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**Workplace Health and Safety Regulations
made under Section 82 of the
Occupational Health and Safety Act
S.N.S. 1996, c. 7**

**O.I.C. 2013-65 (March 12, 2013, effective June 12, 2013), N.S. Reg. 52/2013
as amended to O.I.C. 2014-405 (Sept. 23, 2014, effective Oct. 1, 2014), N.S. Reg. 143/2014**

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Text of Regulations

Part 1: Interpretation and Application

Citation

1.1 These regulations may be cited as the *Workplace Health and Safety Regulations*.

Definitions for these regulations

1.2 In these regulations,

“Act” means the *Occupational Health and Safety Act*;

“adequate” means sufficient to protect a person from injury or damage to health;

“ANSI” means the American National Standards Institute;

“anchorage” means a secure connecting point capable of safely withstanding the impact forces, as prescribed in these regulations or an applicable standard, applied by a fall-protection system;

“approved” means approved by the Department or by an agency or authority designated or selected by the Department to make approvals;

“competent person” means a person who is

- (i) qualified because of their knowledge, training and experience to do the assigned work in a manner that ensures the health and safety of every person in the workplace, and
- (ii) knowledgeable about the provisions of the Act and regulations that apply to the assigned work, and about potential or actual danger to health or safety associated with the assigned work,

“CSA” means the Canadian Standards Association;

“certified” means meeting the requirements of a standard as attested to by a certification organization accredited by the Standards Council of Canada or an engineer;

“Department” means the Department of Labour and Advanced Education;

“designated” means, in relation to an employer, appointed in writing by the employer;

“emergency services agency” means an agency operating within the Province for the purpose of responding to emergencies, including

- (i) a municipal police force required to be maintained under the *Police Act*, including the Royal Canadian Mounted Police,
- (ii) fire departments,
- (iii) ambulance services;

“engineer” means a person who is registered as a member or licensed to practise under the *Engineering Profession Act* and is competent to do the work being performed;

“latest version” means, in relation to a standard or other publication, the latest edition of the standard or publication as supplemented, amended, added to, replaced or superseded;

“manufacturer’s specifications” means

- (i) the written instructions of a manufacturer of a machine, material, tool or equipment that outline the manner in which the machine, material, tool or equipment is to be erected, installed, assembled, started, operated, used, handled, stored, stopped, adjusted, carried, maintained, repaired, inspected, serviced, tested, cleaned or dismantled, and
- (ii) a manufacturer’s instruction, operating or maintenance manual and drawings respecting a machine, tool or equipment;

“temporary highway workplace” means a temporary workplace on a highway, as defined in Part 24;

“work area” means a location at a workplace where an employee or self-employed person is working or may be required to work.

Application of these regulations

1.3 These regulations apply to all workplaces to which the *Occupational Health and Safety Act* applies, unless otherwise expressly provided in the Act or these regulations.

Duties of parties

1.4 (1) A duty imposed by these regulations on an employer is also imposed on any contractor, constructor, supplier, employee, owner or self-employed person, to the extent of the contractor’s, constructor’s, supplier’s, employee’s, owner’s or self-employed person’s authority and ability to discharge the duty in the circumstances.

(2) For the purpose of applying Section 23 of the Act and determining the person with the greatest degree of control,

(a) the person with the greatest authority and ability to ensure that a duty is discharged or a requirement is met is presumed to be the person with the greatest degree of control over the matter that is the subject of the duty or the requirement; and

(b) a provision in a lease or other agreement relating to property rights that gives a specified owner authority to control an aspect of lands or premises that are used as a workplace is *prima facie* evidence that the specified owner has the greatest degree of control over that aspect of the land or premises.

Conflict with these regulations

1.5 (1) If there is any conflict between these regulations and a manufacturer’s specifications or a standard incorporated by reference into these regulations, these regulations prevail.

(2) Despite a requirement in these regulations to comply with a standard or other publication incorporated by reference into these regulations, an express requirement of these regulations that varies from the standard or publication prevails over the standard or publication.

Compliance with standards incorporated by reference

1.6 (1) Except as otherwise specified in these regulations, an object that is required by these regulations to comply with the latest version of a standard must conform to the physical specifications contained in the latest version of the standard unless there is no evidence raising a reasonable doubt as to whether the object is adequate and the object meets 1 of the following:

(a) the object conforms to the physical specifications contained in the latest version of the standard as of the object’s date of manufacture;

- (b) no version of the standard existed at the object's date of manufacture but the object conforms to generally accepted engineering principles prevailing at the object's date of manufacture.
- (2) Except as otherwise provided in these regulations, any activity in relation to an object, including inspection, maintenance and use, that is required by these regulations to comply with the latest version of a standard must comply with the latest version of the standard unless it is established that compliance with 1 of the following is more likely to ensure adequate performance of the object:
 - (a) an earlier version of the standard;
 - (b) generally accepted engineering principles prevailing at the object's date of manufacture.
- (3) If these regulations require that an object or activity comply with the specifications of a standard, whether a specific edition or the latest version, then a person must comply with the standard and use that object or do that activity in accordance with the standard unless these regulations specifically provide otherwise.
- (4) An employer must ensure that a person using an object or performing an activity required to comply with the specifications of a standard, whether a specific edition or the latest version, is trained in accordance with the standard, and the person must undergo the training, unless these regulations specifically provide otherwise.
- (5) For the first 4 calendar months after a standard or publication is issued, including the month it is issued, a person is in compliance with these regulations if they comply with
 - (a) the version or edition of the standard or publication required by these regulations; or
 - (b) the version or edition of the standard or publication issued immediately before the version or edition required by these regulations.

Compliance with policies, procedures, plans and codes of practice

- 1.7
- (1) An employer must ensure that any written policy, procedure, plan or code of practice is adequate and implemented.
 - (2) Each person required to perform a function under a written policy, procedure, plan or code of practice must be trained generally in respect of the policy, procedure, plan or code of practice, and trained in particular in the requirements relating to their functions.
 - (3) A person must comply with all written policies, procedures, plans and codes of practice established for the purposes of the Act and these regulations, including undergoing any training required.

Communicating and updating policies, procedures, plans and codes of practice

- 1.8
- (1) In addition to any specific requirements under the Act, an employer must ensure that

all policies, procedures, plans and codes of practice are

- (a) made available at the applicable work area at all times;
- (b) reviewed with any affected persons, including any person planning work, before work is undertaken;
- (c) updated whenever conditions affecting work change.

Duplicate clause (b) relettered as (c) for the purposes of this consolidation.

- (2) Before any work is undertaken, an employer must ensure that the necessary information, instruction, training, supervision, facilities and equipment are provided to implement any part of a policy, procedure, plan or code of practice applicable to a workplace.

Consulting with Committee on policies and procedures

1.9 An employer establishing or reviewing a written policy, procedure, plan or code of practice for the purpose of the Act or these regulations must do so in consultation with the committee or representative, if any.

Manufacturer's specifications and standards for equipment and components

1.10 (1) Except as otherwise provided in these regulations, an employer must

- (a) ensure that any equipment, components of equipment or components of a system are erected, installed, assembled, used, handled, stored, adjusted, maintained, repaired, inspected, serviced, tested, cleaned and dismantled in accordance with the manufacturer's specifications for the equipment, components or system; and
- (b) comply with and ensure compliance with the applicable standards for the equipment, components or system as specified in these regulations.

(2) Except as otherwise provided in these regulations, a person must use equipment, components of equipment or components of a system in accordance with

- (a) the manufacturer's specifications for the equipment, components or system; and
- (b) any applicable standards for the equipment, components or system specified in these regulations.

Engineer's certification required for other use of equipment or components

1.11 (1) An employer must obtain a written certification from an engineer in accordance with subsection (2) that certifies that the employer's intended use of equipment, components of equipment or components of a system provides an adequate level of safety for all persons at or near the workplace in all of the following circumstances:

- (a) the employer intends to use the equipment, components of equipment or components of a system for a purpose or in a manner that is

- (i) not specifically permitted by the manufacturer's specifications,
 - (ii) not specifically permitted by an applicable standard referred to in these regulations;
 - (b) the employer intends to use equipment, components of equipment or components of a system for which no manufacturer's specifications exist or are provided.
- (2) An engineer must do all of the following before certifying equipment, components of equipment or components of a system under subsection (1):
- (a) ensure that the use of the equipment, components of equipment or components of a system as intended by the employer is in accordance with generally accepted engineering practices;
 - (b) identify, as part of the written certification, any measures to be taken to provide an adequate level of safety.
- (3) An engineer must sign any written certification they prepare under this Section.

Inspection and re-certification of equipment

1.12 (1) An employer must ensure that any equipment used is inspected

- (a) by the user, before each use; and
 - (b) by a competent person, annually, or more frequently as specified in any applicable Part of these regulations.
- (2) An employer must ensure that any manufacturer's specifications that provide instructions on how to conduct an inspection under subsection (1) are followed.
- (3) An employer must ensure that used equipment is re-certified in accordance with 1 of the following:
- (a) the manufacturer's specifications;
 - (b) an engineer's certification, if an engineer's certification was obtained under Section 1.11.
- (4) A person must perform any inspections required by this Section and as specified in any applicable Part of these regulations.

Equipment protected from damage or exposure

1.13 An employer must ensure that equipment that may be exposed to heat, abrasion or corrosion is either

- (a) made of material that is able to withstand the exposure without being damaged;
or

- (b) protected from the exposure.

Taking equipment out of service

- 1.14 (1)** An employer must ensure that equipment is taken out of service if any of the following apply:
- (a) the equipment is defective;
 - (b) the equipment has come into contact with
 - (i) excessive heat, or
 - (ii) a chemical or other substance that may corrode or otherwise damage the equipment or a component of the equipment;
 - (c) for fall-protection and rope access equipment, the equipment has been used to stop a fall.
- (2)** A person must not use any equipment described in subsection (1).
- (3)** An employer must ensure that equipment that is taken out of service under subsection (1) is not returned to service until it is inspected, repaired as necessary and re-certified by
- (a) the manufacturer; or
 - (b) if certification by the manufacturer is not possible or reasonably practicable, an engineer.
- (4)** The following must be done for equipment that is taken out of service:
- (a) if the equipment is awaiting inspection, repair or re-certification, it must be
 - (i) immediately removed from the work area,
 - (ii) clearly identified as taken out of service, and
 - (iii) stored separately from equipment that has not been taken out of service;
 - (b) if the equipment is not awaiting inspection, repair or re-certification, it must be destroyed immediately.

Employer to keep records

- 1.15 (1)** Except as specified in subsection (2) or otherwise specified in these regulations, an employer must keep a record referred to in these regulations for at least 5 years after the date the record was made.

- (2) An employer must keep records set out in the following table for the periods of time specified:

Record	Minimum length of time kept
inspection reports or orders received from the Division	2 years after the date the report or order is received
written procedures, plans or codes of practice	2 years after the date the procedure, plan or code of practice is replaced or cancelled
records made by the employer of inspection, maintenance or repair work	2 years after the date the record is made

Emergency services agencies exemptions for fall protection and rope access work

1.16 An employer who is an emergency services agency is not required to establish a specific written fall-protection safe-work plan or rope access safe-work plan for a specific work area when responding to an emergency if they

- (a) have established the following applicable procedures for the work:
 - (i) a fall protection safe-work procedure under Section 21.3,
 - (ii) a code of practice for rope access work under Section 22.5; and
- (b) ~~they~~ train to and comply with the procedures in clause (a) and standard protocols for emergency services work applicable to a work area where a person is at a risk of falling.

Emergency services agencies exemptions for temporary highway workplaces

1.17 Emergency services agency personnel are exempt from complying with a safe-work procedure for a temporary highway workplace required by Section 24.2 and the requirements for employees on foot in Section 24.5 when it is not reasonably practicable for them to do so because of the nature of their particular duties at any given time.

Part 2: Occupational Health

Definitions for Part 2

2.1 In this Part,

“physical agent”, in relation to threshold limit values for occupational exposure, means an agent of acoustic, electromagnetic, ergonomic, mechanical or thermal nature;

“threshold limit values” means the threshold limit values established by the *TLVs* and *BEIs* that represent

- (i) for chemical substances, the airborne concentrations of chemical

substances and conditions under which it is believed that nearly all healthy workers may be repeatedly exposed, day after day, over a working lifetime, without adverse health effects,

- (ii) for physical agents, the levels of exposure and conditions under which it is believed that nearly all healthy workers may be repeatedly exposed, day after day, without adverse health effects,

“*TLVs and BEIs*” means the latest version of the publication of the American Conference of Governmental Industrial Hygienists of threshold limit values and biological exposure indices.

Conflicts with Part 2

2.2 This Part prevails if there is any conflict between this Part and any of the following:

- (a) another provision of these regulations;
- (b) any other regulations made under the Act.

Threshold limit values

2.3 An employer must comply with, and ensure compliance with, the threshold limit values for exposure to all of the following, as listed in the *TLVs and BEIs*:

- (a) gases;
- (b) vapours;
- (c) mists;
- (d) fumes;
- (e) smoke;
- (f) dust;
- (g) chemical substances;
- (h) physical agents.

Part 3: Workplace Hazardous Materials Information Systems

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Workplace Hazardous Materials Information Systems Regulations* made under the Act.)

Part 4: First Aid

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Health and Safety First Aid Regulations* made under the Act.)

Part 5: Sanitation and Accommodations

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 6: Personal Protective Equipment

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 7: Handling and Storage of Materials

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 8: Tools

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 9: Mechanical Safety and Robotics

(This heading is here as a placeholder only. There is no content for this Part yet.)

Part 10: Cranes, Hoists and Mobile Equipment

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 11: Lock-out

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 12: Premises and Building Safety

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 13: Construction and Demolition

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 14: Excavations and Trenches

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 15: Electrical Safety

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 16: Welding, Cutting, Burning and Soldering

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 17: Equipment for Firefighters

Definition for Part 17

17.1 In this Part,

“firefighter” means

- (i) an employee who provides fire suppression services to the public from a fire department within a municipality or local service district, or
- (ii) an industrial firefighter.

Conflicts with *Occupational Safety General Regulations*

17.2 If Part 16 - Equipment for Firefighters of the *Occupational Safety General Regulations* made under the Act requires the use of a body harness, elevating work-platform or other device for fire-fighting or equipment for a firefighter that complies with a different standard than a standard listed in these regulations, equipment that meets the requirements of these regulations or Part 16 of the *Occupational Safety General Regulations* may be used.

Part 18: Blasting Safety

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Blasting Safety Regulations* made under the Act.)

Part 19: Confined Spaces

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 20: Surface Mine Workings

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Safety General Regulations* made under the Act.)

Part 21: Fall Protection

Definitions for Part 21

21.1 In this Part,

“arborist” means a person trained and employed, in whole or in part, to climb trees for an economic or scientific purpose, including any of the following:

- (i) detecting and treating disease, infections or infestations,
- (ii) pruning, spraying or trimming,
- (iii) repairing damaged trees,
- (iv) assessing growth or harvesting potential;

“body belt” means a body support device that encircles the body at or about the waist;

“energy absorber” means a component of a fall-protection system consisting of a device that dissipates kinetic energy and does not return it to the fall-arrest system or into a person’s body;

“fall distance” means the vertical distance a person may fall, measured from the surface where the weight of a person is supported to the surface the person could fall onto;

“fall-arrest system” means a fall-protection system consisting of an assembly of components that arrests a person’s fall when properly assembled, used together and connected to a suitable anchorage;

“fall-protection system” means any secondary system that is intended to prevent a person from falling or arrests a fall that occurs, and includes guardrails, temporary flooring, travel-restraint systems, personnel safety nets and fall-arrest systems;

“full-body harness” means a body-holding device, similar to a parachute harness, that transfers suspension forces or impacts during a fall arrest to a person’s pelvis or skeleton;

“guardrail” means a fall-protection system consisting of vertical and horizontal members that

- (i) are capable of withstanding concentrated forces, as prescribed in these regulations or an applicable standard,
- (ii) warn of a fall hazard, and
- (iii) reduce the risk of a fall;

“horizontal lifeline” means a flexible line made from wire, fibre rope, wire rope, or rod, with end terminations at both ends, that extends horizontally from one end anchorage to another;

“lanyard” means a flexible line or strap used to secure a full-body harness to an energy absorber, fall-arrester, lifeline or anchorage;

“lifeline” means a component of a fall-protection system consisting of a vertical lifeline or a horizontal lifeline;

“personnel safety net” means a fall-protection system that uses at least 1 net to stop a person who is falling before the person makes contact with a lower level or obstruction;

“elevating work-platform” means a mobile horizontal working surface that provides access and support to a person at a workplace, and that is elevated and lowered by means of a mechanism that complies with Part 23: Scaffolds and Other Elevated Work-platforms;

“safe surface” means an area that meets all of the following criteria:

- (i) it is large enough and strong enough to adequately support a person who

falls,

(ii) it is level enough to prevent a further fall by a person who has fallen,

“self-retracting device” means a device that arrests a person’s fall by performing a tethering function while allowing vertical movement below the device to the maximum working length of the device;

“temporary flooring” means a fall-protection system consisting of a horizontal working surface that is designed, constructed and installed to provide access to areas that do not have permanent flooring by protecting a person from falling through an unprotected opening;

“travel restraint system” means a fall-protection system that will prevent a person from reaching an unprotected edge or opening;

“vertical lifeline” means a flexible lifeline with an end termination on the top end that is connected to an anchorage or anchorage connector and hangs vertically from where it is connected;

“work-platform” means a raised temporary horizontal working surface that provides access and support to a person at a workplace;

“work-positioning system” means an assembly of components that, when properly assembled and used together, supports a person in a position or location so that the person’s hands are free in the work position, but does not include a boatswain’s chair, ladder, rope access or scaffold.

When Fall Protection is Required

Fall protection required

21.2 (1) Except as provided in subsections (3) to (5), fall protection is required if a person is at risk of falling from a work area where the fall distance is

- (a) 3 m or more above the nearest safe surface or water;
- (b) less than 3 m and the work area is above 1 of the following:
 - (i) a surface or thing that could cause injury to the person on contact that is worse than an injury from landing on a solid, flat surface,
 - (ii) exposed hazardous material, such as in an open tank, pit or vat.

(2) If fall protection is required, an employer must ensure that at least 1 of the following means of fall protection is used, as appropriate in the circumstances:

- (a) a guardrail;
- (b) temporary flooring;

- (c) a personnel safety net;
 - (d) a travel restraint system;
 - (e) a fall-arrest system.
- (3) Fall protection is not required for a person who is entering or exiting a work area by a safe means of access and egress.
- (4) Fall protection is required only where reasonably practicable and to the extent reasonably practicable in any of the following circumstances:
- (a) if work must be performed on or from a vehicle, rail car or other mobile equipment;
 - (b) if it is not reasonably practicable to perform work other than from a ladder and it is not reasonably practicable for the person performing the work to maintain adequate contact with the ladder while performing the work;
 - (c) if the density of tree branches prevents an arborist from crotching.
- (5) If it is not reasonably practicable to use fall protection in the circumstances described in subsection (4), an employer must ensure that an alternate control measure is used to reduce, to the extent reasonably practicable, the risk of a fall.

Fall-Protection Plans and Procedures

Written fall-protection safe-work procedure

- 21.3** (1) Except as provided in subsection (2), an employer must establish a written fall-protection safe-work procedure for the type of work to be performed in any work area where fall protection is required and the maximum fall distance is less than 7.5 m.
- (2) A written fall-protection safe-work procedure is not required under subsection (1) if any of the following conditions apply:
- (a) all persons performing the work are protected by a permanent guardrail;
 - (b) the work is performed from a work-platform described in Sections 23.12 to 23.15 of Part 23: Scaffolds and Other Elevated Work-platforms and all persons performing the work are using adequate fall protection.
- (3) A fall-protection safe-work procedure must be based on a hazard assessment of the work typically performed by the employer and must include all of the following information:
- (a) the nature of the work to be performed;

- (b) the typical duration of the work;
- (c) a description of the work;
- (d) a list of the primary tools or equipment used in the work;
- (e) reference to applicable health and safety legislation and regulations;
- (f) a list of potential fall hazards of the work and their associated risks;
- (g) the risk controls to be used to prevent injury to persons coming in contact with known hazards;
- (h) the effect of weather conditions;
- (i) the name of the person or position that has supervisory responsibility for the work, whether the person is present at the work area or not;
- (j) the training and qualifications required for persons who will perform the work, as determined by the employer;
- (k) a method for communicating the fall-protection safe-work procedure to any person who may be affected by the procedure.

Written fall-protection safe-work plan

- 21.4 (1)** Except as provided in subsection (2), an employer must establish a specific written fall-protection safe-work plan for a specific work area where fall protection is required and the fall distance is 7.5 m or more.
- (2)** A specific written fall-protection safe-work plan is not required under subsection (1) if any of the following conditions apply:
- (a) all persons performing the work are protected by a permanent guardrail;
 - (b) the work is performed from a work-platform described in Sections 23.12 to 23.15 of Part 23: Scaffolds and Other Elevated Work-platforms and all persons performing the work are using adequate fall protection;
 - (c) the work is performed by an emergency services agency in accordance with Section 1.16.
- (3)** A fall-protection safe-work plan must be established based on a hazard assessment of the specific work to be performed in the work area and must include all of the following information:
- (a) the nature of the work to be performed;
 - (b) the anticipated duration of the work;

- (c) a description of the work;
 - (d) a list of the primary tools or equipment to be used in the work;
 - (e) reference to applicable health and safety legislation and regulations;
 - (f) a list of potential fall hazards of the work and their associated risks;
 - (g) the fall-protection system or systems to be used at the work area;
 - (h) any anchorages to be used during the work;
 - (i) if a fall-arrest system is to be used, confirmation that the clearance distances below the work area are sufficient to prevent a person from striking
 - (i) the nearest safe surface or water,
 - (ii) a surface or thing that could cause injury to the person on contact, or
 - (iii) exposed hazardous material, such as an open tank, pit or vat;
 - (j) a procedure to address the risks associated with the potential for swing as a result of anchorage placement when a person is using a fall-arrest system;
 - (k) the procedures to be used to assemble, maintain, inspect, use and disassemble a fall-protection system, as applicable;
 - (l) schedules for inspecting any fall-protection systems and the names of any persons responsible for carrying out the inspections;
 - (m) adequate written rescue procedures to be used if a person falls and requires rescue, including if a person is suspended by a fall-arrest system or personnel safety net;
 - (n) the effect of weather conditions;
 - (o) the name of a designated competent person to supervise the work area;
 - (p) the training and qualifications required for persons who will perform the work, as determined by the employer;
 - (q) a method for communicating the fall-protection safe-work plan to any person who may be affected by the plan.
- (4) If a workplace has more than 1 work area for which a fall-protection safe-work plan is required, an employer may create a separate plan for each specific work area or one overall plan for the workplace that includes all of the requirements necessary for each specific plan.

Fall-Protection Systems

Guardrails

- 21.5** (1) An employer must ensure that a guardrail that is used as a means of fall protection is installed at all of the following places in a work area:
- (a) around any uncovered opening in any surface;
 - (b) at the perimeter or other open side of a work area.
- (2) A guardrail must be designed and installed in compliance with the latest version of CSA standard CSA Z797, “Code of Practice for Access Scaffolds”.
- (3) If there is a risk of falling at a doorway or the opening of a building floor, roof, walls or shaft, an employer must ensure that a guardrail is
- (a) installed in accordance with this Section; and
 - (b) marked with a warning sign that indicates the presence of a doorway or other opening.

Temporary flooring

- 21.6** An employer must ensure that temporary flooring that is used as a means of fall protection is able to withstand 4 times the maximum load likely to be on it and is installed so that it meets all of the following:
- (a) it extends over the entire work area with the exception of any openings necessary for the carrying out of work;
 - (b) it is securely fastened to prevent lateral and upward movement.

Personnel safety nets

- 21.7** (1) An employer must ensure that a personnel safety net used as a means of fall protection is designed, manufactured, installed, used, inspected, tested and made of materials in accordance with the latest version of ANSI standard A10.11, “American National Standard for Construction and Demolition Operations – Personnel and Debris Nets”.
- (2) Despite any requirements set out in the standard required by subsection (1), a personnel safety net must be erected and installed in accordance with all of the following:
- (a) it must be erected and installed under the supervision of a competent person;
 - (b) it must be positioned as close as reasonably practicable, but no more than 9 m below the work area and extend at least 2.4 m on all sides beyond the work area;

- (c) it must be positioned and maintained so that when arresting the fall of a person, the maximum deflection of the personnel safety net does not permit any portion of the person to contact another surface;
- (d) it must be free of debris, obstructions or intervening objects that may be struck by a person who falls from a workplace into the net.

Travel restraint systems

21.8 An employer must ensure that a personal travel restraint system that is used as a means of fall protection to restrict movement meets the requirements of the latest version of CSA standard CSA Z259.16, “Design of active fall-protection systems”.

Fall-arrest systems

21.9 An employer must ensure that a fall-arrest system that is used as a means of fall-protection is erected, installed, assembled, used, handled, stored, adjusted, maintained, repaired, inspected, serviced, tested, cleaned and dismantled in accordance with the manufacturer’s specifications and designed in accordance with the requirements of the latest version of CSA standard CSA Z259.16, “Design of active fall-protection systems”.

Fall-arrest for arborists

21.10 (1) An arborist using a fall-arrest system as a means of fall protection must ensure that the fall-arrest system includes all of the following:

- (a) a work-positioning system and a travel restraint system, the design, markings and instructions of which comply with the latest version of CSA standard CSA Z259.1, “Body Belts and Saddles for Work Positioning and Travel Restraint”;
- (b) if reasonably practicable, a second climbing rope or safety strap that is manufactured for the purpose of tree climbing and that meets all of the following criteria:
 - (i) it provides additional stability,
 - (ii) it provides back-up fall protection,
 - (iii) it is capable of withstanding the greater of the following:
 - (A) 2 times the maximum load likely to be on it,
 - (B) a load of 22 kN.

(2) An arborist must do all of the following before climbing in a work area:

- (a) visually assess the structural stability of the tree;
- (b) select and assess the safest path of ascent;
- (c) select an appropriate crotch position as a work area.

- (3) While working in a tree with a fall-arrest system, ~~and~~ [an] arborist must do all of the following:
- (a) wherever practicable, work from a crotch position with the fall-arrest system secured to an anchorage above the crotch position;
 - (b) when changing crotch positions, remain secured by the fall-arrest system to the anchorage for the previous crotch position until secured by the fall-arrest system to the anchorage for the next crotch position;
 - (c) not change crotch positions without selecting the next crotch position in advance;
 - (d) not climb above an anchorage unless secured by another fall-arrest system secured at or above the level of the arborist;

Clause (d) moved to correct place in alphabetical order for the purposes of this consolidation.

- (e) ensure that slack only occurs in ropes or lines that are part of the fall-arrest system, if it is
 - (i) essential to the performance of the work, and
 - (ii) no greater than is consistent with the safe performance of the work;

Clause (e) moved to correct place in alphabetical order for the purposes of this consolidation.

- (f) when transferring from an elevating work-platform to a tree, remain attached to an anchorage on the work-platform by way of a fall-arrest system until secured to an anchorage on the tree by way of a fall-arrest system;

Clause (f) moved to correct place in alphabetical order for the purposes of this consolidation.

- (g) not work in crews of fewer than 2;
- (h) have at least 1 crew member remain on the ground at the work area.

Work-positioning systems

21.11 (1) Unless otherwise prescribed in these regulations, an employer must ensure a work-positioning system is used in combination with a fall-arrest system in all of the following circumstances:

- (a) the centre of gravity of the person using the work-positioning system extends beyond the edge from which a person could fall;
- (b) the state or condition of the work surface creates a slipping or tripping hazard.

(2) A person must not use, and an employer must ensure a person does not use, a work-positioning system as a means of fall arrest.

Equipment

Full-body harnesses

21.12 An employer must ensure that a person who is using a personal fall-arrest system wears a full-body harness and that the full-body harness is used and certified in compliance with the latest version of CSA standard CSA Z259.10, “Full Body Harnesses”.

Body belts

- 21.13** (1) An employer must ensure that the design, markings and instructions of body belts used comply with the latest version of CSA standard CSA Z259.1, “Body Belts and Saddles for Work Positioning and Travel Restraint”.
- (2) An employer must ensure that body belts are not used as a component of a fall-arrest system.
- (3) A person must not use a body belt as a component of a fall-arrest system.

Energy absorbers and lanyards

- 21.14** (1) An employer must ensure that a lanyard or an energy absorber used in a fall-arrest system is used and certified in compliance with the latest version of CSA standard CSA Z259.11, “Energy Absorbers and Lanyards”.
- (2) An employer must ensure that a lanyard used in a fall-arrest system is equipped with an energy absorber, unless all of the following conditions are met:
- (a) the combined free-fall distance and the energy absorber deceleration distance exceed the distance between the work area and a safe surface or hazard;
 - (b) the fall-arrest system is designed by a competent person to limit the free fall to less than 1.22 m and 8 kN arresting force;
 - (c) the fall-arrest system does not permit the user to contact an unsafe surface.

Anchorage

21.15 An employer must ensure that all anchorages used as components of a fall-protection system are capable of withstanding the following forces in any direction in which the force may be applied:

- (a) 22 kN, for non-engineered anchorage;
- (b) 2 times the maximum arresting force anticipated, for an engineered anchorage.

Horizontal and vertical lifelines

21.16 (1) An employer must ensure that a horizontal lifeline used as a component of a fall-protection system meets all of the following:

- (a) it is designed and installed in compliance with the latest version of CSA standard CSA Z259.16, “Design of Active Fall-Protection Systems”;
- (b) it is used, certified and made of material in compliance with the latest version of CSA standard CSA Z259.13, “Flexible Horizontal Lifeline Systems”.

- (2) An employer must ensure that a vertical lifeline used as a component of a fall-protection system is used and certified in accordance with the latest version of CSA standard CSA Z259.2.1, “Fall Arresters, Vertical Lifelines and Rails”.

Self-retracting devices

- 21.17** (1) An employer must ensure the design, markings and instructions for a self-retracting device used as a component of a personal fall-arrest system comply with the latest version of CSA standard CSA Z259.2.2, “Self-Retracting Devices for Personal Fall-Arrest Systems”.
- (2) An employer must ensure a self-retracting device used as a component of a fall-protection system is
 - (a) anchored above the user’s head unless the manufacturer’s specifications allow using a different anchorage location; and
 - (b) used in a manner that
 - (i) minimizes the hazards of swinging, and
 - (ii) if the user falls, limits the distance they drop during the swing to 1.2 m.

Connecting components

- 21.18** (1) An employer must ensure all connecting components for a fall-arrest system are used and certified in compliance with the latest version of CSA standard CSA Z259.12, “Connecting Components for Personal Fall-Arrest Systems (PFAS)”.
- (2) An employer must ensure any carabiners and snap hooks used as components of a fall-arrest system are
 - (a) self-closing and self-locking; and
 - (b) only capable of being opened by a minimum of 2 consecutive and deliberate manual actions.
 - (3) An employer must ensure that each component of a fall-protection system is compatible with all of the following, as indicated in the manufacturer’s specifications and instructions for use of their equipment:
 - (a) each other component and that the safe function of any component does not interfere with the safe function of another component;
 - (b) the work conditions and conditions of the physical environment under which the equipment is to be used.

Fall-Protection Training

Fall-protection training required

- 21.19** (1) An employer must ensure that a person takes and successfully completes training on

fall protection at all of the following times:

- (a) before they do any of the following:
 - (i) use fall protection,
 - (ii) work in, supervise or plan the work for a work area where fall protection is required; and
 - (b) once at least every 3 years.
- (2) A person must not use fall protection or work in, supervise or plan the work for a work area where fall protection is required before successfully completing training as required by this Section.
 - (3) In order to successfully complete training, a person must be deemed competent to inspect and use fall protection by 1 of the following persons who conducted the training:
 - (a) their employer;
 - (b) a training organization.
 - (4) Training must be instructed by a competent person.
 - (5) The person conducting the training must identify a method of evaluating the person taking the training and determining whether a person successfully completes the training.

Fall-protection training topics

21.20 Training on fall protection must include all of the following, as applicable to the nature of the work:

- (a) a review of all applicable health and safety legislation, regulations and standards;
- (b) identification of fall hazards;
- (c) a review of the hierarchy of controls that may be used to eliminate or minimize risk of injury from a fall;
- (d) the different methods of fall protection and the most suitable application of the methods;
- (e) fall-protection and safe-work procedures;
- (f) instruction on assessing and selecting specific anchors that may be used for various applications;

- (g) instruction on selecting and correctly using fall-protection components, including connecting hardware;
- (h) information about the effect of a fall on the human body, including all of the following:
 - (i) free fall,
 - (ii) swing fall,
 - (iii) maximum arresting force, and
 - (iv) the purpose of energy absorbers,
- (i) pre-use inspections of equipment and systems;
- (j) emergency response procedures to be used if a fall occurs;
- (k) practice in all of the following:
 - (i) inspecting, fitting, adjusting and connecting fall-protection systems and components,
 - (ii) the emergency response procedures required by clause (j).

Record of fall-protection training

21.21 (1) A record of fall-protection training required under Section 21.19 for each participant who successfully completes the training must be maintained by all of the following:

- (a) the employer;
- (b) any training organization that conducts the training.

(2) A record of training under this Section must include all the following information:

- (a) the name of the participant;
- (b) the date or dates of training;
- (c) the name of the instructor;
- (d) the name of the employer;
- (e) the name of the training organization, if training is not conducted by the employer;
- (f) a description of the training;

(g) the expiry date before which training must be renewed.

(3) Each person who takes fall-protection training required by Section 21.19 must be given a copy of their record maintained under this Section.

Fall-protection training certificate or card

21.22 (1) A person who conducts training must give each person who successfully completes the fall-protection training required by Section 21.20 a training certificate or card, signed by the instructor, with all of the following clearly indicated on it:

(a) the name of the participant;

(b) the date or dates of training;

(c) the name of the employer and the training organization, if training is not conducted by the employer;

(d) the type of training;

(e) the expiry date for the training certificate or card before which training must be renewed.

(2) A person must have their fall-protection training certificate or card available at the workplace at all times.

Part 22: Work Requiring Rope Access

Definitions for Part 22

22.1 In this Part,

“CEN” means the European Committee for Standardization;

“dynamic rope” means rope specifically designed to absorb energy and minimize the impact force in a fall by extending in length;

“code of practice” means a code of practice for rope access adopted in accordance with subsection 22.5(1);

“*International Code of Practice*” means the latest version of the *International Code of Practice* published by the Industrial Rope Access Trade Association;

“kermantel rope” means textile rope consisting of a core enclosed by a sheath;

“low stretch rope” means textile rope with lower elongation and less energy absorbing characteristics than dynamic rope;

“rope access” means a method of using ropes, in combination with other devices, for 1 of the following while further protected by a safety line, in which both the working line and safety line are connected to the user’s harness and separately secured to a

reliable anchorage in such a way that a fall is prevented or arrested:

- (i) descending or ascending a working line to get to or from the work area,
- (ii) work positioning;

“rope access system” means a system used to position a person to conduct rope access;

“rope access technician” means a person, including a supervisor, who is trained and competent to perform the specific rope access tasks that are being undertaken;

“safety line” means an anchor line provided as a safeguard to protect against falls if the primary support anchorage or positioning mechanism fails;

“working line” means an anchor line used primarily for access, egress, work positioning and work restraint, but does not include a lifeline as defined in Part 21: Fall Protection.

Application of Part 22

22.2 This Part applies to any workplace where rope access methods are used to perform work or to train for work.

Conflict with Part 22

22.3 This Part prevails if there is any conflict between this Part and any of the following:

- (a) another Part of these regulations except Part 2: Occupational Health;
- (b) a code of practice.

Manufacturer’s specifications and standards for rope access and equipment

22.4 An equivalent CSA standard may be substituted for an ANSI or CEN standard required by this Part.

Code of practice must be adopted for rope access work

22.5 (1) An employer must ensure that work is not conducted using rope access unless the employer has adopted 1 of the following as a code of practice for the work:

- (a) the *International Code of Practice* as modified by this Part;
- (b) a written safe-work procedure under subsection (2) that is approved in writing by the Director and provides for an adequate level of safety.

(2) A written safe-work procedure adopted for the purposes of clause (1)(b) must be based on a hazard assessment of the work typically performed by the employer and must include all of the following:

- (a) the type and scope of hazard assessment that will be undertaken to identify potential hazards, including how it will be conducted;

- (b) appropriate methods that will be used for controlling and eliminating typical hazards;
- (c) the training a rope access technician will receive before beginning rope access work and how the training ensures the rope access technician is competent to conduct the work;
- (d) how the rope access system and other equipment, including personal protective equipment, will be selected to ensure it is appropriate for its intended application;
- (e) how selected equipment will be maintained and inspected;
- (f) the name of a competent person or persons who will supervise the work area and the qualifications that make them competent to supervise the work;
- (g) the process to be followed in establishing a rope access safe-work plan in accordance with Section 22.9, including any consultation to be undertaken in developing the plan;
- (h) the processes that will be put in place for
 - (i) rescue operations and other emergencies, including the equipment and personnel that will be available, and
 - (ii) protecting third parties.

Application of *International Code of Practice*

22.6 (1) In the *International Code of Practice*,

- (a) “should” must be read as expressing a mandatory requirement that must be satisfied in order to comply with the Code;
 - (b) “work site” has the same meaning as “work area” as defined in Part 1: Interpretation and Application.
- (2)** Subject to subsection (3), an employer who adopts the *International Code of Practice* as their code of practice must comply with the Code in accordance with subsection (1) unless a requirement in the Code is specifically imposed on another party, in which case that party must comply with the requirement.
- (3)** Unless otherwise specified in this Part, the following provisions of the *International Code of Practice* do not apply to an employer who adopts the Code as their code of practice:
- (a) Section 2.3: “Selection of Rope Access Technicians”;
 - (b) Section 2.7.1.3: “Standards”;

- (c) Part 3: “Informative Annexes”;
- (d) Part 4: “Legislation”;
- (e) Part 5: “Bibliography, further reading and useful addresses”.

Work restricted to rope access technicians

22.7 An employer must ensure that only rope access technicians engage in rope access work at a workplace.

Rope access technician must be competent person

- 22.8** (1) An employer must ensure that a rope access technician engaged in rope access work is a competent person for the intended activity in accordance with the employer’s code of practice.
- (2) An employer must keep a record that documents how a rope access technician qualifies as a competent person under the regulations, and must ensure a copy of the record is available at the workplace at all times.

Rope access safe-work plan required in work areas with risk of fall

- 22.9** (1) Except as provided in Section 1.16 for an emergency services agency, if a rope access technician is at risk of falling from any height in a specific work area, an employer must develop a specific written rope access safe-work plan for the work area.
- (2) A rope access safe-work plan must be based on a hazard assessment of the specific work area and must include all of the following information:
- (a) a list of the potential hazards associated with the work to be performed and their associated risks;
 - (b) how the hazards will be eliminated or controlled;
 - (c) the rope access system to be used at the work area;
 - (d) the procedures to be used to assemble, maintain, inspect, use and disassemble the rope access system;
 - (e) a list of persons who will be working in the work area, including each person’s name and their duties;
 - (f) the appropriate personal protective equipment to be used to perform the work;
 - (g) an emergency response plan, including rescue operations, to be followed at the work area;

Clause (g) moved to correct place in alphabetical order for the purposes of this consolidation.

- (h) an access and rigging plan for how to rig the ropes and gain access to the work position.

Clause (h) moved to correct place in alphabetical order for the purposes of this consolidation.

Rope access technician must keep logbook

- 22.10 (1)** A rope access technician must keep a hard copy logbook that meets all of the following criteria:
- (a) it has the name of the rope access technician written on it;
 - (b) it is permanently bound;
 - (c) it has consecutively numbered pages.
- (2)** A rope access technician must keep their logbook at a work area at all times when they are at the work area.
- (3)** A rope access technician must make and sign an entry in their logbook as soon as reasonably practicable after doing rope access work and before leaving a work area.
- (4)** Each entry in a rope access technician's logbook must include all of the following information:
- (a) the date of the work;
 - (b) the geographic location of the work;
 - (c) the name of their employer;
 - (d) the name of the supervisor for the work;
 - (e) the type of rope access equipment used;
 - (f) the time the work began;
 - (g) the duration of the work;
 - (h) the type of work performed;
 - (i) any accident, near miss or unusual incident that occurred and has the potential to affect health or safety;
 - (j) any factors that they consider relevant to their health or safety.
- (5)** A rope access technician must keep their logbook for at least 2 years after the date of the last entry in the logbook.
- (6)** An employer must ensure a rope access technician keeps a logbook in accordance with this Section.

Equipment must comply with code of practice or standards

22.11 An employer must ensure that equipment used in rope access is designed, installed, maintained and used in accordance with standards referenced in their code of practice or in accordance with the following standards that apply to the equipment being used:

- (a) the latest version of CSA standard CSA Z259.1, “Body Belts and Saddles for Work Positioning and Travel Restraint”;
- (b) the latest version of CSA standard CSA Z259.10, “Full Body Harnesses”;
- (c) the latest version of CSA standard CSA Z259.11, “Energy Absorbers and Lanyards”;
- (d) the latest version of CSA standard CSA Z259.12, “Connecting Components for Personal Fall Arrest Systems (PFAS)”;
- (e) CEN standard EN 567: 1997, “Mountaineering Equipment – Rope clamps – Safety requirements and test methods”;
- (f) CEN standard EN 353-2:2002, “Personal protective equipment against falls from height – Part 2: Guided type fall arresters including a flexible anchor line”;
- (g) CEN standard EN 341: 1997, “Personal protective equipment against falls from height – Descender devices”.

Standards for ropes used in rope access system

22.12 (1) An employer must ensure that low stretch or static rope used in a rope access system is a Type A rope classified and approved by CEN standard EN 1892: 1998, “Personal protective equipment for the prevention of falls from a height – low stretch Kernmantel ropes”.

(2) An employer must ensure that high stretch or dynamic rope used in a rope access system is approved to CEN Standard EN 892: 2004, Mountaineering equipment – Dynamic mountaineering ropes – Safety requirements and test methods”.

Compatible components of rope access system

22.13 An employer must ensure that each component of a rope access system is compatible with all of the following, as indicated in the manufacturer’s specifications and instructions for use of their equipment:

- (a) each other component, and that the safe function of any component does not interfere with the safe function of another component;
- (b) the work conditions and conditions of the physical environment under which the equipment is to be used.

Anchorage in rope access system

22.14 An employer must ensure that all anchorages used as a component of a rope access

system are capable of withstanding the following forces in any direction in which the force may be applied:

- (a) 22 kN, for non-engineered anchorage;
- (b) 2 times the maximum arresting force anticipated, for an engineered anchorage.

Protective headwear

- 22.15 (1)** An employer must ensure that a rope access technician wears protective headwear whenever there is a foreseeable danger of injury to the rope access technician's head while performing rope access work.
- (2)** Protective headwear required by subsection (1) must be appropriate to the hazards and must meet the requirements of at least 1 of the following:
- (a) the latest version of CSA standard CSA Z94.1, "Industrial Protective Headwear";
 - (b) the latest version of ANSI standard ANSI Z89.1, "American National Standard for Industrial Head Protection";
 - (c) CEN standard EN 12492, "Mountaineering equipment – Helmets for mountaineers – Safety requirements and test methods".
- (3)** A rope access technician must wear protective headwear in accordance with this Section.

Working lines and safety lines

- 22.16 (1)** An employer must ensure that working lines and safety lines used in a rope access system meet all of the following conditions:
- (a) the working line and safety line of the system must be the same diameter;
 - (b) a safety, secondary, belay or backup line of the system must be used when the working line is the primary means of support;
 - (c) the working line and safety line of the system must each be provided with a separate anchorage connection and be separately fixed to the rope access technician's harness.
- (2)** Clauses (1)(a) and (b) do not prohibit both the working line and safety line from being attached to a single harness attachment point.
- (3)** A rope access technician may connect the safety line to the sternal or frontal attachment point of the rope access technician's full-body harness in accordance with the harness manufacturer's specifications.

Definitions for Part 23

23.1 In this Part,

“boatswain’s chair” means a simple body support device used for work positioning that typically incorporates a rigid seat and a suspension bridle and is suspended from an anchorage;

“bracket scaffold” means a scaffold consisting of a work-platform that is supported by metal brackets and attached to a structural wall but does not include a side bracket or end bracket;

“crane-supported work-platform” means a work-platform suspended from the cable of a hoist or crane, or attached directly to the boom of a crane by mechanical fasteners;

“elevating work-platform” means a type of integral chassis aerial platform that has an adjustable position platform that is supported from ground level;

“ITSDF” means the Industrial Truck Standards Development Foundation;

“ladderjack scaffold” means a scaffold erected by means of attaching 1 or more brackets to 1 or more ladders to support a work-platform;

“lift truck” means a lift truck as defined in the latest version of ANSI standard ANSI/ITSDF B56.1, “Safety Standard for Low Lift and High Lift Trucks”;

“lift truck work-platform” means a work-platform designed to be mounted on a high lift truck, or other elevating device, to provide a safe-working area for a person elevated by and working from the platform’s surface;

“pumpjack scaffold” means a scaffold consisting of a work-platform supported by vertical poles and adjustable support brackets;

“rolling scaffold” means an assembled scaffold

- (i) supported by wheels, and
- (ii) moved manually,

“scaffold” means a temporary elevated or hanging platform and its structural members that are used to support persons and materials, or both;

“standard”, in relation to a component of access scaffolding equipment, means a vertical scaffold member that supports the weight of a scaffold;

“suspended platform” means an access system that meets all of the following criteria, and includes but is not limited to permanently installed suspended equipment, temporary suspended equipment, a boatswain’s chair, stages running on an incline and suspended work cages:

- (i) it is suspended from overhead and arranged for hoisting, and may traverse the exterior or interior side of a building or structure, and
- (ii) it consists of a platform and means of suspension, lateral restraint, hoisting and anchoring;

“transom”, in relation to a component of access scaffolding equipment, means a horizontal scaffold member capable of supporting a platform or a lifting beam;

“work-platform” means a temporary horizontal working surface that provides access and support for a person at the workplace.

Engineer’s certification of scaffolding

23.2 In addition to any certification required under Section 1.11, an employer must ensure that the design and installation of a scaffold used in a workplace are certified by an engineer if

- (a) required by the latest version of CSA standard CSA Z797, “Code of Practice for Access Scaffold”; or
- (b) the scaffold is a wooden scaffold that is taller than 10 m high measured from the height of the highest work-platform.

Standards for scaffolds

23.3 (1) An employer must ensure that a scaffold that is required to safely perform work is erected, installed, assembled, used, handled, stored, adjusted, maintained, repaired, inspected or dismantled in accordance with the latest version of CSA standard CSA Z797, “Code of Practice for Access Scaffold”.

(2) An employer must ensure that a scaffold is

- (a) designed to support and capable of holding at least 4 times the load that is likely to be on it; and
- (b) not used for a load that is heavier than 25% of the load that it is designed for.

Scaffolding equipment prohibited

23.4 A person must not use, and an employer must ensure a person does not use, any of the following equipment at a workplace:

- (a) wooden pumpjack scaffold poles;
- (b) wooden carpenter’s brackets;
- (c) ladderjack scaffolds.

Pumpjack scaffolds

23.5 (1) An employer must ensure that any pumpjack scaffold system used is metal.

- (2) A pumpjack scaffold must be installed and used so that all of the following conditions are met:
- (a) the load on the pumpjack scaffold is less than 122 kg per square metre (25 lbs. per square foot) and no more than 2 persons are between supporting poles at a time;
 - (b) the height of the scaffold is no higher than 13.7 m;
 - (c) unless otherwise specified in the manufacturer's specifications, it has bracing every 4.6 m, starting at the base of the scaffold.
- (3) A person must use pumpjack scaffolds in accordance with this Section.

Bracket scaffolds

- 23.6** (1) An employer must ensure that a bracket scaffold meets all of the following conditions:
- (a) brackets on a bracket scaffold must be spaced no more than 3 m apart;
 - (b) a loaded bracket scaffold must be securely attached to a structural wall that is able to withstand the force applied in accordance with the manufacturer's specifications by
 - (i) bolting the bracket scaffold to the wall, or
 - (ii) welding the bracket scaffold to steel structures attached to the wall;
 - (c) a bracket scaffold must be capable of supporting at least 4 times the load that is likely to be on it.
- (2) A person must use bracket scaffolds in accordance with subsection (1).

Roofing brackets

- 23.7** (1) An employer must ensure roofing brackets meet all of the following conditions:
- (a) they must be securely fastened to the roof;
 - (b) they must have a span of no greater than 3 m;
 - (c) they must be capable of supporting at least 4 times the load that is likely to be on them.
- (2) A person must use roof brackets in accordance with subsection (1).

Safe-use practices for scaffolds

- 23.8** An employer must ensure compliance with the safe-use practices for scaffolds set out in the latest version of CSA standard CSA Z797, "Code of Practice for Access Scaffold",

including the falling object protection precautions if there is danger of objects falling from the scaffold and striking a person below.

Inspections of scaffolds

- 23.9** (1) An employer must ensure that a scaffold used at a workplace is inspected daily by a competent person or engineer.
- (2) The results of any inspection of a scaffold must be communicated to the users by methods described in the latest version of the CSA standard CSA Z797, “Code of Practice for Access Scaffold”.

Materials to be used in scaffold work-platforms

- 23.10** (1) Except as otherwise provided in these regulations, an employer must ensure that materials to be used in a work-platform as part of a scaffold comply with the latest version of CSA standard CSA Z797, “Code of Practice for Access Scaffold”.
- (2) If sawn lumber is used for scaffold planks, an employer must ensure that it meets 1 of the following specifications:
- (a) the planks are No. 1 grade or Select Structural Spruce-Pine-Fir (S-P-F) grade and sized 51 mm thick and 254 mm wide;
 - (b) the planks are No. 2 grade or better and sized no smaller than 38 mm thick and 235 mm wide rough sawn lumber, and are doubled up and fastened one on top of the other.
- (3) An employer must ensure that material used as scaffold planks, other than sawn lumber, complies with the latest version of CSA standard CSA Z797, “Code of Practice for Access Scaffold”.

Suspended work-platforms

- 23.11** (1) An employer must ensure that a suspended work-platform is
- (a) inspected and operated in accordance with the latest version of CSA standard CSA Z91, “Health and Safety Code for Suspended Equipment Operations”; and
 - (b) designed, constructed, installed, maintained, and inspected in accordance with the latest version of CSA standard CSA Z271, “Safety Code for Suspended Platforms”.
- (2) If there is danger of objects falling from the scaffold and striking a person below, an employer must ensure that falling object protection precautions are taken in accordance with the latest version of CSA standard CSA Z271, “Safety Code of Suspended Platforms”.
- (3) If a suspended work-platform is out of level by greater than 10%, an employer must ensure that

- (a) no work is conducted on the platform; and
- (b) the platform is moved only to adjust it to level.

Lift truck work-platform

- 23.12 (1)** An employer must ensure that a lift truck work-platform is designed, maintained, inspected and operated in accordance with the latest version of ANSI standard ANSI/ITSDF B56.1, “Safety Standard for Low Lift and High Lift Trucks”.
- (2)** While a person is on a lift truck work-platform, the lift truck used to lift a person must be operated only under the following conditions:
- (a) it must be operated by a competent person who must be continuously at the controls;
 - (b) it must not be moved laterally over large distances;
 - (c) it or the platform may be moved slowly to make minor adjustments only.

Elevating work-platforms

- 23.13 (1)** An employer must ensure that portable, self-propelled and self-propelled boom-supported elevating work-platforms are designed, constructed, erected, maintained, inspected, monitored and used in accordance with the latest version of the following applicable standards:
- (a) CSA standard CSA B354.1, “Portable Elevating Work Platforms”;
 - (b) CSA standard CSA B354.2, “Self-Propelled Elevating Work Platforms”;
 - (c) CSA standard CSA B354.4, “Self-Propelled, Boom-Supported Elevating Work Platforms”;
 - (d) CSA standard CSA C225, “Vehicle Mounted Aerial Devices”.
- (2)** An employer must ensure that elevating work-platforms used for fire-fighting are designed, constructed, erected, maintained, inspected, monitored and used in accordance with the latest version of the following applicable standards:
- (a) NFPA standard NFPA 1901, “Standard for Automotive Fire Apparatus”;
 - (b) NFPA standard NFPA 1911, “Standard for the Inspection, Maintenance, Testing and Retirement of In Service Automotive Fire Apparatus”.
- (3)** An employer must ensure that a record of inspections, tests, repairs, modifications and maintenance activities required by the applicable standards in subsections (1) and (2) includes the name and signature of the person or persons who performed the required activities.
- (4)** Whether or not guardrails are also installed, before operating the equipment in

subsection (1) or (2), an employer must ensure, in accordance with Part 21: Fall Protection, that fall-arrest equipment is worn and anchored to a suitable anchorage.

Crane-supported work-platforms

- 23.14 (1)** An employer must ensure that a crane-supported work-platform is designed, maintained, inspected and used in accordance with the latest version of CSA standard CSA Z150, “Safety Code on Mobile Cranes”.
- (2)** An operator of a crane or hoist used to suspend a work-platform must have an effective means of constant communication with a person on the platform.

Mast-climbing work-platforms

- 23.15** An employer must ensure that a mast-climbing work-platform is designed, constructed, erected, maintained, inspected and used in accordance with the latest version of CSA standard CSA B354.5, “Mast-climbing work platforms”.

Lifting persons in certain equipment prohibited

- 23.16** Except as expressly permitted in these regulations or in some other enactment, a person must not be lifted or held aloft in equipment that is not specifically designed for that purpose, including loader buckets or backhoes.

Part 24: Temporary Workplaces on Highways

Definitions for Part 24

24.1 In this Part,

“code of practice” means a code of written work procedures adopted in accordance with Section 24.3 for construction, maintenance or utility work conducted at a temporary highway workplace;

“high-visibility safety apparel” means brightly coloured and retroreflective apparel worn to enhance conspicuousness;

“highway” means

- (i) a public highway, street, lane, road or bridge, and
- (ii) private property that is designed to be and is accessible to the general public for the operation of a vehicle,

“safe-work procedure” means a written work procedure adopted in accordance with Section 24.4 for work conducted at a temporary highway workplace other than construction, maintenance or utility work;

“temporary highway workplace” means a workplace that is

- (i) of a temporary nature, and

(ii) located on or near a highway, and situated and equipped so that

(A) it is a potential impediment to vehicle traffic on the highway, or

(B) an approaching driver has to reduce their speed or alter the path of travel of their vehicle;

“*Temporary Workplace Traffic Control Manual*” means the latest version of the *Temporary Workplace Traffic Control Manual* published by the Department of Transportation and Infrastructure Renewal;

“vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting a motorized wheelchair and devices moved by human power or used exclusively upon stationary rails or tracks.

Application of Part 24

24.2 This Part applies only to temporary highway workplaces.

Code of practice required for construction, maintenance or utility work

24.3 (1) An employer must ensure that construction, maintenance or utility work is not conducted at a temporary highway workplace until the employer adopts 1 of the following as a code of practice for the work:

(a) the *Temporary Workplace Traffic Control Manual*;

(b) a written safe-work procedure, approved in writing by the Director, that

provides for an adequate level of safety in relation to the general considerations for traffic control set out in the *Temporary Workplace Traffic Control Manual*, including all of the considerations set out in subsection (2).

(2) A written safe-work procedure adopted for the purposes of clause (1)(b) must clearly identify the measures to be taken to provide an adequate level of safety in relation to all of the following:

- (a) the nature of the work to be performed at the temporary highway workplace;
- (b) the physical area covered by the temporary highway workplace;
- (c) the duration of the work;

Duplicate clause (b) relettered (c) for the purposes of this consolidation.

- (d) how much the work area encroaches on the highway;
- (e) the selection, use and placement of signs and devices to address
 - (i) how much traffic will be around the temporary highway workplace and how fast the traffic moves,
 - (ii) how much advance notice a vehicle driver requires when approaching a temporary highway workplace, and
 - (iii) how much distance a vehicle driver requires to adequately prepare for the temporary highway workplace;
- (f) the number of temporary workplace personnel required and their responsibilities, positioning, training, clothing, equipment, communication and signalling;
- (g) the effect that weather conditions could have on the temporary highway workplace;
- (h) any reasonably foreseeable circumstances that could adversely affect the ability of approaching vehicle drivers to see a person at the temporary workplace.

(3) A code of practice approved under clause (1)(b) must include a completed workplace checklist that has enough detail to demonstrate that consideration has been given to the general principles of traffic control set out in the *Temporary Workplace Traffic Control Manual*.

Safe-work procedure required for other work

24.4 Except as provided in Section 1.17 for emergency services agencies, an employer must ensure that any work other than construction, maintenance or utility work is not conducted at a temporary highway workplace until the employer adopts a written safe-work procedure for the type of work to be conducted that identifies the measures to be taken to provide an adequate level of safety in relation to all of the factors set out in subsection 24.3(2).

Requirements for employees on foot

24.5 Except as provided in Section 1.17 for emergency services agencies, an employer who conducts work at a temporary highway workplace must ensure that all of the following requirements are met for an employee who is on foot at the temporary highway workplace:

- (a) the employee must wear high-visibility safety apparel that is in accordance with all of the following:
 - (i) for the selection, use and care of the apparel, the latest version of CSA standard CSA Z96.1, “Guideline on selection, use and care of high-visibility safety apparel”,
 - (ii) for the design and performance of the apparel, the latest version of CSA standard CSA Z96, “High-visibility safety apparel”;
- (b) when directing traffic at or near the temporary highway workplace, the employee must use a flashlight with a red cone or an equivalent light for use at all of the following times:
 - (i) from a half hour after sunset to a half hour before sunrise,
 - (ii) any time when visibility is so limited, by fog, rain, snow or other atmospheric conditions or by poor lighting, that a person is not clearly visible at a distance of 100 m;
- (c) if the employee has a vehicle equipped with flashing lights, the employee must have the flashing lights turned on while working at the temporary highway workplace.

Part 25: Occupational Diving

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Occupational Diving Regulations* made under the Act.)

Part 26: Violence in the Workplace

(This heading is here as a placeholder only. There is no content for this Part yet. For the current regulations on this subject matter, see the *Violence in the Workplace Regulations* made under the Act.)

Part 27: Not Allocated

(This heading is here as a placeholder only. There is no content for this Part yet.)

Part 28: Not Allocated

(This heading is here as a placeholder only. There is no content for this Part yet.)

Part 29: Not Allocated

(This heading is here as a placeholder only. There is no content for this Part yet.)

Part 30: Reviews and Appeals

Definition for Part 30

30.1 In this Part,

“appeal” means an appeal of an order or decision filed under Section 69 of the Act or an appeal of an administrative penalty filed under Part 31: Administrative Penalties.

Application of Part 30

30.2 This Part applies with respect to all of the following:

- (a) all orders and decisions referred to in Sections 67 and 69 of the Act;
- (b) all administrative penalties imposed under Part 31: Administrative Penalties.

Time period for Director to review officer’s order or decision

30.3 A review or alteration by the Director of an order or decision of an officer under Section 67 of the Act or of an administrative penalty under Section 31.8 may be carried out

- (a) for a matter that is not appealed, at any time within the 30 days after the date the order, decision or administrative penalty is served on the recipient;
- (b) for a matter that is appealed, no later than 10 days after the Director is notified by the Board under subsection 69(5) of the Act or subsection 31.13(2), as the case may be, that a notice of appeal of the order, decision or administrative penalty has been filed.

Information required for notice of appeal

30.4 In addition to the information required by subsection 69(3) of the Act, a notice of appeal must be in writing and must include all of the following information about the person appealing:

- (a) name;
- (b) address;
- (c) telephone number.

Onus on appellant

30.5 In any appeal, the onus is on the appellant to establish, on a balance of probabilities, that the order, decision or administrative penalty should not be confirmed.

Technical irregularities and defects

- 30.6** (1) No proceedings before the Board are invalid by reason of any defect in form or any technical irregularity.
- (2) The Board must not revoke an order, decision or administrative penalty because of a defect in form or a technical irregularity, including a defect in the information provided as required by Section 31.4 in a notice of administrative penalty, unless the

person appealing the order, decision or administrative penalty establishes on a balance of probabilities that they were prejudiced by the defect or technical irregularity and the Board cannot cure the prejudice through an extension of time or any other procedural ruling that the Board could make.

Record of decision

- 30.7** (1) For each appeal hearing it conducts, the Board must maintain a record of its decision-making process to submit to the court in the event of an application for review of a decision of the Board under subsection 70(2) of the Act.
- (2) A record of the Board's decision-making process must consist of all of the following:
- (a) the Board's decision;
 - (b) all documents submitted to the Board with respect to the Board's decision; and
 - (c) all documents produced by the Board with respect to the Board's decision.
- (3) For greater certainty, notes made personally by any member of the Board in a hearing or in related preparations or deliberations are not part of the record of the Board's decision-making process for the purposes of this Section.

Part 30 added: O.I.C. 2014-405, N.S. Reg. 143/2014.

Part 31: Administrative Penalties

Definitions for Part 31

31.1 In this Part,

“administrative penalty” means an administrative penalty imposed under Section 31.2;

“former regulations” means the *Occupational Health and Safety Administrative Penalties Regulations*, N.S. Reg. 291/2009;

“presented for service”, in relation to either of the following documents, means given to an agent in order for the agent, on behalf of an officer, to serve the document on a person by a form of delivery set out in clause 40(2)(a) or (b) of the Act:

- (i) a notice of administrative penalty being served in accordance with subsection 31.3(1),
- (ii) a notice of an extension of the time period for service of a notice of administrative penalty being served in accordance with subsection 31.3(3);

“workplace inspection report” means a written report of a workplace inspection conducted by an officer.

Officer may impose administrative penalty

- 31.2** (1) An officer may impose an administrative penalty on a person who has contravened a provision of the Act or a regulation made under the Act and has been issued an order with respect to the contravention.
- (2) An administrative penalty is imposed on a person by serving the person or having the person served with a notice of administrative penalty.

Time period for serving notice of administrative penalty

- 31.3** (1) Except as permitted in subsection (2), a notice of administrative penalty must be personally served by an officer or presented for service no later than 14 days after the date the written order is issued respecting the contravention for which the administrative penalty is being imposed.
- (2) If the Director considers it necessary to extend the time period for imposing an administrative penalty on a person, the Director must notify the person that an administrative penalty is being considered and may be imposed at a later date.
- (3) A notice of an extension under subsection (2) must be personally served by an officer or presented for service no later than 14 days after the date the written order is issued respecting the contravention for which the administrative penalty is being considered.

Content of notice of administrative penalty

- 31.4** (1) A notice of administrative penalty must be in writing and must contain all of the following information:
- (a) the name of the person on whom the administrative penalty is imposed;
 - (b) the provision of the Act or the regulation made under the Act that was contravened;
 - (c) the substance of the contravention;
 - (d) the identifying number assigned to the order and workplace inspection report respecting the contravention;
 - (e) the amount of the administrative penalty;
 - (f) when and how the administrative penalty must be paid;
 - (g) the process for filing an appeal of the administrative penalty.
- (2) Further particulars that support the substance of a contravention as indicated in accordance with clause (1)(c) may be set out in either or both of
- (a) an order respecting the contravention; or

- (b) a workplace inspection report respecting the contravention.

Amount of administrative penalty

31.5 (1) The amount of an administrative penalty is as set out in the following table:

Person On Whom Administrative Penalty Imposed	Administrative Penalty		
	1st	2nd	3rd or subsequent
employer, contractor, constructor, supplier, provider of occupational health or safety service, architect or professional engineer	\$500	\$1000	\$2000
employee who has supervision responsibilities, owner or self-employed person	\$250	\$500	\$1000
employee	\$100	\$200	\$500

- (2) Subject to subsection (3), in determining whether an administrative penalty for a contravention is a 2nd, 3rd or subsequent penalty for the purpose of subsection (1), only an administrative penalty that was imposed within the 3-year period immediately before the date of the contravention is counted as a previous administrative penalty.
- (3) The 3-year period referred to in subsection (2) must not include any period of time earlier than the date this Part comes into force.

Administrative penalty imposed for each day

31.6 An officer may impose an administrative penalty for each day a contravention continues.

Administrative penalty does not relieve person from duty to comply

31.7 The imposition of an administrative penalty does not relieve a person from their duty to comply with the order respecting the contravention for which the administrative penalty was imposed.

Director may review administrative penalty

31.8 (1) Subject to the time limit in Section 30.3, the Director may, on the Director's own motion, review an administrative penalty and do any of the following after consulting with the officer who imposed the administrative penalty:

- (a) amend the administrative penalty for any reason, including any of the following:
- (i) to correct a defect in form or a technical irregularity,
 - (ii) to correct a reference to a provision of the Act or a regulation made under the Act;

- (b) substitute an administrative penalty in a lesser amount as set out in the table in subsection 31.5(1), if the Director considers that an administrative penalty is warranted but disagrees as to whether the administrative penalty that was imposed is the 2nd, 3rd or subsequent penalty, as the case may be;
 - (c) revoke the administrative penalty.
- (2) On amending, substituting or revoking an administrative penalty, the Director must
- (a) serve notice of the amendment, substitution or revocation on the person ~~to~~ [on] whom the administrative penalty was imposed; and
 - (b) if the Director has been notified by the Board as referred to in clause 30.3(b) that a notice of appeal of the administrative penalty has been filed, provide the Board with a copy of the notice served on the person under clause (a).

Paying administrative penalty

- 31.9** (1) Except as provided in subsection (2), a person who is served a notice of administrative penalty must pay the administrative penalty no later than 30 days after the date the notice is served.
- (2) An administrative penalty that is appealed is not required to be paid unless the Board decides that an administrative penalty must be paid, and in that case it must be paid no later than 30 days after the date of the Board's decision.

Failure to pay administrative penalty

- 31.10** If an administrative penalty is not paid by the applicable deadline in Section 31.9, the amount of the administrative penalty is a debt due to the Crown in right of Nova Scotia.

Person required to pay administrative penalty not charged with offence

- 31.11** A person who is required to pay an administrative penalty for a contravention must not be charged with an offence for the same contravention.

Collected penalty funds used for safety initiatives

- 31.12** All funds from penalties collected under this Part must be deposited into the Occupational Health and Safety Public Education Trust Fund and used for the purpose of occupational health and safety initiatives, including public education.

Appealing administrative penalty

- 31.13** (1) A person on whom an administrative penalty is imposed may appeal the administrative penalty by filing a notice of appeal with the Board no later than 30 days after the date the person is served with the notice of administrative penalty.
- (2) The Board must notify the Director in writing that a notice of appeal has been filed within a reasonable time after receiving the notice and before beginning the appeal hearing.

Extension for filing appeal of order when administrative penalty imposed

- 31.14** (1) If a person is served with a notice of administrative penalty, the time period set out in subsection 69(2A) of the Act for filing a notice of appeal of the order respecting the contravention for which the administrative penalty is imposed is extended to no later than 30 days after the date the person is served with the notice of administrative penalty.
- (2) The extension under subsection (1) for filing a notice of appeal of an order also applies if the administrative penalty is imposed after a time extension by the Director under subsection 31.3(2), unless the order has already been appealed and a decision has been rendered by the Board.

Appealing administrative penalty after amendment or substitution by Director

- 31.15** (1) If an administrative penalty is appealed to the Board and the Director subsequently amends or substitutes an administrative penalty, the appeal will proceed as an appeal of the Director's decision.
- (2) The appellant in an appeal described in subsection (1) may amend their notice of appeal if permitted to do so by the Board, and any amended notice of appeal must be submitted in the form and manner required by the Board.
- (3) If an administrative penalty has not been appealed and the Director amends or substitutes an administrative penalty, the person on whom the amended or substituted penalty is imposed may appeal the administrative penalty as amended or substituted by the Director by filing a notice of appeal with the Board no later than 30 days after the date the person is served with notice of the amended or substituted administrative penalty.
- (4) Subsection 31.13(2) and Sections 31.16 to 31.21 apply with the necessary changes in detail to an appeal under subsection (3) of an administrative penalty that has been amended or substituted by the Director.

Notice of appeal of administrative penalty

- 31.16** A notice of appeal of an administrative penalty must be in writing and must include or be accompanied by all of the following:
- (a) the same information as required by Section 30.4 for a notice of appeal under Part 30;
 - (b) a copy of the notice of administrative penalty that is being appealed;
 - (c) the grounds of the appeal;
 - (d) the relief requested.

Board must conduct hearing

- 31.17** (1) The Board must conduct a hearing of an appeal of an administrative penalty, either orally or through written submissions.
- (2) The Director is a party to any appeal heard under this Part.

Power of Board on appeal

31.18 The Board must do 1 of the following on an appeal of an administrative penalty:

- (a) confirm the administrative penalty;
- (b) revoke the administrative penalty;
- (c) substitute an administrative penalty in a lesser amount as set out in the table in subsection 31.5(1), if the Board considers that an administrative penalty is warranted but disagrees as to whether the administrative penalty that was imposed is the 2nd, 3rd or subsequent penalty, as the case may be.

Administrative penalty appeal must be heard with appeal of order

31.19 If a person appeals both an order and an administrative penalty respecting the contravention for which the order was issued, the Board must hear the appeals together, but must render separate decisions for the order and the administrative penalty.

Board must provide copy of decision

31.20 The Board must provide a copy of its decision in an appeal of an administrative penalty to the person who appealed the administrative penalty and to the Director.

Application of Part 30: Appeals to appeal of administrative penalty

31.21 Part 30: Appeals applies to an appeal of an administrative penalty under this Part.

Transition for administrative penalty appeals

31.22 An appeal of an administrative penalty must be heard and determined in accordance with the former regulations in either of the following circumstances:

- (a) the appeal was initiated under the former regulations before this Part came into force and the appeal was not completed before this Part came into force;
- (b) the appeal is initiated under the former regulations after the coming into force of this Part.

Part 31 added: O.I.C. 2014-405, N.S. Reg. 143/2014.