

Ministry of Labour, Immigration, Training and Skills Development

Hygiene Facilities Requirements on Construction Projects

MLITSD Presentation to OASIS Town Hall
Meeting – Feb 29, 2024

Occupational Health
and Safety Branch

Fair, Safe and Healthy
Workplaces Division

February 28, 2024

Agenda

- Introduction
- OASIS question - what is deemed a job site ?
- Review of toilet and wash-up requirements on construction projects as per Reg 213/91 (the construction regulation)
- Overview of changes to Hygiene sections of the regulation that came into force July 2023 & what this means for Suppliers
- Orders issued - What inspectors saw in 2023
- Answers to FAQ's submitted by OASIS

Introduction

The Importance of hygiene in construction

Construction workers are often at risk from exposure to infectious diseases on construction projects due to poor sanitary conditions associated with toilets and clean-up facilities. Poor sanitation is a major cause of disease and can be a serious occupational health risk.

Under the construction regulation – s. 29 Definitions/General requirements O. Reg 213/91

- “Facilities” defined: “means toilet, urinal and clean-up facilities”
- “Service” defined: “when used as a verb, means to have waste pumped out and to have the facilities replenished where necessary”

When the construction regulation Reg 213/91 applies

Work that meets the definitions of construction and project, as defined in section 1 of OHS Act (falls under the construction regulation). Reg 213/91.

“construction” - erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting or concreting, installing any machinery or plant

“Project” - the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipeline, duct or well, or any combination thereof ;the moving of a building or structure.

In general, work that involves building something new (e.g., buildings, pipelines or mining plants) falls under the construction regulation.

In addition,

- the existence of or requirement for, a permit (e.g. building, plumbing, electrical) may indicate the work activity falls under the construction regulation.
- A posted notice of project on the job would indicate that the workplace is a construction project

Hygiene Requirements

Reg 213/91

The legislation - Hygiene Requirements

1. Potable drinking water accessible at the project (s. 28)
2. Definitions and general requirements for facilities (s. 29)
3. Toilet facilities (s. 29.1)
4. Clean-up facilities (s. 29.2 and s. 30)

The regulation addresses:

- When and where facilities are required
- Acceptable toilet types and numbers
- Privacy and protection from the elements
- Servicing, cleaning, sanitizing, maintenance & record keeping

Facilities General Requirements (S. 29)

- Location of the Facilities
 - On the project: **90 m horizontally where reasonably possible, and otherwise not more than 180 m horizontally from the project work area** and 9m vertically from work location (July 1, 2023) - **not applicable to tunnels.**
 - On the project: may be varied: reasons documented in writing and provided to JHSC, HS Rep., workers.
 - ≤ 3 km from the work area – transportation assured, and permission obtained from facility owner.

Facilities General Requirements (S. 29)

- Servicing, cleaning and sanitizing the facilities as frequently as necessary
- **Facilities kept in good repair at all times**
- Record keeping by the constructor
 - Servicing and cleaning of the facilities for the duration of the project.
 - Location on the project may be varied: reasons documented in writing and provided to JHSC, HS Rep., workers.
 - ≤ 3 km from the work area – transportation assured, and permission from the facility owner obtained.

Toilet facilities (S. 29.1)

- Defining “sewered” and “non sewered” toilet facilities.
- Toilet facilities general requirements and specs: open-front toilet seat, toilet paper holder & adequate supply t/p, self-closing door with inside lock
- **Adequately** illuminated by natural or artificial light
- Adequately heated, if possible,
- Adequately ventilated
- Affords privacy for user and protection from falling objects

“Adequately” defined in Reg 213/91

1. (1) “adequate”, in relation to a device, object or thing, means,
 - (a) sufficient for both its intended and its actual use, and
 - (b) sufficient to protect a worker from occupational illness or occupational injury.

While there is no specific temperature required in the regulation for the toilet facility, the temperature within must be elevated enough to allow its functionality and its safe use to fulfill its function and to protect the H&S of workers.

“adequately heated, if that is possible” means that, if it is feasible, the toilet facility must be heated to such extent that:

- the temperature within the facility will allow it to be functional for its intended use: its flushing system is functional, the liquid used for flushing does not freeze, the trap, or positive seal, is in working conditions and does not freeze.
- the heat must be sufficient to protect the worker from occupational illness or occupational injury

Toilet facilities (S. 29.1) & electrical equipment

- Portable toilets equipped by the manufacturer or retrofitted by the supplier with lighting, heating or other electrical equipment must be approved by the ESA and bear [an ESA recognized approval marking](#) to comply with the Electricity Act and [O. Reg. 213/91](#) (subsection 185(2))
- An ESA permit and inspection is required if the power source for the portable toilets requires a hard-wired connection. Constructor duty.
- Constructor permitted to add a stand-alone light or portable heater connected to a GFI protected extension cord. The heater must be approved for confined spaces & wet conditions with an adjustable thermostat so it turns off once it reaches a specific temperature and does not keep running.

Toilet facilities (S. 29.1)

- **If the facility is a single-toilet facility, it shall be completely enclosed**
- **the requirement that a facility be completely enclosed does not apply to a portable urinal**
- Separate toilet facilities shall be provided for male and female workers, unless the facilities are intended to be used by only one worker at a time (29.1(2))
- If facility is intended for use by males only or by females only, it shall have a sign indicating this fact. Signage can be provided by the constructor.

Toilet facilities (S. 29.1)

- If the toilets are located in a portable single-unit toilet facility intended for use by male workers, there shall be at least one urinal for each toilet (29.1(8)) – implication for single unit toilet facility- 2 orders issued 2023
- If the facility is intended for use by female workers, there shall be a disposal receptacle for sanitary napkins (29.1(2.3)) - implication for non gender assigned single unit toilets.
- If the toilets are located in a **multiple water flush toilet facility** and are intended to be used by male workers, water flush urinals may be substituted for a maximum of two-thirds of the number of toilets required by subsection 29.1 (5).

Toilet facilities (S. 29.1)

- Where the minimum number of toilets required at a project under subsection (5) or (7) is five or more, at least one facility at the project shall be for the use of female workers only, where reasonable in the circumstances
- Default is to ensure 1 of the 5 toilets is female only toilet. Constructor must show that it is unreasonable because not appropriate in the circumstances or the situation or not practical.
- Female workers will be able to use any female worker-only toilet facility or any toilet facility available to be used by any worker that is unisex and intended to be used by one worker at a time.
- Urinal not required for female only toilets

Clean-up facilities (S. 29.2)

(1) Subject to subsection (1.0.1), each single-toilet facility shall be provided with its own clean-up facility. O. Reg. 61/23, s. 4 (1).

(1.0.1) One readily accessible clean-up facility may be provided for every two single-toilet facilities if those single-toilet facilities are located together in the same area at the project .

- This amendment clearly allows the use of one clean-up facility for each two single-toilet facilities when the single-toilet facilities are located together.
- Does not apply to stand-alone urinals

Clean-up facilities (S. 29.2)

(3) If it is not reasonably possible to have a wash basin with running water at a clean-up facility, both of the following shall be provided:

- 1. A means of cleaning hands.*
- 2. An alcohol-based hand sanitizer containing a minimum of 60 per cent alcohol. O. Reg. 61/23, s. 4 (2).*

- This amendment makes it a regulatory requirement, the enforcement practice that has been in place by the ministry since the start of COVID 19. The first paragraph provides a means to clean soiled hands, the second paragraph allows to sanitize them.
- **This is overruled by the requirements dictated in section 30 and the WHMIS regulation where applicable.**

Reasonable and reasonably possible

Determining what is “reasonable”, “reasonably possible” or “possible” depends on how easy it is to access hydro and running water at the project location. This will vary on a case-by-case basis across the province. The following factors are considered when making such a determination:

- road access and terrain (to deliver units and provide ongoing maintenance)
- if the availability of hydro and water access poses a real challenge
- if there are extreme weather conditions where access is not possible or where water tanks may freeze

During an inspection or investigation, the constructor must prove that it is not reasonably possible to have a wash basin with running water for this exception to apply.

The exception does not apply to the requirements of section 30 regarding the use of corrosive, poisonous or dangerous materials. If corrosive, poisonous or other substances likely to endanger workers are present at the project, clean water **is required** at the clean-up facilities, along with soap and individual or disposable towels.

Clean-up facilities (S. 30)

Workers who handle or use corrosive, poisonous or other substances likely to endanger their health shall be provided with washing facilities with clean water, soap and individual towels

- This overrides subsection 29.2(3): washing facilities with clean water, soap and individual towels must be provided when workers handle or use corrosive, poisonous or other substances – including hazardous products, likely to endanger their health.
- WHMIS regulation also overrides 29.2(3): hazardous products whose safety data sheet (SDS) calls for rinsing with water (in their first aid section) render the washing facilities with clean water compulsory on a project (cement, adhesives, or other materials containing a hazardous product whose SDS requires rinsing with water)

Re-cap

1. Potable drinking water: reasonable supply & sanitary means for drinking
2. Facilities provided or arranged by the **constructor (or primary employer if no constructor)** before the start of work
 - a. Accessible to workers at outlined locations
 - b. Specs as outlined : privacy, illuminated, heated, ventilated
 - c. Separate toilets for ♂ and ♀ workers, unless they are intended to be used by only one worker at a time.
 - d. At least one “female only” when 5 toilets or more required
3. Facilities serviced, cleaned and sanitized as necessary
4. Facilities kept in good repair at all times.
5. **Constructor/Employer** to **inform** workers of location of facilities, **post** their location in a conspicuous place & **keep record** at the project of their servicing, sanitizing, and varied location when applicable.

Amendments in force as of July 1, 2023

Changes to Hygiene sections that CIF in July 2023

The intent of the changes were to clarify, standardized, or strengthen the 2022 hygiene requirements and make them easier to understand, while maintaining current standards.

Description of amendment	What this means for the Constructor	What this means for the Supplier
<p>Explicitly requiring toilet facilities to be ‘adequately’ illuminated – previously, facilities are required to be “illuminated by natural or artificial light” (amended subsection 29.1(1)).</p>	<p>Added adequately – “adequate” and “adequately” defined in the regulation: in good working order to fulfill its function and to protect the H&S of workers.</p>	<p>No impact</p>
<p>Requiring single toilet facilities to be completely enclosed, except for portable urinals (amended subsection 29.1(1) and new subsection 29.1(1.1)).</p>	<p>Clarification of application of completely enclosed</p>	<p>No impact</p>
<p>Extending the existing requirement for good repair of toilet facilities to urinal and clean-up facilities (new subsection 29(11.1), removal of the good repair requirement from existing subsection 29.1(1)).</p>	<p>Strengthen and clarify previous requirement for urinals.</p>	<p>No impact</p>
<p>Standardizing the ratio of clean up facilities to toilets by specifying that one clean-up facility may be provided for every two single-toilet facilities if those facilities are located together in the same area at the project (new subsection 29.2(1.0.1)).</p>	<p>Standardize and clarify that washup facilities may be shared between 2 facilities located together.</p>	<p>No impact</p>
<p>Where it is not reasonably possible to provide running water at a clean-up facility, requiring the provision of hand sanitizer that is at least 60% alcohol and a means to clean hands (amended subsection 29.2(3)).</p>	<p>Strengthen previous provision by adding alcohol-based hand sanitizer containing a minimum of 60 per cent alcohol.</p>	<p>If no running water supplier may provide toilet with 60% alcohol-based sanitizer dispenser in addition to hand cleanser that can be used to clean hands without water.</p>

Description of amendment	What this means for the Constructor	What this means for the Supplier
<p>Requiring, where reasonable in the circumstances, that where five or more toilets are required at a project under subsections 29.1 (5) or (7) that there be at least one facility for the use of female workers only (new subsection 29.1(2.1)). If the toilet is intended for use by males only or females only, it shall have a sign indicating that</p> <p>For projects with less than 5 toilets 29.1(2) separate toilet facilities shall be provided for male and female workers, unless the facilities are intended to be used by only one worker at a time.</p>	<p>where reasonable in the circumstances among the five or more toilet facilities required, at a minimum one would need to be designated as a female-only. This means one of the 5 toilets female only and not 5 toilets plus an extra female only toilet</p> <p>the total number of toilet facilities required at a project (ratio's) is not changed by the amendment. The tables in subsections 29.1(5) and (7) that indicate the minimum number of toilets required depending on number of workers regularly employed at the project are not changed in these amendments.</p>	<p>Impact – may be required to provide and clean more toilets with disposal receptacle for sanitary napkins (if supplied by the supplier)</p>
<p>Requiring that the horizontal distance to toilet facilities from a project work area be 90 metres where reasonably possible, and otherwise not more than 180 metres (amended subsection 29(4)). This change does not apply to construction projects where work is performed in a tunnel or where transportation to facilities is provided for workers (in such circumstances, the requirements under subsections 29(5) and (6) apply, respectively).</p>	<p>The intent of this change is to make toilets more readily accessible to workers on most construction projects.in order to comply with the amended distance requirements more toilets may be required to ensure accessibility. Depends on the circumstances of the particular site and the number of workers regularly employed.</p>	<p>May require supplier to supply greater quantity of compliant facilities</p>

2023 ORDERS

Hygiene orders issued to Suppliers in 2023

Total orders issued in 2023 under Hygiene sections of Reg 213/91 – **1,561**

Total Orders issued to Toilet suppliers - 9

4 Time orders under Reg 213/91

- 29.1(3) – 2 orders, positive seals between the bowl and the stored waste
- 29(11) – 1 order, overdue for cleaning and sanitizing
- 29(11.1) – 1 order, not in good repair, flapper not operational

5 Time orders written under section 31(1) of OHSA

Suppliers (OHSA – S. 31)

Equipment supplied is a) kept in in good condition, b) equipment complies with the OHSA and the regulations, c) equipment maintained in good condition

- 31(1)(b) – 4 orders, toilets not in compliance with regulatory requirements
no flap separating bowl from waste, no ability for chemical flush, no clean up facility provided with the unit
- 31(1)(c) – 1 order, toilet not maintained in good condition.
Restock of water and paper towel to clean up facility

Most frequently issued orders & stop work orders

Most frequently issued orders of the 1,561 total orders issued under the hygiene sections of Reg 213/91 issued to the constructor/primary employer

Top 5 orders

- 29.2(1) – 436 orders, each single-toilet facility is provided with its own clean-up facility
- 29.1(1) -311 orders,264 for heated toilet, 47 for adequate light
- 29.2(2) – 201 orders, no running water where reasonably possible , soap/cleanser \$ paper towels.
- 29(3) – 179 orders, no toilet and washup facilities provided as required
- 29(11) – 126 orders, facilities not serviced, cleaned and sanitized as frequently as necessary to maintain them in a clean and sanitary condition.

Total stop work orders issued to the constructor/primary employer of the project – **95**

Top 5 stop work orders

- 29(3) – 29 orders, no toilet facilities at the project
- 29.2(1) – 18 orders, toilet provided with no clean up facility
- 29.1(1) – 13 orders, toilet not heated
- 29 (11) – 13 orders, toilet not cleaned as often as necessary
- 29.2(2) – 12 orders, , no running water, soap, sanitizer or paper towel

Orders issued by construction sector

Sectors where non-compliance is highest

Of the 1,561 orders issued

- Residential single family housing construction – 651 orders
- Residential Multiple, apartment and multiple housing – 191 orders
- Commercial Building – 191 orders
- Institutional Building – 66 orders
- Industrial building and structure construction – 55 orders

FAQ submitted by OASIS

FAQ

What is the number of employees required on a job site to provide a portable restroom unit?

s. 291.(5) &(7)

- Where water flush or non-recirculating flush toilets are provided (one toilet for each group of 15 workers or fewer).
- For other types of toilets (one toilet for each group of 10 workers or fewer) up to 40 workers. An additional toilet for every 15 workers if 41 or more workers
- NOTE ratios may be affected by accessibility requirements and prescribed horizontal and vertical distances

Clarification on Urinals

Do standalone portable urinals equipped with clean up facilities count towards the minimum number of toilets required at a project?

No, standalone portable urinals equipped with clean up facilities cannot be used to reduce the number of toilets required on a project. They are permitted in addition to the minimum number of toilets required on a project as outlined in the tables in subsections 29.1(5) and 29.1(7) of O. Reg. 213/91.

There is an exception: water flush urinals may be substituted for a maximum of two-thirds of the number of toilets required by subsection 29.1(6), if the urinals are in a multiple water flush toilet facility intended to be used by male workers only.

For example, if there are 60 workers at a project with a multiple water flush toilet facility, the facility can have three toilets and one urinal or two toilets and two urinals to be compliant with 29.1(5).

FAQ cont'd

2) Under the regulation a MOL compliant unit requires a urinal, does a female only unit require a urinal?

No. However, it would require a sanitary napkin disposal and a female only sign. Note: the sign and disposal may be supplied by the constructor. NOTE: Unisex facilities require both a urinal and a napkin disposal.

3) What is the difference between hand cleanser and hand sanitizer?

Alcohol-based hand sanitizers work by killing germs on your hands, while washing your hands with hand cleanser (includes soap) and water removes germs from your hands.

S 29.2(3)(2.) Sanitizer with 60% alcohol (along with hand cleanser that can be used without water) only required when it is not reasonably possible to provide running water at the project.

FAQ cont'd

4) What alternatives do we have instead of hand cleansers? Soap . Any hand cleanser intended to be used to clean hands with water

5) If we have two units on site, can they have a shared hand wash facility outside the unit (what is the minimum number of toilets required per handwash facility).

Yes “if those facilities are located together in the same area at the project (new subsection 29.2(1.0.1)).”

The required ratio of clean-up facilities to toilets on a project is:

- one clean-up facility for each single toilet facility
- one clean-up facility for every two toilets for each multiple-toilet facility or located together
- one clean up facility for three toilets (for odd number of toilets, the number of required clean up facilities is based on the preceding even number of toilets.)

6) There is a requirement for sanitation napkin disposal for female washrooms - Who is responsible for cleaning this?

The supplier of the sanitary napkin disposal. If the constructor provides their own disposal, they are responsible. The Supplier is responsible for what they supply.

On-line resources

Achieve compliance on construction sites: hygiene

<https://www.ontario.ca/page/achieve-compliance-construction-sites-hygiene>

Preventing infectious diseases on construction projects

<https://www.ontario.ca/page/preventing-infectious-diseases-construction-projects>

IHSA: Sanitary Conditions on Construction Sites

<https://www.ihsa.ca/PDFs/Products/Id/W124.pdf>

Questions?