

THE TURNING POINT

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The Vision of the Turning Point

This newsletter is to inform you of recent changes and trends regarding health and safety. The Turning Point is a monthly newsletter covering topics from various industries and sectors. The Turning Point will respond to your inquiries and inform you of current services and updates regarding Raising the Standard Consulting Inc. (RTSC).

SAFETY MANAGER CHARGED AFTER FATAL WORKPLACE ACCIDENT

August 1, 2005 -- Halifax (Canadian OH&S News) -- Charges have been laid against a Nova Scotia employee responsible for his employer's safety program at the time of a fatal accident on the job.

Bernard Dearing is expected to enter pleas on August 22 to six counts under the provincial *Occupational Health and Safety Act (OHS)*. All but one of the charges are under Section 28 of the *OHS* and relate to alleged deficiencies in the health and safety program in place at Zoom Developers Ltd, Dearing's employer.

In effect, the charges say Dearing had responsibility for the workplace safety program, although the employer normally has this responsibility. "The employer shall establish and maintain a written occupational health and safety program," section 28 of the *OHS* states.

Halifax lawyer John MacPherson says it's common to see charges against individual workers and supervisors in Nova Scotia, but charges against safety managers are unusual. It is also rare for charges to focus on alleged deficiencies in a health and safety program. MacPherson says, "To actually target the program like that... in my experience would be a bit unusual. Probably, it may get some people's attention."

Continued on Page 2

MINISTRY OF LABOUR UPDATES

Shiu Pong Construction Ltd. fined \$285,000 for health and safety violation - TORONTO, Aug. 25 /CNW/ - a construction company based in Toronto, was fined \$285,000 on August 24, 2005 for a violation of the Occupational Health and Safety Act that resulted in fatal injuries to two workers who fell down an elevator shaft at a construction project in Toronto. The two workers were installing anchor bolts and base plates on the top floor of a 16-storey building under construction. At the same time, concrete was being poured by other workers constructing the floor of the penthouse suite into a form being used to construct a concrete beam. The form began to crack under the weight of the concrete being poured. The two workers, and a third worker, stepped onto a wooden platform located over the elevator shaft in order to install metal jacks to shore-up the form and prevent it from collapsing. While they were attempting this, the side of the form collapsed, allowing concrete to pour onto the wooden platform they were standing on. The platform collapsed. One worker was able to jump to safety, but the two deceased workers fell a total of 18 floors into the second garage level of the building. A Ministry of Labour investigation found that there were no guardrails or other protective equipment in use around the elevator machine room, and that a pre-inspection of the form was not completed prior to the concrete being poured. The Honourable Mr. Justice Ayres V. Couto of the Ontario Court of Justice in Toronto, fined the company \$285,000

Thunder Bay Catholic District School Board fined \$75,000 for health and safety violation - THUNDER BAY, ON, Sept. 16 /CNW/ - On November 9, 2004, a custodian was plugging in a vacuum cleaner into an electrical outlet in a classroom when the custodian saw an arc of electricity and heard a crackly noise. An electrical shock rendered the custodian unconscious. A Ministry of Labour investigation found the electrical outlet was damaged and not functioning properly at the time of the incident. The custodian did not normally work at the school, but had been called in to replace a worker. The custodian did not receive any permanent injuries as a result of receiving the shock. Two other people had also previously received shocks from the same outlet. The fine was imposed by Justice of the Peace Robert Michels of the Ontario Court of Justice in Thunder Bay.

INSIDE THIS ISSUE

- 1 Safety Officer Charged
- 1 Ministry of Labour Updates
- 2 WSIB Makes Massive Changes to Experience Rating
- 3 Safety Groups
- 3 Changes to NEER & CAD 7
- 3 Character & Integrity Training
- 3 Public Training Courses

On September 23, 2004, Roy Marchand was part of a crew involved in dismantling the former Sydney steel plant. "He was walking between a pile of steel beams that were on the floor and a load of beams that were being hoisted by a crane," labour department spokesman Bill Turpin says. Marchand was crushed when he was caught between the two steel beam loads.

Charges say worker was responsible for safety

While "an employee and acting in the capacity of a safety manager on behalf of the employer," the first charge states, Dearing failed to do everything reasonably possible to ensure the worker's health and safety. Charges against an employee are often presented in a way that indicates the scope of the individual's responsibility on a particular project.

Jim LeBlanc, director of the province's occupational health and safety division, says the term supervisor isn't defined in the *OHSA*. In past cases, LeBlanc says, "When we've elected to charge somebody who's in a supervisory capacity, we've usually elected to charge them as an employee who had supervisory responsibilities."

The second charge says Dearing, "while an employee and acting in the capacity of a safety manager on behalf of the employer," failed to "establish and maintain a written occupational health and safety program, in consultation with the committee or representative, if any, that is adapted to the circumstances of the organization for the purpose of implementing the employer's policy, [the *OHSA*] act and the regulations, contrary to subsection 28(1) of the Occupational Health and Safety Act."

Dearing is also charged with failing to ensure that the safety program: include necessary training and supervision of employees; provide for a hazard identification system that addresses, among other requirements, inspection and reporting duties; include a system of safety monitoring and prompt follow-up and control of identified hazards; and include a provision of monitoring the program's implementation and effectiveness.

Alberta lawyer Dave Myrol, who practises in occupational health and safety law, says the title "safety manager" can be misleading, because it can refer to a front-line supervisor who happens to be responsible for a particular work site as well as the implementation of the company's safety practices and procedures.

But "safety manager" can also refer to a safety professional who is retained specifically to develop and implement a safety program. "Companies will [sometimes] retain safety managers to develop safety programs for the company, and off-load that responsibility to that individual, Myrol says.

"And in my view, that rarely is successful, because it takes more than the effort of one individual to make that safety system work."

WS&IB Makes Massive Changes to Experience Rating

By Terry Ryan, RTSC Consultant

Employers who fall under the *NEER or CAD-7 Experience Rating Programs* recently received letters from the WS&IB announcing what amounts to *very significant changes* to both programs. Supposedly, the underlying causes for these changes is program an off-balance favoring employers. The WS&IB says it is paying out more in rebates than assessing in surcharges. Both these programs are rather complex and trying to explain a change to the formulae and it's effects in easily understood terms is practically impossible as many who have received the Board's letter have informed us.

In simplest terms, the changes can be characterized as follows: if your firm gets money back under the present program, you will get considerable less back with same cost experience under the revised program. Conversely, if you are currently in a surcharge position, it will be much higher when the revisions take place. Combined with the previously announced 3% average premium increase for 2006, most employers will see their net dollars paid to WS&IB increase significantly.

For those firms under NEER, the changes will effect claims occurring on or after January 1st, 2006 with the first impact being shown on the June 30th 2006 NEER statement.

For those employers in the construction sector and affected by Cad-7 program, the changes will come into effect for the 2007 issue year. The problem here is that the 2005 year costs and frequency numbers will be used to calculate the 2007 assessment, with employers not being aware of the changes until 2005 is almost over.

The key to maximize your position under both NEER and CAD-7 is improved Health & Safety performance with effective Claims Management Programs. ***It is vital that you plan now the changes that will impact you next year.***

Contact RTS for a free NEER and/or CAD-7 assessment including an impact statement showing the effect the proposed changes will have on your firm.



**Raising The Standard Consulting Inc. Safety Group -
Approved Safety Group Sponsor**

Raising the Standard Consulting Inc. is proud to have been accepted as a New Safety Group Sponsor by the WSIB for the Safety Group Program. We hope that your firm will enroll in our program in order to reap all the benefits the Safety Group Program offers.

Can your company benefit from this program? Yes! Put money back into your pocket and improve the safety culture at your workplace by participating in the WSIB-Raising the Standard Consulting Inc. Safety Group. We are a multi-sector safety group focusing on industries & companies in your area.

Why join our safety group?

- **Any company who participates in a safety group program for the first time, will receive a Workwell audit deferment**
- **No risk of a Zero rebate-Minimum of 4% of annual WSIB premiums for implementing procedures**
- Network with others in your industry and beyond: Share best practices and real workplace examples of how to improve and achieve a higher standard of safety.
- Facilitate your company's ability to consistently monitor and comply with Ontario Health & Safety (OH & S) standards.
- Reap the rewards by working in an improved workplace safety environment & striving towards earning a potential rebate and reduced premiums through the WSIB.

How does our safety group work?

Members of the safety group hold 5 meetings throughout the year to monitor and discuss the group's progress. Each company must attend at least 3 meetings to maintain their position in the safety group and qualify for the rebate from WSIB.

Participants will divide into appropriate groups in order to maximize networking and address sector specific issues more effectively.

How is progress measured?

Each company is required to conduct an initial workplace assessment to determine the strengths and weaknesses of their health & safety program. Using this assessment as a guide, each participating company will select 5 safety elements they will work on improving throughout the year. (WSIB will provide a list of elements to choose from). The WSIB requires that 1 of these 5 elements be a chosen 'universal' element that every member of the safety group will use. At the end of the year, a 2nd workplace assessment is conducted and used to measure each company's level of success.

What about the rebate?

This is the first year WSIB is implementing the New Formula-for the first time, there is no risk of a Zero rebate!

Your rebate is directly determined by your efforts and participation in the safety group program throughout the year.



CHANGES TO NEER & CAD-7

With the changes to NEER and CAD-7 coming, we have been advised by WSIB that employers can contact them and request "Impact Statements". These statements will "show" how the changes will affect your company. Please call the WSIB Prevention Hotline at 1-800-663-6639 and request the information be sent directly to you.

CHARACTER AND INTEGRITY TRAINING

Is character and integrity seen as a core value in your organization? We offer specialized training which outlines the importance of integrity among both executive and workers within: the workplace, marriage, and finances, and steps to improve in these areas and what the benefit to your company can be.

PUBLIC TRAINING COURSES

The following is an example of a few of the training courses we offer. For a full list, please contact us or visit us on our web-site.

Fall Arrest Training

\$350.00 +GST per person

First Aid Training

\$95.00 +GST per person

October 26 & 27, 2005

WHMIS Training (1/2 day)

\$75.00 +GST per person

October 21, 2005

Forklift Training (1 day)

\$165.00 +GST per person

October 19, November 14, 2005

JHSC Certification Part 1 Training (2-day course)

\$349.00 +GST - 2-day Course

October 18-19, November 15-16, 2005

JHSC Certification Part 2 Training (length depends on industry)

\$275.00 +GST – 1 ½ days

\$375.00 +GST – 2 days

\$475.00 +GST – 2 ½ days

\$575.00 +GST – 3 days

October 25-27, November 22-24, 2005

All of our courses can be conducted on-site or at one of our public sessions.