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HEALTH AND SAFETY IN ONTARIO: WHAT LIES AHEAD?

In 2003, the lost time injury rate for the province was 2.2 and the actual number of lost time injuries was in excess of 90,000. Four years later, with a workforce almost half a million larger, the actual number of lost time injuries will be just over 80,000 and the injury rate looks like it will come in at about 1.8. These numbers are not firm yet, and won't be for several months, but projections suggest that the overall trend will continue for both the actual number of lost time injuries and the lost time injury rate.

What caused this?

It appears that Ontario's Integrated Health and Safety Strategy – the synergy of education, training, and enforcement – that was initiated in 2004, is the primary cause of the improved performance. This initiative uses the entire prevention system – the Ministry of Labour, the WSIB and the Safe Workplace Associations – to focus on those firms with the worst health and safety performance. These firms tend to be responsible for a disproportionate number of workplace injuries, and assisting them to improve their performance has led to a significant improvement across the entire province.

What's next?

Targeted intervention works, apparently. There are no plans to end this program. However, it does raise some interesting questions. How low can we go in Ontario? What lost time injury rate is the lowest possible? Is it true that *all* injuries are preventable?

In some sectors (notably the utility sector, once one of the most dangerous workplaces in the province) clients are seriously considering how to operate with zero lost time injuries as a realistic, annual goal. In other sectors, discussions of zero as a goal are seen as academic discussions, not really to be taken seriously.

On the practical side, the improved performance across the province has had the effect of raising the performance bar at the individual firm level. A rate of 1.8 is, in some sectors, considered good, especially when the provincial average is 2.2. But what happens when the average rate begins to drop below 1.8? Some firms are surprised when the Targeted Enforcement selection process points to them



for the first time, but when the entire province is improving, maintaining the status quo is not going to be good enough in the long term.

There are areas in which the improvement has not been as significant as it has been for lost time injuries; the non-lost time injury rate seems to be remaining relatively unchanged. The cost of the average claim continues to increase, and firms with a significant number of claims each year can improve their frequency, but fall behind when the benefits cost is considered. So, there is still work to be done by all of us.

Nevertheless, the program will continue and the 2007/8 firms are being contacted as you read this. And, if your performance remains constant from year to year, it is simply a matter of time before you are identified as one of the poor performers. We need to improve, and as a province, we are improving. We also need to improve as individual firms, but not everyone can claim success there just yet.

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THE REGULATORY MODERNIZATION ACT, 2006 (BILL 69)

On May 17, 2007, the government of Ontario passed the Regulatory Modernization Act, which will come into effect eight months from that date (January 17, 2008). This Act will allow the province's regulatory ministries, authorities and agencies to share information and work together.

Minister of Labour Steve Peters said, "This Act will mean improved information sharing among ministries, less duplication for business and better targeting of our enforcement efforts – all things to keep Ontarians safe and healthy and contribute to a vibrant economy."

Some businesses in Ontario are regulated by over a dozen different ministries, authorities and agencies, and this regulation will improve service to the business community and help it meet its regulatory compliance obligations. Specifically, this regulation will:

- Allow regulatory ministries to share and use compliance-related information for specified regulatory compliance purposes under designated legislation;
- Authorize field staff to notify another ministry if they observe something that is likely to be relevant to a statute administered or enforced by that other ministry;
- Authorize ministers responsible for designated legislation to create special teams of field staff from different ministries to work together on specific compliance projects, such as targeting serious, repeat violators or assisting small businesses in meeting their compliance regulations;
- Authorize ministers to publish information under designated legislation about an organization's compliance record as a deterrent to future violations;
- Authorize prosecutors to request that a court consider relevant prior convictions under any provincial law in sentencing a defendant regarding a regulatory conviction;
- Require the court to provide reasons when it decides that a prior conviction raised by a prosecutor does not justify a more severe penalty.

In developing the legislation, the government examined the best practices in more than 40 jurisdictions, consulted with stakeholders, and with the Office of the Information and Privacy Commissioner.



In practical terms, if you are one of the Ontario employers who are frequently in violation of legislation in areas as diverse as OH&S, environmental regulations, human rights legislation, employment standards regulations, etc., you will find that inspectors from one ministry will share information with their counterparts. Prior violations in any regulatory area will be grounds for more severe penalties following conviction, and this includes convictions prior to the passage of the new Act. Currently, fines for OH&S and WSIA violations often exceed \$100,000, and for frequent offenders, these will increase.

As always, the best defence is compliance and due diligence, best accomplished through a regular, ongoing, proactive employee training program that includes all levels of supervision. There is increased value in training all levels of supervisors in their responsibilities under the entire legislation that bears on their workplace.

In summary, there are no more silos, and everything counts. Those few employers who do not comply with labour and employment legislation are officially targets of the Ontario government, and this new legislation will ensure that repeat offenders face increased scrutiny and severe penalties upon conviction.

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VIRGINIA TECH REPORT

On June 13, 2007, the Report to the President on Issues Raised by the Virginia Tech Tragedy was released. This report was prepared by the Secretaries of Health and Human Services, and Education, as well as the Attorney General, at the request of the President. It followed a series of meetings with educators, mental health experts, law enforcement officials, and others at the state and local level across the United States.

The report is just 19 pages long, and focuses on "the proper balance between providing for the health and safety of our communities, while protecting privacy and liberty, and helping people with mental illness get the care they need." It deals with the major recurring themes heard in the discussions across America, and leaves the specifics of the Virginia Tech tragedy to the Virginia Tech Review Panel, appointed by Governor Kaine.

There were five key findings:

- Critical information sharing faces substantial obstacles;
- Accurate and complete information on individuals prohibited from possessing firearms is essential to keep guns out of the wrong hands;
- Improved awareness and communication are key to prevention;
- It is critical to get people with mental illness the services they need; and,
- Where we know what to do, we have to get better at doing it.

This report is not an attempt to address the fundamental questions once and for all – it serves to bring into focus the issues that must be part of the ongoing dialogue. The complete report can be found at <http://www.washingtonpost.com/wp-srv/metro/pdf/VaTechReport.pdf>

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CONFERENCE 2007

ESAO would like to thank the delegates, exhibitors, and speakers who attended the 2007 conference at Victoria University.

From Monday's Professional Development day to Tuesday evening at the Delegates' BBQ, through to Friday's closing lunch, every day provided ESAO's staff with the opportunity to meet some of our valued clients. The relationships that were established will become the basis for a better understanding of your Health & Safety concerns. We look forward to strengthening these relationships by working with you over the next year. We hope you felt that this conference was a valuable learning resource, and hope to see you again at ESAO's conference in 2008.

THANK YOU FOR MAKING THIS YEAR'S CONFERENCE A GREAT SUCCESS!

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**A STUDY FROM THE INSTITUTE FOR WORK AND HEALTH:
ONE IN FIVE NEW WORKERS RECEIVE HEALTH AND SAFETY TRAINING**

The Institute for Work and Health recently published, in its spring 2007 newsletter, the results of a study on new worker health and safety training. The complete article can be found at www.iwh.on.ca under the Newsletter heading.

Most provinces, including Ontario, have health and safety legislation that requires employers to provide training to workers, including young workers, new to the workplace, on how to work safely. Data was gathered as part of a survey conducted by Statistics Canada, called the Workplace and Employee Survey. A total of almost 60,000 respondents participated in three waves of surveys, in 1999, 2001 and 2003. It is estimated that 95 per cent of eligible workplaces in Canada were reached by the survey.

In Ontario, 28 per cent of those responding reported that they had received health and safety training in the workplace (the national average was 21per cent). This, of course, means that 72 per cent had not received any workplace health and safety training, even though it is required under the legislation. Given the current enforcement efforts in Ontario, under the Targeted Intervention Strategy, it is surprising to find that most employers seem to be failing to comply in this area. The data is not broken down by sector, and separate results for education sector firms are not presented.

Workplace training is one of the fundamental elements of a supervisor's due diligence program. Today, training is available in many formats: classroom, on-line, CD or DVD-based, through internal or external trainers. Failing to provide safety training, specifically for new workers who are especially vulnerable and historically associated with higher injury rates, is unacceptable. Given the higher level of enforcement, as well as the continually escalating levels of fines for non-compliance, all employers should review their training programs on an annual basis and take the necessary steps to ensure that their staff members are receiving the training they need.

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PRELIMINARY RATES RELEASED BY WSIB

The WSIB has released the preliminary rates for the 2008 year. In the education sector, Rate Group 810 has increased from 0.76 to 0.77, and Rate Group 817 has decreased from 0.35 to 0.34.

WSIB Chair Steve Mahoney announced that, "...measures introduced in recent years to improve the WSIB's financial situation have contributed to the WSIB Board of Directors' flexibility to keep the preliminary average premium rate unchanged at \$2.26 per \$100.00 of insurable earnings."

He added, "We are pleased to see a continuing decline in lost time injuries. However, the cost of a claim is increasing, and all of us must do more."

The preliminary WSIB maximum insurable earnings ceiling for 2008 is \$73,400.

Final rates for 2008 will be mailed to all registered employers in early November, after approval by the WSIB Board of Directors.

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SAFE SUMMER JOBS FOR YOUNG WORKERS

On June 21, 2007, Minister of Labour Steve Peters announced a partnership between the government and the WSIB to ensure that every student in Ontario receives information to keep them safe on summer jobs.

The tip sheet "Protecting Yourself – Tips for Young Workers" will be distributed to the more than one million students in grades 7 to 12 in time for summer and seasonal jobs. See the complete announcement at <http://www.labour.gov.on.ca/english/news/2007/07-81.html> .

In 1995 54.1% of those under the age of 25 worked, and this increased to 57.2% in 2004, representing over 900,000 workers. Statistics show that 41% of these work in small businesses, with less than 20 employees.

The tip sheet includes information on the basic rights under the OH&S Act, signs that a workplace may be unsafe, and tips on how to protect yourself. There are also links to other sites.

This tip sheet is one of several produced by the Ministry of Labour. The series also included tips for employers, for supervisors, and for parents. They all may be seen at <http://www.labour.gov.on.ca/english/hs/tips/index.html> .

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YOU ASKED US

ESAO and its staff receive many inquiries and questions on a wide array of topics. Some questions of a general nature will be included in this section of the newsletter to update all interested parties. In all cases, ESAO attempts to obtain the most accurate and up-to-date answer possible. We do not assume to take the regulatory responsibility for a certain situation, and the client is advised to contact the regulator responsible.

You Asked Us:

Do you have any suggestions as to how to proceed on this new recommendation regarding radon?

Answer:

Radon is an odourless and colourless gas produced by the decay of naturally occurring uranium in the soil. The new guidelines will state that the higher the radon concentration, the sooner remedial measures would have to be undertaken. The proposed guidelines would align Canada with many other countries that have already brought in lower limits.

The new rules would require remedial measures when average radon concentrations in a living space exceed 200 becquerels per cubic meter. Canada's current standard permits 800 becquerels per cubic meter of air. A becquerel measures the radioactivity of a radioactive source – a measure of the disintegration of one radioactive atom per second, according to the Health Canada website.

While radon is not hazardous outdoors, where it's diluted by air, it becomes dangerous when it enters building through foundation cracks, hollow support posts, openings for utility connections and the water supply. Radon levels are generally highest in basements and crawl spaces, because they are usually poorly ventilated and Radon levels in indoor air can be lowered by various methods, such as by sealing cracks in floors and walls, or increasing the ventilation rate of the building.

To answer the above question, we do not recommend that you take any immediate action until the final guideline is complete and a timeframe for action is established. Guidelines often significantly change during the review process. However, if you have radon concerns for other reasons, you should be taking action to ensure your workplace or your home is safe.

The Radiation Safety Institute of Canada (1120 Finch Avenue West, Suite 607, Toronto, Ontario M3J 3H7; Phone 1-800-263-5803, ext. 28) has simple test kits for checking homes and worksites, if you have concerns. The basic screening tests are about \$100.00. The Radiation Safety Institute of Canada can send the equipment to you; you perform the sampling yourself and then return the equipment for analysis.

Health Canada is inviting public comment for 60 days before it proceeds to final drafting of the radon guideline. Comments on the proposed target can be sent to radon@hc-sc.gc.ca or by mail to: Radon, Radiation Protection Bureau, Health Canada, 775 Brookfield Road, Ottawa, Ontario K1A 1C1.

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**SUMMER MAINTENANCE HAZARD!
PCB in structural caulking in educational facilities.**

Elevated levels of PCBs were found in several workers who had been working on the structure of several schools in the United States. The cause of the exposures was investigated by Bob Herrick at the Harvard School of Public Health (Boston) and the Boston Pointer/Caulker/Cleaner local of the Bricklayers Union. The exposure was found to be from old caulking in the buildings.

For more information, see the following document:
<http://www.ehponline.org/docs/2004/6912/abstract.html>

Caulk in educational facilities is used mainly in seals and expansion joints. The hazards are probably the same in Ontario, since the same products and manufacturing processes were used in both Canada and the U.S.. Products produced from the 1950s to 1977 often contained PCBs because they were chemically stable and fireproof. By now, the caulking has aged and probably deteriorated, so it must be replaced. Since PCBs build up in the human body over time as they are absorbed, ongoing exposures is a major concern. In Ontario, PCBs are regulated as a chemical agent with a maximum exposure limit (TWAEV) of 0.05 mg/m3.

The waste caulking may also be a hazardous waste if it contains PCBs, which will require organizations to meet the requirements of the Ontario Environmental Protection Act to dispose of it. *The Waste Management — PCB's Regulation* in Ontario (Environmental Protection Act; R.R.O. 1990, REG 362; Amended to O. Reg. 33/07) defines solid PCB waste as, "PCB materials" means materials containing PCBs at a concentration of more than fifty parts per million by weight whether the material is liquid or not.'

How do you know?

Unless you know what was used as the original material and have a list of the ingredients, the only way to determine if PCBs are present is by having samples analyzed. This was a problem the scientists at the Harvard School of Public Health were facing; they performed a follow-up study. The following concentrations of PCBs were found:

Sample analysis PCB content			
Building type	(ppm by mass)	Building type	(ppm by mass)
Government office, mixed use	35,600	Middle school	5,010
Government office	25.2	High school	5,970
Office building	Not Detected (below detection limit)	High school	Not Detected
University student housing	36,200	Community college	19.3
University dormitory	70.5	Church offices	2.14
University dormitory	1.68	Synagogue	8,240
University classrooms and offices	26,400	Hospital	Not Detected



Where caulking has entered the soil near buildings with a large number of windows, the soil may also be contaminated.

What should you do?

Any buildings constructed or renovated between 1950 and 1977 and undergoing renovation or demolition should be evaluated prior to the renovation work, to determine whether caulk that is contaminated with PCBs could be present. A plan should be developed to address potential environmental and health concerns from PCB exposure.

If major work is planned, soil samples should be taken from the potentially contaminated areas around the buildings at a distance of about 0.3 meters and 1 meter from the building.

If maintenance workers are performing work where they may make contact with caulking installed between 1950 and 1977 that has not been tested or known to be PCB-free, they should be provided with personal protection and instructions in both the potential hazards and the use of the personal protection.

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HEAT STRESS GUIDELINES

Employers have a duty, under section 25(2)(h) of the Occupational Health and Safety Act, to take every precaution reasonable, in the circumstances, for the protection of a worker. This includes developing hot environment policies and procedures to protect workers in hot environments due to hot processes or hot weather. For compliance purposes, the Ministry of Labour recommends the Threshold Limit Values (TLVs) for Heat Stress and Heat Strain published by the American Conference of Governmental Industrial Hygienists (ACGIH). These values are based on preventing un-acclimatized workers' core temperatures from rising above 38°C.

The MOL Guideline is intended to assist employers, workers and other workplace parties in understanding heat stress, and in developing and implementing policies to prevent heat-related illness in the workplace. The document is available on the ESAO website, under the Client/Safety Specific link and addresses the following topics:

- What Is Heat Stress?
- How We Cope With Heat
- Controlling Heat Stress
- Heat Stress Hazards
- Modifying Work and the Environment
- Managing Heat Stress from Process Heat
- Managing Heat Stress Induced by Hot Weather

http://www.esao.on.ca/clients/safety_specific/links.htm#heat_stress

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NEW PRODUCT LAUNCHES

The Record Keeper: an Accident Analysis Tool

Record Keeper for Form 7 database software helps in every aspect of collecting, managing and reporting on lost time and no-time lost incidents, enabling you to make better decisions based on accurate information.

Convert volumes of paper documents into searchable database files. Electronically prepare and save Form 7s (Employer’s Report of Injury/Disease) for submission to the WSIB. This program also allows you to search your injury records and create charts and reports listing incidents by occupation, and summarizes incident types and causes. This easy-to-use application ensures a minimal learning curve. Record Keeper for Form 7 is a Microsoft Access database application, which will allow you to save and report on thousands of records.

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ESAO REGIONAL COURSES & ACTIVITIES

The following activities have been booked for June to August by the ESAO Field Consultants. Any client interested in attending one or more of the following sessions or courses should directly contact the Field Consultant responsible for the activity. Should you have problems or concerns regarding a scheduled activity or wish to attend one, please contact your ESAO Field Consultant or the ESAO Toronto office at 1-877-732-3726, or via email at esao@esao.on.ca

**Niagara - Bill Urie
 (905) 312-9962**

Basic Certification:
 July 3, 4 & 5, 2007
 Ontario Alliance of Christian
 Schools, 777 Garner Road
 East, Ancaster, ON

Phase II Training:
 July 6, 2007,
 Ontario Alliance of Christian
 Schools, 777 Garner Road
 East, Ancaster, ON
 Bio, Chemical, Enviro & Slips

Workshops
 June 20, 2007
 Ladder Safety and Dealing
 with Angry and Difficult
 Persons
 Brock University
 500 Glenridge Ave.,
 St. Catharines, ON

August 28, 2007
 Due Diligence Workshop
 Grand Erie DSB
 349 Erie Ave. Brantford, ON

**North West – TBA
 1-877-732-3726**

July 12, 2007
 Principals Qualification
 Course

Lakehead University
**East – Jean-Guy Raymond
 (613) 592-4491**

Phase II Training:
 June 25 – 29, 2007
 all 16 modules
 St. Lawrence Parks
 Commission, RR #1
 13740 County Rd. 2
 Morrisburg, ON



Client Network Meeting:
August 7, 2007
St. Lawrence Parks
Commission, RR#1
13740 County Rd. 2,
Morrisburg, ON

Workshop:
June 28, 2007
Energy & Machine Guarding
CDSB of Eastern Ontario
2755 Highway #43
Kemptville, ON

**Francophone – Alain
Chenard
(613) 837-2042
TBA**

**North East – Doug Bennett
(705) 476-7433
TBA**

**Georgian Bay - TBA
1-877-732-3726
Contact: esao@esao.on.ca**

**GTA – Training
416-250-8005 112**

Basic Certification:
September 17, 18, 19, 2007
North York Memorial
Community Hall
5110 Yonge Street
Toronto, ON

Phase II Training:
September 4, 2007
Office Hazards, Ergo, Slips,
Workplace Violence, Environ
4950 Yonge St., Ste. 1505
Toronto, ON

WHMIS Train the Trainer
September 13 & 14, 2007
4950 Yonge Street, Ste. 1505
Toronto, ON

**GTA East - Mike Atkinson
(416) 466-1923
TBA**

**GTA West: - Janice Gallant
(905) 785-3742
TBA**

Basic Certification:
September 10, 11 & 12, 2007
Municipal Health & Safety
420 Britannia Rd. E., Ste. 201
Mississauga, ON
Contact: esao@esao.on.ca

Phase II Training:
September 5, 2007- Office
Hazards: Ergonomics, Slips
and Falls, Workplace
Violence, Environmental
Hazards -Municipal Health &
Safety, 420 Britannia Rd. E.,
Ste. 201, Mississauga, ON
Contact: esao@esao.on.ca

WHMIS Train the Trainer:
September 6 & 7, 2007
Municipal Health & Safety
420 Britannia Rd. E., Ste. 201
Mississauga, ON
Contact: esao@esao.on.ca

**Central Lakes - TBA
(705) 876-1001
TBA**

**South West – Ed Hager
(519) 264-9738**

Basic Certification:
July 3, 4 & 5, 2007
Greater Essex DSB
451 Park St., Boardroom
Windsor, ON

[Click to access the Training Events Calendar](#)

[Click to access the Workshop/Conference Calendar](#)

ESAO serves all Schedule 1 firms in the WSIB rate groups 810 & 817, as well as Schedule 2 firms in the education sector. Contact your ESAO Field Consultant for more information on any courses or products. Head Office: www.esao.on.ca Tel: (416) 250-8005 Fax: (416) 250-9190 Toll Free: 1-877-732-3726

Drive Carefully!

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