



May 31, 2021

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Re: Responses to Noia Member Comments on the Draft Canada-Newfoundland and Labrador Offshore Occupational Health and Safety Regulations

Thank you for submitting, on behalf of some Noia members, feedback on the draft *Canada-Newfoundland and Labrador Offshore Occupational Health and Safety (OHS) Regulations*. This type of feedback will help to ensure that the new OHS regulations are effective in setting requirements that address the unique characteristics and hazards in remote marine workplace settings, providing optimal protection for the health and safety of offshore workers.

Some of Noia's members' comments were simple to address and will be reflected in the final draft regulation (sections 31(1)(a), 46(1)(l)(iii), 61(c), 93, 94(1)(p), 123(5)(a)(iii)) and 18(2)(m)(v). Other feedback provided require a bit more of a response or explanation, and those are provided in the attachment.

The public review and opportunity to provide written feedback on the draft regulations is expected to occur in summer 2021, when they are pre-published in [Canada Gazette Part I](#).

We will also be publishing all comments received and information on this initiative, on the Natural Resources Canada website for the Atlantic Occupational Health and Safety Initiative:
<https://www.nrcan.gc.ca/energy/offshore-oil-gas/18883>

Sincerely,

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Attachment: [Summary of Noia Member Comments and Responses]

Summary of Noia Member Comments and Responses

Summaries of the comments received from Noia members are provided below, with responses from Natural Resources Canada (NRCan) that includes clarifications and outcomes from discussions with the Governments of Newfoundland and Labrador and Nova Scotia, as well as technical advisors at the C-NLOPB and CNSOPB. References below to particular sections in the regulations correspond to the consultation draft that was provided for review on March 8, 2021. References to the Act are to the federal *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*.

1. Recognition of terms and provisions in the Accord Acts

Noia Member comments: Some of the feedback provided related to perceived gaps in the regulations.

NRCan response

Part III.1 of the Accord Acts establishes general and specific duties of Operators, Employers, Supervisors, Employees, as well as suppliers and providers of services and owners and interest holders. Additionally, the Act establishes the duties and functions of the workplace committees in a workplace. The OHS regulations build upon the legislative requirements, and must be read in tandem with the Act.

Responses to specific comments are provided in the table below.

Applicable Section	Noia Member Feedback/recommendation	NRCan response
10	Throughout the document there are references to "accident" but this is not defined.	'Accident' is a term used in the Act, and while this point was raised by others and discussed, it is needed in some parts of the Regulations for consistency with Act (205.009), otherwise it may call into question why the regulations didn't contemplate accidents when the Act did. The term 'accident' cannot be defined in regulation because it is used in the Act, and the Act does not provide the necessary authority to define it in the Regulations.
14(2)(a)	Clarify the use of the term 'Coordinator'; position in the internal Safety Department or Workplace Representative?	A 'Coordinator' is an alternative to a Workplace Committee where assigned. See definition and role explained in the Act (205.001).
18(4)(a)(b)	It is very difficult for an employer (who does not control the worksite) to ensure compliance to a process not under their control. This should fall to the employers and supervisors responsible for the	While it may be more difficult to ensure employee compliance when an employer is not physically present or in control of the worksite, the Act requires the employer to take all reasonable

	worksite. Suggested replacing “comply with” with “are aware of and understand”	measures under 205.018 and 205.019, as it pertains to their employees.
48	add training requirements and course duration for the use of gas monitors as personal protective equipment	Training requirements are outlined in the Act under operator and employer duties, and course specific requirements related to this topic are in the Atlantic Canada Offshore Training and Qualifications Standard Practice (TQSP).
122(1)(z.1)	Insert (z.3): Any other requirement as communicated in a justification Code of Practice, such as the Atlantic Canada Offshore Petroleum Industry Safe Lifting Practice Respecting the Design, Operation and Maintenance of Materials Handling Equipment	Such a provision is not required in the regulations as the power to require a code of practice is addressed in the Accord Act (sec. 205.016).

2. Conformance to Standards

Noia Member comment: No offshore installation or vessel is constructed to CSA standards and conform to international standards. This prescription would make undue financial and labour hardships without any improvement in the safety of the equipment.

NRCan response

NRCan and its provincial partners acknowledge that many of the offshore workplaces work internationally and that other international standards may already be in use in these workplaces when they come to Canada. In recognition of this, conformance in several provisions is expressly permitted in the proposed Regulations. Where specified, conformance permits foreign-flagged ships and MODUs to use equipment certified to other standards as long as they meet or exceed the minimum performance requirements outlined in the specified section(s) of the standard that has been incorporated by reference into the proposed Regulations. Care has been taken to ensure only the relevant sections of a standard have been incorporated by reference, and in many cases, the elements related to ‘marking’ of equipment to the particular standard have been intentionally excluded from the reference to ensure that the provision remains flexible.

Substitutions (via an RQ) are not required where conformance is permitted within the regulation and the employer has determined that the equipment being used does indeed conform to the regulatory requirement. As with any regulatory requirement, a Board health and safety officer may ask the operator or employer, as the case may be, to demonstrate that what they are doing/using meets the regulatory requirements; however, governments do not expect this will be a formalized process for each instance.

3. First Aid Medical Care

Applicable Section	Noia Member Feedback/recommendation	NRCan response
32(e)(ii)	It is difficult to manage contact list postings in multiple locations (near every first aid kit and in every medical room)	Change was made to the locations where this list is posted in the workplace at any given time to just in the medical room and in the Command centre where the person in charge would be located in an emergency.
32(f)	Not sure why first aiders need to be designated responsibility in writing. Any person with a MBFA is required to provide response. Suggested changing to ensuring persons, as per table, are at the workplace and readily available to provide prompt and appropriate first aid or medical care to persons.	Revised the requirement to designate first aiders; medics are still designated.
32(f)	Asked if this applies to vessels as well, medics are not usually required on a vessel. Suggested alignment with Transport Canada First Aid requirements instead of onshore First Aid courses. Clarify if a marine medical care professions is equivalent to a medic.	No change made to provision. Applies to all workplaces, including vessels. Definitions for first aid provide for marine equivalency.

4. Training

Noia Member comments: Some of the feedback suggested that details for offshore training were insufficient and should be included in the regulations.

NRCan response

The Act obligates the employer to provide all employees and other individuals at the workplace with the instruction and training necessary for their health and safety, and for operators to ensure that training is provided. Although the Act provides the necessary authority to further prescribe training requirements in regulation, Government partners recognized that there is an existing joint industry-regulator committee well-established to co-develop the necessary training requirements specific to the offshore petroleum industry. The [Atlantic Canada Offshore Training and Qualifications Standard Practice \(TQSP\)](#) is a required Code of Practice in Canada-Nova Scotia and Canada-Newfoundland and Labrador offshore areas. Given this, the regulations do address some aspects of training, but the specific requirements related to types of, scope and duration of training will continue to be addressed by the TQSP.

Applicable Section	Feedback/recommendation	NRCan response
15	Provision should be added for general training (survival training, H2S, regulatory awareness and other training); that course design and delivery must meet CSA Group CAN/CSA-Z1001-18 Occupational health and safety training.	No revision made; details for training are included in the Atlantic Canada Offshore Training and Qualifications Standard Practice (TQSP)
15	suggested inserting: iv) any additional training as applicable under Code of Practice within the jurisdiction , such as the 'Atlantic Canada Offshore Petroleum Standard Practice for the Training and Qualifications of Offshore Personnel'	No revision made. In regulations, when term 'includes' is used, it means the list is not exhaustive. The Steering Committee discussed referencing Codes of Practice in regulation, and decided against it.
112(1)	Conformance to the IRATA Code of Practice does not constitute certification. Potentially allows avenue for companies that are not IRATA certified to provide Rope Access Technicians (RATs), as long as they conform to the IRATA Code of Practice.	No revision made; certification of RATs is addressed through the Atlantic Canada Offshore Training and Qualifications Standard Practice (TQSP).
137(1)	Lack of specifics in training course development standards, course content and duration has allowed less than sufficient training programs to be offered, not meeting specific offshore requirements and instructor competencies to be lacking.	No revision made; these details for Confined Spaces Training are included in the Atlantic Canada Offshore Training and Qualifications Standard Practice (TQSP)

5. Other feedback and clarifications on interpretations and expectations

Applicable Section	Feedback/recommendation	NRCan response
1(1)	definition of 'competent person': possible assignment of less than competent persons completing a task with current definition of Competent Person. Recommendation made to change definition.	Current definition is consistent with provincial legislation and authority to take corrective action is already a covered by duties to take reasonable measures in the Act [205.026].
39(3)	Requested an exemption for the participation in emergency drills that occur during the 11 consecutive hours due to shift work.	No change as this was not contemplated in the final consolidated policy intent.

46(l)	Implies that BOTH (i) and (ii) are required and that is not possible. Need to revise to make this an either/or.	This is an 'or' statement as formatted; you need to meet either (i), (ii) or (iii). Some revisions were made to this provision to correct references to standards and add a reference to other pertinent section on fall arrest system.
46(2)	Significant investment requirement by service providers and/or operators required to comply (systems with 33% low pressure alarm). The use of NFPA for the purpose of Fire Fighting should be separately identified from the NIOSH approval required for industrial work/hazard protection.	Revised to be clear that this requirement only applies to respiratory requirement used in environments that are IDLH and removed cross reference to 1(a). SCBAs for firefighting is addressed in 28(1)(a) of the consultation draft.
52.2	Recommendation to clarify that signature can be signed manually or electronically...	No revisions necessary; as written, doesn't preclude either from happening.
72, Table	Lighting levels in table and terminology differ from MOSH	Draft regulation outlines performance based requirement that lighting levels must be sufficient for employees to carryout their tasks, and that minimum lighting levels under normal operations be aligned with table requirements, which were adapted from Canada Labour Code regulations. MOSH (Canada Labour Code regulation) uses different terminology and does not identify as many areas; however, lighting levels are comparable.
76(1)(c)(ii)	Concern that audiometric testing may not be manageable for transient workforce.	No changes made. This provision helps to protect all persons in the workplace, including transient workforce.
89(1)	duplication of word 'that'	No changes made. Second 'that' is intentional to identify the applicable party in that provision.
108(1)(h)	Recommendation for clarity to add an exception of tubes and fittings used for physically tying the scaffold for stability and anchoring,	No change, competent persons are doing this work, no additional explanation is required.

123(4)	Recommendation to add requirement for information regarding stationary or stowed crane to be communicated to the helicopter operating crew.	No change. There are lots of things that the Pilot should confirm, but this is not required as a provision.
133(4)	Physical posting does not address an electronic permit system: ' The employer must ensure that a copy of the work permit is immediately accessible throughout the duration of its occupation and is updated as new information....'	No change made; electronic form/permit system could also be used to satisfy requirement/intent to keep others informed.
148(1)(e)(iv)	add: "and tagged with empty/in-use/full status tags.	No change made. A good practice to mark, but not always required, and tags can introduce other hazards.