



**Labour and
Workforce Development**

Consultation Paper

to create the new

Technical Safety General Regulations

under the *Technical Safety Act*

May 2009

Background

Industry representatives have told us that there is need to address existing technical safety legislation in light of advanced technology, and modern standards and industrial practices. It became clear to the Department that in order to sustain and improve the Province's level of technical safety, while at the same time responding to innovation and modernization, changes had to be made. The Department responded to industry's concerns by committing to a comprehensive review of technical safety legislation in Nova Scotia.

The focus of the review is on a modernized framework and how it may be streamlined to reflect technological change, improve consistency, and meet the needs of a changing economy now and in the future, while ensuring that minimum regulated safety standards are achieved. The intention is to develop a flexible, risk-managed, and results-based legislative framework, which provides for clear responsibilities and accountability.

The Minister's stakeholder Advisory Group on Technical Safety made 19 recommendations to the Minister for a modernized technical safety framework. In particular, the Advisory Group recommended that the following Acts be consolidated into one Act for technical safety: *Amusement Devices Safety Act*; *Crane Operators and Power Engineers Act*; *Electrical Installation and Inspection Act*; *Elevators and Lifts Act*; *Steam Boiler and Pressure Vessel Act*. The creation of the new Act would initially consolidate the *Steam Boiler and Pressure Vessel Act* and the *Crane Operators and Power Engineers Act*: and complement -- but not replace -- the other above-named Acts until future phases of the review. As well, the Advisory Group recommended that the consolidated Act become the enabling legislation for the *Fuel Safety Regulations* (which are currently under the *Fire Safety Act*). The fuel safety discipline, being technical in nature, has a more appropriate fit under the proposed new Act.

The new *Technical Safety Act* was passed during the Spring 2008 session of the House of Assembly and will receive proclamation (take effect) once new regulations for steam boilers and pressure equipment, crane operators, power engineers, and fuel safety, as well as regulations for general matters, fees, and standards are made under the new Act. This is scheduled to take place in early 2010.

The Technical Safety Review Project is part of the Better Regulation and Competitiveness and Compliance Initiatives: programs to improve regulatory systems and achieve better compliance. Meaningful consultation with stakeholders will take place throughout the entire regulatory review process. Most of the changes to the regulations are to align with the new Act.

Any questions you may have in relation to the proposed regulations may be directed to:

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Draft Regulations

The following version of the Crane Operators Regulations is unofficial. It has been prepared for discussion purposes only, and is subject to change.

Interpretation and Application

Citation

1 These regulations may be cited as the *Technical Safety General Regulations*.

Interpretation

2 (1) In these regulations:

- (a) “Act” means the *Technical Safety Act*;
- (b) “Apprenticeship Board” means the apprenticeship board in the *Apprenticeship and Trades Qualifications Act*;
- (c) “general fees” means the fees for services under the Act or the *Technical Safety General Regulations* that are set by the Minister in the *Technical Safety Fees Regulations* made under the Act.

(d) “skilled trades person” means an individual who holds a certificate of competency or certificate of qualification in a trade within the scope of the Act or regulations under the Act.

(2) A term used in these regulations has the same meaning as the definition for the term provided in another regulation made under the Act.

Advisory Board and Sub-committees

Advisory Board

- 3 (1) The Advisory Board may have up to 17 members.
- (2) The Advisory Board may include any of the following:
- (a) the Administrator or 1 member as the Administrator’s representative to be a non-voting member and to hold the position of secretary to the Advisory Board;
 - (b) the Chair of the Apprenticeship Board to be a non-voting member;
 - (c) the Director of Apprenticeship Training and Skill Development Division or 1 member as the Director’s representative to be a non-voting member;
 - (d) 1 representative from the Construction Association of Nova Scotia, as endorsed by that organization;
 - (e) 1 representative from the Canadian Manufacturers and Exporters, as endorsed by that organization;
 - (f) 1 representative from the Building Owners and Managers Association Nova Scotia as endorsed by that organization.
- (3) If an organization specified in subsection (2) is unable to select a representative to endorse, the Minister may appoint a member endorsed by a similar organization that the Minister determines to be a replacement organization.
- (4) The Advisory Board may also include any of the following:
- (a) 1 member with a Provincial or inter-provincial first class power engineer licence and who is working in a first class boiler plant;
 - (b) 1 member with experience working for a public utility performing inspections of electrical installations;

- (c) 1 member with a crane operator 1 licence with a lattice boom crane endorsement and experience in crane operation;
 - (d) 1 member with experience in the manufacturing of boiler or pressure equipment;
 - (e) 1 member with experience in a business installing or maintaining amusement devices;
 - (f) 1 member with experience in a business installing or maintaining elevating devices;
 - (g) 1 member with experience in the fuel industry;
 - (h) 1 member with experience as a skilled trades person;
 - (i) up to 3 other members as the Minister considers necessary for the efficient and effective operation of the Advisory Board.
- (5)** The Advisory Board must select 1 voting member to be the Advisory Board Chair.
- (6)** The Advisory Board must select 1 voting member to be the Advisory Board Vice-chair when the Advisory Board Chair is unavailable.
- (7)** Members of the Advisory Board must serve without remuneration but will be reimbursed for the expenses necessarily and reasonably incurred by them in attending meetings of the Advisory Board as the Minister determines.
- (8)** Meetings of the Advisory Board will be held at the request of the Advisory Board Chair as necessary.
- (9)** The majority of the appointed voting members of the Advisory Board constitutes a quorum.
- (10)** An Advisory Board member may be appointed for a term of up to 5 years and may be reappointed.
- (11)** A member will cease to be a member if one of the following occurs:
- (a) the member resigns;
 - (b) the member is unable to act;

- (c) the member fails to attend 3 consecutive Advisory Board meetings without providing a excuse reasonable to the Advisory Board Chair;
- (d) the member was a civil servant appointed to the Advisory Board and is no longer employed in the civil service of the Province.

Role of Advisory Board

- 4 (1)** In addition to the roles of the Advisory Board set out in the Act and any other matters determined by the Minister, the Advisory Board may do any of the following:
- (a) receive and hear petitions, briefs, and comments from individuals or groups with respect to the Act;
 - (b) collect submissions and advise the Minister on technical safety issues;
 - (c) provide advice to the Minister on the effectiveness of the Act in promoting and achieving technical safety;
 - (d) provide advice to the Minister on the examination of or certification for an individual performing regulated work.
- (2)** The Advisory Board may establish procedures, policies or operating guidelines regarding the conducting of the business of the Advisory Board as it determines is necessary.

Sub-committees

- 5 (1)** With the Minister's approval, the Advisory Board may create sub-committees of the Advisory Board, 4 of which must be the following:
- (a) boiler and pressure equipment advisory sub-committee;
 - (b) crane operator advisory sub-committee;
 - (c) fuel safety advisory sub-committee;
 - (d) power engineer advisory sub-committee.
- (2)** With the Minister's approval, the Advisory Board may determine the mandate or establish procedures, policies or operating guidelines regarding the conducting of the business of a sub-committee as it determines is necessary.

- (3) With the Minister's approval the Advisory Board may assign duties including some of the Advisory Board's duties to a sub-committee.
- (4) In addition to the duties under subsection (3), a sub-committee may make recommendations on any of the following:
 - (a) questions or examinations for a type or class of certificate of competency;
 - (b) criteria for a training program for a type or class of certificate of competency required in a regulation made under the Act;
 - (c) requirements in a practical test for a type or class of certificate of competency required in a regulation made under the Act;
 - (d) qualifications for a type or class of certificate of competency;
 - (e) requirements in a practical test for a type and level of endorsement, or a type or class of certificate of competency required in a regulation made under the Act;
 - (f) qualifications for a type and level of endorsement or a type or class of certificate of competency;
 - (g) acceptable equivalences for meeting a requirement in a regulation made under the Act.

Sub-committee members

- 6 (1) The Advisory Board must select a member of the Advisory Board to act as the sub-committee chair for each sub-committee created.
- (2) The Advisory Board must select the Administrator or 1 member as the Administrator's representative to be a non-voting member and to hold the position as the secretary for each sub-committee created.
- (3) An advisory sub-committee must have a minimum of 5 members and a maximum of 10 members.
- (4) Despite subsection (3), the maximum number of members in an advisory sub-committee may be greater than 10 with the approval of the Advisory Board.
- (5) In order for a person, who is not a member of the Advisory Board, to be appointed as a member of a sub-committee the person must be an expert or specialist in an

aspect of technical safety that the Advisory Board considers necessary for the efficient and effective operation of the sub-committee.

- (6) A member of a sub-committee must serve without remuneration but will be reimbursed for the expenses necessarily and reasonably incurred by them in attending meetings of the sub-committee as the Minister determines.
- (7) A meeting of a sub-committee will be held at the request of the Advisory Board Chair or the sub-committee chair as necessary.
- (8) A majority of the appointed voting members of a sub-committee constitutes a quorum.
- (9) A sub-committee member may be appointed for a term of up to 5 years and may be reappointed.
- (10) A member of a sub-committee will cease to be a member of the sub-committee if one of the following occurs:
 - (a) the member resigns;
 - (b) the member is unable to act;
 - (c) the member fails to attend 3 consecutive sub-committee meetings without providing a excuse reasonable to the sub-committee chair;
 - (d) the member was a civil servant appointed to the sub-committee and is no longer employed in the civil service of the Province.

Reporting of an Incident

Reporting of an incident under Section 13 of the Act

- 7 (1) An owner or operator required to report an incident under Section 13 of the Act and a regulation made under the Act must provide to the Administrator or the Administrator's designate all of the following information:
- (a) full name of individual reporting the incident;
 - (b) title of individual reporting the incident;
 - (c) contact information for the individual reporting the incident;
 - (d) the civic address of the location of the incident;

- (e) the date and approximate time of the incident;
 - (f) a description of the incident;
 - (g) the extent of any injury or damage caused by the incident.
- (2) If an owner or operator in subsection (1) is required to provide a written report to the Administrator or the Administrator's designate, the owner or operator must include all of the following information:
- (a) all of the information in subsection (1);
 - (b) details of the incident;
 - (c) details of any corrective action taken as a result of the incident;
 - (d) other relevant information specifically requested by the Administrator or the Administrator's designate.

Licence Reinstatement

Application for reinstatement of licence under subsection 23(8) of the Act

- 8 (1) If a chief inspector suspends a licence under subsection 23(8) of the Act, the suspended licence holder may apply to the chief inspector to have the licence reinstated.
- (2) An applicant in subsection (1) must include all of the following:
- (a) identifying number for the suspended licence;
 - (b) identity of the person requesting the licence reinstatement;
 - (c) contact information for person requesting the licence reinstatement;
 - (d) if the chief inspector has ordered that corrective action by the suspended licence holder is required, details of any corrective action taken by the person requesting the licence reinstatement;
 - (e) if the chief inspector has ordered that the suspended licence holder take additional training, details of any additional training taken by the person requesting the licence reinstatement;
 - (f) payment of the applicable general fees.

Alternative Compliance Method

Application for authorization of an alternative compliance method under Section 27 of the Act

- 9** **(1)** If an person wants to apply to a chief inspector under Section 27 of the Act for authorization to use an alternative compliance method, the person may discuss with the chief inspector the viability of the proposal and have a preliminary assessment of the proposal prior to filing their application.
- (2)** An applicant for authorization of an alternative compliance method under Section 27 of the Act must provide to the chief inspector all of the following:
- (a) full name of the person requesting the authorization;
 - (b) title of person requesting the authorization;
 - (c) contact information for the person requesting the authorization;
 - (d) the civic address of the location for the property, thing or activity that is the subject of the request for the authorization;
 - (e) written authorization provided by the owner of the property, thing or activity that is the subject of the request for the authorization if the person applying for authorization is not the owner and all of the following:
 - (i) confirmation that the owner has been informed of the request for authorization,
 - (ii) confirmation that the owner is informed of the details on the proposed alternative compliance method,
 - (iii) confirmation that the owner has agreed to accept the alternative compliance method if authorization is granted;
 - (f) identify the Section of the Act, regulations under the Act, or standard, including the edition date, that is the subject of the request for the authorization;
 - (g) provide details on the proposed alternative compliance method;
 - (h) explain the reasons why authorization of the alternative compliance method is being requested;

- (i) a detailed risk assessment of the proposed alternative compliance method that includes all of the following:
 - (i) identifies the risk reduction methodology addressed in the assessment,
 - (ii) identifies the types of hazards addressed in the assessment;
- (j) provide an assessment of any alternatives to the proposed alternative compliance method;
- (k) provide copies of plans and specifications for the proposed alternative compliance method;
- (l) a report prepared and certified by an engineer that provides a complete assessment of the proposed alternative compliance method;
- (m) if applicable, a certified copy of any certification documents from a recognized certification organization;
- (n) if applicable, a jurisdiction and the name of the authority having jurisdiction that has accepted the proposed alternative compliance method;
- (o) explain the rationale of how this proposed alternative compliance method would result in the same or a greater level of technical safety as required for authorization under subsection 27(2) of the Act;
- (p) payment of the applicable general fees.

Minor Variance

Application for a minor variance under Section 28 of the Act

- 10 (1)** An applicant for a minor variance under Section 28 of the Act must provide to the chief inspector all of the following:
- (a) full name of the person requesting the minor variance;
 - (b) title of person requesting the minor variance;
 - (c) contact information for the person requesting the minor variance;

- (d) the civic address of the location for the property, thing or activity that is the subject of the request for the minor variance;
- (e) identify the section of the Act, regulations under the Act, or standard, including the edition date, that is the subject of the request for the minor variance;
- (f) provide details on the requested minor variance;
- (g) explain the reasons why the minor variance is being requested;
- (h) explain the rationale of how this requested minor variance would result in the same or a greater level of technical safety as required for authorization under subsection 28(2) of the Act;
- (i) payment of the applicable general fees.