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March 2014

Mandatory Health & Safety Training

The deadline for Ontario's new Occupational Health and Safety Awareness and Training Regulation is fast approaching and causing some confusion with ORFA members. What is expected? Starting July 1, 2014 all Ontario businesses covered by the Occupational Health and Safety Act are required to have provided basic health and safety awareness training to all workers and supervisors. After July 1, 2014, the training must be taken as soon as practicable. For supervisors, training must be taken within one week of performing supervisory duties. Everyone defined as a "worker" and "supervisor" under the Act must receive training, or provide proof of training taken previously that meets the new content requirements. The content of the training must include at minimum:

- The duties and rights of workers under the [Occupational Health and Safety Act](#) (OHSA)
- The duties of employers and supervisors under the OHSA
- The roles of health and safety representatives and joint health and safety committees under the OHSA
- The roles of the Ministry of Labour (MOL), the Workplace Safety and Insurance Board (WSIB) and health and safety system partners (entities designed under section 22.5 of the OHSA)
- Common workplace hazards
- The requirements set out in Regulation 860 (Workplace

Hazardous Materials Information System) with respect to information and instruction on controlled products

- Occupational illness, including latency

Employers **must** keep records of training completion.

But is this really a new obligation?

No! What is new is the word ***mandatory***. The requirement to ensure that all workers have a clear comprehension of health and safety obligations has been in place since the Occupational Health and Safety Act (OHSA) was passed in 1978 providing workers with the right to know and the right to participate.

History of Ontario Health & Safety

- ✚ *Ontario Factory Act 1884*
- ✚ *Industrial Safety Act 1964*
- ✚ *Ham Royal Commission introduced the Internal Responsibility System in 1976*
- ✚ *Occupational Health & Safety Act passed in 1978*

What is changing is governments focus toward improved workplace health and safety based on the findings of the Tony Dean Report released December 10, 2010. Refer to:

http://www.labour.gov.on.ca/english/hs/pdf/eap_report.pdf

Taking the time to read the Dean Report one may note that the true focus of the requirement appears to be toward “small business” who may not always understand or feel they do not have the time or resources to meet the obligations of the Act. This may also be a similar reflection by smaller communities who operate recreation facilities.

What is important to note is the clear statement of the Ministry of Labour: *“the mandatory occupational health and safety awareness training provides a **basic** understanding of the OHSA, and does not replace any sector specific, hazard specific, or competency specific training.”*

So What Does This Mean?

The mandatory training might be compared to the novel, *Alice’s Adventures in Wonderland* (commonly shortened to *Alice in Wonderland*) and the start of the “Rabbit Hole”. Like Alice, who fell down a rabbit hole to discover a world populated by peculiar and anthropomorphic creatures; the mandatory training is expected to begin a journey for those working in, or in control of recreation facilities, toward the discovery of the diverse legislative obligations of worker health and safety in our industry.

Understanding Basic Workplace Training Obligations

First, there is no requirement to outsource worker health and safety training. The MOL offers both mandatory training sessions on line at no cost. Employers may also choose to design their own training program which

in fact enhances the Internal Responsibility System recommended by the Ham Commission. Once the initial awareness training has been completed then it must be enhanced with a workplace specific training program. What this means must be defined internally. The next question is who is qualified to make this definition? It can be singular, meaning that supervisory staff may design the program, however, involving the Joint Health and Safety Committee (JHSC) may be a more positive approach. Once created, it then must be provided to new hires and repeated annually or as required.

The ORFA Sets Industry Standard for Sector Specific Health and Safety Training

Through ORFA’s 4-day Legal Awareness course, the ORFA has been providing comprehensive training in recreation facility legislative obligations for more than 25-years. The training has undergone several transitions over the years, but has always stayed close to the core message of the need for recreation practitioners to understand the OHSA as the foundation toward competency and; then to search out which of the other 40 plus pieces of legislation and 100 plus Codes and Regulations that may control or influence operations. The ORFA has actively monitored the rollout of the Dean Report and has positioned itself to ensure the best service to members. A partnership with Public Services Health and Safety Association (PSHSA) has resulted in a realignment of the ORFA’s Legal Awareness course. This redesign has the course offered in two portions:

1. **Legal Awareness I:** Health and Safety for Recreation Supervisors and Managers – this 2-day training course uses the PSHSA’s core H&S training program that has been enhanced specifically for those who work in recreation
2. **Legal Awareness II:** Managing in a Recreation Environment – which is a two day course that focuses on the understanding of other administrative legislative obligations and risk reduction strategies. This course is also redesigned in partnership with the Frank Cowan Company as a leader in municipal risk assessment and reduction.

The ORFA recognizes the necessity for today’s recreation professional to clearly understand the importance of developing a strong workplace health and safety culture; and further, what is at stake should non-compliance or breaches that results in worker injury.

Effective January 1, 2016 the ORFA Legal Awareness I course becomes a mandatory component of all Association professional designations.

Conclusion

The MOL deadline for mandatory training should in fact be a gentle reminder to all ORFA members of their need for pro-active diligence in this regard; or possibly just simply a wake-up call. Workplaces can meet the requirement by designing, maintaining and delivering their own internal training programs. If this is the approach, then ORFA encourages members to use the identified topics and learning objectives found in the

Professional Development Events Guide <http://www.orfa.com/apdp2014/pd> as the template for in-house training or when selecting training providers to help ensure you are meeting sector specific training.

As always, please feel free to contact the ORFA at info@orfa.com or 800.661.6732 to discuss how we might be able to assist you in meeting your own internal training needs.

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A Guide to

OHSA Requirements for Basic Awareness Training

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About This Guide

This guide explains the requirements for mandatory basic occupational health and safety awareness training for all workers and supervisors in Ontario. It describes the workplace parties' rights and responsibilities. It answers, in plain language, the questions most commonly asked about these requirements.

The requirements are enforceable as of July 1, 2014. They are covered in the Occupational Health and Safety Awareness and Training Regulation (O. Reg. 297/13) under the *Occupational Health and Safety Act* (OHSA).

For more information, please:

- visit the Ministry of Labour website
- call the Ministry's toll-free health and safety information line at 1-877-202-0008 between 8:30 a.m. and 5 p.m. Monday-Friday for general inquiries about workplace health and safety
- see A Guide to the Occupational Health and Safety Act
- download and print Ontario law on [e-Laws](#).
- seek legal advice

Note: This document does not constitute legal advice. To determine your rights and obligations under the Occupational Health and Safety Act and its regulations, please contact your legal counsel or refer to the legislation at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o01_e.htm

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Background

In 2010, the Minister of Labour appointed an Expert Advisory Panel on Occupational Health and Safety, chaired by Tony Dean, to conduct a review of Ontario's occupational health and safety system. The Panel was asked to recommend structural, operational and policy improvements. Panel members included health and safety experts representing labour, employers and academics.

The establishment of mandatory requirements for basic occupational health and safety training programs for workers and supervisors fulfils two key recommendations of the Panel.

The regulatory requirements apply to all workplaces covered under the OHS Act, regardless of sector. All employers must ensure workers and supervisors complete, or have completed, an awareness training program that meets the regulatory requirements. This is mandatory whether they work on a construction project, in a retail store or factory, hospital or long-term care facility, mine or mining plant, or farming operation, etc.

These awareness training programs will increase workers' and supervisors' knowledge of basic rights and responsibilities under the OHS Act and heighten awareness of basic workplace health and safety issues. They will support the Internal Responsibility System (IRS), which is based on the principle that workplace parties themselves are in the best position to identify health and safety problems and develop solutions. Employers, supervisors and workers share in the responsibility for occupational health and safety – and their roles and responsibilities are an important component of these awareness training programs.

Basic awareness training also supports the health and safety of vulnerable workers – those who are considered to have “greater exposure than most workers to conditions hazardous to health or safety and who lack the power to alter those conditions”. This can include:

- young workers,
- recent immigrants
- older workers
- workers new to their jobs or in new firms

However, the awareness training does not, in any way, replace other specific workplace health and safety training required under the OSHA and its regulations.

Key Terms and Concepts

The OHSA defines a worker as a person who performs work or supplies services for monetary compensation. It does not include an inmate that participates in a work project or rehabilitation program in a correctional institution or similar institution or facility [OHSA Section 1].

“Supervisor” is defined in the OHSA to mean a person who has charge of a workplace or authority over a worker [OHSA Section 1].

Employers are required to appoint a competent person as a supervisor. Under the OHSA, a “competent person” is defined as a person who:

- a) is qualified because of knowledge, training and experience to organize the work and its performance
- b) is familiar with the OHSA and the regulations that apply to the work and
- c) has knowledge of any potential or actual danger to health and safety in the workplace.

The Ministry of Labour is developing resources to help workplaces determine who is a supervisor under the OHSA. These resources will soon be made available on the ministry’s website.

Do these requirements apply to self-employed persons?

No. OHSA Section 4 states that only certain requirements and regulations apply to self-employed persons. The requirements for self-employed persons do not include the general duty to carry out prescribed training programs for workers, supervisors and committee members [OHSA Section 26(1)]. Self-employed persons are also not required to comply with the specific requirements in O. Reg. 297/13.

Do these requirements apply to constructors?

Employers are responsible for ensuring an awareness training program is completed by every worker and supervisor. On a construction project, if a constructor meets the OHSA definition of an employer, then he/she would be responsible for ensuring workers and supervisors complete an awareness training program.

Ministry of Labour Awareness Training Programs

The Ministry of Labour has developed basic occupational health and safety awareness training programs for workers and supervisors. The MOL programs are available for free either as printable workbooks or online e-learning modules. The MOL programs can be used to comply with the awareness training requirements. The MOL workbooks are available in multiple languages through ServiceOntario or the ministry website. For more information, please see <http://www.labour.gov.on.ca/english/hs/training/index.php>

Do workplaces have to use the ministry programs to comply with the regulation?

No. Even though the ministry programs can be used by workplace parties to comply with the regulatory requirements, it is not mandatory to use them to comply with the regulation. Workplaces can develop their own training programs or use externally provided training, if the training meets the minimum content requirements set out in Ontario Regulation 297/13.

Worker Awareness Training Program

Program Requirements

Employers must ensure workers complete an awareness training program for workers as soon as practicable. [O. Reg. 297/13, Subsection 1(1)]. This includes all workers covered under the OHSA, regardless of what sector they work in or their employment status (full-time, part-time, seasonal, etc.).

The basic awareness training program for workers must include instruction on the:

- duties and rights of workers under OHSA
- duties of employers and supervisors under OHSA
- roles of health and safety representatives and Joint Health and Safety Committees (JHSCs) under OHSA
- roles of the Ministry of Labour, Workplace Safety and Insurance Board and entities under OHSA Section 22.5
- common workplace hazards
- requirements in Regulation 860 [Workplace Hazardous Materials Information System (WHMIS)] regarding information and instruction on controlled products and
- occupational illness, including latency. [O. Reg. 297/13, Subsection 1(3)]

Exemption

The requirement does not apply if:

- the worker has already completed a basic occupational health and safety awareness training program that covers the required content
- the worker provides the employer with proof of completion of that training and
- the employer verifies the previous training covered the required content set out in the regulation. [O. Reg. 297/13, Subsection 1(2)]

This exemption may continue to apply to future employers of the worker (if he or she changes jobs, for example). However, the worker would need to provide the future employer(s) with proof of the exemption and the future employer would need to verify the previous training met the regulatory requirements. [O. Reg.

297/13, Subsection 3(2)] For more information on how employers can verify the content of previous training, see page 11 of this guide.

When does this training need to be completed?

The regulation requires employers to ensure workers complete a basic awareness training program as soon as practicable. While this provides employers with some flexibility, these programs must be completed as soon as reasonably possible after a worker starts performing work for an employer. It is recommended the program be completed before a worker is exposed to workplace hazards.

What are “common workplace hazards”? Are they general hazards or workplace specific?

An awareness training program should provide workers with general information about workplace hazards. This includes what the hazards are and what protective action needs to take place if hazards are found in the workplace. This can include information about common workplace hazards such as:

- slipping, tripping or falling
- working near motorized vehicles
- using or working near machinery
- workplace violence
- repeating the same movements over and over, especially if you are in an awkward position or use a lot of force

In addition to general information about workplace hazards, an awareness training program could also include information about other workplace hazards, such as those common in a particular workplace or sector.

The awareness training program is meant to provide workers with basic, foundational information about hazards. There are other training requirements under the OHS Act and regulations that require more detailed training about specific hazards (WHMIS, confined spaces, etc.) or hazards in specific sectors (modular training for mining or logging, for example). Employers also have a general duty under the OHS Act to provide information, instruction and supervision to a worker to protect his or her health and safety (OHS Act Section 25(2)(a)).

What are “entities” under OHSa Section 22.5?

Entities under OHSa Section 22.5 include the Workers Health & Safety Centre, Occupational Health Clinics for Ontario Workers and four sector focussed health and safety associations (Workplace Safety North, Public Services Health and Safety Association, Workplace Safety and Prevention Services and Infrastructure Health and Safety Association). These entities are health and safety system partners of the Ministry. They provide a range of services to employers and workers and are funded by the Ministry.

Does the OHSa define “occupational illness”?

Yes. OHSa Section 1 defines “occupational illness” to mean “a condition that results from exposure in a workplace to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby and includes an occupational disease for which a worker is entitled to benefits under the *Workplace Safety and Insurance Act, 1997*.”

What is latency?

Latency refers to the concept that some occupational illnesses may not be immediately apparent or known. Rather, there may be a period of time between the initial exposure to a physical, chemical or biological agent and the appearance of the illness or disease. This latency period can be brief or lengthy. In some cases, an occupational illness may appear years or decades after an exposure.

Supervisor Awareness Training Program

Program Requirements

Employers must ensure supervisors complete an awareness training program for supervisors within one week of beginning work as a supervisor. [O. Reg. 297/13, Subsection 2(1)]

The awareness training program for supervisors must include instruction on the:

- duties and rights of workers under OHSA
- duties of employers and supervisors under OHSA
- roles of JHSCs and health and safety representatives under OHSA
- roles of the Ministry of Labour, Workplace Safety and Insurance Board and entities under OHSA Section 22.5
- how to recognize, assess and control workplace hazards, and evaluate those controls
- sources of information on occupational health and safety [O. Reg. 297/13, Subsection 2(3)]

Exemptions

A supervisor is exempt from taking a supervisor awareness training program if he or she:

- took a previous awareness training program for supervisors that covers the required content
- provides the employer with proof of completion of that training and
- the employer verifies the previous training covered the required content set out in the regulation. [O. Reg. 297/13, Subsection 2(2)]

This exemption may continue to apply to future employers of the supervisor if the above conditions are met. [O. Reg. 297/13, Subsection 3(2)]. For more information on how employers can verify the content of previous training, see page 11 of this guide.

The employer does not have to ensure a supervisor completes a worker awareness training program if the:

- supervisor was working for the employer as a supervisor prior to July 1, 2014 and

- the employer verifies the supervisor completed an awareness training program for supervisors that meets the requirements of subsection 2(3) prior to July 1, 2014 [O. Reg. 297/13, Subsection 3(1)]

Does someone who is working as a supervisor on a temporary or infrequent basis have to complete this training program? What about an owner of a small business who also directly supervises worker?

Unless an exemption applies, an awareness training program for supervisors must be completed within the time specified in the regulation by anyone who meets the definition of supervisor in the OHSA. This includes someone who works as a supervisor temporarily or infrequently (for example, when the manager or owner is away from the workplace), and owners who also supervise workers.

What are “sources of information on occupational health and safety”?

Sources of information may be found within or outside of a workplace. There are sources of information on occupational health and safety that are external to a workplace (such as from the Ministry of Labour, Workplace Safety and Insurance Board, health and safety system partners, etc.). (See Additional Resources on p. 16 of this guide for more information.)

There are other sources of information on occupational health and safety in a workplace, including:

- occupational health and safety policies, programs and procedures
- Material Safety Data Sheets (MSDS)
- operating and maintenance manuals for equipment
- recommendations from the joint health and safety committee or health and safety representative
- inspection and incident reports
- other supervisors, if any

In addition, information may be obtained as a result of other occupational health and safety training required under the OHSA, including certification training for JHSC members.

Do supervisors also have to complete the worker awareness training program?

A “supervisor” under the OHSA is also a “worker” as defined by the statute.

The regulation contains a limited exemption for supervisors who completed an awareness training program for supervisors before July 1, 2014 (see Exemptions above). In such a case, a supervisor would not have to complete an awareness training program for workers.

However, any supervisor not captured by this limited exemption will have to complete a program(s) that covers the content requirements of both the worker and supervisor basic occupational health and safety awareness training programs.

General Questions and Answers

Do employers have to hire training providers to deliver this training?

There is no requirement in the regulation for employers to hire external training providers to deliver awareness training programs. However, an employer may choose to do so.

Do employers have to develop their own awareness training programs?

No. Employers can choose to use the Ministry of Labour's workbooks or e-learning modules, which are available free of charge and in multiple languages. Employers can also use training from other sources, such as their existing occupational health and safety training and/or other programs, as long as the training meets the minimum content requirements set out in the regulation.

Can workplaces continue to use existing training programs? What if an employer's existing program is not called an "awareness training program"?

Employers have the flexibility to use existing occupational health and safety training and/or other programs, as long as those programs meet the minimum content requirements set out in the regulation. This is valid even if the existing program is called something other than an awareness training program (for example, an "orientation program").

What resources are available to ensure existing programs cover the topics required by the regulation?

The Ministry of Labour is developing self-assessment tools that can be used by workplaces to evaluate and compare their existing training programs with the minimum content required by the regulation. Copies of these resources will soon be made available on the ministry's website. . Once completed, the employer should keep the self-assessment tool on hand in the workplace because a Ministry of Labour inspector may request to review it.

Do employers have to provide other occupational health and safety training to workers and supervisors?

Basic awareness training for workers and supervisors raises general awareness about rights, responsibilities and where to get more information and help about occupational health and safety.

However, basic awareness training does not replace or diminish other OSHA training obligations. For example, employers have OSHA duties to provide information and instruction to workers about workplace-specific hazards, including duties to:

- provide information, instruction and supervision to a worker to protect the worker's health and safety [OSHA Section 25(2)(a)] and
- acquaint a worker or a person in authority over a worker with any hazard in the workplace and on the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent [OSHA Section 25(2)(d)]

Employers must also appoint a competent person as a supervisor [OSHA Section 25(2)(c)]. As explained above, a "competent" person is "qualified because of knowledge, training and experience to organize the work and its performance". Thus, a supervisor must have received training relevant to the position in order to be appointed.

As such, there are additional workplace- and hazard-specific training requirements set out in the OSHA and regulations that would need to be provided to supervisors in addition to the basic occupational health and safety awareness training.

Do workers or supervisors have to retake the awareness training program if they change employers?

No, the regulation does not require workers or supervisors to retake awareness training programs if they change employers. However, the worker or supervisor must provide a new employer with proof that training was previously completed, and the new employer must verify that the training covered the minimum content requirements set out in the regulation.

Although not required by the regulation, an employer may choose to have every new worker or supervisor complete an awareness

program, even if the worker or supervisor has already completed this training with a previous employer.

How can employers verify previous training taken by a worker or supervisor covered the minimum content set out in the regulation?

Employers are required to verify that previous training received by workers and supervisors covers the program information set out in the regulation [O. Reg. 297/13, subsections 1(2) and 2(2)]. This verification could occur in a number of ways:

- the worker or supervisor may have proof that he or she completed one of the Ministry of Labour’s awareness training programs as these programs are designed to provide training that complies with the regulation
- the worker or supervisor may provide information or documentation from a previous employer that would allow the new employer to assess the previous training (such as training materials) and/or
- an employer could ask a worker about the details of the training received (date, method of training, source of training) and to explain what he or she learned in the previously completed training program and question a new worker or supervisor to satisfy himself/herself that the previous training covered the required topics. (The Ministry of Labour is developing tools that can be used by employers during the verification process. These tools will soon be made available on the ministry’s website.)

Does the training have to be completed on “work time”?

For existing workers and supervisors who are employees, the employer will need to consider their obligations under the *Employment Standards Act, 2000* (ESA) and any collective agreement or other contract that may apply. Generally speaking, under the ESA, time spent by an existing employee in training that is required by the employer, or by law to continue in his or her employment, is counted as work time.

For more information, go to:

http://www.labour.gov.on.ca/english/es/tools/hours/what_counts.p hp

When hiring new employees, employers could require prior completion of the awareness training. Time spent in this kind of training before an employment relationship begins is not considered work time. A person (e.g., a student, applicant, etc.) could also choose to complete a training program such as by using the MOL workbooks or e-learning modules prior to obtaining a job with an employer.

Records

Employers must keep a record of the awareness training for workers and supervisors who work for that employer. A record of any worker or supervisor who is exempt from the training must also be maintained. [O. Reg. 297/13, Subsections 4(1) and (2)]

If a worker or supervisor completes an awareness training program, the employer must, on request, provide the worker or supervisor with written proof of completion of the training. [O. Reg. 297/13, Subsection 4(3)]

If a supervisor is exempt from taking an awareness training program for workers, the employer must, on request, provide that supervisor with written proof of the exemption. [O. Reg. 297/13, Subsection 4(4)]

If a worker or supervisor no longer performs work for an employer, but makes a request for written proof of completion or exemption within six months, the employer must provide the written proof. Of course, employers may voluntarily provide the information after the six-month period.. [O. Reg. 297/13, Subsection 4(5)]

What information should be included in a record of training?

The record should include information such as the name of the individual who completed the program, the date of completion and the name or a brief description of the training course or program. (A sample record of training that can be used by workplaces will soon be made available on the Ministry of Labour's website.)

Do employers need to submit records to the Ministry of Labour?

No, employers are not required to submit records of completion of training to the ministry, only to retain those records.

The ministry will not keep any records for awareness training programs. However, ministry inspectors may ask to review employers' records of awareness training during an inspection or investigation.

How long must a record of training be kept ?

No period of time is specified in the regulation. However, an employer must provide a worker or supervisor with written proof of completion or exemption, if a request is made within six months of the worker or supervisor no longer performing work for the employer. Therefore, an employer must keep the record of training for at least six months after a worker or supervisor stops working for him or her to be in a position to comply with this requirement.

Can I keep the records electronically or does it have to be a paper copy?

The regulation does not specifically prescribe the format in which the records need to be kept. The records may be kept in either paper or electronic form, as long as:

- the records can be shown to an inspector during a workplace inspection or investigation and
- provided to a worker or supervisor on request, as required in the regulation

Additional Ministry of Labour Resources

Guide to the Occupational Health and Safety Act

<http://www.labour.gov.on.ca/english/hs/pubs/ohsa/index.php>

Guide for Joint Health and Safety Committees and Health and Safety Representatives in the Workplace

<http://www.labour.gov.on.ca/english/hs/pubs/jhsc/index.php>

Workplace Hazardous Materials Information System (WHMIS): A Guide to the Legislation

<http://www.labour.gov.on.ca/english/hs/pubs/whmis/index.php>

Worker Health and Safety Awareness in 4 Steps (workbooks and e-learning modules)

<http://www.labour.gov.on.ca/english/hs/training/workers.php>

Supervisor Health and Safety Awareness in 5 Steps (workbooks and e-learning modules)

<http://www.labour.gov.on.ca/english/hs/training/supervisors.php>

Contacts

Ministry of Labour

<http://www.labour.gov.on.ca>

Ministry of Labour Health & Safety Contact Centre

Toll-free: 1-877-202-0008

TTY: 1-855-653-9260

Fax: 905-577-1316

Workplace Safety and Insurance Board (WSIB)

<http://www.wsib.on.ca>

Health and Safety Ontario

<http://www.healthandsafetyontario.ca>

Workplace Safety and Prevention Services (WSPS)

<http://www.healthandsafetyontario.ca/WSPS/Home.aspx>

Public Services Health and Safety Association (PSHSA)

<http://pshsa.ca/>

Workplace Safety North (WSN)

<http://www.workplacesafetynorth.ca/>

Infrastructure Health and Safety Association (IHSA)

<http://www.ihsa.ca/>

Workers Health and Safety Centre (WHSC)

<http://www.whsc.on.ca/Home>

Occupational Health Clinics for Ontario Workers (OHCOW)

<http://www.ohcow.on.ca/>

Canadian Centre for Occupational Health and Safety (CCOHS)

<http://www.ccohs.ca/>