

Occupational Health and Safety

Summary

Alberta faces OHS challenges

Like other provinces, Alberta faces challenges in occupational health and safety (OHS). In 2007, Alberta ranked third in the number of incident-related fatalities, after Ontario and Quebec. Occupational disease is the leading cause of all occupational fatalities in Alberta. The rate of reported occupational injuries in Alberta has declined gradually over recent years.

Department is responsible for OHS mandate

The Department of Employment and Immigration is responsible for implementing the government's occupational health and safety policy. The Department carries a regulatory mandate under the *Occupational Health and Safety Act*. The Alberta Workers' Compensation Board administers compensation programs and helps workers return to the workplace. Employers and employees have a responsibility to report occupational incidents and help ensure healthy and safe workplaces in the province.

Approximately \$23 million spent on OHS programs

The Department spent about \$23.3 million for OHS programs in 2008–2009. Of this amount, the WCB contributed about \$21.7 million. In 2008, WCB coverage extended to 1.8 million workers. This represents approximately 90% of the Alberta workforce, compared to a national average of 84%.¹

What we examined

Our objective was to determine whether the Department has adequate systems to promote, monitor, enforce and report on its OHS goals and objectives. We focused on OHS systems at the Department of Employment and Immigration. We obtained OHS-related information from organizations that work closely with the Department, such as the WCB, certifying partners and other non-government representatives.

Why this is important to Albertans

OHS has broad social and economic impacts

Virtually all occupational injuries, diseases and fatalities are preventable. The impact of workplace injuries, illnesses and fatalities reaches well beyond workers and their families and leads to broader negative economic and social consequences, including:

- Workers may lose their level of income, health and sometimes their lives.
- The WCB pays about \$650 million per year in injury and illness claims, funded by employers through their premiums. Employers face additional costs such as legal expenses, increased hiring and training costs, damage to equipment and loss of productivity.

¹ WCB 2009 industry statistics and analysis by the Department.

- Injuries and diseases not reported to the WCB are treated and ultimately funded by the health care system.
- Injuries and diseases that are properly reported to and compensated by the WCB may still place additional strain on other service providers. For example, while the cost of medical treatment is covered by the WCB, the treatment itself competes for limited medical resources within the health care system.

What we found

OHS systems can be improved

Overall, the Department has systems to promote, monitor, enforce and report on OHS goals and objectives but they can be improved.

Serious weakness in dealing with persistent non-compliance

Enforcing compliance with the Occupational Health and Safety Act

There are serious weaknesses in the Department's systems to deal with persistent non-compliance. The Department does not have a clear decision ladder for escalating compliance action from promotion and education to enforcement.

Persistent non-compliers have higher injury rates

A small but high-risk group of employers consistently fail to comply with OHS orders, often despite numerous reinspections by the Department. There are also weaknesses in the Department's system to suspend OHS orders.² Employers with open and suspended OHS orders had Disabling Injury Rates³ that were three to four times the provincial average. Our examination of these compliance files did not show evidence of strong systems at the Department to select and deliver appropriate enforcement action.

Half of non-compliers also hold a COR

Half of those employers that persistently fail to comply with the *OHS Act* also continue to hold a valid Certificate of Recognition (COR),⁴ and continue to have elevated injury rates among their workers. In short, although these employers do not comply with OHS orders, and their workers are much more likely to get injured on the job, these employers continue to receive Partners in Injury Reduction financial rebates and use their COR to bid on contracts with major companies in such industries as construction, and oil and gas. At the time of our audit, the Department

² OHS officers identify contraventions and issue orders requiring employers to take appropriate corrective action. Where imminent danger exists, OHS officers issue an immediate work-stop order or stop-use order. The Department may suspend its OHS orders in instances when the unsafe equipment is taken out of use or the worksite closes permanently, and health and safety risks are no longer present.

³ The Disabling Injury Rate (DIR) measures the number of injuries per 100 person years, where injured workers couldn't perform regular tasks and had to be assigned to modified duty until they recovered (e.g., a desk job).

⁴ The Department carries the overall responsibility for COR, a program for employers who implement appropriate health and safety systems. Jointly with 14 certifying partners, the Department issues certificates and ensures that the database of employers with a valid COR is up-to-date. The WCB relies on this database to issue rebates to participating employers. Employers who hold a valid COR are eligible for up to 20% rebate of their WCB premiums under the WCB's Partners in Injury Reduction program. Major companies in such areas as oil and gas and construction require their contractors to hold a valid COR in order to bid for contracts. The COR program is a collaborative tool pioneered in Alberta that shows considerable promise in reducing workplace injury rates.

was working to strengthen the design and the implementation of the process to deal with such COR employers.

OHS planning and reporting

OHS planning and reporting systems can be improved

The Department has adequate systems to review and update the *Occupational Health and Safety Code*. However, our audit identified that the Department's systems to plan and report against OHS goals and objectives could be improved. The Department needs to update the *Work Safe Alberta Plan*, improve performance measures used to assess the effectiveness of the OHS program, and obtain additional data on chronic injury and disease to improve its assessment of OHS risks.

Proactive inspections

Proactive inspection systems are in place, but can be improved

While our audit revealed areas for improvement, the Department's proactive inspection system is well designed and implemented. The Department conducts proactive, risk-based inspections and can demonstrate an overall injury rate reduction for targeted employers. However, criteria for employer selection under some proactive inspection initiatives are not clearly defined, and not consistently followed by all compliance staff.

Certificate of Recognition

Department, together with certifying partners issues COR

The Department and the certifying partners have made considerable progress in improving their systems to issue COR over the last several years. The Department has systems to provide quality assurance over most stages of the COR process. With input from certifying partners, the Department sets program requirements and procedures, and relies on certifying partners to coordinate the work of individual COR auditors. The Department conducts periodic reviews of certifying partners to ensure that their COR activities are consistent with program requirements.

COR quality assurance system in place but requires enhancement

The COR system assesses the work of auditors through a review of audit reports, but does not confirm the quality of fieldwork done by the auditors. The Department and the certifying partners are working to close this gap with the implementation of the On-Site Audit Review pilot project. The Department also needs to improve its systems to follow-up on recommendations it issues to certifying partners.

Legislated permit and certificate programs

Control over asbestos certificates needs improvement

The Department does not have an effective system for controlling the issuance of asbestos certificates. The Department also needs to ensure that it consistently monitors and approves the work of external training agencies in asbestos certificate and blaster permit areas.

Audit objective and scope

Our objective was to determine whether the Department has adequate systems to promote, monitor, enforce and report on OHS goals and objectives.

Our examination focused on the Department of Employment and Immigration. We examined OHS systems that were in place from April 2008 to September 2009. As part of our work, we examined OHS-related documentation for Alberta and other jurisdictions, interviewed Department's management and staff, examined samples of files (e.g., inspections, investigations, permits, COR), as well as accompanied the Department's staff in the field (e.g., inspections, COR audit review visits).

We obtained OHS-related information from organizations that work with the Department, such as the WCB, the certifying partners and other non-government organizations. We did not audit the information provided by these entities to the Department; we limited our scope to OHS systems at the Department.

Background

Overall OHS situation and trends—Canada

OHS research shows that each year there are at least 1,000 work-related fatalities in Canada, and over 300,000 workers incur injuries or illnesses that interrupt, limit or end their careers.⁵ While OHS remains a serious issue in Canada, over the last several decades there has been an overall improvement in the safety of Canadian workplaces. From 1970 to 2005, there was a 50% decline in work fatalities and injuries.⁶ While much of the improvement over the years came from reduction in acute workplace injuries, changes in chronic injury⁷ rates are less evident.

In general, occupational injuries and fatalities fall under two broad categories:

- injuries and fatalities linked to some specific incident or event (e.g., explosion, fall, motor vehicle accident)
- injuries and fatalities that result from long-term exposure to harmful agents or other harmful factors in the work environment

Most jurisdictions in Canada monitor the OHS environment by:

- employer self-reporting
- worker claims
- external inspections
- joint worker—management safety committees

⁵ Association of Workers Compensation Boards of Canada (AWCBC), 2007.

⁶ Canadian Centre for Occupational Health and Safety (CCOHS), 2007.

⁷ Chronic injuries may not be linked to a specific incident, time or place. They result from long-term exposure to hazardous conditions or substances. Examples include some cancers, back problems, joint problems, some mental health conditions, etc.

- population surveys
- OHS management system audits

Most of these components are present in Alberta's OHS regulatory systems. Joint worker-management safety committees are required by legislation in most provinces. In Alberta, the establishment of joint worker-management safety committees at specific worksites is voluntary. However, the *OHS Act* gives the Minister authority to mandate joint worker-management safety committees by a direct ministerial order.

Key Alberta OHS indicators and statistics

Cross-jurisdictional comparisons are difficult

The methodology for calculating OHS indicators varies between jurisdictions. In addition, OHS legislation in some provinces excludes certain industries from regulation (e.g., unlike other provinces, Alberta does not regulate agriculture and farming under its OHS legislation). Statistics for excluded industries are not reflected in OHS indicators.

Workplace fatalities

166 Alberta fatalities in 2008

In 2008, there were 166 occupational fatalities in Alberta (154 in 2007), with the following breakdown:

- 64 occupational disease fatalities
- 52 fatalities resulting from workplace incidents
- 50 work-related motor vehicle fatalities

The increase in fatalities is roughly equivalent to the increase in the Alberta workforce. In 2007, Alberta had a fatality rate of 8.7 per 100,000 workers, compared to a national average of 7.5.⁸

The lost-time injury rate

Lost-time injuries below national average

This indicator tracks the time workers stay off work due to injuries. The Alberta lost-time claim rate (per 100 person-years worked) has decreased from 2.12 in 2007 to 1.88 in 2008. Reported injury frequency in Alberta in 2007 was below the national average.⁹

The Disabling Injury Rate (DIR)

Disabling injury rate indicator unique to Alberta

The DIR is a more comprehensive indicator that includes injured workers on modified duty. The DIR includes workers who cannot work their next shift or have to be placed on modified work to accommodate their injuries. The Alberta DIR (per 100 person-years worked) has decreased from 4.14 in 2006 to 3.63 in 2008.¹⁰

⁸ Analysis by the Department, 2009.

⁹ Analysis by the Department, 2009.

¹⁰ Ibid.

Cross-jurisdictional comparisons are not available for this indicator because other jurisdictions do not systematically measure the impact modified work has on injury rates.

OHS regulatory environment in Alberta

Department carries OHS mandate in Alberta

The two main entities with the OHS mandate in Alberta are the Department of Employment and Immigration, and the WCB. The Department administers the *Occupational Health and Safety Act*. The Department administers and periodically reviews the *Occupational Health and Safety Regulation* and the *Occupational Health and Safety Code*. The oversight for the *Code* review is provided by the OHS Council, which is made up of industry, labour and public representatives who provide advisory and other functions as required by the Minister.

Key Alberta OHS regulatory programs and initiatives

OHS strategy

Work Safe Alberta Strategy

In collaboration with representatives from industry and labour, the Department introduced the *Work Safe Alberta Strategy*, outlining specific objectives and setting performance measures. OHS goals and objectives are also reflected in the Department's business plan and divisional operating plans. To better manage its efforts in the occupational disease area, the Department plans to create the Occupational Disease Unit.

Certificate of Recognition

COR is a unique tool pioneered in Alberta

Prevention, promotion and education activities are an important part of the Department's efforts in the OHS area. The Department collaborates with industry, labour and other government organizations on specific OHS initiatives. Such initiatives may target specific types of work (e.g., working with electricity) as well as specific categories of workers (e.g., young workers, foreign workers). One of the key OHS promotion instruments is the Certificate of Recognition, issued under the Partners in Injury Reduction program to employers who implement appropriate health and safety systems. The COR initiative adopts a collaborative approach between the government and the industry.

WCB rebates issued to employers with valid COR certificates

Certificates of Recognition and applicable rebates to participating employers are formally issued under the WCB's Partners in Injury Reduction program. However, the Department is responsible for all certification activities and, jointly with the certifying partners, issues COR and maintains the database of employers with valid certificates. The WCB then issues annual rebates to employers who hold valid COR, based on the COR database. The COR rebates can amount to up to 20% of employers' annual WCB premiums. COR are not required under the legislation and employer participation is voluntary.

COR covers 40% of Alberta workers

Over 7,800 employers hold a COR, representing \$31.4 billion in insurable earnings and about 40% of the Alberta workforce.¹¹ Alberta was the first to pioneer this collaborative approach to OHS in Canada. The Department dedicates a total of 16 staff to the COR activities, including managers and administrative support staff, at an annual cost of approximately \$2.5 million.

Proactive and reactive investigations

Inspection systems

The Department monitors compliance through a system of proactive inspections that target higher risk employers and industries. The Department also investigates complaints, accidents and fatalities. The Department's approach is to help employers by educating both management and workers, and by providing necessary information and resources. The Department emphasizes education, promotion and prevention, with prosecution being reserved for the most serious cases.

Department has various enforcement options available

Compliance enforcement

Whenever contraventions with the *OHS Act* are identified, the Department has the following tools at its disposal:

- OHS officers may order an employer to take corrective action. Contraventions that pose imminent danger result in a work-stop order for a portion of the worksite or a stop-use order for specific equipment. The Department may escalate the situation by issuing a director's order. If employers do not act on OHS orders immediately, the Department may explore options to engage the company's senior management or shareholders before taking prosecution action.
- The Department can recommend that Alberta Justice initiate prosecutions.
- To achieve immediate compliance with some types of OHS orders, the Department can apply for an order of Court of Queen's Bench. If application is successful, continued non-compliance by the employer will result in contempt of the court and may lead to criminal charges against individuals.

Although joint worker-management safety committees are not an enforcement tool, it is an option available under the *OHS Act* to promote better OHS practices at individual worksites.

Permits and certificates required for asbestos, blasters, mining

OHS permits and certificates

The *OHS Act* identifies special areas where individual permits and certificates are required for specific occupations or substances. The Department administers the systems to issue permits and certificates to employers and workers, enabling them to work in areas of asbestos abatement, mining activities and explosives. To obtain such permits and certificates, applicants must take approved training and/or apprenticeship and provide all information required by the Department.

¹¹ Analysis by the Department, 2009.

Approves training provided by agencies

In case of asbestos certificates and blasters permits, the Department approves the training provided by agencies. Workers or their employers pay for the training. Blaster permits are issued for a period of five years and asbestos and mining certificates are issued for a period of three years. After three years, workers have to reapply, renew their training and take applicable exams.

50 of 64 occupational disease fatalities in 2008 related to asbestos exposure

Asbestos exposure is a particularly important area. In Alberta, asbestos exposure was a factor in 50 out of 64 occupational disease fatalities reported by the WCB in 2008.¹² While asbestos is no longer used in new construction, it is often present in older structures and poses health risks to workers and the public during renovation and demolition activities. Alberta is the only province that legislatively requires asbestos training certification.

OHS risks and challenges

Increasing importance of occupational disease

Occupational disease is an emerging issue

Historically, most reporting, enforcement and education activities were largely based on injuries and fatalities data, and less on chronic injury and disease data. The area of chronic occupational injury and disease poses regulatory challenges. For enforcement purposes, it is often difficult to prove the cause and effect relationship. Program performance evaluation is also difficult because today's chronic illness injury rates result from damage and exposure that took place years or decades ago. Conversely, today's corrective actions may not show results for some years to come. Research indicates that the key to success in this area is in identifying harmful elements and conditions as early as possible and taking preventive action.¹³

Early detection and prevention of occupational exposure are key

As the nature of occupational exposure constantly changes, new potential links between chronic illness and the workplace continue to emerge. Historically, many years may pass before the initial indications of risk emerge and the corresponding regulatory action takes place. For example, in Canada, asbestos exposure was suspected to cause serious health problems at least as far back as the 1940s, yet asbestos was widely used in construction until the early 1980s.

Lack of systematic data

One of the key challenges with occupational disease is the overall lack of systematic, conclusive research to investigate chronic injuries and diseases that have suspected links to the workplace, but are not presently compensable. For example, recent estimates obtained by the Department from the Alberta Cancer Board (now part of Alberta Health Services) show that out of 5,700 new cancer cases identified each year, as many as 760 could be work-related. Yet, in 2008, only 31 new cancer-related claims were recorded by the WCB.¹⁴ A well-coordinated research effort is

¹² The Department's publication of summaries for all occupational disease fatalities accepted by the WCB, <http://www.employment.alberta.ca/SFW/2573.html>

¹³ Saskatchewan Institute of Public Policy, http://www.uregina.ca/sipp/documents/pdf/BN_23_Walker_online.pdf

¹⁴ Analysis by the Department, 2009.

key to proactively identifying and confirming links between the disease and the workplace. The Department is in the early stages of collaborating with Alberta Health Services and Alberta Health and Wellness to develop a provincial strategic partnership in occupational cancer prevention.

Concerns over underreporting

Underreporting of injuries by workers and employers

Our review of OHS literature indicates that complete and accurate reporting of injury data remains a serious concern across all Canadian jurisdictions. Some sources in OHS literature suggest that underreporting not only downplays the impact of OHS issues, but may lead to under-resourcing of OHS programs and initiatives. Conclusive research on underreporting is generally lacking in Alberta and the rest of Canada. The costs of unreported injuries are absorbed by other service providers such as the healthcare system and other government and non-government social support services.

Findings and recommendations

1. Promoting and enforcing compliance

Recommendation No. 3

We recommend that the Department of Employment and Immigration enforce compliance with the *Occupational Health and Safety Act* by employers and workers who persistently fail to comply.

Background

The Department's *Operational Procedures Manual* sets requirements and provides guidance on inspection activities, complaint response, incident response, investigation activities, promotion and enforcement activities, as well as various administrative matters.

Various enforcement tools are available

OHS officers identify contraventions and issue orders requiring employers to take appropriate corrective action. Where imminent danger exists, OHS officers issue an immediate work-stop order or stop-use order. In cases of serious or repeated contraventions, the Department could issue a Director's Order. A compliance file should not be closed and OHS orders should not be lifted until an OHS officer confirms compliance by conducting a reinspection. The Department can suspend its OHS orders, but only in individual cases when the unsafe equipment is taken out of use or the unsafe worksite closes permanently, and the risk is no longer present.

Fines and enforcement

Under the *OHS Act*, fines and enforcement must be delivered through the courts. Available enforcement tools range from fines to criminal charges against individual employees of a corporation. The Department, working with the Civil Prosecutions Unit at the Department of Justice, can seek an order of

the Court of Queen’s Bench. Once an order is secured, continued non-compliance will result in contempt of the court potentially leading to charges against individuals. An order of the Court of Queen’s Bench is designed to take immediate, preventive legal action in cases where significant imminent danger is present. In cases where serious incidents have occurred, management may request the Department of Justice to decide if the matter warrants prosecution and whether charges will be laid. For 2008, the Department of Employment and Immigration reported 22 OHS prosecutions. Names of employers charged and convicted under the *OHS Act* are published on the Department’s website.

Criteria: the standards we used for our audit

The Department should promote and enforce compliance with the *OHS Act*, the *Regulation* and the *Code*.

Our audit findings

Weaknesses in tracking and applying decision ladder for dealing with persistent non-compliance

The Department’s systems to enforce compliance with the *OHS Act* are working effectively except in dealing with employers and workers who persistently fail to comply. The Department does not systematically identify and track persistent non-compliance, and does not have a clear decision ladder for escalating compliance action from promotion and education to more strict enforcement. The Department has systems to respond to fatalities and other serious incidents with an appropriate and timely action.

Lack of strong systems to identify and act on persistent non-compliance

Tracking and confirming compliance with OHS orders

The Department’s inspection, communication and follow-up actions were timely and consistent up to the point where contraventions were identified, OHS orders were issued and initial reinspections took place resulting in compliance. However, the situation is different when the Department encountered persistent non-compliance that posed health and safety risks, but had not yet resulted in an accident or injury. Our examination of 20 compliance files with orders that remain open for over one year did not show evidence of strong systems to select and deliver timely and appropriate action. OHS officers reinspect¹⁵ problem worksites and personally confirm compliance. In our sample of 60 proactive inspections targeted at individual employers, the average time from issuing OHS orders to achieving compliance was 86 days. In most cases, employers achieved compliance after repeated reinspections by OHS officers. We observed that employers who held Certificates of Recognition on average complied with OHS orders faster and required fewer reinspections. Whenever fatalities or other serious incidents

Inspections and reinspections are done

¹⁵ Re-inspections are done in all cases, unless sufficient documentation is obtained in other ways (e.g., training records provided by fax, a photograph of installed guard railing sent by email).

were involved, the Department launched investigations, which frequently resulted in prosecution action.

Some employers continually fail to comply with OHS orders

However, a number of employers continually fail to comply with OHS orders. We selected five months from 2007–2008 and reviewed the status of all 3,392 orders issued by the Department during this period. Most employers complied with OHS orders. However, 109 OHS orders (3.2% of all orders written) for 63 employers were still open.¹⁶ The majority of these employers have fewer than 200 workers. Their combined workforce accounts for over 31,000 full-time jobs.

Elevated injury rates for these employers who continually fail to comply

These 63 employers failed to comply with OHS orders after one year or more. This happened despite numerous reinspections by the Department. Our analysis of all 109 open orders shows that this group of employers' average Disabling Injury Rate (DIR) is three to four times the provincial average.¹⁷

Contravened orders

We examined compliance files for a sample of 20 employers, with a total of 35 open OHS orders. We focused on employers who had the highest DIRs. Contraventions were usually in the following areas:

- lack of hazard assessment systems
- absence of personal protective equipment (e.g., respiratory protection, hearing protection, eye protection)
- lack of fall protection equipment
- inadequate systems to control chemical and biological hazards
- absence of safeguards on equipment
- inadequate certification and training
- fire and explosion hazards

Our review of compliance action during the five months also revealed that 110 orders for 47 employers were suspended by the Department. The majority of these employers have less fewer than 200 workers. Their combined workforce accounts for over 16,000 full-time jobs. Our analysis of data for all 110 suspended orders for the five-month period revealed that this group of employers' average DIR was three to four times above the provincial average.

Inappropriate OHS order suspensions

We examined compliance files for 18 employers, with a total of 47 suspended orders. We focused on employers who had the highest DIRs. Reasons for suspension were not consistent with the Department's guidelines for 14 out of 18 employers. The most frequent reason for suspension was: "Compliance will be verified in... (the next fiscal year)." The majority of orders were suspended

¹⁶ With extrapolation, we estimate there could be as many as 261 open OHS orders for 2007–2008.

¹⁷ The Disabling Injury Rate (DIR) measures the number of injuries per 100 person-years, where the injured worker couldn't perform regular tasks and was assigned to modified duty until they could recover (e.g., a desk job).

simply to be reopened in the next fiscal year as new orders. This practice skews compliance statistics and may present management with a compliance picture more favourable than it really is. For most of the suspended orders that were later reopened, we saw no evidence that employers took action on the original contraventions.

Some persistent non-compliers hold Certificates of Recognition

We performed further analysis of data for 20 employers with open orders and 18 employers with suspended orders. Half of these employers held or still hold a valid Certificate of Recognition. In short, these employers do not comply with OHS orders and their workers are much more likely to get injured on the job, yet these employers continue to receive Partners in Injury Reduction financial rebates and use their COR to bid on contracts with major companies in such industries as construction, and oil and gas. While the Department has a COR employer review process to deal with such employers, the process is not used systematically and effectively. At the time of our audit, the Department was working to strengthen the design and the implementation of the process.

Overall, COR shows promise

It must be noted that, overall, the Department's preliminary analysis of the COR program shows that employers who hold valid COR achieve greater reduction in injury rates, on average, than non-COR employers. Our examination of a sample of compliance files also shows that COR employers tend to comply with OHS orders faster and require fewer reinspections than non-COR employers.

Enforcement action

Department does not have a clear enforcement decision ladder

The Department's *Operational Procedures Manual* outlines actions to be taken when employers fail to comply with OHS orders, but it does not always provide clear and specific criteria for when and how to take specific steps to fix the problem. The *Manual* does not provide a clear decision ladder for escalating compliance action from promotion and education to enforcement.

The Department does not use all tools at their disposal to enforce compliance. For instance, the Department has not applied in the past for the order of the Court of Queen's Bench. At the time of our audit, the Department was initiating the first case for one instance of continued non-compliance. This compliance instrument is designed to deal with different issues and is appropriate in specific circumstances. However, the Department does not have clear criteria for applying this instrument or rationale for choosing not to apply it.

Prosecution is not always the best option

It is important to emphasize that individual compliance tools are most appropriate for specific situations, and should not be universally applied to every instance of non-compliance. For example, although generally effective, prosecutions are extremely expensive and may take anywhere from two to six years. Therefore, initiating prosecutions for less critical matters may not be perceived as reasonable and may simply not be practical. The Department reserves this tool for serious incidents that resulted in injury or death. On the other hand, promotion and education actions are the least expensive, can be fast and are most employer and worker-friendly.

Implications and risks if recommendation not implemented

Without adequate systems to enforce compliance with OHS legislation for those employers and workers who persistently fail to comply, health and safety of workers continue to be exposed to otherwise avoidable risks. Employers who choose not to comply with OHS orders may gain an unfair advantage over employers who spend the time and resources to deal with and avoid contraventions.

2. Work Safe Alberta planning and reporting Recommendation

We recommend that the Department of Employment and Immigration improve its planning and reporting systems for occupational health and safety by:

- **obtaining data on chronic injuries and diseases to identify potential occupational health and safety risks**
- **completing the current update of the *Work Safe Alberta Strategic Plan***
- **measuring and reporting performance of occupational health and safety programs and initiatives that support key themes of the *Plan***

Background

The Department coordinates the development and implementation of the provincial *Work Safe Alberta Strategy*. Its objectives and performance measures are reflected in the *Work Safe Alberta Three-Year Strategic Plan (2006–2008)*. *Work Safe Alberta* objectives include increasing awareness; expanding partnerships between government, industry and labour; strengthening regulatory framework; improving compliance; expanding safety training; and improving research and performance reporting. Performance measures include public perceptions, awareness and satisfaction indicators obtained through periodic surveys, as well as provincial lost-time claim rate and Disabling Injury Rate.

Work Safe Alberta Strategy and Plan

Criteria: the standards we used for our audit

The Department should monitor, measure and report progress against OHS goals and objectives and assess the cost effectiveness of programs. To achieve this, the Department should:

- obtain and analyze data to identify OHS risks, including a process to collaborate with other provincial and national OHS stakeholders
- measure and report the progress against the *Work Safe Alberta Plan*
- periodically review regulations and the *Code* to ensure they support *Work Safe Alberta* strategies, objectives and performance measures

Our audit findings

Planning and reporting systems are in place, but require improvement

The Department has a *Work Safe Alberta Strategic Plan* (2006–2008) and has systems to identify and reduce OHS risks. However, the Department has not updated or regularly reported against the *Plan*. The Department has not reported on the effectiveness and efficiency of key OHS programs and initiatives that support the *Plan* (e.g., proactive inspection programs, Certificate of Recognition program). The Department does not have sufficient information on OHS risks related to occupational disease. The Department has adequate systems to review and update the *Occupational Health and Safety Code*.

Identifying and managing OHS risks

Data obtained does not capture all emerging OHS risks

The Department bases its OHS risk analysis almost exclusively on the WCB occupational injury data, which provides information only on injuries and diseases that are presently reportable and compensable. The data obtained by the Department does not capture emerging OHS risks, particularly links between occupational disease and workplace exposure.

Injury data analyzed

The Department performs comprehensive and detailed risk analysis of injuries linked to specific incidents in the workplace. While the risk of underreporting exists, the Department and the WCB recognize the issue and work to improve reporting through education and promotion. Workers and employers are ultimately responsible to report all injuries and incidents.

Occupational disease data is limited

The availability of reliable OHS data on occupational disease is limited, but there are sources of valuable information such as the health care system. To better manage its efforts in the occupational disease area, the Department plans to create the Occupational Disease Unit. There are efforts to begin obtaining data from the Department of Health and Wellness for analysis of diseases and disabilities not related to specific incidents (e.g., chronic conditions, cancers).

Cross-jurisdictional collaboration

The nature of occupational exposure is similar across jurisdictions. Therefore, this area presents opportunities for interprovincial collaboration. The Department's efforts focus on OHS education, alignment of standards and requirements, but to a much lesser extent on pooling data and resources with other jurisdictions to investigate and reduce specific OHS risks in the occupational disease area.

Plan not updated or regularly reported on

Planning and reporting

The Department has not updated or regularly reported on the *Work Safe Alberta Strategic Plan*. At the time of our audit, the Department has published the progress report against the 2006–2008 Plan and was working on a 2010–2013 update of the *Work Safe Alberta Strategy*.

Need better measures to assess effectiveness and efficiency

Measuring performance of OHS programs

The performance measures in the 2006–2008 *Work Safe Alberta Strategic Plan* do not fully assess effectiveness and efficiency of OHS programs or the *Plan's* key themes. Five out of seven performance measures in the *Plan* provide stakeholder satisfaction survey results, and the remaining two provide broad province-wide injury statistics (e.g., DIR and lost time claims rate). While these measures provide a general view of the OHS situation in the province, they do not allow the Department to conclude on effectiveness and efficiency of specific OHS strategies, programs and initiatives. The Department also periodically released data on injury rates, fatalities, prosecutions and so forth, but did not link this information to specific programs and initiatives.

The Department is working to improve its performance measures. Detailed OHS data is generally available for many OHS programs and initiatives. Operational OHS monthly reports on a branch/unit level provide detailed data such as the number of inspections and investigations performed, and injury rates in high-risk industries. The Department has recently performed some preliminary analysis of efficiency of OHS programs. While the work to refine the methodology is under way, this analysis aims to assess injury reduction per dollar spent on different OHS programs. Such analysis is important for directing resources to OHS programs that demonstrate greatest reduction in injuries, diseases and fatalities.

Good systems in place to update *Code* and *Regulation*

Review the Code and the Regulation

The Department has adequate systems to review and update the *Occupational Health and Safety Code*. With oversight from the Occupational Health and Safety Council, the *Code* is reviewed and updated on a regular basis through a process that involves formal consultation and feedback from industry and labour stakeholders. The *Occupational Health and Safety Regulation* was enacted in 2003 and will be due for its first review and update in 2013.

Implications and risks if recommendation not implemented

Without appropriate and timely planning, performance measurement and reporting the Department cannot demonstrate that it achieves its objectives effectively and efficiently.

3. Occupational Health and Safety inspection systems Recommendation

We recommend that the Department of Employment and Immigration strengthen its proactive inspection program by improving risk focus and coordinating employer selection methods for its inspection initiatives.

Background

The Department's inspection activities fall under two main areas: proactive inspections and reactive inspections.

Proactive inspections based on risk

The Targeted Employers Working Committee selects specific, high-risk employers and industries for proactive inspections. The Committee includes members from all OHS areas within the Department. The Committee reviews data obtained from the WCB, determines the selection criteria based on high injury levels and compiles the list of employers and industries¹⁸ to be targeted in the next year's inspections. Each year, approximately 500 employers are selected and account for a total of about 2,000 site visits. Separate from targeted employers, targeted industry inspections account for an additional 3,400 visits per year. Some of these employers may also be contacted by the Department's staff in the partnerships area to promote compliance through involvement in the Certificate of Recognition program.

Reactive investigations of complaints, worksite incidents and fatalities

The OHS Program branch receives over 20,000 calls per year with reports of alleged OHS contraventions. These calls are reviewed by compliance staff to determine where investigations are required. In 2008, the Department completed 4,234 investigations. Some investigations are done by OHS officers, and more serious ones are done by OHS investigators. OHS investigators have extensive experience in OHS and additional training in such areas as evidence collection, interviewing techniques and prosecution requirements. Senior management within the Department decides whether to forward their reports, together with documented evidence, to the Department of Justice with a request to consider prosecution.

Proactive inspections target high risk employers and industries

Reactive investigations prioritized by severity and risk

¹⁸ High-risk industries include commercial and residential construction, oil and gas, health care and forestry industry operations. The Department also undertakes special projects targeting specific worker types (e.g., temporary foreign workers).

Given the volume of calls, compliance managers and OHS officers have to prioritize their activities and respond to some complaints and minor incidents over the phone. For some minor incidents, OHS officers order employers to submit an incident report that provides incident analysis and outlines the corrective action taken.

Criteria: the standards we used for our audit

The Department should inspect employers based on risk, as well as investigate workplace complaints and incidents.

Our audit findings

Compliance systems are in place, but require improvement

Overall, the Department has systems to inspect employers based on risk and to respond to complaints and incident reports. Areas for improvement include methodology for selecting individual employers under the targeted industries program, and focusing proactive inspections on all aspects of OHS risk. Our findings are based on the examination of 80 inspection files.

Proactive inspections

Process to select individual employers may not be optimal

Targeted Industries Inspections—While the Department identifies industries based on risk; there is no clear guidance on how to select employers within all targeted industries. For some industries, individual OHS officers are directed to inspect sites by location rather than employer safety history. This process is appropriate for some industries. However, it may not be the optimal selection criteria for other industries. Also, OHS officers may not apply employer selection criteria consistently to all employers. For example, in some instances there was indication that some employers were selected based on proximity and visibility, rather than through a systematic sampling procedure.

Scheduling of proactive inspections not entirely risk-based

Scheduling of Inspections—While the Department selects targeted employers and targeted industries based on risk, scheduling of proactive inspections is not entirely risk-based. At the time of our audit, virtually all proactive inspections were done Monday to Friday, and during regular business hours. However, our analysis of the 2006–2009 data provided by the WCB shows that 12.6% of all workplace incidents happen between 6 p.m. and 6 a.m., and 10.3% between 6 a.m. and 9 a.m. Approximately 13% of all incidents take place on Saturdays and Sundays:

Good system in place to inspect targeted employers

Targeted Employers Inspections—OHS officers inspect selected high-risk employers and follow-up on contraventions. Although there were some inconsistencies among OHS officers in documenting inspection details, this system is generally well implemented.

Timely response to fatalities and serious incidents

Reactive investigations of complaints, worksite incidents and fatalities

The Department has systems to receive and respond to complaints and incidents in a timely and appropriate manner. The Department takes timely action to investigate and respond to serious incidents. Fatalities and serious injuries are usually responded to within hours. The Department responded to incidents that resulted in minor injuries or damage to equipment within two or three days. The Department responded to general complaints and/or information requests within 18 days. We conclude that these results are reasonable, given the volume of reported incidents and complaints. The Department does not assign specific response time targets, but requires its compliance staff to prioritize their activities based on incident severity and risk.

Implications and risks if recommendation not implemented

Without focus on risk, the Department's proactive inspection program will not target all employers, industries, work activities and worker categories with greatest risks to health and safety of workers. Without coordinating employer selection under different inspection initiatives, the Department would not be able to maximize efficiency or demonstrate that the desired employer coverage within targeted industries is achieved.

4. Certificate of Recognition Recommendation

We recommend that the Department of Employment and Immigration improve its systems to issue Certificates of Recognition by:

- **obtaining assurance on work done by Certificate of Recognition auditors**
- **consistently following-up on recommendations made to certifying partners**

Background

With input from the certifying partners,¹⁹ the Department sets Certificate of Recognition requirements and procedures. The certifying partners approve and maintain lists of independent COR auditors that employers may hire on a competitive basis. COR auditors examine employer OHS systems and submit their reports to certifying partners for review. The certifying partners review and approve COR audit reports, as well as deliver training to COR auditors and employers.

Together with certifying partners, Department sets COR requirements and procedures

¹⁹ Certifying partners are industry groups and safety associations representing large segments of Alberta's workforce.

After certifying partners approve COR audit reports, they enter requests to issue a COR into the database for the Department’s final approval. The Department checks requests for administrative completeness and for outstanding orders through its compliance branch, before issuing a COR to employers.

The Department reviews and approves COR training and program development materials for each certifying partner, and both parties work together to ensure consistent program delivery. Every two years, the Department conducts formal reviews for every certifying partner. The Department examines samples of COR audits to confirm that certifying partners’ systems operate consistently with program requirements. Formal reports to the certifying partners outline areas of strength and provide recommendations for improvement, with specific deliverables, timelines and responsibility assigned.

Criteria: the standards we used for our audit

The Department should promote OHS in the workplace by ensuring that Certificates of Recognition are issued to qualifying employers and are maintained appropriately.

Our audit findings

COR quality review systems are in place, but need improvement

The Department has systems to provide quality assurance over most stages of the COR process. With input from the certifying partners, the Department sets program requirements and procedures, and relies on certifying partners to coordinate the work of individual COR auditors. The Department conducts periodic review of certifying partners to ensure that their COR activities are consistent with program requirements. Certifying partners review audit reports issued by COR auditors, however a system does not exist to confirm the quality of fieldwork done by the auditors. The Department also needs to improve its systems to follow-up on recommendations it issues to certifying partners.

Quality assurance

Quality assurance exists over most stages of the COR process

While the Department and the certifying partners have made considerable progress in this area over the last several years, gaps in the quality assurance systems remain. Quality assurance activities of the Department and of certifying partners are limited to reviews of audit reports. Both parties recognize the gap and plan to reduce it with the implementation of the On-Site Audit Review Pilot project. Under this project, the Department will confirm detailed COR audit work for a sample of COR audits. The Department and the certifying partners intend to assess project findings and implement a quality assurance system appropriate for the type and level of risks identified. At the time of our audit, the Department and certifying partners were working to finalize terms of reference for the On-Site Audit Review Pilot project.

Systems to follow-up with certifying partners need improvement

Certifying partners

Every two years, the Department reviews certifying partners to ensure that their COR activities are consistent with program requirements and issues recommendations to improve their practices. The Department has systems to follow-up on its recommendations, but their design and implementation require improvement. In five out of 14 certifying partner files, there was no evidence that recommendations were implemented more than one year after reports were issued. The documentation of the Department's follow-up activities was also not consistent. There is no system to centrally track implementation progress.

Some quality assurance information not retained

The Department has an electronic database and systems to support its quality review activities for certifying partners and organize its findings and evidence. However, the Department does not retain this information and discards the review data shortly after reports to certifying partners are issued. This data could provide valuable historical information on systemic issues and gaps in the COR process.

Implications and risks if recommendation not implemented

Without risk-based quality assurance systems, the Department cannot confirm that Certificates of Recognition are issued appropriately and only to qualifying employers.

5. Legislated permit and certificate programs

Recommendation

We recommend that the Department of Employment and Immigration strengthen the legislated permit and certificate programs by improving:

- **control over issued asbestos certificates**
- **processes for approval and monitoring of external training agencies**

Background

Asbestos certificates

The Department approves external training agencies to deliver asbestos abatement training to workers. Exams are developed by the Department and administered by the training agencies. The Department prepares and delivers blank, serial-numbered certificates to training agencies. Training agencies sign and issue certificates to workers after successful completion of the training and periodically report to the Department on the certificates issued. The Department maintains the list of all issued asbestos certificates. In 2008–2009, training agencies issued over 1,000 asbestos certificates.

Blaster permits

The Department approves external agencies to provide blaster training to workers. Workers are required to demonstrate a combination of training and properly supervised practical experience. Applications for blaster permits are received by the Department and should contain all the supporting documentation, as well as the application fees. The Department issues permits to workers and maintains the electronic list of issued blaster permits. In 2008–2009, the Department issued approximately 170 blaster permits.

Mining certificates

The Department performs all training, examination and certification for mining activities. The Department processes approximately 30 new and renewal applications each year and maintains a list of all issued mining certificates. In 2008–2009, the Department issued fewer than 20 mining certificates.

Criteria: the standards we used for our audit

The Department should issue permits and certificates as required by legislation.

Our audit findings

Systems are in place, but need improvement

The Department's systems for controlling the issuance of asbestos certificates and for approving and monitoring training activities require improvement in the following areas.

Controls over asbestos certificates need improvement

Control over the issued asbestos certificates

The Department's system to control the issuance of asbestos certificates is not well designed and implemented. For at least 72 presently active employee asbestos certificates, the Department was missing information on whether and to whom these certificates had been issued. The Department also does not have a system to periodically review records held by training agencies to account for asbestos certificates they issue.

OHS officers do not systematically check certificates against Department records during compliance inspections

During our audit work in the compliance area, we accompanied OHS officers on four inspection visits of asbestos worksites. Whenever OHS officers inspect an asbestos abatement project, they ask to see asbestos certificates for the workers involved. However, OHS officers do not systematically check certificates against the Department's database to confirm that certificates are valid. OHS officers do not have immediate access to the database and would have to perform such checks by special requests to another unit within the Department. We directly checked 34 asbestos certificates examined during the field visits, with the following results:

- for one worker's certificate, key information was missing and the Department's records did not match the name of the training agency and the expiry date provided on the certificate

- one certificate was issued for four years instead of the three years allowed under the *OHS Act*
- in four cases the database contained the certificate serial number, but no information on who the certificate has been issued to and when
- there were at least four other cases where important information was either missing or not recorded consistently

Approval and
monitoring systems
need improvement

Approval and monitoring of external training agencies

The Department doesn't appropriately follow its policies for approving and monitoring the work of training agencies. We sampled seven out of 17 files for asbestos training agencies approved by the Department. At the seven approved agencies, training was provided by 22 course instructors approved by the Department. Approval files did not contain the required supporting information for 12 out of 22 course instructors (e.g., proof of asbestos training/equivalent and/or proof of required instruction experience). The Department has a system to periodically audit asbestos training courses provided by the agencies, but out of all 17 training agencies, at least two agencies have never been audited, and the others had time gaps of up to seven years between the audits.

For blaster training agencies, there was evidence that training content was assessed by the Department. However, approval files for seven out of 11 agencies had incomplete applications or formal approvals.

Implications and risks if recommendation not implemented

Without proper controls, the Department cannot confirm that permits and certificates are issued to and the work is done only by qualified workers. Without systems to assess and approve external training agencies, the Department cannot confirm that the training provided to workers is adequate and consistent with legislated requirements.