employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

Saiosh South African Institute of Occupational Safety and Health

South African Institute of Occupational Safety and Health

Comments

Draft Noise-Induced Hearing Loss Regulations 2022
Government Gazette 47337 NO. 2666 21 October 2022

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1. Definitions In these regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates -	**Definitions** **1.** In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context indicates otherwise-		
"approved noise inspection authority" means an approved inspection authority for the monitoring of noise in the workplace;	**"approved noise inspection authority"** means an inspection authority approved by the chief inspector of the Department of Employment and Labour for the monitoring of noise in the workplace;		
"assessment" means a programme to determine any risk from exposure to noise associated with the workplace in order to identify the steps that need to be taken to remove, reduce or control such hazard;			
	"Chief Director: Provincial Operations" means the provincial director as defined in regulation 1 of the General Administrative Regulations, 2003, published as Government Notice R.929 in Gazette No. 25129 of 25 June 2003;		
"attenuation-of-hearing protectors" means hearing protectors with the proven capability of reducing the sound exposure to which the wearer thereof is exposed;			
"audiogram" means a chart, graph or table indicating the hearing threshold levels of an individual as a function of frequency, (namely 0,5, l, 2, 3, 4, 6 and 8 kilohertz), as determined during a measurement of a person's hearing threshold levels by means of a monaural, pure-tone, air-conduction threshold test;			

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"compensation commissioner" means the Compensation Commissioner appointed under section 2(1)(a) of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);			
"competent person" means - (a) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of South Africa in any of the following three categories: (i) Otorhinolaryngologist (ear, nose and throat specialist); (ii) speech therapist and audiologist; or (iii) occupational medicine practitioner; or (b) a person with a qualification in audiometric techniques obtained from an institution registered with the South African Qualification Authority or any of its structures in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and registered with the South African Society for Occupational Health Nursing (SASOHN);			
	"Competent person: audiometric testing" means- (a) for screening audiometry; (i) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of Council of South Africa in any of the following categories: (aa) ENT (ear, nose and throat specialist); (bb) speech therapist; (cc) audiologist; or (dd) occupational medicine practitioner; (ii) a person with a qualification in audiometric techniques obtained from an institution registered with the South African	Editorial error "Council of Council".	**"Competent person: audiometric testing"** means- (c) for screening audiometry; (i) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of South Africa in any of the following categories: (aa) ENT (ear, nose and throat specialist); (bb) speech therapist; (cc) audiologist; or (dd) occupational medicine practitioner; (ii) a person with a qualification in audiometric techniques obtained from an institution registered with the South African Qualification Authority or any of its structures in terms of the

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	Qualification Authority or any of its structures in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and registered with the South African Society for Occupational Health Nursing (SASOHN); and (b) for diagnostic audiology; (i) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of Council of South Africa in any of the following categories: (aa) ENT (ear, nose and throat specialist); or (bb) an audiologist;		South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and registered with the South African Society for Occupational Health Nursing (SASOHN); and (d) for diagnostic audiology; (i) a person registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), with the Health Professions Council of South Africa in any of the following categories: (aa) ENT (ear, nose and throat specialist); or (bb) an audiologist;
	"competent person: risk assessment" in relation to noise, means a person who– (a) has in respect of the work or task to be performed the required knowledge, training and experience in noise and, where applicable, qualifications that includes noise: provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and (b) is familiar with the Act and the applicable regulations made under the Act;	To have understanding of only "noise" is too limited to carry out the risk assessment. Rather suggest that the term used should be "hearing conservation".	**"competent person: risk assessment"** in relation to noise, means a person who– (a) has in respect of the work or task to be performed the required knowledge, training and experience in hearing conservation and, where applicable, qualifications that incorporates hearing conservation inclusive of the physics of sound, sound measurement and audiometry: provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and (b) is familiar with the Act and the applicable regulations made under the Act;
	"exposure" means the extent to which a person is exposed to noise at the workplace as determined by the noise risk assessment, and includes potential or accidental exposure, and exposed has a derivative meaning;		

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"exposed" means exposed to noise while at a workplace and 'exposure' has a corresponding meaning;			
"equivalent" continuous rating level" means the equivalent continuous A-weighted sound pressure level during a specified time interval, plus a specified adjustment for impulsiveness of the sound, as contemplated in SABS 083;			
"hearing protective equipment" means ear-muffs or ear-plugs which are of a type, or conform to a standard, approved by the Minister,			
"general administrative regulations" means the General Administrative Regulations published under section 43 of the Act in Government Notice No. R.1449 of 6 September 1996;			
"health and safety standards" means the health and safety standards that have been incorporated in these regulations under section 44 of the Act;			
"8-hour rating level" means the rating level normalized to a nominal 8-hour working day as indicated in SABS 083.			
	"HPDs or hearing protective devices" means an ear-muff/s or ear-plug/s which conform to SANS 1451 and SANS 50458;		
	"LReq,8h or 8-hour rating level" means the rating level normalized to a nominal 8- hour working day and should be A weighted;		
	"Lpeak or peak noise level" means the peak level of the sound pressure wave with no time constant applied and should be C weighted;		

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	"noise" means unwanted sound that may cause annoyance, interference with speech or communication and/or hearing impairment;		
	"noise action level" means the value of the LReq,8h at or above 82 dB(A) for continuous noise and/or Lpeak at or above 135 dB(C) for impulse noise at which specified actions or counter measures must be taken;	The values of 135 dB(C) and 135 dB(C) and 137 dB(C) it is understood come from the UK regulations. It follows that the same noise parameter must be referred to as the source.	**"noise action level"** means the value of the LReq,8h at or above 82 dB(A) for continuous noise and/or a peak sound pressure (Lpeak) at or above 135 dB(C- weighted), at which specified actions or counter measures must be taken;
	"noise exposure monitoring" means the systematic process of measuring the magnitude, frequency and duration of exposure to noise;		
"instruction no. 171" means the Compensation Commissioner's Circular Instruction No. 171 and Supplement entitled Determination of Permanent Disablement Resulting from Noise Induced Hearing Loss and Trauma;			
"noise-rating limit" means the value of the 8-hour rating level, 85 dBA at and above which hearing impairment is likely to result;	**"noise-rating limit"** means the value of the LReq,8h at or above 85 dB(A) for continuous noise and/or Lpeak at or above 137 dB(C) for impulse noise at which specified actions or counter measures must be taken;	The values of 135 dB(C) and 135 dB(C) and 137 dB(C) it is understood come from the UK regulations. It follows that the same noise parameter must be referred to as the source. The definition of limit provided is written as the definition of an action level and not a limit value. This should be aligned to the UK HSE regs (since it is understood that these regs in part are helpfully references against the UK HSE regs). Controlling noise at work The Control of Noise at Work Regulations 2005 Guidance on Regulations (earplugtest.co.uk)	**"noise-rating limit"** means the value of the LReq,8h at or above 85 dB(A) for continuous noise and/or a peak sound pressure (Lpeak) at or above 137 dB(C- weighted), above which an employee may not be exposed ;

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	“noise risk assessment” means an assessment and risk categorisation of exposure to noise in the workplace;		
	“noise technical committee” means a committee established in terms of regulation 16;		
	“ototoxic chemical agents” means chemical agents that damage the ear and cause hearing loss;		
	"SANS 10083'' means the South African National Standard Code of Practice for the Measurement and Assessment of Occupational Noise for Hearing Conservation Purposes;		
	“SANS 1186-1” means the South African National Standard Code of Practice for Symbolic Safety Signs – Part 1: Standards signs and general requirements;		
	"SANS 1451'' means the South African National Standard Code of Practice for Hearing Protection;		
	"SANS 50458” means the South African National Standard Code of Practice for the recommendations for selection, use, care and maintenance – guidance document;		
"sabs 083" means the Code of Practice for the Measurement and Assessment of Occupational Noise for Hearing Conservation Purposes, SABS 083, published by the South African Bureau of Standards;			

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"the act" means the Occupational Health and Safety Act, 1993); (Act No. 85 of 1993);	**"the Act"** means the Occupational Health and Safety Act.1993 (Act No. 85 of 1993);		
	"vulnerable employee" means an employee who is at a higher risk of injury, disease or complications;	This should be made specific to noise.	**"vulnerable employee"** means an employee who is at a higher risk of injury, disease or complications caused by exposure to noise;
2. Scope of application These regulations shall apply to an employer or self-employed person who, at any workplace under his or her control, carries out work that may expose any person at that workplace to noise at or above the noise-rating limit.	**Scope of Application** **2.** (1) These Regulations will apply to: (a) any employer or self-employed person at any workplace under his control, where persons are exposed to continuous or impulse noise at or above the applicable noise action level; and (b) a designer, manufacturer, importer or supplier of machinery or plant for use at a workplace; (2) With the exception of regulation 4 (6), the provision of regulation 4 shall not apply to a self-employed person.		
3. Exposure to noise Subject to regulations 9 and 10, no employer or self-employed person shall require or permit any person to enter any workplace under his or her control where such person will be exposed to noise at or above the 85 dBA noise-rating limit.	**Exposure to noise** **3.** Subject to regulations 9 and 10, an employer or self-employed person must ensure that no person entering the workplace under their control will be exposed to noise at or above the noise action level.	• In the existing reg 9. Noise zone, 10. Control and the new reg is 9. Medical surveillance and 10. Exposure control. It is understood that this is a mistake with unintended consequence including that medical surveillance cannot be a condition for everyone, including visitors. • Regulation 10 (noise zones) refers to both the noise action level and the noise rating limit. Accordingly, this	**3.** Subject to regulations 10 and 11, an employer or self-employed person must ensure that no person entering the workplace under their control will be exposed to noise, at or above the noise action level or noise-rating limit.

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		regulation needs to make reference to both.	
4. Information and training (1) An employer shall, after consultation with the health and safety committee established in respect of a workplace under his or her control and the health and safety representative designated for that workplace or for different sections thereof, establish for all employees who may be exposed to noise at or above the noise-rating limit a training programme that incorporates the following - (a) The content and scope of these regulations; (b) the potential sources of exposure to noise; (c) the potential risks to health and safety caused by exposure to noise; (d) the measures taken by the employer to protect an employee against the detrimental effects of exposure to noise; (e) the precautions to be taken by the employees to protect themselves against the health risks associated with the exposure, including the wearing and use of earplugs and earmuffs; (f) the necessity, correct use, maintenance and limitations of hearing protectors, facilities and engineering control measures provided; (g) the assessment of exposure, the purpose of noise monitoring, the necessity for medical surveillance and the long-term benefits and limitations of undergoing such surveillance;	**Information, instruction and training** **4.** (1) An employer who undertakes work which exposes an employee to noise must inform and consult the relevant health and safety representatives or health and safety committee established for that workplace of the intention to conduct: (a) a noise risk assessment contemplated in regulation 7; (b) noise exposure monitoring contemplated in regulation 8; and (c) training contemplated in regulation 4(3).		

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(h) the noise-rating limit for hearing conservation and its meaning; (i) the procedures for reporting, correcting and replacing defective personal hearing protectors and for engineering noise control measures; and (j) the matters contemplated in regulation 5.			
(2) The training contemplated in subregulation (1) shall be conducted prior to the placement of the relevant employee.	(2) An employer who undertakes work which exposes an employee to as noise must inform the relevant health and safety representatives or health and safety committee for that workplace of the intention to conduct medical surveillance contemplated in regulation 8;		
(3) Refresher training shall be conducted annually or at intervals that may be recommended by the health and safety committee and the health and safety representative.	(3) An employer must inform the relevant health and safety representatives or health and safety committee for that workplace of the documented outcomes of the: (a) noise risk assessment contemplated in regulation 7; (b) noise exposure monitoring contemplated in regulation 8; and (c) medical surveillance contemplated in regulation 9;		
(4) The training contemplated in subregulation (1) shall be provided by a person who is competent to do so and who has adequate personal practical experience and theoretical knowledge of all aspects of the work carried out by the employee.	(4) An employer must establish, for all employees who may be exposed to noise at or above the noise action level, a training programme with regard to these regulations;		
(5) An employer or self-employed person shall ensure as far as is reasonably practicable that his or	(5) The training programme contemplated in		

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her mandatories or persons other than employees who may be affected by noise exposure at the workplace are given adequate information, instruction and training.	regulation 4 (4) must be conducted prior to the placement of the relevant employee;		
(6) An employer shall keep a record of any training that is given to an employee in terms of this regulation.	(6) The training programme contemplated in regulation 4 (4) with regard to these regulations, must focus on: (a) the content and scope of these Regulations; (b) the potential sources of exposure to noise; (c) ototoxic chemical agents acting synergistically with noise to cause hearing loss; (d) the potential risks to health and safety caused by exposure to noise; (e) the differing effects of exposure to physical agents to men, woman, young employees and vulnerable employees, where such difference may exist; (f) the measures taken by the employer to protect an employee against the adverse effects of exposure to noise; (g) the necessity for the compliance with noise control measures in all areas, including the correct use, maintenance and limitations of HPDs; (h)the precautions to be taken by the employees to protect themselves against the adverse effects associated with the exposure; (i) the noise risk assessment, the purpose of noise exposure monitoring and the necessity for medical surveillance; (j) the noise action level and noise-rating limit for hearing conservation and their meaning;	Men is pleural and so "woman" should be pleural i.e. women.	the differing effects of exposure to noise to men, women, young employees and vulnerable employees, where such difference may exist;

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	(k) the procedures for reporting, correcting and replacing defective noise control measures including HPDs; (l) any additional matters contemplated in regulations 5 and 9; and (m) access to records of noise risk assessment, noise exposure monitoring and personal medical records;		
	(7) Refresher training must be conducted annually;		
	(8) An employer or self-employed person must ensure, as far as reasonably practicable, that's mandatories and persons other than employees who may be affected by noise exposure at the workplace are informed and trained in accordance with regulation 4 (4); and	"mandatories", should be "mandataries" – this is the way that it is spelt in the OHSA – including in Section 1 where it is defined.	(8) An employer or self-employed person must ensure, as far as reasonably practicable, that's mandataries and persons other than employees who may be affected by noise exposure at the workplace are informed and trained in accordance with regulation 4 (4); and
	(9) An employer must keep a record of employee training in terms of this regulation.		
5. Duties of persons who may be exposed to noise Any person who is or may be exposed to noise at or above the noise-rating limit shall obey any lawful order given to him or her by the employer or self-employed person or by anyone authorized thereto by the employer or self-employed person, regarding – (a) the use of measures adopted for noise control; (b) the immediate reporting of defective, damaged or lost noise control equipment to the health and safety representative or the employer; (c) the use of personal hearing protectors where provided;	**Duties of persons who may be exposed to noise** **5.** (1) Any person who is or may be exposed to noise at or above the noise action level must obey any lawful order by the employer or self-employed person or by anyone authorized thereto by the employer or self-employed person, regarding: (a) the use of measures adopted for noise control; (b) the immediate reporting of defective, damaged or lost noise control measures to		

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(d) a prohibition to enter or remain in an area where personal hearing protectors are required unless the person is authorized to do so and is wearing the required hearing protectors; (e) co-operation with the employer in his or her task of determining the employee's noise exposure, which may include the wearing of personal sound exposure meters; (f) the reporting for medical surveillance as required by regulation 8; and (g) information and training received as contemplated in regulation 4.	the health and safety representative or the employer; (c) the use of HPDs; (d) a prohibition to enter or remain in an area where HPDs are required unless the person is authorized to do so and is wearing the required HPDs; (e) co-operation with the employer in determining personal exposure, which may include the wearing of a sound dosimeter; (f) the reporting for medical surveillance as required by regulation 9; and (g) information, instruction and training received as contemplated in regulation 4.		
	Duties of designers, manufacturers, importers and suppliers **6.** (1) Any designer, manufacturer, importer or supplier of machinery or plant for use at work must: (a) as far as is reasonably practicable, ensure that machinery or plant minimises the exposure to noise; (b) as far as is reasonably practicable, supply machinery or plant that can be transported, received, stored and handled in a manner that minimises the exposure to noise; (c) provide information, instruction and training as deemed necessary to minimises the exposure to noise during use of machinery or plant; (d) as far as is reasonably practicable, install machinery or plant in a manner that minimises the exposure to noise; and	It is understood that this regulation gives embodiment to Section 10 of the OHSA. It is recommended that the regulation be entirely revisited / re-written for the following reasons: Within regulation 6. (1) it includes: "Any designer, manufacturer, importer or supplier of machinery or plant for use at work". The subsections which follow then place legal responsibilities on parties in many cases who have no control at all over the requirement. E.g.: Subregulation 6(1)(a): **exposure** is a function of noise level and time to a **PERSON**. Exposure to	The recommendation is that this regulation is re-written.

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	(e) provide information to potential users on the appropriate maintenance of machinery or plant to ensure safe operation and use	noisy machinery is often due to placement / installation and many other factors. A compressor installed inside or outside the workplace still makes the same noise, but for exposure to take place a person must be "exposed". Therefore, all exposure aspects should be out of scope for this regulation. Reducing exposure to excessive noise ultimately falls to the user of plant and machinery and not the designer, manufacturer, importer or supplier. Subregulation 6(1)(c): what has the designer or importer etc.. got to do with providing information instruction and training? In our opinion – nothing, so this regulation is criminalising aspects entirely out of scope of authority of the designer, manufacturer, importer or supplier. Subregulation 6(1)(d): The body of the regulation places duties on installers who are not mentioned in the heading. Transportation of plant or machinery in vehicles on public roads and which generate (excessive) noise is governed by regulation 310 of the Road Traffic Act.	

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6. Assessment of potential noise exposure (1) An employer or self-employed person shall - (a) in respect of a workplace under his or her control cause an assessment to be done within six months after the commencement of these regulations and thereafter at intervals not exceeding two years, to determine if any person may be exposed to noise which is at or above the noise-rating limit, regardless of whether any personal hearing protectors are used; and (b) cause the results of the assessments to be entered into the records as required by regulation 11.	**Noise Risk Assessment** **7.** (1) An employer or self-employed person must in respect of a workplace under their control cause the noise risk assessment to be done: (a) within 60-days after the commencement of operations; (b) thereafter at intervals not exceeding 24-months, to determine if any person may be exposed to noise which is at or above the noise action level; and (c) by a competent person;	Reference to 7(1)(a): To comply with a single requirement of 60-days after the commencement of operations in itself is not onerous. However, the overall weight of compliance to all regulations for assessments, training and other requirements for the employer in South Africa has become overwhelming. This comment gives consideration to both regulations within the OHSA as well as compliance to the umbrella of legislation within South Africa. It follows that the existing time of 6 months is retained.	**Noise Risk Assessment** **7.** (1) An employer or self-employed person must in respect of a workplace under their control cause the noise risk assessment to be done: (a) within 6 months after the commencement of operations; (b) thereafter at intervals not exceeding 24-months, to determine if any person may be exposed to noise which is at or above the noise action level; and (c) by a competent person;
(2) An employer contemplated in subregulation (1) shall, before causing an assessment to be made, consult with the relevant health and safety representative or the relevant health and safety committee and thereafter inform them in writing of the arrangements made for the assessment, allow them reasonable time to comment thereon and ensure that the results of the assessment are made available to them for comment.			
(3) When making an assessment contemplated in subregulation (1), an employer or self-	(2) When making the noise risk assessment contemplated in regulation 7 (1), an	Propose that currently the draft indicates that assessment of both chemicals and whole body	(e) the identification of ototoxic hazardous chemical agents and determining whether

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employed person shall take into account and keep a record of relevant factors, including the following - (a) The noise sources to which a person may be exposed; (b) adverse health effects that the excessive noise may have on persons; (c) the extent to which a person may be exposed; and (d) the nature of the work process and any reasonable deterioration in or failure of any control measures.	employer or self-employed person must take into account the following: (a) the noise sources to which a person may be exposed; (b) adverse effects that the noise may have on persons; (c) the extent to which a person may be exposed; (d) the nature of the work process and any reasonable deterioration in or failure of any control measures; (e) the presence and extent of exposure to ototoxic chemical agents; and (f) the presence and extent of exposure to whole body vibration;	vibration takes place within this regulation. Suggest, that this is incorrect.	exposure to the hazardous chemical agents exceeds the OEL action level set for the HCA as conducted in the assessment within the Regulations for Hazardous Chemical Agents; and (f) the identification of whole body vibration and determining whether exposure to the whole body vibration exceeds the OEL action level set in the Physical Agent Regulations for whole body vibration;
(4) If an assessment made in accordance with subregulation (1) or a review of such assessment made in accordance with subregulation (5) indicates that any person may be exposed to noise at or above the noise-rating limit, the employer or self-employed person shall ensure that such exposure is adequately controlled as contemplated in regulation 10(1).	(3) The risk assessment conducted in terms of sub-regulation (1) must take into account specific effects of exposure to men, woman, young employees and vulnerable employees, where applicable; (4) An employer must, in terms of the noise risk assessment: (a) consider any deviations identified by the noise risk assessment and the proposed recommendations; and (b) develop a documented action plan for the implementation of the recommendations; (5) An employer or self-employed person must forthwith review a noise risk assessment made in accordance with regulation 7 (1) if: (a) there is reason to believe that such noise risk assessment is no longer valid;	Comment on (3) It is understood that there are differences in the prevalence of noise induced hearing loss in men and women. Sex differences in noise-induced hearing loss: a cross-sectional study in China - PMC (nih.gov) However, internationally the OEL of 85dB(A) is set at a level which is protective to both men, women and young people (if it was not protective to any of these groups then the OEL should be set to a level which was protective of the most vulnerable group). By including this it introduces unnecessary complexity. At risk assessment level it is not possible for the employer to	Delete 3.

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(5) An employer or self-employed person shall forthwith review an assessment made in accordance with subregulation (1) if - (a) there is reason to believe that such assessment is no longer valid; (b) control measures are no longer efficient; (c) technological or scientific advances allow for more efficient control methods; or (d) there has been a significant change in - (i) work methods; (ii) the type of work carried out; or (iii) the type of equipment used to control exposure, and subregulations (2) and (3) shall apply for such review assessment.	(b) control measures are no longer efficient; (c) technological or scientific advances allow for more efficient control methods; or (d) there has been a significant change in— (i) work methods; (ii) the type of work carried out; or (iii) the type of equipment used to control exposure; (6) The review of the noise risk assessment contemplated in regulation 7 (5) and, must be carried out in accordance regulation 7(2) and 4.	know who the vulnerable people are as the competent person would need to have "forced disclosure" of health status of every employee. This has implications in terms of POPIA as well as medical consent in general. A state of disaster would needed to justify this level of personal intrusion into personal medical records. Even for COVID, the right to personal medical status (vulnerability) was opened and then closed with the closing of the state of emergency. A solution to this problem is to limit the duty of the employer to hazard identification, which would serve the purpose of the ILO focus to protect vulnerable employees.	
	Noise Exposure Monitoring **8.** (1) An employer must ensure that a noise exposure monitoring programme at that workplace is implemented where the noise risk assessment or a review of such assessment indicates that any employee may be exposed to noise at or above the noise action level;		
	(2) The noise exposure monitoring programme contemplated in regulation 8 (1) must be: (a) carried out in accordance with the provisions		

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	of these regulations; (b) carried out by an approved noise inspection authority; and representative of the employees' exposure to noise, in accordance with regulation 8 (3);		
	(3) is carried out at least every 24-months.		
	(4) An employer must, in terms of the noise exposure monitoring report, develop a documented action plan for the implementation of the recommendations; and		
	(5) The employer must ensure that the noise exposure monitoring contemplated in regulation 8	This requirement is unclear as it does not reference the SANS code.	The employer must ensure that the noise exposure monitoring contemplated in regulation 8, is undertaken in terms of the latest SANS 10083 code of practice
7. Noise monitoring (1) Where an assessment of noise exposure or a review of such assessment indicates that any employee may be exposed to noise at or above the noise-rating limit, an employer contemplated in regulation 2 shall ensure that a measurement programme of noise exposure at that workplace is - (a) carried out in accordance with the provisions of these regulations; (b) carried out only after the relevant health and safety representative or relevant health and safety committee has been informed thereof and given a reasonable period, as mutually agreed upon, to comment thereon; (c) carried out by an approved noise inspection authority; and			

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(d) representative of the employees' exposure to noise, in accordance with subregulation (2).			
(2) In order to comply with subregulation (1)(d), an employer shall ensure - (a) that the measurement programme, in the case where a number of employees work in an area of approximately equal noise level, makes provision for the selection of not less than three locations which are representative of the positions occupied by employees well distributed over the area under investigation, and for the taking of measurements at each position as contemplated in SABS 083; (b) that the measurement programme, in the case of an employee working at an approximately fixed location relative to the noise source, makes provision for the measurement to be taken at the approximate position of the person's ear that receives the higher noise level as contemplated in SABS 083; and (c) that representative measurements are carried out at least every 24 months: Provided that whenever the noise is at or above the noise-rating limit, the provisions of regulation 10(1) shall apply.			
(3) An employer shall ensure that the results of measurements as contemplated in subregulation (2)(c) are recorded in the record required by regulation 11.			
8. Medical surveillance (1) An employer shall establish and maintain a system of medical surveillance for all employees exposed to noise at or above the noise-rating limit.	**Medical Surveillance** **9.** (1) An employer must establish, maintain and document a system of medical surveillance for all employees exposed to: a) noise at or above the noise-rating limit; or b) noise at or above the noise action level	• The use the term "medical surveillance" and the term "audiometry" are used interchangeably. This was an existing problem with the regulation and is not due to	b) noise at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration where the noise risk assessment identifies that such concomitant exposure may result in an noise induced hearing loss;

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(3) An employer shall ensure that - (a) copies of the audiograms contemplated in subparagraphs (2)(a), (b) and (c) are entered into the employee's record of medical surveillance; (b) a copy of each audiogram contemplated in subparagraphs (2)(a) and (c) is given to the employee when he or she leaves the employment of that employer; (c) new employees provide him or her with their baseline audiograms, exit audiograms or most recent audiograms and the percentage of loss of hearing calculated in accordance with Instruction No. 171; and (d) in the case of an employee whose percentage loss of hearing has deteriorated by 10% or more since the baseline audiogram was recorded or an employee for whom no baseline audiogram is available but who has a 10% or more loss of hearing that is not obviously due to medical causes, and that has been confirmed by a repeat audiogram - (i) the relevant health and safety committee or the relevant health and safety representative is informed of the finding; (ii) the employee is retrained and re-instructed as contemplated in regulations 4 and 5; (iii) noise control measures are reassessed; and (iv) such hearing loss is reported to the provincial director, on form WCL1/2, as contemplated in regulation b of the General Administrative Regulations.	where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration; (2) In order to comply with the requirements of regulation 9 (1), medical surveillance must be implemented in conjunction with the Code of Practice for Medical Surveillance for Noise-Induced Hearing Loss, as contemplated in regulation 15.	any change in the regulation. Suggest that further thinking as to what constitutes medical surveillance (vs audiometric testing) around this is carried out by the TC. • The current wording provides no threshold of exposure level of ototoxic chemical agents and/or whole body vibration meaning that it is not related to risk. Suggest that in order to remedy this the risk assessment determines when this should be conducted.	

Current	(New/Amended)	Comments	Proposal
(2) In order to comply with subregulation (1) an employer or self-employed person shall, as far as is reasonably practicable, reduce exposure to noise by implementing noise control measures in the following order of priority: (a) Engineering control measures to eliminate or reduce noise at its source, or the modification of the routes by which noise reaches workplaces; (b) administrative control measures to limit the number of persons exposed and the duration of exposure; and (c) the use of hearing protective equipment if engineering and administrative control measures fail to reduce exposure below the noise-rating limit.			
9. Noise zone An employer or self-employed person shall ensure that - (a) in any workplace or part of such workplace under his or her control, where the exposure to noise is at or above the noise-rating limit, that workplace or part thereof is zoned as a noise zone; (b) a noise zone is clearly demarcated and identified by a notice indicating that the relevant area is a noise zone and that hearing protective equipment as contemplated in regulation 12 must be worn; (c) no person enters or remains in a noise zone unless he or she wears the required hearing protective equipment; and (d) the reason why noise exposure is at or above the noise-rating limit is identified and that action is taken, as soon as is reasonably practicable, by means other than the use of hearing protective equipment, to lower the noise level so that it is not at or above the noise-rating limit.	**Noise Zone** **10**. (1) An employer or self-employed person must ensure that: (a) any workplace or part of such workplace is designated as a noise zone, where: (i) the exposure to noise is at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration; or (ii) the exposure to noise is at or above the noise-rating limit; (b) a noise zone is clearly demarcated and identified by signage, in accordance with SANS 1186-1, indicating that the relevant area is a noise zone and that HPDs as contemplated in regulation 12 must be worn; and (c) no person enters or remains in a noise zone	As it is currently written 10(1)(i) requires a noise zone for persons exposed to whole body vibration and ototoxic chemicals but at the action level. This is not practical in many instances: E.g: • What type of signage would be required? • Must all persons entering this zone comply or only those exposed to whole body vibration and ototoxic chemicals? • If so what protection? Proposal is that a threshold for exposure to ototoxic chemical agents and/or whole-body vibration is given.	(i) the exposure to noise is at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration at or above the action level of the OEL set for that chemical in the Regulations for Hazardous Chemical Agents or Physical Agents Regulations respectively; or

Current	(New/Amended)	Comments	Proposal
	unless HPDs are worn.		
10. Control of noise exposure (1) An employer or self-employed person shall ensure that the exposure of a person to noise is either prevented or, where this is not reasonably practicable, adequately controlled: Provided that the control of the exposure shall be regarded as adequate if the exposure is below the noise-rating limit, or if the exposure is at or above the noise-rating limit but the reason has been identified and action is taken as soon as is reasonably practicable, by means other than the use of hearing protective equipment, to lower exposure so that it does not exceed the noise-rating limit. (2) In order to comply with subregulation (1) an employer or self-employed person shall, as far as is reasonably practicable, reduce exposure to noise by implementing noise control measures in the following order of priority: (a) Engineering control measures to eliminate or reduce noise at its source, or the modification of the routes by which noise reaches workplaces; (b) administrative control measures to limit the number of persons exposed and the duration of exposure; and (c) the use of hearing protective equipment if engineering and administrative control measures fail to reduce exposure below the noise-rating limit.	**Control of exposure to noise** **11.** (1) An employer or self-employed person must ensure that the exposure of a person to noise is either prevented or, where this is not reasonably practicable, adequately controlled; (2) In order to comply with regulation 11 (1) an employer or self-employed person must, as far as is reasonably practicable, reduce noise exposure to levels below the limits referred to in regulation 10 (1)(a), by implementing a combination of the hierarchy of noise control measures including: (a) engineering control measures to eliminate or reduce noise at its source, or the modification of the routes by which noise reaches workplaces; (b) administrative control measures to limit the number of persons exposed and the duration of exposure; and (c) the use of HPDs as a last resort, if engineering and administrative control measures are insufficient; (3) An employer must ensure that an employee who is exposed to noise receives information, instruction and training, as contemplated in regulation 4, with regard to the correct inspection, use, and reporting of failures of control measures implemented in regulation 11 (2).		

Current	(New/Amended)	Comments	Proposal
12. Hearing protective equipment (1) Where hearing protective equipment is provided, an employer or self-employed person shall ensure that - (a) the equipment is capable of keeping the exposure below the noise-razing limit; (b) the equipment is correctly selected and properly used; (c) employees receive the information, instruction, training and supervision that are necessary with regard to the use of the equipment; and (d) the equipment is kept in good condition and efficient working order. (2) An employer or self-employed person shall, as far as is reasonably practicable - (a) issue no reusable hearing protective equipment to any person, unless the hearing protective equipment is properly decontaminated and, where appropriate, sterilised; (b) provide separate containers or storage facilities for hearing protective equipment when not in use; and (c) ensure that all hearing protective equipment not in use is stored only in the place provided for it.	**Hearing protective devices** **12.** (1) Where HPDs are provided, an employer or self-employed person must ensure that HPDs: (a) reduce exposure to noise: (i) to below the noise-rating limit; or (ii) to below the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration; (b) are selected, used, maintained and stored in accordance with SANS 50458; and are procured in accordance with SANS 1451; (2) The employee must, where there is the requirement to use HPDs as contemplated in regulation 12 (1): (a) inspect, use, wear, store and dispose of the HPDs in accordance with any information, training or lawful instruction given by the employer; (a) not intentionally misuse or damage the HPDs; and (b) immediately inform the employer of any damage, defect, or any need to clean or replace any of the HPDs.		
13. Maintenance of control measures Every employer or self-employed person shall ensure that anything that he or she provides for the benefit of employees in compliance with his or her duties under these regulations - (a) is fully and properly used; and	**Maintenance of control measures** **13.** (1) Every employer or self-employed person must ensure that any control measure is: (a) fully and properly used; and (b) maintained in an efficient state, in good		

Current	(New/Amended)	Comments	Proposal
(b) is maintained in an efficient state, in good working order and in good repair and cleanliness.	working order and in good repair and cleanliness.		
11. Record An employer or self-employed person shall - (a) keep records of the results of all assessments, noise monitoring and medical surveillance reports and of maintenance of control measures required by these regulations; (b) subject to the provisions of paragraph (c), make the records contemplated in paragraph (a) available for inspection by an inspector; (c) subject to the formal written consent of an employee, allow any person to peruse the records with respect to that particular employee; (d) make the records of all assessments and noise monitoring available for perusal by the relevant health and safety representative or relevant health and safety committee; (e) keep all records of assessments and noise monitoring for a minimum period of 40 years; (f) keep all medical surveillance records, including the baseline audiogram of every employee, for a minimum period of 40 years and if the employer ceases activities, hand over or forward by registered post all those records to the relevant provincial director: Provided that those records shall contain at least the following information: (i) An employee's surname, forenames, gender, date of birth, name of spouse or closest relative and, where available, permanent address and postal code; (ii) a record of the types of work carried out that caused noise exposure and,	**Records** **14**. (1) An employer or self-employed person must: a) keep record of the reports for: (i) training, as contemplated in regulation 4; (ii) noise risk assessments and action plan, as contemplated in regulation 7; (iii) noise exposure monitoring and action plan, as contemplated in regulation 8; (iv) medical surveillance reports, as contemplated in 3.8.7 of the code of practice; and (v) maintenance of control measures, as contemplated in regulation 13; (b) keep records, as contemplated in regulation 14 (1)(a) for 40-years; (c) make the records keep records contemplated in regulation 14 (1)(a) available for inspection by an inspector and relevant health and safety representative or health and safety committee; and (d) submit all records, as contemplated in regulation 14 (1)(a) to the relevant Chief Director: Provincial Operations, when they cease activity.	The medical surveillance records must be protected by the usual confidentiality clause, especially now that "vulnerability" is going to be recorded there. Bring back the clause "subject to the formal written consent of an employee, allow any person to peruse the records with respect to that particular employee". It is noted that the Competent person and AIA need to have access to audiograms identifying STS as a proactive risk identification tool, so that they can recommend appropriate action be implemented. Adjunct to this is that audiometry needs to be included in the definition of competent person, where the risk assessor needs to have adequate understanding / competence in this area. This comment has been made in the definition of competent person.	subject to the formal written consent of an employee, allow any person to peruse the records with respect to that particular employee; make the records related to STS available for inspection by an inspector, competent person and AIA

Current	(New/Amended)	Comments	Proposal
where relevant, their location, with starting and finishing dates and with average duration of exposure in hours per week; (iii) a record of any previous work-related noise exposure prior to an employee's current employment; and (iv) the dates of medical surveillance and results of all audiograms; and (g) keep a record of training given to an employee in terms of regulation 4(6) for as long as the employee remains employed at the workplace in which he or she is being exposed to noise.			
	Code of practice **15**. (1) The Chief Inspector may, in consultation with the Noise Technical Committee, develop or review approved codes of practice relevant to hearing conservation in the workplace in order to guide and regulate exposure to noise in the workplace.		
	Noise technical committee **16.** (1) The Council must, after consultation with the Minister, establish a noise technical committee which must consist of: (a) a chairperson designated by the chief inspector from the employees of the Department of Employment and Labour; (b) one person designated by the chief inspector from the employees of the Department of Employment and Labour; (c) three persons designated by employer's organisations to represent employers; (d) three persons designated by employees' organisations to represent the federation of unions;		

Current	(New/Amended)	Comments	Proposal
	(e) two persons to represent professional bodies recognised by the chief inspector; (f) one person representing a higher educational institution; (g) one person representing occupational medicine; and (h) persons who are competent in respect of the matters to be dealt with by the noise technical committee who have been co-opted by the committee with the authorisation of the council; (2) The council must: (a) appoint members of the noise technical committee for a period that the council may determine at the time of the appointment; (b) after having afforded a member a reasonable opportunity to respond, discharge such a member at any time, for reasons that are fair and just; and (c) appoint a new member in the place of a member who is discharged in terms of regulation 16 (2)(b); (3) The noise technical committee must: (a) advise the council on noise related matters, including, but not limited to, codes, standards and training requirements; (b) make recommendations and submit reports to the council regarding any matter to which these Regulations apply; (c) advise the council regarding any matter referred to the noise technical committee by the council; (d) perform any other function for the administration of a provision of these Regulations that may be requested by the council; and (e) conduct its work in accordance with the instructions and rules of conduct framed by the council.		

Current	(New/Amended)	Comments	Proposal
14. Offences and penalties Any person who contravenes or fails to comply with any provision of regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months and, in the case of a continuous offence, to an additional fine of R200 for each day on which the offence continues or to additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment shall in no case exceed 90 days.	**Offences and penalties** **17.** Any person who contravenes or fails to comply with any provision of regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12-months and, in the case of a continuous offence, to an additional fine of R200 for each day on which the offence continues or to additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment shall in no case exceed 90 days.		
15. Withdrawal of regulations Regulation 7 of the Environmental Regulations for Workplaces as published in Government Notice No. R.2281 of 16 October 1987, and amended by Government Notice No. R.489 of 18 March 1994, is hereby repealed.	**Withdrawal of regulations** **18.** XXXX		
	Short title **19.** These Regulations are referred to as the draft Noise-Induced Hearing Loss Regulations, 20XX.		

Contents

	Comments	Proposed
Definitions		
"audiogram" means a chart, graph or table indicating the hearing threshold levels of an individual as a function of frequency, (namely 0.5, 1, 2, 3, 4, 6 and 8 kHz), as determined during a measurement of a person's hearing threshold levels by means of a monaural, pure tone, air-conduction threshold test;		
"audiometric test" means the act of assessing an individual's hearing in order to establish a PLH shift and/or STS;	I think the semantic difference between "audiometric test" and "audiometry" is not clear. I am not sure that this important enough to propose alternative wording – its more of an observation.	
"audiometric zero" means the average hearing threshold at 2, 3 and 4 kHz for each ear calculated from baseline;	Comment only: Notice (1) the use of the frequencies 2, 3 & 4kHz, (2) the use of an average for the 3 frequencies. This is probably the most important new definition. No change proposed.	
"audiometry" means the procedure to be followed in testing an individual's hearing;	See "audiometric test".	

	Comments	Proposed
"Compensation Commissioner" means the Compensation Commissioner appointed under section 2(l)(u) of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);		
"diagnostic audiology" means the advanced assessment and management of hearing and hearing loss conducted by an audiologist or ENT Specialist;	It would be better to more closely reflect the definition used in SANS 10083. Note: Diagnostic audiology has no bearing on the management of hearing and hearing loss – as with "audiometry", it refers to the procedure to be followed in testing an individual's hearing.	"diagnostic audiology" means an advanced assessment of hearing and hearing loss by an audiologist or ENT specialist to identify the location of the impairment in the affected person's hearing system.
"instruction No. 171" means the Compensation Commissioner's Circular Instruction No.171 and Supplement entitled Determination of Permanent Disablement Resulting from Noise Induced Hearing Loss and Trauma;		
"PLH" means percentage loss of hearing calculated on every audiogram;	The method of calculation is not recorded in these Regulations. See The Instructions under the COID Act & SANS 10083.	"PLH" means percentage loss of hearing calculated on every audiogram, as per Instruction 171.
"PLH shift" means the difference between the current PLH and the baseline PLH; and is used to determine the need for compensation for NIHL;		
"screening audiometric tests" means audiometric tests, conducted by a competent person, to establish baseline, entry, initial, periodic and exit audiograms;		
"STS or Standard threshold shift" means an average change in hearing of 10dB or more at the frequencies of 2, 3 and 4 kHz in one or both ears, as compared to the employee's audiometric zero; and is used as a measure to prevent NIHL;	Comment only: This is the new mechanism by which progressive hearing impairment is screened for. (1) Losses are calculated at either ear or both ears, at the specified frequencies (2) The calculated loss must be less than an average of 10dB. (3) If the loss exceeds 10dB, then action must be taken. No change proposed.	
1. Scope		
1. Scope The scope of the Code of Practice for Medical Surveillance will be aligned with the scope of application of the Noise-Induced Hearing Loss Regulations.		

	Comments	Proposed
2. Medical Surveillance		
2.1 An employer is required to establish, maintain and document a system of medical surveillance in terms of Regulation 8 of the Noise-Induced Hearing Loss Regulations. The medical surveillance must be a planned, ongoing programme of audiometric testing, including baseline, entry, initial, periodic and exit audiometry.	According to this statement, the term "medical surveillance" simply means a programme of audiometric testing! This renders the term "medical surveillance" redundant. The statement should be amended to include a questionnaire (looking for vulnerability, previous exposure, non-occupational exposure, etc), plus a physical ear examination. These are outlined in SANS 10083 (14.1 – 14.2)	Correction: Regulation 9 of the NIHL Regulations. Propose the TC should add a sentence in which the components of the "medical surveillance" are explicitly stated, as it is in SANS 10083 (14.1 – 14.2)
2.2 The medical surveillance programme must be implemented under the guidance of an occupational medicine practitioner.	Comment: Previous regulations have used "under the direction of" an OMP. No change proposed.	
3. Audiometric Testing		
3.1.1 Audiometric testing must be conducted on all employees exposed to: a) noise at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration; or b) noise at or above the noise-rating limit.	See comment under the Regulation 9 above.	
3.1.2 The audiometric testing may include: baseline, entry, initial, periodic and exit audiometry.		
3.1.3 Audiometric testing must be conducted by a competent person: audiometric testing, as defined in the Noise-Induced Hearing Loss Regulations.		
3.2 Baseline Audiometry		
3.2.1 The baseline audiometric test must be conducted before or within 30-days of deployment or entry into an environment where there is potential exposure to noise.	This statement is far too vague and inclusive, because there is neither a threshold for the level of exposure to noise nor the degree of likelihood to which "potential exposure" refers. Bear in mind that Regulation 9(1) has already laid out that audiometry is only indicated at the following exposure thresholds: (a) noise at or above the noise-rating limit; or (b) noise at or above the noise action level where there is concomitant exposure to ototoxic chemical agents and/or whole body vibration;	The baseline audiometric test must be conducted before or within 30 days of deployment or entry into a working environment where there is potential exposure to noise in accordance with subregulation 9(1).

	Comments	Proposed
3.2.2 A baseline audiometric test is a once-off test that must be conducted on every employee who is deployed or enters into an environment where there is potential exposure to noise for the first time in their work-life span.	Observation: As far as it is reasonable practicable, we find it difficult to trace the baseline audiometry, because the industries are using sub-contractors who only stay for a certain period e.g. six months or 12months of exposure to noise, then they move to the next company. This then make it impossible to get the baseline audiometry and impossible to get reference PLH to compare with.	Propose TC should use similar words to SANS 10083, 17.1 (a) & (b) … on every employee who will be expected to enter a into a working environment where there is potential exposure to noise in accordance with subregulation 9(1), for the first time in their work-life span.
3.2.3 The baseline audiometric test, in terms of 3.2.1, must establish: a) a baseline PLH, which will serve as a reference PLH against which all future PLH shifts will be compared; and b) the audiometric zero for the purpose of calculating STS, against which all future STS will be compared.	Comment: Great – there is now a clear distinction between screening for the purposes of hearing protection and screening for the purposes of compensation.	
3.2.4 An employee employed before the promulgation of the Noise-Induced Hearing Loss Regulations of 202X, will require a baseline audiometric test to establish; a) the audiometric zero against which all future STS will be compared.		
3.2.5 The baseline audiometric test, in terms of 3.2.4 (a), must be conducted within 24-months of the promulgation of the Noise-Induced Hearing Loss Regulations of 202X.	This takes us back to 2003, when we had 24 months to get the retrospective Baselines done. Why create this rush on all employers to redo their baselines when their employees already have baselines, in which all the data is available for calculating the audiometric zero? This cost and administrative burden is avoidable! It would be a lot simpler to simply use the existing baseline audiograms to calculate the audiometric zero. The employer would only be expected to act on STS relative to audiometric zero after promulgation of these regulations.	Propose that the TC re-word this to allow the use of existing baseline audiograms to calculate audiometric zero.
3.2.6 The baseline audiometric test must comply with the following:		

	Comments	Proposed
3.2.6.1 Reliability criteria: As referenced in SANS 10083, consists of; a) otoscopic examination (clause 14); b) audiometric history (clause 14): c) correct test environment (clause 14); and d) use of reliable equipment with regards to type, maintenance and calibrations (clauses 15 and 16).		
3.2.6.2 Validity criteria: As referenced in Instruction 171, Supplement 171 and SANS 10083, consists of: a) two audiograms done; i. on the same day; ii. the same setting; and iii. two different sittings; b) must be conducted after at least 16-hours free from any noise exposure without the use of HPDs; c) the hearing thresholds in the two audiograms for each ear, at any frequency from 0.5 kHz to the 4 kHz must not differ by not more than 10 decibels;	The wording “two different sittings” is problematic. This does not apply to any other clinical test, including spirometry. It is not required in terms of SANS 10083-2021. Unfortunately, it is still prescribed by Instruction 171. Note by (B): Purpose was to ensure employee understood he or she did two tests . Without this gap it is not practical to show that two tests were performed. I have seen many problems when it comes to claims where baseline is not valid and employee cannot recall two tests. Audiometry hearing test is subjective, and the tester may not fully understand the test. We have seen this in subsequent tests where the hearing is better than the baseline.	
3.2.7 Once a valid baseline audiometric test has been established, the audiogram with the lowest PLH will be regarded as the baseline for that employee.		

	Comments	Proposed
3.2.8 Where a screening audiometric test is unable to establish a valid baseline audiometric test, the screening test must be repeated after another interval of 16-hours free from exposure to noise (without the use of HPD). If the repeat screening test is still unable to establish a valid baseline audiometric test, the employee must be referred to an audiologist to establish a valid baseline audiometric test, using appropriate techniques or methodologies, as referenced in Instruction 171 and SANS 10083 clause 17.9. This process must be completed, as far as is reasonably practicable, within the 30-day deadline.		
3.2.9 Where a valid baseline audiometric test has not been established or is not available for the period 1 May 2001 to 16 November 2003 or for employees deployed into an environment with potential exposure to noise after November 2003, the baseline PLH (reference PLH) will be considered to be 0%.		
3.2.10 Within 24-months from the promulgation of the Noise-Induced Hearing Loss Regulations of 202X, conduct a baseline audiometric test to establish the audiometric zero, against which future STS comparisons will be made.	This seems to be a repeat of 3.2.5. Audiometry is already happening as per regulation 9(1), so the 24-month deadline is redundant. Instead, simply require all baselines to include a calculation of audiometric zero.	After promulgation of the Noise Induced Hearing Loss Regulations of 202X, every baseline audiometric test conducted as per subregulation 9(1) must be used to establish: (a) the baseline PLH, against which future PLH shifts can be determined, and (b) the audiometric zero, against which future STS comparisons can be made.
3.2.11 Any employee who starts work in a noise zone during this 24-months period will require a baseline audiometric test, which will establish: a) baseline PLH shift; and b) audiometric zero.	Comment by (A): It is difficult to understand the difference between 3.2.10 and 3.2.11. Comment by (B): This requires the Baseline Audiometric test to be accurate STS is new but is required and is important for Occupational Hygienist to know, understand and apply.	If the TC accepts the proposal for 3.2.10, this sentence becomes redundant.
3.3 Entry Audiometry Test		

	Comments	Proposed
3.3.1 An entry audiometric test must be conducted on every employee previously exposed to noise, who is deployed or enters a new environment with potential exposure to noise. The employer must use the entry audiometric test to establish: a) PLH shifts from baseline; b) STS comparison against audiometric zero; c) preventive interventions and reporting, in terms of 3.8; and d) the need for referral for diagnostic audiology.	As per comments for baseline audiometry, this clause must reference the noise exposure criteria for audiometry as per subregulation 9(1).	… who is deployed or enters a new environment with potential exposure to noise in accordance with subregulation 9(1).
3.3.2 The entry audiometric test must comply with the following:		
3.3.2.1. Reliability criteria: As referenced in SANS 10083, consists of: a) otoscopic examination (clause 14); b) audiometric history (clause 14); c) correct test environment (clause 14); and d) use of reliable equipment with regards to type, maintenance and calibrations (clauses 15 and 16).		
3.3.2.2. Validity criteria: As referenced in SANS 10083, an entry audiometric test must meet the following validity criteria: a) consist of one audiogram; b) must be conducted after at least 16-hours free from any noise exposure without the use of HPDs; c) must be conducted before or within 30-days of deployment or entry into an environment where there is potential exposure to noise.		
3.4 Initial Audiometry Test		

	Comments	Proposed
3.4.1 An initial audiometric test must be conducted on every employee exposed to noise, in terms of 3.1.2, where there is no valid baseline and/or valid entry audiometric test.	This clause does not reference the important exposure threshold for conducting audiometry - it should also reference 3.1.1.	… in terms of 3.1.1 and 3.1.2, where there is no valid baseline and/or valid entry audiometric test.
3.4.2 The initial audiometric test must establish: a) PLH shifts from baseline; b) STS comparison against audiometric zero; c) preventive interventions and reporting, in terms of 3.8; and d) the need for referral for diagnostic audiology.		
3.4.3 The initial audiometric test must comply with the following:		
3.4.3.1. Reliability criteria: As referenced in SANS 10083, consists of: a) otoscopic examination (clause 14); b) audiometric history (clause 14); c) correct test environment (clause 14); and d) the use of reliable equipment with regards to type, maintenance and calibrations (clauses 15 and 16).		
3.4.3.2. Validity criteria: An initial audiometric test must meet the following validity criteria: a) consist of one audiogram; and b) must be conducted after at least 16-hours free from any noise exposure without the use of HPDs.		
3.5 Periodic Audiometry		
3.5.1 A periodic audiometric test must be conducted on every employee exposed to noise, in terms of 3.1.2, as part of medical surveillance for noise.	This clause does not reference the important exposure threshold for conducting audiometry - it should also reference 3.1.1. This is picked up by clause 3.5.2 (a) below.	… in terms of 3.1.1 and 3.1.2, as part of medical surveillance for noise.

	Comments	Proposed
3.5.2 The periodic audiometric test must be conducted: a) every 12-months for exposures; i) at or above 85 dBA but less than 105 dBA; ii) at or above 82 dBA with concomitant exposure to ototoxic chemical agents and/or whole body vibration; b) every 6-months for exposures at or above 105 dBA; c) at more frequent intervals if recommended by the OHP based on clinical evidence.	It is noted that there is no longer a provision for extending the interval if the exposure levels stay the same and the audio remains unchanged.	
3.5.3 The periodic audiometric test must establish: a) PLH shifts from baseline; b) STS comparison against audiometric zero; c) preventive interventions and reporting, in terms of 3.8; and d) the need for referral for diagnostic audiology.		
3.5.4 The periodic audiometric test must comply with the following:		
3.5.4.1 Reliability criteria: As referenced in SANS 10083, consists of: a) otoscopic examination (clause 14); b) audiometric history (clause 14); c) correct test environment (clause 14); and d) the use of reliable equipment with regards to type, maintenance and calibrations (clauses 15 and 16).		

	Comments	Proposed
3.5.4.2 Validity criteria: As referenced in SANS 10083, a periodic audiometric test must meet the following validity criteria: a) consist of one audiogram; b) where reasonably practicable, should be conducted after a period of at least 16-hours free from any noise exposure without the use of HPDs: Provided that the correct wearing of HPDs, that complies with the relevant parts of SANS 1541, while performing work in a noise zone prior to the audiometric test, must be deemed as meeting the 16-hour period free from noise exposure.		
3.6 Diagnostic Audiology		
3.6.1 A diagnostic audiometric test must be conducted on all employees exposed to noise, in terms of 3.1.2, where: a) screening audiometry identifies a PLH shift greater than 10% from baseline; and b) the hearing loss pattern suggests NIHL.		
3.6.2 An employer must provide the audiologist with the documents listed in SANS 10083 clause 19.13.		
3.6.3 The diagnostic audiometric test must comply with the following:		
3.6.3.1 Reliability criteria: As referenced in SANS 10083, consists of: a) otoscopic examination (clause 14); b) audiometric history (clause 14); c) correct test environment (clause 14); d) the use of reliable equipment with regards to type, maintenance and calibrations (clauses 15.2, 16 and 19); and e) the battery of audiometric tests (clause 19.12).		

	Comments	Proposed
3.6.3.2 Validity criteria: As referenced in SANS 10083, a diagnostic audiometric test must meet the following validity criteria: a) is conducted by an audiologist or ENT Specialist; b) consist of two sets of the battery of audiometric tests, in terms of 3.5.3.1 (e); c) be conducted after a period of at least 24-hours free from any noise exposure without the use of HPDs; d) be conducted on the same day; e) the two diagnostic audiometric tests do not differ by more than 10 dB at any frequency used to determine the PLH.		
3.6.4 Where, after 3 attempts, it is not possible to obtain a diagnostic audiogram that meets validity criteria, the employee must be immediately referred to an ENT Specialist to determine the hearing loss.		
3.6.5 The diagnostic audiometric test, used to compensate an employee for NIHL must become that employees revised baseline.		
3.7 Exit Audiometry		
3.7.1 An exit audiometric test must be conducted on every employee who was exposed to noise, in terms of 3.1.2, on termination of employment.	This clause does not reference the important exposure threshold for conducting audiometry - it should also reference 3.1.1. This is picked up by clause 3.5.2 (a) below.	… in terms of 3.1.1 and 3.1.2, on termination of employment.
3.7.2 The exit audiometric test must be conducted before or within 7-days of date of termination of employment.		
3.7.3 Should an audiometric test, meeting the criteria in 3.6.3, conducted within 6-months prior to date of termination of employment, that audiometric test can be considered as fulfilling the requirements for an exit audiometric test.		

	Comments	Proposed
3.7.4 The exit audiometric test must establish: a) PLH shifts from baseline; b) STS comparison against audiometric zero; c) preventive interventions and reporting, in terms of 3.8; and d) the need for referral for diagnostic audiology.		
3.7.5 The exit audiometric test must comply with the following:		
3.7.5.1 Reliability criteria: As referenced in SANS 10083, consists of; a) otoscopic examination (clause 14); b) audiometric history (clause 14); c) correct test environment (clause 14); and d) the use of reliable equipment with regards to type, maintenance and calibrations (clauses 15 and 16).		
3.7.5.2 Validity criteria: As referenced in SANS 10083, an exit audiometric test must meet the following validity criteria: a) consist of one audiogram; and b) be conducted after a period of at least 16-hours free from any noise exposure without the use of HPDs.		
3.8 Action Criteria and Reporting		
3.8.1 The OHPs must determine: a) the audiometric zero and STS; PLH and PLH shift from baseline; and b) the type of hearing loss.		

	Comments	Proposed
3.8.2 Where a STS of 10dB to 25dB is reached, the OHP must ensure that: a) the audiometric test is referred for discussion with an OMP; b) an investigation is conducted by the employer to determine; i) the reasons for the STS shift, including pathologies; and ii) the effectiveness of the hierarchy of controls, including HPDs; c) the employer retrains the employee in terms of regulation 4 of the Noise-Induced Hearing Loss Regulations; d) the STS is reported to the employer and health and safety committee and/or the health and safety representative; and e) the frequency of subsequent periodic audiometric tests must follow an OMP recommendation.	The wording in (b) appears to suggest that the employer will have access to the employee's medical causes for the STS shift. The investigation by the employer should only be if in the opinion of the OMP / OHP, the STS is due to work-related noise exposure. Note requirement to report the STS to the H&S Committee, regardless that it may not be NIHL.	(b) where in the opinion of the OMP the STS shift is commensurate with noise induced hearing loss, an investigation is conducted by the employer to determine the effectiveness of the hierarchy of controls, including HPDs; (d) the work-related STS is reported to the employer and health and safety committee and/or the health and safety representative;
3.8.3 Where a STS of 25dB or more is reached, the OHP must ensure that: a) the provisions of 3.8.2 are complied with; b) the employee is referred for diagnostic audiology; c) where diagnostic audiology confirms a STS of 25dB or more, the OMP must report the STS to the Chief Inspector of the Department of Employment and Labour.	Comment (A) This means the Regulation assumes that an STS shift is the same as NIHL. Comment (B) NIHL is referred at 10% and for frequencies 500 to 4000 Hz and for compensation. The STS is referred for conformation that it is accurate at 25 dB HTL and if accurate the employer should investigate and comply with 3.8.2. I agree that OMP and OHP and OH should be involved. I doubt if many employers would be able to evaluate the effectiveness of their controls	Where a STS of 25dB or more is reached, and is assessed to be work related in terms of 3.8.2 (a) and (b), the OHP must ensure that:
3.8.4 Where screening audiometry identifies a PLH shift of 10% or more from baseline, the OHP must ensure that: a) the employee is referred to the OMP for further case management; b) the employee is referred for diagnostic audiology on the recommendation of the OMP;	This is going to require a very large number of employees to be referred to an OMP, the vast majority of whom have hearing problems that have no bearing on occupational noise exposure, for which the employer is not legally responsible. The sheer burden of work of seeing the employees in person may not be reasonably practicable. A similar approach to the one taken in 3.8.2.(a) should be taken – refer the audiogram to the OMP.	Propose TC uses similar wording to 3.8.2 (with the proposed wording changes above), because the actions are essentially for the same reasons, even though the impairment is greater.

	Comments	Proposed
3.8.5 Where diagnostic audiology confirms a PLH shift of 10% or more from baseline, with a NIHL pattern: a) the OHP must report the case to: i) the employer; and	The OHP / OMP must FIRST establish occupational causation of the NIHL, THEN report the case to the various parties.	Where the diagnostic audiology confirms a PLH shift of 10% or more from baseline, with a NIHL pattern, and the employer's investigation confirms the work-related noise exposure.
ii) the Chief Inspector of the Department of Employment and Labour; b) the employer must report the case to the Compensation Commissioner; c) the employer must conduct an investigation to determine: i) the reasons for the PLH shift, including pathologies; and ii) the effectiveness of the hierarchy of controls, including HPDs; d) the frequency of subsequent periodic audiometric tests must follow an OMP recommendation.	The employer investigation should be limited to the effectiveness of the hierarchy of controls. The OMP must investigate the reasons for the PLH shift including pathologies.	(c) the employer must conduct an investigation to determine the effectiveness of the hierarchy of controls, including HPDs
3.8.6 As referred in SANS 10083, the date of the diagnostic audiometric test confirming a shift in PLH from baseline that exceeds 10%, must be regarded as the date of diagnosis of compensable NIHL.		
3.8.7 The employer must keep a record of the following: a) all audiometric tests conducted; b) all documents relating to reliability and validity criteria; and c) investigation into STS and PLH shifts.		
3.8.8 The employer must ensure that: a) an employee is provided with a copy of baseline audiometric test and exit audiometric test upon termination of employment; and b) where reasonably practicable and relevant, a new employee provides a copy of their baseline audiometric test.		