

Farm and Ranch Workplace Legislation

Recommendations Report

Report to Ministers

Technical Working Group: Review of Existing Health Related Requirements in the Occupational Health and Safety Code

Submitted to:
Minister Carlier
Agriculture and Forestry

Minister Gray
Labour

28 March 2017

Letter to Ministers

Dear Minister Carlier and Minister Gray,

28 March 2017

On behalf of Technical Working Group 3 (TWG 3), I am pleased to submit their recommendations and advice regarding application of the health-related requirements in the Occupational Health and Safety Code to the farm and ranch industry.

It has been my privilege to work with and learn from this diverse group who spent many hours together exploring how the Code might be best introduced and applied to Alberta's farm and ranch workplaces. Their experience, thoughts and ideas are reflected in the pages that follow. I offer them my gratitude for their diligence in bringing forward the views of those they represented while seeking to understand those that were different. They truly adopted a team approach. As reflected in this report, the group extensively explored and discussed the interpretation and potential application of the assigned Code provisions in the farm and ranch context. Sometimes the solutions to problems came quickly and at other times they were elusive... only appearing after extensive (and repeated) dialogue. I would like to thank the technical support staff from your ministries who helped to educate us, and were always at hand to answer a question or provide information essential to the group's inquiry. The help of other Government and Secretariat staff in managing all the logistics involved (often quietly behind the scenes) was also greatly appreciated. TWG 3 started their journey working with TWG 4 members to address foundational Code elements. I would also like to recognize Chair Donald Mallon and his team's contributions to our joint efforts.

The fact that group members achieved consensus on all these recommendations, save one, demonstrates their commitment to finding practical solutions that provide safe and healthy workplaces while enabling employers to profitably operate their businesses. It is the hope of TWG 3 members that these recommendations will help facilitate the finalization of these workplace safety rules and the development of farm and ranch industry resources, education and structures essential to their implementation can soon begin.

The Review of Existing Health Related Requirements in the Occupational Health and Safety Code (OHS) Technical Working Group (TWG) participants listed below agree to, and support, the report's content.

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Respectfully Submitted

A handwritten signature in black ink, appearing to read 'W. Hassen', with a large, stylized flourish at the end.

Wendy Hassen, CPF, C.Med.

Chair, Review of Existing Health Related Requirements in the Occupational Health and Safety Code Technical Working Group

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Executive Summary

The Occupational Health and Safety (OHS) Act and Regulations to paid non-family workers became effective January 1, 2016.

Technical Working Group 3 (TWG 3) was formed to review general **health related provisions** applicable to all industries in Parts 1, 2, 3, 4, 5, 7, 10, 11, 14, 16, 17, 18, 26, 27, 28 and 29 of the OHS Code, and to provide recommendations on their application to the farm and ranch industry. Technical Working Group 4 (TWG 4) was asked to review 13 general **safety related provisions** in the OHS Code.

TWG 3 and 4 worked together to review four foundational policy considerations within the Code:

1. Definition of “Farm and Ranch”
2. Part 2 Hazard Assessment
3. Part 3 Specifications and Certifications, and the
4. Definition of “Worker Competency”

The mandate framed by Government for each group was to:

*Offer **experience** and **sector-specific perspective**; to provide **advice, suggestions and recommendations**; to inform the development of technical rules for Alberta’s farm and ranch sector.*

Eleven Technical Working Group 3 members ([Appendix A](#)) were appointed by Government and have current or past experience in the farm and ranch industry in the roles of Employers/business owners, workers and OHS Technical Experts. A neutral third-party Chair was appointed to facilitate the group’s discussion. Technical and administrative support staff were provided by the Ministries of Agriculture and Labour.

The group met on seven occasions (13 days) between June 16, 2016 to January 18, 2017. Time was also spent during three of these sessions working with TWG 4.

Consensus Based Decision Making

The decision-making process outlined in the [Terms of Reference of the TWG](#) provided that the group seek consensus based decisions. Consensus was defined to be:

“A decision or direction that every TWG participant agrees to actively support. The group has gone through a decision-making process where the discussion is heard by all and the decision is an expression of the wisdom of the group.”

The group adopted discussion processes that focused on fulfilling this mandate and consensus recommendations were achieved by TWG 3 for 13 Code Parts assigned.

It is important to understand that these recommendations do not necessarily reflect the “preferred” approach of each group member, but instead an approach all group members could support to best meet the interests of all group members and where applicable, their constituents.

Research and Review of the Code Parts

At the outset of the TWG review process, OHS Technical Support provided a Discussion Paper for TWG 3 and 4 which provided a significant amount of background information to support the review process. To ensure a thorough review of all the provisions, OHS Technical Support prepared a “Homework Guide” outlining priority and supplemental reading materials for each Code part that all TWG members reviewed in advance of and during meetings. A “walk through” of the sections of each Part was also undertaken. Where important questions arose, additional information was collected by OHS Technical Support or by group members. Sub-groups were formed on two occasions as a means to facilitate additional examination of topics and problem solving.

Recommendations

Overarching Consensus Recommendations: Foundational Concepts Underpinning all TWG 3 Recommendations

The following general principles adopted by TWG 3 are important as a foundation to the specific recommendations outlined for each Code Part:

- Stakeholder groups who are impacted by these recommendations need to be consulted about them by Government.
- Clear wording and plain language is needed in the Code and Explanation Guide to support understanding of the intent and requirements of the Code.
- Effective education and communication about the application and interpretation of these provisions; including practical tools and resources will be essential for successful implementation of the Code in the farm and ranch community.
- Formation of a Farm Safety Association will be instrumental in helping to create standards and guidelines to assist farm and ranch employers and workers in applying Code provisions.
- Hazard Assessment is a foundation for application of the OHS Code generally. This is important for designing reasonable approaches to ensure workplace health and safety in the farm and ranch industry where application problems exist.
- A realistic strategy for implementation of the Code needs to be developed to “phase in” orientation, education and enforcement so those in the farm and ranch community can be successful in Code adoption.
- Proceeding with these recommendations (if accepted) as soon as possible, including development of a clear and well communicated implementation plan which supports industry taking the lead.
- It is important to monitor the progress of implementation of the Code in the farm and ranch industry and be open to adjustment as this will be an evolutionary process with new learning achieved over time.

Note: Parts 1, 2 and 3 were completed jointly by TWG 3 and 4.

Part 1—Definitions and General Application

Farming and Ranching Operations

Consensus Recommendation:

(1) Subject to subsection (2) and except as expressly provided in this Code, this Code applies to the following farming and ranching operations:

- a) the production of crops, including fruits and vegetables, through the cultivation of land
- b) the raising and maintenance of animals and birds
- c) the keeping of bees
- d) the operations of greenhouses, mushroom farms, nurseries or sod farms and riding academies
- e) farm-raising finfish, shellfish or other aquatic animals within a confined space and under controlled feeding and harvesting conditions
- f) operation and maintenance of equipment and facilities associated with a) through e)
- g) transportation, application and conditioning of "own use" materials associated with a) through e)

(2) For greater certainty, the following are not farming and ranching operations:

- a) the processing of food or other products from the operations referred to in subsection (1)
- b) landscaping
- c) the raising or boarding of pets

Note: Key principles in developing the definition are not to negatively impact the protections employees currently have by including them as part of the agriculture industry, and that this definition must be subject to further consultation with groups that may be affected.

Worker Competency

Consensus Recommendation:

The definition of "Competent" as found in Part 1 namely: *"in relation to a person, means adequately qualified, suitably trained and with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision;"* can be applied to farms and ranches without modification.

Part 2—Hazard Assessment, Elimination and Control (HAEC)

Consensus Recommendation:

The Present Code provisions can be applied to the farming and ranching industry subject to the following:

- Simple/easy to use, practical, tools, templates, best practice manuals are created and

made available to farm employers to support them in efficiently implementing hazard assessments, elimination and control provisions

- An appropriately funded Industry-led safety association\structure is created
- Government provides incentives and financial supports to help the industry engage in the process, as well as provide assistance and resources
- Approach control and elimination on an incremental\staged basis starting with highest risks
- Provide clarity for industry in a number of interpretive areas to support application

Part 3—Specifications and Certifications

Consensus Recommendation:

Consensus was achieved on the following:

- Legacy* Equipment must be grandfathered
- 12(a) can be applied to farms and ranches
- The legislation needs to be updated to reflect technological and other changes

*The definition of “Legacy” is: *in existence prior to the expiration of 1 year after implementation of the Code revisions.*

While options and ideas were explored, consensus was not reached on application of the remaining sections of Part 3 relating chiefly to application of manufacturer’s specifications and requirements for certification by a professional engineer.

Part 4—Chemical Hazards, Biological Hazards and Harmful Substances

Goal of this Part:

To ensure workers are protected from exposure to harmful substances in their workplace.

Consensus Recommendation:

Part 4 can be applied to farms and ranches subject to the following alteration, modification or conditions:

1. Add wording relating to application of clause 16(2) to 20. The wording should be changed\ a statement added to clarify that:
 - a. A Hazard Assessment undertaken in Part 2 would be a foundation to identifying a potential risk of exceeding the Occupational Exposure Limits (OEL) to a hazardous substance and only where suitable controls could not solve the problems identified, that measurements of the OEL levels by experts would be required.
 - b. The main purpose of the technical formulas outlined in the Code are to provide consistent standards for compliance by experts hired to perform those tests and to assist the employer in hiring competent experts to ensure the standards are met.

2. Clarification of the meaning of “showers” in clauses 23 and 24 to be broad to clarify that compliance would not require building of showers in fields, etc.

Part 5—Confined Space

Goal of this Part:

No workers are harmed due to entering or working in a restricted or confined space.

Consensus Recommendation:

All provisions of Part 5 can be applied to farms and ranches without alterations, modifications or conditions, excepting structures containing grain as outlined below:

- Flat bottomed grain bins are EXEMPT from classification as a confined space due to the low risk of atmospheres that may be immediately dangerous to life and health (IDLH) as a result of bin design and the availability of an entry door.

This determination is based on the premise that flat bottom grain bins are structures that will not completely empty by gravity and are designed with an unrestricted ground level opening for entry. For these types of structures entry must occur to reclaim the residual grain using powered equipment or manual means.

- Hazard Assessment and control process be used for flat-bottomed grain bins and other like farm structures/spaces to identify other potential hazards associated with these structures such as engulfment or entanglement and that these controls are implemented prior to the initiation of work within these spaces.
- Government of Alberta (GoA) develop the necessary farm specific education tools, guides, forms, posters and confined space entry training programs to assist the industry. To assist the Government of Alberta, the TWG has developed a chart of the primary confined/restricted spaces as a general guide for policy makers, the industry and farm operators. (See [chart](#) on page 23)
- These Provisions to address Part 5 - for application to “Structures containing grain” should be included in the farm and ranch section of the Code.

Re-order the Part 5 provisions to put Hazard Assessment first to better reflect this as the underpinning of the safety process.

Part 7—Emergency Preparedness and Response

Goal of this Part:

To ensure plans and resources are in place to address emergencies on work sites.

Consensus Recommendation:

Part 7 can be applied to farms and ranches without alterations, modifications or conditions.

Part 10—Fire and Explosion Hazards

Goal of this Part:

To ensure workers are protected from fire and explosion risks associated with the use of flammable and combustible substances at the workplace.

Consensus Recommendation:

Part 10 can be applied to farms and ranches without alteration, modification or conditions except for the following provisions:

- **Classification of worksites - 162.1(1)**
 - Competence of farmers can be recognized for application of this section. A professional Engineer is not required.
 - While the provisions can be applied to farms and ranches it is recommended that a guide or bulletin specific to agriculture is needed to assist employers with Hazard Assessment (e.g. Risk of grain elevator\bin explosions).
- **Hot work -169** - replace with special provision that requires a hazard assessment and a safety plan to be completed.
- **Welding**
 - 171.1(1) - required credentials. Remove whole section and replace with special provision that applies the “competent worker” definition in the Code and requires a hazard assessment and a safety plan to be completed.
 - 171.1 (2) regarding Manufacturers Specs
As per the “Homebuilt Equipment” approach (Option e) outlined for the Manufacturing Specifications topic in [Appendix F](#), exempt this provision and address in a specific part of the Code for farms and ranches which would also apply hazard assessment provisions as the cornerstone for addressing this exemption
- **Compressed and liquefied gas- 171(4) (a) and (b)**
 - **Grandfather legacy equipment** and adopt the TWG 4 recommendation of definition of “Legacy” as: in existence prior to the expiration of 1 year after implementation of the Code revisions.

Part 11—First Aid

Goal of this Part

Providing for first aid to workers when needed

Consensus Recommendation:

The provisions of Part 11 could be applied to farms and ranches to farms and ranches without alteration, modification or conditions, except for Schedule 2; which will be replaced with the following provisions in the recommended Farm and Ranch Section:

Kits:

Type P single user (in vehicle) - This could be for one person working alone or a crew when working close to base. A #2 kit must be available at a worksite when there is more than 1 worker where there is a central worksite more than 20 kilometers from where they are working.

First Aid Training:

Require an Emergency First Aider if more than 1 employee at the worksite.

When 10 or more employees: Require 1 Emergency First Aider and 1 Standard First Aider.

Emergency Transportation:

Apply requirements provided in Part 28 Working Alone except if more than 40 km and more than 10 people: Require a stretcher, blanket and splint.

The (recommended) Farm and Ranch Safety Association will conduct a review of these provisions in 2-4 years.

Part 14—Lifting and Handling Loads

Goal of this Part:

Protecting workers from musculoskeletal injuries.

Consensus Recommendation:

Part 14 can be applied to farms and ranches subject to a competent worker being able to conduct a Hazard Assessment under section 210.

It is also recommended that best practices and specific educational materials be developed for farms and ranches to address lifting and handling hazards common in the industry. (Research of other industry learnings may also assist in this regard.)

Part 16—Noise Exposure

Goal of this Part:

Protect workers from noise exposure that may compromise their hearing.

Consensus Recommendation:

Part 16 can be applied to farms and ranches with the following alteration, modification or conditions:

1. Add or change wording relating to application of clause 217 to 220 to clarify that:
 - a) A Hazard Assessment undertaken in Part 2 would be a foundation to identifying a potential risk of exceeding the allowable noise levels and only where suitable

controls could not solve the problems identified, that noise exposure assessments (e.g. testing with noise dosimeter) by qualified and competent experts would be required.

- b) The main purpose of technical formulas outlined in the Code are to provide consistent standards for compliance by experts hired to perform those tests and to assist the employer in hiring competent experts to ensure the standards are met.
2. 217(2) states: *Subsection (1) does not apply to alterations, renovations or repairs begun or work processes or equipment introduced before April 30, 2004.*

Apply this grandfathering provision to farms and ranches for a 12-month period after the effective date of application of the Code.

Part 17—Overhead Power Lines

Goal of this Part:

Protecting workers from contact with power lines.

Consensus Recommendation:

Part 17 can be applied to farms and ranches without alterations, modifications, or conditions.

Part 18—Personal Protective Equipment (PPE)

Goal of this Part:

When personal protective equipment is being used to control a hazard, it is used effectively and appropriately so the employee is protected.

Consensus Recommendation:

Part 18 can be applied to farms and ranches without alterations, modifications or conditions.

It is also recommended that application of these provisions for farms and ranches be explored/researched in future to enhance learning about safety effectiveness for farm and ranch applications.

Part 26—Ventilation Systems

Goal of this Part:

Where a mechanical ventilation system is chosen as a method of controlling worker exposure to contaminants, ensuring minimum requirements are met for design, maintenance and operation of the system.

Consensus Recommendation:

Part 26 can be applied to farms and ranches without alterations, modifications or conditions.

Part 27—Violence

Goal of this Part:

To protect workers from violence in the workplace.

Consensus Recommendation:

Part 27 can be applied to farms and ranches without alterations, modifications or conditions.

The definition of violence in the Code to be amended to include non-physical violence.

Part 28—Working Alone

Goal of this Part:

To ensure that workers working by themselves can do so safely.

Consensus Recommendation:

Part 28 can be applied to farms and ranches without alterations, modifications or conditions.

Part 29—Workplace Hazardous Materials Information System (WHMIS)

Goal of this Part:

To ensure workers and employers have the information they need to work safely with hazardous materials at Alberta worksites.

Consensus Recommendation:

Part 29 can be applied to farms and ranches without alterations, modifications or conditions.

Part 35—Health Care and Industries with Biological Hazards

Goal of this Part:

To protect workers from biological hazards.

Consensus Recommendation:

- Part 35 can be applied to farms and ranches except the provision of 527 -Recapping Needles – which should be exempt.
- A section in the Explanation Guide specific to farms and ranches should be developed.

Additional Recommendations

The following are additional consensus recommendations for consideration by government.

One-off “Casual” Farm Help (Exempt Farms) (joint work with TWG 3 and 4)

- **Request Government to address this matter as it is very important to the Industry and in examining solutions, adopt the following principles:**
 - Strive for clarity for the farm community about whether the Code applies to them and how.
 - Create a strong culture of workplace safety on farms and ranches for everyone in the industry (employers, workers and families).
 - Support a “level” playing field and not inadvertently create inequities or unfair advantages for some farms\ranches over others.
 - Consult with exempt farms and ranches to ensure their interests \needs are understood and considered.
- A commitment by government to provide supports for successful adoption of the OHS Code.
- Safety education and learning should be open to the family farm without employees.
- Interpretation of the Code: The OHS Code and OHS Code Explanation Guide be combined into one reference document.
- Opportunity for TWG 3 members to Review the Draft Regulations\Code provisions before the next phase of consultation.

Introduction

In Alberta, the legislative framework for occupational health and safety (OHS) is set out in the OHS Act. The OHS Act has broad requirements to protect and promote the health and safety of workers. It outlines the responsibilities of employers and others working at or involved with the work site.

Under the OHS Act, there are two additional pieces of legislation: OHS Regulation and OHS Code. The OHS Regulation contains general provisions related to reporting and documentation, general equipment standards, general protection and training of workers, duties of workers and administrative requirements.

The OHS Code contains the *specific technical* work site health and safety rules. It sets out the details for the “minimum” acceptable standards for protecting the health and safety of workers. The Code was enacted in 2003 and came into force in April 2004 (prior to that time 11 individual regulations covered various aspects of OHS).

Historically, farming and ranching operations have been exempt from the OHS Laws in Alberta. This changed with the passage of the *Enhanced Protection for Farm and Ranch Workers Act* and on January 1, 2016 the OHS Act and regulations were implemented for non-family, waged workers in the farm and ranch industry.

The government formed two Technical Working Groups (TWG) of industry representatives to review the Code provisions and provide recommendations on their application to the farm and ranch industry. This was the first step in consulting with industry to develop OHS rules specific to farms and ranches.

Technical Working Group 3 was assigned to review general **health related** provisions in the Code: in Parts 1, 2, 3, 4, 5, 7, 10, 11, 14, 16, 17, 18, 26, 27, 28 and 29 of the OHS Code.

Technical Working Group 4 reviewed 13 general **safety related** Code provisions.

TWG 3 and 4 worked together to review and provide recommendations on four foundational Policy Considerations within the Code: Definition of “Farm and Ranch”; Part 2: Hazard Assessment; Part 3 Specifications and Certifications; and the definition of Worker Competency. (These joint recommendations can be found in [Appendix F](#)).

Technical Working Group 3 members were composed of 11 individuals who have current or past experience in various parts of the farm and ranch industry in the roles of employers/business owners, workers, or OHS technical experts. A neutral third-party Chair was appointed to facilitate the group’s discussion. Technical and administrative staff were provided by the Ministries of Agriculture and Labour to support the group’s work.

The mandate framed by government for the Technical Working groups was to:

Offer experience and sector-specific perspective to provide advice, suggestions and recommendations to inform the development of technical rules for Alberta’s farm and ranch sector.

The Alberta OHS Code has been in place since April 30, 2004 and provisions have evolved and developed over time. Industry specific provisions have been developed by government in consultation with industry stakeholders and educational tools and resources have been developed by various industry safety associations to support successful Code adoption. Implementation of this framework and rules for the farm and ranch community will need to be approached in a reasonable and practical way, considering some of the unique aspects of their industry.

Most other Canadian jurisdictions have applied OHS laws to the farm and ranch industry, although approaches are varied. What other jurisdictions are doing was a standard element in the review process. In developing these recommendations, resources and information from outside Alberta was drawn upon and also considered.

While application of extensive workplace safety rules will break new ground for employers and workers in Alberta, during the discussions of TWG members it became clear that “people” safety is and has been very important to the farm and ranch community. Resources, and tools are already available to support enhanced safety in farm and ranch workplaces from organizations like FarmSafe and the Canadian Agriculture Safety Association (CASA) to name a few. There are many resources to build from, including those that may have application from other industries.

While it is recognized that family members are excluded from the Code, this separation does not generally exist when considering farming communities living and working together. It is important to note that TWG 3 members care about the exempt family farm – any of the discussions or recommendations contained in this report should not imply otherwise or that exempt farms do not operate safely. TWG 3 hopes that current and future work will be of benefit to all, and evolving safety initiatives such as creation of a Farm and Ranch Safety Association could be a resource for both those subject to the Code and those who are not.

Consultation Process

TWG 3 met on seven occasions (13 days) between June 16, 2016 to January 18, 2017. Time was also spent during three of these sessions working with TWG 4.

[Creating a Foundation for the Work:](#)

The first meeting of the group was focused on building a foundation for working together and fully exploring the subjects before them. This included:

- Alberta Labour and Agriculture and Forestry Technical Support providing an orientation about the industry and the OHS legislative framework. An OHS Discussion Paper and presentations provided all members with the same content and context knowledge.
- Developing a clear and shared understanding about the task ahead, scope of work and

expectations. Reviewing the group's Terms of Reference; reporting and communication requirements. ([Appendix B](#))

- Developing mutually agreed upon **Operating Principles and Guidelines**.
- Developing a **Work Plan**, creating time targets and a schedule for tackling the assigned work. (While an initial "Roadmap" was provided by the Secretariat to the Chair which targeted 3 sessions and 6 days of meetings and a report to be completed mid-December; this plan was modified to provide for more time. This recognized the extent of the work, including joint work with TWG 4, and achieving the goal of consensus based decisions. (Government supported the TWG's to take the time required to effectively fulfill their mandate).
- **Reporting:** At the conclusion of each meeting, the Chair was required to draft (and TWG members approve) a "Record of Decision" (ROD) document for internal TWG use and a "Key Communication Points" document which TWG members could use to communicate to their constituents about TWG progress. The Communication Points would also be used by government to post information about the progress of the consultations on the website: <https://www.alberta.ca/farm-and-ranch.cfm>. The ROD's form the basis of this report to the Minister.

TWG 3 Operating Principles highlights

HONESTY AND RESPECT

ACCOUNTABILITY

PRACTICAL AND
ATTAINABLE OUTCOMES

TEAMWORK

EFFECTIVE
COMMUNICATION

HUMOUR SUPPORTS US

Standard Approach for Review of Each Part

TWG 3 and 4 Chairs together developed a process guide to help frame the discussions of their groups on each part; see [Appendix D](#). This provided a systematic way for group review and discussions based on exploring interests and options and to strive for consensus. The key elements included:

1. **Together Review all Relevant Background Information:** OHS Technical Support developed HOMEWORK GUIDE, (see [Appendix E](#)) and pre-reading documents in advance of sessions to the maximum extent possible. Discussion questions to explore included: clarifying the "Goal" of each part; what employers may be required to do to apply this provision in the farm and ranch industry; what common industry practices were; and what other provinces do that we could learn from. (The group also reviewed the sections of each part in detail as a check to application and surface where concerns might exist).
2. **An Initial Assessment:** POLLING each group member. Based on the above analysis, how do you think this Part might apply?
 - a. Should farming and ranching be exempt from this Part?
 - b. Can this Part be applied to farming and ranching without variation or modification?
 - c. Can this Part be applied to farming and ranching with alteration, modification or conditions?
3. **Exploring Options** that meet interests identified – so workers have a safe and healthy

working environment and employers can profitably operate their businesses.

4. **Exploring Consensus** on recommendations.

Use of Sub-Groups

To facilitate additional exploration needed (and expedite the process) sub-groups were formed for two topics:

1. Definition of “worker” for purposes of application to the Code; specifically, “one-off” casual farm help. (Joint TWG 3 and 4 group)
2. To explore special provisions for farm and ranch for Part 5 Confined Space relating to structures that contain grain.

Consensus When Group Members Are Absent:

The group agreed to the following approach:

- If the group achieves consensus and other members are missing, consensus will be deemed to be achieved by all group members.
- Absent group members will be briefed on any decisions as soon as possible and have questions addressed. If they believe the group has missed some significant information or considerations in making their decision they are welcome to point those out; however, the decision will stand and be supported by all group members unless the group decides reconsideration is needed.

Two Over-Riding Principles for Work of TWG’s:

In embarking on this work, TWG 3 and 4 adopted the following understanding at the outset:

- Stakeholder groups who are impacted by these recommendations should be consulted (TWG members do not represent all affected Industries).
- All Recommendations reached during the process will be subject to a final review when all Parts are completed to ensure consistency and integration between them.

Working Group Mandate

The *TWG 3 Terms of Reference* and the *Technical Working Groups 3 and 4* outlined the mandate for the group:

As a government regulatory instrument, it (the OHS Code) is expected to balance the right of workers to a safe and healthy working environment with the right of employers to profitably operate their businesses.

Technical Working Group will assist with the review of existing OHS Code requirements, including definitions associated with the requirements by offering experience and a sector-specific perspective to provide advice, suggestions and recommendations to inform the development of technical rules for Alberta’s farm and ranch sector.

Key Tasks Identified in the Terms of Reference: (See details in [Appendix B](#))

- Where **variances or modifications** from existing general requirements are warranted, provide a recommendation and rationale for such variances.
- Identify and suggest whether **unique activities or equipment** specific to farming and ranching operations require a sector specific Part within the OHS Code.
- Provide **suggestions to clarify policy intent of legislative and regulatory requirements**, for example what constitutes farming and ranching operations under the legislated definitions laid out in the Farm and Ranch Exemption Regulation, reference to manufacturer specifications and the definition of competent in relation to workers.
- Make any suggestions or recommendations on how best the health and safety related provisions of the OHS Code, and its impact, can **best be communicated to, and understood by, the farming and ranching community in Alberta.**

The scope of work of TWG 3 (on its own) was to: Review general **health related provisions** applicable to all industries in Parts 1, 2, 3, 4, 5, 7, 10, 11, 14, 16, 17, 18, 26, 27, 28 and-29 of the OHS Code.

Both Technical Working Groups will provide recommendations as to how certain terms or provisions within the OHS Code should be interpreted in the context of farming and ranching. In particular, there are three policy considerations where guidance would be valuable:

- **Agriculture operations** – help determine what operations are covered under the farming and ranching umbrella
- **Competency of workers** – what does it mean in the context of farming?
- **Manufacturer specifications** – following manufacturers specifications is an extremely important principle . . . But consideration must be given to the impact to farming and ranching operations

Recommendations

The following outlines the discussions and recommendations relating to each of these Parts: 1, 2, 3, 4, 5, 7, 10, 11, 14, 16, 17, 18, 26, 27, 28 and 29 of the OHS Code.

In the course of their work, TWG 3 also reviewed Part 35—Health Care and Industries with Biological Hazards.

Please see [Appendix F](#) for Joint TWG 3 and 4 recommendations relating to Part 1, Definition of Farm and Ranch, Worker Competency, Hazard Assessment and Manufacturing Specifications. This includes research and review of the potential application of the Code to excluded family farms who hire help for short periods of time.

Part 4—Chemical Hazards, Biological Hazards and Harmful Substances

Goal of this Part:

To ensure workers are protected from exposure to harmful substances in their workplace.

Consensus Recommendation

This Part can be applied to farming and ranching subject to the following alterations, modifications or conditions:

- Add wording relating to application of clause 16(2) to 20. The wording should be changed\ a statement added to clarify that:
 - a) A Hazard Assessment undertaken in Part 2 would be a foundation to identifying a potential risk of exceeding the Occupational Exposure Limits(OEL) to a hazardous substance and only where suitable controls could not solve the problems identified, that measurements of the OEL levels by experts would be required.
 - b) The main purpose of the technical formulas outlined in the Code are to provide consistent standards for compliance by experts hired to perform those tests and to assist the employer in hiring competent experts to ensure the standards are met.
- Clarification of the meaning of “showers” in clauses 23 and 24 to be broad to clarify that compliance would not require building of showers in fields, etc.
- Provisions referring to smoking & tobacco in section 25 need to be updated to include other means and substances.
- A Farm Safety Association would be instrumental in helping to create standards and guidelines to assist farm and ranch employers in applying Part 4 provisions.
- Re-arrange the section to put 21 and 22 which are provisions most important for the employer and worker at the beginning to enhance understanding\clarity.
- Clear wording and effective education and communication of the application of these requirements (as noted in other recommendations) is very important for successful implementation in the farm and ranch community.
- The experience of TWG 3 members is that the Code provisions cannot be interpreted effectively without reading them in concert with the Explanation Guide. *It is therefore recommended that these two reference documents be combined.*
- It is important to write Code provisions in plain language to avoid confusion and misunderstanding of the farm and ranch community about what is required.

General Considerations

- Examples of Chemical Hazards discussed included pesticides, insecticides, fertilizers, pharmaceuticals (drugs, vaccines,) chemical cleaners; biohazards such as manure, zoonotic diseases, lubricants and fuel.
- In interpreting these provisions, the overarching principle outlined in 2(1) of the Act is important: *Every employer shall ensure, as far as it is **reasonably practicable** for the employer to do so, the health and safety of . . . workers . . .*

Details: Interpretation, Options and Analysis

- **16(1) is supported:** *Ensuring that a worker’s exposure to any substances listed in Schedule 1, Table 2 is kept as low as reasonably achievable (ALARA).*
- **The wording of 16(2)** indicates that the employer must “ensure” OELs are not exceeded. The literal reading of this provision implies that to “ensure” this, employers must hire an expert to conduct testing to measure every possible exposure per the provisions of 17,18,19 and 20.

In consultation with Technical resources, this interpretation would not be deemed reasonably practical. The testing identified would only be required if, as part of the Hazard Assessment and control process, it was found to be necessary, or if there was a problem occurring (e.g. employee health complaints) that flagged a need for investigation so the employer could find out what the problem was and fix it.

Part 5—Confined Spaces

Goal of this Part:

No workers are harmed due to entering or working in a restricted or confined space.

A restricted space (Code Definition)

An enclosed or partially enclosed space, not designed or intended for continuous human occupancy that has a restricted, limited or impeded means of entry or exit because of its construction.

Taken from the Explanation Guide:

It has a limited means of entry and exit.

Example – Physical obstructions such as bulkheads, collapsed material, or machinery may impede exit.

It can be thought of as a work area in which the only hazard is the difficulty of getting into or out of the space. All other hazards are either non-existent or have been eliminated or controlled as required by Part 2.

Restricted spaces are therefore not subject to the permitting, atmosphere testing and tending worker requirements of confined space.

A confined space (Code Definition)

Is an enclosed or partially enclosed space that is not designed or intended for continuous human occupancy with a restricted, limited, or impeded means of entry or exit because of its construction and may become hazardous to a worker entering it because of:

1. An atmosphere that is or may be injurious by reason of oxygen deficiency or enrichment, flammability, explosivity, or toxicity,
2. A condition or changing set of circumstances within the space that present a potential for injury or illness, or
3. The potential or inherent characteristics of an activity which can produce adverse or harmful consequences within the space.

Consensus Recommendation:

All provisions of Part 5 can be applied to farms and ranches without alterations, modifications or conditions excepting structures containing grain as outlined below:

- Flat bottomed grain bins are EXEMPT from classification as a confined space due to the low risk of atmospheres that may be immediately dangerous to life and health (IDLH) as a result of bin design and the availability of an entry door.
- This determination is based on the premise that flat bottom grain bins are structures that will not completely empty by gravity and are designed with an unrestricted ground level opening for entry. For these types of structures entry must occur to reclaim the residual grain using powered equipment or manual means.
- Hazard Assessment and Control Process be used for flat-bottomed grain bins and other like farm structures/spaces to identify other potential hazards associated with these structures such as engulfment or entanglement and that these controls are implemented prior to the initiation of work within these spaces.
- Government of Alberta (GoA) develop the necessary farm specific education tools, guides, forms, posters and confined space entry training programs to assist the industry. To assist the Government of Alberta, the TWG has developed a chart of the primary confined/restricted spaces as a general guide for policy makers, the industry and farm operators. **(See details below)**
- These Provisions to address Part 5 for application to “Structures containing grain” should be included in the farm and ranch section of the Code.

Re-order the Part 5 provisions to put Hazard Assessment first to better reflect this as the underpinning of the safety process.

TWG 6 and/or the Farm and Safety Association should be asked to review education and training around confined spaces and develop an approach\materials as this is deemed a high priority area for reinforcing safe practices in the farm and ranch industry.

Considerations

- The Code makes a distinction between a confined space and a restricted space. A confined space is a type of restricted space. This distinction is important for purposes of applying this section because Confined Spaces require atmospheric testing; entry permits and tending workers while restricted spaces do not.
- Examples of confined spaces in farms and ranches are granaries, silos, manure pits (risk of H₂S); root cellars.
- Structures containing grain pose problems in applying this Part. There are roughly over 25,000 grain bins cleaned every year on Alberta farms. Sometimes they can be dangerous to enter and work in and other times they are not. A Hazard Assessment would determine this.

- The confined space safety measures outlined in this Part are supported for many farming examples considered, given the potential for and level of risk involved, with the exception of structures used for grain which may not be practical or appropriate in some situations.
- Maintaining focus on ways to ensure worker safety (as opposed to legal liability) was identified as an important consideration.
- A review of practices in other Jurisdictions reveals a variation of approaches. Saskatchewan, Prince Edward Island, New Brunswick, Nova Scotia (NS), Newfoundland and Labrador do not require the employer to have an entry permit system. British Columbia and the Yukon require most confined spaces to have a warning sign and be secured to prevent unauthorized entry. (BC guidance documentation indicates that flat bottomed grain bins may not meet the criteria for confined spaces.) In Ontario, farms are exempt from OR632, Confined Spaces Regulation and in PEI, “bona fide” farms are exempt from the OHS Regulations.

Details: Interpretation, Options and Analysis

Section 46 Training: Training can be completed by a “competent person” which would not require hiring an expert from outside.

Section 47 Entry permit – was clarified to be a document the employer (not the government) creates which is a checklist of all the things that need to be done before entry into a confined space.

There is general agreement that **some spaces/situations on farms and ranches can pose high risk for entry** which should be subject to Part 5. Here are some examples identified by the group:

- Work inside fuel\chemical storage tanks
- Manure pits
- Root cellars,
- Crawl spaces,
- Turn-off valves under buildings
- Well pits
- Silage storage
- Cisterns

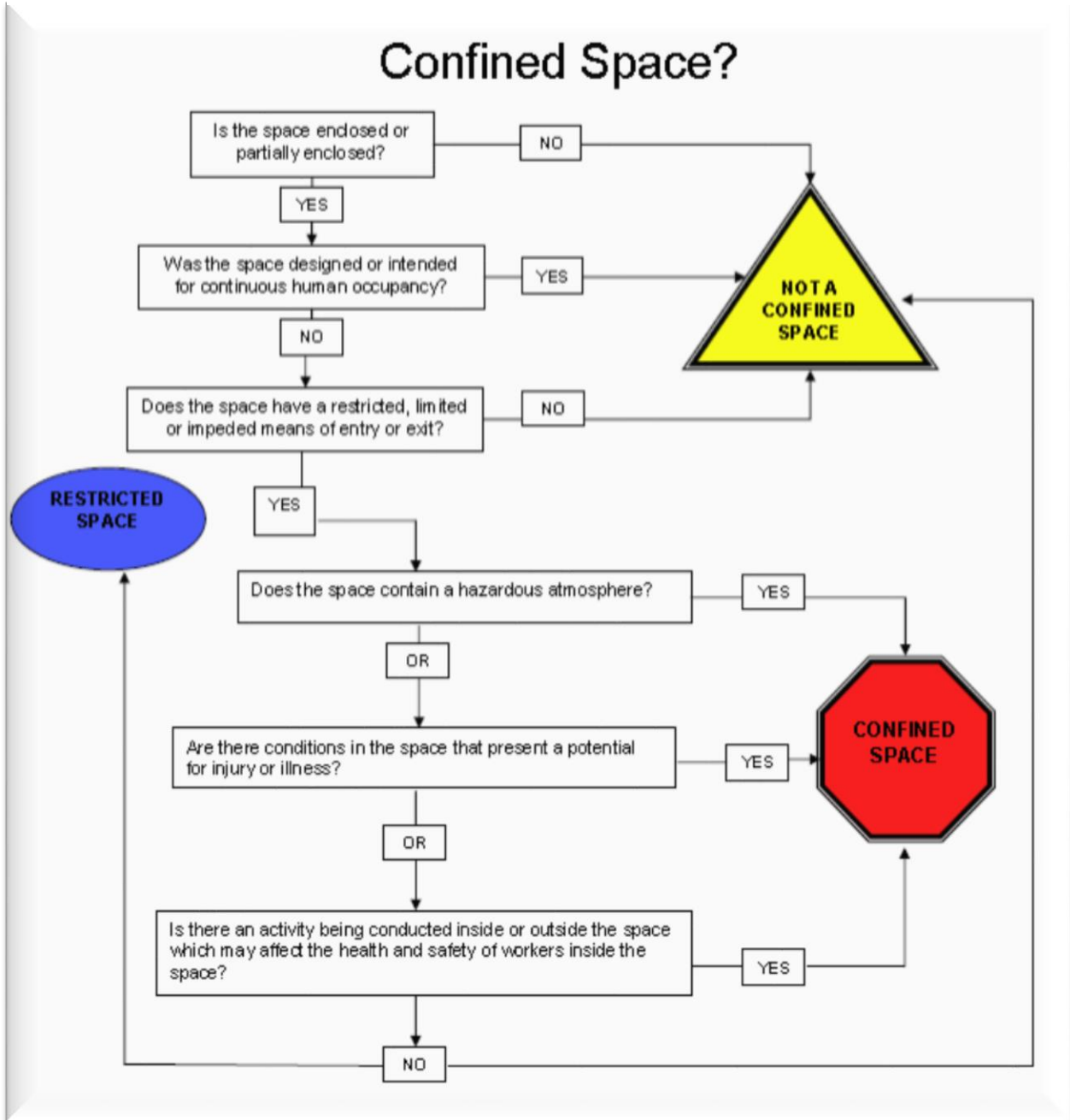
The group did not come to the same conclusion for structures that contained grain (e.g. grain bins):

- Structures containing grain can sometimes be very low level risk (e.g. minimal atmospheric risks; reduced risk with flat bottomed bins) as well as high risk (e.g. risk of entrapment and suffocation).
- When working through the explanation guide decision tree¹ to determine if grain

¹ Diagram reproduced from Alberta Labour publication: Guideline for Developing a Code of Practice for Confined Space Entry, CS001, https://work.alberta.ca/documents/WHS-PUB_cs001.pdf

containing structures would be deemed a “confined space” when asking “Are there conditions in the space that present a POTENTIAL for injury or illness?” The answer would be “Yes”, so every situation would be treated as high risk.

Figure 1 Flowchart to determine type of space



- Work in bins is a frequent and important activity in grain farming (people can be in and out of structures numerous times during the day). It is simply not practical or reasonable to apply Part 5 (atmospheric testing; tending person, entry permits; documentation of time\date of each entry, etc.) when considering lower risk situations.
- Section 48(e) states that “Equipment appropriate to the confined space or restricted space, including personal protective equipment, is available to perform a timely rescue.” Compliance with this provision was identified as almost impossible for grain bins. (There is limited rescue for entrapment, for example). It was suggested that notifying the Emergency Response providers in the community and doing “mock” rescues from grain bins may be a best practice.

In addressing the challenges of applying Part 5 (ensuring safety in confined spaces) the group created a list of criteria that the “ideal solution” would meet to appropriately apply this part to farms and ranches:

- Provides clarity on what is a confined space
- Increases farm safety rather than just creates liability
- Considers\factors in the level of risk in farm and ranch situations (may be low in some situations and high in others)
- Avoids complacency in safety practices by ensuring awareness of potential for confined spaces to pose safety risks
- Addresses practical application issue of grain bins
- Provides a guide/outline for the industry
- Uses plain language
- Addresses identification of unseen atmospheric risks
- Addresses emergency rescue
- Provides practical, realistic approaches that can be effectively implemented

Initial Ideas\Options Generated \Explored by the Group – Possible Solutions:

- If a space is identified as a confined space, you would then have a deeper look into assessing the risk
- Hazard Assessment (HA) is the foundation to\defines restricted and confined space
- Grain storage on farms and ranches be exempt to anything beyond the HA in terms of the confined space (after s.46)
- Grain bins are classified as a restricted space unless the HA identifies it to be a confined space
- The first 3 sections of Part 5 are okay, then consider everything else to be “best practices”
- If the HA deems it as a confined space, then it is dealt with as the Code is written
- Measure the atmospheric levels under normal conditions (when a restricted space) then if it becomes a confined space you would follow all parts of the Code
- Entry from the bottom of a flat bottom grain bin is not considered a confined space unless HA determines that there is a risk of entrapment

The most promising ideas were then identified to be:

- a) With 1 exception, accept Part 5 as ok – this means the employer assesses whether a space is a Confined Space or a Restricted Space using the definition\explanation guide and applies Code provisions applicable to Confined or Restricted space as appropriate.

EXCEPTION: “GRAIN BINS DEEMED EXEMPT” unless a Hazard Assessment Section 45, says otherwise - for example mold or dead birds, crusting. If YES, Part 5 provisions as written apply.

- b) Grain Storage is exempt from Part 5 (employer is still subject to Part 2 – Hazard Assessment, etc.). For all other situations, Part 5 applies.
- c) A Hazard Assessment must be used to determine whether a space is a confined or restricted space for application of Part 5.
- d) Apply Sections 44, 45 and 46 in all cases and the remaining provisions are not applicable to farms and ranches – but recommend as best practices.

Agreed Upon Solution:

A variation of “A” to exempt *Structures Containing Grain* (which is a broader term than just “grain bins”) and develop specific Part 5 provisions for farms and ranches that will ensure worker safety and be reasonable and practical in application. A sub-group was formed to develop content of this provision to bring back to TWG 3.

Sub Group Recommendations Adopted by TWG 3:

- Flat bottomed grain bins are EXEMPT from classification as a confined space due to the low risk of atmospheres that may immediately dangerous to life and health (IDLH), the availability of an entry door, bin design for ventilation.
- Hazard Assessment and Control Process be used for flat-bottomed grain bins and other like farm structures/spaces to identify other potential hazards associated with these structures such as engulfment or entanglement and that these controls are implemented prior to the initiation of work within these spaces.
- Government of Alberta develop the necessary farm specific education tools, guides, forms, posters and confined space entry training program to assist the industry. To assist the Government of Alberta, the TWG has developed a chart of the primary confined/restricted spaces as a general guide for policy makers, the industry and farm operators.

SAMPLE LISTING OF POSSIBLE CONFINED SPACES IN FARMING AND RANCHING

Due to the many varied work sites and work tasks at a farm level, the following table is a general guide. Each specific farm owner is required to conduct a hazard assessment of spaces (use of confined space decision tree) to determine if the location meets the definition of controlled or restricted spaces. Each farm owner is required to be knowledgeable and aware of the specific areas designated as confined or restricted within their supervision and control. The following table serves as a general guide for the types of locations associated with farming and ranching.

Type of Space	Possible confined space	Potential Hazards	Most Likely Type of Permit
Manure Pits, Transfer Sump Pumps/Pits	Yes	<p>Main hazardous gases present: H2S, CO2, CH4, NH3, Low O2 levels</p> <p>People Hazards: Inhalation of toxic gases, biologic risks, Asphyxia (suffocation), Fall, Drowning, Explosion, Electrocutation</p> <p>Main hazardous situations: Cleaning, maintenance, and repair of equipment such as pumps, unblocking of pumping system, recovery of material such as scraper parts, brooms, or dropped tools</p>	<p>General Permit Required</p> <p>Confined Space</p>
Milk Tanks	Yes	<p>Main hazardous gases present: None under normal conditions</p> <p>People Hazards: Falls, Entanglement or electrocution in “live” equipment, Inhalation of toxic gases or chemical burns from exposure to acids or disinfectants, during cleaning, Extreme difficulty in rescuing someone, depending on hatch size and position</p> <p>Main hazardous situations: Cleaning of tank surfaces, maintenance or replacement of agitator parts, repair or modification of pipe fittings</p>	<p>General Permit Required</p> <p>Confined Space</p>
Silos – with or without fermentation	Generally, silos are considered confined spaces due to the fermentation process and other factors, bunker silos generally don't qualify as confined spaces as there are large entry and exit points and oxygen exchange	<p>Main hazardous gases present: H2S, CO2, CH4, NH3, Low O2 levels</p> <p>People Hazards: Inhalation of toxic gases, Asphyxia (suffocation), Falls, Entanglement</p> <p>Main hazardous situations: Installation of the doors in the silo chute, leveling the forage or laying a tarp immediately upon filling, positioning the unloader before gases accumulate, maintenance work or repairs to the unloader, work on the ladder in the discharge chute, work in the loading room or in the barn</p>	<p>Hazard Assessment Required</p> <p>General Permit Required</p> <p>Confined Space</p>
Flat bottomed grain or feed bin	Maybe - Flat-bottomed bins generally don't qualify as confined spaces because they	<p>Main hazardous gases present: CO2, Low O2 levels</p> <p>People Hazards: Asphyxia (suffocation), Engulfment, Entanglement in equipment, Residual or ongoing</p>	<p>Hazard Assessment Required</p> <p>Hazard</p>

Type of Space	Possible confined space	Potential Hazards	Most Likely Type of Permit
	usually have a large, door-like entry at ground level, which does not restrict access or exit in an emergency. These bins are not air tight and the risk of an IDLH atmosphere is low.	pesticide use (fumigants and others), Mold, Dust Main hazardous situations: Breaking up bridged grain, taking grain samples, pesticide application, cleaning out the last grain from a near-empty bin	Control plan to be implemented
Hopper bottom grain or feed bin (These bins may be equipped with a side inspection hatch or hole. This inspection should be done from the top hatch in all cases when not equipped with a side hatch.	Yes - Hopper-bottomed bins meet the four criteria of a confined space. Usually, the only entry is through a small hatch at the top. Once inside, there's no internal ladder to allow a safe descent, and the sharply sloping bottom walls lead directly to the auger intake. Worker contact with the auger is a potential hazard	Main hazardous gases present: H2S, CO2, CH4, NH3, Low O2 levels People Hazards: Asphyxia (suffocation), Engulfment, Entanglement in equipment, Residual or ongoing pesticide use (fumigants and others), Mold, Bacteria, Bites and Stings, Dust Main hazardous situations: Inspecting the conveyor system, maintaining or repairing conveyor equipment, cleaning and removing blockages from the conveyor, cleaning residual seed or dust	Hazard Assessment required when empty Confined Space when grain present (General Permit Required)
Auger or Conveyance Tunnels or Hatchway	Yes	Main hazardous gases present: CO2, Low O2 levels People Hazards: Asphyxia (suffocation), Engulfment, Entanglement in equipment, Residual or ongoing pesticide use (fumigants and others), Mold, Dust Main hazardous situations: Breaking up bridged grain, taking grain samples, cleaning out the last grain from a near-empty bin	Confined Space (General Permit Required)
Sump storage tanks or vessels or fermentation tanks	Yes	Main hazardous gases present: H2S, CO2, CH4, NH3, Low O2 levels, People Hazards: Inhalation of toxic gases, Asphyxia (suffocation), Fall, Drowning, Explosion, Electrocutation Main hazardous situations: Contaminants from sump system, H2S, oxygen deficiency, biologic hazards, electrical and mechanical hazards, cleaning,	General Permit Required Confined Space

Type of Space	Possible confined space	Potential Hazards	Most Likely Type of Permit
		maintenance, and repair of equipment such as pumps, unblocking of pumping system, recovery of material such as scraper parts, brooms, or dropped tools	
Water storage tanks or cisterns	Maybe - Normally, hazardous gases won't be present in a water tank provided the water is clean. However, a biofilm and sludge can form inside the tank. Some cleaning and disinfecting chemicals can produce very toxic gases, even in residual quantities.	<p>Main hazardous gases present: CO2, Low O2 levels</p> <p>People Hazards: Inhalation of toxic gases, Asphyxia (suffocation), Fall, Drowning, Cleaning chemicals and disinfectants (ozone and chloramine), Bacteria and waterborne micro-organisms (biofilm),</p> <p>Hazardous situations: Cleaning tank surfaces, repairing or modifying piping</p>	Hazard Assessment Required Then determine if Restricted Space or Confined Space
Tractor Cab	No	Refer to Hazard Assessment Tractor operation	
Storage tanks (above and below ground) – i.e. fuel, fertilizer, herbicide/pesticide chemical tanks	Yes - The airspace in fuel and chemical tanks contains residual vapors that may be very toxic and may have a low flashpoint (temperature at which a chemical can vaporize and form an ignitable mixture in air).	<p>Main hazardous gases present: CO2, Low O2 levels, various other gases dependent upon material being stored</p> <p>People Hazards: Inhalation of toxic gases, burns from explosion, Asphyxia (suffocation), Fall, Drowning, Cleaning chemicals and disinfectants</p> <p>Hazardous situations: Explosion residual or stored chemicals and their vapors can be explosive or flammable depending on substance, agitation or application of any hot work to the tank or tank surface, cleaning tank surfaces, repairing or modifying piping or valves</p>	Permit Required Confined Space

Note: As outlined on Page 32, Hazard Assessments and safety plans are recommended to address Hot Work: if performing cutting, welding, brazing, torch soldering, high speed metal grinding, or open flame tasks within any type of confined space.

If a space's characteristics or hazards change, the type of permit required may also change.

This is determined by repeating the hazard assessment and re-evaluating the confined space.

Confined spaces may exist that are not identified within this chart. If there are any questions regarding the status of a space, then the hazard assessment should be repeated to determine if the hazard profile has changed, entry into any potential space should be done according to procedures required for the hazards that are present.

Part 7—Emergency Preparedness and Response

Goal of this Part:

To ensure plans and resources are in place to address emergencies on work sites.

Consensus Recommendation:

Part 7 can be applied to farming and ranching without alterations, modifications or conditions.

As per prior recommendations, Education and Tools to help farm and ranch industry members to understand the importance of and how to develop and use plans will be necessary for implementation.

General Considerations

- The Key focus for review of this part is rescue or evacuation – the period before Emergency Services are accessed\arrive on site.
- In reviewing this part, it is important to recognize that workers are not trained Emergency Responders – and should not attempt a rescue if they may endanger themselves or they are not trained\qualified for rescue activities.

(Requirements for first aid and emergency transportation of workers to medical aid are provided in Part 11- First Aid).

Details: Interpretation, Options and Analysis

- Development of Emergency Response Plans for farm and ranch workplaces is supported.
- Hazard Assessment is a foundation and will assist each employer to determine “potential emergencies.”
- 115(2): Obtaining the input of employees (interpreted to mean permanent employees who are employed at the time of the review) when creating the plan helps to identify hazards. All employees need to be aware of and oriented about the plan.
- 116: While 116 outlines the contents of the plan - General versus prescriptive approaches are preferred to tailor plans to be practical in each environment.
- While it was clarified that plans must be written, they do not need to be complex.
- 117(3) Training simulations can be simple (e.g. providing a list of phone numbers to employees on cell phone\app, then asking who employees would call if an emergency occurred). Testing your plan helps check that it will work.
- 117(1) Designated rescue workers could be the farm owner\non-workers.

- The terminology and use of “must” or “shall” or “will” in this Part and in others can be confusing. It is important to ensure understanding of when something is a compulsory legal requirement and where it is not, such as when discretion is recognized when using terminology like “appropriate to the work site.”
- Applicable Definitions (Emergency response plan and first aid) were reviewed and posed no concerns.

Part 10—Fire and Explosion Hazards

Goal of this Part:

To ensure that workers are protected from fire and explosion risks associated with the use of flammable and combustible substances at the workplace

Consensus Recommendation:

Part 10 can be applied to farms and ranches without alteration, modification or conditions except for the following provisions:

- **Classification of worksites - 162.1(1)**
 - Competence of farmers can be recognized for application of this section. A professional Engineer is not required.
 - While the provisions can be applied to farms and ranches it is recommended that a guide or bulletin specific to agriculture is needed to assist employers with Hazard Assessment (e.g. Risk of grain elevator\bin explosions).
- **Hot work -169** - replace with a special provision that requires a hazard assessment and a safety plan to be completed.
- **Welding**
 - 171.1(1) - required credentials. Remove whole section and replace with special provision that applies the “competent worker” definition in the Code and requires a hazard assessment and a safety plan to be completed.
 - 171.1 (2) regarding Manufacturers Specs
As per the “Homebuilt Equipment” approach (Option e) outlined for the Manufacturing Specifications topic in [Appendix F](#),” exempt this provision and address in a specific part of the Code for farms and ranches which would also apply hazard assessment provisions as the cornerstone for addressing this exemption.
- **Compressed and liquefied gas- 171(4) (a) and (b)**
 - **Grandfather legacy equipment** and adopt the TWG 4 recommendation of definition of “Legacy” as: in existence prior to the expiration of 1 year after implementation of the Code revisions.

General Considerations

- Examples of hazardous environments on farms and ranches: Sewage lagoons, enclosed silos and grain bins, top holes on wells, utility vaults, under floor pits (hog barns), manure pits, furnace / boiler rooms, oily rag storage, fertilizer storage, chemical storage bins.

- Reference to “permit” is problematic for farms and ranches. It is very difficult to differentiate between the roles of employer, supervisor and employee – these are often the same person so the sequential processes outlined do not make sense.
- Hazard Assessment is the foundation for determining Hazardous Locations (s.162) and other factors (e.g. LEL and VEL levels)
- Consider what contributes to risk: Small farms with a small number of workers allows for greater direct supervision by the owner. In essence, the more workers, the more risk.
- This Part includes references to other standards such as Canadian Electrical Code\CSA Standards and those provisions are incorporated by reference into this Code. ***It was not deemed practical for TWG 3 to examine all of these other provisions and review was general in nature with assistance of OHS technical support.***

In Alberta, farms are exempt from the following provisions in the Fire Code:

- Safe storage requirements for flammable and combustible materials
- Bulk storage tanks
- Safe dispensing and control of static energy
- Fire protection measures
- Ventilation for storage area

Note: *CSA Standard W117.2-06 (R2011) is more current than the standard referenced in the Code currently. Note that the Code references the standard in place at the time.*

Details: Interpretation, Options and Analysis

Other areas relevant to application of this Part discussed\reviewed:

Protective Procedures and precautions in hazardous locations (Section 165)

165(6) – The group discussed use of double vs. single wall storage tanks – regarding the application of the standard of “reasonably practical”. For example, would farmers be required to use double walled tanks to control spillage? The cost for a smaller farm may be prohibitive to use double walled tanks. It was determined that the requirement is not equipment specific – the requirement is that appropriate controls would need to be put into place to prevent inadvertent releases.

Industrial Furnaces and Fired Heaters- section 168

The group explored whether hanging heaters in hog barns apply. It was clarified that application of this section is to furnaces that reach very high temperatures to achieve chemical change processes.

Hot work- Section 169

Provisions are not practical for application to farms and ranches - Hot work in hazardous locations is rare on farms. A hot work “permit” is confusing. The wording implies it comes from an external agency rather than the employer. It was clarified that a written hazard assessment can be deemed to be a “permit.”

For the purposes of 169(2) the words “permit” could be substituted with “hazard assessment” for application of this part to farms and ranches.

Options Developed/Reviewed:

- a) **Remove whole section and replace with special provision that requires a hazard assessment and a safety plan to be completed (✓Group consensus on this option).**
- b) 169.1 and 169.3 replace with 170.2 – just for farming
- c) All sections are ok except for the testing – remove 169(2)-part D and add part C from 170.2 and Part A - change wording from hot work permit as “hot work checklist”
- d) Given hot work is very rare on the farm – do not apply provisions

Hot taps: section 170

Plugging in a hydraulic line on a farm is not considered a hot tap.

Compressed & Liquefied Gas: (section 171)

Application of **171(1) (b)** was explored: “A cylinder of compressed flammable gas is not stored in the same room as a cylinder of compressed oxygen unless the storage arrangements are in accordance with Part 3 of the Alberta Fire Code (1997). When the tanks are hooked up in an operating area (on a cart) this is not considered to be “storage” for application of this provision and is therefore accepted.

Welding – General (section 171)

s 171.1(1) Credentials – Competence of farmers needs to be recognized for application of sections of this provision. It is not practicable to require journeyman welders or for skilled people to take courses to be able to continue to do welding.

Ideas for how to address this concern:

- CSA Standards refer to “a Qualified Person” and outline course requirements for training for Welders. Obtain a legal opinion to determine if this contradicts or restricts application of “competent worker” within the OHS Code
- **Remove the whole section and replace with special provision that applies the “competent worker” definition in the Code and requires a hazard assessment and a safety plan to be completed (✓Group consensus on this option).**
- **s171.1(2)** – manufacturing specs application to welding equipment
TWG 3 agreed to recommend the option outlined in [Appendix F](#), for “homebuilt equipment” which is to exempt Manufacturing Specifications provisions and instead address them through hazard assessment and risk identification in a specific part of the Code for farms and ranches. (✓Group consensus on this option).

Welding Services from Vehicles (Section 172 to 174)

Welding services means the same as the definition of “welding or allied process” in Part 1 of the Code. The requirements of the section titled *Welding Services from Vehicles* (Section 172 to 174) applies whenever welding equipment (e.g. welding machine, gas cylinders, etc.) is in a vehicle and is transported from one location to another location. It doesn’t matter if the worker transporting the welding equipment is a commercial/consultant welder using a commercial welding truck welding in a fabrication yard; or a farm worker transporting the welding equipment in a vehicle from the shed to the silo to weld on the wall of the silo. If any vehicle is used to transport the welding equipment Section 172 to 174 apply.

Horizontal Cylinder Storage (Section 173)

- **Section 173(3) states:** *An employer must ensure that a storage compartment on a vehicle from which welding services are provided is certified by a professional engineer as meeting the requirements of subsections (1) and (2).*
- **The initial view was that farms and ranches should be exempt from these provisions** (Certification by a Professional Engineer was not practicable).
- With further discussion, and considering that a storage compartment is one that is **enclosed/not vented** this may not be a concern to farms and ranches. i.e. open truck beds, front end loaders, would not be deemed to be a “storage compartment”.

Part 11—First Aid

Goal of this Part

Providing for first aid to workers when needed.

Consensus Recommendation:

Part 11 could be applied to farms and ranches, **except for Schedule 2:** which will be replaced with the following provisions in the recommended Farm and Ranch Section:

Kits:

Type P single user (in vehicle) this could be for one person working alone or a crew when working close to base. A #2 kit must be available at a worksite when there is more than 1 worker where there is a central worksite more than 20 kilometers from where they are working.

First Aid Training:

Require an Emergency First Aider if more than one employee at the worksite.

When 10 or more employees, Require one Emergency First Aider and one Standard First Aider.

Emergency Transportation:

Apply requirements provided in Part 28 Working Alone except if more than 40 km and more than 10 people: Require a stretcher, blanket and splint.

The (recommended) Farm and Ranch Safety Association will conduct a review of these provisions in two to four years.

General Considerations

- Provision of First Aid for people working on the farm when needed is supported.
- Adoption of **Schedule 2: ranking of risk for farms and ranches (Low, Medium or High) is problematic:**
 - While the use of tables such as Schedule 2 -Table 3 using components of risk (# of workers and proximity to health care facility) makes sense, there is no current

“risk ranking” of farms and ranches now in Alberta.

- There is little available research or analysis for the TWG to support or create a credible risk ranking for farms and ranches in Alberta. It is acknowledged that Alberta WCB has developed different premium levels to assess risk levels; and looking outside Alberta, BC divides farms and ranches into Low, Med and High. (e.g. Bee Keeping is “low”).
- There are diverse farming environments in the farm and ranch industry. It is important that any requirements applied are reasonable and practical in a farm and ranch context (there are a high number of farms with a small number of employees, workers often working alone).
- The group members did a quick canvas of suppliers to get an idea of the magnitude of costs:

Sample Cost of First Aid Kits:

Kit Type	AB P Kit	AB 1 Kit	AB 2 Kit	AB 3 Kit
Vendor A	10.95	29.95	47.95	103.95
Vendor B	12.69	32.49	49.95	104.95
Vendor C	20.00	40.00	50.00	75.00
Average Costs of FA Kit	\$14.55	\$34.15	\$49.30	\$94.63

Details: Interpretation, Options and Analysis

The group identified what criteria the IDEAL solution would need to satisfy (needs identified\ what is important for all group members):

- It would allow us to give **good rationale** to explain WHY those requirements were chosen to government and our stakeholders
- It would provide the same standards for employers within the same area of the industry so there is **consistency for employees** who work with different employers
- It would recognize and **account for variances\diversity in the risk of different types of farm operations** (e.g. BC rates bee keeping as low; work in office in winter vs. in the field in summer.)
- It would enable **effectively auditing** industry to the standards set
- It recognizes current “risk” allocations\equipment requirements for **employers currently under the Code** (e.g. nurseries) who may ask why there was an increase or lowering of current standards.
- It would support **“buy in” from the farm and ranch community** which is important to improve farm safety
- It provides **clear and easy to understand guidelines** for employers\employees

- It would not put TWG members in a position where accepting a “risk level” or “label” in this Part would compromise their ability to represent their interests relating to other Code Parts

Options Developed:

- a) Identify some operations as “High Risk” (e.g. large animals) and rank the rest as medium
- b) Identify farm and ranch overall as “medium” as a start – re-consider later when more information.
- c) Leave it to each farm to determine based on Hazard Assessment
- d) Use the WCB rankings as a guide to determine risk levels
- e) Ask Industry\Government to research further and to develop rankings
- f) Don’t use a label like “High” and “Medium” – just outline a schedule for farms and ranches (e.g. the content of Table 7 or Table 6 in the Schedule or a combination of them).
- g) Use the ^[1] Guideline in the Explanation Guide in applying Code (Schedule 2 (b) xi - **industrial process – for facilities not elsewhere specified.**)

The group agreed that “f” was the best approach - something unique is needed, at least until there is greater information to guide this decision (By the recommended Farm and Ranch Safety Association)

What would a schedule for specific application to farm and ranch look like?

Three Components:

Kits

- There is not a huge amount of difference in the kit requirements (H-M-L) until you go into advanced kits. (Costs are not significantly greater either between #1 and #2)
- A “P” kit in vehicles will cover 99% of the situations.
- The 10-49 workers for kits includes a huge variation for farm and ranch operations.
- Schedule 2 could apply for all sections for 2-4 and 5-9 employees but when you get to 10-19 and higher numbers of employees, could we use the table for medium risk?

Fist Aider

- Standard first aid is suitable for farm and ranch without having a schedule
- For greater than 10 employees in high risk isolated situations, require one emergency first aider and one standard first aider

Emergency Transportation Plan

For isolated work sites, an emergency more than 40 minutes from a health care facility requires a stretcher, splints, blankets (isolated areas with greater than 10 workers)

Producers with larger numbers of employees (10-49) might want to stay with the set schedule already in place.

Part 14—Lifting and Handling Loads

Goal of this Part

Protecting workers from musculoskeletal injuries.

Consensus Recommendation:

Part 14 can be applied to farms and ranches subject to a competent worker being able to conduct a hazard assessment under section 210.

It is also recommended that best practices and specific educational materials be developed for farm and ranch to address lifting and handling hazards common in the industry (Research of other industry learnings may assist in this regard).

General Considerations

1. Lifting and handling loads is a common task on farms and ranches. Some examples include lifting hay bales or bags of feed and lifting calves.
2. Many farms have equipment to assist in lifting and handling functions (e.g. calf pullers).
3. Employers should have lifting policies in place (e.g. if over “X” pounds, a 2 person lift or equipment assisted lift is required) as a way to identify and apply administrative controls to address lifting hazards.
4. There are many practical solutions (e.g. storage of heavy items at lower heights) which can mitigate health hazards.

Details: Interpretation, Options and Analysis

Section 210(2) – Assessing manual handling hazards

- Concern was expressed regarding an “employer” being the only person to perform a hazard assessment before a worker engages in lifting or handling objects.

If there is a rock in the middle of the field which needs to be removed and the employer is in a different field, it is not reasonable to expect the workers to stop work and call the employer to come and perform a hazard assessment. A competent worker should be able to make this determination.

Section 211- reporting work related symptoms

- The group explored “requiring” workers to report symptoms – if the worker does not report the employer cannot track or address the potential problem and it puts other employees at risk.
- It was noted that workers may not report “symptoms” if they are concerned about losing their job even if it may be illegal to fire someone for reporting an injury.
- The regulations s 14(2.1) requires that a worker who believes that an unsafe or harmful work site condition or act exists or has occurred shall immediately report it to the employer which should provide sufficient obligation for the worker to inform the employer.

- The employer can review this with employees when they are hired.
- Failure to comply with this Part is not a ticketable offence.

Part 16—Noise Exposure

Goal of this Part:

Protect workers from noise exposure that will compromise their hearing.

Consensus Recommendation:

Part 16 can be applied to farms and ranches with the following alteration, modification or conditions:

1. Add or change wording relating to application of clause 217 to 220. to clarify that:
 - A Hazard Assessment undertaken in Part 2 would be a foundation to identifying a potential risk of exceeding the allowable noise levels and only where suitable controls could not solve the problems identified, that noise exposure assessments (e.g. testing with noise dosimeter) by qualified and competent experts would be required.
 - The main purpose of technical formulas outlined in the Code are to provide consistent standards for compliance by experts hired to perform those tests and to assist the employer in hiring competent experts to ensure the standards are met.
2. 217(2) states: *Subsection (1) does not apply to alterations, renovations or repairs begun or work processes or equipment introduced before April 30, 2004.*

Apply this grandfathering provision to farm and ranch for a 12-month period after the effective date of application of the Code.

General Considerations

- Many sources of noise occur on farms and ranches: such as equipment operation, animals (e.g. pigs squealing) especially when indoors; fans, motors on sprayers; welding\grinding; power hand tools \impact hand tools; grain dryers.
- Similar to Part 4, the language of this section is not clear and implies a greater requirement for hiring professional testing services than is intended and there is no reference to the risk assessment and control process in Part 2 as an initial step. This needs to be corrected.

Details: Interpretation, Options and Analysis

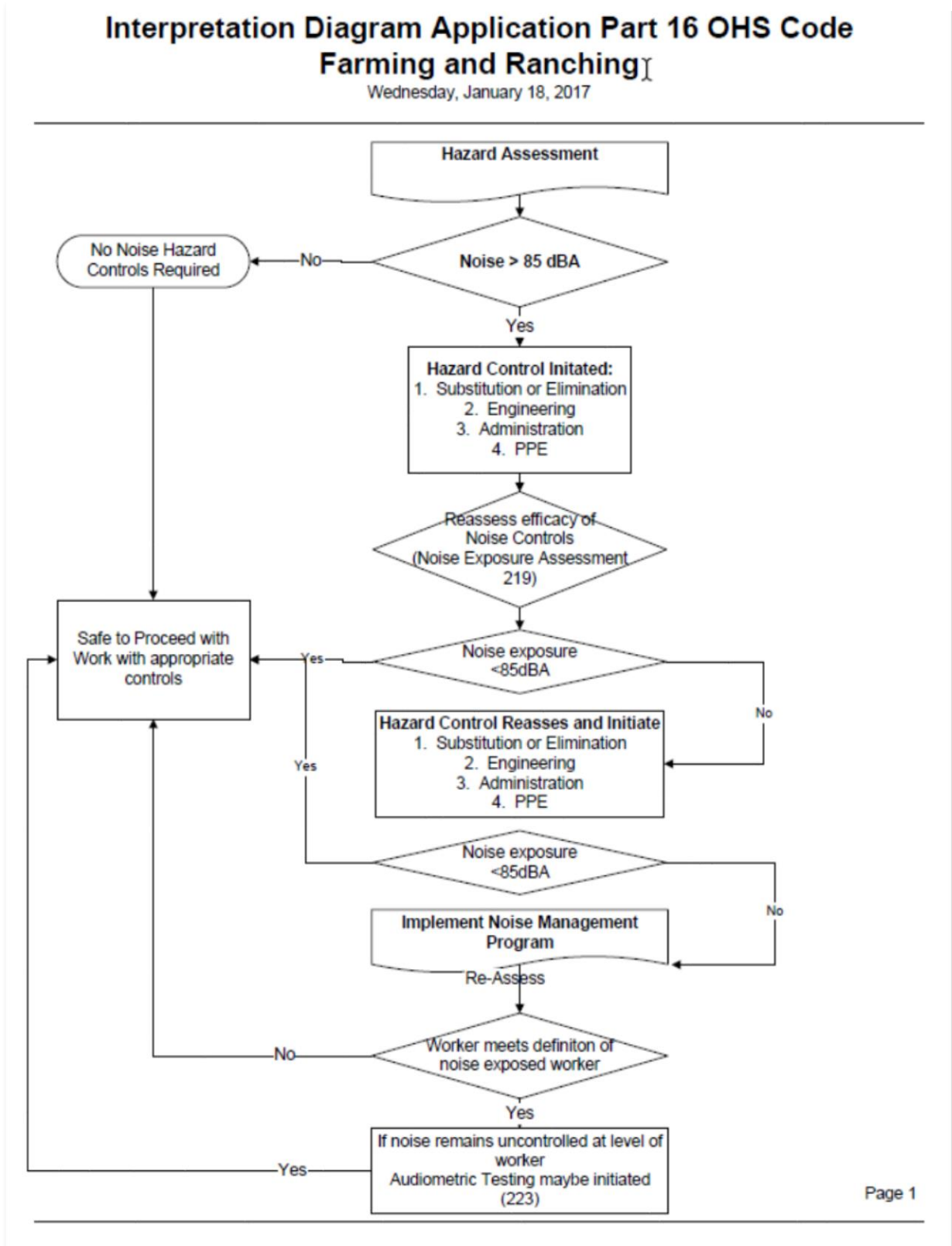
- 216 is supported: ensuring that all reasonable practicable measures are used to reduce the noise to which workers are exposed in areas of the work site where workers may be present.
- The wording of 217 and 218 indicates that the employer must “ensure” a worker’s exposure to noise levels does not exceed certain measurements. The literal reading of this provision implies that to “ensure” this, employers must immediately hire an expert to conduct noise testing to measure every possible exposure on the worksite.

In consultation with Technical resources, this interpretation would not be reasonably practical.

The testing identified would only be required if as part of the Hazard Assessment and control process, it was found to be necessary, or problems occurring that would trigger noise testing to find out what the problem was and to fix it. For example, an employee experiencing ringing in ears.

- Consensus to support these provisions *are subject to* the interpretation that a Noise Management Program is not required unless a noise exposure assessment had occurred which indicates that a program is required.
- Similarly, concerns were expressed about the potential cost of Audiometric Testing to employers, especially where farm worksites are located a long distance away from testing services requiring paid time and travel expenses. While audiometric testing of workers to create a baseline for future may be a best practice in some industries, it was clarified that employers are not required to have workers undergo audiometric testing unless workers are exposed to noise levels exceeding the occupational exposure limits.

Figure 2 outlines the understanding of TWG 3 regarding the application of these provisions:



Part 17—Overhead Power Lines

Goal of this Part:

Protecting workers from contact with power lines.

Consensus Recommendation:

Part 17 can be applied to farms and ranches without alterations, modifications or conditions.

General Considerations

- Many of the practices in this section mirror other regulations in place addressing transportation and power lines. (Travel permits, rules around distances to power lines, etc.)
- With the onset of larger equipment, it is difficult to adhere to height restrictions set. These changes should be recognized in power line development going forward.
- Many farms have put power lines below ground. The adoption of the OHS Code could be an opportunity for government to encourage the removal of overhead power lines in high risk areas (\$\$\$ incentives).

Part 18—Personal Protective Equipment (PPE)

Goal of this Part:

When PPE is being used to control a hazard, it is used effectively and appropriately so the employee is protected.

Consensus Recommendation:

All provisions of Part 18 can be applied to farms and ranches without alterations, modifications or conditions

It is also recommended that application of these provisions for farm and ranch be explored/researched in future to enhance learning about safety effectiveness for farm and ranch applications.

General Considerations

- PPE is the last defense when protecting workers from hazards.
- The code requires the employer to provide PPE in 3 cases: 1. Hearing protection, 2. PPE for emergency responders (Part 7) and 3. Respirators.
- Examples of PPE used in a farming operation included eye protection when operating equipment; dust masks/breathing apparatus in granaries; fire resistant coveralls, hand protection; masks when welding; hard hats; eye protection when pounding posts; steel toed boots when working with animals; hearing protection in barns when animals are squealing/mooing; wet suits when disinfecting animals \using chemicals; knee pads.

- The group reviewed the recent changes in helmet use by the Ministry of Transportation for the public and did not see application to employee workplaces.

Details: Interpretation, Options and Analysis

233 – Footwear

The requirement for “appropriate footwear” can accommodate wearing riding boots when duties involve horseback riding (even though being around large animals may create risk of pinch points). Wearing steel toed boots on horseback is a hazard. It was noted that BC has an exemption for wearing steel toe boots for horseback riding.

243- Skin Protection

It was determined that vaccinating livestock is a common farm and ranch activity. This activity creates risk of needle stick injuries. This review led the group to review Part 35 which has not been assigned to TWG 3 or 4. (*Please review recommendations for Part 35 on [page 46](#)*).

244 - Respiratory Protective Equipment

It was clarified that the term “respirator” includes NIOSH approved “disposable particulate respirators which are masks (without cartridges) such as an N95. It was noted, that employers should only use respiratory equipment if there is a health risk and to select them according to the CSA standard. Your hazard assessment identifies the type of PPE to be used. See Schedule 1 for Occupational Exposure Limits.

250 - Fit Testing & Facial Seal

The Code requires that the employer is correctly “fit testing.” This test would take about 20 minutes and must be done when the equipment is first issued and then every two years afterwards. The worker is required to check their fit\seal upon every use.

The group discussed whether the employer could be deemed a “trained person” for purposes of “fit testing” (e.g. testing an N95).

Requiring a trained professional to be hired to do this testing would not be practical. It was determined that an employer could learn the process and use fairly inexpensive equipment to do this testing. (e.g. smoke tubes for \$24.00\tube could be used for a group of workers).

Facial Hair: It is important for people to wear dust masks when needed (e.g. in grain bins). It was noted that requiring workers to remove facial hair may be very difficult.

Part 26—Ventilation Systems

Goal of this Part

Where a mechanical ventilation system is chosen as a method of controlling worker exposure to contaminants, ensuring minimum requirements are met for design, maintenance and operation of the system.

Consensus Recommendation:

Part 26 can be applied to farms and ranches without alterations, modifications or conditions.

General Considerations

These provisions only apply if a mechanical ventilation system is chosen to control worker exposure to hazards:

- While there are ventilation systems in pig barns, for example, they may be intended for the animals rather than workers (e.g. employers may use breathing apparatus to control dusts, gas exposure).
- Warning systems to indicate failure of ventilation could be as simple as tape attached to vents so if air flow stops, workers can see the system is not operating.

Part 27—Violence

Goal of this Part:

To protect workers from violence in the workplace.

Consensus Recommendation:

Part 27 can be applied to farms and ranches without alterations, modifications or conditions.

The definition of violence in the Code to be amended to include non-physical violence.

General Considerations

- Violence is the threatened, attempted or actual conduct of a person that causes or is likely to cause physical injury.
- Violence on any work site can include non-physical violent behaviors such as verbal abuse and bullying which are not acceptable.
- Nonphysical violence is distinguished from psycho social conditions caused by workplace stress (disabilities which are covered by WCB).
- Language found in the WCB Alberta employee policy manual on violence prevention may be helpful: *Behaviour from anyone that intimidates, threatens, harasses, abuses, injures or otherwise victimizes our employees and will take whatever steps are appropriate to protect our employees from the potential risks associated with workplace violence and we are committed to providing a healthy, safe, violence free work environment.*

- Another example is wording taken from the Federal Human Resources & Skills Development Canada document titled: *Guide to Violence Prevention in the Work Place: “Work place violence” is “any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee.”*

Neither the Alberta employment standards or Human Rights Legislation covers non-physical violence in workplaces.

Part 28—Working Alone

Goal of this Part

To ensure that workers working by themselves can do so safely.

Consensus Recommendation:

Part 28 can be applied to farms and ranches without alterations, modifications or conditions.

General Considerations

- There are many situations in farms and ranches of working alone including driving a tractor in the field, feeding cattle, calving, working in a shop, mucking stalls, fencing or fence checking and driving.
- While some locations may be remote (outside of cell phone range), various practical protocols to have workers check in can be designed to ensure communication.
- The Hazard Assessment (Part 2) will reveal situations where workers may be working alone and the related risks in each situation and employers can implement controls to address them.

Part 29—Workplace Hazardous Materials Information System (WHMIS)

Goal of this Part:

To ensure workers and employers have the information they need to work safely with hazardous materials at Alberta worksites.

Consensus Recommendation:

Part 29 can be applied to farms and ranches without alterations, modifications or conditions.

Considerations

- The Federal legislation was amended in Feb 2015 to adopt international standards and the provisions of Part 29 are being amended.
- As with other provisions, education of the farm and ranch community about WHMIS requirements will be important. If possible, using the new provisions and terminology in implementing Part 29 for farm and ranch will assist in the implementation process – rather than creating additional confusion by doing it twice.

- Given WHMIS is within Federal Legislation, this provides a limited ability for review/change for application to farm and ranch.
- Clarification about the potential application of Manure under Part 29 was explored.

Details: Interpretation, Options and Analysis

Research regarding the application of Manure to Part 29:

Given the Federal Government has jurisdiction regarding identifying controlled substances for the purposes of WHMIS, they were asked the following questions:

1. Is manure classified as hazardous waste under WHMIS 1988 and WHMIS 2015 and therefore exempt?
2. Can you define a situation where manure may meet the criteria for a consumer product exemption under WHMIS 1988 and WHMIS 2015?
3. Can you define a situation where manure may be classified as a controlled product/hazardous product under WHMIS 1988 and/or WHMIS 2015?

Health Canada provided some additional information on the interpretation of federal WHMIS requirements, indicating that manure would fall under WHMIS if it met the classification criteria in the federal legislation (Hazardous Products Act). If the product was intended for recycling, recovery or disposal, it would be exempt from the federal legislation. Health Canada indicated that they have not assessed manure under the federal classification criteria.

In light of the situational interpretation it was agreed no changes were necessary and it was best for application questions to be addressed on a case by case basis as implementation unfolds.

General Recommendations:

1. A Commitment to Provide Supports for Successful Adoption of the Code:

The OHS Code is expected to balance the rights of workers to a safe and healthy working environment with the right of employers to profitably operate their businesses. Adopting the Code will mean making changes in many farm and ranch workplaces. It may require farms and ranch employers to incur additional expenses and invest time, energy and resources to learn and implement new processes. The farming industry is diverse and the impact will be different for different operations. There are many requirements in various parts of the Code (Funding training, hiring experts, doing testing, buying safety equipment\supplies, etc.), when added, up may be significant for some and may be perceived as overwhelming or unrealistic . . . and discourage adoption.

It is therefore strongly recommended that the GoA consider and implement strategies to minimize potential barriers and facilitate and support of Code adoption. Some ideas to explore are:

- Rebates for implementing best practices (e.g. audiometric testing of employees to create a baseline)
- GST rebates
- Seeking industry partners to offer discounts

- WCB rebates
- OHS grants (Similar to those offered by AB Environment)
- Support for peer review\buddying initiatives

Achieving consensus on recommendations from TWG on a number of specific Code provisions has been based upon this “overarching” recommendation going hand in hand.

Some of the costs relating to Health Assessments was researched by the group (see below) when trying to get a “feel” for the magnitude of potential costs that may be involved. (We thank those vendors who provided us with this information.)

²Average Health Assessment Costs Per Employee

Test Type	RN Assessment (Health Surveillance Assessment (RN) – With Vision)	Auditory Examination and Testing	Pulmonary Function Assessment with PFT
Vendor A	\$100.00	\$38.50	\$65 - \$75
Vendor B	\$130 - \$175	\$40.00 - \$45.00	\$45.00 - \$55.00
Vendor C	\$110.00	\$55.00	\$55.00
Average of Vendors	\$120.83	\$45.33	\$55.83

2. Safety Education and Learning Should Be Open to the Family Farm Without Employees

While it is recognized that family members are excluded from the Code, this separation does not generally exist when considering farming communities living and working together. Earlier recommendations to create some type of Farm Safety Association included a suggestion that family farms not subject to the OHS Code be invited to participate and have access to safety resources. Statistics about farm safety (including incidents and fatalities) are now being collected that will enhance our understanding of safety risks and improve practices. Inviting voluntary participation of excluded family farms for them to share their information would benefit everyone.

3. Interpretation of the Code:

The experience of TWG 3 members is that the Code provisions cannot be interpreted effectively without reading them in concert with the Explanation Guide. **It is therefore recommended that these two reference documents be combined.**

² These costs do not reflect potential salary or travel costs which may be required.

It is important to write Code provisions in plain language to avoid confusion and misunderstanding of the farm and ranch community about what is required.

Additional Items Discussed by the TWG

TWG 3 would like to offer the following recommendations and comments regarding matters that fell outside their mandate. They are noted below for consideration by government.

PART 35—Health Care and Industries with Biological Hazards

In reviewing Part 18 – PPE, 243, which states: *An employer must ensure that worker’s skin is protected from a harmful substance that may injure the skin on contact or may adversely affect a worker’s health if it is absorbed through the skin*, the group discussed potential hazards resulting from vaccinating animals. This led the group to reviewing Part 35 and examining the use of medical sharps (s.525) and recapping needles (s.527) in context of potential farm and ranch considerations.

Consensus Recommendation

Part 35 can be applied to farms and ranches except the provision of 527 Recapping needles – which should be exempt.

A section in the Explanation Guide specific to farm and ranch should be developed.

General Considerations

- It is common in the farming and ranching industry for workers to use needles to vaccinate, provide hormone shots to animals, lancets for treating infection and scalpels or other similar sharp devices for castrating animals.
- Part 35 appears to be geared towards human health and not animals.
- Engineered sharps designed to retract so they can never be re-used would not work in farm and ranch contexts and is contrary to standard practices.

Details: Interpretation, Options and Analysis

Section 527 prohibits recapping “waste” needles. Recapping needles can be the safest practice on farms and ranches given needles are re-used (e.g. 10-20 times) before they become dull and are discarded. This occurs when a number of animals in a group are being treated. If the interpretation of “waste” is when a needle is no longer useable, application of this provision may not cause a problem, however may still be confusing for farm and ranch applications.

Opportunity for TWG 3 members to Review the Draft Regulations

Consensus Recommendation

TWG 3 recommends they have an opportunity to meet again to walk through the draft Code provisions when they are available to learn government’s response to these recommendations. (Prior to draft Code provisions going out to stakeholders for the last phase of consultation).

This would have the following benefits:

- Provide an opportunity for TWG to understand the rationale of government for accepting or rejecting the recommendations.
- Enable TWG members to be prepared to address questions from constituents regarding TWG 3 recommendations.

Overhead Power Lines:

The adoption of the OHS Code could be an opportunity for government to encourage the removal of overhead power lines in high risk areas (\$\$\$ incentives)

Summary

The process adopted by TWG 3 members in reviewing the Health Provisions of the Code involved each group member coming to the meetings well prepared, encouraging one another to share knowledge and understand one another’s perspectives, and when differences surfaced, creating options that could best meet identified needs. Government staff provided timely technical information and research, as well as assistance with documenting discussions and managing logistics – all essential to this work.

This approach helped TWG #3 achieve consensus recommendations in all but one area.

As noted in the chart below, of the sixteen Code Parts reviewed, nine were accepted with some alteration, modification or conditions and seven without any change. Supplemental recommendations were made in regard to ten provisions. (e.g. where education or tools may be needed, or a recommended approach for application)

Part (Part 1-3 was reviewed with TWG 4)	Consensus	Accepted <u>with</u> some alteration, modifications or conditions	Accepted <u>without</u> alteration or modifications	Supplementary recommendations
Part 1—Definition of Farms and Ranches	✓	✓		✓
Part 2—Hazard Assessment	✓	✓		✓
Part 3—Manufacturers Specifications	Partial			
Part 4—Chemical Hazards	✓	✓		
Part 5—Confined Space	✓	✓		✓
Part 7—Emergency Preparedness	✓		✓	
Part 10—Fire and	✓	✓		✓

Part (Part 1-3 was reviewed with TWG 4)	Consensus	Accepted <u>with</u> some alteration, modifications or conditions	Accepted <u>without</u> alteration or modifications	Supplementary recommendations
Explosions				
Part 11—First Aid	✓	✓		✓
Part 14—Lifting & Handling Loads	✓	✓		✓
Part 16—Noise	✓	✓		
Part 17—Overhead Power Lines	✓		✓	
Part 18—Personal Protective Equipment	✓		✓	✓
Part 26—Ventilation Systems	✓		✓	
Part 27—Violence	✓		✓	✓
Part 28—Working Alone	✓		✓	
Part 29—WHMIS	✓		✓	✓
Part 35—Biological Hazards	✓	✓		✓

In addition to these 17 parts, TWG 3 made three general recommendations for:

1. A commitment to provide supports for successful adoption of the Code.
2. Safety education & learning to be open to the excluded family farm.
3. Appropriate resources to support Code interpretation.

TWG 3 and TWG 4 also researched and made supplemental recommendations relating to “casual – one-off” workers which was identified as an important area of clarification for many stakeholder groups.

All these recommendations need to be read with the following **Foundational Concepts (Overarching Consensus Recommendations) in mind:**

- Stakeholder groups who are impacted by these recommendations need to be consulted about them by government. TWG members do not represent all affected farm and ranch sectors.
- Clear wording and plain language is needed in the Code and Explanation Guide to support understanding of the intent and requirements of the Code.
- Effective education, and communication about the application and interpretation of these provisions including practical tools and resources will be essential for successful implementation of the Code in the farm and ranch community. (All recommendations in this report relating to education\communication for furtherance to **TWG 6 and/or the**

recommended Farm and Ranch Safety Association are listed in [Appendix C](#)). Many of the presentations made to the TWG 3 by OHS Technical support during their meetings would also be beneficial to share with employers and workers to enhance their understanding of the Code.

- Formation of a Farm and Ranch Safety Association will be instrumental in helping to create standards and guidelines to assist farm and ranch employers and workers in applying Code provisions.
- Hazard assessment is a foundation for application of the OHS Code generally. This is important for designing reasonable approaches to ensure workplace health and safety in the farm and ranch industry where application problems exist. There are opportunities to reinforce\clarify this in how the Code is drafted.
- A realistic strategy for implementation of the Code needs to be developed to “phase in” orientation, education and enforcement so those in the farm and ranch community can be successful in Code adoption. There are many rules to be understood and processes to be implemented. This is “new” to many farm and ranch employers and workers. For example, in [Appendix F](#), under Hazard Assessment, it is recommended that government approach control and elimination on an incremental\staged basis starting with highest risks.
- Proceeding with these recommendations (if accepted) as soon as possible, including development of a clear and well communicated implementation plan which supports industry taking the lead.
- It is important to monitor the progress of implementation of the Code in the farm and ranch industry and be open to adjustment as this will be an evolutionary process with new learning achieved over time. It is important to develop reliable Alberta specific data so that we can create Alberta benchmarks for primary reference in the future. (e.g. Frequency and severity of workplace accidents and incidents in the farm and ranch industry in Alberta).

APPENDIX A: Technical Working Group Participants

Participants were selected against a range of criteria to ensure appropriate representation from a representative group of parties. Parameters included, but were not limited to, geography, agricultural sector, farm and ranch employers, farm and ranch employees, gender, expertise, and experience.

Technical Working Group Participants:

- Shannon Jacobi, Edmonton, past president of the Alberta Occupational Health Nurses Association
- Kent Erickson, Irma, producer (cow/calf, mixed crops) and Alberta Wheat Commission Director
- Glenn Norman, Red Deer County, producer (cow/calf and commercial forage)
- Corey Beck, Sexsmith, County of Grande Prairie councillor, cow/calf producer
- Tom Vandermeer, Sturgeon County, farm worker
- Tyler Kueber, Killam, producer
- Barbara McKinley, Edmonton, WCB consultant
- Humphrey Banack, Camrose, producer (grains and oilseeds)
- Philippa Thomas, Cochrane, injured farm worker and farm safety activist
- Jurgen Preugschas, Mayerthorpe, producer (hog, beef and grain)
- Anita Heuver, Strathmore, tree nursery operator

APPENDIX B: Technical Working Group Terms and Conditions

Technical Working Group Overview

Each technical working group (TWG) has up to 12 representatives from the farming and ranching sector including both employees and employers, labour groups and technical experts, representing a broad and diverse range of voices.

Each working group will be chaired by an independent and impartial individual with demonstrated mediation, consensus and board governance experience.

Farm and Ranch Secretariat

The Secretariat is comprised of Agriculture and Forestry staff who provide project management, process design and facilitation, research, logistics/administrative, information gathering and packaging support.

Technical Working Group Support

Agriculture and Forestry and Labour will provide facilitation, coordination, Farm and Ranch Secretariat support, and technical expertise as required to all TWGs.

Expectations

Participants of TWGs will be involved in one of the following: a review of Employment Standards Regulation; Labour Relations; a review of Existing Health and Safety Related Requirements in the Occupational Health and Safety Code (two TWGs); a review of Best Practices for Health and Safety on Alberta's Farm and Ranch Operations; or Education, Training Resources and Certification.

Participants will share their knowledge, advice and input on how employment standards regulation, labour relations, existing health and safety related requirements in the occupational health and safety code, best practices for health and safety on Alberta's farm and ranch operations, or education, training resources and certification should be applied given the unique needs of employers and employees in the agriculture sector.

Participants will participate from May 12, 2016, until March 31, 2017, or earlier as determined by Her Majesty the Queen as represented by the Minister of Agriculture and Forestry.

Participants agree to:

- a) work cooperatively and collaboratively with other TWG participants to achieve the tasks set out in the TWG Mandate.
- b) establish mutually agreed upon operating principles for the TWG.
- c) uphold the mutually agreed upon operating principles for the TWG.
- d) attend and actively participate in all TWG meetings and teleconferences. Agreements are individual participation agreements, therefore substitutes or delegates may not

attend. Because the timelines for this process are ambitious, significant progress will need to be made at each meeting.

- e) prepare in advance of all meetings to ensure timely progress of the mandate.
- f) provide input into the preparation of “key communication points” for delivery to the Minister.
- g) provide input toward the advancement and accomplishment of the TWG Mandate, including Recommendation Development and Technical Working Group Communication described below.
- h) respond to emails in a timely manner, as required.

Meeting Schedule

Technical Working Group participants will meet:

- Between June 13 and 30, 2016, for one, possibly two, two-day meetings, depending on requirements.
- In late July or August, for either a one- or two-day meeting.
- Additional meetings or conference calls may be required at the discretion of the Chair in consultation with and approval of the Secretariat.
- With the exception of the first meeting, the Chair and TWG participants will determine the schedule for in-person meetings and conference calls.

Recommendation Development

TWG participants will provide input on content and format of the recommendations, and critically review draft recommendations for submission to the Minister of Agriculture and Forestry and Minister of Labour.

TWG decisions are reached through consensus. For the purposes of the TWGs consensus means:

“A decision or direction that every TWG participant agrees to actively support. The group has gone through a decision-making process where the discussion is heard by all and the decision is an expression of the wisdom of the group.”

It is at the Chair’s discretion to decide when the group has put in sufficient effort to reach consensus. When consensus cannot be achieved, strategic options will be presented to the Ministers.

Technical Working Group Communication

Ministers

TWG Chairs, with input from participants, will formulate “key communication points” at the end of each meeting and deliver this information to Valerie Gilpin, designated Minister Representative with the Farm and Ranch Secretariat.

External

TWG participants are expected to act as ambassadors for their respective stakeholder groups.

They will facilitate the exchange of relevant information to improve understanding of diverse interests and strengthen outcomes.

Participants can share the key communication points with the public.

Each TWG's Chair serves as the official spokesperson for the group. TWG participants will direct all media inquiries to the Chair.

Internal

TWG decisions and actions will be recorded in a Record of Decisions.

The Secretariat, with Direction from the Chair, will ensure agendas are shared with participants prior to meetings and Record of Decisions are shared after each meeting.

The process and tools for sharing and storing relevant information will be agreed to by the Chair and participants.

Participant Contributions and Personal Information

Participant Contributions

Participants understand any written documents and quotations ("Material") provided to the Government of Alberta, its employees, agents, representatives and sub-contractors can be used together with their name by the government for matters related to achieving the TWG Mandate. The Material may be made publicly available. All government communications where this Material appears is the property of the Government of Alberta, solely and completely.

Participants understand their consent is not required for the Government of Alberta to make use of the Material if it is not associated with their name or any other identifying information.

Participants understand they have no intellectual property rights in the Material.

The Government of Alberta shall not be liable to a participant for any claim arising from the use of the Material.

Participants understand that they may withdraw their consent in writing at any time. The withdrawal of their consent will only apply to the use of the Material in new communications or publications.

Personal Information

Participants understand personal information about them is collected pursuant to section 33(c) of the *Freedom of Information and Protection of Privacy Act* as it relates directly to and is necessary to develop recommendations for consideration by the Minister of Agriculture and Forestry and the Minister of Labour on how employment standards, occupational health and safety, and labour relations requirements should be applied given the unique needs of employers and employees in the agriculture sector. Questions about the collection of this information may be directed to Diane McCann-Hiltz, Director Farm and Ranch Safety 7000-113 Street Edmonton, AB T9G 1Y5 780-422-6081.

APPENDIX C: TWG 3 Recommendations\Suggestions Relating to Education and Resource Development

(For the Attention of the TWG 6\Farm and Ranch Safety Association)

- Effective education, and communication about the application and interpretation of these provisions including practical tools and resources will be essential for successful implementation of the Code in the farm and ranch Community.
- Formation of a Farm Safety Association will be instrumental in helping to create standards and guidelines to assist farm and ranch employers and workers in applying Code provisions.
- Hazard assessment is a foundation for application of the OHS Code generally. This is important for designing reasonable approaches to ensure workplace health and safety in the farm and ranch industry where application problems exist.
- A realistic strategy for implementation of the Code needs to be developed to “phase in” orientation, education and enforcement so those in the farm and ranch community can be successful in Code adoption.
- It is important to monitor the progress of implementation of the Code in the farm and ranch industry and be open to adjustment as this will be an evolutionary process with new learning achieved over time.

Part 1—Definitions and General Application (joint work with TWG 3 and 4)

Clear wording and plain language is needed in the Code and Explanation Guide to support understanding of the intent and requirements of the Code.

Part 2—Hazard Assessment, Elimination and Control (joint work with TWG 3 and 4)

- Simple\easy to use, practical, tools, templates\best practice manual are created and made available to farm employers to support them in efficiently implementing hazard assessments, elimination and control provisions
- Government provides Incentives and financial supports to help the industry engage in the process, as well as provide assistance and resources
- Provide clarity for the Industry in a number of interpretive areas to support application
- Suggestion for consideration: Expand education to those currently exempt (& best practices family farms)

Part 3—Specifications and Certifications (joint work with TWG 3 and 4)

The legislation needs to be updated to reflect technological and other changes

Part 4—Chemical Hazards, Biological Hazards and Harmful Substances

Clear wording and effective education and communication of the application of these requirements (as noted in other recommendations) is very important for successful

implementation in the farm and ranch Community.

The experience of TWG 3 members is that the Code provisions cannot be interpreted effectively without reading them in concert with the Explanation Guide.

- It is therefore recommended that these two reference documents be combined.

Part 5- Confined Space

TWG 6 and/or the Farm and Ranch Safety Association should be asked to review education and training around confined spaces and develop an approach\materials as this is deemed a high priority area for reinforcing safe practices in the farm and ranch industry.

Government of Alberta (GoA) develop the necessary farm specific education tools, guides, forms, posters and confined space entry training program to assist the industry.

- To assist the Government of Alberta, the TWG has developed a summary chart of the primary confined/restricted spaces as a general guide for policy makers, the industry and farm operators.

Part 10—Fire and Explosion Hazards

- Regarding Section 162.1(1) – while the provisions can be applied to farms and ranches it is recommended that a guide or bulletin specific to agriculture is needed to assist employers with hazard Assessment (e.g. Risk of Grain Elevator\Bin explosions).

Part 11—First Aid

Industry to review recommended provisions for Schedule 2 in 2-4 years

Part 14—Lifting and Handling Loads

It is also recommended that best practices and specific educational materials be developed for farms and ranches to address lifting and handling hazards common in the industry (research of other industry learnings may assist in this regard).

Part 18—Personal Protective Equipment

It is also recommended that application of these provisions for farms and ranches be explored\researched in future to enhance learning about safety effectiveness for farm and ranch applications.

Respiratory Protective Equipment:

Provide educational resources that would enhance awareness to wearing and when to use a respirator.

250 - Fit Testing & Facial Seal

Provide resources to educate about fit testing; facial hair and wearing dust masks.

PART 35 – Health Care and Industries with Biological Hazards

A section in the Explanation Guide specific to farms and ranches should be developed.

- Part 35 appears to be geared towards human health and not animals.

Additional Suggestions:

- The introductory presentations OHS shared with TWG 3 were very important to our work. We would like industry to be able to access the resources that OHS has created.
- It is important that Alberta monitors progress as the industry evolves and establish reliable Alberta benchmarks. In terms of accident reporting going forward; noting the frequency and severity of data, etc.
- It would also be a benefit to include reporting from the exempt section of the farm and ranch community.

APPENDIX D: Process Guide for Review of Each Code “Part”

1. **Together Review Relevant Background Information – [HOMEWORK GUIDE](#)**
TWG members receive information in advance of sessions to the maximum extent possible.
2. **Discussion Questions to Explore Application:** (not necessarily in this order)
 - a) What’s the “Goal” of this Part? (Confirm)
 - b) What might employers be required to do to apply this provision in the farm and ranch Industry? (Examples)
 - c) What are the key elements to consider in developing a policy for applying this Part? (What’s important for farm and ranch workers? For farm and ranch employers? For 3government?) – See preliminary interests list created in July below
 - d) What are the common practices in our industry in this area now?
 - e) What do other provinces do? What can we learn from them?
3. **Initial Assessment: POLLING** Based on the above analysis, how do we think this Part might apply? (What category does it fall into?)
 - a) Should farming and ranching be exempt from this Part?
 - b) Can this Part be applied to farming and ranching without variation or modification?
 - c) Can this Part be applied to farming and ranching with alteration, modification or conditions?
4. **Exploring Options:**
 - a) What are the possible options for addressing this Part\provision for the farm and ranch Industry? (Brainstorm)
 - b) **Options Review\Analysis:** How well does each option address what the group identified as important for everyone (workers, employers, Government)? See ATTACHMENT on page 60.

Other Considerations: Finding the best solution so workers have a safe and healthy working environment and employers can profitably operate their businesses.

³ Considers the OHS Legislation Principles;

- Protection of workers
- Desired outcome
- Necessity
- Shared accountability
- Consistency
- Minimization of redundancy
- Relevancy

5. **Exploring** ⁴**Consensus** on recommendations: the following are some questions to explore mutually agreeable solutions and bring closure to the discussion:

- Is there an option that has surfaced that everyone can support?
- Are there 1 or 2 options that hold promise the group wants to refine \work on further?
- Are there important questions the group needs to answer before it can decide?
(Option: More work by a TWG sub-group, research by Tech Advisors, etc.)
- Do group members need some extra think time or check-in with others before they can decide?
- Would one more roundtable check in to consider each group member's views be helpful before closing discussion?
- ⁵Would the group like to end the discussion or keep it going?

⁴ Terms of Reference **For the purposes of the TWGs consensus means:**

“A decision or direction that every TWG participant agrees to actively support. The group has gone through a decision-making process where the discussion is heard by all and the decision is an expression of the wisdom of the group.”

It is at the Chair's discretion to decide when the group has put in sufficient effort to reach consensus. When consensus cannot be achieved, strategic options will be presented to the Ministers.

ATTACHMENT:

WHAT DO WE THINK ARE THE NEEDS OF EACH GROUP TO KEEP IN MIND?

EMPLOYEE/WORKER

1. To be informed about hazards and understand rights, responsibilities and obligations in dealing with hazards including the right and obligation to refuse unsafe work.
2. To know what procedure to follow in a one-off situation
3. To participate in the hazard assessment jointly with the employer
4. To know their own and coworkers' competencies
5. To know that training is easily available

THE EMPLOYER

1. To know what, when and how Code rules are applied
2. For all workers to be safe
3. To understand what level of reporting and documentation constitutes due diligence
4. To have processes that are efficient and economically feasible
5. To be able to apply and communicate the Code Provisions Seamlessly with current operations
6. To have applicable training to outline and explain the hazards
7. To have workable and adaptable rules
8. To utilize existing hazard assessment resources
9. For all to understand that hazard IDs will not be perfect

GOVERNMENT

1. To reduce financial and human costs of workplace injuries/fatalities (Medical, productivity, social)
2. To be able to provide guidance/ direction through policy/regulations – appropriate incentives (nudges)
3. To bring the farm and ranch together with other industries in AB – consistent approaches to safety
4. To improve practices through Regulation (code) to yield safety improvements
5. To receive guidance on how to fulfill responsibilities
6. To work with the farm and ranch community in an open and honest discussion to accomplish above
7. To have a positive story to tell

APPENDIX E: TWG 3 Homework Guide Template

This Template is designed to help TWG members focus on key information to come prepared to the meetings. This will be a cover sheet that provides value added context and helps group members find and focus on information related to each discussion area (Code Part).

PART\TOPIC: OHS CODE PART <insert#> – <Insert code name>
<p>GOAL: Determine <i>How might the <insert code name> provisions apply to employers and employees in the farm and ranch (F&R) sector</i> to:</p> <ul style="list-style-type: none"> • make an initial assessment if requirements are: <ul style="list-style-type: none"> • Not applicable to F&R • Can be applied immediately to F& R; • Can be applied with some modifications to F&R <p>and Explore options and possible recommendations.</p> <p><u>Some Questions to Consider:</u></p> <ul style="list-style-type: none"> • What is considered low, medium and high hazard <insert content>. • Many farming and ranching operations are in rural areas that have more limited health care resources. <insert content> and (tie in to emergency response plan per Part <#>). • There is the assumption seasonal or contract workers would contribute <insert content> Would farmers be required to keep at all times supplies adequate for the maximum number of workers that may be present, even though there would not be that many workers every day? Further, on agricultural work sites there may be workers covered and those who are not (e.g. family members), but both may use the <insert code topic> supplies. If supplies are provided only based on the number of waged, non-family workers present, there may not be enough provided for all individuals present. • <insert content> i.e.) First aid records are considered medical records so administration and access (e.g. confidentiality) would need to be considered.
SUMMARY OF THE LAW
<p>Health and safety programs at the workplace aim to prevent injuries and illnesses. But sometimes, despite the best prevention efforts, injuries and illnesses occur. This Part addresses <insert what>.</p> <p>Summary of Requirements:</p> <ul style="list-style-type: none"> • Training <insert content> • The employer is required to <insert content> • I.e.) First aid must be readily accessible at the work site. • I.e.) There must be arrangement in place to transport ill or injured workers from the work site to a health care facility. • I.e.) Workers must report an acute injury or illness and the employer must keep a record of every acute injury or illness that occurs. Specific requirements for the records are included (e.g. what must be reported and access to records).
OTHER JURISDICTIONS
<p>All jurisdictions responsible for OHS have <insert name of> provision; most contained in OHS legislation. The exception is <identify if any></p> <p>By and large, provisions are similar, requiring <what>. There are some variations <what> from jurisdiction to jurisdiction.</p>

PRIORITY PRE-READING	
1. AB OHS Code 2009 Part <#> Section <###(&#)> to <###(&#)> (Blue Book)</td> </tr> <tr> <td colspan="2">2. TWG 3 & 4 Farming and Ranching: Review of OHS Legislation Discussion Paper: Appendix >?< Page <#> to <#></td> </tr> <tr> <td colspan="2">3. AB OHS Explanation Guide Part <#> <insert code name>. (see Attachment <#> + <insert link></td> </tr> <tr> <th colspan="2" style="text-align: center;">DEFINITIONS to Review that have application to this Part\Area</th> </tr> <tr> <td> <ul style="list-style-type: none; padding-left: 0;"> • Advanced first aider • Approved training agency • Close work site • Distant work site • Emergency first aider • Emergency Medical Responder • Emergency Medical Technician-Ambulance (EMT-A) • Emergency Medical Technologist-Paramedic (EMT-P) • Health care facility </td> <td> <ul style="list-style-type: none; padding-left: 0;"> • High hazard work • Isolated work site • Joint First Aid Training Standards Board • Low hazard work • Medium hazard work • Nurse • Standard first aider • First aid • First aider </td> </tr> <tr> <th colspan="2" style="text-align: center;">SUPPLEMENTAL READING</th> </tr> <tr> <td colspan="2">AB Bulletin Workplace <name> (see Attachment <#> + <insert link></td> </tr> <tr> <td colspan="2">AB Bulletin Workplace <name> (see Attachment <#> + <insert link></td> </tr> <tr> <td colspan="2">AB Bulletin Workplace <name> (see Attachment <#> + <insert link></td> </tr> <tr> <td colspan="2">AB Bulletin Workplace <name> (see Attachment <#> + <insert link></td> </tr> <tr> <td colspan="2">AB Bulletin Workplace <name> (see Attachment <#> + <insert link></td> </tr> <tr> <td colspan="2">AB Bulletin Workplace <name> (see Attachment <#> + <insert link></td> </tr> <tr> <th colspan="2" style="text-align: center;">FOLLOW-UP QUESTIONS</th> </tr> <tr> <td colspan="2">TWG #3 Member: Please send any questions in advance that you have which may be important for our discussion to the Chair with a copy to the OHS technical specialist. Depending upon timing, we will share responses in advance or discuss at the TWG meeting</td> </tr> </tbody> </table> </div> <div data-bbox="118 936 401 952" data-label="Page-Footer"> <p>62 Page – APPENDIX E</p> </div>	

APPENDIX F: Joint TWG 3 and TWG 4 Report

The following outlines the Joint recommendations of TWG 3 and 4

Note: On the date of submission of this report, all TWG 4 members had not yet confirmed their support in writing for Appendix F (TWG 4 Report Appendix C) . If TWG 4 members do have changes, those will be addressed in their report.

Definition of “Farm and Ranch Operations”

Consensus Recommendation:

(1) Subject to subsection (2) and except as expressly provided in this Code, this Code applies to the following farming and ranching operations

- a) *the production of crops, including fruits and vegetables, through the cultivation of land*
- b) *the raising and maintenance of animals and birds*
- c) *the keeping of bees*
- d) *the operations of greenhouses, mushroom farms, nurseries or sod farms and riding academies*
- e) *farm-raising finfish, shellfish or other aquatic animals within a confined space and under controlled feeding and harvesting conditions*
- f) *Operation and maintenance of equipment and facilities associated with - a, through e*
- g) *Transportation, Application and Conditioning of "own use" materials associated with a, through e*

(2) For greater certainty, the following are not farming and ranching operations

- a) *the processing of food or other products from the operations referred to in subsection (1)*
- b) *landscaping*
- c) *the raising or boarding of pets*

Note: *Key Principals in developing the definition were not to negatively impact the protections employees currently have by including them as part of the agriculture industry, and that this definition must be subject to further consultation with groups that may be effected.*

Considerations:

- The examination of what constitutes farming and ranching is an important policy consideration and an important foundation for the review of many parts of the Code.
- The group used the OHS Code exemption definition of farming as a basis to develop a recommended definition.

- A key principal adopted by the group in determining\applying the definition to point out to government in developing the Code, is not to negatively impact the protections employees currently have by including them as part of the agriculture industry. Some parts of the industry are covered under the Code currently.
- A working definition was developed in July 2016 and it was agreed that after both groups were nearing the end of their work, TWG 3 and 4 would finalize the definition.
- While one set of rules to be applied to all agriculture industries is more practical, the intent of the TWG's recommendation would be for it not to negatively impact municipal tax advantages the industry currently enjoys.
- The Government was consulted and has no definitive answer on whether aquaculture, riding academies, or insects should be part of farm and ranch and asked for TWG recommendations.

Details: Interpretation, Options and Analysis:

The examination of what is farming and ranching was an important foundation for the review of many parts of the Code and was the first part of the Code tackled, together, by both groups.

The group first discussed different farming scenarios and explored a number of questions including:

- Herding, loading and transportation of animals, produce and equipment. Does this differ if the activity is performed by farm employees versus contractor employee's vs processor employees?
- Is construction of infrastructure on a farm part of farming and ranching operations? Does the purpose of the infrastructure matter, or whether contractor or farm employees are doing some of the work?
- Is the drying of grain for others a 'farm and ranch operation'? Would that change if the drying operation moved off the farm yard on to a separate property in a rural industrial subdivision?
- Is the repair and sale of used equipment in the farm yard a 'farm and ranch operation'? What if the business involved repair and sale of other non-farm equipment?
- Does "keeping of bees" include harvesting honey, include extraction of honey from the wax combs; include processing wax into candles and selling them; include resale of honey locally?
- What happens if you hire a custom combiner who operates a family farm (no employees)?

⁶BRAINSTORMED IDEAS: What might be some factors to consider to help interpret the "Gray" areas (Creating a possible checklist):

- Looking at the size of the operation (farm receipts or fuel Number for example)
(Note: The OHS legislation does not currently make any distinctions around farm size.)

⁶ Brainstorm Process: Individuals volunteered ideas. It was agreed there were no bad ideas. Some were considered more than others.

- Determining who is the “Prime Contractor” impacts responsibility for the work\employees
- Consideration of Revenue Canada Status
- Who is profiting from the activity?
- Looking at the “purpose” of the “activity” – is it farming?
- “Activity” is more important than “location”.
- What is a “practical” approach?
- Who is the employer? If it is the farm’s employee or the service provider’s employee? (e.g. John Deere)

Preliminary Draft: Definition of Farming and Ranching Operations:

The group used the OHS Code exemption definition of farming as a basis to develop a definition and found general consensus on the following changes as a preliminary draft for future work:

1.1(1) Subject to subsection (2) and except as expressly provided in this Code, this Code applies to the following farming and ranching operations

- a) the production of crops, including fruits and vegetables, through the cultivation of land
- b) the raising and maintenance of animals and birds
- c) the keeping of bees
- d) the operations of greenhouses, mushroom farms, nurseries or sod farms
[Consider moving this into the definition from (2) below. A number of group members thought this should be a part of the farming industry however some group members felt that these sectors would need to be consulted regarding this change before agreeing to do so].
- e) Operation and maintenance of equipment and facilities associated with a, b, c, and d (*New*—to clarify some of the application questions explored)
- f) Conditioning and “Own” transporting of a, b, c, and d
(New—to clarify some of the application questions explored) *Suggested Alternative wording:* Transportation, Application and Conditioning of “own use” materials associated with a, b, c and d.

(2) For greater certainty, the following are not farming and ranching operations

- a) the processing of food or other products from the operations referred to in subsection (1)
- b) landscaping
- c) the raising or boarding of pets

TWG Analysis regarding Specific Elements of the Definition:

Greenhouses, Mushroom Farms, Nurseries or Sod Farms

The **operations of greenhouses, mushroom farms, nurseries or sod farms** were subject to the OHS Code prior to the changes for farms and ranches. The following are some of the reasons the group recommends including as part of farm and ranch operations:

- Because it is agriculture – commonality with the industry: operate same equipment
- Currently have no resources and will allow access to expertise and resources if they are part of this industry: safety management systems, information\education, etc.

- One set of rules for all in the industry is more practical.

Aquaculture

TWG 3 received confirmation from the Alberta Aquaculture Association that they supported their inclusion in the Farm and Ranch Definition.

Riding Academies:

- Technical support from Alberta Labour could not provide definitive interpretations regarding inclusion or exclusion of riding academies\boarding of horses. TWG 3 and 4 were asked for their recommendation.
- It is likely that if these operations are engaged in care and maintenance of animals, they would be deemed to be farm and ranch.
- B.C. includes riding academies under their Farm and Ranch definition.
- We may have businesses that are solely riding academies (e.g. students bring their own horses) and other businesses that do both: Teach riding and care for and maintain horses used. Employees may work in one area or in both. Currently businesses may have some employees covered by OHS and others not.
- Do riding academies have the same interests as those defined as farm and ranch? If they are “solely” training and not caring for animals this may not make sense.
- Businesses operating in both areas should be under the same provisions (farm and ranch)
- It was noted that being placed under farm and ranch would mean that the “family farm” exemption may apply to some groups which are currently under the Code.
- Consultation with the Alberta Equestrian Association indicated their preference for being included in the farm and ranch definition.

Operation & Maintenance of Equipment and Facilities Associated with Farms & Ranches

The following is the OHS response\research about custom operation – e.g. manure management as a resource (custom application vs. custom transportation).

Currently, farm and ranch exemption applies to operations that are reasonably connected to the operations listed in section 2(1) of the Farming and Ranching Exemption Regulation namely, the production of crops, raising and maintenance of animals or birds, and the keeping of bees.

Collection and spreading of manure likely considered reasonably connected to these operations.

It is within the mandate of the working group to consider the various aspects of farm and ranch operations and recommend what should be considered reasonably connected going forward.

At the TWG 3 and 4 meeting on November 30, to further examine this question, OHS Tech support was asked to look into how government previously treated operations (as exempt or not). This is important for the following reasons:

- TWG 3 & 4 have adopted a key principle not to negatively impact the protections employees currently have by including them as part of the agriculture industry. Understanding if some of these operations are currently governed by the OHS Code will assist in making this determination. For example, if included in the farm and ranch definition, the exemption applicable to farm and ranch family members would apply.
- It is important to identify these industry groups for government to consult with them regarding their inclusion within the farm and ranch definition.

Alberta Labour asked TWG 3 at their December 14\15 meetings to provide a list of areas **which they believe may fall within the Definition of Farm and Ranch** to assist them in responding to TWG 3 and 4 request. TWG 4 was consulted on this list.

Conclusion

TWG 3 and 4 recommend custom agricultural operations should be provided the opportunity to be covered under the OHS Code provisions specified for farms and ranches as opposed to the non-specific Code provisions exclusively. The following list of operations for potential inclusion was generated through brainstorming by TWG 3. TWG 4 did not consider a specific list.

- Custom agricultural applicators: Supporting production of crops (note that environmental legislation also regulates pesticide applicators)
- Manure spreaders: Supporting raising of crops (fertilizing) or maintenance of animals and removal of waste from farm
- Custom combining, custom hauling Supporting production of crops
- Farriers – custom hoof trimmers
- Chicken catchers
- Custom haying, silage: supporting production of crops or raising of animals (feed for cattle)
- Custom land cultivation, breaking, tillage, raking (for purposes of opening farmland/pasture)
- Custom tree diggers (nursery harvest): Considered part of a nursery operation (these would be already covered by OHS legislation)
- Custom fencing: (Supporting farm/ranchland)

PART 2–Hazard Assessment, Elimination and Control (HAEC)

Consensus Recommendations

It is recommended that the present Code provisions can be applied to farm and ranch industry *if the following provisions are implemented*

- **Simple\easy to use, practical, tools, templates\ best practice manual are created and made available to farm employers to support them in efficiently implementing hazard assessments, elimination and control provisions.** Some areas to consider:
 - Mobile apps in the field and on-line.
 - Using current templates, industry standards, peer standards. (Don't reinvent the wheel.)
 - Practice toolkits (through the Best Practices TWG)

- Look at other industry successes to help shape these.
 - Hazard Identification education model (through the Education TWG).
 - Managing risks well is the cornerstone of a successful safety program.
- **An appropriately funded industry led safety association\structure is created to:**
 - Define what is the norm or standard needed. (which could be modified over time)
 - Create tools and resources. (standardized Hazard Assessment tools).
 - Do audits and provide peer review.
- **Government provides Incentives and financial supports to help the industry engage in the process, as well as provide assistance and resources – some ideas:**
 - Similar to Alberta Environmental Farm Plan supports\incentives.
 - Target small producers who not doing Hazard assessment currently.
 - Have different levels of programs: Under 5 workers, 6-20 workers, 20+ workers, etc.
 - Transitional supports.
 - Early education \promotion of HAEC is essential to promote adoption
- **Approach control and elimination on incremental\staged basis starting with highest risks.** (Stage so farmers not have to do everything all at once.)
 - A suitable timeline should be created for all the farm and ranch community to provide them with time to catch up.
- **Provide Clarity for the Industry in the following areas:**
 - Document what “reasonably practicable” is.
 - What is required level of detail to satisfy due diligence.
 - Base on peer and industry determined standards (existing standards).
 - What are the minimum reporting requirements?
 - Assurance about the application of global assessments (Requirements should not be onerous. For example, number of assessments for every brand of combine).

Suggestion for Consideration:

Expand education to those currently exempt (and best practices family farms).

Worker Competency

Consensus Recommendations

The definition of “Competent” as found in Part 1 namely: *“in relation to a person, means adequately qualified, suitably trained and with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision;”* can be applied to farms and ranches without modification.

Considerations

The definition of Worker Competency is one of the key elements to application of the Code and hazard assessment elimination and control. The group considered whether the definition of “competent” as found in Part 1 was applicable with or without modification.

The group agreed the industry will need assistance in relation to the application of the definition through the development of tools that are easily used, as well as training and support.

[Part 3- Specifications and Certifications](#)

[\(Definition of Manufacturers Specifications\)](#)

Recommendations:

Consensus recommendations were achieved on the following

- Legacy Equipment must be grandfathered
- 12(a) can be applied to farm and ranch
- The legislation needs to be updated to reflect technological and other changes

While options and ideas were explored, **consensus was not reached** on application of the remaining sections of Part 3. **See *Details below***

Considerations:

The ability of farmers to continue to be innovative and adapt and maintain equipment is integral to the nature of farming and critical to its viability.

Any Alternatives to application of Part 3 need to be credible and protect worker safety

Details: Interpretation, Options and Analysis:

[July 2016 Discussions:](#)

In July, the group determined that the ability of farmers to continue to be innovative and adapt and maintain equipment is integral to the nature of farming and critical to its viability. Eight different circumstances in which modification was likely necessary were determined:

1. Legacy equipment
2. Home built equipment
3. Home modified equipment (e.g. augers)
4. Emergency repairs
5. Equipment without manufacturers specifications
6. Certain aspects of 12 (d) (i.e. operation, storage, handling)
7. Third party aftermarket modifications
8. Practical considerations regarding equipment use given limitations on most farms (i.e. lack of equipment to measure actual v. design capacity)

Four small groups worked on two circumstances each and brainstormed possible Code modification options to deal with the competing needs of adoption of the Code (ensuring workplace safety) and farming realities.

The following chart outlines the ideas developed at each of the tables:

Circumstance	Small group ideas
(5) Equipment without manufacturers specifications (7) 3rd party aftermarket modifications	<p>These two provisions were dealt with together. The Group determined that Part 3 Section 12 (a) should apply to the farming community. Exceptions could be dealt with for the majority of equipment that doesn't have manufacturers specifications or with aftermarket modifications through the general application of the Code regarding:</p> <ul style="list-style-type: none"> • Risk assessment before operation and mitigations • Proper instruction of equipment use • If\Where there is high risk, this may need engineering certification
(1) Legacy equipment	<ul style="list-style-type: none"> • There is a need to recognize legacy equipment and apply the Code on a go forward basis from a specific date – likely the date of implementation of the new Regulations. Legacy equipment must still be maintained and used correctly. • Through risk assessment farmers should identify the items of equipment or aspects of equipment which don't comply with manufacturer specifications.
(4) Emergency repairs	<p>The Group is of the belief this is already adequately dealt with in the Code. (NOTE: Technical Support advised that it is unknown if the specific issue of modification of equipment outside of manufacturers' specifications to deal with emergency situations is considered in the Code. <i>A legal opinion is being sought</i>)</p>
(2) Home built	<p>The group explored the possibility of the farmer becoming the "Manufacturer" for the purpose of 12 b, c, and d. This option was discarded given potential liability concerns.</p> <p>The group explored other ideas and landed on the following option: Apply Part 3 Section 12 (a) ONLY and exempt 12 (b), (c), and (d) for FARM AND RANCH; but ensure safety through other provisions written into the Code that would require:</p> <ul style="list-style-type: none"> • A specific Hazard Assessment for each piece of Home Built equipment • Development of a Rating system to assist in this assessment process: Low – Medium – High (e.g. equipment transporting people, or moving at high speeds could be a greater risk) • Applying different hazard control/elimination criteria based on the equipment rating
(3) Home modified	<p>Time didn't allow full examination of this issue but many of the same considerations as for Home Built equipment would apply. A thought was if modifications exceed the manufacturers specs, a hazard assessment would be called for.</p>
(6) Operation, storage etc. under 12 (d)	<p>This Group determined that the issues associated with application of 12(d) on the farm could be solved by alteration of the Code in respect of farming by applying only Section 12 (a) to the farm and ranch community</p>

Circumstance	Small group ideas
(8) Practical Considerations	<p>modified to include the issue of maintenance. Subsections (c) through (d) would not apply. The specific equipment issues will likely be dealt with in other parts of the Code I.e. Power Mobile Equipment, Lift Rigging, Fall Protection, Scaffolding, Tools. In addition, a specific Farm Code Section could deal with farm equipment based on industry norms. In addition, the shared employer/employee requirement for hazard assessment would apply.</p> <p>For the Practical considerations issue, the group recognized that such issues were common in other industries as well and that utilization of practicality as part of the Hazard Assessment process would adequately deal with this issue.</p>

In a full group discussion that followed, **three themes emerged which provided a broad framework for addressing this Part:** (The object is to create a safe working environment while not stifling the innovation and entrepreneurship vital to a viable industry. NOTE – there was not consensus on these directions – they were identified for further exploration.)

1. General Agreement for creation of a specific part in the Code for farm and ranch equipment to deal with the specific unique circumstances of farming. (Requirements Applicable to Specific industries like mining or Forestry)
2. Elimination of Subsections 12 (b), (c), and (d) as they apply to farming. The group was not unanimous on this point. Details of the specific Farm Code Part (1 above) may take us to unanimity. Time did not allow for much more than a preliminary discussion on the issue.
3. Application of the Hazard Assessment, Elimination and Control provisions as conditionally approved should be a cornerstone of equipment safety in addressing modifications\exceptions

Information provided by Alberta Labour indicated the OHS Code only provides very specific variances from requirements in an emergency and none of these apply to the application of the manufacturer specifications.

November Discussions: Outlining the various group member views:

- Many manufacturers specifications are designed to avoid liability and therefore contain impractical requirements rather than focus on needs related to safe operation and maintenance of equipment
- A blanket exemption is too sweeping a solution to a problem related to a minority of situations.
- It is not reasonable or practical to require a professional engineer to certify every equipment modification made in farming and ranching. There are very few engineers available, they don't really work on these types of things and may provide a less effective inspection than the farmer could have.
- In the OHS Code, manufacturer's specifications or certification from an engineer serve an important principle, namely ensuring there is a knowledgeable third party who can

confirm that a piece of equipment continues to be safe to use- this principle should be continued for farm and ranch.

- Internal hazard assessment processes are still prone to subjective evaluations of risk.
- Some manufacturers specifications may be unsafe in a farm situation. For example, auditory warnings when backing up equipment may cause a stampede of horses\cows.
- Some equipment safe guards designed to protect the worker may not permit equipment function\use for farm and ranch (e.g. grain augers)
- Different types of equipment would have different OHS risk levels – for example, equipment that is lifted over a worker may be very high risk.
- Existing wording of Part 3 (e.g., 12(c): "...that may affect the structural integrity or stability..."; 13(1) "If this Code requires...") is sufficiently flexible to permit continued innovation with equipment that does not adversely affect worker safety.
- If your modified equipment was used in a worker accident; you take on the risk because you are at higher risk for due diligence. If you contact the manufacturer and they authorize the modification you should keep this correspondence as it will be key to document in the case of an accident on the farm. (OHS Tech support)
- Grandfathering legacy equipment, addresses the concerns regarding existing equipment, no other variance is needed.
- No other jurisdiction provides an exemption from these requirements. There are no observed negative impacts on innovation in agricultural workplaces as a result.
- There is insufficient information regarding farm modified equipment being a significant cause of incidence or injury in the farm and ranch industry.

Options\Ideas generated to alter or modify Part 3 to address safety:

- a) Consider a qualified person other than an engineer certify equipment. (3rd party review?)
- b) Ask the government to provide "Engineers" to the Industry to be available and provide services when needed.
- c) Ask the Government to pay for this
- d) Update the code to reflect technology; consider that innovative alterations to equipment happens.
- e) Adopt the July ("homebuilt approach" ([Above](#)) as follows:

Apply Part 3 Section 12 (a) ONLY and exempt 12 (b), (c), and (d) for farm and ranch; but ensure safety through other provisions written into the Code that would require:

- A specific Hazard Assessment for each piece of Home Built equipment
- Development of a Rating system to assist in this assessment process: Low – Medium – High (e.g. equipment transporting people, or moving at high speeds could be a greater risk)
- Applying different hazard control/elimination criteria based on the equipment rating
- Create a Decision Tree to help farmers to conduct this assessment

There was considerable discussion of option E.

Summary:

Consensus could not be reached. The group remained conflicted over the practicalities of applying Section 12 versus the principle of third party verification.

ONE-OFF “CASUAL” FARM HELP. (EXEMPT FARM)

Consensus Recommendation:

Request Government to address this matter as it is very important to the Industry and in examining solutions, adopt the following principles:

- Strive for clarity for the farm community about whether the Code applies to them and how.
- Create a strong culture of workplace safety in farm and ranch for everyone in the farm and ranch industry (employers, workers and families)
- Support a “level” playing field and not inadvertently creating inequities or unfair advantages for some farms\ranches over others.
- Consult with exempt farms and ranches to ensure their interests \needs are understood and considered.

It is hoped that the options and ideas generated by the group in their attempt to explore possible solutions may provide some food for thought as government addresses this question. It is important to note the group was unable (for a number of reasons, including time needed) to develop solutions that could gain the support of all group members.

Government should make any necessary changes to clarify application of the Code to volunteer activities on Farms and Ranches. In particular, that neighbours helping neighbours will not be included in the definition of worker and the provisions of the Act\Regulations\Code would not apply.

Considerations:

As part of the group’s review of the hazard assessment significant discussion was undertaken regarding the following concerns:

- Hiring employees for very short periods of time. For example, a farmer pays a neighbor to look after his livestock for two weeks while he goes on vacation. Is that farmer an employer for purposes of the code during that two-week period? Does the farmer have to have a safety management system and comply with all provisions of the code in case an employee may be hired?
- What are “wages”? Is bartering deemed to be wages? How are wages being determined for employment standards? Should the revenue Canada taxable income be considered?
- What happens if neighborhood kids work on the farm? How are students addressed?
- What happens when a neighbor is helping and driving a tractor and falls off and is killed?
- Many farmers are concerned about being subject to regulation, fines etc. Given there is no information about what the rules are now, we hear some are reluctant to ask

neighbors for help which may result in other unintended consequences.

- How do we ensure the current definition does not restrict the culture of the farm industry “neighbors helping neighbors”?
- This topic is crucial to resolve for the farming community and has been referred to by the group as “the elephant in the room”

It was noted that if the farm employer hired a prime contractor – the farm employer would still need to verify that the prime contractor had appropriate certifications\coverages to conduct the work. (WCB, clearance letters, etc.)

A sub-group was formed with TWG 3 and 4 members to research and come up with options for how to address this concern for consideration by TWG 3 and 4. (See Report in [Appendix G](#))

Details: Interpretation, Options and Analysis – Report Review

- Group members estimate that about 70% of farms (30,000) are exempt family (non-employee) farms and subject to the “gray” area
- At the fall AAMDC Conference, where a TWG panel responded to questions, the question of Code application to “exempt” farms if acquiring relief help was the predominant topic.
- Providing transparency\certainty about when you are subject to the Code and when you are not will impact effective Code adoption in the farm community.
- The safety of casual workers is also important. Workers should have the same protections and levels of protection regardless of how often they work.
- If OHS applies, it will have “one-time costs” for a farmer\rancher to implement various parts of the Code
- Why would non-exempt farms with one employee be treated differently than a farm that is exempt who hires someone for two weeks?
- The government’s intent was to leave the family farm out so how best can that spirit be kept alive?
- It is important to note we care about the exempt family farm – this discussion should not imply otherwise or that exempt farms do not operate safely. (There should be no stigma that exempt farms are bad operators)

Options\Ideas in the sub-group report reviewed by TWG 3 and 4 were:

- **Creating a threshold of numbers of workers or hours of work** or otherwise defined by a risk assessment tool that would be required to be met before OHS Code application to the exempt farm is triggered. (It was noted that no other jurisdictions adopts this type of threshold.)
 - **Examining the Code provisions (Part by Part) to** determine which might be more important and which might be less important to apply to the farm with a “minimal” work force
 - **Relying on Hazard \Risk Assessment in some way**

- **Educate each employer on how operate on their farm per the industry standard.** Developing some criteria to help with assessing risk
- **Asking the Government to provide greater “certainty”** on how to define someone as an employee
- **Apply for Acceptances\exceptions or variances** in the Code

Additional Options\Ideas Developed Through Full Group Discussion:

- Asking for an **advance ruling** from ES or OHS on employment status in a certain situation (It was confirmed that these types of inquiries would not compromise the person making the inquiry. OHS offers an on-line “**ask an expert**” forum at <https://work.alberta.ca/occupational-health-safety/ask-an-expert.html> where questions can be posed and responses received in 2-3 days)
- Creating a **criteria\check-list** for farmers to use when trying to assess the employment status of a person (employee or contractor)
- **Create an income threshold** – e.g. if the income is less than \$10,000 not covered by OHS
- **Create a “mid-point” category**

CLEAR <u>NOT</u> an employee	GREY AREA	CLEAR an employee
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- Differentiate so Some code parts apply to the middle (Grey area)
- A potential role for the Safety Association here – Explanation Guide provisions can support this.
- Ask the government to **consult with exempt farmers** (They are not well represented in this room)
- Come up with a **clear definition of employee**
- Address the fears by clearly **defining what is NOT employment** (bartering, casual, farm sitting, contract labour)
- **Family (exempt) farms do hazard assessments** (on-line?) and when situations come up, they implement them.
- **Collect and share the facts** – conduct an economic\financial\social impact study on implementing the Code (This may help create a positive atmosphere)

Summary:

The crux of the issue is: When do you change from being a family farm where you would be exempt from an ‘employer/employee situation? Where is the division line? Do we want to define the line OR move the line?

Process Options Discussion: What route should we take?

Do we (TWG 3 and 4) want to do something or not? **AGREED – Do something** ✓



Do we:

1. Refer problem to Government without any guidance, or
- 2. Refer problem to government with some guidance** ✓ **AGREED**, or
3. Develop an agreed upon solution for government to consider (Could be Prescriptive\Detailed – define or move the line, or Guiding principles)

APPENDIX G:

Definition of Employee Sub-Group TWGs 3 and 4

SUB-GROUP REPORT TO TWG 3 AND 4

November 23, 2016

Background:

During July “joint” meetings between TWG 3 and 4 the interpretation of definition of employer and worker was discussed as part of the group’s review of hazard assessment discussions the following Issues\questions were raised

- Hiring employees for very short periods of time. For example, a farmer pays a neighbor to look after his livestock for two weeks while he goes on vacation. Is that farmer an employer for purposes of the code during that two-week period? Does the farmer have to have a safety management system and comply with all provisions of the code in case an employee “may” be hired?
- What are “wages”? Is bartering deemed to be wages? How are wages being determined for employment standards? Should the revenue Canada taxable income be considered?
- What happens if neighborhood kids work on the farm?
- How are students addressed?
- What happens when a neighbor is helping and driving a tractor and falls off and is killed?
- Many farmers are concerned about being subject to regulation, fines etc. Given there is no information about what the rules are now, we hear some farmers are reluctant to ask neighbors for help which may result in other unintended consequences.
- How do we ensure the current definition does not restrict the culture of the farm industry “neighbors helping neighbors”?
- These questions were identified by the group as crucial to resolve for the farming community, especially small operations and has been referred to by the group as “the elephant in the room”

It was determined that a Sub-group should be formed with members of the both TWG three and four Their task was to Clarify the application of OHS Code for normally exempt farms who hire ‘casual’ or part time employees a small percentage of time and research and come up with options\ recommendations for consideration by TWG 3 and TWG 4

Sub-Group Members:

Barbara McKinley; Kent Erickson; Gerald Finster; Glenn Norman; Justin Knol; Vince Geerlings

Sub-group members met by teleconference on September 2nd and November 4th

Research/Information Collected:

OHS technical support provided research \information for the subgroup in three areas. The sub-

group discussion and any conclusions regarding that information is outlined below:

1. Answers to the initial questions posed by the group (above) provided by Alberta Labour

The following is a summary of the information provided:

The definitions for employer, worker and occupation reside in the OHS Act and Employment Standards Code. Generally, whether an employment relationship exists is not defined by the length of employment, but rather such items as wages, benefits, hours of work, control of work and whether the person can be terminated or disciplined. Similarly, OHS requirements are not based on the length of time of employment; the employer is responsible to comply even if the time of employment is short. Wages are defined in the Employment Standards Code. They do not include tips, gratuities, expenses or payment made as a gift or bonus depending on the discretion of the employer (and not related to hours of work, production or efficiency). Generally, students are not considered “workers” as defined in OHS or Employment Standards legislation, however, there may be exceptions, such as work experience programs in industrial settings which are covered. Neighbours helping out would also not be considered “workers” under the legislation.

A review of the information provided by OHS Staff shows that an employment relationship must exist before the OHS Code becomes applicable. That relationship is dependent upon a number of factors but in large part is determined by the degree of control exercised by the farmer/employer over the worker in how and when the work is done. (It was clarified that neighbours who exchanged performing services for one another – bartering- would not create an employment relationship).

The group still envisions circumstances where a pure employee/employer relationship exists for small portions of time.

2. Review of other jurisdictions provisions for exemptions for small employers

- No broad employer exemptions are found in other jurisdictions based on size of workforce.
- There are some specific provisions, for example, British Columbia, where 20+ employers must have formal OHS program\policy and joint safety committees.

3. OHS Support literature review on Occupational Injuries in full time vs. part time employment conducted in October 2016

It was difficult to do a direct comparison of full-time and part-time work. For “precarious” workers (immigrant or non-permanent employment) there was a trend for increased risk and decreased health.

Group Comments:

- Good research - not surprised – workers that are casual workers are often most vulnerable.
- Seems common sense that the less the worker does a job the increased risk they have.
- Comparable to what some group members have found on-line.

4. **The Sub-group has requested information on any findings of TWG 1 looking at Employment Standards that may be helpful.** (*TWG 1 indicated no direct discussions on this topic occurred in their deliberations*)

Other Considerations:

1. Interests of stakeholders were identified to be:

- Concerns over the economic and other burdens placed upon small farmers brought under the OHS Code by such relationships even though they are for small periods of time. (Potential for some operations no longer being economical or pushing them to non-compliance)
- Protecting workers – whether they work for short periods or not (workers who do tasks infrequently may be at greater risk than those who do them every day. Risk assessment is an important consideration)
- Considering what may bring AB into line with those of other provinces
- TWG 3 and 4 agreed upon the objective of not reducing standards currently applied (e.g. mushroom & sod farms currently under the Code)

2. Frequency and types of situations

- Group members determined that this situation of “one-off” casual farm help can occur frequently (for the small farm)
- Some examples provided in discussion:
 - Someone to “babysit” the farm to do a few chores. (e.g. feed animals grain; put hay bales out.) when away for a day or on holiday.
 - 7-8 young people who picked rocks for a day and were paid cash.
 - The dairy industry may have part-time milkers for casual relief – they work alone and do the job of the farmer.
 - Branding – While a lot of the time neighbours help one another -share food and drink (It can be a fun social event) sometimes neighbours are paid a cash amount to spend the day helping with branding (e.g. \$100).

3. Importance of Risk Assessment:

- With more employees, the higher the risk. (Per the BC requirements for 20+ employees to have a formal written plan.) Note: Alberta does not require a formal health and safety program
- The severity of risk is also important, for example babysitting the farm versus doing other types of farm activities. Looking at it being “activity” based may be helpful. For example, chipping rotten grain from a bin is highly dangerous and would have much different safety requirements.
- Risk assessment needs to occur on all farms. Consider basing the OHS requirements on the worksite assessment. If hiring someone to do something risky then the provisions apply.

4. Determination of Employment by Other Agencies

- Canada Revenue Agency (CRA) would have some rules around whether someone is deemed an employee (if they are paid any money). Whether someone is deemed to be self-employed\ a contractor
- WCB is accessible to people who are not “employees” (So their determination would not

be a helpful way to check if an employee or not.)

Ideas Develop for Addressing the Issue:

The options/ideas discussed for achieving the twin goals of *maintaining worker safety but not creating unreasonable economic or other burdens upon small farms* included:

1. **Creating a threshold of numbers of workers or hours of work** or otherwise defined by a risk assessment tool that would be required to be met before OHS Code application to the exempt farm is triggered. Some concerns with this idea:
 - Decreased safety for those workers who are employed. (e.g. full-time throughout the year)
 - What are the actual costs of application of the Code sections – does that justify the threshold? (Need to be more specific.)
2. **Examining the Code provisions (Part by Part) themselves to determine which might be more important and which might be less important to apply to the farm with a “minimal” work force.**
 - Some pointed to the need for the Code to be easily understood and applied – no fuzzy areas.
3. **Relying on Hazard \Risk Assessment in some way** - go through the Code Parts and determine for different farms based on frequency, severity & probability. (A simple checklist may help older farmers.)
4. **Short Term Financial Assistance** to support Code adoption\compliance.
5. **Design an approach around the “Activity”** - look at the nature of the work involved (e.g. farm-sitting would be exempt).
 - Whether someone is an “employee” or not, do a risk assessment
 - Determine if that person is an employee or not (contractor, bartering, etc.)
 - Ensure competence of that person to do the work
6. **Educate each employer about how to operate on their farm per the industry standard. Developing some criteria to help with assessing risk** (e.g. matrix) – what could happen, severity of injury – frequency- probability.
7. **Ask the Government to provide greater “certainty” on how to define someone as an employee** under Employment Standards.
8. **Apply for Acceptances\exceptions or variances in the Code:** *This is a “one-off” situation and here is my hazard assessment – variance for this situation.* (In assessing this option, please see section 34 of the ACT, criteria for acceptances may not apply easily to this type of situation (A common example is removal of asbestos before demolishing a building.) OHS also has limited capacity to deal with high volumes of requests)

Some General Findings:

- The issue is about “one-off” casual farm help. (vacation relief, 1-2 day assignments) *This is different from hiring someone to do seasonal work – haying, combining, etc.*
- How to interpret if someone is an employee remains unclear. Questions remain about whether an employment relationship exists, if the person is a “contractor” would the farmer be the Prime contractor and still be liable to ensure OHS compliance.

- It is clear that Bartering is not employment
- There are questions about application of “working alone” provisions for relief duties
- Hazard Assessment is important - The level of risk of an activity needs to be considered
- Adoption of the Code overall in the industry will require a culture change and a period of transition will be needed.
- The group has had good discussion. Finding a solution may come down to the level of risk and challenge in the agriculture community.

Conclusions:

The group did not land on any possible solutions that could be recommended.

Some group members do not see this issue as a significant problem requiring exemptions or variances and that applying the Code in these situations would not be a problem or a significant cost.

Some group members see this as a real concern and that the uncertainty in applying the Code needs to be addressed in some way.

The Sub-group looks forward to further discussion at the Joint TWG 3 and 4 meeting on November 30, 2016.