

Framework for Regulatory Review

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A Framework for Regulatory Review: The Business of Establishing the Environment for Safe Work Environments and An Accountability Mechanism that is Effective and Efficient

This chapter provides a paradigm shift for workers compensation by proposing a regulatory framework developed from research conducted by the Royal Commission. The logic model begins with a brief discussion of accountability and moves to an empirically defined regulatory framework based on the empirical research conducted by the Royal Commission. From there it seeks to re-analyze the regulatory review process and policy development program of the WCB within the parameters set by the framework. The analysis then incorporates other research by the Royal Commission related to the management of fatalities within the regulatory review process. The analysis seeks to show as well how the framework should be applied to rehabilitation and ends with a discussion of the performance management program and research arm of the WCB. The cycle of accountability is closed by returning to a consideration of the need to integrate these various components through an effective risk management and quality assurance program.

Throughout this discussion the fundamental elements of organization theory form the organizing frame of reference. Flaws in organization design and processes in any of the elements can have serious consequences for the organization, society or for its customers. A number of fundamental questions must be asked, including:

What is the business of the organization? What products does it produce? How does it produce those products? What processes are in place to ensure the quality of those products? Does its quality assurance processes ensure efficiency, effectiveness and safety in the production process? What mechanisms are in place to inform the organization about its performance? Does it have the means to make decisions to adjust processes (governance, management, production processes, and consumer acceptance)?

Governance and Accountability

Perrin and Thoreau define accountability within governance as:

Governance is the structure and processes used to direct or “govern” the affairs of an organization. It refers to the mechanisms in place for setting the direction and overseeing the management of an organization so that the organization effectively fulfils its mandate¹.

¹ The 1994 report of the Toronto Stock Exchange Committee on Corporate Governance in Canada (commonly known as the Dey Committee) defined “corporate governance” as the process and structure used to direct and manage the business and affairs of the corporation with the objective of enhancing shareholder value, which includes ensuring the financial viability of the business. The process and structure define the division of power and establish mechanisms for achieving accountability among shareholders, the board of directors and management. The direction and management of the business should take into account the impact on other stakeholders such as employees, customers, suppliers and communities.

In their report, *The Workers’ Compensation Board of British Columbia -- Board Governance Review: Report and Recommendations*, Patrick O’Callaghan, and Judi Korbin define governance as “the process and structure used to direct and manage the affairs of an organization ... The structure is created by the legal and administrative framework within which an organization functions. This includes the organization’s governing statutes, the articles and by-laws, resolutions of the Board and other policies and procedures which are adopted by the organization, and community standards. The governance process refers to the system for decision making used by the parties who are charged with directing and managing an organization and making the decision-makers accountable.”

Governance processes are the mechanisms used by the governing body and others involved in the governance of an organization to perform the function of setting the direction and overseeing the management of an organization.

These processes include such things as:

- setting strategic direction,
- setting high level and operational policy,
- requiring that all of the functions, systems, controls and mechanisms for ongoing operations be put in place and maintained,
- monitoring performance of the organization and requiring corrective action where necessary, and
- fulfilling the duty of accountability to whoever holds the organization accountable.

Accountability is the obligation of one person, entity or group, to account to another person, entity or group for the responsibilities conferred upon them. Put another way, accountability is the responsibility of one person to another for the performance of a function entrusted to them.

Often accountability is viewed as simply a requirement to “account” by reporting out, particularly on financial matters. However, as will be seen below, it goes beyond reporting to include the concepts of agreed goals against which performance is reported and consequences or mechanism by which those responsible can be “held accountable.”

This means that there must be an accountability regime as an integral part of any governance framework in which the governing body of an organization is accountable to someone for the performance of the governance function and, implicitly, for the performance of the organization.

Conceptually, there are four basic elements to such an accountability regime:

- What the organization is accountable for (mandate);
- Who specifically is accountable and to whom;
- What information is provided to determine if performance is acceptable; and,
- Mechanisms to enforce the interests of those holding the organization accountable.

At the most basic level, governance relates to how responsibilities are carried out, whereas accountability relates to how the organization is held to account for the performance of those responsibilities. The concepts are clearly intertwined and interdependent, both directed to the effective accomplishment of a mandate. As highlighted in the 1996 Report of the Auditor General and Deputy Minister’s Council, “accountability must serve to influence governance; accountability is not an end in itself.”

In 1995, the Canadian Comprehensive Auditing Foundation (CCAF) introduced a set of six characteristics of effective governing bodies². The study, which included input from directors and senior management of large corporations, academics, regulators and auditors, concluded that effective governing bodies:

1. “Are comprised of people with the necessary knowledge, ability and commitment to fulfil their responsibilities
2. Understand their purposes and whose interests they represent

² The Canadian Comprehensive Auditing Foundation. In Search of Effective Governance. Ottawa, Ontario: The CCAF; 1994.

3. Understand the objectives and strategies of the organizations they govern
4. Understand what constitutes reasonable information for good governance and obtain it
5. Once informed, are prepared to act to ensure that the organization's objectives are met and that performance is satisfactory
6. Fulfil their accountability obligations to those whose interests they represent by reporting of their organization's effectiveness."

The CCAF characteristics are intended to be inter-dependent and their impact on an organization's performance depends on the "synergy that is associated with their collective application." However, the CCAF cautions that though the principles are common sense and seem simple enough.

"The challenge of having the six principles work ... and work together ... is not to be underestimated."

While it may seem simplistic to say that those who steer should collectively know where they want to go, in practice organizational complexity and individual perspectives may make this a challenge. However without that understanding the organization will drift and confidence will be eroded.

In addition, the organization must understand the strategies that are being taken to meet the objectives. Frequently, the only difference between the success of similar organizations is the manner in which their strategies are implemented.

The need to be informed about the performance of the organization is paramount. But what constitutes reasonable and necessary information? How can information be obtained in which the governing body members can have full confidence ... not an easy task. On the one hand, information that is easily obtained may be of doubtful relevance, and on the other hand, too much information may paralyze the decision making process.

The governing body itself must define the principles that will guide the information it receives and play a leadership role in ensuring that the information will be dealt with fairly and with wisdom.

However, having the right people, with the right information does not always add up to effective governance.

Public confidence is an important part of an organization's working capital. Organizations and their governing bodies that shy away from telling their performance story can easily become suspect in the eyes of their stakeholders and the people they serve. Confidence is usually maintained if people understand why certain courses of action were taken -- and the consequences -- even if they disagree with the particular decision."

Note that the question of information flows associated with governance is the subject of a separate but related project.

The accountability and performance management framework for the British Columbia public sector developed jointly by the Office of the Auditor General and the Deputy Ministers' Council includes the following elements:

- the establishment of clear objectives by the government and government ministry, agency or crown corporation;
- the establishment and documentation of effective strategies and plans;
- the alignment of management structures and systems to support the realization of the objectives and the strategies;
- the measurement and reporting of performance and achievement;

- the existence of consequences if objectives and strategies are not met.

Public policy” is the approach taken by government or a public body to deal with an issue that is fundamental to the objectives and responsibilities of government. This is distinguished from “administrative policy” which is the more detailed set of rules and procedures through which public policy is implemented.³

The crucial difference between public policy and administrative policy is that the former should be directed at meeting broad social and economic objectives, with a strong public interest flavor and administrative policy should be intended to implement public policy as efficiently and effectively as possible. Administrative policy should be, quite appropriately, focused on the convenience and effectiveness of administrators, but should be circumscribed by the public policy that is being implemented. The public policy, which puts the public interest first, should limit the scope of administrative policy to ensure that the goals of the public policy are not inadvertently circumvented by its implementation.

Trends in Regulatory Environments

The Fraser Institute’s recently released report indicated that over the 22 year period between 1975 and 1997, over 100,000 new federal and provincial regulations were passed. The cost of designing and administering regulations increased from \$826.4 million 1973-74 to \$1.7 billion in 1995-96. The total cost of compliance to the private sector went from an estimated \$58 billion in 1973-74 to \$83.4 billion in 1995-96. While the Fraser Institute addresses the cost impact of regulations, it did not address the issue of effectiveness, particularly in the area of occupational health and safety as these apply to the sector of the economy that is directly applicable to workers’ compensation systems. Nevertheless, the Fraser Institute’s analysis does pose the question of the economic impact of regulations.

The Office of Technology Assessment did address the question of the methods that the Occupational Safety and Health administration (OSHA) used to control technology options and the compliance costs and other regulatory impacts it used to support its major regulatory actions. In the report **Guaging Control Technology and Regulatory Impacts in Occupation Safety and Health: An Appraisal of OSHA’s Analytic Approach**, 1995. The findings of this study anticipate the need for implementation of all the elements identified in the generic regulatory framework discussed below. While OSHA’s methodology for reviewing regulations were evidence based, they were criticized on several counts. In particular they are generally retrospective and not prospective, lack a full Benefits Costs Analysis (BCA) and do not attempt to examine the potential for inducing technological and economically superior options for hazard control. The authors of this study lean strongly toward the use of regulations and do not consider other options to regulations per se. In spite of this, the recommendations of the committee strongly underscore most of the key elements of the generic framework.

Regulatory Frameworks

A regulatory framework is a structured and organized series of analyses that determine the need for regulations or their equivalent, the mechanisms for implementing these legal instruments that are designed to modify or prevent certain behaviors, and the evaluation of the efficiency and effectiveness of those instruments in achieving the intended policy objectives.

³ Some prefer a distinction between “policy” and “procedure.” Clearly, all procedure falls within the author’s definition of administrative policy, but there may be elements of administrative policy which go beyond procedure to include for example, the values and principles which will be used in exercising discretion.

According to the Department of Justice of the Government of Canada:

“Regulations are a form of law, often referred to as delegated or subordinate legislation. They have the same binding effect as Acts and usually state rules that apply generally, rather than to specific persons or things.”⁴

One key finding of this research is that many regulatory bodies do not have an explicit regulatory framework. It is necessary to examine the process that is followed to develop regulations in order to find evidence of a framework.

Conference Board of Canada -- A Model for Regulatory Review

The Conference Board of Canada’s paper “A Framework and Guiding Principles for Regulatory Review” details four critical framework elements, two review processes, and the fundamental principles that should guide any regulatory review effort.

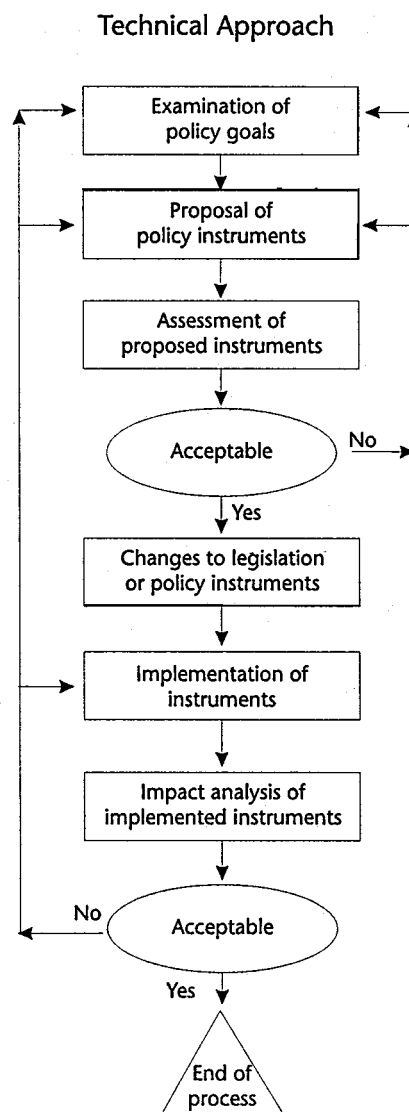
The Conference Board of Canada framework consists of four principal elements. They are:

- **Policy goals** -- as a precursor to regulation, it is necessary to articulate policy goals or to define the behaviors that are unwanted.
- **Policy instruments** -- the means by which policy goals are achieved.
- **Policy implementation** -- enforcement and compliance programs usually administered by the regulator or by an agency with delegated authority.
- **Evaluation** -- the effect of the policy instruments be measured to estimate whether the outcomes match the intentions stated in the policy goals.

The way a regulator applies the regulatory framework to review a body of regulations is called the process for regulatory review. The Conference Board presents two types of review processes. The first type is called the technical approach because it utilizes a logical, problem solving approach. It consists of six discrete steps as shown in the process flow diagram below.

The flow diagram illustrates the dynamic nature of the process and the interrelationships among the different steps

The second type regulatory process is more dynamic, as it considers various social, economic and political forces that influence the regulatory review process. The dynamic approach considers the interplay of four fundamental processes:



Source: The Conference Board of Canada

⁴ A guide to the Making of Federal Acts and Regulations. Government of Canada. Department of Justice. November 1995. Page 15.

The political process -- Ultimately, the development of policy goals and the selection of policy instruments rests within the political dimension. In this political process, various stakeholders attempt to influence regulatory body to meet their individual needs.

The bureaucratic process -- The bureaucratic process or “regulatory program” involves the design and implementation of the selected policy instruments.

The analytical process -- This process refers to the evaluation of the proposed policy goals, policy instruments and implementation processes.

The judicial process -- The judiciary system occasionally plays a role particularly when stakeholders contest the legitimacy of decisions taken by policy makers or on the interpretations of rules made by the regulator.

This dynamic process for regulatory review illustrates the need for a high degree of coordination between the political and bureaucratic processes in order to maintain consistency of government policy and to support a smoothly functioning public administration system. When policy makers and regulators make decisions independently from one another, the result is confusion on the part of all those concerned. A weakness of the Conference Board model is that it does not make room for the multiple levels of approval that are typical of a policy development effort.

Guiding Principles

The Conference Board of Canada recommends the application of two different sets of guiding principles in the implementation of policy objectives in order minimize the costs to society.

Principles for the development and communication of policy goals include:

- **Transparency** That the policy objectives are clearly defined and are readily understood by all stakeholders;
- **Relevance** That selected policy goals respond to a true socio-economic need;
- **Consistency** That policy goals be consistent with other government policies, programs and objectives.

Principles for the selection and implementation of policy instruments include:

- **Transparency** That the implementation of policy instruments be clearly established and understood by all stakeholders;
- **Consistency** That policy instruments be coordinated and compatible with other government commitments;
- **Effectiveness** That policy instrument produce the desired outcome;
- **Efficiency** That selected policy instruments carry the least cost to government, to the regulator and industry

The Conference Board framework paper provides a conceptual model of a regulatory framework but is deficient in specific operational details. In an effort to bridge that gap, several regulators “best practices” were studied and an enhanced, generic framework was developed. This generic framework is consistent with the one presented by the Conference Board of Canada. However, the generic framework offers a greater level of detail which is used to assess the regulatory framework of the BC Worker’s Compensation Board and of other regulators.

The table presented below shows how the two frameworks complement each other. The Generic framework, while remaining consistent with the Conference Board model, goes a step beyond and provides further insight into additional steps in regulatory review..

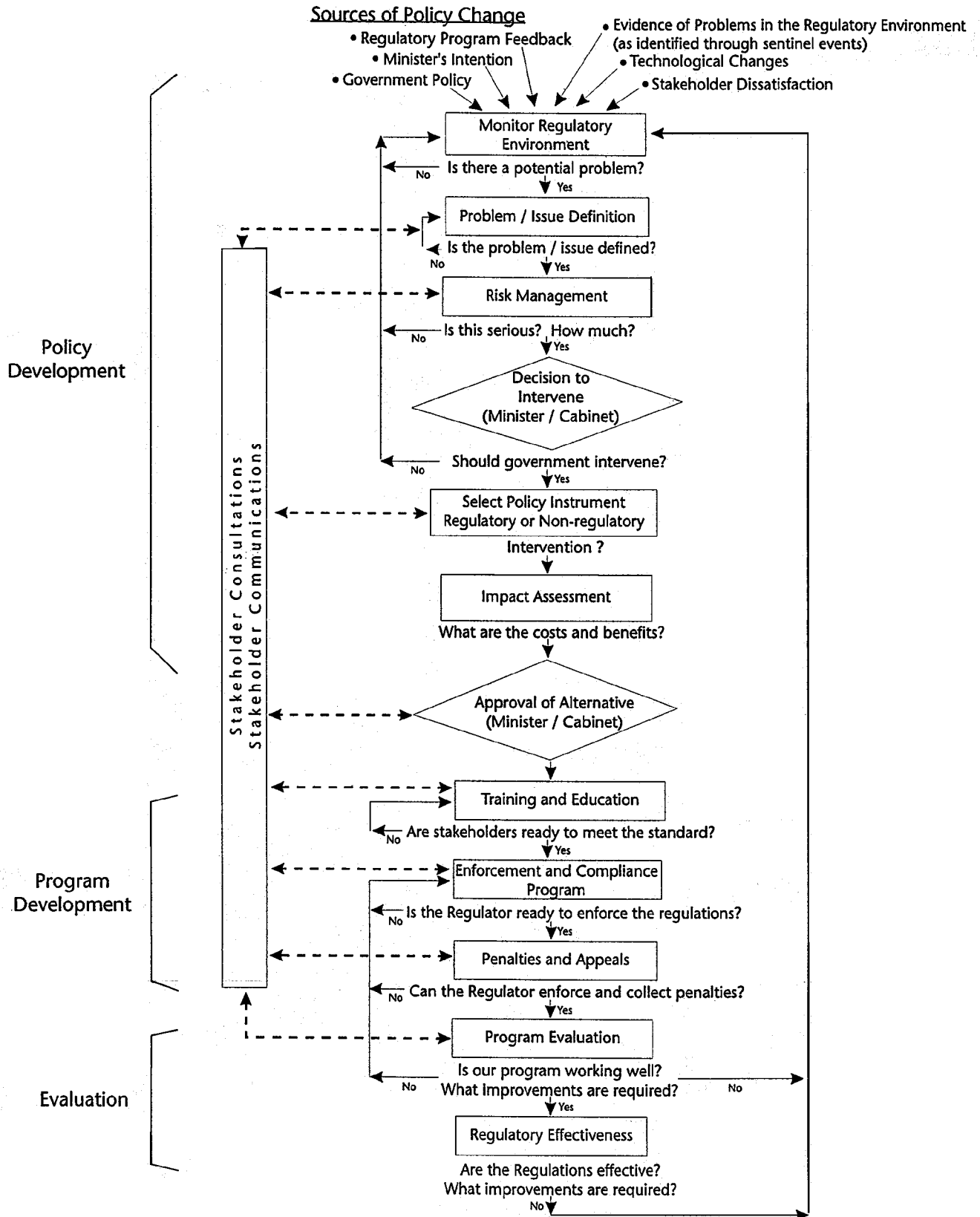
Conference Board Framework	Generic Framework	Sub-elements or regulatory review process steps
Policy Goals	Policy Development	Monitoring and data capturing mechanisms to identify policy sources Problem / issue definition Risk management Selection of most appropriate policy instrument Assessing the impact and burden Conduct public consultation
Policy Instruments		
Policy Implementation	Regulatory Program Development and Implementation	Education and training Stakeholder communications Enforcement and compliance Penalties and appeals mechanisms
Evaluation	Evaluation	Program evaluation Regulatory evaluation

The Generic Regulatory Framework -- an Accountability Mechanism

The generic framework is not only a method for intervention, but is also an accountability mechanism. The regulatory framework is a series of tools through which a regulator can account to its stakeholders for the responsibilities that have been conferred upon them.

The adjoining diagram illustrates the generic framework. The diagram shows how the regulator brings to bear critical questions throughout the regulatory process.

Generic Regulatory Framework



Generic elements of a regulatory framework

The generic framework consists of three basic elements - policy development, regulatory program and program and regulatory evaluation. Each have a number of sub-elements. Examination of these sub-elements is revealing, for they are indicative of a logical thought process which answers fundamental questions.

Generic element 1: Policy development

Examination of regulator practices shows that the formulation of policy goals and the selection of instruments are done almost in a concurrent fashion. This is in contrast to the Conference Board's framework that separates policy goals and instruments. These sub-element provide some insight to the thought process that is applied throughout this phase of regulatory development. The sub-elements are as follows:

- Monitoring of the regulatory environment. Effective regulators monitor the regulatory environment. This monitoring attempts to identify and track “sentinel events” or events that will indicate the existence of a problem potentially requiring intervention. This implies that the regulator has a systematic approach of capturing relevant information and making decisions on how and when to act upon the information. It is prospective in nature, not retrospective, and strategically places the regulator in a leadership position capable of preparing a response before an issue becomes a crisis.
- Problem /Issue definition. Monitoring the regulatory environment may give some preliminary idea of the nature of the issue or problem. However, the issue or problem may be ill defined and it may take further research and consultation to define the problem or issue so that it is manageable.
- Risk Management. This sub-element is borne out of the previous two. A sensible regulator, when confronted with data that may represent a potential problem seeks to answer several questions such as “What is the risk involved?”; “Who is at risk?”; “Is intervention warranted?”. This risk management approach is typically based on scientific research that grounds the regulator with relevant evidence that guides the decision making process.

The Canadian Standards Association (CSA) defines risk as “the chance of injury or loss as defined as a measure of the probability and severity of an adverse effect to health, property, the environment, or other things of value.”⁵ Risk is the probability of occurrence of an unforeseen or undesirable event. Risk management refers to the measures that organizations take to minimize potential consequences of unwanted events.

The following is adapted from Risk Management: Guidelines for Decision-Makers. A National Standard of Canada⁶ a publication from the Canadian Standards Association. This section is presented to clarify some of the broad concepts brought forward in other sections of this report.

⁵ Idem. Page 4

⁶ Risk Management: Guidelines for Decision-Makers. A National Standard of Canada. Canadian Standards Association. Publication number CAN/CSA-Q850-97. October 1997.

The concept of risk management encompasses several types of activities. The first series of activities involves risk analysis in order to identify hazards and estimate the probability and severity of consequences to life, health and property. The next series of activities involve risks assessment that evaluate identified risks against the benefits of regulation. The full process of risk management is composed of six steps, as shown in the adjoining diagram.

- **Initiation**
- **Preliminary Analysis**
- **Risk Estimation**
- **Risk Evaluation**
- **Risk Control**
- **Action/Monitoring**

Risk Management Process

Each of these phases includes several steps, especially the step of communicating the risk to affected stakeholders.

1. The Initiation stage begins the entire risk management process. This phase includes
 - Defining the problem or opportunity associated with the risk issues
 - Assigning responsibility within the organization to manage risk
 - Identifying stakeholders and beginning the consultation process
2. The Preliminary Analysis phase begins the process of analysis to better understand the inherent risks. This phase includes:
 - Defining the scope of the decisions to be made in the risk management process
 - Identifying the specific risk scenarios
 - Conducting stakeholder analyses to understand their needs, issues and concerns
3. Risk Estimation is the phase in which frequency and consequences associated with the risk scenarios are estimated. This phase includes:
 - Defining a methodology to measure risk
 - Measuring the risk inherent to each scenario
 - Measuring the consequences associated with each scenario
4. Risk Evaluation is the phase where the risks estimated in the previous step are evaluated in terms of needs, concerns and issues from the stakeholder's perspective. This information will enable the risk manager to determine whether the risks are within acceptable limits. This phase includes:
 - Estimating the benefits and costs related to each scenario
 - Assessing the acceptability of risk for each concerned stakeholder
5. Risk Control involves the development of actions to reduce risk. This phase includes:
 - Identifying measures that can be put into place to control risk
 - Assessing the stakeholder's acceptance of measures to control risk
 - Evaluating the residual risk (risk for which no control measures can be developed)
 - Assessing the stakeholder's acceptance of residual risk
6. Action / Monitoring requires the implementation and monitoring of the actions developed in the previous phase. This phase includes:
 - Developing an implementation plan
 - Implementing retained control measures
 - Evaluating the overall effectiveness of the plan

Successful regulators are those who have experienced and knowledgeable staff backed by a risk analysis framework patterned on the guidelines described above. Sound risk management practices are an essential component of a regulatory framework.

Selection of an appropriate policy instrument. This sub-element is one where the regulator must develop and select an appropriate response to the identified problem. A policy instrument refers to any method utilized to implement public policy. There are a wide range of policy instruments available, regulations being one of them. The regulator can respond in one of two ways: develop regulations or rely on non-regulatory means to change unwanted behavior.

The overall approach and philosophy of the regulating department or agency has a significant impact on how policy instruments will be selected. If the prevailing organizational culture is rooted in an attitude that those subjected to regulations act to enhance their own good irrespective of the harm to others, then the resultant behavior of the regulator will be to pass laws (regulations) in order prescribe behavior. The other extreme is represented by a “laissez-faire” approach where regulatory mechanisms are inadequate or not enforced. This is the underlying condition leading up to the Westray disaster.

If the stance of the regulator is that most people act in a reasonable manner, then many more options to regulation are possible enabling a regulator to accept and implement non-regulatory policy instruments more readily. This philosophy is based on the following assumptions:

- The objective of intervention is to solve problems; caused by the unacceptable behaviors of some stakeholders;
- Interventions (and not necessarily those of government) must be geared towards modifying undesirable behaviors, or reinforcing those that are desirable;
- Changing behaviors can be accelerated when external forces are recognized and leveraged.

Using these assumptions can have an important effect on the final selection of policy instrument.

At this point in the process, the regulator has a good sense of the problem behaviors and an idea of the risks involved, and has determined that the problem is of a magnitude requiring intervention. The following line of inquiry can deepen the level of understanding and potentially lead to better selection of policy instruments. The line of inquiry follows these questions⁷:

1. Define the specific behaviors that are deemed unacceptable or risky. Identify which stakeholders exhibit this behavior and those which are in a position to assist in changing these undesirable behavior.
2. Identify the contributing factors driving those whose behaviors are undesirable.
3. Identify which instruments are likely to bring about the best results. Some instruments are intended to prevent certain behaviors, while others act as incentives to adopting desirable behaviors. The regulator must consider striking a “balance” between punitive and incentive instruments.
4. The regulator must then conduct a comparative analysis of the proposed instruments. The TBS publication called Assessing Regulatory Alternatives provides an exhaustive analysis of the relative advantages and disadvantages of a wide array of policy instruments. The comparative analysis must also consider the fact that an optimal solution may involve the combined use of several policy instruments.
5. Conduct a decision analysis to find the best possible solution. Part of the decision criteria must be the political acceptability of a policy instrument.

⁷ This line of inquiry is adapted from Assessing Regulatory Alternatives. Government of Canada. Treasury Board Secretariat. May 1994.

- Analysis of impact and burden. Subsequent to the selection of a means of intervention, an analysis is required to determine the costs and benefits. This along with risk management requires a rigorous methodology and approach.

The practice of assessing the impact and burden imposed by regulations is gaining greater acceptance in industrialized countries. This is due in part to the fact that it is recognized that regulations impose a burden, or an additional cost, on businesses which is passed on to consumers and workers.

Recent OECD publications⁸ indicate that there exist a wide range of methods to systematically assess both the negative and positive impacts of proposed and existing regulations. This systematic approach, often referred to as Regulatory Impact Analysis (RIA), draws out the anticipated costs and expected benefits of proposed or existing regulations.

There are four main reasons motivating the use of Regulatory Impact Analysis. First, RIA tends to improve understanding of the real impact of regulatory practices. A second reason is that a well constructed RIA integrates multiple policy objectives. The third reason is that RIA tends to impose greater transparency and consultation upon the regulator. Often, the regulator must enter into a substantive dialogue with stakeholders in order to define and measure the potential impacts of proposed regulations. Lastly, and most importantly, RIA improves accountability. Decision-makers must render accounts or reasons for their decisions in light of the information established through the RIA process.

The practice of RIA in Canada focuses primarily, but not exclusively, on developing Benefit-Cost Analyses (BCA). The Canadian experience with regards to BCA is limited to the federal scene. There is no evidence of such an approach at the provincial level.

A benefit-cost analysis can be defined as “...an approach used to assess the gains and losses resulting from a set of alternative actions to help decide whether any of the actions should be undertaken.”⁹

The process of developing a BCA is presented below:

1. Identifying and estimating the benefits
 - Identify benefits anticipated by the proposed alternative - both direct benefits and indirect benefits
 - Determine who will benefit from the proposed alternative
 - Measure the benefits - preferably a quantitative measure - this involves selection of indicators and their evolution over time.
 - Compare with existing baseline or the status quo option
2. Identify and estimating the costs
 - Identify the costs associated with the proposed alternative. A cost is an anticipated consequence that would make somebody worse off.
 - Determine who will pay the identified costs
 - Measure the costs - preferably a quantitative measure. This involves the selection of indicators and tracking their evolution over time.
 - Compare costs with a baseline or against the status quo option.
3. Providing the decision makers with relevant information

⁸ In particular, Regulatory Impact Analysis. Best Practices in OECD Countries. Paris: OECD; 1997. Page 7.

⁹ Government of Canada. Benefit-Cost Analysis Guide for Regulatory Programs. Ottawa (ON): Treasury Board Secretariat, Government of Canada; 1995. Page 4.

The conclusion of a BCA is generally the identification of the most appropriate alternative. This often involves an analysis of the distribution of the benefits and costs.

It must be emphasized that the BCA is a component, although significant one, of a Regulatory Impact Analysis Statement. The RIAS document acts as a major decision-making tool for elected representatives. The RIAS document consists of five parts:

- a description of the reasons for a regulatory proposal;
- a listing of the alternatives considered to show why the proposed regulations are preferred over other potential policy instruments;
- an analysis of the benefits and costs to quantify the positive and negative impacts of the proposed regulations;
- a summary of the consultations undertaken throughout the regulatory development process;
- a description of the compliance and enforcement strategies to support the proposed regulations.

As we can see, the RIA, and in particular, the BCA are critical elements within a regulatory regime. These tools impose a level of analysis on regulators that force them to carefully consider the impacts of their actions. Furthermore, a RIA program me acts as a guide for decision-making and accountability and for that reason is a vital component of a regulatory framework.

- Public consultation. Many regulators have seen the advantages of meaningful public consultation. Regulators are now involving stakeholders in discussions at all points in the policy development process, including in the identification of problems, in the assessment of risk, in the selection of instruments (particularly when considering non-regulatory instruments) and in the assessment of impact and burden.

This Framework Element...	Seeks to get answers on ...	Question(s)
<p>Monitoring and Data Capturing Mechanism to identify policy sources</p> <p>Description: The ability and capacity to identify sources of policy change.</p>		<ul style="list-style-type: none"> ➤ How do we know this is an issue, a concern? ➤ What play has this issue / concern had in the media?
<p>Problem or issue definition</p> <p>Description: The ability to clearly define a problem or issue.</p>		<ul style="list-style-type: none"> ➤ What is the behavior causing concern? ➤ What are the boundaries to the problems? ➤ What is the problem, what is not the problem? ➤ Do stakeholders define the problem the same way?
<p>Risk Management</p> <p>Description: The capacity to evaluate the inherent risk and, from this evaluation, to formulate a recommendation of the appropriateness of government intervention.</p>		<ul style="list-style-type: none"> ➤ Why is this an issue / concern? ➤ What are the risks to public safety? ➤ What are the risks to public health? ➤ Is government intervention justified?
<p>Selection of an appropriate intervention instrument (considering both regulatory and non-regulatory instruments)</p> <p>Description: The ability to select a policy instrument that is responsive and adaptive to the issue, to the situation.</p>		<ul style="list-style-type: none"> ➤ How can government best intervene, according to the criteria of effectiveness, efficiency and acceptability?
<p>Assessing the potential impact and burden of the proposed government intervention</p> <p>Description: Systematic assessment of costs, benefits imposed by the proposed policy instrument.</p>		<ul style="list-style-type: none"> ➤ Are the proposed policy instrument reasonable? ➤ Will the proposed policy instrument cripple the industry? ➤ Will the proposed policy instrument overburden the taxpayer? ➤ Can the responsible government department ensure adequate compliance and enforcement?
<p>Requirement to conduct Public Consultation</p> <p>Description: The capacity to engage the public and most affected stakeholders into the debate.</p>		<ul style="list-style-type: none"> ➤ Is the public informed on this issue / concern? ➤ What does the public think, generally speaking ? ➤ What is the view of the most affected stakeholders?

Generic element 2: Regulatory programs

In practice, regulators do not speak in terms of policy implementation, as described in the Conference Board of Canada framework. Instead, regulators develop, implement and manage multi-dimensional regulatory programs. Although regulatory program elements vary depending on the regulator’s exact field, there are some “standard” elements to a regulatory program. They are:

- Education and training. Often the subject of the training is the standards that must be met as well as other compliance requirements.
- Stakeholder communications. Stakeholders must be kept abreast of changes to regulations, implication of judicial decisions, and other developments.
- Enforcement and compliance. Activities of enforcement and compliance usually involve inspection, assessment, imposition of fines and sometimes the recognition of excellence.
- Penalties and appeals mechanisms.

This Framework Element...	Seeks to get answers on ...	Question(s)
<p>Education and Training</p> <p>Description: the capacity to educate and train those being regulated as a means of assisting them in changing behaviors.</p>		<p>➤ How will those being regulated educate themselves on the requirements of government intervention?</p>
<p>Stakeholder Communications</p> <p>Description: The capacity to maintain ongoing communications with most affected stakeholders and the public.</p>		<p>➤ What is the nature of ongoing stakeholder communications?</p> <p>➤ How are stakeholders informed of changes?</p>
<p>Enforcement and Compliance Program</p> <p>Description: The ability to monitor behaviors, including identifying those that do not meet the standards and levying fines or other penalties</p>		<p>➤ What standards are those being regulated expected to uphold?</p> <p>➤ What are the regulator’s service standards?</p>
<p>Penalties and Appeals Mechanisms</p> <p>Description: The capacity to impose and collect on penalties and offer some mechanism of redress to those being regulated.</p>		<p>➤ What are the appeal and redress mechanisms?</p> <p>➤ Does the regulator have the capacity to collect or impose the penalties?</p>

Generic element 3: Evaluation of regulatory programs and regulatory effectiveness

A logical next step in the framework is to review the regulator’s actions and assess whether any results have been achieved. In practice, regulators dedicate the least amount of resources to this element of the framework. Two sub-elements are noted:

- Evaluation of the regulatory program. The evaluation of regulatory programs is accomplished through program evaluation methodology. However, the practice among regulators is not commonplace. Most program evaluations take place in the context of sporadic periodic review and are not systematic by nature.
- Evaluation of the effectiveness of regulations. Evaluating regulatory effectiveness is practiced by regulators even less than program evaluation. Many regulators will posit that regulatory effectiveness is assessed on a continual basis through ongoing monitoring of the

regulatory environment That should not be dismissed; however, one should not confuse monitoring the environment with the review of regulatory effectiveness.

This Framework Element...	Seeks to get answers on ...	Question(s)
<p>Program Evaluation Description: The capacity to assess the regulatory program activities against a series of criteria.</p>	<ul style="list-style-type: none"> ▶ How well does the regulator get the “message” out on appropriate standards and compliance issues? ▶ How many infractions were given? ▶ Etc. 	
<p>Regulatory Evaluation Description: The capacity to assess existing behaviors against the original policy goals.</p>	<ul style="list-style-type: none"> ▶ Did the policy instrument achieve the desired change in behavior(s)? 	

Comparative Research of Federal and Provincial Regulatory Frameworks

In the conduct of this research the regulatory frameworks and practices of the federal government and two British Columbia provincial ministries, specifically the Ministry of Forests and the Ministry of Health, were assessed. These were compared to the regulatory framework used in the Workers’ Compensation Board of British Columbia. All of these programs were assessed using the generic framework. Details of the findings for the federal programs and two British Columbia provincial ministries may be found in supporting documents. A comparative summary of the research findings and general conclusions from this comparative analysis are provided below.

General observations

Explicit or explicit regulatory framework

The research demonstrated a sharp contrast in the approaches to regulations and regulatory frameworks between the federal and provincial programs. At the federal level there is an explicit framework which operates at two levels. The first level is from an overall government point of view, through the Government of Canada’s Regulatory Policy. A second view is from the regulatory program level, that is at the level of specific agencies such as Health Canada. Treasury Board Secretariat exercises its responsibilities by providing departments with clear standards, clear expectations and support in developing regulations. These selected programs entrench the framework in their respective policy development guidelines.

While Federal regulatory programs do apply the regulatory framework, there are variations in their implementation. Several factors influence how the framework is applied, such as stakeholder pressure, the Minister’s wishes and the severity of problem or issue. While the analysis showed that the selected regulatory programs apply the framework, this is indicated only through their documentation. The report did not deal with the effectiveness of staff in applying the framework.

With regards to accountability, there is a dimension of the regulatory process which cannot be accurately portrayed in a conceptual regulatory framework. It concerns the multiple levels of approval required to put a new regulation or policy into place. Inevitably this raises the issues of ministerial responsibility and the interaction between the political and bureaucratic processes. The fact that major policies calling for the development of regulations require approval from the Minister and Cabinet places the accountability squarely on the government in power. The case is not as clear when it comes to non-regulatory instruments, as a minister may or may not be aware that his or her department is in the process of developing or implementing new non-regulatory instruments

At the provincial government level, it is clear that there is no explicit regulatory framework in place in British Columbia. The same applies at the level of individual ministries. What is apparent at the ministry level is the presence of an implicit regulatory framework. In other words, there is neither documentation nor policy statements with respect to a regulatory framework or the regulatory process. It is fair to say that Government departments in B.C. loosely follow a framework that is similar to the generic framework presented in the earlier parts of this report. There are some serious gaps however. As a result the applications of the framework and the rigor with which Ministries apply the framework varies greatly.

Roles and responsibilities for regulatory review

On the federal scene, roles and responsibilities on the regulatory review process are relatively clear. It is the Treasury Board Secretariat, and therefore the President of the Treasury Board, who is accountable for the efficiency and effectiveness of the Government's regulation-making process. In turn, Departments are responsible for the sound management of regulatory programs, and must meet the standards specified in Regulatory Policy and Regulatory Process Management Standards. In British Columbia, the roles and responsibilities of central agencies like the Crown Corporations Secretariat are not explicit. It is therefore difficult to ensure consistency in the development of regulations.

Two major consequences are apparent where there are unclear roles and responsibilities and of the use of an implicit regulatory framework.

The findings listed above have a bearing on the principle of transparency. Transparency is one of the Conference Board's guiding principles for regulatory review and was also listed as a criterion used to assess the WCB's regulation review¹⁰. A condition necessary for transparency is clarity with regard to roles and responsibilities, as well as a defined process for regulatory review.

An implicit regulatory framework also makes the principle of accountability difficult to put into practice. If decision criteria, particularly from a risk management aspect, are implicit, then ensuring accountability is difficult and perhaps impossible.

The Worker's Compensation Board of British Columbia

The policy development function at the Worker's Compensation Board has undergone many transformations over the last several years and is still in evolution. At present, the Policy and Regulation Development Bureau gives the impression that the policy developed is strictly for regulatory purposes. This may be misleading as documentation provided by the WCB refers to two distinct processes¹¹, one being the Policy and Regulation development process and a second being the Occupational Disease recognition process. This suggests that the application of policy development may go beyond regulations. At the very least the linkages between policy development and regulatory review are unclear.

Policy development at the WCB

The Board develops and implements public policy that has important impacts on the social and economic fabric of the province. For example, by establishing worker health and safety regulations, the Board essentially defines how the workplace is to be organized. This can be a significant factor in an investor's decision-making process. The investor will judge whether or not the province's health and safety regulations are an incentive or a disincentive to investing in a business. The Board also sets social

¹⁰ Regulatory Review Process at the WCB of British Columbia. A report submitted by Intersol Consulting Associates to the Royal Commission. October 1997. Page 11.

¹¹ A WCB document provided insight on this matter. The Policy Development Process. A Briefing Paper. October 28, 1997. Author unknown.

and health policies in its decisions about which injuries to compensate and how best to rehabilitate workers. Clearly, the WCB's policy development has far reaching impacts. From a risk management perspective, the consequences of the WCB's policy development process are important.

Monitoring of the regulatory environment

A WCB briefing paper lists a number of ways in which problems and concern can lead to the development of policy. Among the several examples listed are: the Legislature; members of the worker, employer, health care or other communities having an interest in the worker's compensation system; WCB administration in the implementation of programs; WCB appeals division; and the panel of administrators. Few details are given on the actual methods utilized to collect, classify and analyze this information, nor is there evidence of the criteria used to identify significant trends or problems. It is clear that this approach is very reactive to the regulatory environment. There appears to be little, if any monitoring system to assist in the identification of issues and problems. In a discussion paper released in March of 1998¹², the WCB proposes the creation of a research and program evaluation capability within the Policy and Regulation Development Bureau.

Given this situation, how does the WCB propose to review its regulations? The WCB's Strategy For Ongoing Review¹³ sheds some light on this matter. The ongoing review strategy lists regulations that require further review. These projects are essentially a "mopping up" exercise of the regulatory review that was concluded with the enactment of the regulations in the fall of 1997.

What is abundantly apparent is that the WCB's ability to monitor the regulatory environment is a very reactive process. Affected representatives of different interests groups must take on the role of informing the Board of impending risks. This is an indication that there are deficiencies in the monitoring system. The existing data gathering mechanisms do not appear to be geared towards collecting, classifying and analyzing data that would indicate problems in the regulatory environment. There is no indication that the WCB monitors its environment for sentinel events - events that are indicative of problems in the environment. An example of this would be the number, types and circumstances in which a work related fatality occurred. Coroner's reports, and Coroner's Jury recommendations could be identified as such events. In order to adequately monitor the environment, the WCB must collect data, identify trends and develop policy, and then, if appropriate, develop regulations.

Definition of the Problem /Issue

In a regulatory review process, the definition of problem or issue can be done at several levels. In the case of occupational health and safety regulations, problem definition can be done from a global basis, at the level of the entire body of regulations, or conversely on a more local level, using specific parts of the regulations.

In the last round of regulation review, the WCB defined problems and priorities through the RAC's public forum in the fall of 1992. The objective of the forum was described as follows: "To launch the regulatory review process, the WCB chose to host a series of public fora, the objective of which was to identify the concerns across a broad range of stakeholders"¹⁴. The outcome of this initial consultation

¹² Worker's Compensation Board of British Columbia. Proposed Strategy for Ongoing Review of the Occupational Health & Safety Regulation (Draft). A Draft Policy Advice and Recommendation. Vancouver (BC): Worker's Compensation Board of British Columbia; March 20,1998. Page 14.

¹³ Proposed Strategy For Ongoing Review. WCB Document. Author unknown. Undated but sent via fax to Royal Commission staff on October 23, 1997.

¹⁴ Regulatory Review Process at the WCB of British Columbia. A report submitted by Intersol Consulting Associates to the Royal Commission. October 1997. Page 27.

was the identification of some priorities for the development of regulations (in effect it identified policy development needs). In this particular case, the need to create a new body of regulations to protect workers from violence in the workplace was identified as a top priority.

On a more local level, problems must also be identified at the level of a specific regulation sections. In the previous review of regulations, this task was left up to subcommittee members. Subcommittees had been established to consider the technical aspect of the regulations¹⁵. The examination of the WCB regulatory review process revealed that the methodology utilized by the twenty-plus subcommittees was at best inconsistent. “It would seem that a structured, disciplined project management framework and approach might have resulted in greater consistency in subcommittee output”¹⁶. A typical project management framework seeks first to identify and set boundaries for the project, and it is unclear how many of the subcommittees adopted this methodology.

STEPS

- 1 Policy Needs Identified
- 2 Outline & Preliminary Analysis
- 3 To Priorities Committee for Direction
- 4 Bureau Development and Analysis
- 5 Draft Policy Prepared/Consultation Undertaken
- 6 Bureau Revises Draft
- 7 Draft to SEC (when necessary)
- 8 Present to Panel
- 9 Panel Decision
- 10 Post implementation Review

WCB - Policy and Regulations Development Bureau
Policy and Regulation Development Process

Under the current Policy and Regulation Development Bureau, the process¹⁷ identifies a second step where an outline and preliminary analysis is conducted. It is at this stage where a policy problem or issue is defined, however, details are sketchy.

Risk Management

In the 1992-97 regulatory review period, there is no explicit risk management approach. That is not to say that risk was not considered throughout the review process. It likely was, but in a implicit fashion. The only evidence rests with the fact that the WCB set priorities by staging the review of the OSH Act into three distinct segments¹⁸. One or more risk criteria may have been used in determining priorities, however, this again is implicit. Nor is it clear on what basis these priorities established were established.

Again, under the current Policy and Regulation Development Bureau there is no explicit risk management approach. It is necessary, lacking specific documentation, to infer that there is some level of risk assessment performed when establishing regulatory policy priorities. The need for an explicit risk management framework is vital to ensure consistency of policy decisions. This is critical in light of the fact that policy priorities are determined in part by committees. These committees include the Policy Development Consultative Committee, the Occupational Disease Advisory Committee, and the Advisors on Regulation Review. Under such conditions, the absence of a risk management approach increases the probability of incoherence in regulatory policy. The absence of an explicit risk management approach is not unusual when compared to other British Columbia regulators.

¹⁵ Ibid. Page 31.

¹⁶ Ibid. Page 31.

¹⁷ This process is taken from The Policy Development Process. A Briefing Paper. Internal WCB document. October 28, 1997. Author unknown.

¹⁸ Regulatory Review Process at the WCB of British Columbia. A report submitted by Intersol Consulting Associates to the Royal Commission. October 1997. Page 6.

Selection of policy instruments

When it comes to occupational health and safety, regulations appear to be the exclusive means of intervention. A review of existing literature has turned up very few examples of non-regulatory policy instruments in this field. Some examples were found of performance based regulations being implemented, although these are a far cry from being a non-regulatory instrument. An American example cites: “The Department of Labor’s (DOL) Occupational Safety and Health Administration (OSHA) August 1996 revision of its standard protecting approximately 2.3 million workers on scaffolds in the construction industry provides another example of an effective use of a performance standards. The final rule establishes performance-based criteria, where possible, to protect employees from scaffold-related hazards such as falls, falling objects, structural instability, electrocution and overloading.” The impact of this performance-based approach is clear: “According to estimates, the new standards will prevent 4,500 injuries and 50 deaths annually, saving construction employers at least \$90 million in annual costs resulting from lost workdays due to scaffold-related injuries”¹⁹. It appears that the “default” state for intervention in the field of occupational health and safety is regulations. This may be due to the fact that market forces have little or no incentive to dedicate resources to protect workers from hazards and work related illness.

Assessing the impact of regulations

In other jurisdictions, the assessment of the impact of regulations is a particularly important step. It represents the final step before approval on the part of the Minister, and is meant to be an analysis of the expected benefits and costs associated with the regulatory initiative. The WCB does not conduct impact assessments of proposed regulatory change.

Many individuals and organizations have expressed concern over industry’s ability to remain competitive under the imposed costs of regulations²⁰. The adoption of impact assessment as part of the WCB’s methodology could have positive effects. However regulatory impact assessment is not without its own challenges. Cost benefit analyses (CBA) often create controversy and are often difficult to defend. Furthermore, completing CBA’s requires a specific skill set.

These challenges, however, are not insurmountable. Many regulators have modified their CBA’s to focus less on the quantitative analysis and more on the qualitative. In other words, the focus is not on the numbers but rather a description of the anticipated benefits and expected costs.

Public Consultation

The public consultation process employed by the WCB in its regulatory review process was the subject of an extensive assessment completed in the fall of 1997 and was included in the Royal Commissions Interim Report. However, one additional observation can be made at this time. Many regulators have found it useful to conduct consultations throughout the policy development process and not just when a policy is ready in a first draft format. The current policy and regulation development process shows that consultations take place twice. The first occurs at the time the draft policy is submitted to committee for direction, and the second when the draft policy is ready for review. This may be insufficient in some cases.

¹⁹ More Benefits, Fewer Burdens. Creating a Regulatory System that Works for the American People. United States Government. Office of Management and Budget. Office of Information and Regulatory Affairs. December 1996. Page 8.

²⁰ Author’s personal notes from interviews conducted in the project on assessment of the regulatory review process. August - October 1997.

Regulatory Program

A critical part of the framework is the ability of the Regulator to implement the selected policy instrument. As discussed previously, this is accomplished through the framework elements of education and training, enforcement and compliance, stakeholder communications, and penalties and appeals. This research sought to identify the presence of these program elements in the Worker's Compensation Board, but they have not been the subject of further analysis and recommendation in this report. The Royal Commission has previously studied these elements. The results of that research does not need to be repeated here.

Evaluation of regulatory effectiveness

A regulatory framework is incomplete if it does not seek to evaluate, at regular intervals, regulatory effectiveness in relation to the initial policy goal. The WCB's overall regulatory policy goals are stated under the Workers Compensation Act, Section 71 (1). The Act states that the Board may: "...make regulations, whether of general or special application and which may apply to employers, worker, and all other persons working in or contributing to the production of an industry within the scope of this part, for the prevention of injuries and industrial diseases in employments and places of employment..."

The WCB, in a recent discussion paper indicated that it feels that it can review 5 to 6 different aspects of the regulations per year, thus reviewing the entire body of regulations every five to six years²¹.

On the subject of evaluating regulatory effectiveness, it is clear that the WCB does not have the capacity to accomplish this task. The WCB's Policy and Regulation Development Bureau is considering the creation of a research and program evaluation capability. This function is an essential part of the regulatory process and must be implemented by the Board.

²¹ Worker's Compensation Board of British Columbia. Proposed Strategy for Ongoing Review of the Occupational Health & Safety Regulation (Draft). A Draft Policy Advice and Recommendation. Vancouver (BC): Worker's Compensation Board of British Columbia; March 20,1998. Page 12.

WCB's Regulatory Framework -- Findings and Recommendations

The table below summarizes the above findings of the Board's regulatory framework relative to the three major components and sub-elements of the generic framework.

Summary -- Government of British Columbia -- Worker's Compensation Board

Framework elements and sub-elements		Present	Findings
Policy	Monitoring of environment	Yes	Reactive and deficient
	Problem/Issue definition	Yes	Inconsistently applied throughout the review process
	Risk management	No	As an implicit criteria in the priority process. This is an area of weakness.
	Selection of Policy Instrument	No	Regulations appear as the default policy instrument
	Assessing Impact	No	WCB does not assess impact in an explicit analytical fashion
	Public Consultation	Yes	Part of the regulatory review process
Regulatory	Education & Training	Yes	WCB Prevention Program
	Stakeholder Communication	Yes	WCB Ongoing committee
	Enforcement & Compliance	Yes	WCB Workplace Inspection Program
	Penalties & Appeals	Yes	WCB Appeals Division
Evaluation	Program evaluation	Yes	Program outputs are measured
	Evaluation of regulatory effectiveness	No	Not done

Several elements within the existing framework require attention on the part of the WCB.

1. The ability to monitor the regulatory environment is an area that requires attention. The current approach appears to be reactive. The WCB's ability to collect, classify and analyze information is doubtful. The WCB needs to develop the capacity to monitor its environment for sentinel events.
2. The process that the WCB uses to define problems and issues is inconsistent. The regulatory review process must ensure consistency in problem definition at all levels in the regulatory review process. When the topic concerns new regulations, it is essential that the WCB define the problem clearly, in concert with stakeholders.
3. Risk management is currently an implicit process at the WCB. There is no evidence of a structured risk management approach. The WCB could draw several advantages and benefits from adopting a risk management framework within its policy development process.

4. The WCB's policy instrument of choice is regulatory intervention. At this time, the WCB does not utilize a policy instrument selection methodology. As the WCB attempts to move towards performance-based regulations it would be wise to implement such a methodology.
5. The WCB currently does not assess the impact of its regulations on businesses, consumers and government. The WCB could gain some advantages at identifying the true costs and benefits of existing and proposed regulations.
6. The Policy and Regulation Development process uses consultation processes at the point where a draft policy is ready for review. There are significant advantages to be had in consulting with stakeholders throughout the policy development process.
7. The WCB does not evaluate the effectiveness of its regulations. The WCB must periodically evaluate the effectiveness of regulations and use the findings as a means to identify problems in the environment. Consequently, this initiates the policy development process that can eventually lead to amendments in regulations.
8. As noted in an earlier section, the regulatory framework is an accountability mechanism. For the framework to be truly effective, it must become explicit, visible and transparent. It must become part of the overall methodology of regulation development and review at the Board.

The Management of Fatalities

The occurrence of fatalities among workers must be considered a sentinel event and is therefore a critical part of the regulatory framework pertaining to the monitoring of the environment by any regulator. In the final report of the inquiry into the Westray mining disaster, *The Westray Story: A Predictable Path to Disaster*, Justice Richard details the failure of the government and regulators to effectively monitor the implementation of regulations. The detailed history leading up to the disaster is instructive in that a series of incidents should have alerted regulators of the failure of the regulatory framework at any number of steps. Justice Richard points to "attitude" of management, government and regulators as one of the underlying causes for the failure of the regulatory framework to prevent the disaster.

The Royal Commission conducted research on the WCB's management of fatalities within the context of the Board's management its regulatory framework. The research shows that this important component has a number of significant failings. These are addressed below. In general, however, it is reasonable to conclude that the organization does not comprehend the importance of this component as part of its business, lacks reasonable management processes to assure that the technical processes are operational and lacks sufficient quality assurance standards. There is evidence that the Board is unable to effectively link sentinel events to a review of its regulations in any meaningful way and is therefore unable to evaluate the effectiveness of the regulations it produces. Its failure to manage inter-organizational relationships with the Coroner's Office and Vital Statistics effectively undermines its ability to monitor the environment for regulatory or other opportunities to address preventive strategies is also evident. There are significant intra-organizational gaps in information management that are also apparent. These gaps make it unlikely that the Board is able to take timely and effective action in modifying regulatory strategies to prevent future occurrences. Information obtained from the cohort study also demonstrate that information from the adjudication process is also not used to prospectively identify situations where individuals at risk could be used to prevent future fatalities. The ethical dimensions of this failure are not part of this report, however, they do need to be recognized.

In summary, whether attitude or poor attention to organizational processes, the overall conclusions are must be that the Board through its failure to be accountable for this component may be setting the stage for a "predictable path to disaster".

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Appendix 2 - Comparative Chart

Generic Framework		Health Canada		BC Government Ministry of Forests		BC Government Ministry of Health		WCB	
		Present	Evidence	Present	Evidence	Present	Evidence	Present	Findings
Policy Development									
Monitoring of regulatory environment	Yes	Media / consultations / trend analysis	No	Issue based consultations, through other boards and agencies	Yes	Demand - field driven	Yes	Reactive and deficient	
Problem / issue definition	Yes	Part of Policy development guidelines	Yes	Through policy development process	?	Unknown	Yes	Inconsistently applied throughout the review process.	
Risk management	Yes	Risk Management Methodology	No	None performed	Yes	No formal mechanism	No	As an implicit criteria in the priority process. This is an area of weakness.	
Selection of policy instrument	Yes	Part of Policy development guidelines	Yes	Although there are no apparent guidelines	Yes	Implicit criteria, no formal mechanism	No	Regulations appear as the default policy instrument	
Assessing impact and burden	Yes	CBA performed for major initiatives	Yes	Not systematic, depends on situation. No standards or guidelines	No	No evidence collected	No	WCB does not assess impact in an explicit analytical fashion.	
Public consultation	Yes	Throughout	Yes		Yes	Professional associations	Yes	Part of the regulatory review process	
Regulatory programs									
Education and Training	Yes	Part of Regulatory Program	Yes	To a limited extent through field operations	?	Unknown	Yes	WCB Prevention Program	
Stakeholder Communication	Yes	Part of consultation policy	Yes	Through Ministry's Communication Branch	Yes		Yes	WCB ongoing committees	
Enforcement and Compliance	Yes	Varies according to program	Yes	Field operations ensure enforcement	Yes	Limited to specific sectors	Yes	WCB Workplace Inspection Program	
Penalties and Appeals	Yes	Varies according to program	Yes	Yes, through Field	?	Unknown	Yes	WCB Appeals Division	
Evaluation									
Program evaluation	Yes	Part of annual planning process	Yes	Through Forest practices Board, MOE, District Offices	Yes	By professional associations, field operations	Yes	Program outputs are measured	
Regulatory Evaluation	No	Part of methodology / few resources	Yes	Through Forest practices Board, MOE, District Offices	Yes	By professional associations, field operations	No	Not done	