CONSOLIDATING PROVINCIAL OHS LEGISLATION
AND/OR TRANSFERRING OHS PROGRAMS WITHIN BC

Issues Paper #8

submitted to the

ROYAL COMMISSION ON WORKERS COMPENSATION
IN BRITISH COLUMBIA

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September 8, 1997
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INTRODUCTION

In this paper we offer a three-part approach to identifying both the legislation that could be consolidated within a new OHSAct (or an amended WCAct) and the possible consequences of consolidating that legislation and transferring program responsibilities for that legislation to a new OHS agency (or the Board). After setting out our proposed model, by way of example we apply it to two types of legislation.

This test could be applied to the legislation that we identified in the List of Federal and Provincial OHS Legislation that applies within BC (August 14, 1997). For ease of reference, that list is reproduced in Appendix A of this paper.

MEANING OF “CONSOLIDATION OF REGULATORY JURISDICTIONS”

Term 2.2 of the Commission's Terms of Reference directs the Commission:¹

[T]o examine the current statutory framework to ensure that appropriate legislation protects and promotes workplace health and safety including

(a) the need for a new health and safety statute, and

(b) the consolidation of regulatory jurisdictions.

perspectives. On the one hand, it would involve a technical analysis of the legislative advantages and disadvantages of consolidating all the legislation which protects and promotes workplace health and safety in BC (a “technical consolidation” analysis).

On the other, that directive would also involve an assessment of the various agencies which administer that different legislation to ascertain if they or their programs should be consolidated (a “program transferability” analysis). Thus far and by necessity, the Commission’s review of workplace injury and illness prevention programs has focused almost exclusively on the programs of the Workers’ Compensation Board of BC (the “Board”). The Commission’s program analysis has not extended to other agencies or government departments which administer legislation that can have an impact on workplace health and safety.

The technical consolidation analysis and the program transferability analysis involve two different approaches. In brief, the technical consolidation analysis focuses on the legislative drafting and related problems that are likely to arise if certain legislation is to be severed from its existing framework and moved to or consolidated under another. The program transferability analysis considers whether it would be administratively appropriate, effective, etc. to move the staff and resources of one agency to another.

¹ We have previously described this as term 2.2, because the second term in the Commission's Terms of Reference contains two separate and distinct elements. The first element ("term 2.1") is to examine the way OHS regulations have been developed under the WCAct; it focuses on process as opposed to content issues. The second element ("term 2.2") involves a broader examination of the content and appropriateness of all OHS legislation in BC.
We observe that it is possible to effect a technical consolidation of legislation without also transferring the staff (and resources) who administer that legislation to another agency. Conversely, it is also possible to transfer staff and resources without undertaking any significant change or consolidation of legislation.

FOCUS OF THE TEST

As we discussed in issues paper #3, Jurisdiction for Occupational Health and Safety within British Columbia (August 15, 1997), the Alltrans decision established that the health and safety of workers at federal works and undertakes falls under the exclusive jurisdiction of the Parliament of Canada and, therefore, provincial OHS legislation does not apply to these “federal” workers. The current state of the law is such that constitutional amendment(s) would be required before any consolidation of federal OHS legislation within provincial OHS legislation could be contemplated. For this reason, we have focused the development of this test on the consolidation of provincial jurisdiction and not on the consolidation of federal legislation within BC’s legislation.

THE CONSOLIDATION/TRANSFERABILITY TEST

During the course of our research for the Commission, we have reviewed and studied various federal and provincial OHS-specific and dual purpose legislation. We did so to ascertain if that legislation could be consolidated within a new OHSAct (or an amended WCAct) and if its administration could also be transferred to a new OHS agency (or the Board). We have also read reports which have considered the impact of legislative consolidation and program transfers. Most useful was Advancing Safety, a 1994 report of a federal commission that considered the results of a major jurisdictional consolidation at the federal level in the area of public transportation safety.2

Our preliminary research led us to conclude that it would not be possible to complete an analysis of the dozens of provincial statutes and regulations that could be described as dual purpose within the timeframe give to the Commission, to say nothing of undertaking a program review of the various agencies which administer that legislation. In the alternative, we have developed the following model which we have called the consolidation-transferability test (or “C/T Test”). It is our belief that this test could be proposed by Commission in its report as a way to ensure an appropriate consolidation of jurisdictions for workplace health and safety throughout the BC government.

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**Application of this test**

The first part of the C/T Test applies to dual purpose legislation and not to OHS-specific legislation. This is because this part attempts to identify the OHS component of dual purpose legislation which could be transferred. By its nature, OHS-specific legislation already has a clear OHS component which could be transferred.

Part two applies to the identified OHS component of dual purpose legislation and to the OHS-specific legislation. The purpose of this part of the test is to ascertain whether these two types of legislation should be consolidated within the primary OHS legislation. As noted in the Introduction, this is a technical or legal analysis that focuses on the legislative and related consequences of a consolidation.

The third part of the test applies to both types of legislation, but it focuses on whether the staff and resources used to administer and enforce the severed OHS component or the OHS-specific legislation should be transferred from their existing agencies to a new OHS agency (or the Board). The analysis that would take place in this part would involve an in-depth review of the programs, policies, funding, etc. of the agency responsible for the administration and enforcement of the legislation to be consolidated.

**Definitions employed in this test**

For the purposes of all three parts of the C/T Test, we have defined the following terms:

- “dual purpose legislation” means legislation which contains an OHS component as well as a public safety, environmental protection or some other non-OHS component, and is not OHS-specific legislation;
- “OHS agency” means the agency that is responsible for administering and enforcing the primary OHS legislation - such agency may or may not be the Workers Compensation Board of BC;
- “OHS-specific legislation” means legislation which is exclusively OHS legislation and does not have a dual purpose;
- “original agency” means the agency that administers the dual purpose legislation or OHS-specific legislation;
- “primary OHS legislation” means a new OHSAct (or an amended WCAct) and the OHS regulations promulgated there under, and which are administered by the OHS agency.
Part One: Identifying the OHS Component

Determine if any portion of the dual purpose legislation impacts on the reduction or elimination of workplace injury or disease. Do so by asking questions such as the following:

- Does it define or use terms like “worker”, “employer”, “workplace”, “hazards” or similar words suggesting an OHS component?

- Does it include an objectives provision which suggests an OHS component?

- Does it have a provision which declares or defines the application of the legislation that includes (or could include) a workplace or workers? Or is there a provision which declares exemptions or limits on the application of the legislation that, in turn, suggests it applies to a workplace or to workers?

- Does it assign duties to workers, employers or others which, if met, would result in the reduction or elimination of workplace injury or disease directly or indirectly?

If the legislation in question is a statute, do any of the regulation-making authorities grant the Lt. Gov. in Council the power to make regulations which, by the wording of that power, could encompass the reduction or elimination of workplace injury or disease directly or indirectly?

If the responses to these questions point to there being an OHS component to this legislation such as to give it a dual purpose, describe the nature and the extent of that OHS component.

If the OHS component was legislatively severed (e.g. through amending legislation), would the provisions that were left behind be themselves meaningful legislation?

- If “yes”, that suggests this is truly dual purpose legislation and severance (see part two) would have to take place before the OHS component could be consolidated within the primary OHS legislation.

- If “no”, that suggests the original legislation is in fact OHS-specific and could be consolidated within the primary OHS legislation.

Part Two : Technical Consolidation of Legislation

In this part of the C/T Test, we have defined the following additional terms:

- “sever” means the legislative process whereby the OHS component of dual purpose legislation is removed from the dual purpose legislation;

- “consolidate” means the legislative process whereby the severed OHS component of dual purpose legislation or the OHS-specific legislation is brought within the primary OHS legislation.
3(a) Is it technically feasible or legislatively convenient to sever the OHS component (from the dual purpose legislation) and consolidate it within the primary OHS legislation

What legislative changes would have to be made to the primary OHS legislation to accommodate the severed OHS component to be consolidated?

For example, are the inspection and enforcement mechanisms of the primary OHS legislation similar to the inspection and enforcement provisions of dual purpose legislation?

If consolidation was to be done by regulation, what changes would have to be made to the primary OHS statute’s regulation-making authorities?

What legislative changes would have to be made to the dual purpose legislation to accommodate severance of the OHS component from that legislation?

If the consolidation is to be done by an amending statute, is there an opportunity to put that amendment on the Legislature’s agenda? If the consolidation is to be done by a regulation, when could the Cabinet consider that request?

3(b) Is it technically feasible or legislatively convenient to consolidate the OHS-specific legislation within the primary OHS legislation?

What legislative changes would have to be made to the primary OHS legislation to accommodate the OHS-specific legislation to be consolidated?

For example, are the inspection and enforcement mechanisms of the primary OHS legislation similar to the original inspection and enforcement provisions?

If consolidation was to be done by regulation, what changes would have to be made to the primary OHS statute’s regulation-making authorities?

If the consolidation is to be done by an amending statute, is there an opportunity to put that amendment on the Legislature’s agenda? If the consolidation is to be done by a regulation, when could the Cabinet consider that request?

Part Three: Transfer of Programs and Other Options

Government can simply transfer a program from an original agency to the OHS agency, and not also consolidate the corresponding legislation. For the purposes of this part of the test, we have assumed that, before government would decide to transfer programs, it would first have consolidated the legislation or at least decided that such legislative consolidation was feasible and appropriate.³

³ We note, however, that program transfer without legislative consolidation can have a similar effect to legislative consolidation without the requirement of approval by the Legislature. Nonetheless, it would still be necessary to ascertain if the program transfer would be in the public interest (see question 5).
On the other hand, it is possible that a government could decide to consolidate the legislation without also transferring program responsibilities from one agency to another. However, before that decision is made, we expect that it would be necessary to ascertain the potential consequences of a program transfer to determine if such a transfer would be warranted. Therefore, the questions posed in this part could be employed in that manner.

In this part, “transfer” means the administrative process of moving programs, staff (or FTEs), equipment or other assets from the original agency to the OHS agency.

4. Describe the original agency which administers or enforces the identified OHS component or the OHS-specific legislation before a transfer.

Is it a branch of a ministry? A separate crown corporation or board?

Where does it get its funding?

To whom does it report?

What type of staff have been hired to administer and enforce this legislation? What are their skill sets, etc.?

Does it administer or enforce any other legislation, in particular any legislation which is either OHS-specific or dual purpose?

Has the agency entered into jurisdictional or enforcement agreements with other agencies concerning either the OHS-specific or the OHS component of dual purpose legislation to be consolidated?

5. While a case may be made for a technical consolidation (see part two above), is it in the public interest to transfer the administration and enforcement of the affected legislation from the original agency to the OHS agency? Or should these functions stay where they are?

Would the transfer of those programs help to reduce or eliminate workplace injuries or diseases?

If you were to transfer the administration and enforcement of the OHS component or OHS-specific legislation to the OHS agency, would that transfer compromise the legislation or programs that were left behind at the original agency?

Would the program transfer compromise the objectives (stated or implied) of the OHS component or OHS-specific legislation itself?

Would the program transfer compromise the other legislation or programs of the OHS agency?

Would changes have to be made within government to accommodate or resolve any problems which might arise from the transfer?

For example, would it be necessary to upgrade the skills of the staff in one agency or the other?
Would there be an impact on the pay scales of the staff to be transferred or others?

Would there be strong resistance to the transfer amongst affected staff that could compromise the transfer?

Does the applicable public service union agreement have an impact on such a change?

Would the resulting program changes (if any) be more costly (in the short-term and long-term) than the benefits which might accrue from the transfer?

In order to fully answer these questions, it would be necessary to undertake an in-depth review of the programs, etc. of the original agency and the OHS agency to ensure that the transfer would be in the public interest.

Finally, the alternative of establishing jurisdictional or enforcement agreements needs to be considered. As noted above, such agreements can be a viable alternative to legislative consolidation and program transfer.

6. Whether or not it is not technically feasible or legislatively convenient to consolidate the severed OHS component of the OHS-specific legislation or the OHS-specific legislation within the primary OHS legislation, or it is too difficult or costly to transfer staff, resources and assets from one agency to another, is it a better alternative to both of these options to establish jurisdictional or enforcement agreements between the original agency and the OHS agency so as to improve the way the component or specific legislation relates to or supports the objective of the primary OHS legislation?

APPLICATION OF THE TEST
In this part, we apply the C/T Test to dual purpose legislation and an OHS-specific regulation which is not currently under the WCAct.

1) Application to dual purpose legislation - Elevating Devices Safety Act and Regulation
In this example, we will consider the Elevating Devices Safety Act\(^4\) (the “EDSAct”) and the Elevating Devices Safety Regulation\(^5\) (the “EDS Regulation”).

\(^5\) Elevating Devices Safety Regulation, B.C. Reg. 28/90
(a) Identifying the OHS component
While there is no objectives provision in the EDSAct, the purpose of this statute can be ascertained by a review of the Act itself. From that process, we can thus ascertain if there is an OHS component to this legislation.

The definition of an elevating device under section 1 of the EDSAct provides an indication of the scope of this legislation:

"elevating device" means any apparatus, mechanism or device installed or positioned, whether or not as part of a building, for the purpose of hoisting or lowering persons or goods, and includes any other apparatus, mechanism or device that is installed or positioned for the purpose of moving persons, materials or goods and that is prescribed to be an elevating device;

Section 2 sets out a series of situations when the Act and its regulations do not apply:

Scope of Act
2 The prohibitions and requirements of this Act and the regulations, and the powers conferred by this Act and the regulations do not apply in respect of any of the following:

(a) elevating devices that are regulated under an Act respecting mines;
(b) elevating devices in dwelling houses occupied or constructed to be occupied as a separate dwelling by one person or by a family unit;
(c) piling or stacking machines or vehicles used within one storey;
(d) cranes and hoists for lifting and lowering goods or materials and that are provided with unguided hooks or slings to which the goods or materials are attached;
(e) appliances that feed materials into or position materials at machine tools, printing presses, furnaces or other processing plants;
(f) freight conveyors of belt, bucket, scoop or roller type, and any similar type of material handling device;
(g) lifting devices that are part of a fully automatic conveyor or material handling system;
(h) freight ramps that have a means for adjusting the slope of the ramp;
(i) vehicle lubrication hoists;
(j) elevating devices that are installed in or adjacent to a barn and used exclusively for agricultural purposes;
(k) lifting devices that are mechanically loaded and unloaded and controlled by trained personnel only, and that are inaccessible to the general public and fenced in or guarded to prevent persons accidentally entering the hoistway;
(l) lift bridges;
(m) railway cars, lifts or dumpers;
(n) winches and jacks attached to or carried as part of the normal equipment or accessories of vehicles;
(o) swing stages and window washing equipment;
(p) elevating devices that the Lieutenant Governor in Council prescribes to be exempt from regulation by or under this Act, to the extent of the prescribed exemption.

The devices and situations described in clauses 2(c) to (o) would be commonly found at worksites, but they do not describe all possible elevating devices found at workplaces. For example, elevators that are temporarily attached to the outside of an office building while under construction are not included in this list of exemptions. We could find no order-in-council that stated that an elevating device had been exempted under clause 2(p).

The regulation-making authority of section 32(1) of the EDSAct allows the Lt. Gov. in Council to pass regulations covering the following matters (amongst others):

- concerning all facets of the construction, use and operation of elevating devices;
- establishing qualifications, training, etc. and licensing of contractors, operators or mechanics, including their duties and placing limits on their work;
- certification of elevating devices;
- governing the conduct of persons in or about elevating devices;
- concerning reporting of accidents involving elevating devices.

The EDS Regulation is a lengthy regulation that has been promulgated under the authority of section 32 of the EDSAct. This regulation covers a range of issues concerning elevating devices in general, as well as traditional elevators. It sets out in more detail than in the Act the requirements on matters such as certificates and licenses, inspections, testing, loading and maintenance of elevating devices. There are detailed provisions re: guarding, railing, openings, clearances, etc. and specific provisions re: electrical safety issues. Part 6 of the Regulation sets out requirements re: temporary elevating devices and personnel hoists, such as those commonly found on construction sites.

The EDS Regulation also adopts by reference the Canadian Standards Association (“CSA”) safety standards and one American National Standards' (“ANS”) code. Of particular note are those codes which clearly address workplace health and safety issues, such as:

- Safety Code for Manlifts, CSA code B311-M1979;
- Safety Code for Personnel Hoists, CAN/CSA Z185-M87;

Having reviewed the EDSAct and the EDS Regulation we have concluded that the purpose of this legislation is to ensure the safety of persons (and the security of property) being transported by elevating devices. This would include workers, be they riding in "public" elevators or in materials handling elevating devices that are commonly attached to the side of buildings under construction.
Elevating devices can be found in virtually every workplace where it is necessary to move persons, equipment, materials or goods from one level to another. Ensuring that these elevating devices are safe has an obvious and direct impact on reducing if not eliminating workplace injuries that might otherwise arise.

With the exception of mines, single-family homes and certain material handling equipment (listed in section 2), this legislative scheme appears to cover all elevating devices operating in the province. It would be possible to extract or duplicate those provisions that address the safety of temporary workplace elevators (for example) and leave behind a complete legislative package that would address the safety of permanent elevators and other elevating devices those outside the workplace.

(b) Technical consolidation of the legislation
For the purposes of this example, we have not exhaustively researched the questions we posed in the C/T Test. However, we have the follow general observations to offer at this time.

An extraction of those provisions that would address the safety of temporary elevators on construction sites (for example) would, in most instances, simply repeat many of the provisions within the EDSAct and EDS Regulation that apply to elevators outside the construction site. This repetition would, in turn, create unnecessary legislative duplication.

To repeat the same language (or substantially the same language) in two different pieces of legislation could be taken to imply that they mean something different in each statute. This could compromise the enforcement or prosecution of cases under either legislation.

If two separate pieces of legislation had to be updated in the future, this could result in significant departures in their legal requirements unless they were amended by the same instrument at the same time.

(c) Transfer of programs
It is not possible for us to fully address the questions which we proposed in the third part of the C/T Test, because that would require that we undertaken an in-depth program review of the Safety Engineers Services (Elevating Devices Safety) of the Ministry of Municipal Affairs. Such a review is beyond the scope of this paper. However, we would offer the following comments at this time.

While there may be specific and unique requirements within the EDSAct and EDS Regulation scheme that are designed to ensure the safe operation, etc. of elevating devices that are found only in worksites not commonly accessed by the public, it does not appear to be any particular benefit in extracting those requirements and transferring their administration to the OHS agency, because the necessary technical expertise in this field of endeavour will be held by the elevating devices inspectors and not (necessarily) with the officers of the OHS agency.
If the EDS inspectors were moved to the OHS agency, this may result in forced specialization. We expect (but have not confirmed) that the EDS inspectors are capable of inspecting any manner of different types of elevating devices and elevators. If they were transferred to work exclusively with worksite elevators and related elevating devices, we believe those inspectors would start to lose their generic skills and becoming experts in only one type of elevator.

Further, if the EDS inspectors were separated from their current colleagues, that could result in a deterioration in their skills and abilities, as they would likely have fewer opportunities to discuss issues and problems with their colleagues.

2) Application to an OHS-specific regulation - the Industrial Camps Health Regulations

The Industrial Camps Health Regulations⁶ (the “ICH Regulations”) were promulgated under the authority of the Health Act.⁷

(a) Identifying the OHS component

Part one of the C/T Test does not apply to the ICH Regulation because this regulation is clearly OHS-specific legislation. As stated in section 2 of the Regulation (our emphasis underlined):

**Application**

2. This regulation applies to lumber camps, mining camps, sawmills, railway construction camps, canneries and other similar places where labour is employed, but, except for section 27,⁸ does not apply to a camp

(a) occupied by less than 5 persons, or
(b) established to meet emergency conditions and occupied for a period of not more than 7 days.

In light of this provision, we can turn directly to parts two and three of the C/T Test.

(b) Technical consolidation of the legislation

Clause 10(a) requires an operator to report to the medical health officer (“MHO”) communicable diseases which arise at a camp. Section 28 states that the MHO or a public health inspector may inspect a camp to ensure compliance. Section 29 gives the MHO the power to close a camp if a health hazard is identified.

If the ICH Regulation was to be consolidated within the primary OHS legislation, the reporting requirement in clause 10(a) would not necessarily have to be amended as it relates to a public health purpose dealt with under the Health Act. Camp operators could

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⁶ Industrial Camps Health Regulations, B.C. Reg. 427/83
⁷ Health Act, R.S.B.C. 1996, c.179.
⁸ Section 27 of the ICH Regulation states: When a camp, including a camp occupied by less than 5 persons and a camp occupied for 7 days or less is to be abandoned, the operator shall leave the grounds and buildings in a clean and sanitary condition.”
retain the separate obligation to report communicable diseases to the MHO without compromising the other worker protection provisions.

On the other hand, sections 28 and 29 of the regulation (if not the primary OHS statute, itself) would probably have to be amended to give the officers under the primary OHS legislation the powers to inspect and possibly close an industrial camp if workers were being affected contrary to its provisions.

(c) Transfer of programs
It is not possible for us to address the issue of program transfer, because that would require an in-depth review of the public health agencies that are responsible for administering this regulation. Such a review is beyond the scope of this paper. However, we note that if the ICH Regulation was not to be consolidated, the OHS agency could enter into an agreement with the Ministry of Health to allow the agency’s officers to enforce all or part of the health regulation through a delegation mechanism. No such agreement has been established to date between the Board and the Ministry of Health.

CONCLUDING COMMENTS
In this paper we have proposed a three-part test that sets out a method to:
identify legislation that could be consolidated,
consider the technical merits of consolidating that legislation within a new OHSAct (or an amended WCAAct), and
assess the appropriateness of transferring program responsibilities for that legislation to a new OHS agency (or the Board).

We applied the first two parts of this test to an example of dual purpose legislation (elevating devices safety) and an example of OHS-specific legislation (industrial camp health). However, as the third part of this test involves a review of the programs administered by other agencies, we cannot do more than offer some general observations about the likely impact that a transfer of such programs may have.

In late August, the Commission sent a letter to each of the Ministers responsible for certain legislation that could be consolidated requesting that they provide the Commission with their views on the advantages and disadvantages of a consolidation of the OHS legislation they administer and a transfer of the applicable programs within their ministries to the Board or a new OHS agency. When the responses to those letters have been received, they should provide the Commission with further guidance on this issue generally, and perhaps an opportunity to refine this test specifically.
Appendix A

LIST OF FEDERAL AND PROVINCIAL OHS LEGISLATION THAT APPLIES WITHIN BC

PART ONE : FEDERAL LEGISLATION (MINISTRY OR AGENCY RESPONSIBLE)

(a) Primary OHS legislation

• Canada Labour Code, Part II, R.S.C. 1985, c.L-2 (Human Resources Development Canada)
  — Aviation Occupational Safety and Health Regulations, S.O.R. 87-182 (in conjunction with Transport Canada)
  — Canada Occupational Safety and Health Regulations, S.O.R. 86-304
  — Marine Occupational Safety and Health Regulation, S.O.R. 87-183 (in conjunction with the Canada Coast Guard)
  — Oil and Gas Occupational Safety and Health Regulations, S.O.R. 87-184
  — On Board Trains Occupational Safety and Health Regulations, S.O.R. 87-182 (in conjunction with Transport Canada)
  — Safety and Health Committees and Representatives Regulations, S.O.R. 86-305

(b) OHS related or dual purpose legislation

• Aeronautics Act, R.S.C. 1985, c.A-2 (Transport Canada)
  — Canadian Aviation Regulations, S.O.R. 96-433

  — Atomic Energy Control Regulations, C.R.C. 1978, c.365
  — Transport Packaging of Radioactive Materials Regulations, S.O.R. 83-740

• Canada Shipping Act, R.S.C. 1985, c.S-9 (Canada Coast Guard)
  — Boat and Fire Drill Regulations, C.R.C. 1978, c.1406
  — Dangerous Chemicals and Noxious Liquid Substances Regulations, S.O.R. 93-4
  — Large Fishing Vessel Inspection Regulation, C.R.C. 1978, c.1435
  — Medical Examination of Seafarers Regulations, C.R.C. 1978, c.1447
  — Safe Manning Regulations, C.R.C. 1978, c.1466
  — Small Fishing Vessel Inspection Regulations, C.R.C. 1978, c.1486
• **Canada Transport Act**, S.C. 1996, c.10 (Canada Transportation Agency)

  NOTE: The regulations under the now repealed Railway Act which impact on railway safety have been continued under this statute by transition provisions. Also impacting upon OHS in the federal transportation sector is the aviation, marine and train OHS regulations under the Canada Labour Code (see above) and the Railway Safety Act and its regulations (see below).

• **Canadian Centre for Occupational Health and Safety Act**, R.S.C. 1985, c.C-13 (Human Resources Development Canada)

  NOTE: This statute establishes the Centre as an independent agency which compiles and distributes information regarding OHS and environmental protection.

• **Canadian Transportation Accident Investigation and Safety Board Act**, S.C. 1989, c.3 (Canada Transportation Accident Investigation and Safety Board)

  — *Transportation Safety Board Regulations*, S.O.R. 92-446

• **Explosives Act**, R.S.C. 1985, c.E-17 (Natural Resources Canada)

  — *Ammonium Nitrate and Fuel Oil Order*, C.R.C. 1978. c.598
  — *Explosives Regulations*, C.R.C. 1978, c.599


  — *Consumer Chemicals and Container Regulations*, S.O.R. 88-566
  — *Controlled Products Regulations*, S.O.R. 88-66

• **Motor Vehicle Safety Act**, S.C. 1993, c.16 (Transport Canada)

  — *Motor Vehicle Safety Regulations*, C.R.C. 1978, c.1038

• **Motor Vehicle Transport Act**, R.S.C. 1985, c.29 (3rd Supp.) (Transport Canada)

  — *Commercial Vehicle Drivers Hours of Service Regulations, 1994*, S.O.R. 94-716

• **Non-Smokers’ Health Act**, R.S.C. 1985, c.15 (4th Supp) (Health Canada and Human Resources Development Canada)

  — *Non-Smokers’ Health Regulations*, S.O.R. 90-21

• **Pest Control Products Act**, R.S.C. 1985, c.P-9 (Health Canada)

  — *Pest Control Products Regulation*, C.R.C. 1978, c.1253


  — *Radiation Emitting Devices Regulation*, C.R.C. 1978, c.1370
• Railway Safety Act, R.S.C. 1985, c.32 (4th Supp.) (Transport Canada)
  — Mining Near Lines of Railways Regulation, S.O.R. 91-104
  — National Transportation Agency General Rules, S.O.R. 91-547
  — Notice of Railway Works Regulation, S.O.R. 91-103
  — Railway Works Filing of Affidavits Regulation, S.O.R. 91-102

  — Transportation of Dangerous Goods Regulations, S.O.R. 85-77

PART TWO : BRITISH COLUMBIA (MINISTRY OR AGENCY RESPONSIBLE)

(a) Primary OHS legislation
  — Industrial Camps Health Regulations, B.C. Reg. 427/83, Health Act, R.S.B.C. 1996, c.179 (Ministry of Health)

• Mines Act, R.S.B.C. 1996, c.293 (Ministry of Employment and Investment)
  — Mine Health, Safety and Reclamation Code, parts 1 to 9, 11 and 12. [NOTE: Although approved by the cabinet, this regulation is exempted from the Regulations Act, so it has not been filed as a B.C. Regulation and has not been assigned a number.]
  — Mines Regulation, B.C. Reg. 126/94

• Railway Act, R.S.B.C. 1996, c.395 (Ministry of Municipal Affairs)
  NOTE: A number of regulations have been passed under this statute. The ones which appear to address OHS directly are:
  — Occupational Safety and Health Regulations for Railways, B.C. Reg. 74/93
    [NOTE: This is also referred to as Part XIV of the Canadian Rail Operating Rules Regulation, B.C. Reg. 464/90.]
  — Visual Acuity, Colour Perception and Hearing of Railway Employees Regulation, B.C. Reg. 457/59 [NOTE: This is also referred to as Part VI of the Canadian Rail Operating Rules Regulation, B.C. Reg. 464/90.]
  — Workplace Hazardous Materials Information System Regulation, B.C. Reg. 277/88

• Workers' Compensation Act, R.S.B.C. 1996, c.492 (Workers' Compensation Board of BC)
  — Agricultural Operations Regulations, B.C. Reg. 146/93
  — Industrial Health and Safety Regulations, B.C. Reg. 585/77
NOTE: This regulation has been amended several times since 1977. Those amendments appear to include the addition of new provisions regarding fall protection, noise protection, violence in the workplace and other subjects not otherwise listed herein.

— *Occupational First Aid Regulations*, B.C. Reg. 344/93
— *Occupational First Aid Applicability Regulation*, B.C. Reg. 345/93
— *Penalty Assessments Regulation*, B.C. Reg. 146/82
— *Reports of Injuries Regulation*, B.C. Reg. 713/74
— *WHMIS and First Aid Applicability Regulation*, B.C. Reg. 377/92

**Workplace Act**, R.S.B.C. 1996, c.493 (Workers’ Compensation Board of BC)
— *Occupational Environment Regulations*, B.C. Reg. 128/74

**b) OHS related or dual purpose legislation**

**Building Safety Standards Act**, R.S.B.C. 1996, c.42 (Ministry of Municipal Affairs)
NOTE: This statute establishes a Building Safety Standards Appeal Board which has the authority to hear appeals flowing from the above statutes, including appeals permitted under regulations pursuant to the *Workplace Act*. The *BC Building Code* is established by a regulation that has been approved under the *Municipal Act* (see below).

— *Commercial River Rafting Safety Regulation*, B.C. Reg. 294/88

**Commercial Transport Act**, R.S.B.C. 1996, c.58 (Ministry of Transportation and Highways)
— *Commercial Transport Regulations*, B.C. Reg. 30/78

— *BC Electrical Code Regulations*, B.C. Reg. 237/95
— *Electrical Regulations for Power-Houses and Substations*, B.C. Reg. 474/59
— *Electrical Safety Regulations*, B.C. Reg. 487/95
— *Television Equipment Installations on Overhead Electric Lines Regulations*, B.C. Reg. 259/66
• Elevating Devices Safety Act, R.S.B.C. 1996, c.110 (Ministry of Municipal Affairs)
  — Elevating Devices Safety Regulations, B.C. Reg. 28/90

• Fire Services Act, R.S.B.C. 1996, c.144 (Ministry of Municipal Affairs)
  — BC Fire Code Regulation, B.C. Reg. 403/92

• Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c.159 (Ministry of Forests)
  — Forest Fire Prevention and Suppression Regulation, B.C. Reg. 169/95
  — Forest Road Regulations, B.C. Reg. 172/95
  — Forest Service Road Use Regulations, B.C. Reg. 173/95
  — Silviculture Practices Regulation, B.C. Reg. 179/95
  — Timber Harvesting Practices Regulation, B.C. Reg. 181/95

• Gas Safety Act, R.S.B.C. 1996, c.169 (Ministry of Municipal Affairs)
  — BC Gas Code Regulation, B.C. Reg. 442/92
  — BC Propane Code Regulation, B.C. Reg. 443/92
  — Gas Safety Regulations, B.C. Reg. 95/83

• Health Act, R.S.B.C. 1996, c.179 (Ministry of Health)
  — Regulations Governing the Sanitation and Operation of Food Premises, B.C. Reg. 148/74
  — Sanitary Regulations, B.C. Reg. 142/59
  — Swimming Pool, Spray Pool and Wading Pool Regulations, B.C. Reg. 289/72

• Highway Act, R.S.B.C. 1996, c.188 (Ministry of Transportation and Highways)
  — Highway Act Regulations, B.C. Reg. 174/70

• Highway (Industrial) Act, R.S.B.C. 1996, c.189 (Ministry of Transportation and Highways)
  — Vehicular Traffic on Industrial Roads Regulations, B.C. Reg. 450/59

• Motor Vehicle Act, R.S.B.C. 1996, c.318 (Ministry of Transportation and Highways)
  — Bicycle Safety Helmet Exemption Regulation, B.C. Reg. 261/96
  — Bicycle Safety Helmet Standards Regulation, B.C. Reg. 234/96
  — Motor Vehicle Act Regulations, B.C. Reg. 26/58

• Motor Vehicle (All Terrain) Act, R.S.B.C. 1996, c.319 (Ministry of Transportation and Highways)
  — Snowmobile Regulation, B.C. Reg. 65/72
• **Municipal Act**, R.S.B.C. 1996, c.323 (Ministry of Municipal Affairs)
  — *Building Regulations of BC*, B.C. Reg. 351/92 [NOTE: This regulation adopts the *National Building Code of Canada, 1990* and the *Canada Plumbing Code, 1990* as the *BC Building Code*.]

• **Pesticide Control Act**, R.S.B.C. 1996, c.360 (Ministry of Environment, Lands and Parks)
  — *Pesticide Control Act Regulation*, B.C. Reg. 319/81

• **Petroleum and Natural Gas Act**, R.S.B.C. 1996, c.361 (Ministry of Employment and Investment)
  NOTE: A number of regulations have been approved under this statute. The ones which appear to have an OHS component are:
  — *Drilling and Production Regulation*, B.C. Reg. 336/91
  — *Petroleum Development Road Regulations*, B.C. Reg. 771/69

• **Pipeline Act**, R.S.B.C. 1996, c.364 (Ministry of Municipal Affairs)
  — *Pipeline Regulations, Part 30*, B.C. Reg. 451/59

• **Power Engineers and Boiler and Pressure Vessel Safety Act**, R.S.B.C. 1996, c.368 (Ministry of Municipal Affairs)
  — *Boiler and Pressure Vessel Code*, B.C. Reg. 312/82
  — *Mechanical Refrigeration Plant Regulation*, B.C. Reg. 154/88

• **Railway Act**, R.S.B.C. 1996, c.395 (Ministry of Municipal Affairs)
  — *Location, Construction and Use of Aerial Tramways Regulations*, B.C. Reg. 95/82 [NOTE: This is also referred to as Part XI of the *Canadian Rail Operating Rules Regulation*, B.C. Reg. 464/90.]
  — *Storage, Handling and Transportation of Dangerous Goods by Railway*, B.C. Reg. 85/89 [NOTE: This is also referred to as Part XII of the *Canadian Rail Operating Rules Regulation*, B.C. Reg. 464/90.]

  — *Transportation of Dangerous Goods Regulations*, B.C. Reg. 203/85