haul road; and
  - (d) place signs at suitable locations along the route indicating
    - (i) the minimum allowable distance to be maintained between vehicles, and
    - (ii) the maximum allowable speed.
- 40.9(2)** When a haul road is located on ice, an employer must instruct each worker driving a vehicle on an ice road about the hazards involved, the precautions to be taken and the rescue techniques required in case of an ice breakthrough.

- 40.9(3)** An employer and prime contractor must ensure that
- (a) a bridge on a haul road is designed and constructed to safely support any load that may pass over the bridge; and
  - (b) a bridge on a haul road is inspected and maintained on a regular basis to ensure its structural integrity.

### **Speed limit on haul road**

- 40.10(1)** No operator of powered mobile equipment or another vehicle used in a forestry operation may operate it on a haul road in excess of
- (a) the posted maximum allowable speed; or
  - (b) the speed at which the vehicle can be brought to a complete stop within a distance of one-half of the length of the worker's unobstructed view of the haul road.
- 40.10(2)** When driving on a haul road, the operator of powered mobile equipment or another vehicle used in a forestry operation must
- (a) when following another vehicle, do so at a distance that is reasonable and prudent having due regard for the speed of the vehicle, the traffic and the condition of the haul road; and
  - (b) when meeting or overtaking another vehicle, pass the other vehicle with due caution.

### **Means of warning vehicles**

- 40.11** An employer must ensure that powered mobile equipment and any other vehicle used in a forestry operation is provided with an effective means of warning oncoming vehicles on a haul road.

## **PART 41 OIL AND GAS**

### **Application**

- 41.1** This Part applies to every workplace where a well is drilled, operated or serviced.

### **Safe work procedures**

- 41.2** An employer must
- (a) develop and implement safe work procedures respecting the drilling, operating or servicing of wells;
  - (b) train workers in the safe work procedures; and
  - (c) ensure that workers comply with the safe work procedures.

### **Breathing apparatus**

- 41.3** An employer must ensure that at least two SCBAs operating in a positive pressure mode that meet the requirements of Part 6 (Personal Protective Equipment) are readily available at a rig for use in a rescue.

### **General requirements for rig**

- 41.4** An employer must ensure that a rig and all of its components are designed, constructed, installed, inspected, maintained and operated in accordance with the manufacturer's specifications or the specifications certified by a professional engineer.

### **Maximum safe operating load limit**

- 41.5(1)** An employer must ensure that the maximum safe operating load of a derrick or mast — as specified by the manufacturer or a professional engineer — is prominently displayed at the derrick or mast site.
- 41.5(2)** An employer must ensure that the maximum safe operating load of a derrick or mast is not exceeded.

### **Structural modification or repair**

- 41.6** If a structural modification or repair is made to a derrick or mast, an employer must ensure that
- (a) the modification or repair is certified by a professional engineer;
  - (b) the maximum safe operating load of the derrick or mast is determined and certified by a professional engineer; and
  - (c) the load marking at the derrick or mast site is replaced if the maximum safe operating load is changed.



### **Supervisor must be present**

- 41.7** An employer must ensure that a supervisor is present at a derrick site whenever the derrick is raised or lowered.

### **Rig sites and foundations**

- 41.8** An employer must ensure that
- (a) the site of a rig is constructed and maintained so that oil, water, drilling fluid or other fluids will drain away from the wellbore; and
  - (b) the foundation of a rig is capable of safely supporting the gross weight of the derrick under the maximum anticipated load and any load imposed on it when a derrick is raised or lowered.

### **Securing parts of rig**

- 41.9(1)** An employer must ensure that any part of a rig or any equipment attached to it that may endanger a worker if it fails, moves or falls is secured to eliminate any risk to the safety or health of a worker.
- 41.9(2)** An employer must ensure that the driller on a rig and all workers on a drilling rig floor are protected from any risk to their safety or health created by the cathead or tong lines.

### **Routine inspections**

- 41.10(1)** An employer must ensure that a rig is inspected by a competent person
- (a) before it is placed in service; and
  - (b) at least once every 30 working days when the rig is in service.
- 41.10(2)** An employer must provide and maintain a logbook for a rig and keep the logbook with the rig. The following information must be recorded in the logbook:
- (a) the date and time when any work is performed on the rig;
  - (b) the length of time in hoisting service;
  - (c) all defects and deficiencies in the rig, including the date each defect or deficiency is detected;
  - (d) all inspections performed on the rig, including all examinations, checks and tests;
  - (e) a record of any certification of repairs or modifications under section 41.6;
  - (f) a description of the work performed on the rig each day;

- (g) any matter or incident that may affect the safe operation of the rig.

### **Escape line**

- 41.11(1)** An employer must ensure that a derrick is equipped with a specially rigged and securely anchored auxiliary escape line that provides a ready, safe and convenient means of escape from any work platform on the rig.
- 41.11(2)** An employer must ensure that the escape line is inspected by a competent person at least once a week.

### **No sliding down rig**

- 41.12** An employer must ensure that a worker does not slide down the escape line or slide down a pipe, tube, rod, kelly, cable or rope line on a rig, except in an emergency.

### **Drawworks**

- 41.13** An employer must ensure that the drawworks on a drilling rig is equipped with an automatic feed control.

### **Catheads**

- 41.14** An employer must ensure that rope-operated friction catheads are not used for hoisting on a rig.

### **Rotary tables**

- 41.15** If visibility on the derrick floor is obscured, an employer must ensure that a worker does not work on a derrick floor while the rotary table is in motion.

### **Pressure relief devices**

- 41.16** An employer must ensure that
  - (a) drilling fluid pumps and servicing fluid pumps are equipped with a pressure relief device; and
  - (b) fluid pumps that use a pressure relief device are routinely inspected by a competent person to ensure the safe functioning of the pressure relief device.

### **Rig tanks or pits**

- 41.17** An employer must ensure that a rig tank or pit used to circulate drilling fluids contaminated with flammable material is protected from a source of ignition.

## **No internal combustion engines near well**

- 41.18(1)** An employer must ensure that an internal combustion engine air intake or exhaust is located at least 5 m from a well that is open to the atmosphere or any other source of ignitable vapour.
- 41.18(2)** An employer must ensure that an internal combustion engine located within 10 m of a well that is open to the atmosphere or any other source of ignitable vapour has
- (a) air intake shut-off valves equipped with a remote control easily accessible from the operator's station;
  - (b) a system for injecting an inert gas into the engine's cylinders equipped with a remote control easily accessible from the operator's station;
  - (c) a duct that provides air for the engine from a distance of at least 10 m from the well or any source of ignitable vapour; or
  - (d) any other device approved for the purpose of section 37 of the *Drilling and Production Regulation*, Manitoba Regulation 111/94.
- 41.18(3)** An employer must ensure that the exhaust pipe of any internal combustion engine located within 10 m of a well that is open to the atmosphere or any other source of ignitable vapour is
- (a) directed away from the well or source of ignitable vapour; and
  - (b) constructed to prevent a flame from emerging along its length or at its end.

## **Drill stem testing**

- 41.19(1)** During drill stem testing, an employer must ensure that
- (a) monitoring for the presence of hydrogen sulfide and hydrocarbons takes place;
  - (b) the hydrogen sulfide monitor is
    - (i) capable of detecting hydrogen sulfide at a concentration equal to the occupational exposure limit for hydrogen sulfide established under Part 36 (Chemical and Biological Substances),
    - (ii) calibrated and tested before use, and
    - (iii) properly maintained; and

- (c) if hydrogen sulfide or hydrocarbons are present at levels that may pose a risk to a worker's safety or health, the formation fluids in the drill stem are displaced with drilling fluid and circulated to a flare pit or holding tank that is at least 25 m from the well.

**41.19(2)** An employer must ensure that, if test fluid recovery is encountered during darkness,

- (a) recovered liquids are reverse circulated; or
- (b) if reversed circulation is not practicable because the pump-out sub has failed, additional drill pipe is not pulled and disconnected until daylight.

### **Well swabbing operations**

**41.20(1)** An employer must ensure that during well swabbing operations

- (a) workers anchor auxiliary swabbing units securely against movement;
- (b) fluids are piped directly to a battery, skid tank, mobile trailer or tank truck; and
- (c) the battery, skid tank, mobile trailer or tank truck is at least 25 m from the well bore.

**41.20(2)** An employer must ensure that if fluids are piped to a tank truck during well swabbing operations,

- (a) the engine of the truck is shut off; and
- (b) the driver or any other person is not in the cab of the truck while fluids are transferred.

### **Well operation and servicing**

**41.21** Before fluids are unloaded into a well, an employer must ensure that the lines between the pump and the well are:

- (a) designed and constructed to sustain the maximum anticipated pressure during use; and
- (b) hydraulically pressure tested at a pressure that is at least 10% above the maximum pressure anticipated during use.

## **Drilling and servicing piping systems at well site**

- 41.22** An employer must ensure that piping systems at a well site are designed, constructed, installed, operated and maintained to safely contain any material at the maximum operating pressures anticipated.

## **Gas sample containers**

- 41.23** An employer must ensure that containers, piping and fittings used to collect gas samples are
- (a) of sufficient strength to withstand the pressures to which they may be subjected; and
  - (b) designed, used and transported so that their contents cannot be released inadvertently.

## **PART 42**

### **FIREFIGHTERS**

#### **Application**

- 42.1** This Part applies to firefighters and their employers, but does not apply to a person employed to suppress an underground fire at a mine or the employer of such persons.

#### **Safe work procedures**

- 42.2(1)** An employer of a firefighter must
- (a) develop and implement safe work procedures to be followed by firefighters responding to an emergency;
  - (b) train firefighters in the safe work procedures; and
  - (c) ensure that firefighters comply with the safe work procedures.
- 42.2(2)** The safe work procedures must include
- (a) firefighting procedures;
  - (b) procedures to be followed in responding to other types of emergencies, including water rescue, confined space entry, high-angle rescue and emergencies involving hazardous materials, if the employer provides emergency response services for other types of emergencies;
  - (c) for each type of emergency to which firefighters will or are likely to respond, the number and type or types of firefighting vehicles and firefighters required
    - (i) for initial response,
    - (ii) to be subsequently dispatched, and
    - (iii) to safely perform an identified emergency response procedure;
  - (d) a system for initiating, if required, procedures necessary to protect the safety and health of firefighters at the site of an emergency; and
  - (e) a personnel accountability system that provides a mechanism of accounting for the number and location of all personnel involved at the site of an emergency.

- 42.2(3)** An employer must provide a firefighter with ready access to the safe work procedures at the fire station or other base of operations for firefighters.

### **Training**

- 42.3** An employer must ensure that a written record is kept of all training provided to firefighters.

### **Firefighting vehicle and equipment requirements**

- 42.4(1)** An employer must ensure that

- (a) a firefighting vehicle is operated by a competent person;
- (b) the firefighting vehicles and equipment used to respond to an emergency are designed and operated to ensure the safety and health of a firefighter;
- (c) equipment provided, including any personal protective equipment, safety ropes, harnesses and hardware, is appropriate to the risks to the firefighter's safety and health;
- (d) the equipment provided under clause (c) is used by firefighter when responding to an emergency; and
- (e) equipment carried within a seating area of a firefighting vehicle, if any, is secured
  - (i) by a positive mechanical means of holding it in a stowed position, or
  - (ii) in a compartment that is equipped with a positive latching door and that has been designed, in the event of an accident, to minimize injury to a firefighter in the seating area of the vehicle.

- 42.4(2)** An employer must ensure that

- (a) firefighting vehicles and equipment are inspected by a competent person according to the manufacturer's specifications;
- (b) a written record of the inspection that is signed by the person who performed the inspection is readily available to firefighters at the workplace; and
- (c) where a defect or unsafe condition is identified,

- (i) the defect or unsafe condition is repaired or corrected in accordance with the manufacturer's specifications by a competent person, as soon as is reasonably practicable,
- (ii) a written record of the repair or correction is readily available at the workplace, and
- (iii) steps are taken in the interim to protect the safety and health of a firefighter.

## **Transportation of firefighters**

**42.5(1)** An employer must ensure that

- (a) a firefighting vehicle has safe crew accommodations within the body of the vehicle and is equipped with properly secured seats and seat belts; and
- (b) when the vehicle is in motion,
  - (i) every firefighter is seated and uses a seat-belt, and
  - (ii) no person rides on the tailstep, side steps, running boards or in any other exposed position on the vehicle.

**42.5(2)** Subsection (1)(b) does not apply

- (a) if there is an insufficient number of seats and seat belts available, but only if the employer ensures that there is a safe alternate means of transporting any firefighter who is not able to use a seat and seat belt; or
- (b) to a firefighter fighting a prairie, grassland, forest or crop fire from a moving firefighting vehicle, but only if the employer ensures that
  - (i) the firefighting vehicle is provided with, and the firefighter uses, a restraining device that prevents the firefighter from falling from the vehicle,
  - (ii) an effective means of communication between the firefighter and the operator of the vehicle is provided, and
  - (iii) the vehicle is not operated at a speed that exceeds 20 km/h.

## **Specific firefighting requirements**

**42.6(1)** An employer must ensure that firefighters work in a team, and a suitably equipped rescue team is readily available, when firefighters are required or permitted to engage in



- (a) fire suppression and rescue, where a firefighter must enter a building, enclosed structure, vehicle, vessel, aircraft or other large object; or
- (b) emergency responses that require specific and advanced training and specialized equipment, such as water rescue, confined space entry, high-angle rescue and incidents involving hazardous materials.

**42.6(2)** An employer must ensure that every firefighter who enters a structure to fight a fire is provided with and uses a personal alert safety system that meets the requirements of NFPA 1982, *Standard on Personal Alert Safety Systems (PASS)*, 1998 Edition for Fire Fighters.

**42.6(3)** An employer must ensure that the personal alert safety system required under subsection (2) is

- (a) tested at least weekly and before each use; and
- (b) maintained in accordance with the manufacturer's specifications.

**Definitions: "emergency"**

**42.7** In this Part, "**emergency**" has the same meaning as in *The Fires Prevention and Emergency Response Act*.

## PART 43 DIVING OPERATIONS

### Application

- 43.1** This Part applies to every workplace where diving operations take place.

### Safe work procedures

- 43.2** An employer must
- (a) develop and implement safe work procedures for a diving operation that meet the requirements of CSA Z275.2-15, *Occupational Safety Code for Diving Operations*; and
  - (b) train workers who may perform diving operations in those safe work procedures; and
  - (c) ensure that workers comply with those safe work procedures.

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### Competency

- 43.3(1)** An employer must ensure that a diver working at a diving operation under the employer's supervision
- (a) provides written evidence to the employer that he or she meets the requirements of CSA Z275.4-12 (R2017), *Competency standard for diving, hyperbaric chamber, and remotely operated vehicle operations*; and
  - (b) is competent to use any diving equipment used in the diving operation.
- 43.3(2)** The employer must keep copies of the written evidence required under clause (1)(a) while the diver is employed by the employer.

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## PART 44

### REPEAL AND COMING INTO FORCE

#### Repeal

**44.1** The following regulations are repealed:

- (a) *Construction Industry Safety Regulation*, Manitoba Regulation 189/85;
- (b) *Derrick, Crane and Other Hoisting Equipment Regulation*, Manitoba Regulation 99/88 R;
- (c) *Fibrosis and Silicosis Regulation*, Manitoba Regulation 100/88 R;
- (d) *First Aid Regulation*, Manitoba Regulation 140/98;
- (e) *Forestry, Logging and Log Hauling Regulation*, Manitoba Regulation 102/88 R;
- (f) *Hearing Conservation and Noise Control Regulation*, Manitoba Regulation 227/94;
- (g) *Sanitary and Hygienic Welfare Regulation*, Manitoba Regulation 104/88 R;
- (h) *Workers Working Alone Regulation*, Manitoba Regulation 105/88 R;
- (i) *Workplace Hazardous Materials Information System Regulation*, Manitoba Regulation 52/88;
- (j) *Workplace Health Hazard Regulation*, Manitoba Regulation 53/88;
- (k) *Workplace Safety and Health Committee Regulation*, Manitoba Regulation 106/88 R;
- (l) *Workplace Safety Regulation*, Manitoba Regulation 108/88 R.

#### Coming into force

**44.2** This regulation comes into force on February 1, 2007.





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