

“Global Scans” are a free service brought to you by [Global Training Edge](http://www.globaltrainingedge.com/). Each Scan highlights major or interesting news in occupational health and safety, with a concentration on Canada.

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[Quebec Employer Pleads Guilty to C-45 Charges](#)

[Montreal fire department fined for firefighter death](#)

[Federal Government Requires Ergonomics Programs](#)

[Federal Government and BC Ban Designated Smoking Rooms](#)

[Pesticide MSDSs to be Mandatory](#)

[Lost-time Incidence Rate on the Decline in Newfoundland and Labrador](#)

[Newfoundland and Labrador WHSCC Reports Loss of Computerized Client Data](#)

[Alberta Occupational Health and Safety Fines in 2007 Heftiest Yet](#)

[Mandatory Drug Testing Upheld in Safety-Sensitive Positions](#)

["Pre-access" Drug Testing of Safety-Sensitive Employees Justified at Worksite, Court Affirms](#)

[BC Working Alone Regulations Now in Effect](#)

[BC Requires Use of Safety Engineered Needles or Needleless Systems](#)

[BP Oil Agrees to Record Fine](#)

[Hexavalent Chromium Standard Compliance Directive Issued](#)

[London Police Found Guilty of Endangering the Public](#)

[HSE Launches Criminal Investigation into Deaths of the Four Fire Fighters](#)

[Night Shift Work, Painting and Firefighting Added to Carcinogen List](#)

Quebec Employer Pleads Guilty to C-45 Charges

Transpavé Inc., a manufacturer of concrete blocks in Saint-Eustache, QC, plead guilty on December 7, 2007 to criminal negligence charges under the Criminal Code. The charges were the result of an October , 2005 incident in which a worker was crushed to death by a machine that stacks the blocks.

The incident occurred when the worker tried to clear a jam and a protective light curtain failed to stop the machine. The government investigation found:

- the light curtain had been broken for most of 2004 and 2004
- the light curtain could be easily bypassed
- there was inadequate training about the dangers present in the area
- there was no inspection program that would have identified that the light curtain was broken
- a member of management knew the curtain was broken but did nothing about it.

The company faces sentencing on Feb. 26, 2008.

This is the first conviction under the 2003 bill “An Act to amend the Criminal Code (criminal liability of organizations)”, which came into force on March 31, 2004. This bill, often called Bill C-45¹ made it easier to prove criminal negligence in workplace death scenarios.

Note that the company pled guilty. Thus, there has still never been a C-45 case where the prosecution had to prove criminal negligence before a judge.

See [Details](#).

[Back to top](#)

Montreal fire department fined for firefighter death

The Quebec Commission de la santé et de la sécurité du travail (CSST) has released its findings into the accident which resulted in the death of a Montreal firefighter on January 21, 2006. In the incident, the firefighters found a fire located in a living room sofa. When they tried to toss the couch out of a window, the couch ignited fumes and gases that had accumulated at the ceiling. The flames spread quickly to the rest of the apartment, striking the firefighter in the face and killing him.

The CSST concluded:

- the fire was fought without complying with certain guidelines and standards;
- supervision was weak and inadequate
- the Montreal Fire Service acted to directly and seriously endanger the health and safety of the worker.

The CSST imposed an unstated fine (the range of fines are from \$ 5000 to \$ 20000 for a first offense or \$ 10000 to \$ 50000, in case of recurrence).

The CSST also required:

- implementation of the Fire Service policy on the wearing of the facial part of the respiratory protective equipment in the presence of smoke and the widening of conditions for its use;
- implementation of specific guidance on:
 - procedures to be followed in the presence of a smouldering object
 - horizontal ventilation
 - water use procedures
 - procedures to be followed in the presence of smoke
- development of a supervision plan to implement these guidelines.

The fire service has complied with all these requirements.

See the [report](#) (french only).

[Back to top](#)

Federal Government Requires Ergonomics Programs

¹ “C-45” means it was the 45th bill proposed to the House of Commons in the 37th Parliament - 2nd Session (Sept. 30, 2002 - Nov. 12, 2003). There are actually dozens of bill “C-45's” as each session using the same numbering system.

The Canada Occupational Health and Safety Regulations have been amended to require employers to address ergonomic hazards in their Hazard Prevention Program. This means conducting hazard identification and assessment, developing preventive measures and employee education on ergonomics.

Ergonomics-related factors that must be controlled include:

- the physical demands of the work activities, the work environment, the work procedures, the organization of the work and the circumstances in which the work activities are performed, and
- the characteristics of materials, goods, persons, animals, things and work spaces and the features of tools and equipment.

The changes came into effect on November 29, 2007.

See [Details](#).

[Back to top](#)

Federal Government and BC Ban Designated Smoking Rooms

The federal Non-smokers' Health Regulations have been amended to ban designated smoking rooms and smoking areas. The decision was based on recent government tests inside smoking rooms across the country showed that the air quality was very poor, even when the rooms were not in use. It deteriorated to dangerous levels when people were smoking in them. The ban does not affect designated smoking rooms that existed before the regulations were changed.

The federal changes came into effect on October 25, 2007.

In addition, the British Columbia Tobacco Control Act has been amended to:

- ban smoking in indoor public places and work places;
- ban smoking near public doorways, windows, and air intakes; and
- limit the display and sales of tobacco and tobacco products.

The BC changes take effect on March 31, 2008.

See [Details of the federal changes](#) and the [BC changes](#).

[Back to top](#)

Pesticide MSDSs to be Mandatory

Health Canada's Pest Management Regulatory Agency has reminded employers that a majority of pesticide Material Safety Data Sheets are readily available from pesticide manufacturers on a voluntary basis.

The [Hazardous Products Act](#) exempts pest control products from the requirement to send out MSDS and use WHMIS supplier labels. A legislative initiative is underway that would make the provision of these MSDSs to workplaces mandatory.

See [Details](#).

[Back to top](#)

Lost-time Incidence Rate on the Decline in Newfoundland and Labrador

The Newfoundland and Labrador Workplace Health, Safety and Compensation Commission has announced that the lost-time incidence rate in the province has decreased by 34 per cent

(from 3.2 to 2.1) between 2000 and 2006. Preliminary data for 2007 places the lost-time incidence at 1.9 as of November 2007 – this would signify a 40 per cent decrease since 2000. The decrease comes at a time when the province has experienced a 10 per cent increase in employment.

See [Details](#)

[Back to top](#)

Newfoundland and Labrador WHSCC Reports Loss of Computerized Client Data

The Newfoundland and Labrador government has announced that some personal information was improperly disclosed via an Internet file sharing program by a private company conducting work on behalf of the public sector. It has been determined that the personal information relative to 153 individuals was accessed via an Internet file sharing program. In total 694 files containing personal information were exposed. 108 of the people affected were clients of the Workers' Health, Safety and Compensation Commission, 3 relate to other public bodies, while the remaining 42 individuals are other clients of the private company. The scope of information varies for each individual; it includes information such as name, address, medical history, work history, gender and date of birth. The government says that the potential for identify theft exists for those affected by the exposure.

See [Details](#).

[Back to top](#)

WSIB to Require Purchases From Preferred Suppliers

Effective March 3, 2008, the WSIB will require purchases of approved health care equipment and supplies on behalf of workers to be made from one of the WSIB's three preferred suppliers: Medical Mart, Motion Specialties, and Shoppers HomeHealthCare. Health care equipment and supplies are items used as a treatment or functional aid during the worker's recovery, or to improve or maintain their independent living. This includes items such as canes, crutches, back rests and supports, walkers, and Transcutaneous Electrical Nerve Stimulator (TENS) units. By using one of the preferred suppliers, a worker will not have to pay for the approved health care equipment and supplies and wait for reimbursement from the WSIB.

See [Details](#).

[Back to top](#)

Alberta Occupational Health and Safety Fines in 2007 Heftiest Yet

Alberta Employment, Immigration and Industry reports that fines levied for contraventions of Occupational Health and Safety Act reached their highest total ever in 2007. Twelve companies were fined a total of \$1,720,000 in penalties, which topples the 2006 tally of \$1,534,500. Of these penalties, \$780,000 was ordered by the court to be paid to health and safety organizations as part of creative sentencing orders. Recipients of these funds included STARS, Foothills Hospital Burn Unit, Canadian Home Builders' Association, Threads of Life, Canadian National Institute for the Blind, Manufacturers' Health and Safety Association, and St. John Ambulance.

See [Details](#).
[Back to top](#)

Mandatory Drug Testing Upheld in Safety-Sensitive Positions

The Alberta Court of Appeal has supported Kellogg Brown & Root (Canada) Company's mandatory drug testing policy. The court departed from the Ontario Court of Appeal's decision in the Entrop case, and held that the company's pre-employment drug testing policy was legal and did not assume that people who tested positive were addicts or impaired while at work.

According to the Alberta court, the policy "perceives that persons who use drugs at all are a safety risk in an already dangerous workplace." The court further stated: "The evidence disclosed that the effects of casual use of cannabis sometimes linger for several days after its use. Some of the lingering effects raise concerns regarding the user's ability to function in a safety-challenged environment. The purpose of the policy is to reduce workplace accidents by prohibiting workplace impairment. There is a clear connection between the policy, as it applies to recreational users of cannabis, and its purpose. The policy is directed at actual effects suffered by recreational cannabis users, not perceived effects suffered by cannabis addicts. Although there is no doubt overlap between effects of casual use and use by addicts, that does not mean there is a mistaken perception that the casual user is an addict."

The court decided that there was no issue of accommodation with which it had to deal, saying: "Having come to this conclusion it is not necessary to consider the question of accommodation. Since there was no breach, there is nothing to accommodate. Nor is it necessary to consider whether KBR's policy constitutes a BFOR [bona fide occupational requirement]."

See the [court decision](#).

[Back to top](#)

"Pre-access" Drug Testing of Safety-Sensitive Employees Justified at Worksite, Court Affirms

The Alberta Court of Queen's Bench has supported an arbitration panel decision that allowed workplace drug testing.

The case arose when Bantrel Constructors, engaged by Petro-Canada to carry out hazardous work on one of its Alberta sites, required that its current employees agree to be tested for drugs and alcohol before being allowed on Petro-Canada's worksite. The requirement was based on Petro-Canada's policies on drug and alcohol testing.

Petro-Canada's drug and alcohol testing policies were based on the 2001 Canadian Model for Providing a Safe Workplace (see the [2005 edition of the model](#)). The Canadian Model did not require pre-access testing, although it noted in an introduction that "it should not be overlooked for those companies that may require it based on the specific nature of their operations."

In 2004, Petro-Canada adopted a pre-access policy requiring testing of all employees granted access to its sites and did not make an exception for existing employees because it was concerned that its late adoption of pre-access testing rendered it the site of choice for those who could not pass the tests required elsewhere.

When Bantrel Constructors contracted with Petro-Canada to perform hazardous work on one of

its sites, Bantrel was contractually required to follow a pre-access policy giving current employees two months to undergo testing. Employees were provided with information and advised that refusals to comply would result in layoff from the site. A positive test would result in assessment and counselling, but with the ability to return to the site.

Three unions filed policy grievances alleging that the failure to create an exception to the pre-access testing policy for existing employees violated their collective agreements, as well as Alberta's human rights legislation. In 2007, an Arbitration Panel dismissed the grievances. Relying in part on the introductory words of the Canadian Model, the Panel found that the Model specifically contemplated that some worksites might require pre-access testing based on the specific nature of their operations. Moreover, the Panel observed that "the testing is part of the implementation of a pre-access drug and alcohol testing policy which in our view is justifiable within the context of the worksite and its history."

The Panel rejected the unions' position that testing amounted to an unreasonable intrusion into employees' privacy because it did not measure impairment, which the unions argued was the only reason to put such a policy in place. Noting as well that the policy was designed to detect only the "most significant risks to the workplace (i.e. persons who were either unwilling or unable to give up drug use for any time at all), the Panel held that "[t]his was not random testing in the sense considered by the cases [and] was not intrusive in the same sense that typical random testing is."

The Panel also noted:

- that the requirement to demonstrate that a drug or alcohol problem existed before testing was allowable did not apply to safety-sensitive workplaces
- even if such a requirement did exist, Petro Canada satisfied it because
 - industry-wide sources indicated increasing drug and alcohol use on construction sites in Alberta;
 - as the last major owner to adopt pre-access testing, Petro-Canada's would have been one of the only major construction sites available to workers who might not pass testing at other sites;
 - testing imposed elsewhere revealed a 5-10 percent failure rate;
 - 4 of 6 post-incident tests conducted on the Petro-Canada site prior to September 2004 were failures;
 - numerous alternatives had already been tried; and
 - less intrusive measures, such as peer and supervisory observation, were not as effective
- that the policy was not discriminatory on its face, since there was no automatic termination and there was mandatory assessment and counselling
- even if it was discriminatory, the policy met the test as a bona fide occupational requirement (BFOR), set out by the Supreme Court of Canada in *B.C. (Public Service Employee Relations Commission) v. B.C.G.E.U.* (1999), 176 D.L.R. (4th) 1 (Meiorin).

The three unions appealed the panel's decision to the Alberta Court of Queen's Bench. The court dismissed the unions' application, finding that the Arbitration Panel's ruling met the standard of review of reasonableness.

See the [court decision](#).

[Back to top](#)

BC Working Alone Regulations Now in Effect

New regulations for lone workers in British Columbia came into effect on February 1, 2008. The improvements apply to work in circumstances where assistance would not be readily available to the worker in the case of an emergency or if the worker is injured or in ill health. Such situations include:

- A worker who handles cash such as a convenience store clerk, retail outlet employee, and taxi driver;
- A worker who meets clients out of the office such as a home care employee, social service employee, or by-law officer;
- A worker who does hazardous work with no regular interaction with other people such as a forestry worker, a worker in the freezer area of a cold storage facility or a night cleaner in a plant;
- A worker who is at risk of violent attack who is isolated from other workers or public view such as a security guard, custodian, night shift employee in a community care or outpatient department.

Where hazards have been identified, the new regulations require employers to take steps to either eliminate the hazard entirely, or if it is not practicable to eliminate the hazard, to minimize the risk from the hazard. Examples of elimination include:

- Installing a system requiring prepayment for vehicle fuel at the pump using a credit card or debit card so no interaction with a station attendant (worker) is required;
- Use of video surveillance to remotely monitor an area instead of using an on-site security guard;
- Installing an automated payment system for services, such as parking, instead of using a cashier/attendant;
- Use of vending machines to dispense food or other convenience items rather than using a checkout cashier.

When a worker is assigned to work between 10:00 p.m. and 6:00 a.m in retail premises, the employer must:

- develop and implement a written procedure to ensure the worker's safety in handling money
- do either or both of:
 - ensure that the worker is physically separated from the public by a locked door or barrier that prevents physical contact with or access to the worker;
 - assign one or more workers to work with the worker during that worker's assignment.
- ensure workers are trained the procedures.

The new regulations also require employers to require mandatory prepayment for fuel sold in gas stations and other retail fueling outlets.

Worksafe BC has set a transition period for some of the above provisions ([Details](#) on transition

period).

See [Details](#).

[Back to top](#)

BC Requires Use of Safety Engineered Needles or Needleless Systems

All medical practitioners in BC who use hollow bore needles to treat or care for patients must now use safety engineered needles or needleless systems. These procedures include:

- Withdrawal of body fluids
- Accessing a vein or artery
- Administration of medications or fluids
- Any other procedure — for example, immunizations — involving the potential for an exposure to accidental parenteral contact for which a needleless system or safety-engineered needle system is available.

These changes were made in response to the estimated 5,000 needlestick injuries BC healthcare workers sustain each year.

The only two exceptions where conventional needles can still be used for medical procedures are:

- where a safety engineered needle is not commercially available to replace the conventional needle and no alternative systems (such as patches or jet injectors) are available to eliminate the use of the needle
- the use of a safety engineered needle or needleless device is not clinically appropriate because either the medical practitioner or patient would be at increased risk of injury.

The changes came into effect on January 1st, 2008.

On October 1st, 2008, any medical sharp — including sutures, scalpels, and lancets — used to treat or care for a person must be a safety engineered medical sharp. The same criteria and exceptions that apply with hollow bore needles will apply.

See [Details](#).

[Back to top](#)

BP Oil Agrees to Record Fine

BP Products North America has agreed to a record US\$50 000 000 fine for risk management failures that contributed to the March 2005 explosion at its Texas City refinery. The fine would be imposed under the Clean Air Act.

The explosion killed 15 people and injured many more. BP also reiterated in court documents that the company is spending US\$1 billion on upgrades and improvements at the plant. The company also has spent more than US\$1.6 billion settling blast-related lawsuits.

See [Details](#).

[Back to top](#)

Hexavalent Chromium Standard Compliance Directive Issued

The US Occupational Safety and Health Administration (OSHA) recently issued its [compliance directive](#) to enforce the hexavalent chromium standards that were effective May 30, 2006. This directive establishes uniform inspection and compliance procedures for compliance safety and

health officers.

[Back to top](#)

London Police Found Guilty of Endangering the Public

The Office of Commissioner of Police of the Metropolis (the London, England Metropolitan Police Force) has been found guilty of endangering the public in the 2005 shooting death of Brazilian Jean Charles de Menezes. It was fined £175,000 with £385,000 (\$CAN352,000 and \$CAN774,000).

Menezes was shot 7 times, after police mistakenly identified him as a man wanted in connection with a botched suicide attack on London's transit system a day earlier.

Cressida Dick, who led the operation, had also been accused of failing to keep control of her officers. However, the jury said she bore "no personal culpability".

See [Details](#).

[Back to top](#)

HSE Launches Criminal Investigation into Deaths of the Four Fire Fighters

The British The Health and Safety Executive (HSE) is working with Warwickshire Police who are leading the ongoing criminal investigation into the circumstances surrounding the deaths of the four fire fighters in the warehouse fire at Atherstone-on-Stour on November 2, 2007. This is being carried out under the terms of the national protocol for liaison where there has been a work related death.

The warehouse which housed a vegetable packing plant was burned down in a suspected arson attack.

The HSE says: "The investigation is complex and involves a thorough investigation of all aspects of the incident. In terms of health and safety, the HSE team also has to consider the wider arrangements the Fire & Rescue Authority has in place for managing risks not only on the night in question but also more generally. Likewise, HSE, with the Police, is also looking at other duty holders involved with those premises as part of the investigation. As a result of our work on this investigation HSE has formed the opinion, based on the evidence we have seen, that the current arrangements employed by the Fire & Rescue Authority do not comply with the statutory duties to provide its fire fighters with all the information they should have to assist them in making the appropriate decisions when attending a fire. We have therefore today issued an Improvement Notice requiring the Fire & Rescue Authority to make the appropriate arrangements to gather and take action in response to Information about special risks which may be present at premises where fire fighters may have to deal with emergencies."

See the [HSE news release](#) and a story on the [details](#) of the fire.

[Back to top](#)

Night Shift Work, Painting and Firefighting Added to Carcinogen List

The International Agency for Research on Cancer (the cancer research agency of the World Health Organization) has concluded that:

- Occupational exposure as a painter is carcinogenic to humans

- Shiftwork that involves circadian disruption is probably carcinogenic to humans
- Occupational exposure as a firefighter is possibly carcinogenic to humans.

Epidemiological studies of painters have consistently found small but significant increases in the risk of lung cancer and bladder cancer. In addition, several studies of painters have found increased levels of genetic damage.

Epidemiological studies have found that long-term nightworkers have a higher risk of breast cancer risk than women who do not work at night. These studies have involved mainly nurses and flight attendants. The studies are consistent with animal studies that demonstrate that constant light, dim light at night, or simulated chronic jet lag can substantially increase tumour development. Other experimental studies show that reducing melatonin levels at night increases the incidence or growth of tumours. Roughly 20% of the working population in Europe and North America is engaged in shiftwork, which is most prevalent in the health-care, industrial, transportation, communications, and hospitality sectors.

Epidemiologic studies of firefighters have noted excess cancer risks compared with the general population. Consistent patterns are difficult to discern due to the large variations in exposure across different types of fires and different groups of firefighters. Relative risks were consistently increased, however, for three types of cancer: testicular cancer, prostate cancer, and non-Hodgkin lymphoma.

See [Details](#).

[Back to top](#)

ANSI Approves Computer Workstation Standard

The American National Standards Institute (ANSI) has approved ANSI/HFES 100-2007, Human Factors Engineering of Computer Workstations, as a new American National Standard.

The new standard addresses changes in the arenas of workstation and computer design. The number and types of input devices have increased to include computer mice and other pointing devices, and the displays chapter has been expanded to cover color devices. The furniture chapter now provides four working postures for reference by designers. Finally, the integration chapter offers guidance regarding how individual elements that are ergonomically well designed can be integrated into a workplace system that is also ergonomically appropriate.

See [Details](#).

[Back to top](#)