

Spicer, Roberta (NRCAN/RNCAN)

From: Scott Doherty <Scott.Doherty@unifor.org>
Sent: 18-Mar-21 7:02 PM
To: Phillips, Kim (NRCAN/RNCAN)
Subject: Stakeholder Comments on Draft Canada - NL Offshore Occupational Health and Safety Regulations
Attachments: Stakeholder Comments on Draft Canada - NL Offshore Occupational Health and Safety Regulations.pdf; 2021 OHS Regulations UNIFOR Stakeholder Comments.pdf

Dear Ms. Phillips,

Unifor is pleased to offer stakeholder comments in response to the Atlantic OHS Initiative Update Development of Draft Regulations. Unifor represents over 315,000 workers across Canada and more than 30,000 Unifor members in the Atlantic provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador, including hundreds directly affected in the offshore oil sector

We believe that solutions to health and safety issues are best resolved with the full participation of worker health and safety representatives and Joint Health and Safety Committees in all workplace OHS-related activities. Workers have a right to know about hazards in their workplaces, a right to fully participate in workplace health and safety, and of course, a right to refuse unsafe work.

Because offshore work is so remote, workers are not always “protected” by the intercession of workplace OHS inspectors who may be hours or days away. The offshore workplace is one where the Internal Responsibility System (IRS) must be strong. We believe that the amendments that we are proposing to the regulations enhance the IRS by giving the workplace JH&SCs and worker representatives more tools to work with in helping employers solve sometimes very complex safety issues while protecting the health and safety of the workforce.

We hope that you take our proposals seriously, as we believe that they will enhance and aid occupational health and safety in this important sector of the Canadian and Maritime economies.

Please feel free to contact me any questions or concerns you may have regarding our proposals.

Thank you,

Scott Doherty

Executive Assistant to the National President

Adjoint exécutif au président national



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March 18, 2021

SENT VIA EMAIL

Kim Phillips
Senior Regulatory Officer, Natural Resources Canada
kim.phillips@canada.ca

Dear Ms. Phillips,

Re: Stakeholder Comments on Draft Canada - NL Offshore Occupational Health and Safety Regulations

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Thank you,

A handwritten signature in black ink that reads "Scott Doherty". The signature is written in a cursive, flowing style.

Scott Doherty
Executive Assistant to the National President

cc. Sari Sairanen, Linda MacNeil, Dan Valente, Sune Sandbeck, Dave Mercer

SD/kicope343

STAKEHOLDER COMMENTS ON DRAFT CANADA- NL OFFSHORE OCCUPATIONAL HEALTH AND SAFETY REGULATIONS

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#	Section of Draft OHS Regulation	Problem with Insufficient Protection Against the Hazard	Problem Created from Technical or Commercial Perspective	Proposed solution/changes
1.	5 Occupational Health and Safety Management and Oversight Occupational health and safety management system	Not enough worker involvement in the program	A lack of worker participation	Allow for worker members of the joint occupational health and safety committee to review and have input into the management system's goals and review procedures, including those pertaining to up to date documentation
2.	6 Occupational health and safety program	Not enough worker involvement in the program	A lack of worker participation	Allow for worker members of the joint occupational health and safety committee to be familiar, review and have input into program's elements always focusing on worker's rights to know about hazards, and participate in workplace OHS. Worker based representation through the role of the JH&SC will ensure proper and prompt notification of workplace hazards and their controls as well as focus on accident prevention
3.	7 Workplace committee A workplace committee "that establishes rules of procedure"	Not prescriptive enough	This should be mandatory	A workplace committee " shall establish rules of procedure" known as a Terms of Reference
4.	11 Reporting and Investigation "report it to the employer with control over the workplace, orally or in Writing"	Limits information flow	Oral reporting is not reliable	"report it to the employer with control over the workplace, orally and in writing"
5.	12(b) Employer obligations "provide to the operator, in writing, a brief description of the occupational disease, accident, incident or other hazardous occurrence, including the name of any affected persons and, if applicable, the date, time and location at which it occurred "	Leaves the JH&SC out of the notification process and doesn't specify a time period	Limiting worker participation and hazard knowledge in the workplace and leaves room for interpretation regarding timing of notification	"provide to the operator and JH&SC , in writing, a brief description of the occupational disease, accident, incident or other hazardous occurrence, including the name of any affected persons and, if applicable, the date, time and location at which it occurred" within 24 hours

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6.	14(1) Investigation “within 14 days after the day on which it becomes known to the operator, a report,”	Reporting time is too long	Investigation may be delayed	“within 7 days after the day on which it becomes known to the operator”
7.	15 Training “The training that every employer must provide to each of its employees”	Not enough worker involvement in the development of training	A lack of worker participation	The training that every employer must provide to each of its employees will be developed in consultation with the JH&SC, and subject to annual review
8.	17 Records “Every employer must retain records of all instruction and training provided to an employee under the Act for at least five years after the day on which the employee ceases to be employed at any of the employer’s work places.”	Must be accessible to all workplace parties	Does not specify JH&SC access to records	Add: “all records will be shared with members of the JH&SC upon request”
9.	18 Emergency Preparedness and Response “Every employer must develop, implement and maintain a written emergency response plan”	Not enough worker involvement in the development of the emergency response plan	A lack of worker participation	Add “ in consultation with the JH&SC”
10.	30 Emergency Drills “a plan describing the emergency drills and exercises that must be conducted at the workplace in relation to various scenarios and setting out the frequency with which they must be conducted.”	Not enough worker involvement in the development of the emergency response plan	A lack of worker participation	Add “ in consultation with the JH&SC”
11.	30 Record retention The employer must retain the records referred to in (5) subsection for at least three years after the day on which the drill or exercise is carried out.	Must be accessible to all workplace parties	Does not specify JH&SC access to records	“all records will be shared with members of the JH&SC upon request”

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<p>12.</p>	<p>31 First Aid and Medical Care (a) "to provide medical advice from a remote location to any medic or first aider at the workplace"</p> <p>32 First Aid and Medical Care (d) "establish and make readily available to all persons at the workplace written instructions for the prompt provision of first aid or medical care for any injury or illness;"</p> <p>34 First Aid and Medical Care (a) "hold a valid standard first aid certificate or advanced first aid certificate;"</p>	<p>Lack recognition of mental injuries as a result of exposures to psychosocial hazards.</p> <p>Not enough worker involvement in the development of the instructions</p> <p>Mental injury not recognized and skill sets required</p> <p>Mental Health First Aid not recognized</p>	<p>Required skilled set of medical advice</p> <p>A lack of worker participation</p> <p>Lack of definition of "any injury or illness"</p> <p>Lack of mental injury recognition</p>	<p>Recognize mental injuries and the need to provide First Aid and Medical Care</p> <p>Add " in consultation with the JH&SC"</p> <p>Add "physical and psychosocial injury or illness"</p> <p>Add "and Mental Health First Aid"</p>
<p>13.</p>	<p>40 Employee Well Being Heat Stress and Cold Stress</p>	<p>Guidelines needed</p>	<p>No guidelines to follow are prescribed</p>	<p>Add: "Employers will, in consultation with their JH&SC, take into consideration the ACGIH heat and cold stress guidelines and TLVs"</p>
<p>14.</p>	<p>41 Musculoskeletal Injury</p> <p>"...assessment, in consultation with the following persons, of the extent to which that risk is associated with each type of work carried out at the workplace."</p>	<p>Not enough worker involvement in the development of the instructions</p>	<p>No guidelines to follow are prescribed</p>	<p>Rewrite: "assessment, in consultation with the JH&SC and following persons, of the extent to which that risk is associated with each type of work carried out at the workplace." NIOSH ergonomic guidelines will be a source in the ergonomic assessment process</p>
<p>15.</p>	<p>42(2) Violence and Harassment</p> <p>"The occupational health and safety program referred 205.02 to in section of the Act must"...</p>	<p>Not enough worker involvement in the development of the program</p>	<p>A lack of worker participation</p>	<p>Add: ...in consultation with the JH&SC</p>
<p>16.</p>	<p>42(3) Violence and Harassment Training</p>	<p>Not enough worker involvement in the development of the program</p>	<p>A lack of worker participation</p>	<p>Add: Will be developed in consultation with the JH&SC</p>

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17.	46(1) Personal Protective Equipment “The personal protective equipment that every employer must provide to its employees and other individuals at a workplace under its control includes”...	PPE is low on the hierarchy of controls	Better protections may exist and should be reviewed before relying on PPE to control hazards and protect workers	Add to start of section: The hierarchy of controls will be considered by the employer before the implementation of PPE as a control measure.
18.	48 Personal gas monitor Every employer must ensure that each personal gas monitoring device used at a workplace under its control is bump tested before each use.	Various types of gas monitors require different methods to bump test.	Insufficient training, variability, unfamiliarity	Add: The choice of personal gas monitors will be done in consultation with the JH&SC and will include manufacturer approved training for each specific device
19.	51 Transit by Vessel “The information and instruction that every operator must, for the purpose of ...	Training needs to be co developed using worker input	Lack of worker participation	Add: information and instruction to be developed in consultation with the JH&SC
20.	52 Work Permits “A work permit that is required by these Regulations ... must be issued, in either paper or electronic form, by a competent person designated by the employer with control over the workplace at which the activity that requires the work permit is carried out and must set out”	Not enough worker involvement in the development of the permit	A lack of worker participation	Add: “A work permit that is required by these Regulations ... will be developed in consultation with the JH&SC must be issued, in either paper or electronic form, by a competent person designated by the employer with control over the workplace at which the activity that requires the work permit is carried out and must set out”
21.	52 Work Permits	Auditing of permits should be allowed	Missing in section	Add (1)(k) All work permits will be made available to the JH&SC upon request
22.	56 Facilities Accommodations	Not enough worker involvement in the facilities provided	Worker participation in overall worker health, safety and comfort	Add JH&SC will be consulted with regards to any proposed changes to accommodations and will be given an opportunity to inspect accommodations before habitation
23.	66 Sanitation and Housekeeping - Pest Control (2) “If pests have entered an enclosed part of the workplace,	Chemicals used are potentially toxic	A lack of worker knowledge about the pest control products could lead to poisoning	Add in consultation with the JH&SC

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	the employer must immediately take all steps necessary to eliminate the pests and prevent their re-entry.”				
24.	70 Food and Drinking Water Occupational health and safety program	Needs worker participation	Water is a vital component of worker health	Add: The JH&SC will be consulted in the development of the drinking water safety program	
25.	70 Food and Drinking Water (2)(b) ”require notification of the workplace committee or coordinator, as the case may be, of any samples taken from that system that fail to meet the requirements for potable water;”	Too vague	Information sharing may be delayed	Add “require immediate notification of the workplace committee or coordinator, as the case may be, of any samples taken” from that system that fail to meet the requirements for potable water; “	
26.	70 (2)(d) address the keeping of records relating to the system, its oversight and its performance	Needs records oversight	Protective measure	Add “ all records related to drinking water will be made available to the JH&SC upon request	
27.	72 Lighting	Needs worker participation and knowledge	Vital issue	Add (c) Lighting level measurement equipment will be made available to the JH&SC as part of the workplace auditing procedures	
28.	73 Emergency Lighting	Needs worker participation in test procedures	Verification purpose	Add (2) (c) The JH&SC will be part of the inspection process to verify emergency lighting tests and will be made aware of any failures	
29.	76 Sound Levels	Needs worker participation in test procedures	Verification purpose	Add: The JH&SC will participate in the noise control program and the actual noise level testing in the workplace. Portable test equipment related to noise level testing will be made available to the JH&SC upon request	
30.	78 Ventilation	Needs worker participation in test procedures	Verification purpose	Add: (d) The JH&SC will participate in the ventilation verification by the use of portable measuring equipment anemometers. Reports related to the ventilation system will be made available to the JH&SC upon request	
31.	79 Internal Combustion Engine	Needs additional scrutiny	Potential atmospheric hazards	Add: The use of an internal combustion engine indoors will be allowed following a job safety analysis and permit made in	

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				consultation with the JH&SC. Air monitoring may be required	
32.	82 Pressure Equipment records	Needs additional scrutiny	Many potential hazards	Add “ all records related to pressure vessel tests and inspections will be made available to the JH&SC upon request. Failed inspections of pressure vessels will require immediate notification of the JH&SC	
33.	87 Open Top Enclosures Access to inside (3) “If an employee is required to access the inside of an open-top enclosure from its top, the employer must ensure that there is, if feasible, a fixed ladder on the inside wall of the enclosure to permit the employee to safely enter and exit.”	May be hazardous because of their size, depth, contents or work to be done within	This may become a confined or hazardous space because and requires a closer examination	Add (4) all work or access to these enclosures will be evaluated to verify if a fall hazard greater than 3m is present, if a confined space is created or if any other chemical or biological hazard is present. The need for a permit to access these enclosures will be developed in consultation with the JH&SC	
34.	89 Equipment, Machines and Devices Records (3) “The operator or employer, as the case may be, must keep the records referred to in paragraph until five years after the day on which the equipment, machine or device is taken out of service at the workplace and must ensure that they are made readily available to any person who uses, inspects, tests, maintains, repairs or modifies the equipment, machine or device”	Needs additional scrutiny	Protective measure	Add “The operator or employer, as the case may be, must keep the records referred to in paragraph until five years after the day on which the equipment, machine or device is taken out of service at the workplace and must ensure that they are made readily available to the JH&SC any person who uses, inspects, tests, maintains, repairs or modifies the equipment, machine or device”	
35.	89(6) Alternative procedures Every employer must establish — and must instruct all employees to follow — procedures for minimizing the	Potentially hazardous situation	Needs prescriptive procedures with oversight	Add: (7) Procedures will be developed in consultation with the manufacturer of the equipment and the JH&SC. These alternative procedures will be made available to workers in written Job Safety Analysis format.	

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	risk of injury if equipment, machines or devices at a workplace under its control must be maintained, re paired, cleaned or tested while operational and without a guard in place and it is not feasible to control their energy source as described in paragraph (4)(b) or subparagraph (5)(b)(i).				
36.	90 Removal from service “Every employer must ensure that any equipment, machine or device at a workplace under its control that it has reason to doubt is safe for use is taken out of service and identified in a manner that ensures it is not inadvertently returned to service until a competent person determines it to be safe for use”	Not robust enough language	Equipment may be restarted inadvertently	Add: A positive locking mechanism with an attached tag or form will be used to ensure that inadvertent start or use is not possible	
37.	91 Instruction and Training “The instruction and training that every employer must provide to an employee who uses equipment or a machine or device in the course of their work includes instruction and training, before the employee uses the equipment, machine or device, on its safe and proper use, inspection and maintenance in accordance with the Act and these Regulations.”	Needs additional scrutiny	Due diligence needed	Add: The employer will document training and instruction and keep it as a permanent record in the employees training file, available for review by the JH&SC upon request	
38.	94 Standards (q) if the workplace is a marine installation or structure,	Needs additional scrutiny	Potential atmospheric hazards	Add: The use of a temporary combustion heater indoors will be allowed following a job safety analysis and permit made in consultation with the JH&SC. More	

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	all temporary or portable heating equipment that is used in an enclosed area provides complete combustion of the fuel used in it or is equipped with an exhaust system that discharges the products of combustion outside the enclosed area, and (ii) is used only while carbon monoxide levels in the enclosed area are being continuously monitored.			permanent heating systems may be required if this is a regular occurrence. Continuous monitoring equipment will alarm if hazardous levels are reached	
39.	95 Fuelling	Potential for fire	Needs more scrutiny	Add: (e) This process will require a JSA review with the supervisor and workers doing the refuelling. Fire rescue to be notified of the fuelling in advance. A communication device in contact with fire rescue must be made available	
40.	96 Elevators and Manlifts	Language change		Personnel lifts, not Manlifts	
41.	96 Elevators and Manlifts	Needs additional scrutiny	Due diligence needed	Add (5) All failed inspections will require immediate notification of the JH&SC and all related documentation will be made available to the JH&SC upon request	
42.	104 Fixed Ladders (6) “ if it is more than 6m in length, is fitted, if feasible, with a protective cage for the portion of its length that is 2.44m more than above its bottom; and”	Potential for fall	More protection needed (5m in Ontario)	Change (6) “if it is more than 5m in length, is fitted, if feasible, with a protective cage for the portion of its length that is 2.44m more than above its bottom; and”	
43.	105 Portable Ladders	Potential for over reliance	Usage review, hazard control	Add: (2) (d) Frequent portable ladder usage in a fixed location should give rise to the installation of stairs or a fixed ladder when appropriate	

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44.	106 Scaffolding and Platforms General (c) it has been inspected and certified as being fit for that use by a competent person.	Needs additional scrutiny	Due diligence needed	Add (d) All documentation related to scaffold inspection or erection will be made available to the JH&SC and users upon request
45.	108 Scaffolds (j) "any vertical ladder more than 9m in length that is used with it has a landing or platform at least every 6.1 metres."	Potential for fall or over exertion	Cut it halfway	Change (j) "any vertical ladder more than 9m in length that is used with it has a landing or platform at least every 4.5 metres."
46.	109 Elevating Work Platforms	Need for pre-inspection	Potential for serious injury	Add: (f) All operators and personnel on mobile or self-propelled work platforms will have completed a pre-use inspection check/ card developed in consultation with the manufacturer of the device and the JH&SC
47.	111 Fall Protection and Rope Access Occupational Health and Safety Program (2) "The occupational health and safety program referred to in section 205.02 of the Act must"	Needs additional scrutiny	Potential for serious injury	Add: ... (2) "The occupational health and safety program referred to in section 205.02 of the Act must..." be developed in consultation with the JH&SC
48.	121 Rated Capacity	Needs additional scrutiny	Potential for serious injury	Add: (e) all documentation to be shared with the JH&SC upon request and any failures noted by an inspector will require lockout of the device and immediate JH&SC notification
49.	123 Cranes and Hoists	Needs additional scrutiny	Potential for serious injury	Add: (7) Any incidents, accidents or near misses related to cranes and hoists will require an incident report from the supervisor and a formal JH&SC investigation
50.	127 Personnel Transfer	Needs additional scrutiny	Potential for multiple serious injuries	Add: (6) any personnel lift will require a permit authorized system developed in consultation with the JH&SC
51.	131 Confined Space Identification (3) "Every employer must ensure that each confined space at a workplace under its control, other than one that has been	Needs better visibility	Potential for poor labelling	Change/Add (3) "Every employer must ensure that each confined space at a workplace under its control, other than one that has been made inaccessible with bolted blind flanges, is visibly identified at each point of

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	made inaccessible with bolted blind flanges, is visibly identified at each point of access as... (a) being a confined space; (b) being restricted to authorized persons only; and (c) containing a danger.:			access with a highly visible contrasting colour scheme as... (a) being a confined space; (b) being restricted to authorized persons only; and (c) containing a danger.: (d) requiring a permit for entry
52.	132 Confined Space Occupational Health and Safety Program The occupational health and safety program referred to in section 205.02 of the Act must, in respect of the various confined spaces at the workplace and the various types of work that may need to be carried out in them, “	Too much reliance of PPE	Other more effective methods of hazard control exist	Add/Change: The occupational health and safety program referred to in section 205.02 of the Act must, in respect of the various confined spaces at the workplace and the various types of work that may need to be carried out in them, “... should be assessed using the hierarchy of controls with a goal of eliminating hazards or using engineering controls instead of requiring PPE
53.	134(1) (b) they are knowledgeable about the provisions of the occupational health and safety program referred to in section 205.02 of the Act that pertain to confined spaces;	Additional training required	Dangerous work	Add/Change: (b) “ they are knowledgeable about the provisions of the occupational health and safety program referred to in section 205.02 of the Act that pertain to confined spaces;” ... having taken specific confined space entry training developed in consultation with the JH&SC.
54.	134(4) Sign in and out Every employer must ensure that every person entering and exiting a confined space signs in and out.	Permit requires additional scrutiny	Potentially dangerous atmosphere may exist or be created by work inside the space	Add (5) A member representing workers on the JH&SC will be allowed to review the entry permit and controls in place before an entry is initiated
55.	136 Attendants Multiple entrances (5) If a single attendant is responsible for monitoring more than one entrance to a confined space, the employer must ensure that they are stationed in the location that	Stretching attendants thin	Requires robust communication with entrants	Add (6) The communication between attendant and entrants must be continuous by either being in direct voice or radio contact

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	best allows them to perform their duties in respect of each of those entrances			
56.	141 Hot Work (1) “Every employer must ensure that hot work is not carried out at a workplace under its control unless...”	Permit requires additional scrutiny	Potentially dangerous atmosphere may exist or be created by work inside the space	Add/Change “ Every employer must ensure that hot work is not carried out at a workplace under its control unless...” the JH&SC is contacted and provided an opportunity attend beforehand and while
57.	142 Hazardous Energy Occupational health and safety program “Exposure to hazardous energy, including as a result of the unexpected start-up of equipment or a machine, device or system or contact with or failure of electrical equipment, is a prescribed risk for the purpose of paragraph 205.02(2)(a) of the Act and the occupational health and safety program referred to in section 205.02 of the Act must...”	Very detailed program, needs overview	Huge opportunity for injury	Add/Change 142 “Exposure to hazardous energy, including as a result of the unexpected start-up of equipment or a machine, device or system or contact with or failure of electrical equipment, is a prescribed risk for the purpose of paragraph 205.02(2)(a) of the Act and the occupational health and safety program referred to in section 205.02 of the Act must...” in consultation with the JH&SC
58.	145 Approach Boundaries (6)	Communication device required	Live work is dangerous	Add (j) shall have a radio or direct communication device with the emergency response team
59.	151 Explosives “The risks associated with the carrying out of explosive activities are prescribed risks for the purpose of paragraph 205.02 (a) of the Act and the occupational health and safety program referred to in section 205.02 of the Act must ...”	Very detailed program, needs overview	Huge opportunity for injury	Add/Change “The risks associated with the carrying out of explosive activities are prescribed risks for the purpose of paragraph 205.02 (a) of the Act and the occupational health and safety program referred to in section 205.02 of the Act must ...”...” in consultation with the JH&SC
60.	154 Hazardous Substances (2) The occupational health and safety program must set out procedures for...	Chemical Safety is a huge element of a safety program	Many opportunities for chemical changes, process improvements, increased worker knowledge of hazards	Add/Change “The occupational health and safety program made in consultation with the JH&SC’s Hazardous Materials Control Committee must set out procedures for...”

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<p>61.</p>	<p>155 Investigation and assessment (1) “The employer must, for the purpose of investigating and assessing potential exposure under paragraph 205.022(f) of the Act, before the work that gives rise to the potential exposure begins...”</p>	<p>Worker exposure to chemical hazards is a major cause of workplace illness</p>	<p>Oversight opportunities for worker members of JH&SCs. The right to know and participate highlighted</p>	<p>Add/Change The employer must, for the purpose of investigating and assessing potential exposure under paragraph 205.022(f) of the Act, in consultation with the JH&SC’s Hazardous Materials Control Committee before the work that gives rise to the potential exposure begins..”</p>
<p>62.</p>	<p>155 (3) Testing methodology If it is likely that the concentration of an airborne chemical agent referred to in clause1) (a)(i)(F) exceeds the applicable threshold limit value for that agent referred to in subparagraph 156(1) (a)(iii), the concentration must be determined using a test that conforms to the United States National Institute for Occupational Safety and Health (NIOSH) Manual of Analytical Methods, if any.</p>	<p>Worker exposure to chemical hazards is a major cause of workplace illness</p>	<p>Oversight opportunities for worker members of JH&SCs. The right to know and participate highlighted</p>	<p>Add/Change: “If it is likely that the concentration of an airborne chemical agent referred to in clause1) (a)(i)(F) exceeds the applicable threshold limit value for that agent referred to in subparagraph 156(1) (a)(iii), the concentration must be determined using a test that conforms to the United States National Institute for Occupational Safety and Health (NIOSH) Manual of Analytical Methods, if any...” and the JH&SC will be consulted about the testing and a worker member of the JH&SC may attend during the duration of the test</p>
<p>63.</p>	<p>163 Diving Occupational health and safety program (1) “The risks associated with diving operations are prescribed risks for the purpose of paragraph 205.02(2) (a) of the Act and the occupational health and safety program referred to in section 205.02 of the Act must, in respect of each workplace from which a dive project is carried out, include procedures for...”</p>			<p>Add/Change “The risks associated with diving operations are prescribed risks for the purpose of paragraph 205.02(2) (a) of the Act and the occupational health and safety program referred to in section 205.02 of the Act must, in respect of each workplace from which a dive project is carried out, in consultation with the JH&SC include procedures for...”</p>

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64.				
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