

Human Services—Occupational Health and Safety Systems

Summary

What we examined

In 2010, we audited systems the Department of Human Services used to promote, monitor, enforce and report on its occupational health and safety goals and objectives. We made five recommendations to the Department (formerly the Department of Employment and Immigration) in our *April 2010 Report* (starting at page 31).

This year, we conducted follow-up work to assess the Department's progress in implementing our recommendations to:

- promote and enforce compliance with the law¹ by high-risk employers and workers
- improve planning and reporting systems for OHS
- strengthen its proactive inspection program
- improve its systems to issue Certificates of Recognition (COR)
- strengthen the legislated permit and certificate program

Why this is important to Albertans

The impact of workplace injuries, illnesses and fatalities reaches well beyond workers and their families and leads to broader negative economic and social consequences, which include:

- workers losing their level of income, health and sometimes their lives
- employers facing costs such as legal expenses, additional hiring and training costs, loss of productivity and Workers' Compensation Board premium increases
- healthcare system ultimately funding and treating unreported injuries and diseases
- pressures on government resources to inspect, investigate and prosecute

What we found

The Department has fully implemented two of five recommendations. It strengthened its inspection program by analyzing employer safety data to identify, select and inspect worksites and employers within high-risk sectors. It also incorporated evening and weekend inspections. The Department strengthened and improved controls over its legislated permit and certificate programs by implementing a new system and policies for issuing asbestos certificates. It also improved processes for reviewing and monitoring external agencies.

While the Department has made progress, we highlight three areas that still need to improve. First and most important, the Department still has not sufficiently defined high-risk employers and workers. It also does not have processes that will comprehensively identify high-risk employers and workers and apply enforcement actions that will successfully deter them from breaking the law. This is why we have repeated this recommendation. However, the Department is pursuing administrative penalties and fines and has implemented a new inspection reporting system and a process for reviewing COR employers.

Second, the Department is developing the current Work Safe Alberta strategic plan, but has not completed it. It has, however, initiated projects to obtain data on chronic injuries and diseases and reported on the effectiveness of key OHS programs and initiatives. Lastly, the Department has followed up on its recommendations to COR certifying partners, but it has not yet implemented quality reviews of COR auditors' work.

¹ The OHS Act, Regulation and Code set out specific requirements for occupational health and safety in Alberta.

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2010 Recommendations	2012 Status
Recommendation No. 3 Enforce compliance with the law by high-risk employers and workers	Repeat
Recommendation—unnumbered Improve planning and reporting systems	Satisfactory Progress
Recommendation—unnumbered Strengthen proactive inspection program by improving risk focus and coordinating employer selection methods for its inspection initiatives	Implemented
Recommendation—unnumbered Improve systems to issue CORs	Satisfactory Progress
Recommendation—unnumbered Strengthen the legislated permit and certificate programs	Implemented

What remains to be done

To help prevent occupational injuries, diseases and fatalities in the workplace, the Department should:

- develop criteria to define and implement a process to comprehensively identify, high-risk employers and workers
- implement appropriate enforcement actions for those who fail to comply with the law
- complete the current Work Safe Alberta strategic plan
- improve documentation and implement quality reviews for the COR employer review process, work done by COR auditors and inspections data

Audit objectives and scope

Our audit objective was to determine if the Department had implemented the recommendations from our *April 2010 Report* by:

- enforcing compliance with the law by high-risk employers and workers
- improving planning and reporting systems for OHS by:
 - obtaining data on chronic injuries and diseases to identify potential OHS risks
 - completing the current update of the Work Safe Alberta strategic plan
 - measuring and reporting performance of OHS programs and initiatives that support key themes of the plan

- strengthening its proactive inspection program by improving risk focus and coordinating employer selection methods for its inspection initiatives
- improving its systems to issue CORs by:
 - obtaining assurance on work done by COR auditors
 - consistently following up on recommendations made to certifying partners
- strengthening the legislated permit and certificate programs by improving:
 - controls over issued asbestos certificates
 - processes for approval and monitoring of external training agencies

In performing the audit, we:

- reviewed new, updated and revised systems, processes, policies and procedures
- confirmed implementation of the systems and processes
- interviewed Department staff
- performed other audit procedures relevant to our audit

We conducted our field work from November 2011 to May 2012 and focused on the Department's actions since our *April 2010 Report*.

Background

The Department is responsible for implementing the government's OHS policy. It administers the *Occupational Health and Safety Act, Regulation and Code* through various programs and initiatives. Employers and workers are responsible for reporting workplace accidents and unsafe conditions and helping to ensure healthy and safe workplaces.

Compliance enforcement

When OHS officers identify worksite activities and conditions that do not comply with the law, they may issue orders requiring employers to take appropriate corrective action. The Department has a limited range of enforcement tools at its disposal from stop-work and stop-use orders,² court orders to prosecution.

Work Safe Alberta strategy

The Department collaborates with industry and labour representatives to develop and implement the Work Safe Alberta three-year strategic plan. The strategy's objectives include increasing awareness, expanding partnerships, strengthening the regulatory framework, improving research and reporting, improving compliance and expanding training.

Inspection systems

The Department monitors compliance through a system of reactive and proactive inspections. Reactive inspections prioritize complaints, worksite incidents and fatalities by severity and risk. Proactive inspections target high-risk employers and industries.

Certificate of Recognition

Certificates of Recognition³ provide WCB rebates of up to 20% of annual premiums to COR employers who implement appropriate

health and safety programs. The Department is responsible for all COR certification activities and, jointly with the certifying partners,⁴ issues certificates and maintains a database of COR employers. The Department periodically reviews its certifying partners to ensure they meet program requirements. Independent COR auditors examine the employers' OHS systems and report their findings to certifying partners.

Legislated permits and certificates

The law requires individuals working in asbestos abatement, in mining and with explosives to obtain permits and certificates. The Department issues permits and certificates to applicants who successfully complete approved training or apprenticeship. For asbestos, the Department approves external agencies to provide training to workers. The Department provides blank, serial numbered certificates to asbestos training agencies, which issue certificates to workers. In turn, the training agencies must report the certificate information to the Department.

Findings and recommendations Promoting and enforcing compliance— recommendation repeated

Background

In our *April 2010 Report* (page 39), we recommended that the Department enforce compliance by employers and workers who persistently fail to comply with the Act. The Department did not have a clear decision ladder for escalating compliance action from promotion and education to enforcement for a small, but high-risk, group of employers who consistently failed to comply with OHS orders. Some high-risk employers held a valid COR. These employers and their workers were much more likely to have workplace incidents, yet they continued to receive COR benefits.

² When OHS officers observe unsafe equipment or work, they will stop the use of the equipment or work until the employer takes corrective action.

³ CORs and applicable rebates to participating COR employers are issued under the WCB's Partnership in Injury Reduction (PIR) program.

⁴ Certifying partners are responsible for assessing COR employers' health and safety management systems.

Recommendation repeated: promoting and enforcing compliance

12 RECOMMENDATION—REPEATED

We again recommend that the Department of Human Services enforce compliance with the law by high-risk employers and workers.

High-risk employers and workers are more likely to create a workplace with an undue and higher risk of injury, occupational disease or death. Examples of such employers and workers are those who:

- consistently do not comply with the law
- expose workers to hazardous materials and equipment
- have poor health and safety systems and fail to create, promote and support a safety culture

Criteria: the standards for our audit

The Department should promote and enforce compliance with the *Occupational Health and Safety Act*, the *Regulation* and the *Code*.

Our audit findings

Key findings

- The Department has developed a well-designed policy to identify COR employers with poor health and safety systems, but it is not implementing the policy consistently.
- The Department developed an escalating compliance policy, but it still has not sufficiently defined high-risk employers and workers. It also does not have processes that will comprehensively identify high-risk workers and employers and apply enforcement actions that will successfully deter them from breaking the law.
- The Department is pursuing administrative penalties and fines for high-risk employers and workers.
- The Department implemented a new inspection reporting system, but some of the data is inaccurate and some approvals are not documented.

COR employer review policy

The Department has implemented a well-designed COR employer review policy to target COR employers with deficiencies in health and safety management and COR employers that fail to comply with the law.⁵ However, the Department is not consistently implementing this policy and is not performing timely employer reviews.⁶

The Department analyzed OHS and WCB data for COR employers who had a workplace fatality, a serious injury or incident, or multiple stop-work orders for imminent danger. It also screened COR employers who were on the Department's list of highest disability injury rate for four consecutive years.⁷ Between July 2011 and February 2012, the Department assessed each COR employer against these four criteria and identified those COR employers who are now subject to an employer review.⁸ For example, the Department recommended an employer review for:

- an employer that had not completed a hazard assessment prior to implementing a new procedure that injured a worker
- an employer that did not provide adequate training to a new worker who injured himself while lifting heavy equipment
- an employer that received multiple stop work orders for failing to have proper fall protection equipment

⁵ According to WCB data provided by the Department, the number of employers in Alberta was 159,925 in 2010 and 165,518 in 2011. Of these, 9,015 were COR employers on March 31, 2011 and 9,377 on April 2, 2012. However, COR employers represent almost 50% of total insurable earnings of all employers.

⁶ When it initiates an employer review, the Department works with the employer to develop an action plan identifying corrective actions and timelines for improving the employer's health and safety management system.

⁷ The disability injury rate (DIR) measures the number of injuries per 100 person years for which injured workers could not perform regular tasks and had to be reassigned to modified duty until they recovered. The Department, through its Employer Injury and Illness Prevention Program, generates an annual list of the 500 employers with the highest DIRs. Only employers with an active COR for all four years will be screened.

⁸ The Department assesses each COR employer's OHS, WCB and health and safety system information before recommending an employer review.

As of February 2012, the Department had completed a small number of employer reviews. These COR employers worked with the Department to develop an action plan to improve their health and safety systems. However, we found the Department did not document that it had followed up on the corrective actions of some of these COR employers. We also found that the Department had not approved all the action plans. Yet, PIR rebates for these COR employers were reinstated.⁹

The Department has not completed sufficient employer reviews to keep pace with the number of recommended employer reviews. As the inventory of recommended employer reviews grows, the Department will not be able to take timely action to correct these COR employers' poor health and safety systems. Thus, workers at these COR employers' worksites may continue to be exposed to avoidable workplace risks.

For many COR employers, the Department supported its rationale and correctly approved its decision to not proceed with an employer review. For example, a worker had a seizure and injured himself while operating a bobcat. As the incident was not related to the employer's health and safety systems, the Department concluded that an employer review was not required. However, for some COR employers, the Department did not have sufficient information and did not document its rationale and approval for excluding them from the review. In two examples, the Department relied on the OHS officers' opinions that the fatalities were not work related, but it did not obtain sufficient evidence to confirm this. Without such assurance, a COR employer with a weak health and safety system may be incorrectly excluded from the employer review process.

To fully implement this recommendation, the Department should:

- confirm, document and sign off on the COR employer's corrective actions
- obtain supporting information and evidence for its decision not to conduct an employer review and document its rationale and approval
- implement a quality review process to ensure the COR employer review complies with the policy
- evaluate options (e.g., reviewing staffing needs, prioritize use of resources, review the scope of employer reviews) and implement a process to ensure timely completion of employer reviews

Escalating compliance policy

For all employers, the Department developed the Enforcement Procedure—Repeat Non-Compliance policy to escalate compliance action. However, the Department still has not sufficiently defined high-risk employers and workers. It also does not have processes that will comprehensively identify high-risk employers and workers and apply enforcement actions that will deter them from breaking the law. However, the Department is pursuing administrative penalties and fines.

The Department may issue a Section 10(1)(c) order to employers.¹⁰ The criterion for issuing such an order is those employers who pose a continued danger to persons on the worksite and who have a history of repeat non-compliance of the same or similar parts of the Act. The policy was implemented on June 22, 2011. Since then, the Department has issued a few of these orders. By comparison, the COR employer review criteria, which apply to a significantly smaller subset of employers, identified considerably more than a few COR employers with poor health and safety systems. Applying these criteria to non-COR employers, we identified a higher number of

⁹ PIR rebates are placed on hold during an employer review. COR employers who do not complete the requirements of the employer review will have their COR cancelled.

¹⁰ This order, an additional enforcement tool, is designed to bridge the gap between standard compliance orders and a court order. Under this policy, an employer is subject to random inspections over a specified period and must demonstrate sustained compliance to close the order. Failure to comply may result in a court order.

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potential high-risk employers. The Department also does not have processes to analyze OHS data and identify employers who meet the policy criterion. The table below summarizes our conclusion on the effectiveness of the processes within the employer review and escalating compliance policies. It is not a direct comparison of the policies, as they have different objectives.¹¹

	COR Employers	All Employers
Number of employers (approximate)	9,000	165,000
Criteria/criterion in the policy	4	1
Employers the Department identified under the policy	Considerably more than a few	A few
Does the policy's criteria/criterion effectively define employers with poor health and safety systems or high-risk employers?	Yes	No
Does the Department have processes to analyze data and identify employers who meet the criterion/criteria?	Yes	No

Although the Department has various enforcement tools to motivate employers to improve workplace safety, it has limited enforcement actions for the few high-risk employers and workers who fail to comply with the law. The Department can seek prosecution to assess civil penalties, such as fines and imprisonment, for OHS violations. However, it is the only mechanism, beyond compliance orders, to assess penalties and it is reserved for serious incidents that result in injury or death.

To bridge the gap between compliance orders and prosecution, the Department is pursuing administrative penalties and fines.¹² It has identified key deliverables with established timelines. It created committees that have developed draft proposals and initiated stakeholder consultations. However, the Department still has work to complete to make administrative penalties and fines available to OHS officers by April 2013. The implementation of administrative penalties and fines will depend on the legislative process.

The Department is evaluating its systems, processes and policies to more effectively identify and deter high-risk employers and workers who fail to comply with the law. In its operational plan, the Department identified the following initiatives, along with timelines, to:

- identify high-risk employers and workers
- implement administrative penalties and fines
- develop an internal quality assurance process

To fully implement this recommendation, the Department should develop criteria to define the high-risk employers and workers. It should also adopt processes, similar to those implemented under the COR employer review policy, to analyze data, identify high-risk employers and workers and take appropriate enforcement action. The Department should implement effective enforcement actions for employers and workers who fail to comply with the law.

Compliance inspection systems

The Department implemented the Compliance Management Information System to replace its previous inspection reporting system. However, it did not consistently document management's approval for extending orders. Some data is incorrectly entered in CMIS, which impacts management's ability to assess information and

¹¹ The employer review and escalating compliance policies apply to employers with poor health and safety systems and high-risk employers, respectively.

¹² The Department is pursuing an administrative ticketing system to issue tickets to workers and employers for select offences. It is also pursuing an administrative penalties system, whereby employers may face larger fines for OHS violations.

make decisions, such as identifying high-risk employers.

The Department tracks enforcement actions, such as stop-work and stop-use orders, in CMIS. We found that the Department closed orders when employers took timely corrective action and had valid reasons for open, suspended or extended orders.¹³ The Department's operating procedure requires managerial approval for open orders with compliance dates exceeding 30 days and extensions over 14 days. Although verbal approval may have been granted in our sample of open and extended orders, the Department did not document its approvals for any of these orders. Evidence of managerial approval is a particularly important control when the workplace risk or hazard has not been fully corrected.

The CMIS database captures inspection data ranging from general employer information to inspection details. We found the Department had entered some incorrect data into CMIS and it did not review the quality of the data. For example, WCB account data for some COR employers with workplace fatalities or serious injuries or incidents were incorrectly entered. As a result, the Department did not identify these employers for an employer review. Another example is incorrect dates, which result in inaccurate extension and compliance periods.

To fully implement this recommendation, the Department should implement a regular quality review process to assess and ensure critical data is accurate, complete and complies with its operating procedures. The Department should adopt a process to document its approval for orders where additional time to achieve compliance is granted.

Implications and risks if recommendation not implemented

Without adequate systems to enforce compliance with the law by high-risk employers and workers, workers may continue to be exposed to otherwise

avoidable risks. Employers who refuse to comply with the law may also gain an unfair advantage over employers who spend the time and resources to create a safe workplace.

Work Safe Alberta planning and reporting—satisfactory progress

Background

In our April 2010 Report (page 43), we recommended that the Department improve its planning and reporting systems for OHS by:

- obtaining data on chronic injuries and diseases to identify potential OHS risks
- completing the current update of the Work Safe Alberta strategic plan
- measuring and reporting performance of OHS programs and initiatives that support key themes of the plan

The Department had limited data on emerging OHS risks, particularly links between occupational disease and workplace exposure, which can be gathered through cross-ministry or cross-jurisdictional collaboration. It did not update or regularly report on the Work Safe Alberta strategic plan. The Department also did not use readily available OHS data to report on the effectiveness and efficiency of its key programs and initiatives that support the plan.

Our audit findings

Key findings

- The Department is developing the current Work Safe Alberta strategic plan, but it has not yet completed it.
- The Department initiated projects to obtain data on chronic injuries and diseases and reported on the effectiveness of key OHS programs and initiatives.

Chronic injuries and diseases

The Department established the Occupational Disease Prevention Unit to research, perform

¹³ We also confirmed that the Department followed up on the open and suspended orders from our April 2010 audit to ensure employers took corrective action and achieved compliance.

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surveillance and prevent occupational disease in Alberta. The unit initiated three projects to gather data on occupational diseases; improve reporting of notifiable diseases; and increase inspections to identify, record and correct occupational hazards in the workplace.¹⁴

The Department has engaged Alberta Health Services and the Department of Health to obtain data on chronic injuries and diseases and has entered into a research agreement with the Alberta Transportation to obtain data on work-related motor vehicle fatalities. The Department of Human Services is partnering with CAREX Canada to gather cross-jurisdictional data on Canadians exposed to high-priority carcinogens at work.¹⁵

OHS programs and initiatives

The Department improved its reporting on the effectiveness and efficiency of its key programs and initiatives by posting quarterly reports for fiscal years 2009–2010 and 2010–2011 on its website. The quarterly reports provide information on the Employer Injury and Illness Prevention targeted industry, Partnership in Injury Reduction and contact centre programs. Additional reports provide an overview of WCB injury and illness data and key Work Safe Alberta initiatives and an analysis of OHS implications from economic, employment and demographic trends.¹⁶

Work Safe Alberta strategic plan

Satisfactory progress has been made on this recommendation. The Department developed Work Safe Alberta plans for 2009–2012 and 2011–2014. These plans were not approved, because the Minister wanted to review the direction and change the process for developing the plan. Government, industry and labour had jointly developed the previous strategic plans, with the Department taking

the lead for most of the implementation. Under this process, the Department did not have control over industry and labour initiatives in the plan and was unable to ensure implementation or evaluation of these initiatives and the overall effectiveness of the plan. As a result, the Department proposed to reintroduce the Work Safe Alberta plan as a government-wide strategy that:

- aligns with activities of the Department branches responsible for OHS
- coordinates with other ministries
- seeks wider consultation with Albertans

The government, with the Department as the lead, will be accountable for the whole strategy.

The Department has approved a project charter and the project team has met to develop the new plan. To fully implement this recommendation, the Department must demonstrate that it has met the major deliverables and timelines identified in the project charter. The Department should develop, finalize, approve and carry out a plan with clear objectives, responsibilities, timelines and deliverables.

Occupational Health and Safety inspection systems—implemented

Background

In our *April 2010 Report* (page 46), we recommended that the Department strengthen its proactive inspection program by improving risk focus and coordinating employer selection methods for its inspection initiatives. While the Department identified industries based on risk, it did not clearly define the criteria for employer selection. Also, the Department's scheduling of proactive inspections was not risk-based, as it did not consider evening and weekend workplace incidents.

¹⁴ Occupational Disease Surveillance, Analysis of Notifiable Disease and Specialized Inspection for Occupational Disease

¹⁵ CAREX Canada is a national research project to estimate the number of Canadians exposed to select high priority carcinogens at work and the general environment.

¹⁶ *Work Safe Alberta 2010–11 Initiatives Report and Occupational Health and Safety Trends and Issues 2010*

Our audit findings

The Department strengthened its proactive inspection program by analyzing WCB and employer safety history data to identify, select and inspect worksites and employers within high-risk sectors. The Department conducted four focused inspection projects targeting commercial construction, powered mobile equipment, young workers and residential construction. For example, the young worker project targeted convenience stores and restaurants, because these employers frequently hire young workers and have a high frequency of workplace incidents.

The Department scheduled inspections based on risk by incorporating weekend and evening inspections in its young workers and residential construction targeted industry initiatives. For example, weekend and evening inspections accounted for 10% of young worker worksite inspections.¹⁷ The Department has conducted weekend and evening inspections since announcing that these inspections will continue as a part of the ongoing inspection program.¹⁸

Certificate of Recognition—satisfactory progress

Background

In our *April 2010 Report* (page 48), we recommended that the Department improve its systems to issue COR by obtaining assurance on work done by COR auditors and consistently following up on recommendations made to certifying partners. Although the Department and certifying partners reviewed COR auditors' reports, they did not confirm the quality of the fieldwork done. At the time of the audit, the Department and certifying partners were finalizing a terms of reference for an onsite audit review pilot project to close the gap. The Department also needed to improve its systems to follow up on recommendations to its certifying partners.

Our audit findings

Key finding

The Department followed up on its recommendations to certifying partners, but it has not yet implemented quality reviews of COR auditors' work.

Certifying partners

The Department improved its COR systems by following up on recommendations it makes to certifying partners. It implemented a policy requiring regular audits and follow-up of certifying partners and requiring certifying partners to correct deficiencies in a timely manner. The Department audited all certifying partners. It followed up to ensure the certifying partners provided supporting documentation to confirm deficiencies were corrected in a timely manner.

Quality assurance

Satisfactory progress has been made on this recommendation. The Department completed the OSAR pilot project and found that most COR auditors were "accurately reporting their activities and following the audit processes."¹⁹ However, the report also found that some auditors were not following standard audit processes. The report concluded that the Department should incorporate an OSAR process as part of its quality assurance. The OSAR committee drafted a project charter for implementing reviews of the COR auditors' fieldwork and obtained approval from the certifying partners. The Department is currently implementing the deliverables within the charter.

To fully implement this recommendation, the Department must demonstrate that it has met the project charter deliverables and milestones and implement a process to review the work done by COR auditors.

¹⁷ *Occupational health and safety focused inspection project: Young workers*, July 2011.

¹⁸ "OHS Presence to increase following safety inspection results," November 7, 2011, Government of Alberta News Release.

¹⁹ *On-Site Audit Review (OSAR) Pilot Project—Final Report*, July 8, 2011.

Legislated permit and certifi cate programs—implemented

Background

In our *April 2010 Report* (page 50), we recommended that the Department strengthen the legislated permit and certifi cate programs by improving controls over asbestos certifi cates. The Department was missing information on whether and to whom certifi cates had been issued and did not periodically review training agency records to account for certifi cates they had issued. Also, OHS off cers at asbestos worksites did not have access to the Department's database to verify worker certifi cates.

We also recommended that the Department improve its processes for approval and monitoring of external training agencies. Some blaster training agency fi les did not have formal approvals and some asbestos training agency fi les did not have course instructor approvals. Periodic audits of a few asbestos training agencies were either not completed or delayed.

Our audit findings

The Department improved controls over asbestos certifi cates by limiting the number of blank asbestos certifi cates training agencies receive and requesting training agencies to provide all

certifi cate information within 30 days of a worker completing a course. The Department voided and had the training agencies destroy excess blank certifi cates. Certifi cate information is updated in the Department's SharePoint database, which keeps an accurate record of issued and unissued certifi cates. OHS off cers can remotely access the database to confirm an asbestos worker's certifi cate information during an inspection.

The Department improved its process for monitoring training agencies by performing course and administrative audits every fi ve years.²⁰ All asbestos training agencies underwent an administrative audit. Course audits for all agencies were completed, with the exception of two agencies that have not offered a course within the last fi ve years. The Department will conduct course audits when these training agencies offer courses. The Department updated asbestos training agency fi les to include the appropriate approvals and recertifi ed training materials for all approved blaster training agencies. The Department removed two blaster training agencies from the approved training agency list for failing to submit training material. All blaster training agency fi les contained approval letters from the Department. Approvals for asbestos course instructors were documented and kept in each agency's fi le.

²⁰ Course audits review course delivery, content and materials, while administrative audits are designed to evaluate administrative procedures and documentation.