LEGISLATION TO PROTECT THE HEALTH AND SAFETY OF EMPLOYERS AND WORKERS IN ALBERTA

ENFORCED BY OCCUPATIONAL HEALTH AND SAFETY OFFICERS
FORMAT OF THE LEGISLATION

- THE OCCUPATIONAL HEALTH AND SAFETY ACT
- THE OCCUPATIONAL HEALTH AND SAFETY REGULATION
- THE OCCUPATIONAL HEALTH AND SAFETY CODE
THE OCCUPATIONAL HEALTH AND SAFETY ACT

- Sets out the structure of the legislation
- Sets out the enforcement rights and duties
- Sets out the rights to appeal
- Sets out the penalties for non-compliance
- Contains general duties for
  - Employers
  - Workers
  - Contractors
  - Prime Contractors
  - Suppliers
THE OCCUPATIONAL HEALTH AND SAFETY REGULATION

- More specific than the Act
- Contains requirements for:
  - Safety of equipment
  - General protection of workers
  - Competency of workers
  - Safety training
- Refines several definitions: controlled products (WHMIS), hazardous materials, occupations, work sites, and notifiable diseases
- Contains requirements for blaster’s permits and certificates
THE OCCUPATIONAL HEALTH AND SAFETY CODE

- 41 Parts, 830 Sections, 11 Schedules

SPECIFIC REQUIREMENTS FOR ACTIVITIES AND INDUSTRIES

REQUIREMENTS FOR
- Hazard assessment
- Hazard elimination and control

SCHEDULES FOR
- Chemical substances
- Occupational exposure limits
- First aid requirements
- Noise limits
- Limits of safe distances from overhead power lines
- Dimensions of scaffold members
- Numbers of toilets at a worksite
- Shoring components for excavations
DUTIES AND RESPONSIBILITIES UNDER THE ACT

- **SO FAR AS IS REASONABLY PRACTICABLE**
  - The concept of Due Diligence

- **EMPLOYERS**
  - To protect the health and safety of workers
  - To ensure workers are aware of their responsibilities

- **WORKERS**
  - To protect the health and safety of themselves and other workers
  - To co-operate with the employer

- **SUPPLIERS**
  - To ensure the safety of tools, appliances and equipment supplied

- **CONTRACTORS**
  - To ensure safety when directing the activities of other employers

- **PRIME CONTRACTOR**
  - Every work site must have a Prime Contractor where there are 2 or more employers at any time
  - The Prime Contractor is the contractor, employer or other person who agrees to be the Prime Contractor, or by default the site owner
  - The Prime Contractor shall ensure that the Act, Regulation and Code are complied with at the worksite.
What is Due Diligence?

- A legal defense
- The level of judgment, care, prudence and determination reasonably expected under the circumstances
- For OH&S, reasonable precautions to prevent foreseeable injuries or accidents in the workplace
- All reasonable actions that were taken before an incident occurred
EXEMPTIONS

ALBERTA HEALTH AND SAFETY LEGISLATION DOES NOT APPLY TO

– Domestic Servants

– Federally Regulated Activities, e.g.
  ▪ Banking
  ▪ Ground transport over Provincial borders
  ▪ Air transport
  ▪ First Nation Reserves

– Now applies to Farming and Ranching
OHS OFFICER ACTIVITIES

- **Proactive Inspections:**
  - Target Industries
  - Target Employers
  - Targets of Opportunity

- **Reactive Inspections:**
  - Complaint Investigations
  - Reportable Accident Investigations
OHS OFFICER POWERS

- INSPECTIONS (OHS Act Sections 8-10)
  - To enter a worksite at any reasonable hour
  - To require the production of documents, to copy or remove documents
  - To seize or take samples of any material, product, tool, appliance or equipment
  - To take photographs and make tests
  - To interview and take statements
  - To write stop-work, stop-use or compliance orders
  - On request, to obtain the assistance of a Peace Officer to carry out his duties

Many OH&S Officers are now Peace Officers
INVESTIGATIONS

- INVESTIGATIONS (OHS Act Section19)
  - To attend the scene of an accident
  - To make any enquiries necessary to determine the cause and circumstances
  - To seize or sample any substance, material, product, tool, appliance or equipment
  - To require from any person a true account
  - To require any information
  - To obtain the assistance of a Peace Officer in carrying out his duties
  - (Employers are required to report accidents)
OHS OFFICER TOOLS

ENFORCEMENT TOOLS

- Orders for Compliance
- Stop Work Orders
- Stop-Use Orders
- Director’s Orders
- Prosecutions – Fine up to $500,000 for a first offence
  Up to 6 months imprisonment
- Criminal Liability – Criminal Code S.217.1 (Bill C45)
Charges and Convictions 2015

Charges laid against 30 companies
Convictions obtained against 11 companies
GENERAL CONSIDERATIONS

- Legislation is a minimum standard
- Much of the legislation is performance-based – the employer can manage health and safety in a way that fits his activities
- Safety management is cost-effective
- Safety and quality management are complementary
Attitudes to Safety

- Why have we got these laws?
- I don’t have the time to do this
- All this safety costs money
- We never had a bad accident anyway. I know how to do my job.
- I don’t understand what all these orders mean. I want to comply because I don’t want to get fined, but I’m not sure how to do this.
- I thought we were pretty safe but the OHS inspector told me some stuff I didn’t know about. I’m glad they came by.
- Another satisfied customer. The OHS girl walked round and didn’t find anything. She wrote me an “attaboy” note and said we were doing a great job. I might be able to make some more savings on the WCB payments!
How to do it

- Understand the real benefits of safety management. Working safe is very cost-effective.
- Manage safety in ways that fit in with your business activities.
- Compliance with OHS legislation is a minimum standard. You can usually do much more and remain cost-effective.
- Thorough hazard assessments and workable effective safety systems are the keys to safety management.
Unsafe Conditions

- **HAZARDS:**
  - Real physical elements and conditions that have the potential to cause harm - injury or death
    - Machinery and Equipment – locations and movements
    - Power sources – electrical, hydraulic, pneumatic, stored (potential) and kinetic energy
    - Positional hazards – heights, confined spaces, working under suspended loads, remote locations
    - Chemical and biological hazards – fires, explosions, atmospheric contamination
Unsafe Acts

- **RISKS:**
  - Actions and activities at the work site that are either not controlled by engineering/administrative controls or are done in ignorance or contradiction of engineering/administrative controls and that have the potential to cause harm – loss, injury or death
    - Endemic risks – not covered by hazard assessments/procedures
    - Risks arising from changes in the work or the environment that are not included in the hazard assessments/procedures
HAZARD ELIMINATION AND CONTROL

1. Can I get rid of it?

2. Can I replace it with something less hazardous?

3. IS IT:
   - Safe by Design?
   - Safe by Position?
   - Safe by Maintenance?
   - Safe by Instruction?
   - Safe by PPE?
WHY ACCIDENTS HAPPEN

- Inadequate hazard identification and control “We’ve been doing it that way for 20 years”
- Inadequate management of safety procedures “I told him a hundred times not to do that”
- Inadequate basic safety procedures – hazard assessments, lockout, tie-off, isolation etc.
- Inadequate training or competency – a common cause of accidents in boom times when competent workers are hard to get
- Failure to recognize that something is a hazard “I grew up on a farm, I can operate anything”
- Safety systems and procedures imposed from outside the worksite. No flexibility to adapt systems to match the work
- Failure to listen – to good advice from workers, supervisors, observers, safety consultants. “Just get her done!” “My Way or the Highway!”
- Failure to refuse unsafe work or to object to an unsafe procedure – particularly common with young workers and foreign workers
- Safety rules ignored by managers/supervisors. Don’t expect others to follow your rules if you don’t follow them
- Safety rules ignored by workers “I was only going to be up there for a minute”
- Hazards from other work at the site – Prime Contractor responsibilities
- Failure to learn lessons after “Near misses”
- Failure to recognize and act on “Time Out” indicators before the accident happens
- Most of the accidents investigated were clearly preventable. It wasn’t a question of if it would happen, it was just a question of when it would happen.
How can we reduce accidents?

- If anything changes after the hazard assessment we stop and do a new hazard assessment
- Nothing that happens will make us divert from safe work practices
How Accidents Happen

Change in System

System Gives Signal
  No |
  No |
  No |
  No |

  Yes |
  Yes |
  Yes |
  Yes |

Signal Observed
  Yes |
  Yes |
  Yes |
  Yes |

Signal Diagnosed
  Yes |
  Yes |
  Yes |
  Yes |

Corrective Action Taken
  Yes |
  Yes |
  Yes |
  Yes |

System Responds to Corrective Action
  Yes |
  Yes |
  Yes |
  Yes |

System Balance Restored
  Yes |
  Yes |
  Yes |
  Yes |

System Fails
  No |
  No |
  No |
  No |

Accident Happens

Yes

System Works

No Accident
The Costs of Accidents

- Assume that a 25 year old highly skilled and productive journeyman, married with two young children, working on a major construction project at a large oil production facility, is seriously injured in a preventable worksite accident. The worker requires extended treatment in hospital and care facilities and becomes a quadriplegic. OHS shuts the site down for 3 days for their investigation then imposes stop work orders that take you a week to comply.
Financial Costs

- **Upstream Costs (the employer)**
  - Loss of production and equipment $0.25M
  - Costs of emergency response including air transport $0.1M
  - Contract penalty for late completion $0.5M
  - Prosecution legal costs and fines $1.2M

- **Downstream Costs (the employer, the family, the province, the nation)**
  - Increased insurance/WCB payments $0.3M
  - Costs of maintaining the worker and family for 20 years $2.5M
  - Loss of earnings, tax, pension contributions, consumer spending $2.5M
  - Loss of the wealth creating ability of the worker for 40 years $8M Plus

Total Cost $15.35 Million
Alberta Work Fatalities 2015

- Industrial disease fatalities: 66
- Work related motor vehicle fatalities: 24
- Work site fatalities: 35
- Total reported fatalities: 125
Who Pays?

- Industry and commerce create all the wealth
- All costs, direct and indirect, are paid by industry and commerce
Human Costs
The Real Bottom Line.

- Grief
- Guilt
- Anger
- Loss
- Trauma
- Fear
- Anxiety
- Regret
- Depression/suicide/alcohol/drugs
- Family breakdown
Cultural Indicators

- Cultural priorities are indicated by cultural responses to events
- Two workers died in January 2015:
  - On January 9, 2015 an Edmonton worker was fatally injured when he fell from a roof
  - On January 17, 2015 a St. Albert RCMP Officer was fatally injured by a gunshot wound
Contact Information

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