

# Frequently Asked Questions:

## New and Revised OHS Regulations as of June 12, 2013

### Introduction:

The *Workplace Health and Safety Regulations* (WHSR) were created as a document to consolidate all of Nova Scotia's Occupational Health and Safety Regulations (with the exception of *Underground Mining Regulations*). This will occur in 3 phases. The first phase, approved by Cabinet on March 12, 2013 and effective on June 12, 2013, established the document and included an Interpretation and Applications Section, as well as Occupational Health, Fall-protection, Work Requiring Rope Access, Scaffolding and other Elevated Work Platforms, and Temporary Workplace on Highways. In addition to the new regulations, several changes were made to the *Occupational Safety General Regulations* (OSGR) to clarify them until they can be migrated to WHSR in the next two phases of consolidation.

As all regulations need be considered and applied in the context of the individual workplaces, they are written in general language. Since they have come into force, the Division has received some excellent feedback, which will result in several minor clarifications to these regulations in the next phase of consolidation. In the meantime, the Division has prepared this list of frequently asked questions (FAQ), which is intended to provide some additional clarification. They have been grouped for the convenience of the reader and will be updated as additional questions or information becomes available. Like the regulations, these responses will be general and are intended for the broadest possible application. Additional questions or queries regarding a specific situation or application of the regulations may be directed to our information specialist at 1-800-952-2687 or e-mail to the OHS Division at [ohsdivision@gov.ns.ca](mailto:ohsdivision@gov.ns.ca).

To further assist workplace parties in understanding their responsibilities and maintaining a safe and healthy workplace. The Division continually assesses the need to provide additional reference and guidance material. These may be found on our website at [www.novascotia.ca/ohs](http://www.novascotia.ca/ohs) and specifically by using our Knowledge Base, 24 hour online searchable database at [www.gov.ns.ca/lae/kb](http://www.gov.ns.ca/lae/kb). The Division is developing additional reference material, guidance documents, templates and checklists for your convenience. In the future, these will also include sample fall-protection plans and safe-work procedures for various activities (with the caveat that they will need to be reviewed and tailored to the specific workplace situation).

## **Standards:**

### **Will there be access to CSA and other standards that are referenced in the regulations?**

All provinces and the federal government provide funding to CSA to have the standards that are adopted in OHS regulations posted on the CSA Website. Given the recent changes, Nova Scotia has requested that CSA update its posting. This is taking some time, as CSA is in the process of improving its website and moving to a new platform entitled "Community of Interest". In the interim, CSA has committed to getting the posting updated as soon as possible and may be accessed at the View Access portal at <http://ohsviewaccess.csa.ca/>, A link to this website can also be found on the OHS Website at <http://novascotia.ca/lae/healthandsafety/>.

View Access with CSA has been arranged for CSA Standards regulations only. Some other standards are available free of charge on other websites and a link will be added to the OHS Division website. Unfortunately, a similar arrangement has not been possible with other standards writing organizations. The OHS Division is making arrangements to have all standards available at the Regional Offices for reference purposes in the office; however, they cannot be distributed without license due to copyright.

### **Are workplace parties required to meet the training requirements of the standards adopted by regulations?**

Yes, to the extent they apply to the work in question.

Section 1.6 (4) of the *Workplace Health and Safety Regulations*, states:

"An employer must ensure that a person using an object or performing an activity required to comply with the specifications of a standard, whether a specific edition or the latest version, is trained in accordance with the standard, and the person must undergo the training, unless these regulations specifically provide otherwise."

This means if there are specific training requirements listed in any standard adopted by NS OHS regulations, this section would apply and a worker must be trained but only to the extent to which the person is using the equipment described by the standard; for example, CSA standard Z797, clause 9, lays out the training requirements for erectors and users of access scaffolding. If an erector or user will only be erecting or using a certain type of access scaffold, then they only need to be trained in "the types of access scaffold systems to be encountered", not all types of scaffold that may be covered by the standard.

### **Are employers required to have professional trainers conduct Fall Protection training or other training required in a standard?**

There is no requirement to have a third party service provider conduct the training or provide the appropriate records required by the regulations. This may be done by the employer using a competent

person (which is defined in the regulations). Some standards, such as CSA Z797 go further and provide specific direction on the qualifications required for a trainer to be considered to be competent; however, there is no written exam or formal certification required by Nova Scotia OHS Regulations or standards adopted in the regulations.

**If you don't have the original standard, but you bring your equipment to the most current standard, is that ok?**

Yes; providing that it is safe and appropriate to do so. This will depend on the equipment and the context. Certification, on the other hand, must be done by a recognized certification authority.

## **Fall Protection:**

**Is there a generic check list for hazard assessments related to fall protection?**

This kind of check list is generally available through industry and safety associations and on the internet. The OHS Division is in the process of reviewing its guidance documents and will endeavor to include this kind of information in the future.

**Is a separate fall-protection safe-work plan required for the same worksite if the conditions change (e.g. larger ship or construction site)?**

Section 1.8(1)(c) requires all policies, procedures, plans and codes of practice to be "updated whenever conditions affecting work change". This means if there is a significant change in the anticipated conditions or fall protection considerations as the work progresses the plan must be updated. If the anticipated conditions or fall protection considerations are different in different areas of the same worksite, then technically a separate plan would be required; however, Section 21.4(4) of the WHSRs permits making one overall plan that covers all of the requirements for the entire worksite if the various considerations can be described without confusing the people that have to use it.

**Can Employers involve the local fire departments to be a part of the rescue plan?**

Yes, as long as the FD has been contacted and that adequate response time and capability is confirmed.

**Do you need to be tied in to equipment while working over water with a personal flotation device (PFD) or life jacket on?**

The employer must conduct a risk assessment to determine whether there is a risk of injury from a fall or a risk of drowning. *Occupational Safety General Regulations*, Section 14 (Risk of Drowning), states:

"Where a person is exposed to the risk of drowning at a workplace, an employer must do 1 of the following:

- (a) Subject to subsection (2), select, provide and ensure the use of a life jacket or personal flotation device for the person;
- (b) Provide an alternate means of protection that ensures an equivalent level of safety to prevent a person from drowning.”

*Workplace Health and Safety Regulations*, Section 21.2 (Fall protection required) states:

“Except as provided in subsections (3) to (5), fall protection is required if a person is at risk of falling from a work area where the fall distance is

- (a) 3 m or more above the nearest safe surface or water”

This means some form of fall protection (guardrail, safety net, travel-restraint, or a fall-arrest system is required when there is the potential to fall 3 m or more into water. If adequate fall protection is provided, then there is no need to wear a life jacket or PDF. If there is a risk of drowning, but fall protection is not required by the regulations, then only the provisions of *Occupational Safety General Regulations*, Section 14 apply.

**According to the *Workplace Health and Safety Regulations*, in Section 23.3(1) a fall protection safe work procedure is required when working from below heights of 7.5m and in Section 21.4 (1) a safe work plan is required for heights at 7.5m and above. Do you need both a procedure and a plan for the same worksite if you are working both below and above 7.5m? Can this procedure and plan be combined into one document with more detail/information being given to meet the needs of a plan?**

There is no requirement to have both a safe work procedure in accordance with Section 23.3 and a safe work plan under 21.4 at the same worksite. They are meant to have different applications. The safe-work procedure is intended for the company that does regular work at multiple sites where they typically would not exceed 7.5 metres. A safe-work plan, on the other hand is meant for site-specific work at heights where there is more risk and may involve a longer and more elaborate requirement, such as the building of multiple story condo, or office building. It is recognized that, at a site where there is a risk of falling a distance of 7.5 metres or more, there will also be personnel working at heights greater than 3 metres, but less than 7.5. The regulation did not intend that the employer would require both a safe-work procedure (at say 4 metres) and a separate plan (at 8 metres). This would be too literal an interpretation of the regulation. If a safe-work plan is created for a site, it is meant to include anyone that is at risk of falling from any height at that site. Since the plan requirements are more stringent than those of a procedure, it is expected that the plan would cover all work conducted both below and above 7.5m without the need for a separate procedure for work below 7.5 m.

### **Training**

**Is fall protection training that was conducted prior to June 12, 2013 acceptable?**

To the extent that the training taken prior to June 12, 2013 meets the requirements of the revised regulations, this training is acceptable. However, the training topics that were covered must be

reviewed against the WHSR Section 21.20 (Fall-protection training topics) to ensure that all topics were adequately covered. If the previous training meets the requirements of the new regulations, then no further training is required and the training will expire 3 years from the date it was taken. However, an employer must ensure their workers have the training records required in WHSR Sections 21.21 (Record of fall-protection training) and 21.22 (Fall-protection training certificate or card).

If, after review of the training, it is determined that there are topics that were not covered in the original training, then a training session must be conducted to complete the requirements. This session need only cover the material that was not covered during the original training. This training need not be conducted by the original trainer as long as it is conducted by a person deemed competent by the employer to do so. On completion of the training, the records required by WHSR Sections 21.21 and 21.22 must be completed and the training will expire 3 years after the date of the original training activity unless a full refresher on all the material required under Section 21.20 is conducted.

**Under the fall protection training section, what does “practical training” mean/involve?**

This section does not use the term “practical training”; however, section 21.20 (k) requires that fall protection training must include: “practice in all of the following: (i) inspecting, fitting, adjusting and connecting fall-protection systems and components, (ii) the emergency response procedures required by clause (j).” This would require that the trainee actively participates in using the type of equipment that is the subject of the training to be able to practically demonstrate knowledge of the subject and proper inspection and use of the equipment and proper reporting and recording techniques. With regard to emergency procedures, this could involve a practical scenario whereby trainees work together to take appropriate steps to secure an accident scene, ensure no one else is hurt, summoning emergency services.

**In relation to fall protection training, does the employer need a copy of the trainer’s syllabus?**

Record requirements for the employer and the training organization are listed in WHSR Section 21.21 and 21.22. The employer needs to ensure that the training is adequate and meets the requirements of the regulations. As a minimum, this would include a description of the training that was provided.

**The trainer for fall protection must identify a method of evaluating the person taking the training....is this referring to a written test?**

The regulation requires the trainer to “identify the method of evaluating the person taking the training and determining whether a person successfully completes the training.” This may include a written test, but does not require it.

**Is there a requirement to ensure that persons who train staff in fall protection become certified in NS?**

No, it is the employer’s responsibility to ensure that training is conducted by a competent person and the training meets the requirements outlined in WHSR Section 21.20.

**How are instructors qualified or deemed competent to give fall Protection training; how and who determines this?**

There are three criteria that must be applied. First, WHSR, Section 21.19 (1) (Fall-protection training required) requires “Training must be instructed by a competent person”. Secondly, as a “provider of service” under the OHS Act section 20 (b), any provider of service (training) must “(a) ensure that no person at a workplace is endangered as a result of the provider’s activities; and (b) ensure, where the service involves providing information, that the information provided, is accurate and sufficiently complete to enable the recipient to make a competent judgement on the basis of the information”. Finally, it is the employer’s responsibility, under the OHS Act, section 13 (c) to “provide such information, instruction, training, supervision and facilities as are necessary to the health and safety of the employees.” This means while there is a shared responsibility, it is ultimately employer’s responsibility to ensure that the person who is training his/her employee is competent to do so. *See the question under Training for Scaffolding and Other Elevating Work Platforms that asks what being “deemed competent” means.*

**When a trainee is given a certification card for fall protection, to what standard are they certified?**

The certificate or card that is issued in accordance with WHSR Section 21.22 is simply a record to indicate that the holder has successfully completed the requirements of the training. As the type of training required may vary according to the nature of the work that the training is meant to support, the card will indicate the type of training received and the records required by section 21.21 will describe the training that was completed.

**WHSR section 21.22 (1) (c) requires that the fall-protection training certificate or card indicate “the name of the employer and the training organization, if training is not conducted by the employer.” Is it necessary to list the employer’s name if training is conducted by a third party training organization?**

When interpreting WHSR section 21.22 (1) (c), the word “and” may be interpreted as “or”. The intent of the regulation was to ensure that the training could be traced to the training provider, whether a third party organization or the employer. This interpretation will allow portability of the training certificate/card. This point will be clarified in the next amendment to WHSR.

**Guardrails**

**Where guardrails are described under “fall protection systems”, does a person require fall protection training if using a temporary guardrail?**

The answer to this question will depend on the exposure that the person will have to the risk of falling. If there are sufficient controls in place to ensure the health and safety of persons at or near the workplace, i.e. the risk of falling was eliminated (not just reduced) through engineering, or administrative controls, then fall protection training would not necessarily be required. This would include a method of safe egress and exit from the working position. If, however, part of the procedure required moving and working around a platform where a part of a guardrail is removed, there may be a requirement to use active fall protection (fall restraint/fall arrest) and then training would be required. Where temporary guardrails are the only form of fall protection that will be encountered, the training may be limited and reflected accordingly in the records kept in accordance with Sections 21.21 and 21.22.

### **What is the difference between temporary and permanent guardrail?**

A permanent guardrail is one that is permanent in nature, i.e. installed in accordance with the applicable building code. A temporary guardrail is one that is installed temporarily as a method of fall protection on a worksite to protect workers from the risk of injury due to a fall.

### **What material may be used in constructing a guardrail?**

Given the types a material and guardrails available on the market, it is not possible to list the variety of materials that may be used. The burden is for the employer or workplace parties to comply with the specifications listed in the standard, CSA Z797. If there is any question as to whether a guardrail meets those specifications, then it would be up to the employer to provide evidence that it does. The requirements are in sections 5.12.3 (components) and 5.12.4 (load) of the standard.

### **Work Requiring Rope Access:**

#### **What are the requirements for window washers under the new regulation in relation to rope access? Will they require rope access training?**

The provisions for window washers have not changed. Unless they are specifically using rope access techniques, if washing windows suspended from a boatswain chair, a window washer must comply with single point suspended platform. This is consistent with previous regulations.

### **Scaffolding and Other Elevating Work Platforms:**

#### **How long do we have to keep copies of scaffolding inspection checklists?**

WHSR Section 1.16 requires that “records made by the employer of inspection, maintenance or repair” be kept for 2 years after the date the record was made. This is to ensure the records are available in the event that an incident must be investigated.

#### **Do we need to use red/green/yellow tagging system even if our scaffold is removed before the end of the day it was erected?**

The regulations require a daily inspection by a competent person or an engineer and that the results of the inspection be communicated to the users by methods described in CSA Standard Z797. Clause 7.2.3 of the standard allows for different methods of communicating the results of the inspection, but that the method used must be described in writing and the workers who access the scaffolding are trained in that method. The Standard does describe a tagging system of red/green/yellow tags. While this is a recommended method and provides immediate clarity as to the status of the scaffolding, it is not the only method allowed. It is recommended that any users of access scaffolding review the standard and discuss with workplace parties the most appropriate method of communicating the results of any inspections to the workers.

## **Do forklift platforms require fall protection in the new regulations?**

WHSR Part 23 (Scaffolds and Other Elevated Work Platforms) does not specifically call for fall-arrest equipment as required for other elevating work platforms; however, it does adopt ANSI/ITSDF B56.1, "Safety Standard for Low Lift and High Lift Trucks (this standard is available for free download at <http://www.itsdf.org/pB56.asp> . A recent amendment to this standard (4.17.2 (c)) requires the employer to "Make sure required fall restraint means, such as guardrails or personal fall protection systems, are in place and properly used." In this case, either a guardrail, or another type of fall protection is required when using a lift truck work-platform.

## **Training**

### **Who determines that the trainer is qualified/ certified to give training that meets the criteria set out in the CSA standard Z797, "Code of Practice for Access Scaffold"?**

With regard to training in accordance with CSA Standard Z797, the clause 9.4 of that standard (Qualifications of the training instructor) sets out specific criteria that a scaffold erector instructor must meet in order to be deemed competent. These criteria must be taken into consideration by the employer. *See question under training instructors under the training section in the Fall Protection section for more information.*

## **Temporary Workplace On Highways:**

### **Is a code of practice required for garbage pick-up?**

A written safe work practice in accordance with WHSR Section 24.4 is required.

**If work that is not construction, maintenance or utility is being done on a highway and one lane is partially blocked can the employer use a written safe work procedure or does the employer have to follow the transportation code of practice? Is there any difference if the lanes are open and the work is conducted on the shoulder?**

The TIR Temporary Workplace Traffic Control Manual (TWTCM) applies to construction, maintenance and utility work. Other work on or near the highway requires a safe-work procedure. Once developed, the employees must be trained, equipped and conduct their work in accordance with this safe-work procedure. There is no difference whether the work is temporarily blocking a lane or the work is conducted on the shoulder.

### **Would a public wharf or parking lot be regulated under Traffic Control?**

The definition of highway in WHSR 24.1 is:

"highway" means

- (1) A public highway, street, lane, road or bridge, and
- (2) Private property that is designed to be and is accessible to the general public for the operation of a vehicle.



Consequently, If a wharf in question is designed for and accessible to the general public for the operation of a vehicle, then WHSR Part 24 (Temporary workplace on highways) applies. A public parking lot would also be considered a highway for the purposes of this regulation and safe work procedure must be established for the type of work being conducted, e.g. picking up shopping carts, cleaning, landscaping, etc.

### **Is replacing hydro poles construction work or utility work?**

Construction and utility work are treated the same in terms of the traffic control set up required under the *Temporary Workplace on Highway Regulations*. There may be a few differences in signage, but the safety and traffic flow considerations remain the same. (There may be the odd situation where cones are used rather than barrels, but these are limited.) In terms of categorizing the work, installing utility poles involves excavation and would be considered construction; however, if the traffic control set-up has met the requirements for safety and traffic flow, whether the work is characterized as construction or utility work may be of little concern.

### **Who is responsible to pay for the cost of traffic control persons' training courses and time?**

The TWTC Manual requires traffic control persons to "Have a valid accreditation certificate issued by the Provincial Traffic Authority." With regard to training, under the OHS Act Section 13 (c), the employer must "provide such information, instruction, training, supervisors, and facilities as are necessary to the health and safety of the employee." The regulations do not give specific direction with regard to who pays for the cost of courses and/or wages while on course (except for JOHSC and First Aid training as required by the regulations). This is because OHS laws are primarily concerned with ensuring safety. It would be up to the workplace parties, through contract negotiations to determine these details. Ultimately, regardless of who pays for the training, an employer is required to ensure their employees have the training required under health and safety laws and will be held accountable if they do not. Note, a third party trainer is not required unless there is a regulatory requirement that the training be conducted by a specific authority.

## **Confined Spaces:**

### **Do employers have to do one plan or two plans when working at heights in a confined space?**

If there is a requirement to work above 3m in a confined space, then the requirements for the written safe-work procedure or safe-work plan for working at height in accordance with WHSR 21.3 or 21.4 may be incorporated in to the written safe-work procedure required for the confined space entry in accordance with OSGR section 130, as long as it is readily distinguishable and adequate to the circumstances.

**The regulations require a group E (limited access) type body harness be worn while in a confined space if a harness is worn, however the employer provides the workers with another type of class ( ie class d) harness as they feel it is more suitable for the application. Can they present a letter signed by a professional engineer indicating that this type of harness is permitted (WHSR 1.11)?**

There is a distinction between the engineer's authority to certify equipment to be used other than allowed for in a standard or regulations and the requirement to comply with stated regulations. As the Class E harness is specified in the regulations, then the only way to deviate is to submit a deviation request to the Director.

### **Training:**

**Are workplace parties required to meet the training requirements of the standards adopted by regulations?**

Yes, to the extent they apply to the work in question.

Section 1.6 (4) of the *Workplace Health and Safety Regulations*, states:

“An employer must ensure that a person using an object or performing an activity required to comply with the specifications of a standard, whether a specific edition or the latest version, is trained in accordance with the standard, and the person must undergo the training, unless these regulations specifically provide otherwise.”

This means if there are specific training requirements listed in any standard adopted by NS OHS regulations, this section would apply and a worker must be trained but only to the extent to which the person is using the equipment described by the standard; for example, CSA standard Z797, clause 9, lays out the training requirements for erectors and users of access scaffolding. If an erector or user will only be erecting or using a certain type of access scaffold, then they only need to be trained in “the types of access scaffold systems to be encountered”, not all types of scaffold that may be covered by the standard.

**Will be division designate individuals or organizations as competent trainers?**

No. It is the employer’s responsibility to provide information, instruction and training as necessary to the health and safety of the employees and to comply with the regulations. It is up to the employer to determine the competence of the trainer.

**What does being “deemed competent” by an employer or training organization mean? (ie. Written documentation?)**

The employer, or training organization that conducts the training is required to ensure that the person being trained is assessed as competent to safely use the equipment and techniques instructed on the course and recorded in the training record. Competent is defined in the regulations as follows:

“competent person” means a person who is

(i) qualified because of their knowledge, training and experience to do the assigned work in a manner that ensures the health and safety of every person in the workplace, and

(ii) knowledgeable about the provisions of the Act and regulations that apply to the assigned work, and about potential or actual danger to health or safety associated with the assigned work,

## **Emergency showers and Eyewash**

**How do I know if an emergency shower or eyewash is required?**

OSGR S.23 (2)(d)(ii) makes reference to “MSDS Sheets”. The MSDS sheet will normally give some guidance with respect to time, but may have to be interpreted to the individual operation. If the employer, in consultation with the JOHSC or H&S rep, differs from the recommended precautions in the MSDS, then he/she must be able to justify the variation, e.g. using a pelletized form of the material as opposed to powdered and the material cannot be rendered airborne in the particular application. A hazard assessment must be conducted to confirm the risk of contamination.

**Is an employer allowed to provide a shower and not an eyewash (vice versa?)**

The employer must conduct a hazard assessment, with due consideration of the type of material, MSDS requirements, type of operation and risk of injury to the employee. Once the risk assessment is complete, the employer must put into place, in consultation with the JOHSC or H&S rep, adequate controls to ensure health and safety of employees. This may include either a shower or an eyewash station, depending upon the results of the assessment.

**What does “10 seconds to a hazard” mean in relation to eye wash. How do I assess that?**

The following quote comes from ANSI Standard Z358.1, *American National Standard for Emergency Eyewash and Shower Equipment* sections 4.5.2 and 5.4.2 on emergency shower and eyewash installation respectively: “Be in accessible locations that require no more than 10 seconds to reach. The emergency shower shall be located on the same level as the hazard and the path of travel shall be free of obstructions that may inhibit its immediate use.” The standard gives further guidance in Appendix B – Installation Considerations as follows:

“Emergency eyewash and shower equipment should be available for immediate use, but in no instance should it take an individual longer than 10 seconds to reach the nearest facility.

There are several factors that might influence the location of emergency facilities. It is recognized that the average person covers a distance of approximately 55 ft. in 10 seconds when walking at a normal pace. The physical and emotional state of a potential victim (visually impaired, with some level of discomfort/pain, and possibly in a state of panic) should be considered along with the likelihood of personnel in the immediate area to assist. The installer should also consider other potential hazards that may be adjacent to the path of travel that might cause further injury.

A door is considered to be an obstruction. Where the hazard is not corrosive, one intervening door can be present so long as it opens in the same direction of travel as the person attempting to reach the emergency eyewash and shower equipment and the door is equipped with a closing mechanism that cannot be locked to impede access to the equipment.

In situations that might warrant the placement of emergency eyewash and shower equipment close to the hazard, such as exposure to highly corrosive chemicals, the appropriate professional should be contacted for advice on the proper distances. Equipment should be located adjacent to the hazard, but situated in such a manner such that exposure to the splash hazard or other hazards (e.g., exposed electrical conductors) does not occur while using the eyewash.”

When considering the placement of an emergency shower or eyewash equipment, the employer should conduct a hazard assessment to consider where there is potential for exposure and, if possible, limit the areas where exposure is possible to reduce the potential and ensure the 10 second requirement can be achieved.

## **Other**

### **Will reference guides be available for the new regulations?**

Some form of plain language guide or guidance documents will be prepared to assist in understanding the regulations; however, every attempt is being made to make the regulations as clear and concise as possible. It is not known exactly when a plain language guide will be available.

### **Where can I find more information on the new regulations?**

Any information developed to support the introduction and clarification of the new regulations, as well as the Public Information Sessions presentation, are available on the OHS Division Website at: <http://novascotia.ca/lae/healthandsafety/> . Information will also be available in our monthly e-newsletter and through our mailing list. To register, follow the link to: <http://novascotia.ca/lae/healthandsafety/ohsnews.asp> .

**What's the definition of a plan/procedure (definition is not included in the Regs)? And, what is the difference between them?**

If a term is not defined, then the context in which it is used must be considered. In relation to Fall Protection plans and procedures, a plan is a specific written work plan prepared to address working conditions at a specific work site where work will be performed at a height of 7.5 m or more. A procedure is a generic written work procedure prepared to address working conditions at various sites where work will be performed at a height of at least 3m but less than 7.5 m and it is anticipated that the work at each site will be basically the same (e.g. residential roofing).

**Revisions to the Regulations - Does the Department plan to make or change any other regulations and if so will they be shared with the public?**

The new *Workplace Health and Safety Regulations* (2013) was the first phase in a multi-phased project to consolidate OHS regulations into a single document (except Underground Mining Regulations). There will be further revisions over the upcoming years and there is a formal review process that requires public consultation prior to submission to Cabinet for approval. In addition to specific stakeholder working groups and a review by the Regulation Sub-Committee of the Occupational Health and Safety Advisory Council (an advisory council to the Minister that is made up of representatives from employers and labour), the regulations will be posted on the OHS Website for several months for public consultation and comment. There are two more phases planned to complete the consolidation of the regulations. Each phase will involve public consultation where the draft regulations will be posted on our website at [www.novascotia.ca/ohs](http://www.novascotia.ca/ohs). Notification of these postings will also be sent out to members of our electronic distribution list, which is available to anyone who wishes to register at: <http://novascotia.ca/lae/healthandsafety/ohsnews.asp>.

**Is there a list of qualified/certified training providers?**

The Division does not endorse any service providers. A list of service providers is available on our website at: <http://www.gov.ns.ca/lae/healthandsafety/consultants/default.asp>. As noted under "Training", it is the employers responsibility to ensure the trainer is competent to instruct the information as required by the regulations.

**Does WHSR Section. 1.11 (Engineer's certification) apply to the content of the OSGR's and other regulations as well?**

Yes. WHSR Section 1.3 states: "These regulations apply to all workplaces to which the Occupational Health and Safety Act applies, unless otherwise expressly provided in the Act or these regulations." This means that the requirements of the WHSR apply to all workplaces, as applicable, unless the regulation specifically excludes it.

### **What is a “Safe Work Procedure”?**

While it is not specifically defined in the regulations, a safe work procedure is generally considered to be a written method outlining how to perform a task with the minimum risk to people, equipment, materials, environment and processes. It may describe a series of specific steps that guide a worker through a task from start to finish and is designed to reduce the risk by minimizing potential exposure. A safe work procedure must be developed in consultation with the JOHSC or H&S representative by completing a hazard assessment and considering control measures to minimize the risk, using the hierarchy of controls, i.e. elimination, substitution, engineering control, administrative control, personal protective equipment. Employees must be trained and must conduct their task in accordance with any safe work procedure required by the regulations or by the employer.

### **The regulations require a record of equipment inspections. Is there a definition of equipment?**

The intention of the regulations is only to regulate the type of equipment that is referred to in the regulations. It was not anticipated that items such as office equipment would fall under this category. If you do have equipment that is regulated, but inspections are carried out by a third party, then their inspection reports should cover the requirement, provided they cover the required items at the required intervals.

### **How long must inspection records be kept?**

Where inspections are required by the regulations, or the standards and manufacturer’s specifications adopted by these regulations, there is a requirement to retain the records for 2 years after the date that the record is made – WHSR Section 1.15 (Employer to keep records). This would include daily inspection of equipment, where a written record is required.

### **Can an Engineer’s Certification under WHSR 1.11 be used to deviate from a requirement of the regulations?**

No. An Engineer has been given authority to certify equipment to be used in a manner other than that allowed by a standard or the manufacturer’s instructions under certain circumstances. However, the Engineer does not have the authority to grant a deviation from the actual regulations. Only the Executive Director of the Occupational Health and Safety Division, or designate, is given that authority. A request for deviation may be found on our website at: <http://novascotia.ca/lae/healthandsafety/forms.asp>.

### **There used to be reference guides available to provide a plain language interpretation of the regulations. Will these be available in the future?**

The reference guides that used to be available were very useful for both the OHS Inspectors and the public; however, over the years, they had become out of date and, in some cases, they were being

misinterpreted as law. All these reference guides have been withdrawn and the Division is investigating a way to provide a similar type of plain language guide. In the meantime, there are a number of guidance documents available on the Division's website at <http://novascotia.ca/lae/healthandsafety/pubs.asp>.

Over the next few years, it is hoped that a series of guidance documents that will reflect the structure of the *Workplace Health and Safety Regulations* will be created. These guidance documents will be more user-friendly and comprehensive than their "Reference Guide" predecessors. They will include checklists, illustrations, safety tips, templates and practical examples of plans and safe-work procedures. They will also include a list of references and links to other useful websites. Until these are available, where clarification of the regulations is required, the Division may be contacted at 1-800-952-2687 or [ohsdivision@gove.ns.ca](mailto:ohsdivision@gove.ns.ca).