

“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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NB Panel Reports on WHSCC

The Independent Review Panel on New Brunswick’s Workplace Health, Safety and Compensation System has issued its final report - [Strengthening the System](#) - on ways to improve the system. The Government of New Brunswick commissioned the review in May, 2007 (it had been almost 25 years since a formal review of New Brunswick’s workplace health, safety and compensation system took place). Among the major recommendations of the 272 page report are:

- changes to the structure and selection method for WHSCC Board members
- value-for-money audits of the WHSCC every five years conducted by the Auditor

General, as a replacement for reviews by an independent commission (such as the one that issued the report)

- occupational health and safety should be an integral part of the school curriculum
- a review of the compliance and enforcement tools available to the WHSCC, including additional inspections, stop-work orders, ticketing, and demerit fines in workplaces requiring increased attention, as well as incentives for undertaking effective prevention programs
- a review of the current exemption for the fishing industry
- a comprehensive review of case management policies and processes, and a restructuring of resources to ensure reasonable caseloads to permit WHSCC staff to provide timely and effective services
- mediation when the client/case manager relation becomes dysfunctional, when communication between workplace parties ceases, or if workplace parties are not cooperating in a re-employment process
- developing return to work incentives for smaller employers
- giving Workers' and Employers' Advocates increased electronic access to WHSCC files.

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Ontario Prosecutes for Failure to Accommodate an Injury

The Ontario Ministry of Labour has convicted a company for failing to adjust the duties of an injured worker, saying that the failure resulted in an injury. The case dealt with an employee who was using a remote control device to manipulate a crane. The Ministry found that the worker had reported a hand injury to the employer three days previously and so, for this work on the day of the injury, had switched hand positions and used his non-dominant hand where the dominant hand would normally have been used. The worker's finger became caught and crushed between a grating and a hook used to attach the crane to the grates.

The court concluded that the employer failed to take the reasonable precaution of providing work within the worker's physical limitations. This was found to be a contributing factor in the injury and the failure was found to violate Ontario's general duty clause (section 25(2)(h) of the [Occupational Health and Safety Act](#)). A fine and surcharge of \$81, 250 was imposed.

See [press release](#).

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Ontario Bans "Shepherd Hook" Fall Arrest Devices

The Ontario Ministry of Labour has ordered all workplaces to stop using any type of "shepherd's hook" fall arrest device that does not have an adequate secondary means of maintaining positive engagement as part of a fall protection system. The Ministry states that shepherd's hooks that may become disengaged from their attachment point without workers intentional actions are unsafe for use in fall protection systems. The pole's bottom end can catch in objects, such as tool pouches, bolt bags or safety belts, and disengage from where it is anchored. The ability to inadvertently disengage presents a hazard.

The order comes after a worker was fatally injured after falling from a power line tower that was

being constructed. The worker was wearing a fall protection system that included a retractable life line and safety belt that were attached to a shepherd's hook. The shepherd's hook fall protection system was intended for use as fall protection while the worker ascended and descended the tower under construction.

See [press release](#) which includes a picture of a Shepherd's Hook.

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Work-related Safety Equipment Exempt from Tax in BC

On February 20, 2008, the British Columbia government exempted from the provincial sales tax all work-related safety equipment and protective clothing designed to be worn by or attached to a worker. The equipment must meet provincial laws and be:

- Purchased by an employer for use by his/her employees in the course of employment,
- Purchased by a self-employed person for his/her own use in the course of self-employment, or
- Purchased by a school board or similar authority for use in instructing students.

Equipment already exempted from the sales tax through previous rules include:

- safety eyewear, footwear, head protection, hearing protection, and gloves if bought by workers
- general safety items like first-aid kits, child-restraint car seats, portable fire extinguishers, and life jackets, regardless of who buys them.

The provincial sales tax rate in BC is 7 %.

To read more, see the [Government of British Columbia's Safety Equipment and Protective Clothing website](#).

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Farm Worker Safety Criticized in BC

Farmworkers have been relegated to second-class status, according to a study by the Canadian Centre for Policy Alternatives and B.C. Federation of Labour. The study - [The Cultivating Farmworker Rights Ending the Exploitation of Immigrant and Migrant Farmworkers in BC](#) - reports systematic violations of health and safety regulations and employment standards, poor and often dangerous working conditions, and "dismal enforcement by government agencies". According to the study, the farmworkers — most of whom are immigrants and temporary migrants - are:

- routinely exposed to pesticides and gases used for ripening in greenhouses, and other chemicals without appropriate protective gear or training
- regularly transported by farm labour contractors in vans that violate safety regulations
- not given adequate sanitary facilities
- required to work long hours, sometimes for pay that is below the minimum wage
- often housed in substandard conditions
- not allowed to choose who they will work for
- not able to stand up for their basic rights without fear of being deported.

B.C. Labour Minister Olga Ilich called the study "slanted." The Government points out that the

authors interviewed less than 100 farm workers, while government inspectors have talked to 3,000 in the last year. Ilich also said her ministry is doing more inspections and handing out more fines than they have in the past (an assertion disputed by the report).

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1 in 5 Yukon Workplaces Exceed New Radon Limit

The Yukon Workers' Compensation Health and Safety Board is completing tests of 166 workplaces to obtain preliminary results on radon concentrations. Radon levels were tested over the winter of 2007/08. "Preliminary readings show that around 1 in 5 Yukon sites tested had radon concentrations over the [Health Canada guideline](#) of 200 Becquerels/m³ (all sites met Health Canada's previous radon concentration guidelines of 800 Becquerels/m³). Those that did not meet the new guidelines will be more thoroughly tested and possibly remediated. Remediation can include sealing cracks and other non-sealed openings in foundations or basements, and improving ventilation. Yukoners are also being encouraged to have their homes tested to ensure they meet the new guidelines. Yukon Housing Corporation provides home radon test units to Yukon residents at no cost.

See the [press release](#).

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Federal Violence in the Workplace Regulations Now in Effect

The federal government announced the coming into force of a new part to the [Canada Occupational Health and Safety Regulations](#): Part XX - Violence Prevention in the Work Place. Under the new regulations, employers must:

- develop a policy to prevent workplace violence, including bullying, teasing, or abusive behaviour
- assess and evaluate the risk and potential for workplace violence
- provide training for all workers who are exposed to or who are at risk of workplace violence
- put controls in place to prevent workplace hazards and to investigate acts of violence
- assess the effectiveness of their policy and measures at least every 3 years and update them as necessary.

The regulations are supported by both the Canadian Labour Congress and federally regulated employers.

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Supreme Court of Canada Overturns Chronic Fatigue Award

The Supreme Court of Canada has reversed a landmark wrongful-dismissal award made to Kevin Keays, an employee of Honda Canada. Mr Keays was fired after years of struggling with chronic fatigue syndrome. The Ontario Court of Appeal had awarded Keays:

- 24 months of salary in lieu of proper notice
- \$100,000 in punitive damages
- \$610,000 in legal costs.

In reversing the award, the Supreme Court - in a 7-2 ruling - found that Honda's "conduct in dismissing Keays was in no way an egregious display of bad faith justifying an award of damages for conduct in dismissal."

The court also awarded legal costs of the appeal to Honda.

Mr. Keays was employed for 14 years by Honda. His chronic fatigue though played havoc with his work attendance. In May, 2000, Mr. Keays was fired after he refused to attend a medical assessment, which the trial judge concluded was a setup by Honda to evade its duty to accommodate Mr. Keays under Ontario human-rights law.

See [Honda Canada Inc. v. Keays, 2008 SCC 39](#).

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Transport Canada Creates Administrative Penalties

Transport Canada announced the coming into force of the new Administrative Monetary Penalties Regulations. The Administrative Monetary Penalties Regulations provide a new way to enforce marine safety requirements without using the criminal court system. Maximum penalties of up to \$25,000 for a serious violation such as defective lifesaving equipment may now be imposed. The process is similar to Summary Offence Tickets used in several provinces for OH&S violations.

See the [press release](#) and the [regulations](#).

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Good Results for 2007

Four provinces reported injury trends.

In [Nova Scotia](#), for the fourth consecutive year, fewer people lost time from work and there was a significant reduction in the number of workplace deaths. The Injury Frequency Rate (time-loss claims per 100 covered workers) was 2.57% in 2007, compared to 2.61% in 2006. The WCB reports 12 deaths in 2007, compared to 22 in 2006. On the financial side, volatility in the investment market and lingering effects of high volumes and long claims from past years resulted in a total comprehensible loss of \$103 million in 2007.

[Ontario](#) has achieved a 20 per cent reduction in the annual rate of workplace injuries or more than 50,000 incidents. This drop translates into a \$5 billion savings for employers in direct and indirect costs during the four years ending March 31, 2008.

To build on this success, Ontario is launching a new four year plan--[Safe At Work Ontario](#). The new plan changes the 2004/2007 targeted compliance strategy, which focussed mainly on workplaces with higher than average lost-time injury rates and claim costs. Under this new direction, the ministry identifies and engages workplaces according to a variety of factors that include:

- injury rates and associated costs
- compliance history
- hazards inherent to the work
- new businesses
- size of businesses

- specific events or incidents (e.g., critical or fatal injuries, or violence)
- new and/or vulnerable workers.

A fundamental component of this new direction is the development of annual sector-specific plans that provide the flexibility to focus on sector specific hazards and characteristics. The ministry has developed strategies for industrial, health care, construction and mining sectors which specify how the new selection criteria will be used. As a result of the selection criteria, the ministry will be visiting many workplaces that have not had an injury.

In [Manitoba](#), preliminary figures show that the time loss injury rate dropped by 25 per cent since 2000. The Government has introduced a new plan to decrease it even further to 3.5 per 100 full-time-equivalent workers (the 2007 figure was 4.2). The plan focuses on four major strategies:

- Protecting workers by increasing inspections and increasing the number of effective workplace safety and health programs and committees. 10 new safety and health officers will be hired to strengthen enforcement efforts, with a further 10 hired in later years.
- Creating a culture of safety and health in Manitoba to encourage everyone to believe that workplace injuries and illnesses are preventable.
- Increasing in-person safety and health training, creating online training opportunities, ensuring that training is targeted and stressing the importance of preparing young people for entry into the workforce by increasing the use of safety and health materials in secondary schools.
- Supporting the development of safety and health professionals, increasing prevention expertise and enhancing the ability to put prevention information and resources into the hands of employers and workers.

In [Alberta](#), fewer workplace injuries, combined with a growing workforce, resulted in a lost-time claim rate at a record low. However, there were 154 occupational fatalities in 2007, up from 124 in 2006. The Alberta lost-time claim rate for 2007 was 2.12 per 100 person years, down from 2.35 in 2006. This marks the seventh straight year the rate has dropped. Of the 154 fatalities in 2007, 44 were motor vehicle incidents, 47 were workplace incidents, and 63 were occupational disease deaths. The disabling injury rate (which includes claims submitted in which employees have their work modified to accommodate their injuries) decreased to 3.88 in 2007, from 4.14.

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Criminal Charges Laid in NY Death

Prosecutors in NY have charged William Lattarulo, the owner of a Brooklyn construction site, in connection with the death of a worker on March 12, 2008. Mr. Lattarulo was scheduled for arraignment June 12, 2008 on charges of manslaughter, criminally negligent homicide, and reckless endangerment.

The incident allegedly occurred when Mr. Lattarulo was warned by a consultant and a more experienced contractor that the new foundation that he was having dug was lower than the foundation beside it and needed underpins to keep it stable. Instead of heeding those warnings, the authorities said, Mr. Lattarulo ordered workers to keep digging. Moments later, part of a wall from a residential building next door collapsed and sent rubble spilling onto 2 workers - killing

one and injuring another.

See [news story](#) and the [City of New York Department of Investigation Statement](#).

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Chief Crane Inspector Arrested on Bribery Charges

James Delayo, Assistant Chief Inspector with the New York City Department of Buildings, Division of Cranes and Derricks, was arrested on June 6, 2008 on third-degree bribe-receiving and first-degree tampering with public records charges, both felonies for which he could face up to seven years in prison. . Mr. Delayo is charged with collecting thousands of dollars in bribes over the past 8 years from a crane and equipment company for:

- falsely reporting that the company's mobile cranes had been inspected and that its crane operators had taken and passed required practical examinations, when in fact no such inspections or practical examinations were conducted
- providing the company with advance copies of the written examinations that would-be crane operators must pass to qualify for City licenses.

Officials said the accusations against Mr. Delayo bore no direct relation to 2 NYC crane accidents in the last 3 months in which a total of 9 people died.

See [the City of New York Department of Investigation Press Release](#).

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OSHA Releases Targeted Inspection Plan

The US Occupational Safety and Health Administration (OSHA) has released its Targeted Inspection Plan for 2008. Approximately 3,800 high-hazard worksites are on the list for inspection under OSHA's Site-Specific Targeting Program. The 2008 program will target:

- sites that reported 11 or more injuries or illnesses resulting in days away from work, restricted work activity, or job transfer for every 100 full-time employees (known as the DART rate)
- sites that have a days away from work injury and illness (DAFWII) rate of 9 or higher.

The data for the plan comes from surveys of approximately 80,000 employers to obtain their injury and illness numbers for 2006.

See the [OSHA Notice](#).

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U.S. Chemical Safety Board Blames Lack of Safety Guards for Explosion

The U.S. Chemical Safety Board (CSB) has concluded that a massive explosion and fire at the CAI/Arnel ink and paint products manufacturing facility in November, 2006 occurred because CAI lacked safeguards such as alarms and automatic shutoffs that would have prevented a 10,000-pound mixture of flammable solvents from overheating in the unattended building. Steam heat to the mixing tank was most likely inadvertently left on by an operator before he left for the day. As the temperature increased, vapour escaped from the mixing tank, built up in the unventilated building, ignited, and exploded.

CSB investigators said that ink manufacturer CAI did not follow regulations or appropriate good

practices for the handling of flammable solvents, and the CSB report proposes changes to national fire codes and to state licensing and inspection procedures to improve the safety and oversight of facilities handling hazardous materials.

See [press release](#).

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ACGIH Successfully Defends Lawsuit

A federal judge in the United States District Court in Macon, Georgia has dismissed the last of four counts in a lawsuit against the American Conference of Governmental Industrial Hygienists (ACGIH). The suit was launched by the International Brominated Solvents Association (IBSA), the National Mining Association (NMA), and other plaintiffs. The first three counts had been previously dismissed in 2005.

In a summary judgment ruling issued on May 6, 2008, the remaining count against ACGIH for violations of Georgia's Uniform Deceptive Trade Practices Act (UDTPA) was dismissed. The count sought to prevent ACGIH from publishing its Threshold Limit Values (TLVs) on the basis that they are "false and deceptive because they are not supported by credible science," and that "they disparage the goods, services or business of another by false or misleading representation of fact."

In its ruling, the Court stated that "ACGIH, a non-profit association comprised of a group of scientists that adopts workplace safety exposure levels, is more like an entity designed to promote ideas than one that engages in deceptive advertising in an effort to derive a financial benefit." Further, the Court "remains unconvinced that the cause of action created in the UDTPA should be able to stifle ACGIH's dissemination of its opinions as to what exposure levels of certain substances are in fact safe."

The plaintiffs may appeal of the Court's ruling.

See [press release](#).

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US House of Representatives Passes Bill to Reduce Combustible Dust Risk

The U.S. House of Representatives voted 247-165 to approve the "[Worker Protection Against Combustible Dust Explosions and Fires Act](#)" (H.R. 5522).

Supporters of the bill say it will allow business to more easily find needed information that is currently spread over several regulations and standards.

Opponents of the bill say it sidesteps the current Occupational Safety and Health Administration (OSHA) regulatory process, mandates safety standards that might not be in the best interest of workers and tries to make a one-size-fits-all safety standard.

OSHA has 17 different standards for combustible dust depending on which industry is being regulated. There were 281 combustible dust explosions between 1980 and 2005 that killed 119 workers, according to the Chemical Safety and Hazard Investigation Board (CSHIB), which has recommended "that OSHA issue a comprehensive combustible dust standard for general industry that addresses hazard assessment, engineering controls, housekeeping, and worker training" (see CSHIB report "[Investigation Report No. 2006-h-1: Combustible Dust Hazard Study](#)").

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UK Releases Workplace Illness and Injury Statistics

The Health and Safety Executive has released workplace illness and injury statistics based on their 2006/2007 Labour Force Survey. The data includes self-reported work-related illness and workplace injuries with data breakdowns on, amongst other things:

- incidence and prevalence
- industry
- occupation
- company size

See [survey results](#).

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HSE Criticized for Misleading Statistics

The [Centre for Crime and Justice Studies](#) (CCJS) at King's College London has criticized the Health and Safety Executive in the United Kingdom (HSE) for publishing misleading statistics. In a report called "[A crisis of enforcement: The decriminalisation of death and injury at work](#)", the CCJS argues that "fatalities and injuries caused through work are far more prevalent than the HSE currently reports." The causes of the under-reporting include,:

- policies related to counting only worker deaths, and not non-workers killed as a result of work-related incidents
- policies related to excluding traffic fatalities
- poor reporting of accidents by employers

The CCJS argues that the HSE figures underestimate workplace deaths by 80 percent and injuries by 75%.

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UK Targets Migrant Workers on Farms

The Health and Safety Executive completed a two-week long inspection blitz of farms and soft fruit growers in North East Scotland in June. The blitz was aimed at tackling poor safety standards. The safety of migrant workers was one of the main focuses.

See [information the HSE provides to migrant workers in 14 different languages](#).

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UK Publishes Top-10 List of Things a Business Must Do

The Health and Safety Executive has published a [ten-point list of key actions](#) required by law that apply to nearly every business. The list, supported by more detailed web pages, includes such things as registration, OH&S policies, risk assessments, training and consultation.

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European Union Delays Adoption of Radiation Directive

The European Union has delayed the adoption of the [Physical Agents \(Electromagnetic Fields\)](#)

[Directive \(2004/40/EC\)](#). The Directive came into force on April 30, 2004. Originally Member States had until April 30, 2008 to implement the Directive. But it has now been amended by a new Directive, which has extended the implementation date to April 30, 2012.

The Directive introduces provisions on risk assessment, control of exposure, health surveillance and information, instruction and training. The Directive is based on the values incorporated in the occupational exposure guidelines issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).

This delay follows concerns across Europe that some medical procedures which include interventional MRI scanning will expose workers, such as radiologists, to levels above the exposure limit values in the 2004 Directive. The delay will allow the European Commission enough time to carry out a full impact assessment of the Directive and consider new scientific advice, before proposing further amendments to address the impact of the original Directive.

See [details](#).

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ILO and NIOSH Agree to Cooperate on Expanding Safety and Health at Work

The [Programme on Safety and Health at Work and the Environment \(SafeWork\)](#) of the International Labour Office (ILO) and the U.S. [National Institute for Occupational Safety and Health \(NIOSH\)](#) signed an agreement on April 23, 2008 aimed at expanding safety and health in the workplace. The agreement foresees closer cooperation between SafeWork and NIOSH.

The agreement says that SafeWork and NIOSH “agree on the critical importance of the world of work in defining sound occupational safety and health (OSH) prevention policies and interventions in the workplace, and implementing strategies which expand protection to workers and their communities”.

Under the agreement, NIOSH will support the ILO Encyclopedia of Occupational Safety and Health, including the identification of experts, writing, editing, reviewing and updating articles, and suggesting new topics and approaches to information and dissemination.

See [details](#).

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Europe Launches 2-Year Risk Assessment Campaign

The European Campaign for Safety and Health at Work, formerly known as Euroweek, has launched a two-year campaign focussing on risk assessment. The overall aim of the Healthy Workplaces campaign is to promote an integrated management approach that takes into account the different steps of risk assessment. The main objectives of the European campaign on risk assessment are to:

- Encourage stakeholders at all levels to actively participate in a decentralised pan-European campaign
- Raise awareness of the legal responsibility and the practical need to assess risks in the workplace
- Promote a simple stepwise approach to risk assessment
- Encourage enterprises, especially small and medium ones, to carry out their own risk

assessment

- Promote the idea that risk assessment is inclusive; it is the responsibility of everyone in the workplace not solely the concern of employers (or experts)
- Promote the benefits from a participatory approach to risk assessment
- Support employers, workers' safety representatives, workers, practitioners, preventive services, policy makers and other stakeholders in improving risk assessment
- Communicate that risk assessment is the first step towards systematic OSH management.

See [details](#).

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