

OHS NEWS

WORKPLACE SAFETY IS EVERYONES' CONCERN

OCTOBER 2014

Public Consultation Phase II WHSR

The consolidation of the occupational health and safety regulations continues with the release of the draft Workplace Health and Safety Regulations (WHSR), Phase II, for public consultation. As part of its commitment to workplace health and safety, Labour and Advanced Education (LAE), invites your submissions and comments on the draft. **Open until December 19, 2014**, the consultation process is being coordinated by LAE Policy and Planning.

The Department has a consultation page link where you will find the WHSR consultation document, a WHSR fact sheet and details on how and where to submit any comments. Please go to [Workplace Health and Safety Regulations—Request for Public Comment](#).

The WHSRs are meant to be user-friendly, ensure consistency with national standards and improve workplace health and safety.

The components included in this phase are four previously stand-alone regulations:

- Occupational Health
- First Aid
- Occupational Diving
- Blasting Safety

Also included are several parts of the existing Occupational Safety General regulations:

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Hazard Alert: Dust Explosions

Dust; most of us think of it as being messy and a nuisance however, we understand it to be dangerous in many industries—particularly in saw mills and grain elevators.

In many industries, a wide variety of materials may become an explosion hazard with the proper conditions; sug-

ar, starch, flour, grain, plastics, pulp, dyes, textiles and items that don't burn in larger pieces such as iron and aluminum.

The Division has prepared and posted a [Dust Explosion Hazard Alert](#) to help raise awareness and offer some preventive measures for this workplace

hazard.

Five key elements are required for a potential dust explosion:

1. combustible dust (fuel)
2. oxygen (air)
3. source of ignitions (heat, spark, static electricity)
4. confinement (a room, space or inside equipment)

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5. dispersion (sufficiently small and concentrated dust dispersed in an air/oxygen mixture.

If the working conditions include any of these elements, a competent person or consultant must undertake a combustible dust risk assessment and implement a dust control program.

New Administrative Penalties System

The new Administrative Penalties system took effect on October 1, 2014.

Key highlights :

- The focus will be on raising awareness and enforcing the law through compliance orders before issuing administrative penalties.
- Administrative penalties will be issued for high risk contraventions, such as working at heights with no means of fall protection, working with machinery that has no guarding, or no lock-out/tag-out; regardless of whether it is a first-time inspection. They will also be issued when it is a repeat violation and the inspectee cannot show ‘due diligence’.
- The fine structure (see below) will be predictable—there is a structured fine schedule outlining penalty amounts for contraventions and how they escalate with repeat contraventions.
- The Appeal process has been simplified and extended to 30 days from 21—the Labour Board will manage appeals for both compliance orders and administrative penalties.

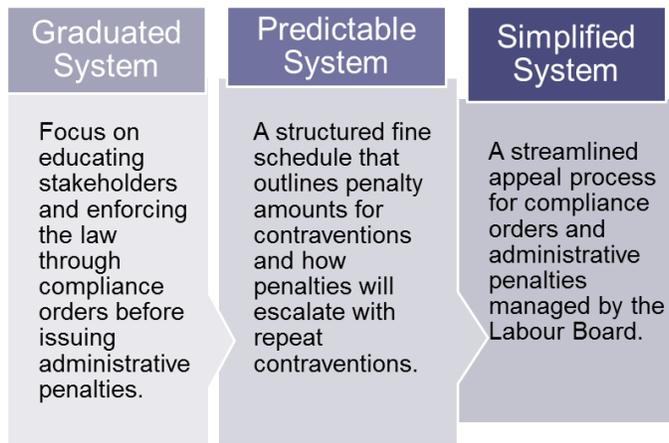


Illustration sourced from FAQ document

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Guidelines for Issuing Administrative Penalties and Amount Schedule

Under the new Administrative Penalty system OH&S Officers have the discretion to issue a penalty for contravention of the OHS Act or regulation made under the Act. A guideline/policy has been developed to ensure penalties are issued as fairly and consistently as possible within the unique circumstance of each worksite inspection.

As noted above, the focus is on raising awareness and enforcing the law through compliance orders. Penalties will be issued for:

- High risk contraventions with serious risk to health or life (defined as exposure to a hazard or danger that could reasonably be expected to cause serious injury, seri-

ous illness or death to the person exposed to it). The [Guidelines for Issuing Administrative Penalties](#) lists ‘high risk’ section.

- A repeat contravention of the same section of the Act or regulations (regardless of whether a penalty

was issued the first time)

- Contravention(s) where there has been other contraventions and in the Officer’s opinion the circumstances demonstrate a lack of commitment to the Internal Responsibility System of the [OHS Act](#).

Type of Workplace Party	Administrative Penalty		
	1 st	2 nd	3 rd and subsequent
Employer, contractor, constructor, supplier, provider of an occupational health or safety service, architect or professional engineer	\$500	\$1000	\$2000
Employee who has supervision responsibilities, owner or self-employed person	\$250	\$500	\$1000
Employee	\$100	\$200	\$500

Proposed Joint Occupational Health and Safety Committees and Representatives Requirements

The draft Phase II of the Workplace Health and Safety Regulations is proposing a new section, Part 27, to deal with required training for Joint Occupational Health and Safety Committees (JOHS), or Health and Safety representatives.

The requirements for having a committee or representative are contained in the OH&S Act, specifically section 29 (JOHS) and section 33 (Representative).

Part 27 is one that satisfies a longstanding omission from OHS regulations in Nova Scotia, i.e a clarification of rules of procedure and training for committees and representatives.

It proposes to:

- Add items that a committee must consider when preparing its rule so of procedure. For example: term of appointment, quorum, notice to be given for regular or emergency meetings etc.
- Add training requirements— (21 hours for committee members and 7 hours for representatives) to be conducted within 90 days of assuming duties. The training is to be repeated every 5 years and may transferrable from employer to employer if it

meets the NS content criteria.

- Describe training content will be described for both committee members and representatives. Training will include: an overview of the OHS Act with emphasis on the Internal Responsibility System, policy and program requirements, the role and function of the committee and representative. Training in hazard recognition, workplace inspection, incident investigation, effective communication and an overview of the content of the regulations will also be included.

- Include instructor qualifications; an employer must ensure employees are trained using and instructor who meets the requirements of section 27.7 Training Instructors
- Keep records; records will be required to be kept by the Employer to keep and provide a copy to person trained.
- Add specifications that an employer is to pay for cost of training .

To view a draft of the regulations go to [WHSR Phase II Consultation](#).

Recent OH&S Orders

A brief review of orders issued by our officers. This serves to highlight areas that you may wish to check and see if you are in compliance.

Fall Protection & Scaffold

The following continue to be an issue

- the use of some type of fall protection when at risk of fall above 3m or above dangerous material
- up-to-date fall protection training and proof of training is available at worksite
- a written fall protection safe work procedure or plan have been developed and are available at the worksite
- scaffold erection as per CSA Z797
- scaffold is inspected daily by a competent person or engineer
- scaffold deck platforms are cleated against movement

Inspections

- hoists, lifts and mobile equipment have their annual inspection (including pallet jacks, car lifts, forklifts)
- fire extinguishers have annual inspection

Guards and Guardrails

- guards on machinery either missing or not being replaced after they were removed
- at constructions sites, openings in walls or floors and on temporary stairways not having adequate guarding to prevent accidental falls

WHMIS

- adequate eyewash as per MSDS requirements

Electrical Rooms

- storage of non-related electrical room materials

CSA View Access

CSA Standards are often cited in OH&S regulations. You can view these standards via the CSA Communities website. All you need to do is complete the free registration at the [CSA Communities](#)

Once registered, the site will provide access to CSA OHS Standards referenced in all Canadian legislation. The pages are copyrighted and not available to print but they are available for purchase.

Aside from the standards view, the CSA Communities page is a great way of staying current with CSA activities. The page highlights news, articles, blogs and opportunities to comment on draft standards in a number of different areas or 'communities'.

Public Consultation Phase II WHSR (cont)

- Part 4—Sanitation and Accommodation
- Part 3—Personal Protective Equipment
- Part 14— Excavation and Trenching
- Part 12— Confined Spaces
- Part 15— Surface Mine Working

A new component dealing with committees and representatives (joint occupational health and safety committees and health and safety representatives) is also being added.

We encourage everyone to review the material and provide your comments. This is your opportunity to have a say in regulations that will help shape your workplace safety.

Links to related agencies:

- [Nova Scotia WCB](#)
- [Workers Compensation Appeals Tribunal \(WCAT\)](#)
- [Workers' Advisers Program \(WAP\)](#)
- [Workplace Safety and Insurance System \(WSIS\)](#)
- [Office of the Employer Advisor Nova Scotia](#)
- [Service Canada / Français](#)
- [Canadian Centre for Occupational Health and Safety \(CCOHS\) / Français](#)
- [CanOSH \(Canada's National Workplace Health and Safety Website\) / Français](#)

New Administrative Penalties Regulations (cont)

- Penalties if warranted will be issued by the OH&S Officers, **not** an Administrator. An Officer will have up to 14 days to decide whether to issue a penalty on a written order—if that is not possible (where further investigation may be required) the director has the ability to notify the person that they are being considered for a penalty at a later date.
- The 3 year administrative penalty history (with regards to potential fine amount increases) continues; however as of October 1 all inspectee histories will start over.
- All revenues generated by the administrative penalty system will be directed to the Occupational Health and Safety Education Trust Fund. For more information go to ['New Administrative Penalties System'](#)

LABOUR AND ADVANCED EDUCATION

Occupational Health and Safety Division
P.O. Box 697
Halifax, NS
B3J 2R7

Phone: 902-424-5400
Fax: 902-424-5640
Toll Free: 1-800-952-2687 (9-LABOUR)
E-mail: ohsdivision@gov.ns.ca

For further information come see us on the Web at [Health and Safety](#).
