Can You Spot the Safety Violation?
See page 11 for the answer...

IN THIS ISSUE

PERSONAL PROTECTIVE EQUIPMENT:
Take 5 Steps to Comply with Requirements for Safety Headwear

Your head contains your brain, probably the most complex organ in the body. But heads are surprisingly fragile. And in the workplace, workers may be exposed to many hazards to their heads, which can result in injuries ranging from bruises, cuts and burns to concussions and fatal brain injuries. To prevent such injuries, the OHS regulations in every jurisdiction require workers to wear proper head protection. Here’s a look at the requirements for safety headwear in the OHS regulations and the steps you should take to comply with them.

Defining Our Terms
This article will address only the general safety headwear requirements under the OHS regulations—not specific requirements for certain kinds of workers, such as firefighters, or for certain activities, such as operating an all-terrain vehicle or bicycle.

TAKE 5 STEPS
Every jurisdiction includes requirements in its OHS regulations for protecting workers’ heads. (See the chart on page 3 for the general safety headwear requirements in each province and territory.) Although there are some differences, these requirements are typically very similar. Of course, you should always consult and comply with the requirements in your jurisdiction’s OHS law. But to help you ensure that you adequately protect workers’ heads from injury, take these general steps:

Step #1: Determine if Safety Headwear Is Required
The OHS regulations generally require the use of safety headwear when workers are exposed to the risk of injury to their heads. For example, the OHS Regulations in BC require safety headgear to be worn by a worker in any work area where there’s a danger of head injury from falling, flying or thrown objects, or other harmful contacts [Sec. 8.11(1)]. Also, if a worker’s work clothing or skin is likely to be contaminated by hazardous substances,
you may need to provide an appropriate protective head cover. In addition, certain kinds of workplaces, most notably construction sites, are presumed to pose a safety hazard to workers’ heads and so safety headwear is usually required by all workers in such workplaces. In addition to construction sites, safety headwear may also be required at:

- A mine, mill or smelter;
- A forestry, sawmilling or logging operation;
- A drilling operation; and
- An oil or gas servicing operation.

**Step #2: Determine Appropriate Type of Safety Headwear**

If you’ve determined that workers are required to use head protection, you next need to determine the appropriate type of safety headwear, which in most cases will be some type of hard hat. (See the box on p. 3 for the difference between hard hats and bump hats.) This determination may be based on the nature of the head hazards. For example, if a worker may be exposed to electrical hazards, the safety headgear should have an appropriate non-conductive rating. The appropriate type of safety headwear may also depend on the type of workplace, with some jurisdictions having one requirement for construction sites and another for other non-construction worksites where the risk of a head injury is present.

Most jurisdictions also require safety headwear to comply with either of the following standards:

- **CSA Z94.1-05, Industrial Protective Headwear**, which divides hard hats into three classes according to intended use; or
- **ANSI Standard Z89.1-2003, American National Standard for Industrial Head Protection**, which uses the same class system as the CSA standard.

In addition, the OHS regulations may have general requirements that apply to all safety headwear. For example, hard hats may need to be red, orange or another very visible color or have reflective decals if worker visibility is a safety issue.

You may also need to ensure that workers have liners for their safety headwear if they’ll be working in or exposed to cold conditions. And safety headwear may require some kind of retention system such as a chin strap if workers are working at heights, in windy conditions or in other circumstances in which their hard hats could get dislodged.

**Step #3: Provide or Require Workers to Provide Appropriate Headwear**

Once you’ve figured out the appropriate type of safety headwear, you must either provide such head protection for workers or ensure that they provide their own headwear. Whether you or workers must provide or pay for safety headwear depends on your OHS law and any collective agreements. (See, “PPE: Can Employers Make Workers Pay for Their Own Protective Equipment?” May 2009, p. 1.) Regardless of who pays for or provide the safety headwear, it must comply with the OHS requirements discussed above.

**Step #4: Set Rules for Use & Care of Safety Headwear**

As with all PPE, you should set safety rules for the use and care of safety headwear. At a minimum, your rules should require workers to:

- Wear safety headwear when needed or required by your OHS program or OHS law;
- Ensure their safety headwear is the correct size and fits well;
- Clean their safety headwear using only appropriate cleansers, such as basic soap and water—not toxic solvents, which can degrade the hard shell;
- Inspect their hard hats—both the shell and suspension system—for any damage that could undermine its effectiveness, such as cracks, dents, holes or torn suspension components;
- Replace their safety headwear whenever it’s been struck by something—even if it doesn’t appear to be damaged; and
- Properly store safety headwear when it’s not in use so it doesn’t get damaged.
In addition, your safety rules should prohibit workers from doing the following:

- Wearing casual hats such as baseball hats in lieu of or underneath hard hats;
- Using damaged or defective safety headwear;
- Carrying items inside their hard hats (unless permitted by the manufacturer);
- Wearing headwear backwards (again unless permitted by the manufacturer); and
- Painting hard hats or affixing decals to them (the adhesive may interact with the shell and reduce its strength).

**Step #5: Train Workers on Safety Headwear Rules**

As always, you should train workers on your rules for safety headwear and ensure that workers understand these rules and comply with them on the job. You should also periodically review these rules with workers.

**BOTTOM LINE**

Whether a worker is wearing a hard hat can literally mean the difference between life and death. For example, a 70 lb. metal beam fell from the seventh storey of a condominium development and struck a worker on the head, face and torso. He was taken to the hospital in serious condition but survived. Police credited the worker’s hard hat with saving his life. Unfortunately, a 58-year-old man who was delivering wallboard to a construction project wasn’t so lucky. He parked his truck and stepped from the vehicle when he was hit by a one-pound tape measure, which had slipped off the belt of a construction worker at the top of the tower under construction. The man, who wasn’t wearing a hard hat at the time, was struck in the head and knocked unconscious. He was taken to the hospital, where he died.

**The lesson:** Follow these steps to choose appropriate safety headwear and ensure that workers use it when needed.

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**Hard Hats v. Bump Hats**

There are two basic types of safety headwear and they’re not interchangeable:

**Hard hats.** Hard hats, the most common safety headwear, are generally made of thick plastic and have an internal suspension or webbing system that’s designed to reduce the impact of items falling and striking workers in the head. The hard outer shells may also resist shocks and punctures. Hard hats generally conform with CSA or ANSI standards for safety headwear. So when workers are exposed to the risk of being hit in the head by tools, materials or equipment, they’ll likely need to wear hard hats.

**Bump hats.** Workers in some workplaces are only at risk of bumping their heads and suffering minor injuries, such as cuts, scrapes and bruises. For example, a mechanic may only be at risk of hitting his head on a car while working underneath it. In such cases, workers may be adequately protected by wearing so-called “bump hats” or “bump caps.” Bump hats have a hard shell that’s usually thinner than a hard hat and don’t have internal suspension systems. In addition, bump caps aren’t required to comply with CSA or ANSI standards.

**Here are the general safety headwear requirements in the OHS regulations in each jurisdiction:**

**FEDERAL:** OHS Regs:

Where there’s a hazard of head injury in a workplace, protective headgear that meets the standards set out in CSA Z94.1-M1977, Industrial Protective Headwear, the English version dated April 1977, as amended to Sept. 1982 and the French version dated April 1980 as amended to Sept. 1982, must be used (Sec. 12.4).

**ALBERTA:** OHS Code 2009:

1. Subject to Secs. 235, 236 and 237, if there’s a foreseeable danger of injury to a worker’s head at a work site and there’s a significant possibility of lateral impact to the head, an employer must ensure that the worker wears industrial protective headwear that’s appropriate to the hazards and meets the requirements of the following if the protective headwear was manufactured on or after July 1, 2009:
   - b. ANSI Standard Z89.1-2003, American National Standard for Industrial Head Protection (Sec. 234(2)).

2. Subject to Secs. 235, 236 and 237, if there’s a foreseeable danger of injury to a worker’s head at a work site and the possibility of lateral impact to the head is unlikely, an employer must ensure that the worker wears industrial protective headwear that’s appropriate to the hazard and meets the requirements of the following if the protective headwear was manufactured on or after July 1, 2009:
   - b. ANSI Standard Z89.1-2003, American National Standard for Industrial Head Protection (Sec. 234(2)).

3. Subject to Secs. 235, 236 and 237, if there’s a foreseeable danger of injury to the worker’s head striking a stationary object (Sec. 238).

4. Subject to Sec. 234, if it’s impractical for a worker to wear industrial protective headwear during a particular work process:
   - a. the employer must ensure that the worker’s head is protected using an adequate alternative means of protection during the work process; and
   - b. the worker may conduct the work while the alternative means of protection is in place (Sec. 238(9)).

**BRITISH COLUMBIA:** OHS Regs:

1. Safety headgear must be worn by a worker in any work area where there’s a danger of head injury from falling, flying or thrown objects, or other harmful contacts (Sec. 8.11(1)).
2. Safety headgear must meet the requirements of:
   - b. ANSI Standard Z89.1-1986, American National Standard for Personnel Protection — Protective Headwear for Industrial Workers Requirements; or
   - c. Japanese Industrial Standard JIS T8131-1990, Industrial Safety Helmets, for Class AB or ABE headgear (Sec. 8.11(1)).

3. If a worker may be exposed to an electrical hazard the safety headgear must have an appropriate non-conductive rating (Sec. 8.11(1)).
4. Chin straps or other effective means of retention must be used on safety headgear when workers are climbing or working from a height exceeding 3 m (10 ft), or are exposed to high winds or other conditions that may cause loss of the headgear (Sec. 8.11(4)).
5. Damaged headgear or headgear with missing, mismatched, or modified components must be removed from service (Sec. 8.11(1)).
6. Damaged headgear or headgear with missing, mismatched, or modified components must be removed from service (Sec. 8.11(1)).

**MANITOBA:** Workplace Safety & Health Regs:

1. When a worker is required to provide protective headwear for himself or herself:
   - a. an employer has no obligations under Secs. 6.3(a), 6.3(b)(i) and (ii), and 6.10 as to that equipment, but must ensure that the equipment provided by the worker meets, and is used in accordance with, the requirements of this Part: and

Continued on page 4
b. the worker must ensure that he or she takes reasonable steps to prevent damage to the equipment and that it:
   i. meets and is used in accordance with the manufacturer’s specifications and the requirements of this Part;
   ii. is immediately repaired or replaced if it’s defective; and
   iii. is immediately replaced with clean or decontaminated equipment, if it’s rendered ineffective because of contamination by a hazardous substance [Sec. 6.6].

2. At a workplace that isn’t a construction project site, an employer must provide a worker with protective headwear that’s appropriate for the risk and meets the requirements of CSA Standard Z94.1-05, Industrial Protective Headwear — Performance, Selection, Care and Use or ANSI Z89.1-2003, American National Standard for Industrial Head Protection, if there’s a risk of injury:
   a. to the worker’s head, including a significant possibility of lateral impact to the worker’s head; or
   b. to the worker from contact with and exposed energized electrical conductor [Sec. 6.10(1)].

3. An employer required to provide a worker with protective headwear must also provide a worker with:
   a. a liner for that headwear, if it’s necessary to protect the worker from cold conditions; and
   b. a retention system to secure the protective headwear firmly to the worker’s head, if the worker is likely to work in conditions that may cause the headwear to dislodge [Sec. 6.10(2)].

4. Instead of complying with the above, an employer may provide to the worker a bump hat or other protective headwear appropriate for the risk, if the risk of injury to a worker’s head is limited to injury to the worker’s scalp [Sec. 6.10(3)].

5. A worker at a construction project site must wear protective headwear that meets the requirements of CSA Standard Z94.1-05, Industrial Protective Headwear — Performance, Selection, Care and Use or ANSI Z89.1-2003, American National Standard for Industrial Head Protection [Sec. 6.10(4)].

6. A worker is responsible for providing the protective headwear he or she is required to wear under the above and, if necessary, is also responsible for providing:
   a. a liner for the headwear to protect the worker from cold conditions; and
   b. a retention system to secure the headwear firmly to the worker’s head, where the worker works in conditions that may cause the headwear to dislodge [Sec. 6.10(5)].

NEW BRUNSWICK: OHS Regs.:
1. On a project site, an employee must use Class E, Type I headwear that conforms to ANSI standard ANSI Z94.1-1997, “American National Standard for Industrial Head Protection” or a standard offering equivalent or better protection [Sec. 40(1)].

2. At a place of employment, other than a project site, where an employee is exposed to a hazard that may injure the employee’s head, the employee must use protective equipment that’s appropriate to the hazard and that conforms to ANSI standard ANSI Z94.1-1997, “American National Standard for Industrial Head Protection” or a standard offering equivalent or better protection [Sec. 40(2)].

NEWFOUNDLAND: OHS Regs.:
1. Safety headgear must be worn by a worker where there’s a danger of head injury from falling, flying or thrown objects, or other harmful contacts [Sec. 74(1)].

2. Safety headgear must meet the requirements of CSA Standard CAN/CSA-Z94.3 “Industrial Protective Headwear” or, in the case of emergency response personnel, the applicable National Fire Protection Association Standard [Sec. 74(2)].

3. Where a worker’s work clothing or skin is likely to be contaminated by hazardous substances, an employer must:
   a. provide protective clothing and head cover appropriate to the work and hazard; and
   b. ensure that the clothing and head cover are handled and cleaned or disposed of in a manner that prevents worker exposure to hazardous substances [Sec. 64(2)].

NORTHWEST TERRITORIES: OHS Regs. (in effect as of June 1, 2015):
1. If a worker’s work clothing or skin is likely to be contaminated by hazardous substances, an employer must:
   a. provide protective clothing and head cover appropriate to the work and hazard; and
   b. ensure that protective clothing and head covers are handled and cleaned or disposed of in a manner that will prevent worker exposure to the hazardous substances [Sec. 77(3)].

2. If there’s a risk of injury to the head of a worker, an employer must:
   a. ensure that the worker is provided with approved industrial head protection; and
   b. require a worker to use it [Sec. 94(1)].

3. If a worker may contact an exposed energized conductor, an employer shall provide, and require the worker to use, approved industrial head protection that is of adequate dielectric strength to protect the worker [Sec. 94(2)].

4. If a worker is required by these regulations to use industrial head protection, an employer must provide the worker with:
   a. a suitable liner if it’s necessary to protect the worker from cold conditions; and
   b. a retention system to secure the industrial head protection firmly to the worker’s head, if the worker’s likely to work in conditions that may cause the head protection to dislodge [Sec. 94(3)].

5. If visibility of a worker is necessary to protect the health and safety of the worker, an employer must ensure that any industrial head protection provided to a worker under these regulations is fluorescent orange or some other high visibility colour [Sec. 94(4)].

6. An employer must not require or permit a worker to use any industrial head protection that:
   a. is damaged or structurally modified; and
   b. has been subjected to severe impact; or
   c. has been painted or cleaned with solvents [Sec. 94(5)].

NOVA SCOTIA: OHS General Reg.:
1. Where a person is exposed to a hazard that may injure the person’s head, an employer must ensure that protective equipment is worn that’s appropriate to the hazard and that complies with one of the following standards:
   a. the latest version of CSA standard CSA Z94.1-1 “Industrial Protective Headwear”;
   b. the latest version of ANSI standard ANSI Z89.1, “Industrial Head Protection” [Sec. 11].

NUMAVUT: General Safety Reg.:
1. An employer must ensure that protective headgear is provided to and worn by a worker at any:
   a. logging site; or
   b. work site where there’s a potential hazard from falling, flying, or moving objects or from structures and equipment that can come into contact with the head of a worker as a result of the movement of the worker [Sec. 20(1)].

2. An employer must ensure that a worker at a logging site is provided with and wears protective headgear that’s red or fluorescent orange in colour [Sec. 20(2)].

3. An employer must ensure that a worker exposed to electrical hazards is provided with and wears non-conductive protective headgear of sufficient dielectric capacity to protect the worker [Sec. 44(1)].

4. An employer must ensure that a worker exposed to cold wears suitable liners for protective headgear required by these regulations [Sec. 44(2)].

5. An employer must ensure that all protective headgear complies with the Canadian Standards Association Standard CAN/CSA-Z94.1-92, Industrial Protective Headwear, as amended from time to time [Sec. 45(1)].

*Note: The above reflects the current law at the time of publication. The new OHS regulations that are in effect in NWT on June 1, 2015 are expected to take effect later in 2015 in NU.

ONTARIO: Industrial Establishments Reg.:
1. A worker exposed to the hazard of head injury must wear head protection appropriate in the circumstances [Sec. 88].

Construction Projects Reg.:
1. Every worker must wear protective headwear at all times when on a project [Sec. 22(1)].

2. Protective headwear must be a safety hat that:
   a. consists of a shell and suspension that’s adequate to protect a person’s head against impact and against falling or tumbling small objects; and
   b. has a shell which can withstand a dielectric strength test at 20,000 volts peak to ground [Sec. 22(2)].

PRINCE EDWARD ISLAND: OHS Regs.:
1. The employer must ensure that an employee on a worksite or at any other place of employment who’s exposed to a hazard, which could injure the head, wears head protection appropriate to the hazard and that meets the standards and specifications of CSA Standard Z94.1, “Industrial Protective Headwear” or the equivalent (The replacement of headgear every five years and headgear suspension annually is a recommended safe practice) [Sec. 45.5].

2. This strips or other effective means of ensuring retention of safety headgear must be fitted and worn when employees are exposed to high winds or other conditions, which might cause the loss of the headgear [Sec. 45.6].

Québec: Reg. respecting occupational health and safety:
1. The wearing of a safety hat complying with CAN/CSA Standard Z94.1-05, Industrial Protective Headgear — Performance, Selection, Care, and Use, is mandatory for all workers exposed to head injuries. As of April 3, 2014, any new safety hat must comply with the most recent version of CAN/CSA Standard Z-94.3-94. For activities not subject to this standard, a means of protection appropriate to the activity must be used [Sec. 341].

Safety Code for the Construction Industry:

For a complete list of the requirements in all jurisdictions, visit OHSInsider.com for the full chart.
SITUATION
An Ontario employer with a unionized workforce has a joint health and safety committee (JHSC) as required by the OHS law. After expiration of the agreement between the employer and the union governing the JHSC’s terms of reference, the parties can’t agree to new terms. So the employer unilaterally imposes amended terms of reference on the JHSC. The new terms include the following:

- The JHSC must meet five times per year (with discretion to call additional meetings);
- The maximum length of meetings is three hours;
- Notice must be given for appointment of new members; and
- A worker co-chair can serve for only two years maximum.

The union objects to some of the new terms and argues that the employer doesn’t have authority under the collective agreement to unilaterally impose these terms of reference. The collective agreement obligates the employer to comply with the OHS law.

QUESTION
Was the employer authorized to set the JHSC’s terms of reference?

A. Yes, because the OHS law holds the employer responsible for the JHSC and its operation.

B. Yes, as long as the terms comply with the requirements in the OHS law and don’t impede worker participation in or representation on the JHSC.

C. No, because it’s a joint committee so the employer and workers (through their union) must agree on the terms.

D. No, because OHS laws require JHSCs to set their own terms of reference.

ANSWER
B. The employer can set terms of reference for the JHSC’s operations provided that they comply with the OHS law and don’t violate workers’ rights.

EXPLANATION
This hypothetical is based on an Ontario labour arbitration decision in which the arbitrators found an employer could unilaterally set terms of reference regarding operation of a JHSC provided those rules don’t violate the OHS law or the collective agreement. The collective agreement obligated the employer to comply with the OHS law, which required a JHSC in the workplace. The arbitrators found that the terms generally did so with regard to the number and duration of meetings, and worker representation on the committee. However, the arbitrators declared that provisions limiting the term of worker co-chairs and requiring notice prior to new member appointments unilaterally imposed restrictions that weren’t found in the OHS law and adversely affected workers’ right to choose representatives. Therefore, the arbitrators determined that such terms required union agreement and couldn’t be unilaterally imposed by the employer.

Insider Says:
For more information about the operation of JHSCs, go to the JHSC Compliance Centre.

WHY WRONG ANSWERS ARE WRONG
A is wrong because although the OHS law requires the employer to establish a JHSC, it doesn’t give the employer unlimited authority concerning the operation of that committee. For example, the employer can’t limit the number of JHSC meetings to, say, once a year if the OHS law requires monthly meetings. Thus, in this case, the employer has authority under the OHS law to establish terms for the JHSC but there are limits to this authority.

C is wrong because although the law requires the JHSC to be a joint committee including representatives of both workers and management, every decision concerning the committee and its operations doesn’t need to be made jointly. For example, the OHS laws generally require there to be at least as many worker representatives as management representatives on the JHSC. But some jurisdictions let workers have more representatives than management. And the JHSC can decide how it’ll make decisions, such as by consensus, majority vote, etc. In fact, the committee’s terms of reference will typically spell out the requirements and process for making decisions. Thus, if a JHSC’s terms of reference permit decisions by a majority vote and worker members outnumber management members, it could make a decision that isn’t supported jointly by both groups.

D is wrong because although the OHS laws in some jurisdictions, such as MB and NS, do require a JHSC to establish its own terms of reference or rules of operation, not every jurisdiction’s OHS laws include such a requirement. For example, Ontario’s OHS law is silent as to terms of reference or rules of procedure. Therefore, in this case, the applicable OHS law doesn’t require the JHSC to establish its own terms of reference and thus the employer can do so—provided that its terms comply with the OHS law and the collective agreement.

SHOW YOUR LAWYER
When faced with OHS violations, an employer may argue that it exercised “due diligence,” that is, that it took all reasonable steps to comply with the law and address safety hazards. But proving due diligence is challenging. And what constitutes “reasonable steps” usually depends on the specific circumstances of each case. However, there are certain basic due diligence principles on which employers can rely. A recent case under federal OHS law illustrates two of these principles. Here’s a look at that case.

**THE CASE**

What Happened: An airline employee was standing on the apron at an airport gate completing paperwork when he was struck in the back by an empty baggage cart as it and other attached empty carts were being towed away from the airplane. He suffered contusions on his upper and lower left leg, and bruises to his left thigh and lower back. At the time, the area around the plane was covered in packed snow on top of ice and was slippery, which contributed to the incident. A federal Health and Safety Officer concluded that the airport was in violation of OHS law for allowing an accumulation of ice and snow and issued it a compliance direction. The airport appealed, arguing that it had exercised due diligence in its snow removal operations and asking for the direction to be rescinded.

What the Tribunal Decided: The federal OHS Tribunal rescinded the direction.

The Tribunal’s Reasoning: The airport had a Winter Maintenance Plan that complied with industry standards, and snow and ice removal procedures in place. In addition to regular snow and ice removal, airlines were expected to make specific service requests when there was an immediate need for removal. But the airline didn’t make such a request for this gate and so failed to bring the snow/ice issue in the area to the airport’s attention. The Tribunal noted that the personnel and equipment dedicated to snow and ice clearance duties and the procedures followed to implement those duties were well documented by the airport, as were the weather conditions prevailing on and around the date of the incident, which indicated periods of continuous snow. In addition, the airline’s flight operations and all the associated movement around this gate continued despite the prevailing weather. The Tribunal concluded that the weather conditions and the continuation of flights on the apron at the gate inhibited access to the area for the airport’s snow clearance crews without instructions and directions from the airline. So the Tribunal rescinded the direction because the airport wasn’t aware of the safety hazard posed by the snow or ice and had exercised due diligence as to snow and ice removal ([Macdonald Cartier International Airport Authority](https://canlii.ca/en/on/ohstc/5.html), [2015] OHSTC 5 (CanLII), March 5, 2015).

**ANALYSIS**

This case illustrates two useful due diligence points. First, employers have a duty to address only those safety hazards they know or should know about—not all safety hazards period. After all, it’s not reasonable or practical to require employers to address an unknown hazard. Here, snow and ice removal was a joint responsibility involving both the airport and the individual airlines. The airport’s crews couldn’t clear snow when airplanes were at the gate. So the airport relied on airline’s gate management to advise when aircraft were leaving gates so that airport personnel could clear snow as best as possible. In addition, the expectation under the Winter Maintenance Plan was that airlines would notify the airport if there was an unsafe condition on the tarmac that needed immediate attention. But the airline in this case never informed the airport that snow and ice had accumulated at this gate, making the surface slippery and unsafe. Thus, the airport was unaware of this issue and so couldn’t reasonably be expected to take steps to address it.

Second, the case demonstrates the importance of good recordkeeping. The Tribunal noted that the airport’s snow and ice removal policies and procedures were “well documented.” In addition, the airport’s records were used to prove the weather conditions at the relevant times. And the airport’s log of service requests proved that the airline had never requested that this gate be cleared of snow and ice. By having these safety records available, the airport was able to prove that it exercised due diligence.
**Month in Review**

### FEDERAL

**LAWS & ANNOUNCEMENTS**

**March 27: Task Force to Focus on Mental Health in Federal Workplaces**
The Treasury Board and Public Service Alliance of Canada announced plans to work together on improving psychological health and safety in the federal workplace. The Joint Task Force will:
- Identify ways to better communicate the issues of mental health challenges in the workplace
- Review practices from other jurisdictions
- Review the National Standard of Canada for Psychological Health and Safety in the Workplace and identify how its objectives can best be achieved in the Public Service.

**Dec. 1: Safety Standards on Human Pathogens and Toxins to Take Effect**
Federal Human Pathogens and Toxins Regulations will take effect on Dec. 1, 2015, along with the remaining section of the Human Pathogens and Toxins Act. The new regulations:
- Establish national licensing and security clearance requirements
- Enable the federal government to harmonize the requirements for all domestic use of human pathogens and toxins
- Establish national requirements for the safe and secure handling of human pathogens and toxins that apply to all facilities conducting controlled activities with these agents
- Require appropriate containment in all facilities working with human pathogens and toxins, as per the Canadian Biosafety Standard.

**April 9: CSA Wants Feedback on Experience with Z1600**
In preparation for the review and revision of CSA Z1600 – Emergency and Continuity Management Program, the CSA is asking stakeholders to complete an online survey and share their experiences with the standard. It hopes to gain insight into the use/adoption of the standard, as well as any challenges or successes experienced to date.

### CASES

**Employer Entitled to Better Doctor’s Note Before Letting Worker Return to Work**
A grain terminal worker left work ill and went to the hospital. He filed a workers’ comp claim for his illness, saying it was the result of a toxic allergic reaction to grain dust. His claim was rejected. The worker gave his employer a two-line doctor’s note that said he could return to work. The employer asked for a more complete note before it would let him return. So the worker filed an unjust dismissal complaint. The court found that the employer was entitled to ask for a more substantive medical note. The doctor’s note lacked any explanation as to why the worker was now fit to safely return to work. After all, he’d been hospitalized for two weeks and was out of work for six months. And the rejection of his worker’s comp claim didn’t preclude the employer from asking for more information. So there was no basis for concluding that the employer had constructively dismissed him, found the court (Donaldson v. Western Grain By-Products Storage Ltd., [2015] FCA 62 (CanLII), March 4, 2015).

**No Clear Evidence Worker Was Hurt after Being Fired or Offsite**
A worker fell down stairs and hurt his right knee. He filed a workers’ comp claim, which was accepted. But the employer argued that the injury must have happened offsite because the worker said he’d gotten injured at 7:00 when he’d left the premises at 5:00. Even if it had occurred on the employer’s premises, the worker had been fired at noon, before he got hurt. The Appeals Commission disagreed. The evidence as to when the worker was actually terminated was conflicting and it was unclear whether he was fired or laid off. In addition, the employer’s argument that he was hurt offsite was speculative. So the Commission concluded that the worker had a compensable injury that should be charged to the employer’s account (2015-0125 (A6), [2015] CanLII 14076 (AB WCAC), March 29, 2015).

### BRITISH COLUMBIA

**LAWS & ANNOUNCEMENTS**

**April 16: OHS Guidelines Added or Revised**
WorkSafeBC has added or revised guidelines for the following:
- Occupational hygiene methods acceptable to WorkSafeBC
- Excluded confined spaces
- Blasting operations
- Oil and gas – driver training.

**June 12: Deadline for Comments on Long-Term Average Earnings Policy**
WorkSafeBC’s Board approved the release of a discussion paper on long-term average earnings policy in the Rehabilitation Services & Claims Manual Volume II. WorkSafeBC administers the claims of federal employees covered by the Government Employees Compensation Act (GELA). Current policy provides that long-term average earnings are not calculated for GELA workers who are maintained on full salary by their employer while injured. For consideration is whether this policy direction should be revised. Stakeholders may provide feedback until 4:30 p.m. on June 12, 2015.

### MANITOBA

**LAWS & ANNOUNCEMENTS**

**April 7: All Miners Safe after Fire in Nickel Mine**
All of the miners who were forced to seek safety in underground refuge areas after a fire broke out at a nickel mine safely returned to the surface. The fire broke out in a piece of machinery called a load haul dump about 850 metres underground. Thirty-nine miners moved to refuge stations, while workers in another mine that’s connected by a tunnel also took refuge as a precaution.

### CASES

**Pipeline Company Hit with $200,000 in Administrative Penalties**
The National Energy Board imposed administrative penalties totaling $200,000 on a pipeline builder for safety and environmental hazards related to maintenance work on the Line 3 oil pipeline. The penalties were for failing to comply with a term or condition of any certificate, licence, permit, leave or exemption granted under the NEB Act relating to how erosion was dealt with during a period of heavy rains and failing to follow through on environmental protection commitments (Enbridge Inc., March 24, 2015).

### ALBERTA

**CASES**

**OK to Fire Zookeeper for Letting Gorillas Escape**
A zookeeper failed to follow protocol and properly secure an exhibit, resulting in the escape of gorillas. The zookeeper was charged by a silverback gorilla, which pummeled and bit him. The gorillas were eventually corralled without any further injuries to anyone else. The zookeeper himself was “a very serious safety violation.” Although he was a long-time employee who’d taken responsibility for the gorillas themselves. So the zookeeper’s failure to secure the door to the exhibit was “a very serious safety violation.” Thus, under the circumstances, the employer entitled to better doctor’s note before letting worker return to work.

**No Clear Evidence Worker Was Hurt after Being Fired or Offsite**
A worker fell down stairs and hurt his right knee. He filed a workers’ comp claim, which was accepted. But the employer argued that the injury must have happened offsite because the worker said he’d gotten injured at 7:00 when he’d left the premises at 5:00. Even if it had occurred on the employer’s premises, the worker had been fired at noon, before he got hurt. The Appeals Commission disagreed. The evidence as to when the worker was actually terminated was conflicting and it was unclear whether he was fired or laid off. In addition, the employer’s argument that he was hurt offsite was speculative. So the Commission concluded that the worker had a compensable injury that should be charged to the employer’s account (2015-0125 (A6), [2015] CanLII 14076 (AB WCAC), March 29, 2015).

**Well Servicing Company Penalized $185,000 for Diesel Spill**
A broken plastic tube attached to an out-of-service diesel tank owned by a well servicing company allowed 300-600 litres of diesel to spill onto the ground. An unknown amount of fuel made its way into nearby Blackmud Creek. The company pleaded guilty to depositing a deleterious substance into water frequented by fish in violation of the federal Fisheries Act. It was fined $5,000 and ordered to pay $180,000 to the Environmental Damages Fund (Ensign Well Servicing Inc., Govt. News Release, April 9, 2015).

### NEW BRUNSWICK

**LAWS & ANNOUNCEMENTS**

**April 2: 2014 Workers’ Comp Report Released**
WorkSafeNB released its 2014 Annual Report. Highlights:
- There were 2,893 injuries per 100 full-time employees, a decrease from previous years
- 96% of 3,834 injured workers returned to work or were capable of returning to work after their rehabilitation
- 86.4% of the workers who attended the Rehabilitation Centre were mostly or completely satisfied with the services they received there.
In the fishing industry, the number of days lost from work due to workplace injury declined by 12,769 days in 2014 compared to 2013.

The injury rate in construction, the province’s fourth largest sector, fell from 2.25 in 2013 to 1.90 in 2014.

The WSCC announced that new OHS Regulations will take effect on June 1, 2015. The new regulations give workplaces a modern framework that’s relevant to Northern operations and closes any gaps that once existed between the NWT, NU and other Canadian jurisdictions.

The WCB released its 2014 Annual Report. Highlights:

- Introducing new requirements for roof plans and work plans and for notifying the ministry of any specific safety procedures to follow when working in close proximity to an ice auger.
- Strengthening inspection, testing and maintenance requirements
- Introducing training requirements for suspended access equipment operators and workers
- Enhancing operational, technical and engineering requirements
- New references to national standards related to design, installation, inspection and maintenance of equipment such as swing stages set out in the Construction Projects Regulation. Comments to the proposed changes can be submitted until June 22. Key proposals include:
  - Enhancing operational, technical and engineering requirements
  - Introducing training requirements for suspended access equipment operators and workers
  - Strengthening inspection, testing and maintenance requirements
  - New references to national standards related to design, installation, inspection and maintenance
  - Introducing new requirements for roof plans and work plans and for notifying the ministry before putting a suspended access equipment into service for the first time at a project.

The MOL released its 2015-16 proactive enforcement blitz and initiative schedules for the OHS Program and Employment Standards Program. The MOL will be conducting:

- “Provincial Blitzes,” which are province-wide, sector-specific enforcement initiatives aimed at addressing workplace hazards.
- Regional “Initiatives,” which are smaller-scale enforcement initiatives.

The government has accepted and will act on all 48 consensus recommendations made in the Ministry Health, Safety and Prevention Advisory Group’s final report. The CPO will work with mining industry partners to prioritize and implement the final report’s recommendations, which include:

- Require employers to have formal water management programs to reduce hazards related to excess water in areas where miners are working.
- Enhance ground control protection to track and monitor seismic activity.
- Mandate that the MOL partner with employers and labour to conduct regular mining sector risk assessments.
- Require employers to have plans in place to manage hazards such as silica and diesel exhaust that cause occupational illness.

An electrician at a farm was injured when a large shipping door fell on him. He broke his leg, injured his shoulder and couldn’t work for almost a year. As a result, the farm was convicted of two OHS violations and appealed, arguing that it had exercised due diligence. The appeals court disagreed. The electrician and a millwright were sent to an unfamiliar location in the workplace without any supervision. In addition, although the workers may have been trained on the use of cell phones and other electronic devices, they were not trained on how to use the devices safely while driving.

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A supervisor asked a truck driver for a paving company to shovel excess hot asphalt out of the back of the truck because the truck exceeded the weight restrictions. The truck driver refused to do so, saying the asphalt was very hot and he was afraid of getting burned. The company fired him later that day, claiming it was for wearing out the truck’s clutch. The driver filed a reprisal claim. The Labour Relations Board found that the developer had raised legitimate concerns about his safety in shoveling hot asphalt from the back of the truck. He reported these concerns to his supervisor and was fired as a result. The Board rejected the company’s claim as to why it had fired the driver, noting that it permitted another worker to drive the truck with the allegedly worn clutch. So the Board ordered the company to pay the truck driver for four days’ lost wages.

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The construction company pleaded guilty to failing to ensure the adequate instruction of each worker in the safe performance of their duties. The court fined it $40,000.

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Month in Review

Roofing Company Convicted for Worker’s Fall from Roof

A worker fell about 22 feet off a roof and into a trailer below. He wasn’t wearing fall protection at the time. He was hospitalized for two weeks with various injuries. The roofing company was charged with two safety offences. The trial court noted that the company had installed guardrails on the roof and temporary anchor systems, and provided fall protection equipment. But the guardrail was routinely opened so workers could dump garbage off the roof using a motorized buggy. And the company didn’t have a clear process for this garbage disposal technique that covered issues such as when workers needed to be tied off and the safe use of buggies on the roof. So the court convicted the company, ruling that it didn’t exercise due diligence (Ontario (Ministry of Labour) v. Simplex Gooder Roofing Corp., [2015] ONCJ 183 (CanLII), April 8, 2015).

Worker’s Angry Behaviour & Threat of Violence Justified His Firing

After a worker refused to do his assigned task, he was told he was suspended for a day. He became belligerent, told supervisors they could “f—k” themselves and made obscene gestures. He went to his car but, instead of leaving, he drove back to the office and began yelling obscenities again. He also said, “I’ll be back and fucking shoot you.” Part of the altercation was caught on videotape. The city fired the worker. An arbitrator ruled that his termination was justified. The worker’s threat of violence violated city policy and the OHS law. The arbitrator rejected the union’s argument that the worker’s comments were “shop talk” and he was just blowing off steam. Given his anger and aggressive behaviour, the city had reason to be concerned for the safety of its staff, concluded the arbitrator (Toronto (City) v. Toronto Civic Employees Union, Local 416, [2015] CanLII 15347 (ON LA), March 24, 2015).

Wind Tower Manufacturer Fined $80,000 after Worker is Crushed

A worker for a manufacturer of wind towers was polishing a 58-tonne cylindrical steel tower section with a hand grinder while standing on tracks between two tower segments that were resting on adjustable welding rotators. The control boxes for the rotators weren’t locked out. After the worker finished the polishing work and was collecting his tools, one of the tower segments began to move silently along the tracks. He was unable to escape and was crushed between two tower segments. The manufacturer pleaded guilty to a lockdown violation and was fined $80,000 (TSP Canada Towers Inc., Govt. News Release, April 10, 2015).

Worker’s Fall from Scaffold Results in $50,000 Fine

A worker was applying stucco to a wall on a new-home project. While standing on a scaffold next to the wall, he fell about 25 feet to the ground from at least the second level of the scaffold, suffering a spinal cord injury resulting in paraplegia. An MOL investigation found that there was no guardrail on the scaffolding as required under the OHS regulations. The employer pleaded guilty to failing, as a constructor, to ensure that the measures and procedures prescribed by the regulation were carried out and was fined $50,000 (Hawksview Homes Ltd., Govt. News Release, April 10, 2015).

SASKATCHEWAN

LAWs & ANNOUNCEMENTS

March 23: 2014 Workers’ Comp Stats Released
The WCB released its 2014 injury rates, which indicate a further decrease in the overall workplace injury rate despite an increase in the number of workers. Highlights for 2014:

- Total injury rate: 6.59%.
- Number of accepted time loss claims reported dropped from 10,116 in 2013 to 9,715.
- Time loss injury rates dropped from 2.54% in 2013 to 2.41%.
- 87% percent of employers reached the Mission: Zero target, that is, they had zero workplace injuries.

April 15: Deadline for Comments on Proposed WHMIS Changes
The government sought feedback on proposed amendments to the WHMIS regulations found in The Occupational Health and Safety Regulations, 1996. These amendments will align provincial law with the federal amendments to the Hazardous Products Act and associated regulations that implement WHMIS 2015. The Globally Harmonized System of Classification and Labeling Consultation Guide contains the proposed regulatory amendments. Comments were due by April 15, 2015.

CASES

Spill of Oil Containing PCBs Results in $87,000 in Penalties
A spill of approximately 100 litres of oil containing PCBs from a tractor trailer was discovered at a weigh scale. An Environment Canada inspection determined that the truck lacked a proper secondary containment system to prevent oil containing concentrations of PCBs from being released into the environment. Lab tests confirmed that the oil released contained concentrations of PCBs at approximately 200,000 times the minimum level subject to a prohibition against release. Two companies pleaded guilty to an offence under the federal CEPA, 1999. They were ordered to pay a total of $87,000 to the Environmental Damages Fund (Custom Environmental Services Ltd. and Aevitas Inc., Govt. News Release, April 8, 2015).

YUKON TERRITORY

LAWS & ANNOUNCEMENTS

April 7: New Workers’ Comp Super-Assessment Policy Released
The WCHSB released a new policy on super-assessments, that is, when the Board collects an assessment that covers an employer’s higher than normal claims costs. The new policy takes effect Jan 1, 2016.

For more of these jurisdictions’ laws & announcements and cases, please visit www.ohsinsider.com.
The federal government recently published the final Hazardous Products Regulations (HPR), which implement the GHS in Canada (For details, see the Law of Month, April 2015, p. 6). Among other things, the new WHMIS, called “WHMIS 2015,” contains new requirements for supplier labels. Suppliers may comply with the label requirements of either “old” WHMIS (now referred to as WHMIS 1988) or WHMIS 2015 until May 31, 2017. After that date, manufacturers and importers must comply with the WHMIS 2015 label requirements. Here’s an overview of the new supplier label requirements.

**BASIC REQUIREMENTS**

Most of the label requirements are contained in Part 3 of the HPR. Suppliers—defined as persons who, in the course of business, sell or import a hazardous product—must prepare labels and provide them to purchasers of hazardous products intended for use in a workplace. Labels must be accurate at the time of each sale or importation of the hazardous product. They must be updated within 180 days of when new significant information about the product becomes available. And until the label is updated, the new information and date upon which it became available must be sent in writing by the product’s seller to the person who acquires it.

Supplier labels must be durable and legible without the aid of any devices other than corrective lenses. In addition, the HPR spells out:

- **What information or elements must be included on a supplier label.** See the chart on the right for a comparison of the required label elements under WHMIS 2015 and WHMIS 1988. Although the basic elements of the two labels are similar, some of the specifics are different. For example, although both require the use of pictograms, WHMIS 2015 adopts the GHS pictogram format of a black symbol on a white background with a red frame in the shape of a square set on a point. Note that two elements of supplier labels from WHMIS 1988 have been dropped:
  - The hatched border around the label content; and
  - A statement to the effect that a material safety data sheet (now referred to as safety data sheets or SDS) is available.

- **How the label should appear.** For example, the pictogram, signal word and hazard state-ment must be grouped together on the label.

- **What languages are used on the label.** The informational elements on a supplier label should be in both English and French. The elements may appear either on a single bilingual label or in a group of information elements in two unilingual parts that constitute one bilingual label.

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**Exceptions to the label requirements.** For example, bulk shipments of a hazardous product aren’t subject to the label requirements.

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**COMPARISON OF GENERAL SUPPLIER LABEL ELEMENTS**

<table>
<thead>
<tr>
<th>Element</th>
<th>WHMIS 1988</th>
<th>WHMIS 2015</th>
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<tr>
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<tr>
<td>Supplier identifier</td>
<td>Supplier identifier</td>
<td></td>
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<tr>
<td>Pictogram</td>
<td>Pictogram</td>
<td></td>
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<tr>
<td>Risk phrases</td>
<td>Hazard statement</td>
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<tr>
<td>N/A</td>
<td>Signal word</td>
<td></td>
</tr>
<tr>
<td>Precautionary measures</td>
<td>Any applicable precautionary statements, including:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General precautionary statements</td>
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<td>Prevention precautionary statements</td>
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<td>Response precautionary statements</td>
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<td>Disposal precautionary statements</td>
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<td>First aid statement</td>
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<td></td>
</tr>
</tbody>
</table>
SPOT THE SAFETY VIOLATION:
Would You Drink This Water?

It's important for workers to stay hydrated in the hot weather but should their drinking water look like this?

Heat stress is a serious safety hazard for many workers in the summer (and for others, year-round). In the heat and humidity, the body sweats to cool itself, which can use up a significant amount of fluid. This fluid must be replaced continuously. If it isn't regularly replaced, workers can become dehydrated and thus more vulnerable to heat-related illnesses, such as heat exhaustion and heat stroke.

So yes, drinking fluids to stay hydrated is one way workers can keep from getting overheated. But the water in this picture from Cal/OSHA doesn't look particularly clean or safe to drink.

It's critical for employers to ensure that workers have cool water available on the worksite if heat stress is a safety hazard. And this water must be fit to drink. For example, water containers shouldn't be filled from non-potable water sources, such as irrigation wells or sprinkler or firefighting systems. And you should take steps to prevent contamination of the drinking water you provide.

7 HYDRATION TIPS

Here are seven hydration tips for workers who work in hot environments:

1. Drink water (without added salt) before as well as during and after the workday.
2. Drink about two glasses or 1/2 litre of water before starting work.
3. During the workday, drink one glass about every 20 minutes.
4. If the environment is very hot or humid or if you sweat profusely, drink even more water.
5. Don’t wait until you’re thirsty to replace your fluids.
6. In addition to water, you can also drink fruit juice or sports drinks—but nothing containing alcohol or caffeine, which increase dehydration.
7. Eat salty foods to replace salt lost through sweat but don’t use salt tablets.

10 Ways to Protect Workers from Heat Stress

The OHS laws in every jurisdiction either directly or indirectly require employers to protect workers from heat stress. Here are some basics safety measures you can include in a heat stress plan to protect your workers if they're exposed to this safety hazard:

1. Train workers on the dangers of heat illness and how to recognize the signs and symptoms of the various types of heat stress (For example, post this infographic on summer health and safety hazards in the workplace;)
2. As mentioned above, provide workers with cool, fresh water to drink;
3. Give workers tools such as hoists and lifts to make work less strenuous;
4. Provide a shaded area for workers to cool down in;
5. Allow workers to take more frequent breaks;
6. Give workers time to get acclimated to the heat;
7. Try to limit outside or especially rigorous work to the cooler times of day, such as early morning and evening;
8. Vent heat or steam from the workplace or cool it with air conditioning;
9. Provide fans for better air circulation; and
10. Make sure workers wear appropriate clothing for the conditions, such as lighter colours, lighter weight, short sleeves, etc.

Heat Stress Resources

At OHSInsider.com, go to the Heat Stress Compliance Centre for information and tools on heat stress, including:

- Your legal obligation to protect workers from heat stress
- A model humidex-based heat stress response plan
- A heat stress awareness tool
- The role of heat stress monitors
- A hand out for workers on the danger signs of heat illnesses
- An infographic on summer health and safety hazards
- Several videos on heat stress.

Go to OHSInsider.com to download a PDF or Word version of this Spot the Safety Violation, which you can print out and use to train workers.

On the Spot the Safety Violation page, you'll find dozens of these unique training tools on topics ranging from confined spaces and fall protection to ladder safety and respiratory protection.

11
DOS & DON’TS:

ضرورة: لا تغلق العمال في مكان العمل

雇主有责任保护工人免受暴力侵害，可以采取措施，比如关闭工作场所的门，这样未经授权的人就进不去，或者通过安全检查。但是，虽然有理由为了保护工作场所的安全而关闭门，让未经授权的人无法进入，但是关闭门让工人无法外出是危险的，特别是在紧急情况下，如火灾。事实上，这样做非常危险，并会使工人处于危险状态，尤其是在紧急情况下，如火灾。（而且，堵塞紧急出口，如将材料放在前面，也同样危险。）

以下是几例被锁住的门导致工人无法在紧急情况下逃生的情况：

- 在中国的一家家禽工厂发生火灾时，超过100人丧生。许多工人因为紧急出口被堵住，而其他出口被锁住，所以无法逃生。
- 在孟加拉国的一家服装厂发生火灾时，更多的工人会存活下来，调查员说，如果工厂唯一的紧急出口没有被锁住，更多的工人会活下来。
- 在孟加拉国另一家服装厂的火灾中，至少110名工人丧生，大约200名工人受伤。火灾官员表示，如果没有一个正常使用的工作场所的紧急出口，死亡人数会更低。结果，一些受害者从燃烧的结构中跳下后死亡。
- 在美国的一家沃尔玛子公司The Sam’s Club发生的火灾中，很多时间的员工被锁在店里，显然是为了防止强盗和防止员工偷窃。一名员工在凌晨3点弄伤了脚，他无法离开商店去看医生。另一名员工试图联系经理，而经理是唯一的钥匙，结果，花了两个小时才有人来打开门。