

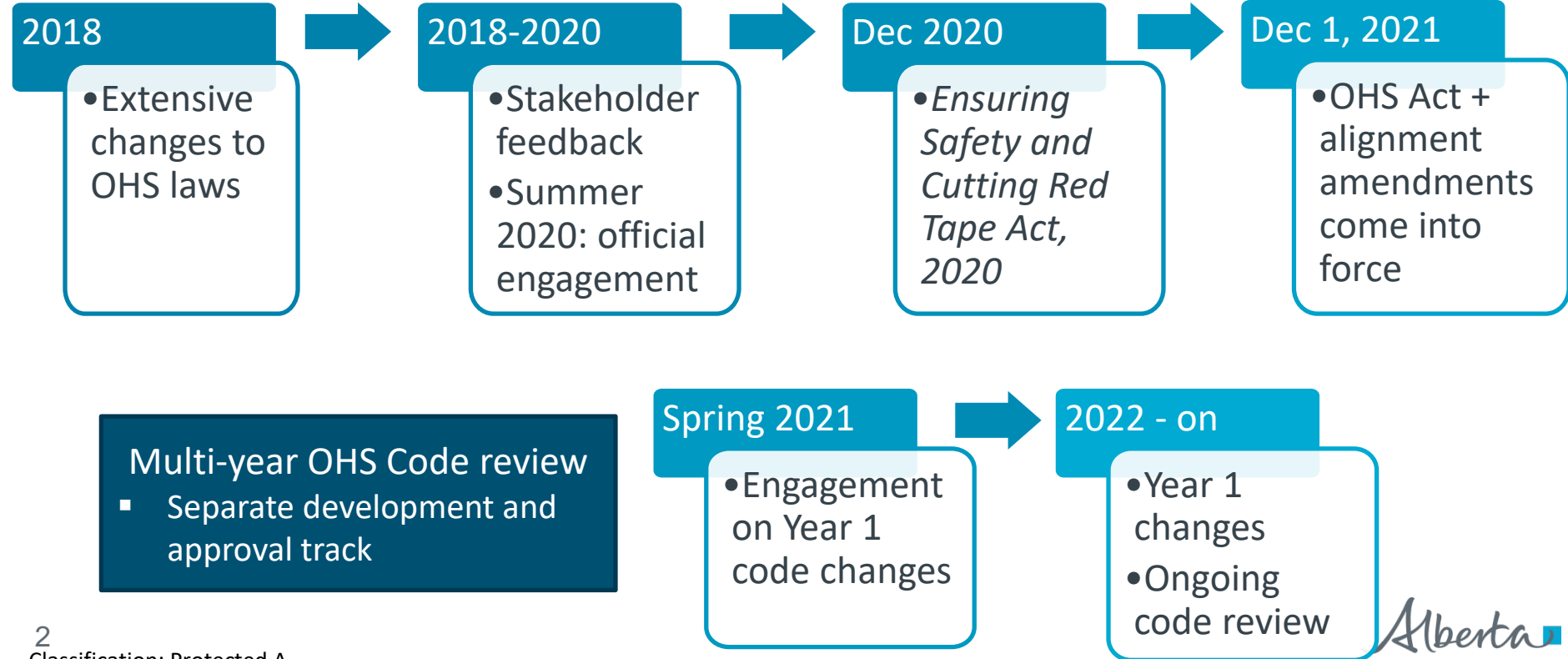
OHS Legislation Changes

Ensuring Safety and Cutting Red Tape Act, 2020



Alberta 

Legislative Reform



What we heard

- Stakeholders support:
 - Simple guidelines that provide the flexibility needed for the diversity of workplaces in Alberta
 - Clear definitions and streamlined processes
 - Reduction of burdensome documentation and unnecessary regulatory requirements
 - Maintaining workers' fundamental rights and protections

Key Concepts in Alberta OHS Legislation

- Internal responsibility system
 - Everyone in the workplace is responsible for OHS, according to their authority and control
 - Work site parties have processes in place to manage health and safety
 - External monitoring and enforcement by government
- Three fundamental rights of workers
 - Right to know
 - Right to participate
 - Right to refuse dangerous work

Key changes

- Health and safety committees (HSC) and representatives (HSR)
- Radiation equipment
- Dangerous work refusals
- Disciplinary action complaints
- Work site party (WSP) obligations
- Serious incident and injury reporting
- Health & safety programs
- Consolidation of most of the OHS Regulation to OHS Act / Code

Health and Safety Committees (HSC) and Representatives (HSR)

HSC and HSR

OHS Act

Residing in the Act :

- High level duties of HSCs/HSRs
- Framework requirements for HSCs/HSRs
- Employer must cooperate with the HSC/HSR, respond in a timely manner and ensure the HSC/HSR is meeting their obligations

OHS Code

Residing in the Code :

- More specific or technical requirements for HSCs/HSRs
 - Membership selection
 - Terms of Reference
 - Training requirements
 - Special meetings
 - Quorum
 - Posting of contact info for HSC/HSR

Overall:

- Greater flexibility for operations
- Simpler calculation of worker numbers for HSC/HSR requirement

When is a HSC or HSR required?

- HSC is required for employers that **regularly employ** 20 or more workers
- HSR is required for employers who **regularly employ** 5-19 workers
- Employers have flexibility in determining what “regularly employed” means for their business
 - For the purposes of HSC/HSR thresholds, unpaid volunteers are not counted
- HSC or HSR must be established on multiple employer work sites **that do not have a prime contractor** (subject to the threshold numbers for regularly employed workers)

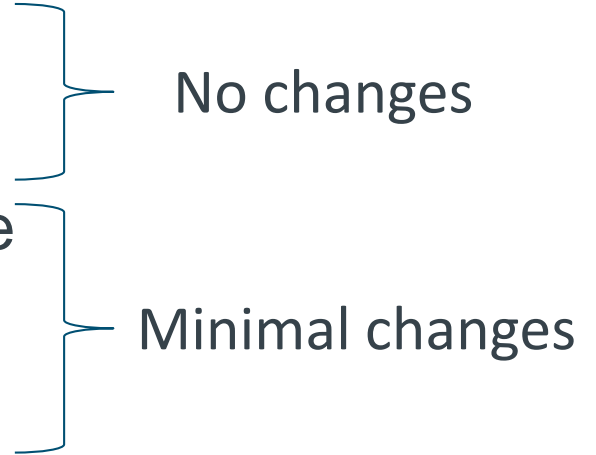
Prime contractor sites: HSCs/HSR

- HSCs and HSRs are no longer mandatory for work sites with a prime contractor
 - Prime contractor must establish a system to ensure employer/worker cooperation and designate a person to ensure cooperation occurs
- Employers at the work sites will maintain their own employer-level HSC or HSR (depending on the number of workers)

Duties of HSC and HSR

- The duties of the HSC and HSR are to:
 - the receipt, consideration and disposition of concerns respecting the health and safety of workers
 - participation in the employer's hazard assessment
 - the making of recommendations to the employer respecting the health and safety of workers
 - review of the employer's work site inspection documentation
- When an officer inspects a work site, the officer may request **any member** of the HSC or their designates or a HSR to be present at that inspection

HSC/HSR – Code Requirements

- HSC co-chairs
 - Quorum
 - Duties/training considered work time
 - Special meetings
 - Posting of contact info
- No changes
- Minimal changes
- 

HSC Membership Selection

- Employer chooses number of worker members needed to:
 - equitably represent any union at the work site and non-unionized workers
 - address relevant occupational health and safety concerns
- Non-unionized workers choose the non-unionized worker representatives
- The relevant union chooses the unionized worker representatives
- Employer chooses employer representatives
- If names not provided in timely manner, employer can appoint

HSC Terms of Reference

- Processes for
 - selecting co-chairs
 - selecting worker members to the committee to ensure worker members are representative of the workers for that employer
 - conducting meetings, and forwarding health and safety concerns to the attention of the employer
 - replacing a member during the member's term of office
 - dispute resolution, for when the committee cannot agree on a recommendation to the employer
 - addressing circumstances where committee members are not fulfilling their duties
- Establishing a term of office for committee members
- Frequency for regular committee meetings and how meeting records will be maintained

HSC/HSR Training

- Removing requirements:
 - training by a designated training organization
 - mandatory HSC/HSR training curriculum
- All HSC members are trained (not just co-chairs)* or the HSR
- Training must cover
 1. Roles and responsibilities of co-chairs and members on HSC and HSR
 2. Obligations of work site parties
 3. Rights of workers

*Except for farms and ranches

HSC/HSR – Removed/moved

- Removed:
 - HSC/HSR duty to complete work site inspections
 - Disclosure of personal information
- Moved:
 - Duties of employers and prime contractors (OHS Act, General obligations)
 - Inspection of work site with officer (OHS Act, Section 15)

Radiation equipment

Radiation Safety

- The *Radiation Protection Act* and its regulations will be incorporated into the OHS Act and OHS Code
- Changes to radiation requirements will only be administrative or where alignment is needed
 - Enforcement is being transferred to OHS officers
 - Inspection by an authorized radiation health inspection agency
 - Registration with an authorized radiation health registration agency
- OHS enforcement tools, such as administrative penalties, will apply to radiation contraventions
- Radiation overexposure is an OHS reportable incident

Dangerous Work Refusals

Dangerous Work Refusals

New

- Definition of “undue hazard” – a hazard that poses a serious and immediate threat to the health and safety of a person
- Streamlined process
- No formal requirement to involve HSC/HSR in inspection
 - Notify them of refusal
 - Respond to their recommendations
- Where possible, worker ensure refusal does not endanger others

No Change

- Right to refuse is maintained
- If worker believes undue hazard persists, can report to OHS

Disciplinary Action Complaints

Disciplinary Action Complaints

New

- Renamed from 'discriminatory action'
- A worker may file a complaint within 180 days after the contravention occurs
- Where a collective agreement exists, complaints must be addressed through the agreement's grievance process
- Officers may dismiss vexatious, frivolous, trivial, without merit, and bad faith complaints
- A worker whose complaint has been dismissed may request a review by a director

No Change

- No person may take any disciplinary action against a worker for fulfilling their duties or exercising their rights under OHS laws
- Reverse onus provision maintained
- Remedies that officer may employ remain the same, with the additional requirement that money earned elsewhere must be deducted from any compensation award

Prime Contractor Obligations

Prime Contractors

- Are required on work sites with 2 or more employers for:
 - Construction sites
 - Oil and gas sites
 - Work sites designated by a Director
- May establish prime contractor at other types of multiple-employer work sites

Prime contractor obligations (changed):

- Establish a system or process to ensure cooperation between employers and workers in respect to health and safety
- Designate a **person** in writing to implement that system

Work Site Party (WSP) Obligations – Summary of Changes

WSP	Updates
<p>Employer</p> <p>*Now includes self-employed person</p>	<ul style="list-style-type: none"> • New: ensure HSC compliance • Moved: ensure competency (for work that may endanger...)
<p>Supervisor</p>	<p>Removed:</p> <ul style="list-style-type: none"> • Competency requirement • PPE requirement (exists in Code)
<p>Worker</p>	<p>Moved from OHS Regulation:</p> <ul style="list-style-type: none"> • Participate in training • Competency (work that may endanger...)

WSP	Updates
Supplier	<ul style="list-style-type: none"> • Addition of PPE
Service Provider	<ul style="list-style-type: none"> • Wording change: “<u>or in vicinity of</u> ...”
Contracting Employer *Formerly contractor	<ul style="list-style-type: none"> • Ensure that employers they are directing comply with OHS legislation • Communicate hazards
Owner	<ul style="list-style-type: none"> • Communicate hazards (moved) • Land or premises do not need to be in the control of the owner

Reporting Serious Injuries and Incidents and Potentially Serious Incidents (PSIs)

Reporting serious injuries and incidents

New

Addition to the list of items the prime contractor, or if no prime contractor, the employer must report:

- Illness that results in hospitalization or fatality
- Incident where there is reason to believe a worker has or will be hospitalized
- Exposure to radiation in excess of limits in the OHS Code

No Change

Items employer or prime contractor must report:

- Injury resulting in hospitalization
- Incident resulting in death of worker
- Explosion, fire, or flood that causes or has potential of causing a serious injury or illness
- Collapse of crane, derrick or hoist
- Collapse or failure of building or structure
- Mine and mine site incidents (list is no longer duplicated in the OHS Act)

Non-injury reporting

- Serious incidents involving a fire, flood, or a derrick, crane, hoist or structural collapse without injury or illness can be reported via the OHS Online Incident Reporting (OIR) service
 - OHS Act 33(2) (c)-(e) with no injuries or illness
- More flexibility, better use of resources

Potentially Serious Incidents

New

- Clearer process by including a definition of a PSI:
 - Likelihood of causing a serious injury or illness, and
 - Need for corrective action to prevent recurrence
- Initial notification to OHS no longer required

No Change

- Prime contractor, or if no prime contractor, the employer is still required to complete an investigation
- PSIs still have to be reported to OHS and the HSC/HSR (when the investigation is complete)
- Information from potentially serious incident reports will be used for information and education, and not inspections in most cases

Health and Safety Programs

Health and Safety Program Requirements

- Required for employers who **regularly employ** 20 or more workers
 - Includes volunteers
- Streamlined OHS program requirements
- Flexibility to choose a program that works for the work site

Consolidation of OHS Regulation

Retained

1. Necessary definitions and interpretations
 - Regularly employed
2. Research & education programs
3. Surveillance programs
4. Coming into force

Removed

- Board of Examiners for Mining
- Training (HSC)
- Approvals (HSC/HSR)
- Out-dated requirements
- Duplicative requirements

Overview of other changes

Act changes

- Allowances, acceptances and approvals
- Administrative penalties
- Director review
- Appeals

Code changes

- Administrative changes
 - PPE definition
- Farms and ranches
- Domestic workers

Stakeholder Support and Questions

Implementation preparation

- HSCs:
 - Update TOR
 - Train all committee members
- Regularly employed
 - HSC/HSR vs health and safety programs
- Prime contractors:
 - Set up system or process to ensure cooperation
 - Designate a person for health and safety
- Update reporting processes (PSIs, non-injury incidents)
- PPE
 - Same requirements as for equipment

More information + Questions

- Additional information on the changes are available at [Alberta.ca](https://www.alberta.ca)
- Updated OHS legislation available from the Queen's Printer
 - [OHS Act](#)
 - [OHS Regulation](#)
 - [OHS Code](#)