



This newsletter is to inform you of recent changes & 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.

could this happen AT YOUR WORKPLACE?

Lafarge Canada Inc. Fined \$115,000 After Contract Worker Suffers Electrical Shock

BATH, ON - A contract worker received an electrical shock after coming into direct contact with 47,500 volts of electricity. The power supply to the device was not disconnected, locked out of service and tagged before any work was done, contrary to Ontario Regulation 851/90 (the Industrial Establishments Regulation) and the Occupational Health and Safety Act (OHSA).

A worker was assigned to clean insulators in the North ESP section and the power supply to the North ESPs had been de-energized, locked out of service and tagged; however, the power supply to the South ESP section had not.

To clean an insulator, the worker opened an access panel to a section of the ESP that happened to energize both the North and South sides. The worker received an electrical shock and fell to the ground. The worker was able to speak to other workers, was taken to hospital for treatment and released

Retrieved from: [Lafarge Canada Fined](#)

Toronto Crane Company Fined \$95,000 After Worker Fatality

TORONTO, ON - Toronto Crane Service Inc. was fined \$95,000 after pleading guilty to the offence of failing to ensure that the measures and procedures prescribed by section 46 of Ontario Regulation 851/the Industrial Establishments Regulation were carried out in the workplace, contrary to section 25(1)(c) of the Occupational Health and Safety Act (OHSA).

On June 22, 2016, a worker had been assigned the task of cutting a tower crane into smaller sections, for disposal. The crane's jib consisted of two sections - a heel section and a jib section.

The worker made several cuts to the jib section, which disconnected the upper portion from the lower portion, then began to cut the jib section away from the heel section, making a last cut to the remaining structural member that connected the two sections. Once the jib section was no longer connected to the heel section, it lost stability, tipped over and fell on the worker, who suffered fatal injuries.

Retrieved from: [Crane Company Fined](#)



When the MOL has Given you a Ticket, Summons or Order

The Ministry of Labour's ("MOL") Enforcement division is responsible for enforcing the Occupational Health and Safety Act (the "OHSA") and its regulations. The MOL can visit an employer's workplace at any time, and has extensive authority to investigate a workplace without any reasonable cause or justification. Most notably, a MOL Inspector has the power to enter and investigate a workplace, including confiscating an employer's property, without a search warrant or prior notice.

The OHSA provides MOL inspectors with a number of enforcement tools, one of which is the authority to issue a ticket against a workplace party that is found to have contravened the OHSA. Tickets tend to designate low dollar value fines, which are referred to in Ontario Regulation 851 (Industrial Establishments Regulation), under the OHSA, and specified under the Schedules to the Provincial Offences Act. A detailed list of fines as they relate to the various sections of the OHSA can be found on the Ontario Courts website under the OHSA section:

<http://www.ontariocourts.ca/ocj/how-do-i/set-fines/set-fines-i/>

Currently, the maximum fine resulting from a ticket is \$1,000, although most fines do not exceed \$300. By contrast, a successful prosecution (also referred to as a "summons") may result in more severe penalties: individuals may be subject to a maximum fine of \$50,000 per offence, or imprisonment, while corporations may be fined up to \$500,000 per offence.

In accordance with Ontario's Provincial Offences Act, the MOL also has the authority to refer any charge against an employer to the Provincial Crown, which can issue a Court summons for any type of OHSA violation. The Crown has the option to initiate a prosecution for certain violations, which can result in significant monetary fines, and the imprisonment of an individual employee or stakeholder in a defendant corporation. The following are common strategies for responding to, or dealing with, tickets and Orders issued by an MOL Inspector, along with possible responses to a summons issued by the Crown in regard to a charge laid by the MOL.

PAY THE FINE / TICKET

For most tickets, with fines of less than \$300, it may be more cost effective to pay the ticket as opposed to disputing same. However, employers should note that Inspectors and decision makers (such as Courts, the MOL and the OLRB) will consider an employer's "health and safety record" when making decisions with respect to subsequent cases, fines and Compliance Orders. Courts and administrative decision makers reward employers for maintaining safe and functional workplaces, thus maintaining a clean health and safety record, while penalizing those employers whose health and safety record shows numerous previous tickets and violations.

Employers and individuals should note that, in addition to the fine set by the MOL, they will have to pay administrative Provincial Court fees, as well as a "victim fine surcharge". The "victim fine surcharge" amount varies for fines below \$1000, ranging from \$10 - \$125. For fines over \$1000, the victim fine surcharge amounts to 25% of the value of the fine.



Employers should note that in addition to designating a monetary fine, MOL tickets will typically require an employer or an individual to follow up with an Inspector to confirm that they are in substantial compliance with the OHS. Employers and individuals must discharge their obligations pursuant to the ticket and confirm this with the MOL Inspector who issued the Order to avoid further charges.

COMPLYING WITH AN MOL INSPECTOR'S ORDER

In circumstances where a party has been issued an Order by an MOL Inspector, the Order will typically specify a time frame within which the party must comply with the OHS. Compliance Orders may also be "time unknown" in that they do not specify an amount of time within which a party must comply with the OHS. This type of Order will result in a "stop work" or "plan". The MOL Inspector will engage the party and notify the time requirements for compliance with these types of orders on a case-by-case, or issue-by-issue basis.

Alternatively, the MOL Inspector may issue an Order that must be satisfied "forthwith", meaning that the Order must be complied with immediately.

Along with any Orders, the Inspector will also provide a Notice of Compliance form. This form is to be completed and signed by the employer and health and safety representative or a joint health & safety committee member. The worker representative must check a box beside the order to indicate agreement or disagreement that compliance has been achieved for the Order(s).

An employer will also be provided with a "Field Visit Report" by the MOL Inspector. Once the Notice of Compliance form has been sent to the Inspector, a copy of the Field Visit Report must be posted in the workplace and a copy must be provided to the worker representative and the joint health and safety committee.

An MOL Inspector will typically conduct a follow-up visit after the issuance of the Field Visit Report, in order to verify that the affected parties are in compliance with the OHS.

APPEALING AN MOL INSPECTOR'S ORDER

Alternatively, if an employer, constructor, licensee, owner, worker or union who is issued an Order by an MOL Inspector disagrees with the Order, the aggrieved party can appeal the Order to the Ontario Labour Relations Board ("OLRB") within thirty (30) days of the Order being issued. The party appealing the Order can also ask the OLRB to suspend the Order until the appeal has been decided.

Depending upon the complexity of the issue(s) under review, appealing an order at the OLRB can require between one (1) and several days of hearing. Furthermore, unlike a civil Court appeal, the OLRB cannot issue costs in favour of the winning party. So, even if a party is successful upon appeal to the OLRB, they would still be responsible for absorbing their legal costs.

In rendering a decision, the OLRB has all the powers of an Inspector & has the ability to uphold the Order of the Inspector, rescind it or issue a new Order with an increased fine. The MOL's website indicates that a decision of the OLRB in respect of a MOL Inspector's Order is "final". However, the Judicial Review Procedure Act permits a party to appeal a decision of the OLRB to the Divisional Court. The Divisional Court does not conduct a new hearing, nor does the Court conduct an appeal in the traditional sense; rather, it reviews the Board's decision to determine if it was "reasonable" (or "correct", in limited circumstances).

It appears that the Divisional Court has yet to overturn a decision of the OLRB, clearly indicating that the Court defers to the judgment of the OLRB regarding matters under its jurisdiction.

NEGOTIATING WITH THE CROWN IN RESPONSE TO A COURT SUMMONS

If the MOL wishes to initiate a prosecution against an individual or an organization, the Crown will issue a Court summons to the party in question, which will refer to a fine or penalty for the OHS contravention in question.

If the defendant employer, or individual, does not wish to defend the claim but wishes to negotiate a plea bargain with the Crown, it is welcome to attempt to do so. The party should keep in mind that even if the Crown endorses a lower sentence, a Justice of the Peace in the Provincial Court is authorized to vary the sentence (lower or higher) based on the principles of sentencing and proportionality.

Further, if a defendant enters into a plea bargain, it is typically provided with a time frame within which to pay the fine in question. These "payment plans" vary on a case-by-case basis and can extend for several years to provide a litigant with enough time to pay a significant fine.

Finally, in addition to any monetary fine, the defendant would be responsible for paying any Provincial Court administrative fees as well as the applicable victim fine surcharge.

DEFENDING THE SUMMONS IN PROVINCIAL COURT

In the event that a party wishes to defend itself against a charge under the OHS, the defendant will have to argue its case in Provincial Court before a Justice of the Peace. Leaving aside defences that are based on evidentiary matters, procedural issues or disclosure, a defendant employer's strongest legal defence against a charge by the MOL is that it has exercised "due diligence" (i.e. taken every precaution reasonable in the circumstances) to avoid any risk to the employee, its workforce and/or the public.

If the Provincial Court renders a finding of guilt, an employer can appeal the decision of the Provincial Court to the Ontario Court of Appeal. It is important to keep in mind that the Court of Appeal has the ability to substitute a higher fine or penalty than the one specified in the Provincial Court's decision. Furthermore, appeals at this level tend to involve very significant fines or penalties (or multiple charges) and can attract negative publicity for a defendant employer.

KEY TAKEAWAYS FOR EMPLOYERS

While acknowledging that a "spot audit" or "blitz inspection" by the MOL can cause a lot of stress among employers and workers, it is important that all affected individuals cooperate with the MOL and its Inspectors at all times. At no point in time should an employer or any employee obstruct, impede, or be non-cooperative with an Inspector or other representatives of the MOL. Doing so could result in an employer and/or its employee(s) being charged with obstructing an Inspector under section 62(1) of the OHS.

An employer should always take steps to create a safe work environment for its staff members. An employer is best advised to dedicate necessary resources to determine the cause of the ticket, Order or summons, and rectify the situation immediately. The OLRB, Provincial Court and Court of Appeal will be far more likely to entertain an argument that the fine(s) or penalty(ies) initially sought should be lowered if they are presented with evidence of a defendant's remedial efforts at complying with the OHS.

Finally, employers should be cognizant of the significance of fines (including non-monetary penalties), Compliance Orders and summons issued by the MOL, and the strict time frames involved with respect to defending claims, complying with Orders and filing appeals. Failure to adhere to these time frames can result in a "default" finding against an employer, which, in extreme cases, can result in hefty monetary fines and/or imprisonment.

Retrieved from: <https://www.osg.ca/be-safe-news-september-2017/#COMPLIANT>

RTS Consulting can assist your company with its monthly inspections, accident investigation and reporting with our GPS Program. The GPS Program will keep your company from getting off track and minimize the risk of injuries in your workplace

Disaster & Emergency MANAGEMENT

How to Prepare an Emergency Response Plan for Your Small Business

BASIC GUIDELINES

Follow these basic guidelines to develop an effective emergency response plan for your workplace:

- Determine the conditions under which an evacuation would be necessary.
- Designate primary and secondary evacuation routes and emergency exits. Make sure they are clearly marked and well lit. Post signs. Install emergency lighting in case a power outage occurs during an evacuation.
- Ensure that evacuation routes and emergency exits are:
 - » Wide enough to accommodate the number of evacuating people
 - » Clear and unobstructed at all times
 - » Unlikely to expose evacuating people to additional hazards
- Coordinate your plan with the local emergency management office.
- Designate "evacuation wardens" who will help others during an evacuation and account for employees.
- Establish specific evacuation procedures. This bulletin includes a sample emergency response plan to give you a better idea what your procedures should include.
- Establish a system for accounting for evacuated employees.
 - » Hold emergency drills at least once a year to ensure that employees know what to do in an emergency and to test the effectiveness of emergency exit routes and procedures. Keep records of such drills.
 - » Consider the transportation needs of employees.
 - » Post evacuation procedures where employees can read them.
 - » Establish procedures for assisting people with disabilities & people who do not speak English.
 - » Consider how you would access important personal information about employees in an emergency (for example, contact numbers for their home, next-of-kin, and medical care). You could store emergency contact information for employees in sealed envelopes or on CD-ROMs.
 - » Assembly areas and accountability
 - » Following a site evacuation, you should gather employees & other evacuees at a designated assembly area & account for each person to make sure everyone has been evacuated safely.
 - » Accounting for evacuees takes planning and practice. Follow these guidelines:
 - » Designate assembly areas where people should gather after evacuating.
 - » Establish a head-count system for employees at the assembly area. The emergency operations coordinator should receive a list of the names and last-known locations of missing employees as soon as possible after arriving at the assembly area.
 - » Establish a method of accounting for nonemployees such as suppliers and customers.
 - » Establish procedures for further evacuation in case the incident expands. This may consist of sending employees home by normal means or providing them with transportation to an off-site location.
 - » Identify shelter space in your facility and the surrounding community.
 - » Establish procedures for sending evacuees to shelter.
 - » Develop a list of necessary emergency supplies such as water, food, & medical supplies.
 - » Coordinate plans with local authorities

EDUCATION & TRAINING

- Educate your employees about the types of emergencies that may occur, and train them in the proper course of action for emergency situations. Make sure they understand:
 - » The components of your emergency response plan
 - » Who will be in charge during an emergency
 - » What should employee training include? Emergency response training for your employees should address the following:
 - Individual roles and responsibilities
 - Potential threats, hazards, and protective actions
 - Notification, warning, and communications procedures
 - How to locate family members in an emergency
 - Emergency response procedures
 - Evacuation, shelter, and accountability procedures
 - Location and use of common emergency equipment

WHAT EMERGENCY INFORMATION IS NECESSARY?

- Provide employees with information such as checklists & evacuation maps.
- Post evacuation maps in strategic locations.
- Consider the information needs of customers & others who visit your store.

HOW OFTEN SHOULD TRAINING TAKE PLACE?

- You should conduct training sessions at least once a year, or whenever you:
 - Hire new employees
 - Designate evacuation wardens or others with special assignments
 - Introduce new equipment, materials, or processes
 - Find, through exercises, that employee performance needs to be improved

FIRST AID

- After a disaster or emergency situation, emergency services (fire, police, and medical) may be disrupted or unavailable for some time. It may be necessary to provide immediate care for an injured person if medical professionals cannot be reached. It is important to have a complete first aid kit and first aid training.

EMPLOYEE SUPPORT

- Employees are your most valuable asset. Providing support for them after an emergency will help them, which will in turn help your business continue to run as smoothly as possible. The range of services that you might provide or arrange for employees includes:
 - » Crisis counselling
 - » Reduced or flexible work hours
 - » Cash advances
 - » Salary continuation
 - » Care packages
 - » Daycare

Manage Your Entire Workplace's SAFETY PROGRAM

- » RTS Consulting can put your organization on the road to success with our Guardian Protection System by identifying, assessing and controlling risks to your workers.
- » We have partnered with hundreds of organizations over the last 20+ years and have identified the key elements which every organization must maintain to stay on the path to zero accidents.
- » Our Guardian Protection System (GPS) will direct you to your destination. You will always know where you are and we will ensure you are on the most cost efficient and direct route to zero accidents and improved health and safety.
- » We will identify your hazards, provide you with safe operating policies & procedures, workplace specific training.
- » We will assist you with your monthly inspections, accident investigation and reporting. GPS will keep you from getting off track and minimize the risk of injuries in your workplace.
- » We will monitor your progress towards your destination and ensure your goals are communicated to your employees.
- » We have the map to direct you. Not only that but with our Guardian Prevention System (GPS) we will constantly know where you are in relationship to where you are going to ensure the most efficient route. The ultimate GPS to reach your destination.

Benefits of the GUARDIAN PROTECTION SYSTEM

- » Save dollars.
- » Reduced customer and employee injuries.
- » Reduced employee absenteeism.
- » Reduced training costs.
- » Establish & maintain 'Due Diligence'.
- » Assured Provincial and Federal legislation compliance.
- » Decrease employee turnover.
- » Increase employee morale RTS will provide you with a customized and comprehensive online health & safety program that is guaranteed to benefit your workplace environment.

GUARDIAN PROTECTION SYSTEM

RTS Consulting Inc. will provide you with a customized and comprehensive online health & safety program that is guaranteed to benefit your workplace environment.



2017 Course Calendar

new RTSC is an approved MOL provider for JHSC Part 1 & 2 – Training Dates below!

Joint Health and Safety Committee (Basic) Training

The Occupational Health and Safety Act requires an employer to establish a Joint Health and Safety Committee (JHSC) at a workplace with 20 or more workers. If you are required to have a JHSC, you are also required, by law, to have at least two "certified members": one representing workers and the other management.

RTS offers a 3 day JHSC Certification Part 1 course, which has been approved by MOL & provides participants with the basic knowledge and skills necessary to become certified JHSC members.

Cost: Public (3 days) \$450 + HST (Lunch & materials included)

Location: Brampton

Schedule: Nov. 27-29, 2017

2018 Dates: Jan 16-18 | Mar 13-15 | May 1-3 | June 5-7 | Aug 7-9 | Sept 11-13 | Nov 6-8

Joint Health and Safety Committee (Part 2) Training

This course has been designed to provide participants with an understanding of the hazards commonly found in offices, restaurants, hotel, retail, warehouse/distribution, manufacturing, healthcare, and construction workplaces.

Cost: Public (2 days) \$350.00 + HST

Location: Brampton

Schedule: Nov. 30- Dec. 1, 2017

2018 Dates: Jan 30-31 | Mar 27-28 | May 22-23 | June 19-20 | Aug 21-22 | Sept 26-27 | Nov 20-21

CRSP Examination Preparation Workshop

The objective of the RTS Consulting CRSP Examination Preparation Workshop is to cover the exam Competency Categories to help you determine which areas of the exam require more in-depth study or attention. Our instructors are experienced and have developed tools and methods to assist you in identifying areas of opportunities to assist you in meeting your goal of passing the exam. Stanford Brown has attained not only the CRSP designation but the internationally recognized Certified Safety Professional (CSP) designation. Past clients have stated that "His in-depth understanding, practical examples and memory aids used are exemplary." His advanced understanding of the Competent Categories of the exam will ensure you are adequately prepared to study for the exam.

Cost: Public (2 days) \$600 + HST (lunch & materials included)

Globally Harmonized System (GHS) Training (New WHMIS)

The mandatory GHS training must include information to help employees understand how to read new GHS chemical labels (including pictograms) and what chemical safety information is included on new chemical safety data sheets (SDS). Training must be in a format that employees can easily understand, and employers must document their training efforts to demonstrate proof of compliance if inspected.

Who Needs It

Any business that uses or stores hazardous chemicals must comply with the GHS training requirement. Most work environments (doctor's offices, dental offices, restaurants, manufacturing, construction, auto repair shops, etc) have at least one chemical present that may be covered by MOL's standard. Common chemicals include paints, oils, inks, fuels, industrial-strength cleaning supplies, medicines, etc.

Cost: Public (1 hour) \$40 + HST

Supervisor Health and Safety Awareness Training - 4hr training

When a person is hired or promoted to the position of a supervisor, it usually means a pay raise. But it also means more responsibilities, including legal responsibilities relating to the health and safety of the workers under your supervision. As a supervisor, you are a crucial part of your workplace's Internal Responsibility System. This is a very important concept for workplace health and safety and you will learn more about this throughout this one day of training. This training will focus on:

- How the Occupational Health and Safety Act works
- Rights and responsibilities of workers and supervisors under the OHSA
- Roles of workplaces parties, health & safety representatives, & joint health & safety committees
- Roles of the Ministry of Labour and Workplace Safety and Insurance Board
- Recognition, assessment, control and evaluation of hazards and getting the help you need

Cost: Public \$125 + HST

Worker Health and Safety Awareness Training- 4hr training

Everyone in the workplace, from the employer to the newest worker, has different but important duties to keep the workplace safe. This one day of training will explain your rights and responsibilities on the job, and help you understand so that you can be safe at work every day.

This training will focus on:

WEB-BASED training

Raise the safety, health, and productivity of your employees to the top of your agenda and provide training solutions that deliver real results. We provide web-based training programs for the convenience of your organization. Please visit our web-site to register.



Hand Tools and Automotive Lifts

Identify the Hazards and Controls Regarding: Hand Tools, Hoists, Fixed, Power, Electrical and Pneumatic Tools, Guarding, Power Lifting Equipment, Automotive Lifts.

Joint Health and Safety Committee

Participants will be able to: know the legislative requirements for establishing a JHSC, describe the powers, functions and duties of JHSCs and their members, describe the activities of an effective JHSC, etc.

Machine Safety and Lockout / Tagout Procedure

Learn about Workplace Responsibilities, Machine Guarding and the Law, Understanding Machine Related Hazards Lockout / Tagout, Applicable Legislation, Hazard Identification, Lockout Procedures.

Health, Safety and The Law

Provide participants with a working knowledge of the Occupational Health and Safety Act and related legislation and more.

Manager and Supervisor Safety Orientation

Learn about Management Responsibilities, Right to Refuse, JHSC, Hazard Recognition, Workplace Accidents, Emergency Procedures, New Employee Orientation, Transfer and Promotion, etc.

Material Handling

This course is designed to teach workers about proper material handling techniques. Upon completion of this course, workers should be able to: describe what factors contribute to back injuries, explain proper lifting techniques, etc.

Accident Investigation

The goal of this module is to ensure you will be able to: recognize the need for an investigation, investigate the scene of the accident, interview victims & witnesses, determine root causes, compile data and prepare reports, make recommendations, etc.

Health Hazards: Recognition, Assessment and Control

The goal of this module is to ensure you will be able to: understand the law pertaining to health and safety hazards, define occupational injury and illness, understand the four types of workplace health hazards, etc.

Workplace Inspection

Provide participants with an understanding of their legal rights and responsibilities with regard to workplace inspections and to prepare them for carrying out effective workplace inspections.

Slips, Trips and Falls

Objective of this training is to: understand the causes and effects of falls in the workplace, to understand legislation relating to slip, trip and fall hazards, to be able to identify potential slip, trip and fall hazards, etc.

WHMIS

Explain how WHMIS is implemented in law, explain how the law defines a controlled product, explain how the law defines hazardous ingredients, identify the exclusions, etc. Register to access the complete training material.

Worker Safety Orientation

Worker Responsibilities, Right to Refuse, Joint Health and Safety Committee, Hazard Recognition, First Aid, Workplace Accidents and more.

- How the Occupational Health and Safety Act works
- Rights and responsibilities of workers and supervisors under the OHSA
- Common workplace hazards and protecting you from hazards
- How you can get involved in safety
- The right to refuse unsafe work and getting the help you need

Cost: \$125 + HST

Worker/Supervisor Health & Safety Awareness Train the Trainer- 8hr training

Do you have a large number of employees/employees in multiple locations? Let us train some of your employees as trainers so they can go back to their various workplaces and do the training for your company.

Cost: \$250 + HST

RTS Consulting Inc. can also conduct this training at your workplace for all your staff. Please contact us for more information.