

# **Final Report on the WorkSafeBC Review and Action Plan**

Gordon Macatee  
Special Advisor

April 2016

# Table of Contents

---

Executive Summary.....	2
Introduction and Background.....	4
Ensure investigations are handled correctly .....	5
Ensure our sawmills are safer workplaces.....	9
Understand the merits of and determine best practices in organizational structures, specifically relating to the separation of enforcement vs. regulation .....	18
World-class inspection and investigation regime.....	21
Governance.....	21
Regulation Making Model.....	22
Education, Consultation, and Proactive Compliance.....	23
Enforcement .....	25
Hazard Alerts.....	34
Employer Incident Investigations .....	35
Enforcement Presence.....	37
Review and Appeal.....	37
WorkSafeBC Performance Management.....	41
Culture Change.....	42
Internal and Stakeholder Communications .....	44
Anticipation and Prediction of Emerging Trends.....	45
Enhanced Training for Enforcement and Investigation Personnel.....	47
Finalize the appointment of the CEO.....	49

## Executive Summary

---

In response to the Babine and Lakeland sawmill explosions and the findings in a report by John Dyble, the WorkSafeBC Board of Directors appointed Gordon Macatee as Special Administrator in April, 2014. Following this appointment the Honourable Shirley Bond, Minister Responsible for Labour, issued a letter to the Chair outlining a mandate for the Administrator and setting out five priorities for action. On July 1, 2014, the WorkSafeBC Review and Action Plan was submitted to the Board and Minister Bond, containing 43 recommendations. Government and the Board accepted the report and all of the recommendations on July 15, 2014. At that time, Macatee was re-engaged as a Special Advisor to the Board to monitor and report on the implementation of the recommendations. An interim report was submitted on February 25, 2015, at which time 23 of the recommendations had been fully implemented, and 11 were awaiting legislative amendments.

As of March 1, 2016, all of the 43 recommendations had been implemented, with a few minor adjustments. The adjustments were made based on stakeholder consultations and with the support of the author.

The Minister's first priority was to ensure future investigations are handled correctly, and are able to support prosecutions where appropriate. To address this priority, WorkSafeBC has overhauled its investigation processes. This included the establishment of a dual team approach to investigations, which will sustain both "cause" and "prosecution" investigations. Memorandums of Understanding are in place with Police Services and the Criminal Justice Branch. A Major Case Management system has been fully implemented. Eight officers have been assigned Special Constable status, which allows them to obtain and execute search warrants and other judicial authorizations. At this point, all officers have been trained in the operation of the new investigations model and the supporting systems. All recommendations associated with this priority have been implemented, and WorkSafeBC is considered to be well equipped to undertake successful prosecutions where merited.

The second priority was to ensure BC's sawmills are safer workplaces. The recommendations pertaining to this priority initially focused on combustible dust management in sawmills, and was later expanded to address the dust risk in all wood manufacturing businesses, including for example pellet mills and medium density fibreboard (MDF) plants. The immediate goal was to see all mills brought into compliance with dust accumulation and control regulations. The longer-term goal was to ensure dust controls would be sustainable. Several phases of inspections and enforcement took place, and considerable efforts have been made to provide education and support as the industry grappled with this challenge. Given that sawdust is a by-product of the sawmill business, controlling dust in the mills is a monumental task. It is a credit to BC's wood manufacturing industry that the challenge has largely been met. This has involved considerable investments in specialized equipment, re-design of buildings, and significant manual labour. The industry has been fully cooperative, and for the most part, has gone well

beyond the requirements set out in the regulation. The pellet mill industry deserves special recognition for a remarkable level of commitment and leadership. Pellet mills use the sawdust from sawmills to manufacture wood pellets for fuel. At the time of the review, this sector was well behind sawmills in managing combustible dust. There has been a remarkable level of commitment shown by leaders in this sector, which has brought their mills into a high level of dust management. A new Health and Safety Association for wood manufacturing is now in place. The Fire Inspection and Prevention Initiative (FIPI) continues to be funded, and MOUs are in place to achieve cooperation between fire authorities and WorkSafeBC in future. At this point, the risk associated with combustible dust is considered to be vastly reduced from where it was at the time of the two explosions in northern BC. Regardless, it must be remembered that combustible dust is always going to be an inherent risk, and an on-going challenge for the wood milling and manufacturing industry. Neither WorkSafeBC nor the industry can afford to become complacent.

The third priority was to determine best practices in organizational structures relating to the separation of enforcement and regulation responsibilities. A number of organizational changes were recommended to address this priority. All have been put in place and appear to be working as intended. Aspects of the original model, which were deemed to be critical, have been retained or strengthened.

The fourth priority was a plan for implementing a world-class inspection and investigation regime. This priority generated the largest number of recommendations, and set a very high bar for future operations by WorkSafeBC. World-class is a point-in-time concept, and it will require a great deal of vigilance and innovation to remain at the forefront in this field. Actions to address this recommendation include: the addition of new skills on the governance board, refinements to the regulation making model, education, new enforcement tools, changes to timelines for employer incident investigations, expanded presence in the workplace by Prevention officers, faster processes for penalty issuance and appeals, performance management guidelines, corporate culture change, communications, transparency and an enhanced ability to predict hazards before they cause injury or illness. Together, these changes bring WorkSafeBC to the forefront of health and safety regulators. All of the recommendations pertaining to this priority have been implemented, with minor adjustments where appropriate.

The fifth priority was to conduct a search and finalize the appointment of a new and permanent CEO for WorkSafeBC. On December 9, 2014 the Board announced the appointment of Diana Miles as CEO. Ms. Miles has proven to be a capable and highly focused leader during a time of considerable change. Her commitment to implementing the recommendations from the review and supporting new models for program delivery has been commendable.

With this final report, the monitoring and reporting phase of the WorkSafeBC review is considered to be complete. A commendable level of effort and commitment has been demonstrated by everyone involved in this initiative, particularly WorkSafeBC's Board, management and staff, the leadership in BC's wood products milling and manufacturing industry, union representatives, and government.

## Introduction and Background

---

In response to the Babine and Lakeland mill explosions, and the findings of the Dyble Report, the Board of Directors of WorkSafeBC appointed Mr. Gordon Macatee as Special Administrator in April 2014. Following this appointment, the Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour, Shirley Bond, issued a letter to the Chair on April 14, 2014, outlining the mandate of the Administrator, which was to ensure an agenda of change was accelerated and to oversee the following priorities:

1. Ensure future investigations are handled correctly.
2. Ensure that BC's sawmills are safer workplaces.
3. Understand the merits of and determine best practices in organizational structures, specifically relating to the separation of enforcement vs. regulation.
4. Develop a plan for implementing a world-class inspection and investigation regime.
5. Conduct the search for and finalize the appointment of a new and permanent CEO.

On July 1, 2014, the [WorkSafeBC Review and Action Plan](#) (Action Plan) was submitted to Minister Bond. The Action Plan contains 43 recommendations intended to address the priorities listed above. On July 15, 2014, Minister Bond and the Board of Directors accepted all 43 recommendations.

On February 25, 2015, Mr. Macatee provided an Interim Report on the Action Plan, which provided information on the status of the recommendations. At that time, 23 of the recommendations had been fully implemented by WorkSafeBC.

As of March 1, 2016, all 43 recommendations have been implemented. This report provides a status update on the recommendations, the impact of the recommendations, lessons learned and next steps.

# Ensure investigations are handled correctly

---

## Recommendations

1. A Memorandum of Understanding with Police Services and the Memorandum of Understanding with the Criminal Justice Branch (CJB) should be signed.
2. WorkSafeBC should develop a policy to guide referrals to the CJB for prosecutions. The decision to refer a file for prosecution is made independently by WorkSafeBC; however, development of this policy should be informed by consultation with the CJB.
3. WorkSafeBC should proceed towards the adoption of a major case management (MCM) protocol and system in its investigations.
4. Implement a new investigation model that preserves the ability to conduct both cause investigations and prosecution investigations.

## Purpose

WorkSafeBC conducts investigations into workplace injuries and fatalities with two distinct purposes. Generally, WorkSafeBC investigates to determine the cause of the incident with a view to understanding the circumstances and preventing further such incidents. This can lead to orders, citations or administrative penalties. In the course of WorkSafeBC investigations, there may be circumstances where it is determined that there are sufficient grounds to warrant a prosecution. Both purposes are important, but can come into conflict with each other. When conducting a “cause” investigation, WorkSafeBC inspectors are permitted to use all the powers under the Workers’ Compensation Act (Act), including gathering evidence without a warrant and to interview people without informing them of their right not to incriminate themselves.

When conducting an investigation for purposes of prosecution, criminal law rules regarding evidence apply. For example, evidence must not be collected without a warrant and people being interviewed must be informed of their rights and their right to legal counsel.

The recommendations in this section of the report were intended to preserve and strengthen both types of investigations, to ensure investigations for prosecution are not compromised by cause investigations, and that prosecution investigations are successfully referred to Crown Counsel.

It is not always apparent at the beginning of an investigation that there might be grounds to consider a referral for prosecution. In those cases, it becomes necessary to shift from the cause mode to the prosecution mode, and to have the ability to proceed using criminal law rules for collecting evidence. The solution is a dual team model.

## Status

### ***Dual-team model***

The new dual team model for fatal and serious injury investigations was successfully implemented in January 2015 and continues to operate as intended. WorkSafeBC has divided its Fatal and Serious Injury (FSI) Investigation department into two distinct units of equal size; each with the resources and capability to conduct and maintain the integrity of a regulatory investigation and/or a prosecutorial investigation into the cause of a serious workplace incident. The people, procedures, files, and systems of each team are kept completely separate, which controls the sharing of information and evidence under the principles of *Ling* and *Jarvis* and the rules of evidence when an investigation moves from a regulatory purpose to a prosecutorial purpose.

The model requires a Gatekeeper to determine when the *Ling Jarvis* “red line” has been crossed and the evidence that can be passed to the prosecution team. WorkSafeBC’s General Counsel is the Gatekeeper.

### ***Referral guideline***

In consultation with the CJB, WorkSafeBC has also developed a guideline for referring prosecutorial investigations to the CJB. The guideline informs the decision-making process of WorkSafeBC when considering whether a matter should be referred to the CJB for charge assessment and possible prosecution under the Act.

A referral for prosecution is used when it serves a clear objective of the Act that is unlikely to be achieved by other means. The guideline directs WorkSafeBC to carefully consider whether prosecution is the correct response to advance the purpose of the Act, which is to promote occupational health and safety and protect workers and other persons at workplaces from work-related risks to their health and safety.

When deciding if a matter warrants referral to the CJB, the guideline directs WorkSafeBC to evaluate the actions of those involved, and not just the consequences of those actions. WorkSafeBC must consider if a prosecution is the most effective tool to deter the person from further violations (specific deterrence), other persons from committing those violations (general deterrence), and if the evidence supports the conclusion that the person may have one of the defences available under the Act. The intent of the guideline is to ensure that any cases referred for prosecution are likely to be successful and to achieve the objective of safer workplaces in the future.

### ***Major Case Management***

WorkSafeBC has adopted a major case management (MCM) model for its workplace incident investigations. MCM employs a framework for managing major and complex incident

investigations using mandatory business rules that provide accountability, clear goals and objectives, planning, utilization of resources which allow for control over the speed, flow and direction of the investigation. The MCM business rules ensure each person completes his/her function, or task, in a consistent manner and that the team operates and communicates in an efficient and effective manner.

Since September 2015, eight FSI officers have received Special Provincial Constable Appointments from the Ministry of Justice. The appointments authorize the appointed WorkSafeBC officers to obtain and execute the required search warrants and other judicial authorizations when an investigation is being conducted for prosecution.

FSI has implemented a dedicated information management software platform that supports the MCM framework and process. The design and functionality of the software has been tailored specifically for WorkSafeBC investigations, including controls that effectively manage, as determined by the Gatekeeper, transitions from regulatory to prosecutorial. Each investigative team manages and operates its own secure software system and case-specific access is permitted only to those individuals assigned to an investigation. Each team also has a dedicated analyst who is responsible for the input, management and disclosure of information and evidence using the MCM software and business rules.

To date, all WorkSafeBC FSI investigators have received MCM training, beginning with introductory online training delivered by the Canadian Police Knowledge Network on behalf of the RCMP. All investigators have undergone week-long MCM training sessions at the Justice Institute of BC and this training will continue to be delivered to all new investigators hired into Investigations Services. Prior to implementation of the MCM software, officers were also provided with electronic case file management and refresher MCM training specific to the new system. FSI officers have also taken training in forensic interviewing delivered by the RCMP, and search warrants delivered by the Justice Institute of BC and the Federated Press in Ontario.

WorkSafeBC has committed to continuously assessing its new model by conducting scenario-based exercises to test and validate business processes, systems integration, intra- and inter-organizational work flows, communications, and decision making. Through a series of designed scenarios, each team is able to simulate their actions and responses and evaluate the outcomes. The objective of the test scenarios is to identify lessons learned and areas for improvement to achieve the desired outcomes. One scenario-based exercise was conducted in 2015 and additional exercises are scheduled for 2016 in partnership with the CJB, Police Services and other partner agencies. In accordance with investigative best practices, the FSI teams conduct case-by-case debriefs at the conclusion of each investigation to identify lessons learned.

## *Memorandums of Understanding*

Memorandums of Understanding (MOU) with the CJB and Police Services were signed in August and September 2014, respectively. These MOUs establish a cooperative agreement between these agencies and WorkSafeBC to ensure the investigation of a workplace incident resulting in death or injury is conducted in accordance with the rules of evidence in a thorough, timely, and effective manner. This includes provisions around investigative planning, management and disclosure, as well as education and training.

Closer working relationships with the CJB and Police Services have resulted in the use of common approaches and terminology when conducting workplace incident investigations and developing documentation. WorkSafeBC's investigations team, legal team and the CJB team conduct regular meetings to discuss current cases to ensure that all parties are aligned in terms of goals and strategy. WorkSafeBC meets with the CJB team at regularly scheduled times during the year to share significant changes in law, best practices and to discuss current issues. One example of the shared best practices is the software information management model implemented by WorkSafeBC, where two analysts are responsible for managing the file outputs to ensure consistency, quality documentation and timeliness of information for use by the CJB. WorkSafeBC's experience in implementing this model is also being shared with other jurisdictions across Canada.

The MOU with Police Services has enhanced communication and improved the working relationship between the parties. In April 2015, the RCMP in BC added workplace fatality and serious injury incidents to their Benchmark Offence List, requiring that these incidents be subjected to the same formal review process, reporting, supervision, and tracking at the discretion of a senior police officer.

Regular communication, understanding and adoption of common protocols and methodology, and collaboration increase the ability for WorkSafeBC, the CJB and Police Services to execute their respective jurisdictions more efficiently and expeditiously.

In 2015, 146 serious incident investigations were initiated by WorkSafeBC FSI. Of the 146, a number of investigations required a transition to a prosecution investigation, once there was reason to believe that a referral for prosecution could be appropriate.

As of January 31, 2016, there were 53 open FSI investigations. The average completion time for a file is currently 254 days and 55% of the open investigations were initiated within the past six months. Investigations undertaken since the implementation of these recommendations have shown that these measures are working as intended to strengthen WorkSafeBC's investigative abilities, capacity for large scale and complex cases, public reporting, and referrals to Crown Counsel for approval of regulatory charges where appropriate.

# Ensure our sawmills are safer workplaces

---

## Recommendations

5. Move forward with the development of occupational health and safety policies to specify reasonable steps for employers, workers, and supervisors to take to address combustible dust hazards.
6. Implement the sustained compliance plan for sawmills as outlined in the report.
7. Develop a plan for ongoing inspection of other wood product manufacturers and pellet mills by WorkSafeBC Prevention officers, with appropriate enforcement efforts to bring this sector into sustained compliance.
8. WorkSafeBC should assist the wood product manufacturing industry to create a Health and Safety Association, or expand the scope of an existing one, to address occupational health and safety issues in that industry in the future.
9. The Fire Inspection and Prevention Initiative should be extended, with continued funding from WorkSafeBC, and efforts made to find a permanent host at the municipal level.
10. WorkSafeBC should consider developing a Memorandum of Understanding with the appropriate agencies to ensure WorkSafeBC is notified when there is a fire at a workplace in BC.

## Purpose

For both the Babine and Lakeland mill explosions, WorkSafeBC's investigations found that the accumulation of wood dust and ineffective dust control measures were contributing factors in the explosions. The investigations found that both incidents could have been prevented if effective actions had been taken to control the airborne dispersal of wood dust and control the excessive accumulations of wood dust on floors and surfaces. Both incidents resulted from a fire event, which triggered the explosions. It was noted that there is no formal process for sharing information about fire incidents between fire protection authorities and WorkSafeBC.

In order to help ensure that sawmills are safe workplaces, the Action Plan contains a number of recommendations intended to improve health and safety in sawmills and other wood product manufacturers. These recommendations include measures to help bring employers in this industry into compliance with occupational health and safety (OHS) requirements for combustible dust management through increased inspections and further education, as well as measures to ensure effective sharing of information between WorkSafeBC and fire protection authorities.

## **Status**

### ***Sawmills***

WorkSafeBC has made significant progress to ensure employers address OHS issues in sawmills and other wood product manufacturers. WorkSafeBC continues to work with employers, labour, and industry associations to ensure the safety of workers.

Since April 2012, WorkSafeBC Prevention officers have conducted more than 2,500 targeted dust inspections of sawmills and other wood processing operations. These inspections were undertaken in a series of phases.

#### ***Phase I Inspections***

Phase I involved WorkSafeBC issuing a directive order to all BC sawmills to conduct a risk assessment for wood dust and implement a wood dust control program. During WorkSafeBC's follow-up inspections, all operational sawmills were found to have complied with the directive order.

#### ***Phase II Inspections***

Phase II was initiated in July 2012 and inspections were expanded to include other wood manufacturing operations that could produce combustible dust, such as pellet mills. In the fall of 2012, WorkSafeBC officers re-inspected all sawmills to evaluate industry's ongoing efforts to manage dust.

#### ***Phase III Inspections***

The Phase III inspection initiative took place between November 1, 2013 and January 31, 2014. Prevention officers re-inspected all active sawmills in BC during this period in order to gauge compliance. Over half of the mills inspected were in compliance at the time they were inspected and received no orders related to combustible dust. In many cases, employers had invested in improved engineering controls in addition to enhanced efforts to clean up dust manually. However, not all employers could demonstrate that they had maintained compliance during these inspections. For sawmills that were not in full compliance, orders related to combustible dust were issued. Most employers who received an order had dust management plans, but the plans needed to be strengthened.

WorkSafeBC also issued stop work orders to employers as a result of unacceptable dust accumulations and other violations that posed an imminent hazard to the safety of workers. In addition, warning letters were issued and administrative penalties were imposed as a result of Phase III inspections.

### ***Phase IV Inspections***

Between April and June 2014, WorkSafeBC undertook the Phase IV inspection initiative. The objective of this initiative was to evaluate current compliance and to confirm that each sawmill operation had an effective, sustainable plan for managing wood dust. During the Phase IV inspection period, WorkSafeBC produced a “Toolbox Talk” to assist employers, joint occupational health and safety committees, and others in reminding workplace parties of a worker’s right to refuse unsafe work and what steps to take if they observe unsafe conditions.

Prevention officers prioritized inspections of sawmills that had received orders during the Phase III inspections. In addition, WorkSafeBC officers undertook inspections at some sawmills that were in full compliance and had received no orders during the Phase III inspections. The combined compliance rate was 84% for all sawmills inspected.

During the Phase IV inspections, officers did not encounter any locations that had widespread dust hazards that presented the risk of a facility-wide catastrophic event. The orders that were issued for excessive dust accumulation related to localized rather than generalized areas within the facility. Results indicated that many employers had put significant resources and efforts into improving the management and control of dust hazards. In many cases, this included the implementation of engineering controls to manage dust.

In July 2014, WorkSafeBC’s Board of Directors approved three new OHS policies on wood dust mitigation and control. These policies became effective September 1, 2014 and provided clarity and consistency by identifying what WorkSafeBC considered to be reasonable steps for employers, workers, and supervisors to take in relation to the hazards of wood dust.

### ***Q3-4, 2014 Inspections***

A focused combustible dust inspection initiative ran from October 1, 2014 through January 31, 2015 and targeted 117 sawmills. The primary goal of this inspection initiative was to transition increased ownership and the onus for ongoing compliance to industry, and to ensure the existence of effective dust management programs.

WorkSafeBC’s inspectional approach for each location was primarily guided by the employer’s compliance history through the Phase IV inspections conducted in the spring of 2014. Employer locations were classified into one of two groups. The first group was comprised of employer operating locations that were in compliance in Phase IV. This group had the option of either undertaking a program of daily independent inspections and weekly reporting to WorkSafeBC, or having WorkSafeBC conduct inspections during the initiative. The daily inspection option enhanced WorkSafeBC’s monitoring capabilities and increased employer accountability for wood dust control protocols. Weekly reporting to WorkSafeBC Prevention officers ensured the inspection process was closely monitored.

The second group was comprised of employer operating locations that had received stop work orders or sanctions in Phase IV. This group had the option of undertaking a program of daily independent third-party inspections and weekly reporting to WorkSafeBC, or having WorkSafeBC conduct frequent inspections during the initiative.

Of the sawmills that were in compliance at the end of Phase IV, 93 opted to undertake a program of daily independent inspections, while 13 chose to have WorkSafeBC conduct at least two inspections over the course of the initiative. This voluntary commitment to daily inspections showed that industry is highly committed and took positive steps towards managing dust in the long term. During the 17-week period of the initiative, 1,572 weekly summary reports were submitted to WorkSafeBC.

For the 13 active sawmill locations in that same group that opted to have WorkSafeBC conduct at least two inspections during the course of this inspection initiative, 23 inspections were conducted. These inspections resulted in the issuance of one combustible dust order. No stop work orders or sanctions were issued.

Of the 11 sawmills with compliance issues at the end of Phase IV, three adopted a program of independent third-party inspections; the other eight chose to undergo an increased inspection program by WorkSafeBC. During the 17-week period of the initiative, 48 weekly summary reports were submitted to WorkSafeBC.

Of the eight active sawmill locations that opted to have WorkSafeBC conduct at least four inspections during the course of this inspection initiative, none of these inspections resulted in the issuance of a combustible dust order, stop work order, or sanction.

The result was a 97% compliance rate when combining the inspections conducted in both groups.

### ***Q2-3, 2015 Inspections***

WorkSafeBC continued to conduct inspections of sawmills throughout 2015 with another focused combustible dust inspection initiative that ran from April 1, 2015 through December 31, 2015 and targeted 114 sawmill locations.

The Q2-3, 2015 inspection initiative continued its engagement strategy with sawmills to ensure compliance, verify that effective and sustainable wood dust programs were being maintained and validate that combustible dust management had become entrenched in day-to-day operations. WorkSafeBC inspected sawmill locations at least once, with additional follow-up inspections as needed based on inspection outcomes.

Of the 114 inspections from April to December 2015, combustible dust-related orders were issued at six sawmill locations. As a result of these violations, two administrative warnings were

issued and two administrative penalties were recommended. No stop work orders were issued. The result was a 95 % compliance rate.

These results provided positive indicators toward the goal of ensuring combustible wood dust management programs are effective and sustainable. The sawmill industry compliance rate in 2015 held steady against results reported from the previous inspection initiative in 2014. WorkSafeBC inspections identified no widespread combustible dust hazards at sawmills that presented a risk of a catastrophic event.

Overall, indicators suggest that industry has reached a stage where they understand and accept responsibility for combustible dust management. All sawmills have implemented combustible dust control programs. Six of the seven orders issued were to address either gaps or deficiencies in the combustible dust programs or a situation where the program was not being executed as planned. These situations resulted in the development of localized combustion hazards that were identified by the officers. The seventh order was related to deficiencies with respect to a ventilation system.

Employers continued to demonstrate an ability to sustain compliance and to respond positively to the challenge of adopting a systematic long-term approach to combustible dust management. However, results also demonstrated that control of combustible dust requires constant management attention and vigilance. It is through a high level of management attention that the program becomes sustainable and remains entrenched in daily operations. Officers found that if management attention lapses, then the program can suffer.

### **Next steps**

The evidence provided by the last two inspection initiatives, indicates that WorkSafeBC is positioned to take steps to transition away from its existing singular combustible dust focused inspections to a more traditional inspection focus that incorporates combustible dust evaluation alongside other relevant hazard evaluation in sawmills. WorkSafeBC recognizes the need to remain involved in sawmills as it pertains to combustible dust management but plans to transition from this singular/specific inspection to inspect for combustible dust on an ongoing basis as we inspect for all hazards in sawmills. In 2016, WorkSafeBC will ensure that all sawmill operations in the province are inspected a minimum of once by the locally assigned prevention officer.

In addition, WorkSafeBC will ensure continued focus and increased inspectional presence remains on those six sawmill locations where deficiencies were identified during the Q2-3 2015 Combustible Dust Inspection Initiative. WorkSafeBC remains committed to continued engagement and inspections with these locations until they can demonstrate sustainable compliance.

WorkSafeBC's inspection approach will continue to reflect the wood dust mitigation and control policies and in 2016, an emphasis will be placed on the requirements with respect to the wood dust audit and review of the combustible dust program.

WorkSafeBC will now continue to expand beyond the sawmill industry in recognition that that the Wood Dust Mitigation and Control Policies apply to other related industries such as pulp mills, finger-joint mills, shake and shingle mills and more. The progress and results achieved by the sawmill sector provides WorkSafeBC the ability to pay greater focus on these other sectors to ensure that these employers have developed, implemented and maintained effective combustible dust management programs.

### ***Other wood processing operations***

#### ***Phase IV Inspections***

During Phase IV, Prevention officers also inspected 15 other wood processing operations, such as pellet mills. The results indicated that pellet mill operations were experiencing particular challenges with managing wood dust. Six locations were issued stop work orders due to large accumulation of wood dust that posed a risk. Early results indicated more immediate intervention was necessary, and WorkSafeBC held meetings with both industry associations and representatives of all pellet mills to discuss the results and what needed to be done to achieve compliance.

#### ***Q3-4, 2014 Inspections***

In order to address compliance issues in pellet mills, WorkSafeBC implemented a plan for achieving sustained compliance in these workplaces. Unlike sawmills, pellet mills were not provided the option of undertaking a program of independent inspections. Each pellet mill was subjected to at least three WorkSafeBC inspections between October 2014 and January 2015.

Thirty-five out of the 39 inspections did not result in any combustible dust orders. Four inspections (at three locations) resulted in five combustible dust orders, including one stop work order. The result was a 90% compliance rate with respect to pellet mill inspections, as compared to 40% in Phase IV. Overall, the pellet mill industry has risen to the challenge of implementing sustainable dust management programs. Many pellet mills have also incorporated the use of a recommended audit tool to help identify program deficiencies.

#### ***Q2-3, 2015 Inspections***

WorkSafeBC inspected each wood pellet manufacturing location at least once between April 1, 2015 and December 31, 2015. This inspection initiative continued to focus on combustible dust management but also evaluated occupational health and safety (OHS) program compliance and effectiveness. Inspections focused on seven key health and safety requirements: combustible

dust management, confined space entry, lockout, safeguarding, training and supervision of workers, contractor management, and standard operating procedures.

WorkSafeBC conducted 22 inspections at 17 pellet mills. Twenty-three orders were issued at six pellet mill locations with respect to the seven key OHS program requirements above. This included one stop work order and two stop use orders. No sanctions were issued. Narrowing the focus to combustible dust related orders five combustible dust related orders were issued at three pellet mill locations. This included the one stop work order. The result was an 86% compliance rate, with respect to combustible dust.

Overall, the results of this latest inspection initiative indicate that wood pellet manufacturers have responded positively to the challenges of developing and implementing sustainable combustible dust management programs. The inspection results at several pellet mill operations indicated sustained and/or significant progress in terms of both combustible dust management and overall safety management. WorkSafeBC will continue to engage and support these firms but will adopt a more consultative approach in 2016.

### ***Next steps***

Despite having the confidence that some operations do not require a regularly scheduled inspection strategy, it is clear that many pellet mill locations still warrant continued inspectional involvement from WorkSafeBC. By transitioning some of the stronger performing operations towards a sustained compliance model, WorkSafeBC will be positioned to focus resources on those operations demonstrating the need for ongoing support.

WorkSafeBC continues to closely monitor and engage newly launched pellet mill operations to ensure they have the support necessary to establish, from the start, robust combustible dust management programs and overall safety management systems. As well, WorkSafeBC continues to inspect and consult with additional pellet mill locations that are currently under construction. WorkSafeBC remains committed to establishing close partnerships with any new pellet mill in development. This will be done as part of WorkSafeBC's ongoing commitment to work with pellet sector to promote and share tools, techniques and knowledge with respect to wood dust management and compliance.

### ***Health and Safety Association***

In 2014 and early 2015, WorkSafeBC conducted formal consultations with the wood products manufacturing sector, sawmills and wood pellet industries, to explore the possibility of establishing a Health and Safety Association (HSA) for these industries. WorkSafeBC agreed to fund the HSA for the first year (2015), after which the HSA would be funded by industry through a levy. The HSA would provide continued focus on training and support the sharing of best practices for these industries with the aim of reducing injury and serious injury rates and improving return-to-work outcomes within the sector. Feedback from the consultations was positive.

In Q1 of 2015, the sawmill industry agreed to join the BC Forest Safety Council (BCFSC). In Q2 of 2015, the pellet mill industry employers also agreed to join the BCFSC. In November 2015, WorkSafeBC approved the BCFSC's funding request and work plan for 2016. This work plan and budget included specific deliverables for the sawmill and pellet mill industries.

The 2016 work plan for the Sawmills Classification Unit (CU) is focussed on:

- Wood Dust Mitigation and Control Audit Standard
- Development of industry guidelines on equipment safeguarding
- Evaluating and assessing mobile equipment interface risks and developing options for effective control
- Conducting detailed analyses of serious injuries in the sawmill sector

The 2016 work plan for the Pellet Mills CU is focussed on:

- Combustible Dust Management
- Confined Space Entry
- Safeguarding of Machinery and Equipment
- Standard Operating Procedures

The employers in sawmill and pellet mill sectors have demonstrated increased compliance with the Act and *Occupational Health and Safety Regulation* (OHSR). Industry leaders are working more closely together to share best practices and to consult with WorkSafeBC as all parties work together to share information and to achieve sustained compliance for their industry.

Due to WorkSafeBC's efforts in this area, other organizations have approached WorkSafeBC to discuss ways to deal with combustible dust issues in their jurisdictions. WorkSafeBC's approach of focusing on seven key target areas for health and safety has been adopted for all wood pellet operations in Canada as recommended by the Wood Pellet Association of Canada. In June 2016, WorkSafeBC will make a presentation at a conference in Prince George hosted by the International Wood Pellet Association.

### ***Reporting of workplace fires***

In order to ensure workplace fires are reported appropriately, initiatives are underway to strengthen relationships with the Office of the Fire Commissioner and other fire prevention authorities.

The Fire Inspection and Prevention Initiative (FIPI) was created in 2013 to reduce the risk of combustible dust fire and explosion in industrial operations and to improve BC Fire Code compliance. FIPI's goal is to improve awareness of employers' fire safety obligations and education about the BC Fire Code standards; it also improves co-ordination between WorkSafeBC and BC Safety Authority (BCSA) inspectors and the Office of the Fire Commissioner (OFC), which has responsibility for enforcing the BC Fire Code.

To achieve FIPI's goal, the partners in the initiative focused on assisting high-hazard industrial operations to develop BC Fire Code-compliant fire safety plans and ensure the plans are effectively implemented. A key component of the fire safety plan is the control of combustible dust explosion hazards.

In recognition of the importance of enhancing these relationships, WorkSafeBC's Board of Directors has committed to funding FIPI to the end of 2016. At that time, the responsibility for FIPI's mandate will be assumed by the OFC (i.e., for the management of the process) and by two HSAs (i.e. for management of workplace combustible dust education). The two HSAs are the BC Forest Safety Council in cooperation with the Manufacturers' Advisory Group (for wood combustible dust) and the Food Industry Occupational Safety Association – Manufacturing Industry Occupational Safety Association (FIOSA-MIOSA) (for other types of combustible dust). WorkSafeBC's Industry and Labour Services Department (ILS) will lead a permanent regulator/HSA steering committee to ensure the referral process and workplace education remains current, and to address new related issues that may arise in the future.

Referrals between WorkSafeBC, BCSA and the OFC were occurring previously, but WorkSafeBC has now formalized practice directives for Prevention officers to make referrals to the OFC and the BCSA. The practice of making referrals is now embedded in the Prevention officer inspection process using standardized referral forms, which were finalized in mid-March.

From November 2013 to February 2016, 243 referrals have been made by WorkSafeBC to the OFC for one or more of the following three circumstances: combustible dust issues; lack of current fire safety plan; or other suspected fire hazard. From 2014 to 2015, 65 referrals have been made by WorkSafeBC to the BCSA for issues such as exposed un-insulated wiring, electrical cabinets or enclosures with missing panels or sections, open drip proof motors in dusty environments, and evidence of secondary dust build up in electrical enclosures.

A Memorandum of Understanding, effective June 1, 2015, has been prepared between WorkSafeBC, the OFC and the BCSA to provide for the sharing of information in connection with workplace fires. The MOU provides that these three organizations will notify each other and exchange information they obtain with respect to workplace fires. This is critical to the ongoing sharing of information related to workplace fires. It also promotes cross-organizational collaboration focused on improving fire code compliance for workplaces.

The OFC will consolidate and report on the reported fire incidents with WorkSafeBC and the BCSA on a quarterly basis. WorkSafeBC will look into the feasibility of incorporating this information with existing employer information to potentially inform its risk-based approach towards employer inspections, as well as determining emerging risks in specific industries.

# Understand the merits of and determine best practices in organizational structures, specifically relating to the separation of enforcement vs. regulation

---

## Recommendations

11. Changes should not be made to the fundamental structure of WorkSafeBC at this time. WorkSafeBC should continue to monitor the effectiveness of its current model.
12. The Worker and Employer Services Division should be re-structured to ensure that departments carrying out similar functions fall under the same reporting structure.
13. Investigation Services must be re-structured to accommodate the recommended dual team model for investigations.

## Purpose

Having assessments, claims and OHS managed by a single organization provides valuable insights with respect to prevention activities and is a key element of a world-class OHS regime. As such, the fundamental structure of WorkSafeBC has not been altered. However, some changes have been made to the Worker and Employer Services Division organizational structure. These changes were intended to ensure that departments carrying out WorkSafeBC's prevention mandate would fall under the same reporting structure as departments carrying out similar functions, thereby allowing these departments to more effectively support each other.

## Status

WorkSafeBC continues to maintain responsibility for both claims and OHS. This allows WorkSafeBC to mine its claims data to target prevention activities to those industries where they will have the greatest impact.

## ***Worker and Employer Services Division changes***

The Engineering department has been moved from Investigations Services to the Regulatory Practices department within the Worker and Employer Services Division. This establishes the Engineering department's role as a resource to both Prevention officers and Investigation officers.

Accessibility and increased utilization of the Engineering team has enabled Prevention officers to leverage this team's expertise on complex Prevention issues. This has resulted in more timely access to engineering expertise and greater involvement of engineers focused on joint-problem solving where appropriate. Engineering Services has seen a 10% growth in projects from

Prevention Field Services as a result of the re-organization. An additional benefit to employers is that Engineering Services is now embedded in the same department that issues variance and acceptance decisions. This will ensure that engineering work to support these decisions is better prioritized. 16% more variance and acceptance decisions were made in less than 90 days in 2015 compared to 2014. The average number of days to make a variance and/or acceptance decision dropped from 108 days in 2014 to 68 days in 2015.

WorkSafeBC also created a new role within the Worker and Employer Services Division: Director, Prevention Field Services. Reporting to the Vice-President, Prevention Services, the Director is responsible for field service operations across BC. Prevention Field Services managers, who previously reported to separate Regional Directors, will now report to the Director, Prevention Field Services. The Director will provide overall direction and leadership to Field Services teams to achieve excellence in workplace health and safety.

The Director, Field Services was hired in May 2015. Feedback from staff indicates that the role is working as intended to provide a single point of contact for communication and a clear escalation path for issues resolution resulting in better consistency of officer practices around the province, improved quality control and more timely resolution of issues.

Alignment of activities between the prevention and claims functions in the organization is critical to ensure coordination of communication and activities with employers and workers. For example, WorkSafeBC has a communication protocol in place for violent incidents in health care where internal health care leads are notified of serious and non-serious incidents of violence for Health Care Authorities and its affiliates. This ensures that there is timely communication between prevention and claims staff at WorkSafeBC for employer follow-up of serious violent incidents in the health care sector.

### *Investigations Services changes*

The Compliance department has been moved from Investigations Services to the Legal Services department. The advisory role of the Compliance team in relation to Prevention officers and Investigation Officers has been clarified and communicated, allowing for more effective and efficient use of this resource by officers.

The Compliance team continues to work with Prevention and Investigations Officers to provide legal advice on penalty matters and fatal and serious injury investigations. Dedicated teams of legal advisors, supervised by two managers, have been established to support the dual team model in Investigations. Being part of the Legal Services division has allowed the Compliance team to improve consistency in its approach to providing legal advice.

WorkSafeBC continues to focus on building in-house expertise to deal with prosecutorial investigations. These types of files are not as common as regulatory investigations and therefore, it is important to ensure that staff maintain relevant skills and enhance their knowledge of current best practices to achieve the desired timeliness and quality outcomes.

The FSI department within Investigations Services has been restructured to support the dual team model recommended by the Action Plan. New roles that resulted from implementation of this model have been filled, including the Gatekeeper and FSI team manager roles. New procedures are also in place to support the model, both operationally and from an investigative integrity perspective.

# World-class inspection and investigation regime

---

A key focus of the Action Plan was to establish WorkSafeBC as a world-class inspection and investigation regime. Research was conducted to identify world-class principles based on leading practices from around the globe. WorkSafeBC was evaluated against identified characteristics of an “ideal” world-class regime, specifically in the areas of governance; regulation making; education, consultation, and proactive compliance; enforcement tools; hazard alerts; employer incident investigations; visible presence of enforcement; review and appeal; performance measurement; corporate culture; internal and stakeholder communications; anticipation and prediction of emerging hazards; and training.

The assessment of WorkSafeBC found that it demonstrated many characteristics of a world-class regulator. The Action Plan recommended some opportunities for enhancements to build upon the work already being done by WorkSafeBC.

## GOVERNANCE

### Recommendation

14. Amend the *Workers Compensation Act* to enhance the occupational health and safety expertise of the Board of Directors by adding two new members, one who has legal and/or regulatory experience and one who is an occupational health and safety professional.

### Purpose

WorkSafeBC’s governance model has been effective in meeting its duties and stands out as a leading practice. However, the review found that the Board of Directors would benefit from additional OHS and legal expertise intended to add strength and balance to the Board of Directors.

### Status

The structure of WorkSafeBC’s Board of Directors is set out in the Act. As such, the implementation of this recommendation required a legislative amendment, which was introduced as part of Bill 9 in February 2015. The amendment added a director who is or was a professional in the area of law or law enforcement and a director who is or was a professional in the area of OHS. Law enforcement expertise is defined as policing, including criminal negligence operations; investigations that lead or could lead to a penalty or sanction being imposed; or proceedings that lead or could lead to a penalty or sanction being imposed.

The addition of these two new directors has enhanced the Board of Directors’ ability to fulfill its obligation to govern the OHS mandate of WorkSafeBC. This mandate includes making OHS

regulations for safer workplaces, providing education and other services related to OHS, and undertaking inspections, investigations, and inquiries.

On September 21, 2015, James Cessford and Brooks Patterson were appointed to the WorkSafeBC Board of Directors. Both individuals have term appointments which end on December 1, 2017.

Mr. Cessford has extensive law enforcement experience, including 20 years as Chief of Police for the Delta Police Department until his retirement in 2015 and 27 years with the Edmonton Police Service. He has been president of both the Municipal Chiefs of Police and BC Association of Chiefs of Police, and has been a university lecturer and frequent speaker on criminology and leadership across Canada.

Mr. Patterson is the OHS representative on the Board of Directors. He is the Safety Manager for NorLand Limited which operates a number of construction companies. Mr. Patterson has extensive experience in OHS and holds certification as a Canadian Registered Safety Professional (CRSP). He also has extensive board experience including as former chair of the BC Construction Safety Alliance and secretary/treasurer of SkillPlan.

## **REGULATION MAKING MODEL**

### **Recommendations**

15. WorkSafeBC should retain the ability to develop and approve occupational health and safety regulations.
16. Enhance industry and labour involvement in the setting of regulatory priorities.
17. WorkSafeBC should update and publish its occupational health and safety work plans annually to increase transparency and improve stakeholder involvement.

### **Purpose**

A world-class regulation making process is nimble, efficient, and transparent. Having the regulation-making function rest with WorkSafeBC ensures that the process continues to meet these ideals. It also ensures an independent process that allows the focus to remain on workplace safety. The process will move even further towards world-class status by increasing stakeholder involvement.

### **Status**

The Minister Responsible for Labour supported the recommendation that WorkSafeBC continue to have authority to make OHS regulations. WorkSafeBC's Policy, Regulation and Research Department is currently working on several regulatory amendments that are now in the

consultation phase and will be taken to public hearing later in 2016. The 2015-2016 OHS Regulatory work plan, which provides information on current projects, has been posted on the WorkSafeBC website. The work plan includes projects to clarify and strengthen regulations relating to guardrails, asbestos, lead, cranes and hoists, and blasting operations. WorkSafeBC will post future work plans on an ongoing basis as they are approved.

WorkSafeBC consulted with the Policy and Practice Consultative Committee (PPCC) in September 2014 on the issue of enhancing industry and labour involvement in the setting of regulatory priorities. A standardized form has been posted on the WorkSafeBC website to allow stakeholders to submit suggestions for amendments to the Occupational Health and Safety Regulation. WorkSafeBC encourages stakeholders to contact WorkSafeBC in a number of other ways to provide feedback.

WorkSafeBC has also incorporated an option to comment on regulation issues as part of the annual consultation on the 2016-2018 policy priorities work plan and intends to continue that process.

In addition to the above methods for feedback, members of the PPCC have an opportunity to comment on annual proposed work plans before they are presented to the Board of Directors for approval. PPCC members are also able to give feedback at regular meetings with WorkSafeBC staff.

WorkSafeBC believes that the combination of the above steps increase transparency and will allow stakeholders the opportunity to be more involved in the regulatory process and setting regulatory priorities.

## **EDUCATION, CONSULTATION, AND PROACTIVE COMPLIANCE**

### **Recommendation**

18. WorkSafeBC should continue to put a priority on education and proactive compliance and provide resource allocations accordingly.

### **Purpose**

Education and consultation are important tools for moving employers and workers towards safer and healthier workplaces. Proactive compliance with the OHS regulations can best be achieved when employers and workers have the knowledge required to understand and meet their OHS obligations.

A cornerstone of WorkSafeBC's mandate is to promote prevention of workplace injuries and disease. To fulfill this mandate, Prevention Services and ILS work together on various initiatives to promote employee safety and reduce the incidence of workplace injury. WorkSafeBC is involved in a number of education and compliance initiatives. These initiatives speak to the

breadth and depth of education, consultation, and proactive compliance activities at WorkSafeBC, activities that go beyond the recommendations in the Action Plan.

The role of a Prevention officer is to assist employers, workers and other workplace parties to understand and meet their OHS responsibilities. Prevention officers fulfill this role by engaging workplace parties through education, consultation and enforcement. They educate employers by providing safety materials and access to resources provided by WorkSafeBC or the employer's HSA, and where appropriate, they consult to provide advice on specific workplace hazards.

Officers put a priority on stakeholder education and proactive compliance. Education and consultation is an element of the enforcement model and is an important factor in achieving sustainable compliance. Education and consultation may occur outside the parameters of a WorkSafeBC inspection, for example, as part of an educational presentation by WorkSafeBC officers and other staff or in response to a workplace party approaching WorkSafeBC with an OHS question or concern. Unlike other enforcement tools, education and consultation are not dependent on the existence of violations.

Using a data-driven and outcomes-focused approach, WorkSafeBC identifies employers and industries that would benefit from targeted interventions. For example, some large and very large employers with high injury rates, high surcharges in their experience rating, high claims costs, and/or poor return-to-work outcomes are provided with the option of working with WorkSafeBC's consulting services team in ILS and Business Advisory Services to address workplace safety and return-to-work priority areas. These initiatives involve all levels of the organization, and include engagement at the CEO level to change organizational health and safety culture, aligning resources to address common issues for groups of employers, and changing behaviours and accountabilities by individual employers.

WorkSafeBC staff engage with employers and employer groups at various levels in order to promote injury prevention and safe workplace behaviour. Strategic partnerships with high-impact employers promote employer and employee education and changes in work practices. The purpose of these initiatives is to develop workplace skills and knowledge beyond basic compliance, and towards the goal of best practices. At any given time, WorkSafeBC is engaged in upwards of 100 employer consultation initiatives, half of which have an OHS focus - the remainder focus on workplace disability prevention and return-to-work outcomes.

WorkSafeBC works closely with these employers in order to identify their needs and risk areas and to develop plans to remediate high-risk behaviour. Custom tools and dashboards have been constructed that will help workplaces track specific variables and information relevant to their needs. The outcomes of these engagements are formulated into best practices that are shared between employers facing common workplace safety issues. Some highly impactful strategic partnerships have included a recent initiative with BC Transit and TransLink, which resulted in buses being fitted with safety barriers as part of a pilot program in order to protect drivers from violence. The model has been proven to be highly effective as evidenced by

another initiative undertaken with Brewer's Distributor. This initiative identified overexertion and musculoskeletal injuries as the cause of three-quarters of the company's claims. The subsequent purchase of 25 motorized dollies substantially reduced the number of injuries and illustrates how strategic partnerships between WorkSafeBC and employers directly impact worker health and safety.

In Q4 of 2014, WorkSafeBC and the BC Forest Safety Council entered into a partnership to run a pilot project testing the feasibility of guarding shingle machines in BC shake and shingle mills, with the overall objective of encouraging a positive change in the safety environment of this industry. There are approximately 60 shake and shingle operations in BC, with an estimate of nearly 600 workers employed in that industry.

At the industry level, an enhanced accountability framework has been developed for HSAs to help generate higher quality and improved health and safety outcomes for the industries served by the HSAs. Additionally, there is an increased focus on data-driven targeting, outcome measurement, collaboration, innovation, and the use of business intelligence tools.

Specific initiatives include partnerships with HSAs and Certification of Recognition (COR) certifying partners to promote worker safety. The reporting structure and framework around these relationships are currently being improved in order to strengthen the programs and provide greater accountability for initiatives. The result of this work is more effective partnerships with industry partners, which helps promote safe workplace behaviour. Industry partners have also received new tools to help them understand injury data in their industries and to help focus efforts on addressing current and emerging issues.

Aligned with WorkSafeBC's high-risk strategies, work is ongoing to increase awareness and workplace planning including the dangers of falls from heights in construction, confined spaces in agriculture, guarding and cutting hazards in manufacturing, manual tree falling in forestry, violence in healthcare.

WorkSafeBC is continuing to actively engage with stakeholders to support and develop education and training initiatives in all industries, particularly high-risk industries. All educational resources, health and safety training tools, workplace toolkits, and videos are shared with industry and individual employers in partnership with the HSAs.

## **ENFORCEMENT**

### **Recommendations**

19. WorkSafeBC should review its risk-based model for the allocation of work and the setting of priorities with respect to inspection and enforcement activities.
20. Develop a hierarchy of enforcement tools.

21. Amend the *Workers Compensation Act* to introduce an Assurance of Compliance tool.
22. Introduce OHS citations, with escalating fine provisions, to be imposed on employers who violate certain OHS requirements.
23. WorkSafeBC should undertake a consultation process with industry and labour to consider whether a limited citation model should be introduced for workers who fail to wear personal protective equipment. Recognizing the fact that employers have ultimate control over the workplace, the consultation should also consider whether a citation to a worker would trigger an equivalent or larger citation against the employer.
24. Amend the *Workers Compensation Act* to create three circumstances where stop work orders may be issued.
25. Significantly shorten the timelines for the issuing of administrative penalties through continuous ownership of the penalty order, instituting a performance management system to assess outcomes, shifting the onus around due diligence requirements, and reviewing WorkSafeBC's penalty policies.
26. Ensure that when administrative penalties are imposed, the amount of the penalty is proportional, with consideration of the circumstances of the incident and the size of the employer.
27. Amend the *Workers Compensation Act* to improve the ability to pierce the corporate veil to address situations of non-payment of administrative penalties by an employer.
28. Amend the *Workers Compensation Act* to improve injunctive powers to address egregious and ongoing violations of the *Workers Compensation Act* and/or the Occupational Health and Safety Regulation.
29. WorkSafeBC should continue to pursue prosecutions for regulatory violations, using major case management and the appropriate evidence gathering and interviewing techniques.
30. WorkSafeBC should consider publishing additional information regarding employer non-compliance to increase transparency. WorkSafeBC should consult with industry and labour stakeholders on this issue.

## **Purpose**

Effective enforcement of health and safety regulations requires a robust set of tools. The tools also need to be applied judiciously, based on the seriousness of a non-compliance situation, and the willingness of the employer to take corrective actions. At the time of the review, WorkSafeBC's tools were considered to be quite limited and to move too quickly from "soft" to "hard". A suite of enforcement tools allows the Prevention officers to apply the right tool in the

situation to get workplaces back to a safe and healthy status quickly. For the worst offenders, the “hard” tools were considered to be inadequate, and allowed those operators to ignore the regulations and avoid penalties. The report recommended that further enforcement tools be introduced, and existing ones strengthened, in order to ensure that when these tools are necessary, they compel immediate and sustained compliance with OHS requirements, as well as general and specific deterrence. The development of an effective suite of tools will allow WorkSafeBC to apply the lowest level of action needed to achieve compliance, while also enabling significant enforcement measures for the worst offenders.

## Status

### *Risk-Based Model for the Allocation of Work*

WorkSafeBC has addressed this recommendation by refining its risk-based approach to the allocation of work and the setting of priorities with respect to inspection and enforcement activities. This approach continues to be formalized, and most recently, the model has been strengthened to capture non-aligned risks.

WorkSafeBC is employing a risk-based approach to both planning and deployment of resources. Inspection locations are data driven to ensure that high-risk employers and work sites are visited. High-risk strategies developed for key industries employ claims data to identify high-risk activities, locations, and employee groups. This information is used to develop strategic initiatives, which are jointly owned by Prevention Services and ILS, and which direct the inspection, education, and outreach activities of Prevention officers and other WorkSafeBC staff. For example, data from the health care industry has identified violence-related injuries as the area requiring significant resources. Initiatives designed to reduce serious injuries related to violence involve partnerships with the Health Authorities, as well as the development of violence prevention training materials and other materials to promote awareness and safer work practices. Combined with targeted inspectional protocols, these initiatives promote the practices known to reduce injuries in this employee group. The high-risk strategies are reviewed annually to assess and confirm priorities and drive officer deployment.

In 2016, the Prevention Field Services team utilized predictive modelling to help with identifying inspectional priorities for the 2016 high risk strategies. The tool takes into account claims, prevention, and assessments data for an employer location and the industry they are in. This tool will be further refined with feedback from managers and officers as to the effectiveness of the tool in establishing inspectional priorities.

As part of its resource planning for 2016, Prevention Field Services is piloting a Service Centre Officer Inspection Planning tool. This is intended to take into account average inspection cycle times, officers’ working hours, industry focus, project work and planned inspections to determine if there is additional capacity for each officer for targeted deployment in other areas as required. This tool will help in the deployment of resources, factoring in capacity and capabilities relative to the emerging risk areas being identified.

To further develop its risk-based model for the allocation of work, WorkSafeBC created the Risk Analysis Unit (RAU) in February 2014. The purpose of the RAU is to identify and evaluate emerging risks and recommend strategies to mitigate those risks. This proactive approach to risk mitigation is a cutting-edge approach to injury reduction. The RAU scans “risk signals” from around the world and employs sophisticated modeling and risk assessments to develop mitigation strategies in an attempt to prevent serious incidents from occurring in BC.

An example of a risk identified by the RAU is the risk of explosion or fire due to the unintentional generation of synthesis gas in the wood pellet drying process. Synthesis gas is a hazard with many similarities to combustible dust, which is just beginning to be understood and managed. The RAU is working to identify the generation sources and presence of synthesis gas in the wood drying process and is assessing the risks posed by the unintentional generation of synthesis gas. They are also reviewing existing mitigation strategies and controls. This includes reviewing existing regulations and consulting with internal and external experts.

To create awareness of the risk, the RAU organized a training session on Biomass Safety in December 2015 led by an external expert and attended by WorkSafeBC’s officers in Prince George. Two Prince George Officers are currently re-inspecting the pellet sector to inform and remind employers of the risk and the necessary control measures.

Exposure to hazardous materials remains an ongoing threat to the workers of BC. In partnership with Prevention Field Services and ILS, the RAU has been working with the Occupational Hygiene Officer Advisory Group to identify opportunities for focused inspections, ongoing project work and continued focus under a Provincial Occupational Disease Strategy. An example of this is the work being done by the RAU and ILS in partnership with the BC Construction Safety Alliance to create an online silica assessment tool that will allow construction employers working with silica to ensure that the proper exposure controls are in place.

### **Enforcement Tools**

Many of the new enforcement tools recommended by the Action Plan required legislative amendments. On May 14 2015, four amendments to the Act came into force. This resulted in expanded stop work order powers, changes to employer incident investigations, expanded injunction powers and changes to penalty due diligence. Two other enforcement tools came into effect at a later date: Compliance Agreements (September 15 2015) and OHS Citations (February 1 2016). With these changes, WorkSafeBC now has a robust and enhanced suite of enforcement tools which provide a wider range of tools to assist in moving toward healthier and safer workplaces.

In cases of non-compliance, officers are able to exercise their discretion and select the tool that is most appropriate for each circumstance, and which they believe will achieve compliance and motivate other workplace parties to comply in the future. In cases where more than one tool may be appropriate, officers will exercise their discretion to select the most appropriate tool.

Officers will escalate enforcement, as necessary, to another tool that can be expected to result in compliance. In some cases, enforcement tools may be used concurrently.

The selection and use of a particular enforcement tool will be made based on the principles of:

- Proportionality
  - Enforcement action should be guided by the health and safety risks
  - Enforcement action should reflect the gap between the current state and full compliance with OHS requirements
  - The likelihood of cooperation in achieving compliance should be weighed in the choice of enforcement approach.
- Effectiveness
  - Officers will select the most appropriate tool and apply it in a manner that is both timely and promotes sustainable compliance
- Transparency
  - Stakeholders should always know what is expected of them and what to expect from WorkSafeBC
- Consistency with flexibility
  - Similar workplace circumstances should result in similar enforcement approaches and outcomes, keeping in mind that each situation is unique and officers are encouraged to exercise their best judgement and discretion in each particular case

Enforcement tools should be used at the officer's discretion taking into account various factors such as the nature of the violation, risk factors, and the employer's safety history. The objective for each officer when faced with an employer's safety violation is to determine which tool will best achieve the desired outcome of having a safe workplace. In some cases, education may suffice – in other cases, orders, stop work orders, penalties or injunctions may have to be applied, depending on the circumstances.

It is recognized that WorkSafeBC officers have experienced a very large amount of change in a relatively short period of time as a result of the report's recommendations. The changes have required legislative changes, policy development, stakeholder consultations, communication, training and evaluation. These necessary steps have required time to work through, and have progressed as quickly as could be reasonably expected. All of the new enforcement tools are now in place, although some pieces have only been in use for a period of weeks at the time of this report. It is still too early to judge how successful the new model will be in actual application, and there is no doubt that adjustments will be necessary over time. Regardless, it is clear that WorkSafeBC has embraced the changes, and is working hard to put them into practice.

Over the next year, WorkSafeBC will need to focus on “knitting together” a seamless application of the tools, streamline and improve processes, systems and resource materials, and share best practices around the use of the complete suite of enforcement tools. Training to consolidate and solidify officer understanding and proper application of the tools will occur in Q2 of 2016. In addition, computer systems are currently being upgraded to better support the use of the new tools, with a targeted completion date in early 2017.

While officers have discretion in choosing the appropriate tool to achieve compliance, there is an opportunity to explore greater flexibility in using combination of tools to achieve the best outcomes which will vary by employer depending on the employer’s experience, safety records and the nature of the violation.

### ***Compliance Agreements***

Section 186.1 allows WorkSafeBC to enter into compliance agreements with employers where the employer has failed to comply with the Act or the OHSR. If an employer is prepared to take immediate action to correct a deficiency, including a willingness to make necessary investments or incur necessary costs, an officer may elect to use the Compliance Agreement tool. A Compliance Agreement can only be entered into if the employer has not contravened the same provision at any location within the preceding 12 months, has not had a Compliance Agreement cancelled in the previous three years, the health or safety of workers is not at immediate risk, and it is considered appropriate to do so. The agreement must set out the actions the employer has agreed to take and the time period for performing those actions. WorkSafeBC may rescind the agreement if the employer fails to meet its obligations under the Compliance Agreement or if it no longer adequately protects the health or safety of workers. Compliance Agreements were implemented on September 15, 2015. Five Compliance Agreements were entered into from September 15 – December 31, 2015.

Employers and Prevention officers report that the current design of Compliance Agreements makes them difficult to administer. The current computer system Prevention officers use was not designed for Compliance Agreements, and therefore, requires manual and system workarounds. For example, determining if an employer has entered into and contravened a Compliance Agreement in the past 12 months is not an automated function. Manual workaround processes add administrative burden and time which reduces the effectiveness of the Compliance Agreement as a tool. Simplifying these processes and systems will make Compliance Agreements a more effective enforcement tool. WorkSafeBC is encouraged to further refine the practices around the Compliance Agreement tool to make it simpler to use and easier to administer. Within the limitations of the legislation, there also needs to be a reasonable amount of discretion available to the Prevention officers in determining when and how the tool might be used.

## ***OHS Citations***

Bill 9 also added a provision to the Act (section 196.1) to give WorkSafeBC the power to impose a new type of administrative penalty, in amounts up to and including \$1,000. This type of administrative penalty is referred to as an OHS Citation. OHS Citations may be imposed on employers for failing to comply with an order in a reasonable period of time or for failing to prepare, send, post or share a compliance report as required.

Before an OHS Citation can be imposed, the following requirements must be met: the violation cannot be a high risk violation, as defined by Policy; the employer continued to be in non-compliance after having been warned, in writing, that an OHS Citation or OHS Penalty might be imposed; and the employer cannot already have received an OHS Penalty or OHS Penalty warning letter for that specific violation. Additionally, after imposing the maximum OHS Citation (i.e. \$1,000 for the second infraction) WorkSafeBC will consider escalating enforcement to an OHS Penalty.

The OHS Citation amounts are adjusted each year in accordance with the Consumer Price Index and, for 2016, are in the amounts of \$505.17 for the first infraction and \$1010.13 for any subsequent infraction within three years.

An OHS Citation will be issued more quickly than an OHS Penalty, once there has been a determination that an employer has failed to comply with an order. This is because there are fewer administrative steps that need to be followed by the officer in order to impose an OHS Citation. An OHS Citation may therefore in some situations be timelier and more effective than a penalty in achieving compliance.

OHS Citations came into effect on February 1, 2016. As of February 26, 29 written warnings have been issued and one OHS Citation was imposed for \$500. So far, the OHS Citations tool ranks high on effectiveness as most employers are likely to comply at the written warning stage without needing the Prevention officer to proceed to issuance of an OHS Citation.

## ***Stop work orders***

The provision around stop work orders (section 191) has been expanded to allow WorkSafeBC to issue such an order where there are reasonable grounds for believing there is a high risk of serious injury, serious illness, or death to a worker, or if the employer has failed to comply with an order pertaining to the same provision within the preceding 12 months and there is a risk of serious injury. Before the amendments, an “immediate danger” to workers had to exist before a stop work order could be issued which meant that work could not always be stopped in situations where there were high risk violations but no workers were at immediate risk of being injured.

Expanded stop work order powers came into effect on May 14, 2015. The expanded stop work order tool has been used extensively – from January 1 to March 3, 2016, 122 stop work orders had been issued. In 2015, 689 stop work orders were issued compared to 600 in 2014.

In 2015, for the first time, a stop work order was issued on a commercial fishing vessel. A commercial crab fishing vessel was escorted back to port when an inspection of the vessel at sea revealed that there were numerous observed violations that would pose a high risk of serious injury or death to a worker. Word of the stop work order spread quickly throughout the industry.

As a direct result of this stop work order, 14 commercial crab operators registered for the Safest Catch program through FishSAFE, the industry HSA. This program puts industry advisors on board vessels to assist employers with emergency drill training, radio operator training, and safe work procedure development in order to assist employers with meeting regulatory requirements.

As expected, there has been an increased number of stop work orders issued since the changes to the Act. BC's previous legislation was difficult to use, and imposed considerable limitations on the Prevention officers. The new legislation is more in line with other leading jurisdictions, and so far, the number of orders is in keeping with the experience elsewhere. It will be important to monitor the use of this tool over time to ensure it continues to be used as intended and where necessary in the context of all of the enforcement tools available.

### ***Stop operations and prohibition from starting work***

The May 2015 amendments also empowered WorkSafeBC to order that work at all other existing active and future workplaces of the same employer cease if WorkSafeBC believes that the same or similar working conditions that have been observed at one workplace exist or would exist at those other workplaces. This amendment will prevent situations where a shut-down at one workplace simply results in the non-compliant employer moving to another location and carrying out the same unsafe activity. These types of stop work orders are referred to as “stop operations” and “prohibition from starting work” orders.

WorkSafeBC recognizes the business impact of ordering an employer's entire operation to be shut down and therefore has a strict approval process in place that must be followed before these types of orders can be issued.

As of February 26, 2016, three stop operations orders had been issued since the 2015 amendments— two for asbestos abatement work, and one related to lack of fall protection. There have been three prohibitions from starting work issued.

All types of stop work orders, including stop operations and prohibition from starting work, expire after 72 hours unless they have been confirmed in writing. The confirmation can only be issued under the signature of certain WorkSafeBC Vice Presidents or their delegates.

Under the Act, workers must continue to be paid for a minimum of three days even if a work stoppage for a safety violation has occurred. In most cases, this is enough time for an employer to achieve compliance and return workers to a safe work environment.

### ***Administrative Penalties***

The administrative penalty provision (section 196) has been clarified under Bill 9. The amendments clarify the standard of proof for an OHS Penalty (i.e., the balance of probabilities) and that the employer bears the onus of establishing the defence of due diligence when facing a penalty. These changes will contribute to making the penalty process more efficient and timely, which will enhance the deterrent value of OHS Penalties. In particular, clarifying that the employer bears the responsibility of establishing due diligence will help to shorten the time frame in which a penalty is imposed as WorkSafeBC does not have to spend additional time and resources to determine whether an employer has exercised due diligence before imposing a penalty.

As of May 2015, WorkSafeBC has implemented a streamlined penalty process in all of its regions across the province with a target of issuing administrative penalties within 90 days of the original inspection date. As of March 9, 2016, 64% of penalties are being issued within 90 days. The ability to issue penalties in this shorter time frame will enhance the effectiveness of administrative penalties as an enforcement tool and provide a stronger deterrent effect. WorkSafeBC has also amended its penalty policies as of March 1, 2016, including those relating to penalty amounts, to ensure they are clear and consistent and further contribute to a fair and efficient penalty process.

In 2015, 564 OHS Penalties were imposed for a total penalty amount of \$7,488,901 compared to 2014, where 433 OHS Penalties were imposed for a total penalty amount of \$5,994,974.

### ***Injunctions***

WorkSafeBC's injunctive powers have been enhanced as a result of Bill 9. Section 46 of the Act, which is currently employer-specific, has been expanded to allow an injunction to be sought against the judgement debtor, a member of the employer's board of directors or other governing body, the president of the company, any officers of the company, or anyone who performs any of these functions. The amendments to this provision will address those situations where an employer who has failed to pay assessments or penalties declares bankruptcy, sets up an alternate corporate identity, and continues to operate. This will prevent situations where wilful, chronic, and reckless violators avoid paying their penalties and assessments while continuing to operate.

Section 198 has also been expanded under Bill 9. Previously, this section only permitted an injunction to be sought to restrain a person from committing a violation or to require a person to comply with the Act, OHSR, or an order. This did not provide an adequate response to deal

with repeat offenders who are flagrant, wilful, and serial violators of occupational health and safety requirements. The expanded injunction provision will authorize the Supreme Court of BC to grant an injunction restraining a person from carrying on an industry or an activity in an industry for an indefinite or specified period of time. This expanded authority provides a mechanism to deal with individuals who commit egregious and ongoing violations of the Act or OHSR. There were no injunctions issued by the Supreme Court of BC under this section in 2015.

### ***Publishing of Employer Non-Compliance***

WorkSafeBC created a searchable penalty database available to the public on its website in July 2015. Before June 2015, this same information was only published in the WorkSafeBC Magazine. The database contains a summary of OHS Penalties imposed since 2013. The summary includes the name of the firm against which the penalty was levied, the industry sector and classification unit, the penalty amount, the date the penalty was imposed and a short description of the circumstances related to the penalty. This information is also published in the WorkSafe magazine. If a review or appeal of a penalty is initiated, that information is also noted in the penalties database and the penalty information is updated in the event that it is changed or cancelled on review or appeal.

Many local newspapers have published the names of the organizations in their cities that have had penalties imposed. This increases the awareness of an employer's safety violations in their local communities.

WorkSafeBC is currently working on a similar search option for OHS Citations and a method for stakeholders to be aware of any stop operations orders currently in effect.

## **HAZARD ALERTS**

### **Recommendation**

31. The Memorandum of Understanding with Police Services should be expanded to provide guidance where a hazard alert may be necessary and to include an agreed upon procedure for making such a determination.

### **Purpose**

Hazard alerts are important and valuable tools to inform workplace parties of risks to health and safety and educate them on how to prevent incidents from occurring. A piece of equipment, which is found to have caused a serious or fatal incident in one workplace, may be installed in other workplaces. Issuing a hazard alert about the equipment could compromise an investigation for prosecution, but not issuing a hazard alert could leave workers in a dangerous situation. In those situations, the protection of other workers has to be the first priority. Guidance must be provided to ensure that hazard alerts are issued appropriately to inform workers and employers about imminent risks to health and safety.

## Status

The MOU with Polices Services now includes provisions on the issuance of hazard alerts. The inclusion of these provisions will help to ensure that risks to worker health and safety are immediately addressed, even when doing so could jeopardize the ability to successfully prosecute workplace parties for violations that contributed to the incident.

In 2015, the production of Hazard Alerts was re-assigned from Investigations Services to an ILS team with expertise in putting together safety information for employers and industries.

Recognizing the need to have information distributed in a timelier manner, WorkSafeBC began publishing interim alerts in the form of Bulletins in late 2015. These Bulletins focus on health and safety issues that arose in incidents that were still under investigation. Specific situations/employers are not mentioned while the investigation is ongoing. However, unlike the past where Hazard Alerts were delayed until the investigations were completed, employers are now alerted to the hazard immediately and can act to prevent further injuries or fatalities without undue delay with this new process. The likelihood that the integrity of the investigation might be compromised has been reduced because nothing specific to a specific investigation is published.

After the investigations are completed, WorkSafeBC will be able to issue Hazard Alerts on the specifics of the particular incidents.

In 2015/2016, WorkSafeBC published 32 Bulletins, including, for example:

- Avian influenza (January 2015) – a Bulletin to employers about protecting against infection and preventing the virus from spreading
- Disposing of explosives (December 2015) – a Bulletin covering dangers of damaged explosives, legal disposal requirements for safe disposal (investigation ongoing)
- Mobile crane requirements (February 2016) – a Bulletin regarding crane requirements for planning and operation, in response to the New York crane collapse on February 5<sup>th</sup>, 2016

## **EMPLOYER INCIDENT INVESTIGATIONS**

### Recommendation

32. Amend the *Workers Compensation Act* to specify timelines for employer incident investigations. The employer should be required to complete a preliminary investigation within 48 hours. The full investigation must be completed, and report submitted to WorkSafeBC, within 30 days with an extension available in some circumstances.

## Purpose

Providing a set timeframe for employer incident investigations will ensure that, when an incident does occur, the employer takes timely steps to address any continuing risks to health and safety and prevent further incidents.

## Status

The first step in meeting the goal of preventing further incidents and protecting health and safety is for an employer to do an immediate investigation to determine the cause of an incident. Establishing timelines for the completion of this investigation will ensure risks to health and safety are addressed as soon as possible.

The implementation of this recommendation required legislative change, which was introduced by Bill 9. Prior to the amendments, employers were already required to conduct investigations of workplace incidents. The amendment specified the mandatory time frames for completing investigations and filing reports. Bill 9 did not change the types of incidents that employers are required to investigate (e.g. fatalities, serious injuries, near-misses, diving- and blasting-related incidents).<sup>1</sup> There has been feedback from some employers suggesting the breadth of reporting requirement is too broad, and takes in fairly minor injuries. However, the part of the Act, which sets out the breadth of this requirement, was not changed as part of Bill 9.

There were 2 primary changes as a result of the Act amendments:

- an employer is required to prepare a preliminary investigation report within 48 hours of a workplace incident, and
- An employer is required to complete and submit to WorkSafeBC a full investigation within 30 days of the incident.

An employer must take actions after the preparation of the 48-hour report to prevent similar incidents while the full investigation is underway.

Upon completion of the full investigation, the employer is also required to undertake corrective action without delay. WorkSafeBC has the ability to extend the 30-day timeframe if appropriate (e.g. for complicated investigations).

To assist employers in meeting their new obligations, WorkSafeBC created a standardized form in June 2015 that employers can use to capture all the incident investigation information required. In January 2016, the form with its accompanying Quick Guide, was revised and simplified in response to the new requirements as a result of further amendments to the Act (Bill 35) and feedback received from employers and Prevention officers. In addition to fax and

---

<sup>1</sup> Bill 35, *Workers Compensation Amendment Act (No.2)* 2015, added a requirement in the Act for employers to immediately report to WorkSafeBC all workplace fires or explosions that had the potential to cause serious injury to a worker.

mail options for submitting the reports, WorkSafeBC added an online portal option to provide secure, fast and direct submission.

With the changes to the Act and policies completed, WorkSafeBC reports that it is developing additional resources to assist employers and joint OHS committee members meet their obligations. These resources include an introductory video, a Reference Guide for Employer Incident Investigations and a one-day introductory course for employer incident investigations.

## **ENFORCEMENT PRESENCE**

### **Recommendation**

33. WorkSafeBC should routinely schedule some Prevention officers to conduct inspections on weekends and evenings to create an ongoing and effective level of presence in the workplace.

### **Purpose**

A world-class OHS regime creates an expectation that any violations of OHS requirements have a high likelihood of being discovered and addressed no matter when they are being committed. The best way to do achieve this is for WorkSafeBC officers to have some presence at BC workplaces at all times when work is being conducted.

### **Status**

WorkSafeBC now has 42 officers working a shift schedule that includes evenings and weekends. An additional 10 officers have been hired and will assume the same schedule, once training is completed.

WorkSafeBC has officers on call to respond on a priority basis to urgent prevention calls 24 hours a day, 365 days a year. Officers have also been deployed to conduct inspections outside of traditional work hours for various initiatives – for example, inspections on late night retailers typically occur during night shifts and roadside inspections for agriculture employers may occur in the early morning hours and on weekends.

## **REVIEW AND APPEAL**

### **Recommendations**

34. WorkSafeBC should conduct an assessment of the internal OHS review processes and give consideration to discontinuing the practice of holding oral hearings for OHS reviews; seeking an amendment to the *Workers Compensation Act* to shorten the timeframe for order reviews; seeking an amendment to the *Workers Compensation Act* to shorten the

timeframes for penalty order reviews; and seeking an amendment to the *Workers Compensation Act* to reduce the time limit to apply for an order or penalty order review from 90 days to 10 days.

35. Amend the *Workers Compensation Act* to introduce an expedited review process for occupational health and safety citations as an alternative to existing review options.

### **Purpose**

Providing a mechanism for review and appeal is an important aspect of ensuring a fair system. However, the process must occur in a timely manner to preserve the deterrent effective of enforcement tools.

### **Status**

#### ***Prevention Review Processes***

In 2015, 402 requests for review of Prevention order and penalty decisions were registered compared with 272 requests for review in 2014. 236 Prevention Reviews were completed in 2015 – a 59% increase in volume from 2014. Even with the increased volume, the average time to complete the reviews dropped by four days from 162 days in 2014 to 158 days in 2015.

WorkSafeBC's Review Division completed an assessment of the Prevention review processes following the release of the Action Plan. The process was mapped with the average timeframes for each phase calculated in order to identify areas for improvement. Improvements were made at each phase of the process to improve timeliness:

- Eliminated the process of automatically suspending order reviews where a penalty is under consideration
- Added an Assistant position to support review registration, validation and the submissions phase of the review process
- Promoted usage of the Review Division's online portal for faster provision of submissions by parties and review completion
- Eliminated the process of automatically providing penalty review submissions to another internal WorkSafeBC Division for comment
- Added one additional Review Officer to address the increase in Prevention reviews
- Assigned two additional Review Officers to the Prevention Review Officer team
- Changed the criteria and process for oral hearings requests

#### ***Oral Hearings on Prevention Reviews***

In the fall of 2014, the Review Division conducted consultations with the PPCC and key stakeholder groups on the merits of oral hearings and changing the timelines for order and penalty reviews. Stakeholders argued that there is still a need for oral hearings in some

circumstances, and that the Review Division should have the ability, on a proactive basis to decide when such conditions exist. Based on stakeholder feedback, WorkSafeBC's Review Division drafted revisions to its *Practices and Procedures* to clarify that a Review Officer may proceed with an oral hearing where "the credibility of a party or a witness is an important issue or where there are significant facts in dispute". The PPCC was consulted on these draft changes, which will come into effect on March 1, 2015.

The practice clarification and greater scrutiny of oral hearing requests resulted in fewer oral hearings being granted on Prevention requests for review received in 2015. There were 11 oral hearings allowed on reviews in 2015, compared with 27 in 2014 and 33 in 2013. Oral hearing requests were denied on 12 reviews in 2015, compared with 7 in 2014 and none in 2013. The changes have addressed the intent of the recommendation, and are achieving the goal of speeding up the review process.

### ***Shorter Timeframe for Completion of Prevention Order and Penalty Reviews***

Stakeholders were consulted on this recommendation and expressed concern about reducing the timeframe on review completion from the current legislated 150 days. Stakeholders raised concerns regarding the ability of both the Review Division and the parties on a review to be able to meet a shorter timeframe.

As part of Bill 9, Section 96.4 (6) of the Act was repealed and replaced with a provision that enables the Board of Directors to establish, by policy, a shorter timeframe than 150 days for review decision completion, based on the type of decision or order. As noted above, the Review Division has made, and continues to make, changes to its processes in order to improve the timeliness of Prevention reviews. Consideration of shorter timeframes will occur once further process changes are completed.

### ***Shorter Timeframe for Requests for Reviews***

The Action Plan directed WorkSafeBC to consider seeking an amendment to the legislation to reduce the time limit to apply for an order or penalty review from 90 days to 10 days. This recommendation was aimed at improving the timeliness of the review process. Overall, stakeholders were supportive of a change to reduce the timeframe, but believed a 10 day timeframe would be difficult to achieve. Both the BC Federation of Labour and the Employers' Forum indicated that a timeframe of around 45 days would potentially be appropriate.

As part of Bill 9, Section 96.2(3) of the Act was repealed and substituted with legislation to enable a time period of less than 90 days to be established by regulation of the Lieutenant Governor in Council.

The *Time Period for Review Regulation*, which came into effect on September 15, 2015, established a new 45-day time limit for a party to request a review of a decision or order related to Part 3 OHS orders and penalties or claims cost levies under section 73(1).

WorkSafeBC communicated the change in the request for review time limit to both staff and stakeholders. WorkSafeBC also completed the necessary changes to communication materials, systems, processes and forms to implement new timeframes on request for reviews.

The Chief Review Officer has granted one extension of time request in a situation where the employer submitted a request for review of a Prevention decision after the 45 day time limit but before 90 days had passed. No other similar late requests for review were received as of February 2016.

These changes meet the intent of the recommendation by speeding up the process.

### ***Reviews of OHS Citations***

The Action Plan recommended amending the *Act* to introduce an expedited review process for OHS Citations. It also recommended that OHS Citations be limited to a review by the Review Division, similar to reviews of orders.

As part of the Bill 9 amendments, section 196.1 of the *Act* now enables the establishment of OHS citations. Section 239 of the *Act* stipulates that only Prevention penalty orders established under section 196(1) can be appealed to the Workers' Compensation Appeal Tribunal (WCAT). As such, the WCAT is precluded by legislation from hearing appeals on section 196.1 OHS Citation decisions.

The above noted changes to section 96.4(6) of the *Act* enable the Board of Directors to establish, by policy, a time period less than 150 days, for OHS Citation orders. The regulation and policy changes required to implement the new OHS citation model came into effect in February 2016. The establishment of a shorter timeframe for review completion for OHS Citations will be contemplated once experience is gained in reviewing OHS Citations.

The Review Division has established the following OHS Citation review processes to ensure review timeliness:

- File disclosure on OHS Citation reviews will consist of documents dating back one year prior to the imposition of the citation order, similar to that for Prevention orders. An exception will occur in situations where the OHS Citation maximum of \$1,000 is imposed due to subsequent OHS Citations within three years. In these situations, a disclosure timeframe of up to three years may be required.
- Oral hearings will not be granted on OHS Citation reviews.

These changes meet the intent of the Action Plan recommendations.

## WORKSAFEBC PERFORMANCE MANAGEMENT

### Recommendation

36. Develop and implement performance measures to assess the “health and safety awareness” levels among workers; the “health and safety culture” of the business enterprise; the effective engagement of WorkSafeBC officers; and the effectiveness of compliance activities.

### Purpose

Performance measurement and management are critical to gauge the effectiveness of the OHS regulatory framework and associated prevention and enforcement strategies. These measures must be regularly tracked and WorkSafeBC needs to act on observed outcomes.

### Status

WorkSafeBC has a set of performance measures; and has plans to evaluate and develop additional indicators to provide ongoing monitoring tools of the effectiveness of its strategies and performance measures.

WorkSafeBC has conducted a jurisdictional review and research to identify additional industry performance measures. Exploring the metrics and measures used by other jurisdictions has allowed WorkSafeBC to further develop leading indicators, which provides the opportunity to adjust prevention-focused tactics to have the most impact.

### *Health and Safety Culture*

While there is no commonly used tool for measuring health and safety culture in other jurisdictions, there is growing interest in a safety culture survey tool called Organizational Performance Metrics (OPM). This tool was developed by the Institute of Work and Health. It is currently being used in New Brunswick, and is being tested in Ontario, Prince Edward Island, and British Columbia. WorkSafeBC has provided the survey, and background information on its use, to all of the HSAs in BC. The OPM is being used with a majority of employers who are supported by SafeCareBC, the HSA for the long term health sector.

WorkSafeBC continues to regularly employ the OPM survey with large employers in WorkSafeBC's Key Account Performance Consulting program to provide them with insight into the occupational health and safety culture in their organizations, and to inform if the culture may be helping or hindering injury prevention efforts. This innovative tool is reported to be helping WorkSafeBC engage with employers in new and meaningful ways.

WorkSafeBC is also partnering with several large employers in the Forestry Harvesting sector to encourage the use of the OPM (and other safety culture survey tools) to evaluate and improve

the culture of safety in the forests. Similarly, the BC Construction Safety Association is promoting the use of a safety culture survey tool developed in England with several large employers. Future uses for the safety culture tool are currently being explored to identify opportunities to raise health and safety awareness levels for employers and employees across industries in BC.

### ***Inspection Experience and Impact***

To assess the engagement of WorkSafeBC officers and the effectiveness of compliance activities, WorkSafeBC has developed an Inspection Experience and Impact Survey to provide feedback to Prevention officers and their managers. The survey is based on a series of in-depth interviews with worker and employer representatives across the province in a variety of industries to assess what is important to them about WorkSafeBC inspections. The surveys also measure the impact of the inspection on both workplace parties, including the significant question as to whether the worksite is any safer as a result of the inspection, and the reasons why. Insights provided by this survey are intended to allow Prevention officers to evaluate their effectiveness and make modifications to their inspectional process, if required.

Aggregate scores for Prevention officers have consistently been very good from both employers and workers since the survey began. A revised survey was introduced in 2015. Key scoring questions are retained and all other questions have been replaced by open-ended questions that provide qualitative feedback that better reflect Prevention officer behaviour in engaging the employer and worker representatives, specifically during the inspection and, more generally, concerning health and safety. The revised survey is currently in the testing phase, and is expected to be finalized this year.

## **CULTURE CHANGE**

### **Recommendation**

37. Develop strategies to enhance a corporate culture with a focus on the following attributes: collaboration, ownership, and openness across the prevention functions of WorkSafeBC; collaboration with other regulatory entities; ongoing engagement of and collaboration with stakeholders in labour and industry; embracing innovation and technology to improve occupational health and safety compliance; and incremental escalation in the use of enforcement tools.

### **Purpose**

A world class health and safety organization measures its success based on the level of safety and health practices in the workplace, rather than metrics related to numbers of order or the amount of penalty money collected. Preventing injuries by achieving voluntary compliance with health and safety regulations is the ideal outcome of the business. A balanced approach to prevention and enforcement, the use of the right enforcement tool at the right time, and the

ability to use judgement in dealing with individual employers all contribute to WorkSafeBC's stated goal of a province free from workplace injury, disease, and death. A corporate culture, which values a strategic, balanced approach with metrics, based on the health and safety of the workplace is the purpose behind this recommendation.

### Status

WorkSafeBC engaged Deloitte to conduct an independent review on the current state of the corporate culture within the organization. The review assessed the current culture of collaboration, ownership, and openness across the prevention functions (i.e. Prevention Services, ILS, and Investigations Services) of WorkSafeBC.

Deloitte's 2015 review of WorkSafeBC's culture of collaboration, ownership, and openness across the prevention functions found many examples of successful collaboration across the prevention functions, and identified ways to build on existing collaborative activities. To further build on the strengths identified by the review, Deloitte made five recommendations to further enhance the corporate culture: to clarify the roles, responsibilities, and services of each department carrying out the prevention mandate; to design work processes to improve consistent collaboration across the prevention functions; to continue collaboration through joint working groups; to align tools and technology to enhance collaboration; and to reinforce a culture of collaboration through communication and leadership.

WorkSafeBC met again with Deloitte in November 2015 to gain deeper insight into identified successes and best practices. In November and December 2015, the development of the prevention mandate and prevention communication strategy incorporated direct feedback from prevention staff and management through surveys, interviews, and in-person meetings. Roles and responsibilities of each department in carrying out the prevention mandate were identified and communicated. As well, progress on 2016 prevention initiatives are being shared across teams through in-person meetings to ensure that all prevention activities are aligned to approved strategies and objectives, that staff are kept updated on recent and new initiatives, and to further leverage collaboration opportunities across prevention functions at WorkSafeBC.

Work is currently underway to develop a framework to identify longer term opportunities to enhance communication and collaboration. Opportunities and recommendations will incorporate best practices from successful examples of initiatives, and communication preferences as identified by the communication survey and through interviews. Recommendations for longer term opportunities will be presented to the Senior Executive for approval in June 2016.

## INTERNAL AND STAKEHOLDER COMMUNICATIONS

### Recommendation

38. Evaluate internal and external communications with a view to improving the flow of information between levels and departments; establishing and formalizing clear points of contact with key external stakeholders; establishing a forum for external stakeholders to have an ongoing dialogue with WorkSafeBC on occupational health and safety issues; and increasing direct communication between WorkSafeBC and both the Criminal Justice Branch and the Ministry.

### Purpose

Transparency is a key feature of a world-class OHS regime. Effective communication is a strategic tool that supports change management, engagement, consistency, culture change, and dissemination of critical information.

WorkSafeBC reviewed its internal communication strategy and identified a number of enhancement opportunities to improve internal and stakeholder communication. A revised internal communication strategy has been implemented. This strategy is intended to ensure that information is accessible to staff and is accurate, current, and relevant. This will foster employee engagement by ensuring an understanding of and alignment with WorkSafeBC's mission, vision, principles, and strategies. The strategy will also improve prevention functions by fostering the flow of information across the different levels of the organization and across multiple departments and locations.

WorkSafeBC has established key points of contact at the executive level for stakeholders. OHS forums with representatives of employers and labour have also been initiated. This has enhanced opportunities for ongoing dialogue, sharing of industry best practices for emerging issues, and ongoing feedback about quality, process, and other issues.

Industry stakeholder meetings have been formalized in sectors such as Forestry, Construction, Road Builders, with meetings intended to be occurring annually at a minimum, and more often as issues arise. These are in addition to established meetings and contact with 13 HSAs in BC.

WorkSafeBC has stated its intention to continue to work closely with other organizations including the BC Federation of Labour, the Employers' Forum, BCSA, OFC, Criminal Justice Branch (CJB), and Police Services to share information and discuss issues.

WorkSafeBC also meets with employer groups as required to plan for major initiatives and/or to inform employers about inspection initiatives. In 2015, for example, WorkSafeBC worked directly with employers in Oil and Gas operations, Residential Demolition and Construction, Forestry, Commercial Trawl Fishing, Coastal Hand Falling, Metal Recycling, Shake and Shingle, and Health Care.

Communication between WorkSafeBC and the CJB has been formalized and is expected to increase as per the signed MOU and with the appointment of the Gatekeeper. As required by the Major Case Management business and evidentiary rules, WorkSafeBC's Fatal and Serious Investigations team and legal counsel consult with Crown Counsel when there are reasonable grounds to believe that an offence has occurred under the Act and the purpose of an investigation may become prosecutorial. WorkSafeBC Investigators and Legal Services consult with Crown Counsel as needed on a case-by-case basis. WorkSafeBC Investigations Services and Legal Services also meet with Crown Counsel on a regularly scheduled quarterly basis to discuss investigative-prosecutorial matters and best practices.

WorkSafeBC also regularly communicates with OHS regulatory agencies in jurisdictions across Canada to ensure an ongoing sharing of best practices.

## **ANTICIPATION AND PREDICTION OF EMERGING TRENDS**

### **Recommendations**

39. WorkSafeBC should continue to leverage new and innovative technology that will help identify emerging occupational health and safety initiatives.
40. WorkSafeBC should take the lead in creating agreements and developing technology and processes that would make data sharing between partners and jurisdictions possible.

### **Purpose**

The combustible dust hazard was emerging as a discussion topic in other parts of the world before the explosions in BC. The ability to track emerging health and safety issues in other jurisdictions is an important capability of a world class OHS organization.

### **Status**

WorkSafeBC is making good progress with its strategies to track health and safety developments abroad. It is emerging as a leader in anticipating and providing information that will help employers and industry leaders to proactively plan and manage emerging issues. A number of dashboards and tools have been developed in order to give employers access to their claims data, which helps promote accountability for both worker safety and return-to-work outcomes. The Employer Safety Planning Tool Kit, the Serious Injury Geographic Dashboard, and the Industry Safety Information Centre have all been developed or enhanced to put claims data in the hands of stakeholders. These tools provide unprecedented access to injury types and locations, which help employers and other key partners, develop strategies to help prevent future injuries.

The Employer Safety Planning Toolkit enables employers to compare their safety performance and insurance costs with others in their industry and to model different scenarios to determine their injury prevention priorities. As of May 2015, nine months after the launch of the tool, over 1,000 employers classified as medium or large have used the Employer Safety Planning Toolkit at least once. The Serious Injury Geographic Dashboard allows employers to gather key information about serious injuries in their organizations, including injury types and the geographical location of injuries. For employers with multiple worksites, this information is invaluable in helping them influence worker health and safety. The Industry Safety Information Centre is used by employers, HSAs, and other stakeholders to understand health and safety performance by industry.

As additional needs and opportunities are identified, the existing dashboards and tools are enhanced and new ones are created. In 2015 for example, Industry and Employer Injury Prevention Dashboards were developed for HSAs to assist them in planning and a Serious Injury Dashboard was launched and is available to the public on [worksafebc.com](http://worksafebc.com).

Currently, WorkSafeBC is working on a dashboard which will provide details about work-related deaths by incident, traumatic injury, disease and injury, as well as by age, region and claim characteristics. The information is provided for the past 20 years, is updated quarterly, and is accessible online. The objective is to provide employers, researchers and industry groups with information that can be used to help with their prevention and health and safety efforts. The dashboard will be available on [worksafebc.com](http://worksafebc.com) in 2016.

Within WorkSafeBC, officers are benefiting from upgrades to existing applications, such as WorkSafe Everywhere (WSE). This tool consolidates employer and jobsite information to provide officers with a holistic perspective to help with inspecting, consulting, and educating the employers and workers of BC on occupational health and safety topics. WSE compiles data from multiple sources in order to provide the most comprehensive data. The tool streamlines officers' work, which allows them to be more efficient and productive. By providing comprehensive information to officers, WSE provides real-time information on potential risk areas, thereby contributing to safer workplaces. In order to further develop WSE, WorkSafeBC has established an advisory committee to identify ways in which the tool can be improved to further aid officers.

In November 2015, a WSE Product Enhancement Release was implemented to include a series of high value enhancements identified by the advisory committee. These system improvements result in even better access to information, smoother business processes and improved usability for the officer. These enhancements have apparently been received with very positive feedback from the officer community. The committee continues to meet regularly and another product release is planned for 2016.

Recognizing the potential for leveraging information from different sources, WorkSafeBC has data sharing arrangements at both the local and national levels. In 2015, WorkSafeBC and the Provincial Health Services Authority agreed to share health authority information to better

understand claims, injury, and accident type rates that are occurring. An agreement was signed to provide WorkSafeBC claim data to the BC Research and Prevention Unit. This data is to be incorporated into their online injury data tool intended for injury prevention professionals and practitioners and the general public. Discussions with the BC Assessments Authority are in progress on an agreement to access information which will enable WorkSafeBC to identify residential and commercial properties built before 1990 and therefore, subject to higher asbestos-related risks in demolition or renovation projects.

## **ENHANCED TRAINING FOR ENFORCEMENT AND INVESTIGATION PERSONNEL**

### **Recommendations**

41. Commit to enhanced training of WorkSafeBC officers and managers in the areas of penalty investigation techniques, interviewing skills, report writing, use of new IT systems and tools, and collaboration skills.
42. Management should always take a proactive role in setting training priorities (both corporate and individual), for vetting the quality of training programs, and ensuring all staff take part on a regular basis.

### **Purpose**

The volume and pace of change flowing from the report's recommendations has necessitated a considerable commitment to training, particularly for staff involved in prevention, investigations and reviews.

WorkSafeBC has proceeded with training for management and staff in various departments on new penalty processes; enhanced enforcement tools; major case management and the associated software system; investigation techniques; the use of new IT systems and tools; and a number of skill areas, including interviewing skills, report writing, and collaboration skills.

Over the past 12 months prevention managers, supervisors and officers have attended 76 training sessions in total focusing on the mechanics of implementing each new enforcement tool, and to understand new policies and guidelines as a result of the Action Plan. Training was conducted across the province on a 'just-in-time' basis prior to each new enforcement tool coming into effect. Further training is planned for the spring of 2016 to provide reinforcement now that all the tools are in effect, to share learnings, and to increase consistency in the application of the tools across the province.

Feedback from employers through the Prevention Inspection and Impact Survey provide managers with information to mentor and coach officers on the use of enforcement tools as well as effective practices when conducting inspections. Specific training is provided to officers as appropriate to continue to enhance their skill set and knowledge.

To date, Investigation officers and other members of the Fatal and Serious Injuries department have received training on major case management, search and seizure, and interviewing techniques. Going forward, this training is intended to occur on an ongoing basis to ensure that officers are aware of the most up-to-date practices and techniques. Staff have also received training on the software system developed to help support the dual team model and major case management.

Training needs for Legal Services staff are expected to continue through attendance at external courses relevant to their work as well as through opportunities available in-house. Legal Services staff have participated in introductory and refresher training on the software system developed to support the dual team model, with further training to be scheduled as needed.

Training needs have been identified in certain areas of criminal law, such as expertise relating to the application for, and execution of, search warrants. Guest speakers with expertise in these fields have been identified and contracted by WorkSafeBC to provide training to legal staff. Further training opportunities are under review, and will be scheduled as needed.

# Finalize the appointment of the CEO

---

## Recommendation

43. Re-engage with the search firm immediately, and expand the criteria to address the unique attributes the position of President and CEO will require.

## Purpose

The desire to achieve a world-class occupational health and safety regime requires a President and CEO who has a deep understanding of the business, a strong vision of the future, and the ability to move quickly to stay at the forefront of innovation and change.

## Status

On December 9, 2014, the Board of Directors announced the appointment of Diana Miles as President and CEO of WorkSafeBC. Ms. Miles has fully embraced the Action Plan's recommendations and has moved things forward as quickly as could reasonably be expected. She has also been leading additional initiatives to further improve WorkSafeBC's status as a world class regulator in the field of occupational health and safety. Her deep knowledge of the organization, effective relationships with key stakeholders, and strong leadership skills have been essential to the successful implementation of the Action Plan.