

Mandating Construction Hazard Awareness Training under the Occupational Health and Safety Act

Summary of Proposal

The Ministry of Labour (“ministry”) is proposing amendments to the [Occupational Health and Safety Awareness and Training Regulation](#) (O. Reg. 297/13, the “Training Regulation”) under the [Occupational Health and Safety Act](#) (OHSA). The amendments, if approved, would apply to employers who engage in “construction” as defined under the [OHSA](#).

The proposed amendments would require employers to ensure that workers performing work, to which the [Construction Projects Regulation](#) (O. Reg. 213/91) applies, complete a construction hazard awareness training program. Employers could meet the training requirement in one of two ways, by ensuring that their workers:

1. Successfully complete a training program approved as meeting the criteria of a construction health and safety awareness training program and provider standard established by the ministry’s Chief Prevention Officer (CPO). Workers described under paragraphs 2 and 3 of the [OHSA](#) definition of “worker” (i.e., certain students and other individuals who work for no monetary payment) and apprentices who work pursuant to a training agreement registered under the [Ontario College of Trades and Apprenticeship Act, 2009](#) must take a CPO-approved training program;

OR

2. Complete a training program developed by their employer, in consultation with the joint health and safety committee (JHSC), based on the training subjects set out in the regulation. This approach would only be available to an employer who is required to have a JHSC under clause 9(2)(a) of the [OHSA](#) (i.e., at a workplace where 20 or more workers are regularly employed). Workers described under paragraphs 2 and 3 of the [OHSA](#) definition of “worker” and apprentices would not be eligible for training under this approach.

The proposal includes a two-year transition period to give employers time to ensure that existing workers have completed the training before the proposed amendments comes into force.

Details of the ministry's regulatory proposal, draft Construction Health and Safety Awareness Training Program Standard and draft Construction Health and Safety Awareness Training Provider Standard can be found in the "[Details of Proposals](#)" section below. The ministry would appreciate receiving feedback on the regulatory proposal and the draft standards by **August 12, 2016 (90-day consultation)**. The ministry is also interested in receiving feedback on the questions noted in the "[Consultation Questions](#)" section. Please see the "[How to Participate](#)" section at the end of this document for information on how to submit your comments to the ministry.

Background

This regulatory proposal supports the ministry's [Construction Health and Safety Action Plan](#) that seeks to decrease the number of injuries, illnesses and fatalities on construction projects. The regulatory proposal was also developed in response to Recommendation 16 of the [Expert Advisory Panel Report on Occupational Health and Safety](#) which recommended mandatory entry level training for construction workers in Ontario.

Serious injuries and fatalities on construction projects happen to workers of all ages and years of experience. The ministry's proposal seeks to improve worker awareness of common hazards on construction projects and provide a general understanding of how those hazards may be eliminated or controlled.

The draft Construction Health and Safety Awareness Training Program and Provider standards were developed by the ministry and an industry working group. The industry working group was established by the CPO and was made up of employer, labour and small business representatives from the residential, industrial, commercial and institutional (ICI), civil engineering and heavy industrial subsectors of the construction industry and subject matter experts.

Relevant OHSA Requirements

Sections 7.1 through 7.4 of the [OHSA](#) give the CPO the authority to establish standards for training programs required under the [OHSA](#) and its regulations, and to approve training programs which meet those standards. The CPO also has the authority to establish standards that must be met in order to become an approved training provider for an approved training program, and to approve training providers under those standards.

Details of Proposals

Regulatory Proposal

The ministry proposes that employers must ensure that workers performing work to which the [Construction Projects Regulation](#) (O. Reg. 213/91) applies, would have to complete awareness training on hazards related to construction.

The proposed amendments, if approved, would apply to employers whose:

- normal business is “construction” (as defined in the [OHSA](#)); or,
- normal business is not construction but who employ some workers who perform work from time to time to which the [Construction Projects Regulation](#) applies (e.g., industrial establishments, health care facilities).

The proposed amendments are not intended to apply to an employer whose workers provide services that contribute to the progress of the construction activity but whose normal business is not “construction” and whose workers do not perform construction work (e.g., professional engineering firms, architecture firms, catering services, building inspectors).

The proposed training requirements would apply in addition to existing instruction and training provisions set out in the [OHSA](#) and its regulations, if applicable to the worker.

Coming into Force and Transition

The proposal includes a two-year transition period to give employers time to ensure that existing workers have completed the training before the proposed amendments come into force. The proposed transition period would also allow time for establishing training delivery capacity for the province. Once the proposal comes into force, employers would also need to ensure that newly hired workers who have not already completed a construction hazard awareness training program do so as soon as practicable after commencing work duties.

Training Records

The proposal would include explicit requirements in the regulation for employers to keep a record of the worker’s training at the project and make the record available to a ministry inspector upon request.

Compliance

Employers could comply with the proposed requirements by ensuring that workers are trained in one of the two ways described below.

Approach 1: Successfully completes a Construction Health and Safety Awareness Training Program that meets the program and provider standards established by the CPO.

An employer would be required to ensure that workers performing work to which the [Construction Projects Regulation](#) applies successfully complete a training program approved by the CPO as meeting the Construction Health and Safety Awareness Training Program Standard. The training must be provided by a training provider approved by the CPO as meeting the Construction Health and Safety Awareness Training Provider Standard.

Training Portability and Validity

Successful completion of a CPO-approved training program would be portable (i.e., a worker who completes this training can change employers without having to re-take construction hazard awareness training). Refresher training would not be required.

Proof of Training

A copy of a worker's proof of successful completion issued by the CPO or a copy of a worker's proof of successful completion issued by the CPO-approved training provider could be used by an employer to comply with the proposed training record requirements.

Exceptions

The draft Construction Health and Safety Awareness Training Program Standard is intended to meet the mandatory basic occupational health and safety awareness training requirements set out in the [Training Regulation](#). The instruction required by Subsection 1(3) of the Training Regulation is addressed in Section 9 (Learning Outcomes) of the draft Construction Health and Safety Awareness Training Program Standard. A worker who successfully completes a CPO-approved training program will have met the basic awareness training requirements. However, a worker who has completed the basic awareness training required by Section 1 of the [Training Regulation](#) would still be required to complete the CPO-approved construction awareness training program.

Employers who satisfy the eligibility criteria set out in [Approach 2](#) (discussed below) may develop their own construction hazard awareness training program to satisfy the proposed training requirement for certain workers. However, employers must ensure that the following types of workers complete a CPO-approved program delivered by a CPO-approved provider:

- Workers described under paragraphs 2 and 3 of the [OHSA](#) definition of worker (i.e., certain students and other individuals who work for no monetary payment); and,
- An apprentice who works pursuant to a training agreement registered under the [Ontario College of Trades and Apprenticeship Act, 2009](#).

In other words, the CPO-approved training program would be mandatory for workers who are apprentices and certain students and other individuals who work for no payment as described in the “worker” definition under the [OHSA](#) regardless of whether their employer meets the eligibility criteria under [Approach 2](#).

Approach 2: Completes a construction hazard awareness training program developed by the employer in consultation with the JHSC.

Eligibility Criteria

This training approach would only be available to employers who are required to have a JHSC under clause 9(2)(a) of the [OHSA](#). This clause requires a JHSC at a workplace where 20 or more workers are regularly employed. An employer who is eligible to develop their own construction hazard awareness training program may still choose to have their employees complete a CPO-approved training program as described in [Approach 1](#).

In the event that an employer’s workforce falls below 20 regularly employed workers, the employer would no longer meet the eligibility criteria of this approach. The employer could no longer deliver their own training program. All workers trained after the employer no longer meets the eligibility criteria would be required to successfully complete a CPO-approved training program with a CPO-approved provider. The ministry proposes that workers who completed the employer’s training program when the employer met all the eligibility criteria would continue to be recognized as having completed the proposed training requirement. The employer would be required to maintain training records from their old training program as long as those workers are employed by them.

An employer could not use this training approach to satisfy the training requirement for apprentices and certain students and other individuals who work for no monetary payment as described in the “worker” definition under the [OHSA](#). In addition, a constructor who is required to have a JHSC under Section 9 of the [OHSA](#) (i.e. a project where 20 or more workers are regularly employed and that is expected to last for three months or more) could not use this training approach to satisfy the training requirement.

Employer Training Program Requirements

The program must provide information on:

- general training that covers construction hazards to which the worker may be exposed while performing construction work for that employer; and,
- the requirements under the [OHSA](#) and its regulations that are relevant to the worker’s work.

The employer’s training program must be developed in consultation with the JHSC. In addition, the employer would be required to ensure that the person providing the training has adequate knowledge, training and experience to conduct the training.

Training programs developed by employers under this approach would not require review or approval by the CPO. Training programs that were developed before the coming-into-force date of the proposed regulation could meet this requirement, as long as the program satisfies all of the criteria set out under this approach.

The ministry proposes that employers who choose to develop their own training program would still be required to comply with the basic occupational health and safety awareness training requirements under Sections 1, 2 and 4 of the [Training Regulation](#).

Training Portability and Validity

Completion of an employer training program would **not** be portable. The training would be valid only while the worker is employed by the employer who provided the employer-based training program. If the worker changes employers, a hiring employer would be required to ensure the worker completes either:

- a Construction Health and Safety Awareness Training Program that meets the standards established by the CPO ([Approach 1](#)); or
- the employer's construction hazard awareness training program ([Approach 2](#)), if the employer meets the eligibility criteria.

Proof of Training

Employers would be required to prepare and maintain a written training record for each worker to comply with the proposed training record requirements. The CPO would not issue training records for an employer-based training program.

Details of the Draft Construction Health and Safety Awareness Training Program Standard

The draft Construction Health and Safety Awareness Training Program Standard sets out learning outcomes that focus on recognition of hazards to which the workers on construction projects may be exposed and which may endanger their occupational health and safety. The learning outcomes are intended to provide workers with a basic understanding of how common types of hazards found on a construction project may be eliminated or controlled.

The program standard also outlines the legislative and regulatory framework which governs occupational health and safety in construction, and emphasizes that additional training or instruction may be required before performing certain types of work or operating equipment or machinery.

The draft program standard is not intended to provide workers with advanced knowledge or capabilities for recognizing all hazards in construction, or the ability to eliminate or control those hazards.

Should this proposed training become mandatory, employers must continue to comply with all other training requirements in the [OHSA](#) and its regulations.

The draft program standard includes four section topics of health and safety instruction, which are:

1. Legal Framework and the Role of Workplace Parties;
2. Hazard Identification, Assessment and Control;
3. Common Hazards and Conditions on Construction Projects;
4. Common High Hazards on Construction Projects.

It also includes information relating to:

- Delivery modes for training (i.e., face-to-face learning and distance learning).
- Required resource materials, criteria for instructor demonstration of construction tools and equipment.
- The minimum duration of instruction required for an approved training program (6.5 hours).
- Evaluation methods to determine whether the learner has achieved a comprehensive understanding of the learning outcomes set out in the program standard.

Details of the Draft Construction Health and Safety Awareness Training Provider Standard

The draft Construction Health and Safety Awareness Training Provider Standard outlines requirements for training providers who wish to be approved by the CPO to deliver approved training programs. Key components of the training provider standard include:

- General criteria for insurance, legislative compliance, program materials, learning environment.
- Requirements for providers to submit learners' proof of successful training completion to the CPO and to provide proof of training to learners and their employers.
- Training instructor requirements for qualifications and delivery expectations.
- Training evaluator requirements.
- Code of ethics.
- Administrative requirements for record-keeping; reporting requirements for maintenance of CPO approval status and instructor qualifications.

Consultation Questions

The ministry is interested in receiving your responses to the following questions.

Questions relating to the ministry's regulatory proposal

Application

1. Do you agree with the ministry's proposal that workers who perform work to which the [Construction Projects Regulation](#) applies must complete a construction hazard awareness training program, as described in the [Details of Proposals](#) section above? Why or why not?
2. Workers described under paragraphs 2 and 3 of the OHSA definition of "worker" (i.e., certain students and other individuals who work for no monetary payment) and apprentices would be required to take a CPO-approved training program. Are there other workers who should also be required to complete a CPO-approved training program? Who and why?
3. Are there workers who should be exempted from having to comply with the proposed training requirement? Who and why?

Current Workplace Training

4. If the proposed regulatory requirements were approved, approximately how many workers in your workplace would be affected by the proposal?
5. Do workers at your workplace already receive construction hazard awareness training? If yes,
 - a) Does your workplace training program meet the criteria set out under [Approach 2](#) described in the [Regulatory Proposal](#) section above (i.e., general training that covers construction hazards to which the worker may be exposed while performing construction work for you; a JHSC has been established in your workplace and you consulted with the committee during the development of the program)?
 - b) Please describe the topics covered by your training and the length of training.
 - c) If the proposed regulatory requirements were approved and you responded yes to (a), would you continue to deliver your current training program(s) or would you have workers take a training program that is approved by the CPO? Why?

Implementation Costs

6. If you are an employer, could you provide a cost estimate for developing and delivering a construction hazard awareness training program that meets the employer-based training ([Approach 2](#)) criteria?

7. If you are a training provider, could you provide an estimate of the total cost to develop and deliver a construction health and safety awareness training program that may comply with the standards established by the CPO ([Approach 1](#)) as well as an estimated fee per learner?

Transition

8. Will the proposed transition period of two years be sufficient for ensuring that all workers in your workplace are trained? Please explain.

Questions relating to the draft Construction Health and Safety Awareness Training Program Standard

General Questions

9. Does the draft program standard provide sufficient flexibility for the development of diverse training programs? Please explain.

Learning Outcomes (Section 9)

10. Are the learning outcomes and topics appropriate for the majority of workers performing work to which the [Construction Projects Regulation](#) applies?
11. Are there other topics or learning outcomes that should be added to the draft program standard? Please explain.

Duration of Delivery (Section 6)

12. Do you agree that the minimum duration for training set out in the draft program standard should be 6.5 hours? If no, should the minimum duration for training be longer or shorter? Why and how could this be achieved?

Questions relating to the draft Construction Health and Safety Awareness Training Provider Standard

Training Instructor (Section 4) and Evaluator (Section 5) Criteria

13. Are the instructor and evaluator criteria, including the qualifications and delivery experience, appropriate? Please explain.
14. Are there any criteria you would recommend be removed from or added to the current draft provider standard? Please explain.

How to Participate

At any time during the consultation you may respond to the Construction Hazard Awareness Training Regulatory Project. You may provide your comments by:

- Email: WebHSpolicy@ontario.ca
- Fax: 416-326-7650
- Mail:

Ministry of Labour
Construction Hazard Awareness Training Regulatory Project
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Please submit your comments by **August 12, 2016 (90-day consultation)**, and indicate whether you are a training provider, employer, labour representative or other.

Notice to Consultation Participants

Submissions provided to the Ministry of Labour («ministry») in the context of this consultation are intended to facilitate the ministry's development of proposed amendments to the [Occupational Health and Safety Awareness and Training Regulation](#). This process may involve the ministry publishing your submissions or summaries of submissions (in hard copy and on the internet). In addition, the ministry may disclose your submissions to third parties as part of the consultation process or where required by law.

If you identify yourself or other individuals in the body of the submission, this identifying information may be published or otherwise disclosed to the public. Any name and contact information provided outside of the body of the submission will not be disclosed by the ministry unless required by law. Any individual who provides a submission and indicates an affiliation with an organization will be considered a representative of that organization and his or her name and other identifying information may be published or otherwise disclosed.

Personal information collected during this consultation is under the authority of Section 70 of the [Occupational Health and Safety Act](#) and is in compliance with Section 38(2) of the [Freedom of Information and Protection of Privacy Act](#).

If you have any questions regarding privacy matters, you may contact the ministry's Freedom of Information and Privacy Office at 416-326-7786.