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Institute for Work & Health

Ontario

Description of the organization of the occupational health and safety system and the delivery of prevention services

Report to the
Expert Advisory Panel
Occupational Health and Safety Prevention
and Enforcement System

Ontario Ministry of Labour

Ontario

There are approximately 6.5 million economically active adults in Ontario.

For the purpose of the series of reports to the Expert Advisory Panel, Ontario is classified as a 'parallel authority' jurisdiction, with responsibilities for occupational health and safety held by two senior government agencies: the Ministry of Labour and the Workplace Safety & Insurance Board.

The province's occupational health and safety system includes the Ontario Ministry of Labour, the Workplace Safety and Insurance Board and health and safety associations designated under the Workplace Safety and Insurance Act (WSIA)(1997). Each entity has distinct roles and mandates, with the common goal of preventing occupational injuries and illnesses.

The Ministry of Labour's mandate is to set, communicate and enforce workplace standards for occupational health and safety while encouraging greater workplace self-reliance.

The Workplace Safety and Insurance Board (WSIB) is an arm's length agency of the Ministry of Labour. The Board is funded by premiums collected from employers. The WSIB compensates injured workers and the survivors of deceased workers. The Board assists injured workers in the early and safe return to work. Under provisions in the Workplace Safety and Insurance Act (WSIA), the WSIB funds the province's occupational health and safety system and oversees the province's occupational health and safety education and training programs and services. The Board of Directors of the WSIB are appointed by the Lieutenant Governor in Council through an Order in Council. The Board of Directors consists of a Chair, the President of the WSIB and a minimum of seven and a maximum of nine members who 'are representative of workers, employers and such others that the Lieutenant Governor in Council considers to be appropriate' (WSIA, s.162(1)). The Chair of the WSIB is directly accountable to the Minister of Labour. The Minister of Labour is accountable for the WSIB to the Ontario Government and to the Legislative Assembly.

As of January 1, 2010, there are six health and safety associations (HSAs) in Ontario, enabled under the Workplace Safety and Insurance Act. They provide a range of occupational health and safety support services to employers and workers. Funding for these organizations is provided in part by the WSIB from premiums collected from employers. Four of the six associations, structured to serve specific industries or sectors of the economy, develop and deliver education and training programs. They also conduct workplace audits and provide consultation and technical services to workplaces. The Workers' Health and Safety Centre, the fifth association, is designated as a training centre under the WSIA and develops and delivers training programs on a variety of workplace hazards and issues, applicable to all sectors of industry. The Occupational Health Clinics for Ontario Workers, the sixth association, is a network of five clinics across Ontario. These clinics are staffed by a multidisciplinary team of health professionals who provide a range of services, including diagnosis of work-related illness and injuries, promotion of prevention strategies and research services.

As in all Canadian provinces, the federal government has jurisdiction over occupational health and safety regulatory standards and OHS inspection and enforcement services for industries regulated by the federal government. Approximately 10% of the Ontario labour force is under the jurisdiction of federal labour legislation.

1.0 Organization and Structure of OHS Prevention Services

1.1 Key Elements of Legislative Authority

The Operations Division, Ministry of Labour, administers the Occupational Health and Safety Act and its regulations.

Part 2 of the Workplace Safety and Insurance Act (WSIA) sets out 11 responsibilities for the Workplace Safety and Insurance Board in the area of injury and disease prevention with respect to workplaces governed by the Occupational Health and Safety Act, including:

- promoting public awareness of occupational health and safety,
- educating employers, workers and other persons about occupational health and safety,
- developing certification standards for the purposes of the Occupational Health and Safety Act and to certify persons who meet the standards,
- developing standards for the accreditation of employers and to accredit employers who meet the standards,
- to designate safe workplace associations and oversee their operation and provide funds to them,
- funding occupational health and safety research

The Workplace Safety and Insurance Act authorizes the Board to establish experience and merit rating programs (section 83) and to increase or decrease the premiums payable by a particular employer (section 82).

1.2 Responsibility for Prevention Services

Within the Ministry of Labour, the Operations Division, headed by an Assistant Deputy Minister, is responsible for enforcement of the Occupational Health and Safety Act. Ministry inspectors inspect workplaces to determine compliance with the Act and its regulations. They investigate critical injuries, fatalities, work refusals and complaints, issuing orders and tickets when there is non-compliance and initiating prosecutions when appropriate. Inspectors also monitor the functioning of the internal responsibility system in individual workplaces as set out in the Act. When workplace parties need help complying with the Act and its regulations, the ministry directs them to the appropriate system partners for assistance.

In Ontario, Ministry of Labour inspection and enforcement services are administered regionally. In addition, Ministry of Labour operates provincial programs in construction, mining and health care. Within each geographic region, there are labour inspectors with specialized sectoral expertise. The Ontario Ministry of Labour cooperates with other provincial and federal agencies with responsibilities for standard setting.

Within the WSIB, the Prevention Division, headed by the Chief Prevention Officer, is responsible for the planning and administration of the WSIB's prevention responsibilities. The Prevention Division had four functional groups (as of December 2009): 1) standards and incentives, 2) system collaboration, 3) disability prevention, and 4) intelligence and innovation.

1.3 Source of Funding and Expenditures on Prevention Services

Prevention services in Ontario are funded by employer insurance premium contributions. In 2007, total expenditures on prevention services were \$193.6 million, representing 5.8% of total premium revenues of \$3,313 million. Prevention services expenditures represent \$33 per worker (1). Expenditures on labour inspection, enforcement and compliance services is estimated to represent \$90 million, expenditures on education, training and workplace consulting services was \$103.6 million (this estimate excludes approximately \$30 million in revenues generated from service fees).

1.4 Prevention Service Activities

The labour inspection service of the Ministry of Labour employed 450 inspectors in 2007. The number of labour inspectors was increased by approximately 200 positions over the period 2004-2006. Ministry of Labour inspectors conducted 101,275 field visits and issued 176,600 orders or citations in 2007. There were 1,191 convictions arising from the prosecution of OHS violations, resulting in fines of \$12 million.

The WSIB supports safe and healthy workplace practices through an auditing program named *Workwell*. Audits can result in surcharges and premium increases to employers who demonstrate poor accident records and sub-standard compliance with the Occupational Health and Safety Act. In 2009, the Workwell program scheduled audit engagements with 1,200 employers (2). The WSIB has authority to issue administrative penalties for violations of the WSIA.

The health and safety associations employed approximately 350 field staff who provided 282,380 participant-days of training in 2007 and contributed 163,000 hours of workplace consultation services.

The federal Labour Program employed 30 inspectors in the Ontario region. Labour inspectors with the federal Labour Program conducted 951 field visits and issued 32 orders or citations in 2007. There were 2 convictions arising from the prosecution of OHS violations, resulting in fines of \$290,000.

1.5 Expenditures on Research

The WSIB invested an estimated \$5.6 million in 2007 on research related to the prevention of work-related injury and illness (1). Research investments represented 2.9% of total prevention services expenditures.

2.0 OHS Prevention Model

2.1 OHS Standards

Over the past 10 years, the Ministry of Labour maintained a balance of prescriptive and performance-based standards. The OHSA is divided into 10 Parts: Part 1-2; application and administration, Part 3; duties of parties, Part 4; toxic substances, Part 5; the right to refuse unsafe work, Part 6; prohibition of reprisal, Part 7; notices, Part 8; enforcement, Part 9; offences and penalties, Part 10; regulations.

The Minister of Labour has the authority, under legislation to establish regulations which set out in detail how the general duties of the workplace parties are to be carried out. The Ministry of Labour currently listed 36 regulatory standards. In 2001, the OHSA was amended to approve all or part of a code of practice. Codes of practice are not prescriptive.

2.2 Regulatory Amendment Process

There is no legislated requirement that OHS legislation or regulatory standards be reviewed at mandated intervals. The Minister of Labour has the authority, under legislation to establish regulations which set out in detail how the general duties of the workplace parties are to be carried out.

Under Section 21 of the OHSA, the minister of labour may appoint committees to assist or advise the Minister on any matter arising under this Act. The Ministry of Labour currently has three standing advisory committees established under this authority: the Provincial Labour-Management Health and Safety Committee (construction), the Mining Legislative Review Committee and the Ontario Health Care Health and Safety Committee. There are also Section 21 committees for Fire Services, Police Services, and the Film and Television industry. These committees have bi-partite membership and meet regularly to discuss health and safety concerns identified by management and labour and to develop joint recommendations to the Minister for improvements to regulatory standards and compliance practices.

As is the case in most Canadian provinces, recommendations arising from coroner's inquests into occupational fatalities will often result in regulatory or legislative amendment.

2.3 Regulatory Requirement for Worker Participation

Under Part II of the OHSA, a workplace must have a joint health and safety committee if there are 20 or more workers employed on a regular basis (and in the case of construction, if the project is expected to last three months or longer) or in any workplace (other than a construction project) where a designated substance regulation applies. If fewer than 20 workers (and more than five workers) are regularly employed, a workplace must have a health and safety representative. The employer has a duty to ensure that a Joint Health and Safety Committee is established.

Under the OHSA, the employer has a duty to provide information, instruction and supervision to a worker to protect the health or safety of the worker. These duties are

not specifically detailed concerning new workers or young workers. There are 20 specific trades designated in regulations with prescribed standards for training.

2.4 Economic Incentives

The WSIB has the mandate to use financial incentives in the form of premium rebates or surcharges to encourage employers to improve their health and safety performance. The WSIB makes extensive use of experience rating in establishing insurance premiums to be paid by individual employers. Experience-rated adjustments to insurance premiums are established retrospectively. The gross value of rebates and surcharges estimated for 2007 was \$523 million (4).

Since 2000, the WSIB has operated a voluntary incentive program, known as 'Safety Groups' (3). Typically members of similar rate groups, firms participate in Safety Groups over a five year period with the expectation that individual firms will benefit from the opportunity to communicate and share best practices concerning the implementation and management of injury and illness prevention programs with peer employers. Firms participating in a Safety Group are eligible to receive a maximum of 6% group premium rebate. Two thirds of this potential maximum rebate is determined by the attainment of injury prevention program goals (and as of 2008, attainment of return to work program goals) and one third is determined by performance relative to the frequency and severity of lost-time injury claims. In 2008, there were approximately 3,200 firms participating in 50 Safety Groups. Approximately one fifth of the labour force insured by the WSIB is employed by a firm participating in the Safety Group program. A total of \$32.6 million in premium rebates were awarded to Safety Groups in 2007 (3).

3.0 OHS Strategy Framework

3.1 Description of Elements of OHS Strategy

In January 1998, the Ministry of Labour released a paper entitled "Preventing Illness and Injury: A Better Health and Safety System for Ontario Workplaces". The paper, known as the "Prevention Strategy," outlined a plan to enable the ministry, WSIB and HSAs to work as partners – to make better use of resources, eliminate overlap and develop a more integrated and collaborative system to improve workplace health and safety.

Over the period 2005-2010 there have been three prominent strategy plans provided by the two senior occupational health and safety authorities in Ontario. The Ministry of Labour implemented the 'High Risk Firm' strategy over the period 2004-2008, which was followed by the current Ministry framework, termed 'Safe at Work Ontario'. Separately, but in the spirit of alignment, the Workplace Safety and Insurance Board adopted a five year strategic plan for the period 2008-2012, titled 'the Road to Zero', that defined occupational health and safety as one of four 'business fundamentals' to guide the priorities of the WSIB over this period.

The Ministry of Labour's 'High Risk Firm' strategy (2004-2008) applied a doubling of the number of labour inspectors (from 200 to 400, representing an additional annual expenditure of \$25 million) to the targeting of enforcement activities to the poorest performing Ontario employers (see 3.3, below).

In 2008, the WSIB's strategic plan "Road To Zero" incorporated a focus on occupational health and safety, emphasizing four thrusts:

- creating a national habit of safety;
- greater alignment of prevention partner activities to lead to improved outcomes;
- instilling an evidence-based, priority-focused, and outcome-measurement mindset throughout the prevention system;
- developing prevention partner capabilities, information management tools, and communications technology.

Also in 2008, the Ministry of Labour modified the 'High Risk Firm' strategy under the framework of 'Safe at Work Ontario'.

The Occupational Health and Safety Council of Ontario (OHSCO) was established in 1999, through a Memorandum of Understanding, in response to the *Prevention Strategy's* focus on coordinated planning and program delivery (5). OHSCO serves as a forum for the senior management of the Ministry of Labour, the Workplace Safety and Insurance Board and the Health and Safety Associations to address matters of mutual concern. The Chair of OHSCO rotates annually between the Ministry of Labour, the WSIB and the health and safety associations. With the consolidation of eleven health and safety associations into four organizations as of January 2010, the future purpose and governance structure of a coordinating forum is under discussion.

3.2 *Participation of employer and worker representatives*

Occupational health and safety operational plans developed over the past five years by the Ministry of Labour ('high-risk firm initiative' and 'Safe at Work Ontario') were not developed with formal participation by employer and worker representatives.

The WSIB Strategic Plan adopted for the period 2008-2012 ('The Road to Zero') was not developed with formal participation by employer and worker representatives. The WSIB Board of Directors reviewed and endorsed the Strategic Plan. Members of the WSIB Board of Directors include representatives of organized labour and the employer communities.

3.3 *Targeting Resources to Greatest Risks*

In 2004, the Ministry of Labour led the design and implementation of the 'high risk firm' initiative. Under this program, the poorest performing 10% of Ontario workplaces (30,000 employers) were selected annually for either intensive labour inspection attention (up to four inspection visits per year) or for targeted services from the health and safety associations. These workplaces, representing ten per cent of all companies registered with the WSIB, accounted for 40 per cent of all lost-time injuries and claims costs. The Ministry of Labour's Operations Division had responsibility for approximately 20% of the employers selected for this program and the health and safety associations had responsibility for 80% of the employers. This initiative was scheduled over the four year period 2004-2008 and targeted a 20% reduction in lost-time injuries in the cohort of firms selected for inclusion in the program. The Institute for Work & Health estimates that approximately 25% of the

resources of the prevention system were targeted annually to the 10% poorest performing workplaces over the period 2004-2008.

In 2008 the MOL launched a revised compliance strategy, "Safe at Work Ontario", which targets inspections on the basis of lost-time injury claims and costs, compliance history of an employer, and hazards inherent to the sector, as well as other factors unique to an employer. Annual planning for the selection of employers for targeted services to be delivered by the Ministry of Labour, the WSIB or the health and safety associations is coordinated by the Ministry of Labour to ensure that there is minimal risk of duplication and that the insights of regional field staff are incorporated in the final selection of targeted employers.

Firms selected for targeted engagement in 2009 represented approximately 9% of employers registered with the WSIB

Program	Number of firms
WSIB: Workwell	1,200
WSIB: Safety Groups	3,900
Ministry of Labour	4,412
Health and Safety Associations	25,539
Total	35,000

4.0 Operational Co-ordination

4.1 *Priorities in Operational Coordination*

Over the past 5 years, there has been a maturing recognition of the importance of operational coordination and the development of processes to plan and implement operational coordination among the partner agencies in the Ontario prevention system.

4.2 *Monitoring the Effectiveness of Prevention Services*

For the period 2008-2012, the WSIB Prevention Division has set annual reduction targets for lost-time claims across all sectors in the Ontario economy (7% reduction for 2008 and for 2009). The Ministry of Labour's 'Safe at Work Ontario' strategy has not declared annual outcome objectives.

Beginning with a report for 2003, the Occupational Health and Safety Council of Ontario (OHSCO) has published an annual report describing the resources, activities and outcomes of the Ontario prevention system (those agencies and activities funded by insurance premiums collected by the WSIB). These reports document Ministry of Labour inspection and enforcement activity and describe the activities of the health and safety associations in aggregate.

Beginning in 2008, the WSIB Prevention Division commenced the reporting of the activities of individual agencies in the Ontario prevention system relative to annual targets and reported the frequency of lost-time claims for employers selected to receive services from individual agencies and specific prevention programs (2). These reports were provided to individual agencies on a monthly basis and were

reviewed by the member organizations of OHSCO. These reports are not currently available to the public.

References

- (1) System Performance Measurement Report, 2007. Occupational Health and Safety Council of Ontario. January 30, 2009. <http://www.iwh.on.ca/other-reports>
- (2) Performance and engagement reporting by system partners. January - December 2009. Prevention Division, Workplace Safety and Insurance Board, April 1, 2010.
- (3) WSIB. Safety Groups Program Member Update 2006/2007. <http://www.wsib.on.ca/wsib/wsibsite.nsf/public/SafetyGroupsProgram>, and 2008 Safety Groups Program Rebate. <http://www.wsib.on.ca/wsib/wsibsite.nsf/public/SafetyGroupsYearlyRebate>
- (4) Recommendations for experience rating. Report to the WSIB. Morneau Sebaco, October 2008.
- (5) Strategic Review, 1999-2003, OHSCO. April 2004.

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		Ontario	
Reference Year		2007	
A	Labour Force Statistics		
A.1	Population aged 15-64	9,068,500	f
A.2	Labour force participants	6,590,000	h
A.3	Labour force participants covered by the OHS legislation of your authority	5,840,000	a
A.4	Labour force participants excluded, exempt or covered under a separate authority	531,347	p
B	Inspection, Enforcement and Compliance Services		
B.1	Count of the number of staff in your authority's labour inspection service	450	
B.2	Total number of inspection/investigation hours		
B.3	Total number of field visits conducted by staff in your authority's labour inspection service	101,275	a
B.4	Total number of orders or citations issued by staff in your authority's labour inspection service	176,600	a
B.5	Total number of convictions arising from the prosecution of OHS violations (if appropriate)	1,191	a
B.6	Total value of fines levied for convictions arising from the prosecution of OHS violations. Penalties Imposed	\$12,000,000	a
B.7	Count of the number of labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction	30	p
B.8	Total number of field visits conducted by labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction	951	p
B.9	Total number of orders or citations issued by labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction	32	p
B.10	Total number of convictions arising from the prosecution of OHS violations under the authority of other agencies in your jurisdiction	2	p
B.11	Total value of fines levied for convictions arising from the prosecution of OHS violations under the authority of other agencies in your jurisdiction.	\$290,000	p
C	Training and Workplace Consultation Services		
C.1	Count of number of staff funded by or employed by your authority providing training services or workplace consultation services	350	b
C.2	Total number of participant-days of training provided	282,380	a
C.3	Total number hours of workplace consultation services	163,057	a
D	Expenditures		
D.1	Expenditures on labour inspection, enforcement and compliance services	\$90,000,000	a
D.2	Expenditures on education, training, workplace consulting, social marketing and prevention communications	\$103,600,000	a
D.3	Expenditures on research related to the prevention of work-related injury and illness	\$5,600,000	a
D.4	Economic incentives: gross value of rebates and surcharges assessed on employer insurance premiums	\$523,000,000	c
D.5	Economic incentives: value of rebates or awards to employers for OHS performance	\$32,600,000	e
D.6	Number of employers participating in OHS performance programs	3,200	d

Reference Year		Ontario
		2007
E Insurance for work-related disability		
E.1	Labour force participants insured by workers' compensation / work disability funds in your jurisdiction	4,786,088 h
E.2	Labour force participants excluded, exempt or insured by a separate workers' compensation/ work disability fund	
E.3	Total premium revenue	\$3,313,000,000 i
E.4	Expenditures on wage replacement benefits STD	
E.5	Expenditures on pension, permanent disability awards	\$2,372,000,000 j
E.6	Expenditures on health care services and vocational rehabilitation services	\$810,000,000 j

- a) Expenditures reported in \$ CDN. System performance measurement report 2007. Note that 'Expenditures on education, training, workplace consulting, social marketing and prevention communications' excludes \$30,600,000 in revenues generated from service fees. Occupational Health and Safety Council of Ontario. January 30, 2009.
<http://www.iwh.on.ca/ohsco-system-performance-measurement-report-2007>
- b) RPO. Occupational Health and Safety Council of Ontario. Roles review and realignment, June 2008
- c) Recommendations for experience rating. Report to the WSIB. Morneau Sebaco, October 2008.
- d) WSIB. Safety Groups Program Member Update 2006/2007. <http://www.wsib.on.ca/wsib/wsibsite.nsf/public/SafetyGroupsProgram>
- e) WSIB. 2008 Safety Groups Program Rebate. <http://www.wsib.on.ca/wsib/wsibsite.nsf/public/SafetyGroupsYearlyRebate>
- f) Population estimates and projections, 2009, Statistics Canada. <http://www40.statcan.gc.ca/101/cst01/demo31a-eng.htm>
- g) Statistics 2007, WorkSafeBC. For British Columbia, Inspection reports (p67) are recorded as 'Total number of field visits', Penalties recommended (p67) are recorded as 'Total number of convictions', Penalties imposed (p67) are recorded as 'Total value of fines levied for convictions..', Education hours and Consultation hours (p67) are reported as 'Total number of hours of workplace consultation services'.
- h) <http://www.iwh.on.ca/compensation-fact-sheets>
- i) Annual Report 2007, Workplace Safety and Insurance Board. Total premium revenue is reported as premium revenue for the current year (\$2,499 million) plus income from investments (\$812 million). Additional premium revenue of \$1,024, allocated to the unfunded liability in Ontario, are not recorded in entry E.3.
- j) <http://www.iwh.on.ca/compensation-fact-sheets>. Expenditures on short-term wage replacement benefits (E.4) and pension awards (E.5) are consolidated in Ontario. Expenditures on health care services and vocational rehabilitation services (E.6) include expenditures for the WSIB Labour Market Re-entry program.
- k) Annual Report 2007, WorkSafeBC. For British Columbia, expenditures on labour inspection, enforcement and compliance services are consolidated with expenditures on education, training and workplace consultation (Note 13: Operating costs, p85: total prevention expenditures of \$56,362,000. This expenditure amount concurs with the value listed for the AWCBC KSM 9). IWH has allocated the amount of \$13,908,000, listed under the heading 'Injury-reduction initiatives' to category D.5: awards to employers for OHS performance. After subtracting \$13,908,000 from total prevention expenditures, the remainder (\$42,452,000) has been allocated to the portion attributed to inspection and investigation (75%, p66) and a portion attributed to education, training and workplace consultation (25%).
- l) Estimates obtained from summary of research projects funded in 2007 that were related to the prevention of work-related injury and illness. http://www.worksafebc.com/contact_us/research/funding_decisions/default.asp
- m) In C.3, the consultation services estimate for Ontario reports the activities of staff of Health and Safety Associations. The estimate for British Columbia reports activities of staff of WorkSafeBC. British Columbia estimates would be improved with the inclusion of consultation activity hours delivered by the 10 industry safety associations active in 2007.
- n) this total includes officers in B1.
- o) Personal communication, Terry Bogyo, Director Corporate Planning and Development, estimate for 2010 based on 2008 payroll.
- p) OHS Compliance and Operations Unit, Labour Program, HRSDC. Custom tabulation, April 20, 2010.