
CHAPTER 2

Legislative Framework

ESSENTIAL OUTCOME

After completing the lesson on this chapter, if nothing else, students should be able to identify the origins and sources of the laws, rules, and procedures governing occupational health and safety in Canada, and distinguish between the various roles, duties, and responsibilities of the major stakeholders involved in health and safety governance.

LEARNING OUTCOMES

After completing this chapter, students should be able to:

- describe the regulatory framework surrounding occupational health and safety
- outline the duties of the major stakeholders under occupational health and safety legislation
- describe the structure and role of joint health and safety committees
- list and describe the three central elements of a WHMIS program
- describe the purpose and basic provisions of the transportation of dangerous goods acts

KEY CONCEPTS

- Occupational health and safety in Canada is regulated both federally and provincially, with each jurisdiction responsible for creating and enforcing a variety of acts, regulations, guidelines, standards, and codes. The majority of workers in Canada are regulated by provincial or territorial legislation.
- **Acts** are pieces of legislation (laws) enacted by a specific level of government (federal, provincial, or territorial); **regulations** explain how the act is to be applied; **guidelines and policies** set out specific rules for application; and **standards and codes** provide reference points for specific fields.
- All Canadian occupational health and safety legislation includes the elements of the act itself; descriptors of who has the power to enforce the act; statements outlining the rights of workers to refuse to do unsafe work and to be protected from reprisals for doing so; and a description of the duties and responsibilities assigned to employers and other stakeholders.
- Occupational health and safety legislation in Canada is heavily based on the concept that each of the stakeholders (employers, owners, contractors, supervisors, and workers) has significant responsibility for ensuring a safe workplace and for taking a proactive role in the identification of hazardous situations and the prevention of workplace accidents. The establishment and use of joint health and safety committees illustrates how the joint responsibility concept is put into force. The right to know, the right to participate, and the right to refuse are the three cornerstones of the system.
- The Workplace Hazardous Materials Information System (WHMIS) is designed to protect workers by providing them with the right to know about potentially hazardous materials with which they may come into contact, and with information to assist with the safe handling, use,

and storage of these materials. The WHMIS program consists of product labelling, material safety data sheets (MSDSs), and employee training.

- Federal, provincial, and territorial legislation also exists specifically for the transportation of dangerous goods. As goods are often shipped across provincial borders, it is incumbent upon companies and their agents and employees who are involved in shipping and transporting such materials to be fully conversant with the various laws and acts with which they must comply.

STUDENT MOTIVATION

“Where do the laws and rules come from that help keep us safe at work?” That may not be a question many students will have considered, but virtually every student who has ever had a job will in one way or another have been impacted by the answer to this question. Perhaps the issue of workplace safety will be somewhat taken for granted by some students, who may have never paused to consider the mechanisms of legislation and the duties and responsibilities laid out therein. When this fundamental question is framed in such a way, students may be motivated to explore the answers a little more deeply.

BARRIERS TO LEARNING

The topic of legislation, laws, and acts may seem quite “dry” to some students, and they may have difficulty feeling any sort of personal connection or relation to them. Others may have taken courses in civics, political science, or other subjects where the process of creating laws and governance is studied, and perhaps found the subject not all that interesting to them. Finally, the mix of jurisdictional authority for occupational health and safety legislation between the federal and provincial/territorial governments may confuse students.

ENGAGEMENT STRATEGIES AND LESSON PLAN

1. Engaging Students at the Outset

Learning objective: *At the completion of this activity students will have gained an appreciation for the consequences of workplace accidents, and will have considered the roles and responsibilities of employers, supervisors, and workers in their prevention.*

To introduce students to the key concepts in this chapter, show the video *The Supervisor* (available for download from WorkSafe BC—see Additional Resources below). This video puts a very human face on the topic of responsibilities for workplace safety, which may serve to engage some learners by helping them see and appreciate the need for laws, rules, and policies designed to protect workers from serious injury or death. At the conclusion of the video, give students the opportunity to debrief in pairs or small groups before facilitating a class discussion.

2. Lesson Engagement Strategies

- Learning objective:** *At the completion of this activity, students will have been able to identify the major stakeholders in occupational health and safety, and list their primary duties and responsibilities for OH&S.*

Provide students with a **blank graphical organizer** such as a **radial list** (available in “SmartArt” in MS Word) with six smaller circles radiating out from the central circle. Either individually, in pairs, or in small groups, have students label the graphic organizer beginning with Duties and Responsibilities of the Major Stakeholders in the primary circle, and various stakeholders (described on pages 29–32) in the smaller circles. Have them continue to add the specific duties and responsibilities listed in the chapter next to each of the secondary circles. Students may work collaboratively, but have each student label and complete his/her own organizer. After this, review the organizer with the students against the material in the chapter to ensure completeness. Encourage students to retain the graphic organizer to use as a study and review tool. This activity can be used to supplement or replace the activity described in Section D, *Duties and Responsibilities of the Major Players*, in the Lesson Plan Notes and Lecture Outline below.

- b. Learning objective:** *At the completion of this activity, students will have reviewed and discussed the issue of work refusals and the laws and policies related to the issue from a variety of perspectives.*

Using material from the Ontario Ministry of Labour titled **Part V: Right to Refuse or to Stop Work Where Health and Safety in Danger** (available on the Ontario Ministry of Labour website—see link below under the **Additional Resources** section), divide students into similar-sized groups and assign each group a section of the material to review, synthesize, and present to the other groups. Suggested allocation of the material is to have one or two groups work with the question-and-answer section (divide the questions in two); another group work with the section dealing with the typical work refusal process (diagram); another group work with the section on the right to stop work; and the final group work with the section dealing with unilateral work stoppage. In a large class, consider having more than one group tackle each section, but have all groups present their summaries with a focus on adding to the understanding of the information being summarized. Have each group record its summary on flip chart paper to aid in the presentations.

- c. Learning Objective:** *At the completion of this activity, students will be able to identify the key features and information contained in a WHMIS label and on a Material Safety Data Sheet, and be able to interpret the WHMIS hazard symbols when these are presented to them visually.*

In addition to the examples provided in the text, circulate copies of sample WHMIS supplier labels and Material Data Safety Sheets (available for download from the Health Canada website—see links below under **Additional Resources** section). In pairs or small groups, have students analyze the samples and identify the features against those described in the text. Finally, quiz students on the WHMIS hazard symbols (also available from the Health Canada website—link provided below) and have them identify the meaning of each symbol.

3. Lesson Plan Notes and Lecture Outline

A. Introduction—Overview of the Regulatory Framework for Occupational Health and Safety

Refer to Occupational Health and Safety Notebook 2.1 to provide students with an overview of the regulatory framework for occupational health and safety in federal, provincial, and territorial

jurisdictions. Use PowerPoint slides and access websites to define and give examples of acts, regulations, guidelines and policies, standards, and codes. Discuss the scope and common elements (list) that are included in all Canadian occupational health and safety legislation using PowerPoint slides.

B. Canadian Government Departments Responsible for Occupational Health and Safety

Ask students what act, regulation, and enforcing bodies are responsible for occupational health and safety legislation in their jurisdiction. Referring to the OH&S Notebook 2.3, access your provincial or territorial jurisdiction's website (e.g., BC Workers Compensation Act, OH&S Regulation, WorkSafe BC[www.worksafebc.com]). Provide students with an overview of the administrative structure of the act and regulations as these relate to enforcement, education, and compensation. You will want to refer to the index and users' guides so that students become familiar with how to find the legal requirements for various workplaces. Short videos/DVDs, such as the WorkSafeBC DVD *The OH&S Regulation: How to Use It*, are available through the government departments in the different jurisdictions.

C. Work Refusals and Workers and Employers Rights

(See Lesson Engagement Strategy b, above)

D. Duties and Responsibilities of the Major Players

Divide students into six groups, representing the major players in occupational health and safety listed below. They can use their text and other publications (printed or online) on OH&S legislation in their jurisdiction (e.g., WorkSafeBC publications: "OH&S Regulation," "The Summary of OH&S Requirements for Small Business," and "Safety on the Job Is Everyone's Business: The Responsibilities of Employers, Supervisors and Workers"[www.worksafebc.com/publications]) to discuss and then present to the class the duties and responsibilities of the following:

- Employers/Owners/HRMs
- Employees
- Suppliers
- Joint Health and Safety Committee/Worker Representatives
- Supervisors
- Contractors/Subcontractors

Refer to the End-of-Chapter Discussion, Question 4, and Using the Internet Question 1.

It is the employer's legal obligation to ensure the workplace is safe. Employers are responsible for ensuring the health and safety of all workers and of any other workers at a workplace where the employer's work is being carried out. This involves establishing an occupational health and safety program (described below), providing a healthy and safe working environment, and providing instruction and training to supervisors and workers. Business owners are responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace.

According to the Workers' Compensation Act of BC, an employer must meet the standard of due diligence. To meet the standard of due diligence an employer must take all reasonable care to protect the well-being of workers. An ongoing occupational health and safety program that controls specific hazards in the workplace forms the basis of due diligence. An employer that has all the occupational health and safety program elements required by the regulation, in effect and working well, is acting with due diligence. The minimum occupational health and safety program elements are outlined below:

- Statement of Aims and Responsibilities
- Inspection of Premises, Equipment, and Work
- Written Instructions
- Management Safety Committee Meetings
- Investigation of Accidents/Incidents
- Maintenance of Records and Statistics
- Instruction and Supervision of Workers

E. Workplace Hazardous Materials Information System (WHMIS)

Ask students if they have received training in the Workplace Hazardous Materials Information System. Ask them for details about what they learned, referring the class to Figures 2.1, 2.2, 2.3, and 2.4 as specific information is gathered from the student's experiences. Provide an overview of WHMIS legislation. WHMIS is a nationwide program that provides information about the use of hazardous materials (controlled products) in the workplace. Labels, Material Safety Data Sheets (MSDSs), and worker education and training are the three communication elements of WHMIS. Labels on controlled products alert workers to potentially hazardous products. MSDSs provide workers with detailed hazardous ingredients, as well as information on the safe handling of the product. Education and training provides employees with the information and practices that they need to work safely with controlled products.

Students can receive certification in WHMIS by completing a three-hour classroom or online training session and paying a minimal fee. This would provide students with the basics of WHMIS as well as an effective way to learn how to work safely with and near hazardous materials. Around one-quarter of Canadian workers are exposed to chemical and biological hazards on the job. WHMIS is a good introduction to the chapters on chemical and biological hazards. WorkSafeBC provides a booklet titled "WHMIS at Work," an instructional Video/DVD, and WHMIS information at the WORKSAFE Health and Safety Centre (www.worksafebc.com/publications). Other jurisdictions provide similar useful student and instructor training resources.

A summary WHMIS quiz for students could include any of the following questions:

1. What does WHMIS stand for? List and describe the three central elements of a WHMIS program.

Answer: WHMIS is the Workplace Hazardous Materials Information System, a nationwide program providing information about the use of hazardous materials (controlled products) in the

workplace. Labels, Material Safety Data Sheets (MSDSs), and worker education and training are the three communication elements of WHMIS. Labels on controlled products alert workers to potentially hazardous products, MSDSs provide workers with detailed information on the hazardous ingredients and safe handling of products, and education provides employees with the information and practices they need to know to work safely with controlled products.

2. Employees who are successfully trained in WHMIS should be able to answer four key questions. What are those questions?

Answer:

- What are the hazards of the product you are using?
- How do you protect yourself?
- What should you do in case of an emergency or spill?
- Where do you get more information on this product?

3. List the three main WHMIS participants and explain how they are involved in implementing WHMIS into the workplace.

Answer: Suppliers must provide a Material Safety Data Sheet (MSDS) and WHMIS labels for each controlled product they sell or produce. An MSDS is a technical bulletin that provides detailed hazard and precautionary information for a controlled product. An MSDS supplements the alert information provided on the WHMIS Label. Employers must keep MSDSs on site for all controlled products, make sure that controlled products are properly labelled, ensure that employees know the location of MSDSs and written safe work procedures for each controlled product, and ensure that employees are educated and trained so that they understand the information on MSDSs and WHMIS labels. Employees must learn the information provided and follow safe work procedures.

F. Federal and Provincial or Territorial Statutes Relating to Environmental or OH&S Management

Refer to the OH&S Notebooks 2.7 and 2.8 and provide students with an overview of the federal and provincial or territorial statutes relating to environmental or OH&S management. Describe the purpose and basic provisions of the transportation of dangerous goods acts. Engage students in a discussion about the differences between the responsibilities assigned to companies under occupational health and safety legislation and those assigned under environmental legislation.

Occupational health and safety legislation states that employers are responsible for ensuring the health and safety of all workers and any other workers at a workplace where the employer's work is being carried out. They are also responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace. Environmental legislation states that employers must take all reasonable care to protect the environment and the public's health. Corporations are criminally liable if they pollute the natural environment. Environmental legislation affects the environment, employees, and the public. Bill C-45, the Westray Bill, passed in 2003, is an act that amended the Criminal Code and established a duty in criminal law for organizations to protect the health and safety of everyone in the workplace. The act states that the employer must take reasonable steps to ensure the health and safety of its workers. This act broadens all legislation to address any current or

unresolved workplace health problems, not just disasters and deaths. Employers must not expose workers to the risk of illness, disease, or death.

G. Corporate Liability

<this is a duplicate of previous paragraph> Refer students to Occupational Health and Safety Today 2.3, and provide an overview of Bill C-45, the “Westray Legislation.” Bill C-45, which went into effect on November 7, 2003, is an act that amended the Criminal Code and established a duty in criminal law for organizations to protect the health and safety of everyone in the workplace. Have students form small groups to discuss the following question: “What impact do you think this legislation is having on organizations and HRMs?”

Bill C-45 came about because OH&S laws had not prevented the Westray Mine Tragedy (during which 26 coal miners lost their lives in 1992) nor had it punished those guilty for the disaster (owners and managers).

This was a weakness in the legal system. It was the failure of the organization to put health and safety before company profits and short-term economic gain and of a management style and culture that emphasized production over safety. The following outlines the impact of this new law:

- It states that “the employer must take reasonable steps to prevent bodily harm to any person arising out of work” (217.1).
- It proposes severe penalties of up to 10 years imprisonment for bodily harm and life imprisonment for death if an employer fails to protect the H&S of the worker.
- It broadens the scope of who is responsible for worker OH&S to all levels of management and everyone else who directs the work of others.
- Organizations (i.e. owners, senior officers, directors, and managers) can be charged with criminal negligence if they fail to maintain an appropriate standard of OH&S in the workplace.
- It broadens all legislation to address (ensure protection) any current or unresolved workplace health problems (not just disasters and deaths), which can range from second-hand smoke to stress. Employers must not expose workers to the risk of illness, disease, or death.
- It supports unions’ historical fight for worker health and safety and their raising of workplace OH&S concerns (visit United Steel Workers, www.uswa.ca).
- Training was not provided prior to the Westray disaster. This new legislation supports the importance of OH&S training, which is emphasized in all OH&S jurisdictions. It supports OH&S legislation (BC Workers Compensation Act, Part 3, Division 3, General duties of employers, 115), which states that “every employer must provide to the employer's workers the information, instruction, training and supervision necessary to ensure the health and safety of those workers in carrying out their work and to ensure the health and safety of other workers at the workplace.”
- It supports provincial or territorial and federal legislation requiring employer due diligence through the implementation of all the elements of an OH&S program. Due diligence requires a business to foresee all unsafe conditions or acts, and requires it to take precautions to prevent accidents that can reasonably be anticipated. An ongoing OH&S Program that controls specific hazards in the workplace forms the basis of due diligence.

- In British Columbia (as an example), an employer that has a minimum of the following OH&S program elements required by the BC Occupational Health and Safety Regulation (Occupational Health & Safety Regulation: Part 3, Section 3.3), in effect and working well, is acting with due diligence:
 - Statement of Aims and Responsibilities
 - Inspection of Premises, Equipment, and Work
 - Written Instructions
 - Management Meetings
 - Investigation of Accidents/Incidents
 - Maintenance of Records and Statistics
 - Instruction and Supervision of Workers
- It supports the importance of the strategic management of OH&S (education, legislative compliance, integration with other human resource functions, cost containment, safety leadership and culture, and managing change). Visit Bill– C45, clearly described as a single statute in the Criminal Code of Canada, http://www.parl.gc.ca/37/2/parlbus/chambus/house/bills/government/C-45/C-45_4/90234bE.html.

ASSESSMENT TOOLS

To quickly assess student learning against the chapter learning outcomes, at the end of the class:

- Ask students (without referring to their notes) to define an **act**, a **regulation**, **guidelines and policies**, and **standards and codes**.
- Call on students, assigning them a stakeholder role (i.e. supervisor), and ask them to briefly outline one or more of their responsibilities for occupational health and safety (call on other students to help elaborate, expand, or clarify as needed). Continue for each of the stakeholder groups (employers, owners, and contractors; supervisors; and workers).
- Ask students to briefly describe the purpose and function of joint health and safety committees.

REFLECTIONS ON TEACHING

Good teaching requires ongoing self-assessment and reflection. At the completion of this lesson, you may find it helpful to reflect on the following, and consider whether you want or need to make any adjustments for subsequent lessons.

- What worked in this lesson? What didn't?
- Were students engaged? Were they focused or did they go off on tangents?
- Did I take steps to adequately assess student learning?
- Did my assessments suggest that they understood the key concepts?
- What (if anything) should I do differently next time?
- How can I gather student feedback?
- How can I use this feedback for continuous improvement of my teaching?

ADDITIONAL RESOURCES

Weblinks

- Ontario Ministry of Labour website: *Part V: Right to Refuse or to Stop Work Where Health and Safety in Danger*, www.labour.gov.on.ca/english/hs/pubs/ohsa/ohsag_part5.php.
- Health Canada website: *Environmental and Workplace Health—Supplier Labels*, www.hc-sc.gc.ca/ewh-semt/occup-travail/whmis-simdut/supplier-fournisseur-eng.php.
- Health Canada website: *Environmental And Workplace Health—Do You Know These Vital Signs?* www.hc-sc.gc.ca/ewh-semt/occup-travail/whmis-simdut/symbols-signaux-eng.php.

Videos

- *WorkSafe BC DVD. “The Supervisor.”* This 15-minute documentary-drama examines a supervisor’s responsibility for workplace health and safety. It depicts the emotional, legal, and financial consequences of a fictionalized workplace accident that results in the death of a young worker (2004). The video and class discussion guide can be downloaded from www2.worksafebc.com/Topics/YoungWorker/Resources-YoungWorkers.asp.
- A list of other DVD titles can be accessed at WorkSafeBC Library Services: www.worksafebc.com/about_us/library_services/assets/pdf/videos_titles.pdf.

SUGGESTED ANSWERS TO CASES AND EXERCISES

Discussion Questions

1. What are the three fundamental workers’ rights that underlie most health and safety legislation?

Answer:

1. The right to refuse dangerous work without penalty.
2. The right to participate in identifying and correcting health and safety problems.
3. The right to know about hazards in the workplace.

2. What is the difference between the responsibilities assigned to companies under occupational health and safety and those assigned under environmental legislation?

Answer: Occupational health and safety legislation states that employers are responsible for ensuring the health and safety of all workers and any other workers at a workplace where the employer’s work is being carried out. They are also responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace. Environmental legislation states that employers must take all reasonable care to protect the environment and the public’s health. Corporations are criminally liable if they pollute the natural environment. Environmental legislation affects the environment,

employees, and the public. Bill C-45, the Westray Bill, passed in 2003, is an act that amended the Criminal Code and that established a duty in criminal law for organizations to protect the health and safety of everyone in the workplace. The act states that the employer must take reasonable steps to ensure the health and safety of its workers. This act broadens all legislation to address (so as to ensure protection) any current or unresolved workplace health problems not just disasters and deaths. Employers must not expose workers to the risk of illness, disease, or death.

3. What three components make up WHMIS compliance?

Answer: WHMIS is the Workplace Hazardous Materials Information System, a nationwide program providing information about the use of hazardous materials (controlled products) in the workplace. Labels, Material Safety Data Sheets (MSDSs), and worker education and training are the three communication elements of WHMIS. Labels on controlled products alert workers to potentially hazardous products, MSDSs provide workers with detailed hazardous ingredient lists and information on the safe handling of the product, and education provides employees with the information and practices they need to know to work safely with controlled products.

4. Describe the structure and role of joint health and safety committees.

Answer: Legislative mandatory requirements for joint health and safety committees are outlined in the OH&S Notebook 2.6 and are expanded on in each jurisdiction's occupational health and safety legislation (websites are listed in OH&S Notebook 2.5). The BC Occupational Health and Safety Regulations state that a joint health and safety committee is required when 20 or more workers are regularly employed in the workplace or when ordered by the board. Small businesses with more than 9 and fewer than 20 regular workers must have a designated worker health and safety representative. Small businesses with 9 or fewer regular workers are not usually required to have a worker health and safety representative unless a WorkSafeBC prevention officer determines that the business does require a representative, where there is high-risk work, a large number of injury claims, or repeated noncompliance with the regulation.

A committee is made up of a minimum of 4 members that represent both the employer and the workers. The primary role of these committees is to provide a collaborative atmosphere where employers, managers, unions, and employees can work together to ensure the workplace is safe. Although employers are ultimately responsible for occupational health and safety programs, worker health and safety representatives and joint health and safety committees have the following duties and functions: to identify and evaluate unhealthy or unsafe situations; to identify and recommend solutions to health and safety problems or complaints; to promote safe work practices; to recommend ways to improve the health and safety program; to promote compliance with regulations; and to participate in inspections and accident investigations. Committee members are allowed paid time from work to perform their functions and duties and to attend (8 hours annually) occupational health and safety courses

Using the Internet

1. What legislation applies in your jurisdiction? Find the body responsible for occupational health and safety and review the legislation. What are the major provisions and their implications for employers? For employees? For human resource managers?

Answer: Students will want to refer to OH&S Notebooks 2.1 and 2.2 to find their provincial, territorial, or federal jurisdiction website (i.e., BC Workers Compensation Act, OH&S Regulation, and WorkSafe BC, www.worksafebc.com). Students should be able to describe the administrative structure of the act and regulations as it relates to enforcement, education, and compensation.

The scope of legislation differs in each Canadian jurisdiction. The following describes the major provisions and their implications for employers, owners, contractors, employees, human resource managers, and supervisors in British Columbia. Employers are responsible for ensuring the health and safety of all workers at a workplace where the employer’s work is being carried out. This involves establishing an occupational health and safety program, providing a healthy and safe working environment, and providing instruction and training to supervisors and workers.

Business owners are responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace. They must ensure that employers and prime contractors at the workplace have all the information they need to identify, eliminate, or control occupational health and safety hazards. When work areas of two or more employers overlap, the owner of the site must coordinate health and safety activities. Contractors or subcontractors must be registered with WorkSafeBC.

Supervisors are responsible for ensuring the health and safety of all workers under their direct supervision. They must ensure that workers follow the requirements of the Act and Regulation and that they are aware of any health or safety hazards in the workplace. They must conduct regular staff safety meetings, workplace inspections, and incident investigations, correct unsafe acts and conditions, and ensure that workers are adequately trained and are qualified to safely perform their duties.

Workers are responsible for protecting their own health and safety as well as the health and safety of other people who may be affected by the work being done. They must learn and follow safe work procedures, use and maintain personal protective equipment as required, report hazards to their supervisor or employer, and participate in workplace inspections and incident investigations as required.

2. WHMIS training is widely available online. Using a search engine and key words such as “WHMIS online training,” find a local provider of online WHMIS training.

Answer: You can have the students complete this exercise at home and then share their online WHMIS training websites and experiences with Internet-based learning with the other students in the class.

Exercises

1. Health and safety legislation can be crafted following different approaches. One approach is to force compliance through establishing standards, conducting rigorous inspections on a regular basis, and harshly punishing failures to meet the established standards. A second approach is to facilitate self-reliance by providing parties with the information and resources necessary to monitor and enhance health and safety in their workplaces. What are the relative merits of these two approaches? What advantages/disadvantages accrue

under each system? What is the appropriate balance between enforcement and encouragement?

Answer: Effective occupational health and safety needs to be part of the organization's culture. Culture is an organization's shared values and beliefs about the way employees think and act within the organization. The organization's beliefs and expectations concerning occupational health and safety strongly influence whether employees act safely or not. The goal is to have occupational health and safety as part of the business plan and for it to be a core value held by managers and employees at all levels.

An organization's culture is a reflection of its leaders, values, and vision. HRM practices (i.e., hiring, orientation, training, and performance evaluations) should support these organizational expectations. An organization's occupational health and safety culture is a mix of formalized rules, controls, autocratic decision-making, and enforcement at one end of the continuum and a mix of self-reliance, motivation, participatory decisionmaking, and internalized commitment on the other end. Organizations are very diverse and are made up of a mixture of enforcement and self-control processes and practices.

Legislation and compliance may be needed when organizations and employees have limited understanding or commitment towards occupational health and safety. Legislation outlines what employers and employees are accountable for without moral buy-in. Self-monitoring builds employee ownership, initiative, and self-responsibility. The measure of occupational health and safety would be a delicate balance of compliance while embracing shared perceptions of the importance of safety. Dupont has received recognition as an organization that has taken ownership and responsibility for occupational health and safety.

Cases

Case 1: Workplace Tragedy

This is a high-risk work environment that involves high-risk occupational health and safety work practices. It is the employer's legal obligation to ensure that the workplace is safe. Employers are responsible for ensuring the health and safety of all workers and any other workers at a workplace where the employer's work is being carried out; this involves establishing an occupational health and safety program (described below), providing a healthy and safe working environment, and providing instruction and training to supervisors and workers. Business owners are responsible for providing and maintaining the land and premises being used as a workplace in a manner that ensures the health and safety of anyone at or near the workplace.

According to BC's Workers' Compensation Act, an employer must meet the standard of due diligence. To meet the standard of due diligence, an employer must take all reasonable care to protect the well-being of workers. An ongoing occupational health and safety program that controls specific hazards in the workplace forms the basis of due diligence. An employer that has all the occupational health and safety program elements required by the Regulation in effect, and working well, is acting with due diligence. The minimum occupational health and safety program elements are outlined below:

- Statement of Aims and Responsibilities
- Inspection of Premises, Equipment, and Work
- Written Instructions
- Management and Safety Committee Meetings
- Investigation of Accidents/Incidents
- Maintenance of Records and Statistics
- Instruction and Supervision of Workers

The employer/HRM must promptly conduct an accident investigation (and also investigate past accidents and continue to investigate all incidents and near misses). These investigations will help determine why the accident (or incidents/near misses) happened so that the employer/HRM can ensure that these accidents will not occur in the future. An accident report needs to be completed that includes recommendations for corrective measures. Fatalities are rare, but incidents and near misses are very common. The employer allowed the accident-prone crane to continue to operate without taking any action to ensure the safety of the workers. The focus should have been on correcting the incidents and near misses so that lost time accidents, permanent disabilities, and fatalities do not occur. The employee failed to identify and correct the risks and hazards. This case illustrates the importance of leadership, communication, and business decisions that support workplace occupational health and safety. The employer/HRM must establish an occupational health and safety program, keeping in mind that an occupational health and safety program is more than a written document and must be part of employee behaviour (involvement and accountability). It must meet the standards of due diligence. Refer to the WorkSafeBC booklet “Effective Health and Safety Programs—The Key to a Safe Workplace and Due Diligence” at www.worksafebc.com/publications.

Case 2: Work Refusal at Regional Hospital

An employee may refuse to carry out any task they believe is unduly hazardous to the health and safety of any person, in which case, he or she must inform the employer. The employer/HRM must immediately investigate and correct the situation without delay. The employer/HRM is required to develop and implement an exposure control plan to address the specific risks and hazards faced by workers in these work settings. Employees need to be educated and provided with specific information from specialists and experts concerning health and safety issues about their workplace. They need to be shown how to prevent unsafe conditions and provided with examples of safe work practices. Objective and immediate communication channels and staff forums need to be established where employees can talk about these concerns and what they feel uncomfortable about. All fears, concerns, social issues and discomfort, biases, and beliefs need to be dealt with until the employees feel safe. The critical issue in this situation is that the employees were afraid to enter their workplace. They believed that their workplace was unsafe, whether it was or was not safe. Unless the employer/HRM conducts a thorough investigation, educates the employees, and implements an exposure control plan in which the employees feel safe, the work refusal will continue. The organization may need to include controls that may not be necessary but make the employees feel safe. If a worker refuses to perform a task that he or she believes is unsafe, the employer can suggest another approach, but cannot discipline, reduce the worker’s wages, change working hours, or suspend the worker. The regulation also provides the following rights to employees: job-protected leave, no penalties for emergency leave, and

Chapter 2 – Legislative Framework

payment for those not working because of quarantine (WorkSafeBC Occupational Health and Safety Regulation: Section 3.12 to 3.13).