Comparative Review of Occupational Health and Safety in Canadian Jurisdictions

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Prepared For:
Royal Commission on Workers Compensation in British Columbia

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Overview Report

Comparative Review of Occupational Health and Safety in Canadian Jurisdictions

I. THE PROJECT

The purpose of this project was to research and compile information on a number of aspects of the Occupational Health and Safety (OHS) regimes of the Canadian jurisdictions.

Specifically, this project examined the

- **structure of the OHS regime** - is the OHS agency separate from government or is OHS a function under the Workers’ Compensation Board in the jurisdiction? what is the rationale for this structure and what are the perceived advantages and disadvantages?

- **organization and functions of the OHS agency or division** - are the enforcement and consultation and education functions separate and distinct? what is the rationale for the organizational structure and what are the perceived advantages and disadvantages?

- **workplace OHS committees and safety representatives** - where committees are required, is the employer responsible for covering the cost of training of committee members; what are the most effective powers of committees?

- **OHS fines and penalties** - the number and amount of fines imposed on employers, workers and others for contravention of the legislation; and where there is provision for administrative penalties, the number and amount of administrative fines imposed by the OHS agency or division.

- **OHS legislative review process** - is there a regular review process? what is the frequency of legislative review process? how is the process structured?

This project also compiled available data on various aspects of OHS and workers’ compensation scope and budget.

The scope of the project included all the Canadian jurisdictions. An interview was not undertaken with a representative of British Columbia in recognition of the detailed research and review of the British Columbia OHS legislation and organization currently being undertaken by other Royal Commission staff and contract researchers. As a result, only information that was readily available through other resources was included in the report for British Columbia (the “OHS Agency - Structure and Organization” and the “OHS and WC Coverage and Budget” summary matrices contain information and data for British Columbia).
II. METHODOLOGY

A four step approach was used to undertake this research and prepare this report:

• a framework for the summary matrices was prepared and research of various sources (annual reports, legislation) was undertaken and the matrices completed to the extent possible with the available information;

• an interview template was prepared, in consultation with the OHS working group, and sent to each jurisdiction, with a copy of the summary matrix, completed to the degree possible with available information (a copy of the interview template is included as Appendix 1);

• telephone interviews were then arranged and held with each of the jurisdictions to confirm the information in the matrices and to provide additional substantive information (each interview took between 30 and 45 minutes);

• the information from the interviews was recorded in interview notes; and was used to finalize the summary matrices and prepare this report.

III. COMMENTS AND OBSERVATIONS

Following are some general observations and comments arising from the review of the information collected on OHS for the various Canadian jurisdictions. These comments are intended to give a general sense or summation of the information collected and are not intended to be definitive. The summary matrices and the interview notes for each jurisdiction should be referred to for more detail.

*Structure of OHS Agency*

Of the twelve Canadian jurisdictions, six have a separate OHS agency that is a division or branch of a line department of government; in the remaining six jurisdictions the OHS function is a responsibility of the workers’ compensation board or commission.

At one point, most workers’ compensation agencies in Canada had responsibility for OHS. However, throughout the 1970s and early 1980s, primarily in response to the perception that the combined responsibility for workers’ compensation insurance and OHS was a conflict of interest, responsibility for OHS was taken was taken from the board and placed with a dedicated OHS agency or a line department of government. The exceptions to this general move were B.C., where the WCB retained responsibility for OHS, and Quebec, where responsibility for OHS was transferred from a line department of government to the agency responsible for workers’ compensation. However, over the last several years, responsibility for OHS has been transferred back to the workers’ compensation agency in several jurisdictions. It appears that this restructuring is primarily in response to broader government restraint and restructuring initiatives rather than a policy or philosophical rationale for the change.
Where there is a separate agency responsible for OHS and workers’ compensation, the primary advantages cited for this structure include avoidance of any perceived or actual conflict of interest and the independence to set priorities. Where the OHS agency is a part of a government department, the key disadvantage, according to many respondents, is that it is subject to government budget and fiscal controls and constraints. Another disadvantage relates to the ability to share information between the OHS division and the workers’ compensation agency.

Where the workers’ compensation board is responsible for OHS, the key advantages cited by respondents include greater co-ordination of activities and sharing of information. The key disadvantage was the perception that there is an inherent conflict of interest in the workers’ compensation agency having responsibility for OHS.

**Organization of OHS Function**

Only five jurisdictions separate the functions of enforcement and compliance from training and consultation and have distinct staff responsible for each function. Four jurisdictions have a separate agency responsible to some extent for workplace health and safety training (in Saskatchewan accident prevention training for employers is the responsibility of the WCB\(^1\); in Alberta, OHS and prevention training is outsourced to private sector safety associations funded by the WCB; in Quebec, funded sectoral agencies are responsible for delivering a significant portion of the training and in Ontario, the Workplace Health and Safety Agency, and with the proclamation of the new workers’ compensation legislation, the WCB, is responsible for health and safety training).

The jurisdictions which separate the enforcement and consultation function believe that the primary advantage of this approach is the clear separation between these two potentially conflicting functions. Respondents recognized that a downside of this approach is that employers have more than one point of contact with the OHS division.

Where the two functions of enforcement and training and consultation are combined and delivered by the same staff, the key advantages of this approach, as indicated by the respondents to the interview questions, are

- the more efficient use of increasingly scarce resources;
- the fact that each employer has but one point of contact with the OHS division, and
- related to the previous point, the combination of the two functions, ensures a consistent interpretation and application of the legislation and standards.

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\(^1\) The Department of Labour is responsible for all training for employers related to standards and compliance with the Act and regulation, including training related to workplace OHS committees.
The disadvantages or downsides of this approach, accordingly to many respondents, was the perception of a conflict of interest in the roles of enforcement officer and staff responsible for training and consultation. However, some respondents felt that this concern would be increasingly less significant as jurisdictions move to a more outcomes based or based approach to regulation.

With respect to the approach to enforcement and regulation, though compliance auditing is still the primary approach used in many jurisdictions, several jurisdictions are introducing or experimenting with some form of standards based audit system or programs aimed at establishing management or employer based and lead OHS systems.

**Workplace OHS Committees**

Only three jurisdictions do not require mandatory OHS committees or safety representatives for workplaces of a certain size or of a particular hazard category. In Alberta, OHS committees are only required on order of the minister, in the Northwest Territories, committees are only required for workplaces, other than mining companies\(^2\), on order of the Chief Inspection Officer, and in PEI, there is no requirement for committees.

No jurisdiction has undertaken a study or review of the effectiveness of OHS committees. As gleaned from observation and anecdotal information, respondents felt that the most effective powers of committees were powers related to the ability of committees to get OHS information disclosed and shared.

There is no information available on the policy rationale for the size thresholds and the criteria for the establishment of committees. Jurisdictions that recently amended their OHS legislation retained the requirement for workplace committees basically unaltered. As part of its current review of its OHS legislation, Ontario has requested public input and comment on the effectiveness of workplace committees.

**OHS Fines and Penalties**

Many jurisdictions have recently updated the level of fines for contravention of the legislation. However, the overall rate of prosecution for contraventions of the legislation is not high. Many respondents felt that administrative sanctions, and particularly the power to issue stop work orders, were more effective in ensuring compliance than prosecutions. Most jurisdictions do not have the power to impose administrative penalties (though several respondents felt that the ability of the WCB to impose premium surcharges on employers with a poor accident record was in effect a form of administrative penalty).

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\(^2\) The Northwest Territories *Mine Health and Safety Act* requires OHS committees for every mine that has 15 or more employers.
**OHS Legislative Review**

Only one jurisdiction, Saskatchewan, has a legislated review requirement for their OHS Act. Many jurisdictions have not reviewed or updated their legislation in a comprehensive fashion in up to 20 years. The primary reason cited for this is lack of government will. As well, the bipartite nature of review of OSH issues often makes effective resolution of issues very difficult and time consuming. In those jurisdictions that have undertaken a comprehensive review of their regulatory framework, this process has taken several years to complete (in the few jurisdictions where a review is currently underway, the process is in its third, fourth or even fifth year).

**OHS Statistics and Data**

As a general comment, it was very difficult to obtain specific, up to date and reliable data. In many jurisdictions, the desired information, specifically information on the budget breakdown between enforcement and consultation, was not maintained or recorded and thus not available. There was also often a discrepancy in the data from one source to the next. Given this, the OHS data included in this report should be treated with caution.

Keeping in mind the above caveat, some general observations respecting the data include:

- in several jurisdictions, funding for OHS is decreasing;
- reviewing total OHS funding as a percentage of administrative funding for workers’ compensation, indicates that Ontario, Quebec, New Brunswick, the NWT and the Yukon contribute proportionally the most funding to OHS activities (30 percent of more);
- in only four jurisdictions does the government contribute some funding for OHS activities.

**IV. SUMMARY MATRICES**

The information collected through this exercise is summarized in five matrices included in Tab 2 to this report:

- OHS Agency - Structure and Organization;
- OHS Committee Requirements;
- OHS Fines and Penalties;
- Review of OHS Legislation;
- OHS and WC Coverage and Budget

These matrices are of necessity relatively succinct and the interview notes and material collected from the various jurisdictions should be referred to for further detail.
V. INTERVIEWS OF JURISDICTIONS
Tab 3 contains the interview notes for each of the jurisdictions. Appendix 2 contains any background material referred to in the interview notes obtained from the various jurisdictions.
## OHS Agancy - Structure and Organization

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<th>Provinces</th>
<th>Occupational Health and Safety</th>
<th>Compliance/Enforcement &amp; Education Consultation</th>
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<tbody>
<tr>
<td><strong>B.C.</strong></td>
<td>Single agency responsible for all aspects of WC insurance and OHS, including policy development, regulation setting, enforcement, consultation and education.</td>
<td>Current structure longstanding; OHS and WC also combined. No changes planned.</td>
</tr>
<tr>
<td><strong>Alberta</strong></td>
<td>Separate agencies: Workplace Health, Safety and Strategic Services division of Alberta Labour responsible for OHS and WCB responsible for WC. OHS technical and prevention training provided by funded private sector agencies.</td>
<td>Government control and oversight of OHS</td>
</tr>
<tr>
<td><strong>Saskatchewan</strong></td>
<td>Separate agencies: OHS division, Department of Labour, responsible for OHS, including policy development, enforcement, consultation and education and WCB responsible for WC.</td>
<td>Objectivity and independence of OHS program ensured.</td>
</tr>
<tr>
<td><strong>Manitoba</strong></td>
<td>Separate agencies: OHS division, Department of Labour, responsible for OHS, including policy development, enforcement, consultation and education and WCB responsible for WC.</td>
<td>Allows OHS program to establish its own policy objectives; Objectivity and independence of OHS program ensured.</td>
</tr>
<tr>
<td><strong>Ontario</strong></td>
<td>Separate agencies: OHS division, Ministry of Labour, responsible for OHS, including policy development, enforcement and consultation. WCB responsible for WC and, when new WC Act proclaimed, will be responsible for training.</td>
<td>Avoids conflict of interest between OHS functions, particularly enforcement and workers compensation functions. OHS and WC require different areas of expertise.</td>
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## OHS Agency: Structure and Organization

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<th>Structure</th>
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<th>Compliance/Enforcement &amp; Education Consultation</th>
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<tr>
<td></td>
<td>Structure</td>
<td>Rationale</td>
<td>Status</td>
</tr>
<tr>
<td>Quebec</td>
<td>Single agency, the CSST, responsible for OHS, including policy development, enforcement, consultation and training, and all aspects of WC insurance. CSST works with partners in the delivery of health and safety training and education.</td>
<td>One function supports the other function. Accident prevention critical to an effective and efficient WC system.</td>
<td>Current structure in place since 1981 when function transferred from the Departments of Labour (workplace OHS) and Natural Resources (mines). No changes planned.</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>Single agency, Workplace Health, Safety and Compensation Commission of NB, responsible for OHS, including policy development, enforcement, consultation and training and all aspects of WC insurance.</td>
<td>Reduced cost of service delivery; greater coordination and integration of services and enhanced information sharing.</td>
<td>Current structure in place since January 1, 1995. No changes planned.</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>Separate agencies: OHS division Department of Labour, responsible for OHS, including policy development, enforcement, consultation and training and WCB responsible for WC.</td>
<td>Government control and oversight of OHS, ability to set OHS priorities; independence from WC issues.</td>
<td>Current structure in place since 1986. No changes planned.</td>
</tr>
<tr>
<td>P.E.I.</td>
<td>Single agency, WCB in PEI, responsible for OHS, including policy development, enforcement, consultation and training and all aspects of WC insurance.</td>
<td>Reduced cost of service delivery; integrated services.</td>
<td>Current structure in place since April 1996. No changes planned.</td>
</tr>
<tr>
<td>Newfoundland</td>
<td>Separate agencies: OHS division, Department of Environment and Labour, responsible for OHS, including policy development, enforcement, consultation and training and WC Commission responsible for WC.</td>
<td>Objectivity and independence of OHS program ensured.</td>
<td>Current structure longstanding; OHS agency always separate from WC. WCB would like to assume responsibility for consultation and training.</td>
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### OHS Agency - Structure and Organization

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<tr>
<td></td>
<td>Structure</td>
<td>Rationale</td>
</tr>
<tr>
<td>N.W.T.</td>
<td>Single agency, WCB NWT, responsible for OHS, including policy development, enforcement, consultation and training and all aspects of WC insurance.</td>
<td>Greater coordination and cooperation and enhanced use of WC accident information.</td>
</tr>
<tr>
<td>Yukon</td>
<td>Single agency, Yukon Workers' Compensation, Health and Safety Board, responsible for OHS, including policy development, enforcement, consultation and training and all aspects of WC insurance.</td>
<td>Coordination and integration of related functions; a continuum of accident prevention through compensation and rehabilitation.</td>
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### OHS Committee Requirements

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<th>Effectiveness of Committees</th>
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<td>Alberta</td>
<td>Only required on order of the Minister</td>
<td>No requirement for employer to cover cost of training</td>
<td>Support and cooperation of both employers and employees is critical</td>
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<tr>
<td>Saskatchewan</td>
<td>Committees required if 10 or more employees</td>
<td>General provision requiring employers to cover cost of training, including paid leave</td>
<td>Committees need to be &quot;active and focused&quot; on OHS to be effective</td>
</tr>
<tr>
<td>Manitoba</td>
<td>Committees required if 20 or more employees</td>
<td>Employer must pay for up to 16 hours of paid leave for training; though not required by legislation employers also cover $50 cost of training</td>
<td>Establishes an internal communication network between employers and employees</td>
</tr>
<tr>
<td>Ontario</td>
<td>Committees required if 20 or more employees; for construction sites only, safety representatives required for under 20 employees</td>
<td>General requirement that employer cover the cost of training</td>
<td>Committees are central to the principle of the internal or self responsibility model</td>
</tr>
<tr>
<td>Quebec</td>
<td></td>
<td>No legislative provision requiring employers to cover the cost of training</td>
<td>Process of participation and involvement is the key benefit of committees</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>Committees required if 20 or more employees</td>
<td>Employers must grant time off during normal working hours for training</td>
<td>For committees to be effective need adequate training</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>Committees required if 20 or more employees; safety representatives required if between 19 and 5 employees</td>
<td>General requirement that employer cover the cost of training</td>
<td>Information disclosure and sharing and ability to inspect and investigate are the most effective powers of committees/representatives</td>
</tr>
<tr>
<td>P.E.I.</td>
<td>No requirement for committees</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>N.L.D.</td>
<td>Committees required if 10 or more employees; safety representatives required if less than 10 employees</td>
<td>No requirement for employer to cover cost of training</td>
<td>Provides a mechanism for employers and employees to communicate</td>
</tr>
<tr>
<td>Yukon</td>
<td>Committees required if 20 or more employees; for high hazard worksites only, committees required if between 5 and 19 employees</td>
<td>General requirement that employer cover the cost of training</td>
<td>Provides a mechanism for employers and employees to communicate</td>
</tr>
<tr>
<td>N.W.T.</td>
<td>Under Mines Health and Safety Act committees required if 15 or more employees; committees required under general Safety Act only if ordered by Chief Safety Officer</td>
<td>Under the Mines Health and Safety Act employers must cover the costs of training; where the Chief Safety Officer has ordered a committee be formed under the Safety Act, the employer must cover the costs of training</td>
<td>Power to monitor minutes of committee meeting and attend meetings ensure effectiveness of committees</td>
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## OHS Fines and Penalties

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<th>Number &amp; Amount</th>
<th>Leg. Auth</th>
<th>Max. Fine</th>
<th>Number &amp; Amount</th>
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<tr>
<td>Alberta</td>
<td>OHS Act, sec 32, any person contraveneing specified provisions of the Act or regulations</td>
<td>1st offence - $150,000 + $10,000 a day for each day offence continues or up to 6 months prison; 2nd offence OR contravention of a stop work order at dangerous worksite - $300,000 + $20,000 a day or up to 12 months prison</td>
<td>1995-3 convictions (employers); amount of total fines unavailable 1996-1 conviction (employer); total fine $7,500</td>
<td>No provision for administrative fines</td>
<td></td>
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<tr>
<td>Saskatchewan</td>
<td>OHS Act, sections 57-59, any person contraveneing specified provisions</td>
<td>Graduated fines depending on seriousness of offence and whether it caused injury or death ranging from $2,000 to $300,000</td>
<td>1995- unavailable 1996-4 convictions (all employers); total fines $300,000 (1 fine = $200,000)</td>
<td>No provision for administrative fines</td>
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</tr>
<tr>
<td>Manitoba</td>
<td>Workplace Safety and Health Act, sec 55, any person contraveneing specified provisions</td>
<td>1st offence - fine of up to $150,000 + $25,000 per day offence continues; 2nd offence - $300,000 + $50,000 a day (as of June 1997)</td>
<td>1995-9 convictions (7 employers 2 workers); total amount of fines unavailable 1996-14 convictions (13 employers 1 worker); total amount of fines unavailable</td>
<td>No provision for administrative fines</td>
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## OHS Fines and Penalties

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<tr>
<th>Provinces</th>
<th>Leg. Auth</th>
<th>Max. Fine</th>
<th>Number &amp; Amount</th>
<th>Leg Auth</th>
<th>Max. Fine</th>
<th>Number &amp; Amount</th>
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<tbody>
<tr>
<td><strong>Ontario</strong></td>
<td>OHS Act, section 66, any person contravening Act or regulations or failing to comply with an order</td>
<td>For individuals, fine of up to $25,000 and/or up to 12 months prison; for a corporation, fine of up to $500,000</td>
<td>1995-&lt;$1,000,177 convictions (15 employers 85 workers 17 super.), total amount of fines $36,130; &gt;$1,000-500,000 149 convictions (114/32/3), total fines $2.28M; 1996-&lt;$1,000 34 convictions (9/12/13), $15,496; &gt;$1,000-500,000 102 convictions (89/12/1); $3.1M</td>
<td>No provision for administrative fines</td>
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<tr>
<td><strong>Quebec</strong></td>
<td>Act respecting Occupational Health and Safety, sections 236-237, any person contravening the Act or regulations or an order</td>
<td>1st offence - for individuals a fine between $200-$500; a corporation $1,000-$2,000; 2nd offence $500-$1,000 and $1,000-$2,000. If harm or injury results $500-$1,000 and $5,000-$20,000 for 1st offence and $1,000-$2,000 and $10,000-$50,000 for 2nd</td>
<td>1995 - 977 convictions; total amount of fines unavailable 1996-573 convictions; total amount of fines unavailable</td>
<td>No provision for administrative fines</td>
<td></td>
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<tr>
<td><strong>New Brunswick</strong></td>
<td>OHS Act, section 47, any person violating Act or regulations</td>
<td>Fine of up to $50,000 or up to 6 months in prison; every day offence continues deemed to be a separate offence</td>
<td>1995 - unavailable 1996-10 convictions; total amount of fines $7,800 (1997 single fine of $25,000 for mining fatality)</td>
<td>No provision for administrative fines</td>
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## OHS Fines and Penalties

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<tr>
<th>Provinces</th>
<th>Leg. Auth</th>
<th>Max. Fine</th>
<th>Number &amp; Amount</th>
<th>Administrative</th>
<th>Leg. Auth</th>
<th>Max. Fine</th>
<th>Number &amp; Amount</th>
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</thead>
<tbody>
<tr>
<td><strong>Nova Scotia</strong></td>
<td>OHS Act, section 74, any person violating Act or regulations or fails to comply with an order</td>
<td>Fine of up to $250,000 + $25,000 a day for each day offence continues and/or up to 2 years in prison; if offender has profited court may impose additional fine equal to monetary gain; section 75 allows alternative sentencing (ed. or com. service)</td>
<td>1995-9 convictions (7 employers 2 constructors); total amount of fines $7,501</td>
<td>Section 82(an) regulation making power &quot;to provide for admin. penalties - No regulations passed at present</td>
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<tr>
<td><strong>P.E.I.</strong></td>
<td>OHS Act, section 31, any person violating Act or regulations or failing to comply with an order</td>
<td>Fine of up to $50,000 + $5,000 a day for each day offence continues and/or up to one month in prison</td>
<td>1995 - none 1996 - none</td>
<td>No provision for administrative fines</td>
<td></td>
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<tr>
<td><strong>Nfld.</strong></td>
<td>OHS Act, section 67, any person violating Act or regulations or failing to comply with an order</td>
<td>Fine of up to $50,000 + $5,000 a day for each day offence continues and/or 6 months prison</td>
<td>1995-1 conviction (employer); total amount of fine $1,000 1996-6 charges laid</td>
<td>No provision for administrative fines</td>
<td></td>
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</tr>
<tr>
<td><strong>Yukon</strong></td>
<td>OHS Act, sections 47-48, any person contravening Act or regulations or failing to comply with an order</td>
<td>1st offence contravention of legislation up to $150,000 + $15,000 each day offence continues and/or 12 months prison; 2nd offence $300,000 + $25,000 a day and/or 24 months prison</td>
<td>1995-1 conviction (employer); total amount of fine $1,000 1996-none</td>
<td>OHS Act, section 47.1, as an alternative to prosecution, officer may levy an admin penalty</td>
<td>1st offence, fine up to $5,000 + $500 for each day offences continues; 2nd offence, up to $10,000 fine + $1,000 per day. There is right of appeal to the board; money from penalties paid into the fund.</td>
<td>1995-2 fines imposed (employers); total amount of fine $5,000 1996-3 fines imposed (employers); total amount of fine $4-6,000</td>
<td></td>
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## OHS Fines and Penalties

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<thead>
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<th>Provinces</th>
<th>Criminal</th>
<th>Administrative</th>
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<tr>
<td></td>
<td>Leg Auth</td>
<td>Max. Fine</td>
</tr>
<tr>
<td>Yukon (continued)</td>
<td>1st offence contravention of order $200,000 + $17,500 per day &amp; up to 18 months prison; 2nd offence: $350,000 + $27,500 per day &amp; up to 30 months prison. 1st offence stop work order $250,000 and $20,000 per day and up to 24 months in prison; 2nd offence $400,000 + $30,000 and up to 36 months prison</td>
<td></td>
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<tr>
<td>N.W.T.</td>
<td>Safety Act, section 22 any person contravening act or regulations or failing to comply with an order</td>
<td>Every employer subject to a fine of up to $500,000 and/or 1 year prison; employees who commit an offence subject to a fine of up to $50,000 and/or 6 months prison or $25,000 fine and 1 month if condoned employer’s offence</td>
</tr>
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### Review of OHS Legislation

<table>
<thead>
<tr>
<th>Provinces</th>
<th>Frequency</th>
<th>Nature of review</th>
<th>Bi- or Tripartite</th>
<th>Frequency</th>
<th>Nature of review</th>
<th>Bi- or Tripartite</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alberta</td>
<td>Not comprehensively reviewed since first came into force in 1978; major revision of General Safety and health/hygiene regulations in 1981-86; comprehensive review process currently underway</td>
<td>No formal or legislated review requirement</td>
<td>Tripartite working groups or task forces established by government (representatives of employers, workers and government)</td>
<td>Not comprehensively reviewed since first came into force in 1976; comprehensive review process currently underway (part of regulatory review process)</td>
<td>No formal or legislated review process</td>
<td>Tripartite working groups or task forces</td>
</tr>
<tr>
<td>Sask.</td>
<td>Comprehensive package of new regulations passed in December 1996 (prior to that regulations had not been comprehensively reviewed since 1976)</td>
<td>No legislated review requirement</td>
<td>Bipartite process - OHS Council (representatives of employers and workers)</td>
<td>New Act introduced in October 1993 (prior to this, the Act had not been subject to a major review since it was first passed in 1973)</td>
<td>Legislated review requirement - every 5 years</td>
<td>Bipartite process - OHS Council (representatives of employers and workers)</td>
</tr>
<tr>
<td>Manitoba</td>
<td>General OHS regulations have not been comprehensively reviewed in last 20 years</td>
<td>Provision in the Act requires that the mining regulation be reviewed every five years.</td>
<td>Tripartite process - OHS Council (representatives of employers, workers and government)</td>
<td>Not comprehensively reviewed in over 10 years (minor amendments in 1997 to raise amount of fines)</td>
<td>No formal or legislated review process</td>
<td>Tripartite process - OHS Council (representatives of employers, workers and government)</td>
</tr>
<tr>
<td>Ontario</td>
<td>Not comprehensively reviewed since first came into force in 1978; comprehensive legislative review process currently underway</td>
<td>No legislated review requirement</td>
<td>Review process being lead by government (Ministry of Labour); extensive consultation with interested parties and stakeholders</td>
<td>Not comprehensively reviewed since first came into force in 1978; comprehensive legislative review process currently underway</td>
<td>No legislated review requirement</td>
<td>Review process being lead by government (Ministry of Labour); extensive consultation with interested parties and stakeholders</td>
</tr>
<tr>
<td>Quebec</td>
<td>Regulations subject to a regular review process</td>
<td>Not legislated but a formal process in place for the systematic review of the regulations</td>
<td>Tripartite committees in place for general OHS regulations and issue specific regulations such as mining regulations; lead by CSST with employer and workers representation</td>
<td>Not comprehensively reviewed since 1981</td>
<td>No legislated review requirement</td>
<td>N.A.</td>
</tr>
<tr>
<td>N.B.</td>
<td>OHS regulation not comprehensively reviewed since 1991; comprehensive regulatory review process currently underway</td>
<td>Not legislated but formal process in place for review of regulations (want to establish a two year review cycle)</td>
<td>Tripartite review process; six technical committees established, government representative as chair and representation of employers and workers</td>
<td>Not comprehensively reviewed since first came into force though minor amendments made at various points (most recently in 1994/95 when OHS merged with WC)</td>
<td>No legislated review requirement</td>
<td>N.A.</td>
</tr>
</tbody>
</table>
## Review of OHS Legislation

<table>
<thead>
<tr>
<th>Provinces</th>
<th>Frequency</th>
<th>Regulation</th>
<th>Bi- or Tripartite</th>
<th>Frequency</th>
<th>Nature of review</th>
<th>Statute</th>
<th>Nature of review</th>
<th>Bi- or Tripartite</th>
</tr>
</thead>
<tbody>
<tr>
<td>N.S.</td>
<td>No regulations were reviewed when 1986 Act passed (some regulations date to 1960s). All regulations are currently being reviewed as part of a comprehensive legislative review process begun in December 1992</td>
<td>Not legislated but formal process in place for review of all regulations</td>
<td>Primarily bipartisan review process through OHS Advisory Council, with government as observer</td>
<td>New Act came into force in 1986; currently subject to a comprehensive legislative review process</td>
<td>No legislated review requirement (impetus for legislative review was a major mining accident)</td>
<td>Primarily bipartisan review process through OHS Advisory Council, with government as observer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P.E.I.</td>
<td>Not comprehensively reviewed since 1988</td>
<td>No legislated review requirement</td>
<td>WCB (1 chair, 2 employer representative and 2 worker) (prior to amalgamation of OHS and WC, OHS Council, based on sectoral representation review body)</td>
<td>Last comprehensively reviewed in 1988</td>
<td>No legislated review requirement</td>
<td>WCB (1 chair, 2 employer representative and 2 worker) (prior to amalgamation of OHS and WC, OHS Council, based on sectoral representation review body)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nfld.</td>
<td>All regulations are currently being reviewed as part of a comprehensive regulatory review process</td>
<td>No legislated review requirement, but formal process in place to review all regulations</td>
<td>Government is leading the review process with extensive consultation with stakeholders</td>
<td>Last comprehensively reviewed in 1978</td>
<td>No legislated review requirement</td>
<td>N.A.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N.W.T.</td>
<td>Regulations under the Safety Act not comprehensively reviewed since 1977 when first came into force; a new Mine Health and Safety Act and regulations came into force in December 1995</td>
<td>No legislated review requirement</td>
<td>The mines OHS legislative review committee is bipartisan (five employer and five worker representatives) with active participation by the Chief Mines Inspector</td>
<td>Safety Act not comprehensively reviewed since 1977 when first came into force; new Mines Act introduced in December 1995</td>
<td>No legislated review requirement for Safety Act; legislative requirement for Mines OHS legislative committee to review implementation of the new Act</td>
<td>The mines OHS legislative review committee is bipartisan (five employer and five worker representatives) with active participation by the Chief Mines inspector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yukon</td>
<td>Regulations have not been comprehensively reviewed since 1985, but comprehensive review process currently underway</td>
<td>No legislated review requirement, but formal process in place to review regulations</td>
<td>Bipartite working group composed of employer and worker representatives, with staff support from OHS division of government</td>
<td>The Act has not been comprehensively reviewed in last 20 years (subject to minor amendment four times)</td>
<td>No legislated review requirement</td>
<td>N.A.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### OHS and WC Coverage and Budget

#### Provinces

<table>
<thead>
<tr>
<th>Province</th>
<th>Scope of Coverage</th>
<th>Expenditures (thousands)</th>
<th>Source of OHS Funding</th>
<th>OHS Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>WC legislation</td>
<td>OHS legislation</td>
<td>WC Fund</td>
<td>Gov't</td>
</tr>
<tr>
<td></td>
<td>Workers Covered</td>
<td>Employers Covered</td>
<td>Claims</td>
<td>Admin.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B.C.</td>
<td>1,741,500</td>
<td>143,599</td>
<td>1,151,974</td>
<td>142,158</td>
</tr>
<tr>
<td></td>
<td>1,028,840</td>
<td>142,971</td>
<td>34,012</td>
<td>23.0</td>
</tr>
<tr>
<td>Alberta</td>
<td>n.a.</td>
<td>n.a.</td>
<td>303,204</td>
<td>39,978</td>
</tr>
<tr>
<td></td>
<td>461,047</td>
<td>36,987</td>
<td>9,200 (2)</td>
<td>24.9</td>
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<tr>
<td>Sask.</td>
<td>934,764</td>
<td>76,533</td>
<td>143,594</td>
<td>25,370</td>
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<tr>
<td></td>
<td>444,106</td>
<td>326,000</td>
<td>112,248</td>
<td>26,877</td>
</tr>
<tr>
<td></td>
<td>20,452</td>
<td>500,000</td>
<td>124,383</td>
<td>25,397</td>
</tr>
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<td></td>
<td>119,376</td>
<td>26,662</td>
<td>4,305</td>
<td>16.2</td>
</tr>
<tr>
<td>Manitoba</td>
<td>4,012,400</td>
<td>181,722 (94)</td>
<td>2,235,000</td>
<td>334,000 (6)</td>
</tr>
<tr>
<td>Ontario</td>
<td>n.a.</td>
<td>n.a.</td>
<td>93,100</td>
<td>30.0</td>
</tr>
<tr>
<td>Quebec</td>
<td>3,109,332</td>
<td>188,538</td>
<td>1,435,336</td>
<td>255,944</td>
</tr>
<tr>
<td></td>
<td>189,753</td>
<td>2,600,000</td>
<td>85,600</td>
<td>34.7</td>
</tr>
<tr>
<td>N.B.</td>
<td>292,758</td>
<td>12,500</td>
<td>62,409</td>
<td>16,592</td>
</tr>
<tr>
<td></td>
<td>300,000</td>
<td>13,000</td>
<td>86,240</td>
<td>16,512</td>
</tr>
<tr>
<td>N.S.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>99,167</td>
<td>17,770</td>
</tr>
<tr>
<td></td>
<td>385,000</td>
<td>n.a.</td>
<td>103,796</td>
<td>19,398</td>
</tr>
<tr>
<td>P.E.I.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td>4,652 (97)</td>
<td>50,000</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>N.L.D.</td>
<td>222,398</td>
<td>n.a.</td>
<td>197,000</td>
<td>15,000</td>
</tr>
<tr>
<td></td>
<td>200,000</td>
<td>15,000</td>
<td>82,703</td>
<td>12,777</td>
</tr>
<tr>
<td>N.W.T.</td>
<td>21,000</td>
<td>n.a.</td>
<td>25,607</td>
<td>5,724</td>
</tr>
<tr>
<td></td>
<td>21,000</td>
<td>n.a.</td>
<td>2,193 (13)</td>
<td>38 (14)</td>
</tr>
<tr>
<td>Yukon</td>
<td>15,400</td>
<td>n.a.</td>
<td>15,045</td>
<td>2,536</td>
</tr>
<tr>
<td></td>
<td>12,300</td>
<td>n.a.</td>
<td>14,846</td>
<td>2,763</td>
</tr>
</tbody>
</table>

*Note: FTEs refer to Full-Time Equivalents.*

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*Comparative Review of OHS*  
*September 1997*
OHS and WC Coverage and Budget

(1) includes $6.0 million for OHS; $2.5 million for safety associations; the WCB also provides $14.1 million to employers under the voluntary incentive plan.
(2) includes $6.0 million for OHS; $3.2 million for safety associations; the WCB also provides $10.9 million to employers under the voluntary incentive plan.
(3) The board has statutory responsibility for collecting levies from employers to fund OHS and safety associations.
(4) includes $3,880,000 million for OHS division and $536,000 for WCB prevention training. The WCB also provided $1,359,000 for Safety grants for 1995 and $1,641,000 for Safety grants for 1996.
(5) Under the Workplace Safety and Health Act, the government may recover expenses incurred in the administration of that Act from the WC Fund.
(6) less $5 million for Institute for Work and Health which was included in administration and now included in total OHS expenditure.
(7) The WCB is required to reimburse the government of Ontario for the administrative cost of the Occupational Health and Safety Act.
(8) The WCB is required by government to reimburse it for part of the operating costs of the OHS Division of N.S. Department of Labour.
(9) this includes $2.3 million for the inspection function; $700,000 for training and $600,000 for policy development.
(10) this includes $2.3 million for inspections; $680,000 for training and $630,000 for policy development.
(11) The WCB also provided $643,000 for the Worksafe Program in 1995 and $213,000 for the Worksafe Program for 1996.
(12) this includes 29 inspection staff; 11 training staff and 8 policy staff.
(13) this includes approximately $600,000 for the administration of the Mine Health and Safety Act and $600,000 for the Safety Act, $250,000 for training and $600,000 for policy and administration.
(14) compares 1995 WCB administrative expenditure to 1996 OHS expenditures.
(15) by 1999, the WCB will be totally responsible for OHS funding; WCB and government have just entered into a three year transitional agreement; in the first year government will contribute 75% of the 1996/97 approved OHS budget, in 1997/98, 50% and in 1998/99, 25%.
(16) this includes 4 enforcement staff and 6 "other" staff.
Questions Regarding Occupational Health and Safety

Jurisdiction: **ALBERTA**

1. **Structure of OHS Agency**

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

2. **Organization and Functions of OHS Agency**

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

Is the OHS agency responsible for mining inspections?
2.2. How long has this OHS organizational structure been in place?

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

2.4. What are the perceived advantages / disadvantages of the current structure?

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

   • What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

   • Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

   • What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

   • Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?
4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

If yes,

• what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
• how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and

• what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

What is the frequency of the review?

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

How many times has the Act and regulations been reviewed in the last 20 years?

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

What criteria are used to determine whether a review is necessary?
6. **OHS Statistics and Data**

6.1. How many workers are covered by the OHS legislation?
    
    See “OHS and WC Coverage and Budget” matrix.
    
    How many employers are covered by OHS legislation?
    
    See “OHS and WC Coverage and Budget” matrix.
    
    If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?
    
    Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.
    
    See “OHS and WC Coverage and Budget” matrix.
    
    For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.
    
    See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.
    
    See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: SASKATCHEWAN

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Separate agencies: the Workers’ Compensation Board is responsible for all aspects of workers’ compensation insurance and the Occupational Health and Safety Division, Department of Labour, is responsible for administration of the OHS legislation. This includes inspection, enforcement and compliance, consultation with and training of employers, and policy development.

With respect to training, the OHS agency provides the training required under the regulations and consults with employers on compliance with legislated requirements, but the WCB provides most of the technical training for employers on accident prevention and reduction.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

The current structure is long-standing; since 1972, OHS functions have been consolidated into a single OHS division in a government department.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

N.A.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:
- arms length from the workers compensation insurance system: allows OHS agency to maintain its objectivity.

Disadvantages:
- though the OHS agency has access to all workers’ compensation claims and accident data and information, communication and coordination would be easier if there were a single agency responsible for both workers’ compensation insurance and OHS.

No documentation available.
1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?
   No plans for change.

2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

   There is no separation of enforcement/compliance officers and consultation/training staff. The one division is responsible for all OHS functions and a generic officer is responsible for both compliance/enforcement and consultation/training.

   Is the OHS agency responsible for mining inspections?
   A separate unit in the OHS division is responsible for mining inspections. This unit has both mine engineers and mine inspectors.

2.2. How long has this OHS organizational structure been in place?
   Long-standing; since 1972 and creation of OHS agency within government.

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?
   N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?
   Advantages:
   • the same officer dealing with a client on all issues allows for the establishment of a comprehensive relationship between officer and client and promotes better communication and effective resolution of issues;
   • consistent interpretation and application of the Act and regulations (avoids the problem of getting a different interpretation and response when dealing with two different people of similar issues).
Disadvantages:

- because the enforcement area and consultation and training areas require certain different skill sets and experience, it may be difficult to recruit staff with the full skill set needed for the position; additional staff training may be required for generic OHS officers.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

The regulations are used by OHS officers as a guide in dealing with employers. The onus is on the employer to ensure a safe and healthy workplace. The role of the OHS officer is to ensure that there is a system in place to control and prevent risk and to foster a safe and healthy workplace. The OHS officer uses the regulations as a standard to measure the adequacy of the OHS process and structure in place in the workplace. If problems are identified the regulations will be used as an enforcement tool.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

OHS committees required if 10 or more employees.

No policy rationale was identified as a basis for this threshold; it was simply indicated that this has been the requirement since the 1972 Act was implemented.

As of July 1997, certain high hazard employers will be required to have safety representatives.

Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?
There is a general provision requiring employers to train, or cover the cost of training, of committee members and safety representatives. This includes covering the cost of wages where the committee member or representative is participating in a training session. It is the employer’s responsibility to ensure that committee members and representatives are adequately trained to undertake their function and duties.

What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

There is a perception that “active, conscious and focused” committee can be effective in reducing accidents and promoting a safe and healthy workplace. A perceived problem with committees is that they often get side-tracked into other labour relations issues to the detriment of their OHS role and responsibilities.

Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

No research has been undertaken in Saskatchewan examining the effectiveness of OHS committees.

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

No other OHS related legislation.

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.
How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

There is no provision for administrative penalties; there is some consideration being given to the issue of administrative fines, however, at present, it is considered that a “stop work” order is the most effective form of administrative penalty available (and that when applied acts as an economic penalty).

If yes,

• what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?

• how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and

• what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

Until the introduction of the new 1993 OHS Act there was no legislated or regular review process. The 1993 Act contains a provision requiring that the Act be reviewed at five year intervals (section 84).

What is the frequency of the review?

Every five years; first review required in 1998.
5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

In October 1993, a new OHS Act was proclaimed; it replaced the former Act dating to 1973.

In December 1996, a comprehensive package of new regulations came into effect. Prior to this the regulations had not been comprehensively reviewed since they first came into force in 1976 (periodically, amendments to certain regulations have been made, including changes made in 1986 to meet federal standards).

How many times has the Act and regulations been reviewed in the last 20 years?

The Act and regulations have been comprehensively reviewed only once in the last 20 years.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The 1993 OHS Act requires that the OHS Council review the Act every five years. The Council is a bipartite group with employer and employee representation.

The Council’s role is to review the Act, consult with affected parties and come up with a consensus position on recommended changes (the Council developed and recommended the draft Act which formed the basis of the new 1993 Act).

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

The review requirement in the 1993 Act requires that the entire Act be reviewed. The 1995/96 review of the regulations considered the regulations as a package.

What criteria are used to determine whether a review is necessary?

The 1993 review of the Act and the 1996 review of the regulations was in response to a general perception that the legislation was out of date; that it contained obsolete provisions and did not provide sufficient regulation of new areas.

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?

See “OHS and WC Coverage and Budget” matrix
How many employers are covered by OHS legislation?
   See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?
   Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.
   See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.
   See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.
   See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: MANITOBA

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Separate agencies: the Workers' Compensation Board is responsible for workers' compensation insurance and the OHS division, Department of Labour is responsible for all aspects of OHS.

1.2. How long has the current organizational structure for workers' compensation and OHS been in place in your province?

The current structure has been in place since 1976. With the proclamation of the 1976 OHS legislation responsibility for workplace health and safety was transferred from the WCB to the Department of Labour.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

N.A.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:
- independence from the WCB allows the OHS division to establish its own priorities.

Disadvantages:
- though the WCB covers the cost of OHS, as part of government, the OHS division is subject to government fiscal controls and budget constraints.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.
2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

There is no separation of enforcement/compliance and consultation/training -- the OHS division is organized along a generalist approach. Generic OHS officers provide consultation and training services to employers and also carry out workplace inspections and investigations.

[From the early 1990s until this year, the WCB also provided some prevention programs as an adjunct to its experience rating program that provided premium rebates or surcharges based on accident and claims experience. This program is being eliminated and the WCB no longer provides any prevention services. ]

Is the OHS agency responsible for mining inspections?

A separate branch within the OHS division is responsible for mining inspections.

2.2. How long has this OHS organizational structure been in place?

The current generalist approach has been in place for several years (though at one time there was a clear distinction and separation between the enforcement and training functions).

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?

Advantages:

• enhances credibility of OHS officers; when providing training, an officer can bring the perspective of the field into the training room, and when undertaking inspections, an officer is able to better apply the standards and requirements of the legislation.

Disadvantages:

• none identified.
2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

   No changes are planned.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

   Over the last three to four years, the OHS division in Manitoba has been moving in the direction of applying the regulations in a proactive way. Increasingly the division is undertaking health and safety audits to identify missing systems or processes and then working with the employer to establish the necessary workplace health and safety system. Inspection orders are not considered to be the most effective way to increase safety in the workplace.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

   • What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

   OHS committees are required for workplaces that have 20 or more employees. Safety representatives are required in workplaces with 10 to 19 employees. The policy rationale for the size thresholds for committees and representatives is not clear. (However, when the OHS legislation was first enacted in 1976, workplace OHS committees were only required in specified workplaces. Then, in the early 1980s when the legislation was updated the size thresholds were introduced.)

   • Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

   The Act requires that the employer must pay for up to 16 hours of paid leave for training for committee members and safety representatives.

   The OHS division charges $50 for a training course for committee members and representatives. Though there is no legislative provision requiring that employers cover this cost, in practice employers have been covering the cost of the training program as well as providing paid leave to employees participating in this training.
• What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

Anecdotal evidence and observation indicates that the most effective aspect of OHS committees or safety representatives is that an internal communication network between employer and employee is opened.

• Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

No research has been undertaken in Manitoba examining the effectiveness of OHS committees or safety representatives.

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

No other OHS related legislation.

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.
How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

There is no provision for the imposition of administrative penalties in Manitoba.

If yes,
• what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
• how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
• what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

There is no formal or legislated review process for the Act or general OHS regulations. The OHS Act contains a requirement that the mining regulation be reviewed every five years.

What is the frequency of the review?
   Every five years for the mining regulation.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The Act has not been subject to a comprehensive legislative review since it was first brought into force in 1976. Minor amendments to add the requirement for OHS committees and safety representatives and to clarify the worker’s right to refuse unsafe work were made in the early 1980s and amendments to raise the level of fines under the legislation were passed in June 1997.
Though various minor amendments to the regulations have been made over the years, the OHS regulations have not been comprehensively reviewed in over 20 years.

How many times has the Act and regulations been reviewed in the last 20 years?

The Act and regulations have not been comprehensively reviewed in over 20 years.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The review process used for the minor amendments to the Act and for the regular review of the mining regulation is tripartite in nature. The OHS Advisory Council, composed of members of the staff of the OHS division and employer representatives and worker representatives, advise the minister and government on changes to the legislation. (Generally, the OHS division will draft the legislative proposals and then obtain the perspective of workers and employers through the OHS Council; following this consultation, the Council as a whole will put forward a recommendation to the Minister).

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

Over the last twenty years the Act and regulations have been reviewed in a piecemeal fashion.

What criteria are used to determine whether a review is necessary?

Normally a review of select legislative provisions is in response to a perceived problem or issue.

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?

See “OHS and WC Coverage and Budget” matrix

How many employers are covered by OHS legislation?

See “OHS and WC Coverage and Budget” matrix.
If there is a difference between coverage under workers' compensation legislation and OHS, what is the reason for this difference in coverage?

Not confirmed, but probably relates to the difference in scope of coverage of workers' compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.

See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.

See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.

See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: ONTARIO

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Separate agencies: the Workers’ Compensation Board (or, when the new Act is proclaimed, the Workplace Safety and Insurance Board) is responsible for workers’ compensation and the OHS division of the Ministry of Labour is responsible for OHS. The Workplace Health and Safety Agency is responsible for health and safety training (until the proclamation of the new Act when responsibility for health and safety training is transferred to the board).

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

The current structure is longstanding; the WCB is a no fault insurance body that under the new legislation will play a greater role in prevention and safety education and training as a way to mitigate its insurance liability, but OHS enforcement and regulation of the industry will remain a responsibility of direct government.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

N.A.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:

- avoids conflict, perceived and actual, between the two distinct functions of insurance adjudication and OHS compliance;
- allows development of specific expertise - the skills and experience involved in workers’ compensation insurance adjudication and OHS are quite distinct.
Disadvantages:

- obtaining easy and quick access to workers' compensation accident information, including difficulty in coordinating the sharing of information.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.

2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

Enforcement and compliance and health and safety training are delivered by distinct agencies. The OHS division is responsible for OHS enforcement and compliance, including the communication of standards and expectations. This role involves some consultation with and education of employers. Health and safety training and OHS certification is the responsibility of a separate agency - until the implementation of the new workers' compensation legislation, the Workplace Health and Safety Agency, once the new legislation is passed, health and safety training becomes a responsibility of the WCB. (Before the creation of the Workplace Health and Safety Agency, worksite training a responsibility of the OHS division, but this was not a major focus or priority of the division.)

Is the OHS agency responsible for mining inspections?

A specialized unit of the OHS division is responsible for the inspection of mines.

2.2. How long has this OHS organizational structure been in place?

The current organizational structure, with the separation of OHS enforcement and health and safety training has been in place for many years.

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

There has been no change in the basic structure of the system with its separation of OHS enforcement and workplace training. However, in 1991, partially as a result of fiscal constraint considerations and in response to concerns with the effectiveness of the OHS division, the division was reorganized from a centralized structure into a regionalized service delivery system.
2.4. What are the perceived advantages / disadvantages of the current structure?

Advantages:
- no conflict of interest, perceived or actual, between the OHS enforcement and compliance function and the training function;

Disadvantages:
- none identified.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

The mandate of the OHS division is to enforce compliance with the OHS legislation and standards. This includes the communication of standards and some degree of interaction with employers to assist them in compliance, but the general focus is enforcement.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

- What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

OHS Committees required if 20 or more employees; for construction sites only safety representatives are required if less than 20 employees.

No policy rationale was identified as the basis for these thresholds. These limits appear to be an arbitrary cut-off. It is recognized that there are problems with this approach in terms of employments with high concentrations of part-time workers.
• Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

There is a general requirement that the employer cover the cost of training for committee members and safety representatives.

• What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

There is a commonly held view that OHS committees work. Indeed OHS committees are central to the internal responsibility model. The issue of the effectiveness of OHS committees and safety representatives is an issue being addressed in Ontario’s current comprehensive OHS legislative review.

• Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

The OHS division has not to date undertaken any research regarding the effectiveness of workplace OHS committees and safety representatives.

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

No other related OHS legislation.

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.
How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

There is no provision for administrative penalties; the issue of appropriate fines and penalties for contraventions of the legislation is an issue being addressed as part of the current legislative review process.

If yes,

• what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?

• how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and

• what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

There is no legislated or formal review process for the Act or regulations. It was pointed out that a concern with a regular review process is the onerous nature of legislative review (the time, effort and resources devoted to a legislative review process are significant.
What is the frequency of the review?

N.A.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The current Act and regulations date back to 1978; there have been minor amendments over the years to both Act and regulations but no comprehensive review has been undertaken until the current comprehensive legislative review process launched in February 1997.

How many times has the Act and regulations been reviewed in the last 20 years?

The Act and Regulations have not been comprehensively reviewed for almost 20 years, since 1978.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The government is responsible for leading the legislative review process. The government prepares discussion papers and proposals and undertakes extensive consultation with affected parties, including workers’ and employers’ groups, and the public.

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

Under the current review process the Act and regulations are being reviewed together as a comprehensive package.

What criteria are used to determine whether a review is necessary?

The reasons for the current review are: “to update the act to be consistent with the needs of the modern workplace, to bring occupational health and safety in Ontario into the twenty-first century and to encourage workplace self-reliance wherever possible”. “Further progress needs to be made because too many people are still being killed or seriously injured on the job.” (Excerpts from the media documents released by Ontario announcing the OHS legislative review.)

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?

See “OHS and WC Coverage and Budget” matrix
How many employers are covered by OHS legislation?

See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?

Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.

See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.

See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.

See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: QUEBEC

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Combined agency: the workers' compensation agency, the Commission de la santé et de la sécurité du Québec (the CSST) is responsible for both workers' compensation and OHS.

1.2. How long has the current organizational structure for workers' compensation and OHS been in place in your province?

Long-standing; since 1981 when responsibility for OHS was transferred from several government departments (Department of Labour and Natural Resources) and consolidated into the CSST.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

N.A.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:

- one function supports the other function on a continuum of effective accident prevention, workers’ compensation and rehabilitation.

Disadvantages:

- none identified.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate
staff or officers of the agency)?

   Enforcement and compliance, communication of standards and consultation with employers on OHS compliance is undertaken by CSST. Workplace health and safety training is undertaken by “sectoral associations” funded by the CSST.

Is the OHS agency responsible for mining inspections?

   A group in the OHS branch of the CSST is responsible for the inspection of mines.

2.2. How long has this OHS organizational structure been in place?

   Longstanding; since the transfer of OHS responsibility to the CSST there have been separate agencies responsible for enforcement and compliance and employer consultation and workplace health and safety training. (Until 1983/84, responsibility for enforcement and responsibility for consultation with and education of employers on compliance with the OHS legislation, were delivered by distinct OHS officers. These functions were then combined and delivered by same OHS officer).

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

   N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?

   Advantages:
   
   • combining the enforcement and consultation functions consolidates expertise and limits the number of OHS staff any one employer has to deal with.

   Disadvantages:
   
   • none identified.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

   No changes are planned.
2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

The approach to regulation is proactive in that the OHS officer will work with employers to assist them in establishing a safe and healthy workplace that achieves compliance with the legislation. However, the OHS officer will use the regulatory enforcement powers at his disposable when the situation warrants it. As well, there is a “zero tolerance” program for certain areas such as mining.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

- What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria? None identified.

- Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)? There is no legislative provision requiring the employer to cover the cost of training. There is a fund in place to support the cost of training ($6 million 1997/98).

- What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?) There is feeling or perception that the very process of participation and involvement is a key benefit of committees. However, any consideration of the effectiveness of committees is highly subjective as it is based on observation and opinion versus hard data or research.

- Is there any research evidence to support the effectiveness of workplace OHS committees or representatives? The CSST has not undertaken any research on the effectiveness of OHS committees.
4. **OHS Fines and Penalties**

**Criminal Prosecutions**

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

   No other OHS related legislation.

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

   See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

   See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

   See “OHS Fines and Penalties” matrix.

**Administrative Penalties**

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

   There is no provision for the CSST to impose administrative penalties.
If yes,
- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

The Act has not been reviewed since 1981.

There is a formal, standardized review process in place for the regulations. Established working groups or committees are responsible for specific regulations.

What is the frequency of the review?

The frequency of the review of the regulations depends on whether there are any issues of concern or new developments that need to be addressed.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The Act has not been comprehensively reviewed since 1981; though there has been some consideration for reviewing areas not covered by OHS committees, there are no concrete plans to undertake an extensive review of the act. The regulations have been reviewed periodically as required.

How many times has the Act and regulations been reviewed in the last 20 years?

See above.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The review process for the regulations is tripartite. The regulatory review working groups are presided over by CSST staff with members of employers and workers’ groups.

Is the entire statute and all the regulations reviewed at the same time, or in parts,
or separately?
Regulations are reviewed in separate groups or stand-alone.

What criteria are used to determine whether a review is necessary?
Regulations are reviewed in response to specific issues or concerns or to address new developments or technology.

6. **OHS Statistics and Data**

6.1. How many workers are covered by the OHS legislation?
See “OHS and WC Coverage and Budget” matrix

How many employers are covered by OHS legislation?
See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?
Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.
See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.
See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.
See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: NEW BRUNSWICK

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Combined agency: the Workplace Health and Safety Compensation Commission (the WHSCC) is responsible for workers’ compensation and OHS.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

Since January 1, 1995, when the Occupational Health and Safety Commission was amalgamated with the WHSCC.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

There was a general move across government to reduce the number of government board and agencies. Past studies had also examined the issue of a merger between the workers’ compensation agency and OHS. These studies found that there could be cost savings by amalgamating the two agencies and benefits through increased information sharing. The chief downside of amalgamation was considered to be the fact that the two agencies undertake quite distinct, potentially conflicting, functions.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:
- not constrained by government fiscal and budgetary policies and controls;
- ability to take advantage of new technologies implemented through the WC agency.

Disadvantages:
- reduced priority of OHS activities; OHS functions now just one of many priorities of the WHSCC.
1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned at present. (There is some consideration being given to raising the focus or priority of OHS by establishing a senior executive management position to be responsible for this area; at present OHS function is the responsibility of a director level position).

2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

Compliance/enforcement and training are distinct functions generally delivered by different staff (as part of the compliance function, OHS officers may provide some education and training).

Is the OHS agency responsible for mining inspections?

OHS staff in the WHSCC are responsible for the inspection of mines (when the OHS Commission was created in the early 1980s, responsibility for mine inspections was transferred from the government department responsible for mines to the commission).

2.2. How long has this OHS organizational structure been in place?

Since the early 1980s (when the OHS Commission was first established).

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?

Advantages:

• allows for staff to develop areas of expertise;

• the two functions are distinct and it would be difficult for one person to effectively undertake both functions.

Disadvantages:

• none identified.
2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

   No changes are planned.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

   OHS officers will perform both compliance and performance auditing.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

   • What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

   OHS Committees required if 20 or more employees.

   No policy rationale was identified as the basis for this threshold (historical and based on the limits in other jurisdictions).

   • Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

   A standard training course for committee members is provided at no cost through the OHS division of the WHSCC. The legislation requires that employers grant time off during normal working hours for this training and that they provide paid leave.

   • What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

   There is a perception that committees may not be effective as they have the potential to be; this is primarily an issue of training and education and not due to insufficient powers.
• Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

No research has been undertaken in New Brunswick to assess the effectiveness of committees.

4. **OHS Fines and Penalties**

**Criminal Prosecutions**

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

No other OHS related legislation.

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

**Administrative Penalties**

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

There is no provision for administrative fines in New Brunswick.
If yes,

- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

There is no legislated or standardized review process for the OHS Act. The regulations are subject to a standard review process that has just recently been established.

What is the frequency of the review?

The goal is to have a review of all the regulations on a regular two year cycle.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The Act and regulations were last comprehensively reviewed in 1991.

How many times has the Act and regulations been reviewed in the last 20 years?

Once; there was comprehensive review of the legislation in the late 1980s, culminating in new legislation in 1991.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The review process for the regulations is tripartite in nature with representation from the WHSCC, workers and employers (though the OHS representative of the WHSCC will be chair and thus be more an observer than leader of the process). It was noted that under a tripartite structure it may take longer to achieve a consensus, but at least such a process ensures that everyone is on-side.
Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

All the regulations will be reviewed individually or in groups over a two year cycle.

What criteria are used to determine whether a review is necessary?

Standardized review process.

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?

See “OHS and WC Coverage and Budget” matrix

How many employers are covered by OHS legislation?

See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?

Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.

See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.

See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.

See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction:  NOVA SCOTIA

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Separate agencies: the Workers’ Compensation Board is responsible for all aspects of workers’ compensation insurance and the Occupational Health and Safety Division, Department of Labour, is responsible for administration of the OHS legislation and all functions related to accident prevention and OHS enforcement.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

The current structure is long-standing; since 1986 all OHS functions have been consolidated into a single OHS division in the Department of Labour (see attached excerpt from Nova Scotia, Department of Labour website).

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

No recent change.

Documentation available: 1984 review, the “McKeough” Report on the consolidation of all OHS into Department of Labour.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:

- ability to set OHS priorities, separate from workers’ compensation priorities;
- level of independence;
- responsiveness.

Disadvantages:

- resource constraints (as part of direct government)

No documentation available.
1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No plans for change.

2. **Organization and Functions of OHS Agency**

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

There is no separation of enforcement/compliance officers and consultation/education/training staff. The Division has two branches: Central Services and Field Services. The Field Services Branch uses “generic Occupational Health and Safety Officers” to provide consultative support, education and training and to ensure compliance with legislation and standards (see attached excerpt from Nova Scotia Department of Labour, OHS Division, website).

Is the OHS agency responsible for mining inspections?

A group within the OHS Division is responsible for mine inspections.

2.2. How long has this OHS organizational structure been in place?

Since April 1996.

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

Reasons for change include: budget and expenditure considerations, need for increased service and responsiveness.

Documentation available: Internal report on the reorganization of OHS Division.

2.4. What are the perceived advantages / disadvantages of the current structure?

Advantages:

- more direct client contact (regionalization allows more hands on time to be spent with clients as opposed to time spent traveling);
- responsiveness and timeliness (more help, sooner, as needed);
- establishment of a comprehensive relationship between officer and client.
Disadvantages:

- conflict and acceptability issues associated with using same generic OHS officer to provide all client services.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

The Division is monitoring the effectiveness and continuing to evaluate the implementation of the generic OHS officer approach.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

Compliance and performance auditing; the current review process is examining ways to enhance the internal responsibility model to further assist employers in establishing safe and healthy work environments.

Documentation available: “Risk Management Services” policy of the WHSCC.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

- What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

OHS committees required if 20 or more employees; OHS representative required if between 5 and 19 employees.

The working group which developed the 1986 Act recommended every employer have a OHS representative no matter how many employees, but this recommendation was rejected by government as too onerous on employers and because of enforcement concerns. The requirement for OHS committees and representatives is based on the principle of employee participation, but is balanced with practical considerations. [It was indicated that “there is nothing ‘magic’ about 20 or more employees” as the threshold for the committee requirement, but that this appears to be the standard.]

- Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.?)
The 1986 Act contains a general provision (and accompanying regulation making power) requiring that the employer provide training for OHS committees and representatives. As part of the current legislative review process, a working group is examining the operation of OHS committees and representatives and the exact nature of this training requirement is one of the issues being addressed by the working group.

- What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

There is a view, gained through the current legislative review and consultation process, that the powers dealing with information disclosure and sharing of knowledge, including the ability to inspect and investigate a concern or worksite safety issue, are the most critical from the perspective of the committee members and representatives.

- Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

No research has been undertaken in Nova Scotia examining the effectiveness of OHS committees.

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

    No other OHS related legislation.
4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

No provision for administrative penalties; not being considered at present.

If yes,

- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?

- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and

- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.
5. **OHS Legislative Review**

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

There is no legislated of formal review process for the Act or regulations.

(A provision in the 1986 Act does however, require the Director to report through the Advisory Council to Minister the operations of the Act. The exact nature of this review is still under consideration, but is likely to deal with effectiveness of administration of the legislation and problems or issue areas.)

What is the frequency of the review?

N.A.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

A new OHS statute was introduced in 1986.

In 1993, a comprehensive review of all the Act and regulations was begun; it is still ongoing.

How many times has the Act and regulations been reviewed in the last 20 years?

Various regulations have been reviewed over the past 10 years since the implementation of the 1986 Act (about 10 to 12 regulations have been amended in the last ten years since introduction of the new Act). The Act and all the regulations are currently being reviewed as part of the 1993 review process.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The review process is primarily a bipartite process with government as observer, but ultimately, arbitrator of contentious issues (where the employer/employee group can not come to an agreement the issue goes to Department of Labour and government will make the decision and inform all interested parties).

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

Not all the regulations were reviewed and amended when the 1986 Act was implemented. Until the 1993 review, the regulations had been reviewed piecemeal.
What criteria are used to determine whether a review is necessary?

The recent 1993 comprehensive review of the Act and regulations was initiated in response to a major mine accident. All regulations are being reviewed to assess their effectiveness and to modernize and update (some of the existing regulations are over 40 years old).

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?

See “OHS and WC Coverage and Budget” matrix.

How many employers are covered by OHS legislation?

See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?

Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.

See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WC Fund, CRF and/or other.

See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.

See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: PRINCE EDWARD ISLAND

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?
   
   Combined agency: the Workers’ Compensation Board of PEI is responsible for both workers’ compensation and OHS.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?
   
   The current structure has been in place since April 1996.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?
   
   Responsibility for OHS was transferred from government as a restructuring measure; because the board was already responsible for OHS expenditures it was considered appropriate that it take on accountability for the program as well.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?
   
   None identified.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?
   
   No changes are planned.
2. **Organization and Functions of OHS Agency**

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

OHS is a responsibility of the Employer Services branch of the board. The branch is responsible for compliance and enforcement, through worksite investigations and inspections. OHS officers also undertake workshops on the standards and requirements in the Act and regulations. The branch does not provide workplace health and safety training - this is a responsibility of employers.

Is the OHS agency responsible for mining inspections?

There are no mines in PEI.

2.2. How long has this OHS organizational structure been in place?

The current organizational structure is longstanding and was in place for many years when the responsibility for OHS was the responsibility of a line department of government.

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?

None identified.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

Primarily compliance auditing.
3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

- What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

There is no requirement for workplace OHS committees or safety representatives in PEI.

- Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

N.A.

- What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

N.A.

- Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

N.A.

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

No other OHS related legislation.
4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

There is no provision for administrative fines in PEI; this is not being considered at this time.

If yes,

- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

There is no formal or legislated review process for the Act or regulations.
What is the frequency of the review?
N.A.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The Act and regulations were last comprehensively reviewed in 1988.

How many times has the Act and regulations been reviewed in the last 20 years?
See above.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

Now that responsibility for OHS rests with the WCB, the board would be responsible for reviewing proposals to amend the Act or regulations (the board is composed of a chair, two representatives of workers and two of employers, all appointed by the LGIC).

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

In 1988, the Act and regulations were reviewed as a comprehensive package.

What criteria are used to determine whether a review is necessary?

Issues coming to the attention of government is generally the impetus for a review. At present, the OHS group is urging a review of the regulations in response to perceived problems.

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?

See “OHS and WC Coverage and Budget” matrix

How many employers are covered by OHS legislation?

See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?

Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.
6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by
1) compliance/enforcement and 2) education/consultation/training and
3) research.

See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or
other.

See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance
and enforcement staff and 2) staff in consultation/education/training/other.

See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: NEWFOUNDLAND

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Separate agencies are responsible for workers’ compensation and occupational health and safety in Newfoundland: the Newfoundland Workers’ Compensation Commission is responsible for workers’ compensation and a division of the Department of Environment and Labour Relations is responsible for OHS.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

The current structure is long-standing; since 1978, when an OHS agency was first established, it has been part of a government department. (In 1996, there was a government reorganization and the functions of the Department of Employment and Labour Relations, including the OHS function, were transferred to a new Department of Environment and Labour Relations.)

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

N.A.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:

- independence from the agency responsible for WC. (The OHS agency needs to be independent of the agency responsible for the workers’ compensation insurance function in order to effectively fulfill its mandate -- there is a concern that if the two functions were combined in a single agency that the claims or compensation area would “drive” the agency to the detriment of OHS enforcement and accident prevention. In Newfoundland there is a clear distinction between the Commission as an insurance company involved in post accident compensation and the OHS division as an accident prevention agency.)
Disadvantages:

- as a part of government, the OHS division is subject to budget constraints and government financial and administrative policies (personnel recruitment and selection and salary); this may constrain the ability of the agency to adapt, meet increasing demands for service and attract and retain high quality staff.

No documentation available.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

The WCB in Newfoundland is interested in assuming responsibility for some aspects of OHS. WC legislation is subject to a statutory review every five years and in its representations to the statutory review committee (which began its work in August 1996 and finished in May 1997) the WCB indicated that it wished to take over responsibility for OHS policy and education/consultation and research, leaving enforcement with a government department or agency. This recommendation was not adopted by the committee, but the government is giving further consideration to the issue.

2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

Enforcement/compliance and education/consultation/training are distinct functions in the OHS division, carried out by distinct staff units. (At one point, Newfoundland gave some consideration to moving to a mixed or generic compliance and prevention officer model, but because of unsuccessful experiences in various other jurisdictions with such a model it was decided not to move to such an approach).

Is the OHS agency responsible for mining inspections?

The OHS division is responsible for mining inspections. A separate group in the investigations section of the OHS division undertakes the safety inspection of mines (the governing statute for mines, the Mine Act is under the Department of Natural Resources, but the regulation of mines is the responsibility of the OHS agency).

2.2. How long has this OHS organizational structure been in place?

Since 1978 and the establishment of an OHS agency in government.
2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?
   N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?
   Advantages:
   • clear, actual and perceived distinction between enforcement activities and prevention and education and training activities;
   • support from employers.
   Disadvantages:
   • none identified.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?
   No changes are planned.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)
   Inspectors will audit for compliance with the Act and regulations and, in response to complaints or statistics or information that indicate a problem area or concern, inspectors will use the regulations as an enforcement tool. However, the inspectors will also use regulations as a proactive tool by working with employers to bring worksites up to standards by helping to identify potential problem areas or hazards and ways to correct or prevent accidents and achieve compliance with the legislation.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,
   • What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?
   OHS committees required if 10 or more employees; OHS representative required if less than 10 employees.
No policy rationale was identified as a basis for these thresholds; it was simply indicated that this has been the requirement since the 1978 Act was implemented.

- Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?
  No.

- What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)
  The key perceived advantage of workplace committees and safety representatives is that they provide a mechanism for workers and employers to communicate. The power of the government to monitor the activities of committees and representatives, and follow up if recommendations are not implemented, is also perceived to increase the effectiveness of committees and representatives.

- Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?
  No research has been undertaken in Newfoundland examining the effectiveness of OHS committees.

4. **OHS Fines and Penalties**

**Criminal Prosecutions**

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?
  The Radiation Health and Safety Act establishes that a person contravening the legislation is liable upon conviction for a fine of up to $5,000.
4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

**Administrative Penalties**

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

No provision for administrative penalties; not being considered at present.

If yes,

- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.

5. **OHS Legislative Review**

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

No.
What is the frequency of the review?
N.A.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The Act was last comprehensively reviewed in 1978 (the date that the current Occupational Health and Safety Act first came into force).

The regulations are currently being subject to a complete review and rewrite. This is in response to a broad government initiative that called for the review of all government regulations. (Initiated three years ago under the former government administration, this complete review of all regulations was set for completion by May 1996 - any regulations not reviewed and confirmed by that time were to be repealed. A general extension of this deadline was provide until May 1997 and a subsequent two year extension was provided to allow a complete review and rewrite of the OHS regulations.)

How many times has the Act and regulations been reviewed in the last 20 years?

The Act has not been reviewed in the last twenty years. Including the current review process, the regulations have been comprehensively reviewed only once.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The government, through the OHS division of the Department of Environment and Labour Relations, is leading the regulation review process. However, there is significant consultation with the stakeholders, primarily employers’ and workers’ groups.

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

All the regulations are being reviewed as part of the current review process.

What criteria are used to determine whether a review is necessary?

A broader government initiative was the impetus for the current review process. However, as part of the review process, obsolete and unnecessary regulations have been identified and, more significantly, new areas needing regulation or coverage under the legislation have been identified.
6. **OHS Statistics and Data**

6.1. How many workers are covered by the OHS legislation?
   
   See “OHS and WC Coverage and Budget” matrix.

   How many employers are covered by OHS legislation?
   
   See “OHS and WC Coverage and Budget” matrix.

   If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?
   
   Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.
   
   See “OHS and WC Coverage and Budget” matrix.

   For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.
   
   See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.
   
   See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction:  **YUKON**

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

   Combined agency: the Workers’ Compensation, Health and Safety Board (WCHSB) is responsible for both workers’ compensation and OHS.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

   The combined structure has been in place since May 1992, when the OHS division of the Department of Justice and the Workers’ Compensation Board were merged.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change?  Are any reports or papers available?

   The change in organizational structure was made to achieve greater coordination and cooperation between workers’ compensation and OHS.

   Documentation available: “Reducing Risk in the Workplace: An occupational health and safety strategy for the Yukon”, a joint initiative by the Yukon Workers’ Compensation Board and the Yukon OHS branch, March 1990. Though this report did not recommend a merger the government of the day decided that greater integration was needed.

1.4. What are the perceived advantages / disadvantages of the current structure?  Are any reports or research studies available?

   Advantages:
   - integration with workers’ compensation; a continuum of accident prevention through compensation and rehabilitation;
   - not subject to budget and financial constraints of a line department in government.
Disadvantages:

- perceived conflict between the role of enforcement under the OHS legislation and employers’ as clients under workers’ compensation.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

No changes are planned.

2. **Organization and Functions of OHS Agency**

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

There is no separation of enforcement/compliance officers and consultation/training staff. A single division in the WCHSB is responsible for all OHS functions and a generic officer is responsible for both compliance/enforcement and consultation/training.

Is the OHS agency responsible for mining inspections?

A specialized group in the OHS division, WCHSB, is responsible for the inspection of mines.

2.2. How long has this OHS organizational structure been in place?

Long-standing; since the OHS agency was first established as part of government (over 17 years ago) and maintained when responsibility for OHS was moved to the WCHSB.

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

N.A.

2.4. What are the perceived advantages / disadvantages of the current structure?

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?
2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

3. **Workplace OHS Committees**

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

- What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

- Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

- What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

- Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

4. **OHS Fines and Penalties**

   **Criminal Prosecutions**

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?
How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

If yes,

- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

What is the frequency of the review?

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

How many times has the Act and regulations been reviewed in the last 20 years?
5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

What criteria are used to determine whether a review is necessary?

6. **OHS Statistics and Data**

6.1. How many workers are covered by the OHS legislation?

   See “OHS and WC Coverage and Budget” matrix

How many employers are covered by OHS legislation?

   See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?

   Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.

   See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.

   See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.

   See “OHS and WC Coverage and Budget” matrix.
Questions Regarding Occupational Health and Safety

Jurisdiction: NORTHWEST TERRITORIES

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

Combined agency: the Workers’ Compensation Board of the Northwest Territories is responsible for both workers’ compensation and OHS.

1.2. How long has the current organizational structure for workers’ compensation and OHS been in place in your province?

The WCB has had responsibility for OHS since April, 1996.

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

As part of a broad government initiative examining ways to restructure government, the Department of Safety and Public Services was disbanded and responsibility for OHS, including mine safety and inspections, was transferred to the WCB.

As well, until April 1996, the NWT was the only jurisdiction in Canada where the government totally funded OHS activities. When the decision was made to transfer funding responsibility for OHS to the WCB from government, it was decided that as the agency responsible for funding, the WCB should also have responsibility for administration of the program.

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

Advantages:
- control over budget;
- greater coordination and cooperation in sharing of workers’ compensation accident information;
- greater effectiveness in overall program delivery.

Disadvantages:
• perceived conflict of interest associated with employers funding OHS and therefore having the potential to exert undue influence on the delivery of OHS services.

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

Though the merger was originally a contentious issue for employee organizations and groups because of the conflict of interest issue, the issue has lost prominence and the WCB is in fact considering ways to further amalgamate the functions of OHS and prevention in an effort to reduce accidents with an ultimate positive effect on workers’ compensation costs.

2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

Until the last year, separate staff were responsible for inspection and enforcement and training and consultation, with a high degree of cooperation and information sharing between the two groups. However, over the last year, efforts have been made to train generalist OHS officers who will be responsible for compliance and consultation. The goal is to have OHS officers that can undertake a compliance audit and provide basic safety awareness and education to the same employer during a single visit.

Is the OHS agency responsible for mining inspections?

The OHS division of the WCB is responsible for the inspection of mines and mine safety. The chief mine inspector is an employee of the Board

2.2. How long has this OHS organizational structure been in place?

See question #2.1.

2.3. If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?

The recent move to training enforcement officers in the delivery of safety awareness and education is consistent with the broader focus of the board to integrate and coordinate all the functions of the board to more effectively meet its mandate. The generalist approach will ensure a more effective use of resources.
2.4. What are the perceived advantages / disadvantages of the current structure?

Advantages:
- more efficient use of OHS officer time and resources;
- better client service through integrated approach;
- reduce travel costs.

Disadvantages:
- None identified.

2.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

The WCB is continuing to explore further integration of the inspection and training functions.

2.6. What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)

The approach to regulation is primarily compliance auditing. However, the more experienced OHS officers will use the regulations in a more proactive way to help employers identify issues and work with them to achieve compliance with the standards in the regulations.

3. Workplace OHS Committees

3.1. If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,

- What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?

The Mines Health and Safety Act, which regulates all aspects of mining, requires a OHS committee where there are 15 or more employees (section 11). However, there is no mandatory requirement for committees under the Safety Act which regulates OHS for all other workplaces. Committees are only required on order of the Chief Safety Officer. As well, regulations under the Safety Act require that all employers have an accident prevention program and as part of this program there must be a mechanism for employers to voice their concerns respecting health and safety issues.

There is no articulated policy rationale for the thresholds or criteria for OHS committees in either the mines health and safety or general safety legislation.

99/02/23
• Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?

The Mine Health and Safety Act requires that employers cover the cost of wages of committee members when members are participating in committee activities. Where the Chief Safety Officer has ordered the establishment of a committee, the regulations under the Safety Act require that meetings of the committee must be held during regular working hours and the employer must cover the cost of wages of committee members.

• What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

There is a view that the most effective powers related to OHS committees, at least in terms of getting disclosure of information, are the powers of OHS officers to review minutes of committee meetings and follow-up with employers and to attend committee meetings.

• Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

No research has been undertaken in the Northwest Territories assessing the effectiveness of OHS committees.

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

The Explosives Uses Act (which regulates the use of explosives for all industries except mines which are regulated separately under the mines health and safety legislation) contains a maximum fine of $1,000 for contravention of the Act. This legislation has not been updated in many years.

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and
1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?

See “OHS Fines and Penalties” matrix.

Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

There is no provision for administrative fines in the Northwest Territories. (Though there is some interest in the issue of administrative fines, no legislation is currently being considered except legislation associated with the April 1, 1999, division of the territories into two jurisdictions.)

If yes,

- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?
- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and
- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

N.A.

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

There is no legislated or formal review requirement for the Safety Act or regulations under that act.

The 1995 Mine Health and Safety Act includes a requirement for a mine OHS...
legislative committee that is mandated to review the implementation of the new Act and regulations and recommend changes (section 49). (This provision is partly in response to a perception that there was insufficient consultation when the Act was being drafted).

What is the frequency of the review?

N.A.

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

The Safety Act and regulations have not been reviewed since 1977 when they first came into force.

A new Mine Health and Safety Act and regulations came into force in December 1995. This was the culmination of a three year legislative review process.

How many times has the Act and regulations been reviewed in the last 20 years?

The Safety Act and regulations have not been reviewed in the last 20 years. Though there has been some discussion respecting the need for a comprehensive review of the Safety Act and regulations, there is no political will to undertake such a review. The mines industry is a much more vocal lobby, and has been able to focus the government’s attention.

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?

The mines OHS legislative committee is notionally bipartite, with five employee representatives and five employer representatives. There is also one representative of the WCB (who happens to be the Chief Mines Inspector and who plays an active role on the committee). The committee met three times in 1997 and in response to a call for comments on the new Act and regulations received, and is considering, 300 submissions.

Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

The 1992-1995 review of the mines health and safety legislation was comprehensive with the act and regulations being considered as a whole. The government direction for the current review is that as much as possible necessary changes to the legislation should be achieved through amendments to the regulations.
What criteria are used to determine whether a review is necessary?

There is no policy or background information on the rationale or impetus for the review of the mines health and safety legislation.

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?
See “OHS and WC Coverage and Budget” matrix.

How many employers are covered by OHS legislation?
See “OHS and WC Coverage and Budget” matrix.

If there is a difference between coverage under workers’ compensation legislation and OHS, what is the reason for this difference in coverage?

Not confirmed, but probably relates to the difference in scope of coverage of workers’ compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.
See “OHS and WC Coverage and Budget” matrix.

For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.
See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.
See “OHS and WC Coverage and Budget” matrix.
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Appendix 1
Interview Template
Questions Regarding Occupational Health and Safety

Jurisdiction:

1. Structure of OHS Agency

1.1. What is the current structure (is the WCB responsible for OHS or is there a separate agency responsible for OHS)?

1.2. How long has the current organizational structure for workers' compensation and OHS been in place in your province?

1.3. If a change in the organizational structure has been made recently, what was the impetus, or the rationale for the change? Are any reports or papers available?

1.4. What are the perceived advantages / disadvantages of the current structure? Are any reports or research studies available?

1.5. What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?

2. Organization and Functions of OHS Agency

2.1. With respect to the major functions of the OHS agency -- compliance / enforcement and education / training / consultation -- are these two roles combined or separated within the agency (i.e., delivered by the same or separate staff or officers of the agency)?

Is the OHS agency responsible for mining inspections?
2.2. **How long has this OHS organizational structure been in place?**

2.3. **If a change in the OHS organizational structure has been made recently, what was the impetus, or the rationale for the change?**

2.4. **What are the perceived advantages / disadvantages of the current structure?**

2.5. **What is the status of the current structure? Are there any issues concerning the current structure? Are any changes planned?**

2.6. **What is the approach to inspections and audits; is the use of the regulations reactive or proactive? i.e., do inspectors simply audit for compliance or is there some degree of proactive approach or performance auditing?)**

3. **Workplace OHS Committees**

3.1. **If there is a legislative requirement in your jurisdiction for workplace OHS Committees or health and safety representatives,**

   - **What is the basis or underlying rationale for the size criteria or other criteria for establishing the committees or representatives? Is there any research to support this criteria?**

   - **Is there a requirement, in the Act or regulations, that requires the employer to cover the cost of training for committee members and representatives (i.e., pay for training, cover the cost of educational leave, etc.)?**
• What are the most effective powers of the committee or representative? (For example, are powers allowing the committee or representative to make recommendations for employer action effective? Do employers make the recommended changes and do changes recommended by committees or representatives have an impact on worksite health and safety?)

• Is there any research evidence to support the effectiveness of workplace OHS committees or representatives?

4. OHS Fines and Penalties

Criminal Prosecutions

4.1. The OHS legislation includes offences and penalties for employers, employees and others for contravention of the legislation. Is there any other related legislation that impose a fine on an employer, employee or other person for contravention of a provision of the legislation? If yes what is the maximum fine for an employer, employee or other person?

4.2. How many fines were imposed by the courts in 1995 and 1996 on employers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on employers in 1995 and 1996?

How many fines were imposed by the courts in 1995 and 1996 on workers for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on workers in 1995 and 1996?

How many fines were imposed by the courts in 1995 and 1996 on other persons for contraventions of OHS legislation [and other related legislation, if any]? What was the total $ amount of all fines imposed by the courts on other persons in 1995 and 1996?
Administrative Penalties

4.3. Can the OHS agency impose administrative penalties, and/or charge increased assessments for breaches of the OHS legislation? Is this being considered?

If yes,
- what is the maximum allowable “penalty” for employers, for workers and for “others”, for the first offence and for second or subsequent offences?

- how many “penalties” were imposed on employers, workers, and others persons in 1995 and 1996; and

- what was the total $ amount of penalties imposed on employers, workers, and other persons by the OHS agency in 1995 and 1996?

5. OHS Legislative Review

5.1. Is there a regular review process for the OHS statute? for the OHS regulations?

What is the frequency of the review?

5.2. When was the last time that the statute was reviewed? When was the last time that the regulations were reviewed?

How many times has the Act and regulations been reviewed in the last 20 years?

5.3. What is the nature of the review and development process for changes to the Act or regulations? Is the review process directed by the OHS agency? Is a bipartite or tripartite review process used? How are contentious issues resolved?
Is the entire statute and all the regulations reviewed at the same time, or in parts, or separately?

What criteria are used to determine whether a review is necessary?

6. OHS Statistics and Data

6.1. How many workers are covered by the OHS legislation?
   See “OHS and WC Coverage and Budget” matrix

   How many employers are covered by OHS legislation?
   See “OHS and WC Coverage and Budget” matrix.

   If there is a difference between coverage under workers' compensation legislation and OHS, what is the reason for this difference in coverage?
   Not confirmed, but probably relates to the difference in scope of coverage of workers' compensation and OHS legislation.

6.2. For 1995 and 1996, total OHS expenditure, and if possible broken down by 1) compliance/enforcement and 2) education/consultation/training and 3) research.
   See “OHS and WC Coverage and Budget” matrix.

   For 1995 and 1996, source and amount of OHS funding -- WCFund, CRF and/or other.
   See “OHS and WC Coverage and Budget” matrix.

6.3. For 1995 and 1996, total OHS staff, and if possible broken down by 1) compliance and enforcement staff and 2) staff in consultation/education/training/other.
   See “OHS and WC Coverage and Budget” matrix.
Appendix 2
Background Documentation on OHS
Appendix 2 - Contents

Alberta
- “Compliance Policy for Occupational Health and Safety”
- “OHS Regulatory Review Workplan”

New Brunswick
- “Risk Management Services” - Executive Summary and complete document

Nova Scotia
- Excerpts - OHS Division website
- “Report of the Committee on Occupational Health and Safety”, October 1984
- “Report of the Task Team for the Restructuring of the Occupational Health and Safety

Yukon
- “Reducing Risk in the Workplace: An Occupational health and safety strategy for the