Health and Safety Committees, Representatives and OHS Programs

HSCs are groups of worker and employer representatives working together to identify and solve health and safety problems at the work site. The primary purpose of the committee is to facilitate communication and participation in health and safety. Participation in OHS has been shown to improve health and safety outcomes.

In Canada, HSCs are the mechanism used for participation in OHS by work site parties. HSCs are supported through OHS programs which set the framework for how OHS is managed in the workplace. In 2018, HSCs and OHS programs became mandatory in Alberta for employers of a certain size.

Both inside Canada and out, when an HSC is the mechanism for worker engagement there are a number of variations in requirements used to determine the thresholds for when one is required. For example, in some places in Canada, HSCs are required only for certain industries, while some States in United States base thresholds for HSC's on number of workers and/or workers' compensation statistics. In the European Union, a framework has been developed to mandate worker consultation and participation in health and safety, but member States are left with the flexibility to determine how to address this in their OHS legislation.

While most Alberta stakeholders support the importance of engagement in OHS, some stakeholders have raised concerns that the prescriptive nature of Alberta's requirements for the structure of committees, function, training, conduct of meetings, and even the management of meeting minutes, has resulted in challenges. For example, a number of employers have reported the lack of flexibility as onerous, making it difficult to find volunteers and meet training requirements. In construction, where prime contractors are required to coordinate OHS at multi-employer work sites, establishing an HSC for the work site can be challenging due to the transient nature of the workforce and changing activities on the work site as construction progresses. Providing a robust, but less complex and prescriptive framework for worker engagement may help promote compliance as well as allow workplaces to develop processes and programs that better align with their workforce, hazards, and organizational structure.

Discussion Questions

4. What are options, outside of HSC and HSR that could be considered to ensure workplace engagement in OHS in Alberta?

The Alberta construction industry is comprised of over 70,000 employers. If we understand that systemic changes and continuous performance improvements in health and safety begin with the health and safety management system, then we can appreciate that more attention needs to be focused on increasing the number of employers with certified health and safety management systems.

Currently, there are little over 5,000 audited and certified health and safety management systems in our industry. This equates to well over 90% of the industry employers without certified safety management systems. By contrast, at least 75% of ACA's contractor members have their COR.

How can an industry improve if more focus is not placed on engaging more employers in developing effective health and safety management systems? Why is this issue not more prominent in legislative changes? We suggest focusing resources on employers without systems or programs will have vastly greater impact than increasing scrutiny of those that do. A COR or equivalent for contractors could be mandated in legislation.

We should increase focus on the real work which has been proven time and again across the country – work that has been proven to yield significant and sustained injury reduction improvements – that is increasing the number of employers engaged in development, implementation, and audit of effective health and safety management systems. This would lead to significant and sustained injury reduction improvements for Alberta.

Making current programs for those employers already participating in certification processes more onerous will not address the very real issue at hand…there are many more employers that don't participate with safety management systems than those that do. We suggest a more deliberate and thoughtful approach to increasingly engaging these employers is the key.

We suggest more emphasis be placed on employer responsibilities as they relate to health and safety management systems and programs – especially those with no programs in place. The employer needs to be the one required to develop management systems that protects its employees. This cannot effectively or reasonably be delegated to others, such as a Prime Contractor, to do the work of an employer.

5. What aspects of HSC, HSR and OHS programs are most critical to best support the IRS?

Eliminate the requirement for JHSC. In keeping with ACA's Policy on Regulatory Best Practices, the requirement for JHSC needs to be substantiated by evidence of safety improvement, otherwise scarce resources that could be better used to improve safety have the risk of simply adding administrative burden.

6. Which areas, for example function, duties, training, meeting conduct, would benefit from more flexibility? Why is this the case?

a. *Rules of procedure are not clearly explained or consistently interpreted.*
b. *Unclear training requirements except for online training. However, there are challenges in providing CCOHS online training in remote areas. What is acceptable for internal training? Mandatory annual training of 16 hours is excessive, and not based on evidence.*
c. *How are subcontractors who have scopes that require demobilization and remobilization and are not on site for 90 days straight managed?*
d. *The expertise required, including how management systems work, for investigation responsibilities are beyond the knowledge and experience that might be expected of workforce committee members. This challenge is compounded by the requirement to be*

voted in, which risks representation by popularity rather than competence. If so, the ultimate aim of investigations to develop appropriate corrective actions that prevent future recurrence is diminished.

7. What challenges have been observed in complying with the requirements for HSCs, HSRs and OHS Programs?

The commercial and institutional construction industry and its projects are too dynamic and fluid to make a defined composition of worker reps to management reps meaningful or practical, compounded by selection through a voting process. This industry and its projects have too rapidly a changing workforce which distracts employers and the workforce from real progress in safety as valuable time is waste meeting bureaucratic quotas of member voting and participation. Specified requirements, such as these, appear to be based on an antiquated concept that there exists management / workforce strife in every workplace. This concept is not based on evidence. The consequence is that employers focus on a compliance program, rather than developing world-class safety. For example, failure to have a JHSC established on site (low risk) should not have the same weight as a worker working at heights not tied off (high risk). The emphasis on a compliance approach creates further administrative challenges as the calculation of number of workers as full time and part time are not defined, nor is the number of employed and self- employed working on a site clear on a daily basis.

8. Are there other options for low risk work sites other than a HSC? What would be considered a 'low risk' work site?

We suggest focusing resources on employers without systems or programs will have vastly greater impact than increasing scrutiny of those that do.

We should increase focus on the real work which has been proven time and again across the country – work that has been proven to yield significant and sustained injury reduction improvements – that is increasing the number of employers engaged in development, implementation, and audit of effective health and safety management systems. This would lead to significant and sustained injury reduction improvements for Alberta.

Making current programs for those employers already participating in certification processes more onerous will not address the very real issue at hand…there are many more employers that don't participate with safety management systems than those that do. We suggest a more deliberate and thoughtful approach to increasingly engaging these employers is the key. Mandating COR or equivalent for contractors in the legislation would be one means to catalyze engagement.

9. For work sites where there is a prime contractor, or multi- employer work sites, how could OHS requirements ensure effective engagement in OHS?

a. *Owner is mentioned throughout Act, but is the owner mandated to participate should HSC continue?*
b. *How are subcontractors who have scopes that require demobilization and remobilization and are not on site for 90 days straight managed should HSC continue?*

Right to Refuse Unsafe Work

The "right to refuse" is intended to address situations where the right to know and the right to participate have failed to address a health and safety concern. In Alberta, workers have the right to refuse work that presents a danger. Employers cannot penalize workers for refusing to work or otherwise complying with their obligations under the OHS Act. A worker may refuse work that may endanger themselves. However, the OHS Act does not define "danger" or place limitations on refusals where other workers or the public may be endangered. Providing more clarity in the OHS Act will help balance the protection of workers and others who may be impacted by a work refusal.

Discussion Questions

10. How can "danger" be better defined to provide more clarity as to when the right to refuse unsafe work applies?

Right to refuse is seen rarely in commercial construction, is dealt with through established safety management systems, and would still have ambiguity even with a definition. Encouraging or mandating employers to have a health and safety management system would therefore also help.

11. Are there circumstances in which the right to refuse unsafe work should be limited? Please explain and provide examples.

Every worker has the right to refuse without limitation which further questions the value of HSC.

12. How can the process outlined in the OHS Act be streamlined to provide work site parties with more flexibility as to how to address work refusals in the workplace?

No issue with current process. However, where reprisals are alleged, ACA does not support OHS officers having the responsibility to issue orders regarding the employment relationship. ACA is concerned about duplication of existing statutory mechanisms, ensuring due process, and believes that officers are not equipped to assess and weigh conflicting evidence.

Enabling Innovation

Innovation is a process that enables improvements by implementing creative ideas to improve health and safety outcomes and to generate value. Providing an OHS framework that allows for innovation can promote problem solving to address issues and inspire work site parties to comply with legislative requirements. The challenge is to find and remove barriers that inhibit innovation and create challenges to compliance, while empowering work site parties to work together to find solutions that enhance OHS.

Enhancing Flexibility and Clarity

The government is committed to improving health and safety outcomes while reducing unnecessary regulatory burden. Legislative requirements should be clear so work site parties understand their obligations without the need to ask for an interpretation from the government or a lawyer.

Some examples stakeholders identified of ways the OHS legislation could be made clearer include:

- Simplifying language, for example, "discriminatory" versus "disciplinary" action.
- Adding clarity to definitions, for example "prime contractor" and incidents that must be reported.
- Removing duplication, for example provisions already covered elsewhere such as the obligations or authorities of government staff and a work site party having to comply with the legislation.
- Removing obligations that create burden but may not create value, for example, mandatory consultation as part of a request to vary from legislative requirements (acceptances).

Some examples stakeholders identified of ways the OHS legislation could increase flexibility include:

- Streamlining process steps, for example simplifying processes for work refusals or discriminatory action, compliance actions by OHS officers.
- Allowing for flexibility on how to do deal with work site noncompliance.
- Simplifying the processes to appeal compliance orders.
- Allow for flexibility where multiple employers are engaged at a workplace.

Discussion Questions

13. How can the OHS Act be amended to support flexibility and innovation?

ACA believes that the Act should focus on safety outcomes not solely on prescriptive dictates, and employers would then be free to innovate to achieve the outcome. For example, the employer should be able to justify alternate first aid personnel based on the risks of the jobsite and location to emergency response centre.

One means to do this is focus on degree of control.

A Focus on Degree of Control – *Workplace responsibilities are many, and often overlap. The accountabilities with these responsibilities often overlap as well. Over the years, it has become increasingly evident that the application of enforcement is uneven, and potentially discriminatory in*

nature. This approach does not produce the needed motivation for everyone to improve or take accountability and this needs to change.

One such example is the relationship of an employer and a prime contractor. A prime contractor often hires an employer to conduct a task or series of tasks, to which that specific employer has knowledge, skill and expertise to perform. It would stand to reason that if the employer had direct control over the task and the employer's workers, that the employer would have the greatest 'degree of control' involving a situation with that specific scope of work. The prime contractor, would have less direct control over the specific hazards of the work, the actions and the behaviours of that employer's workers. The application of an order in such a circumstance, should then begin with that employer.

If the employer on whom the duty is placed, fails to exercise a requirement of the Act, Regulations or Code, then the Prime Contractor is not necessarily "off the hook". If it can be demonstrated that the Prime Contractor did not have a process to manage, or implement the process to manage that employer (which is the subject of the requirement), then the application of an order may also extend to that prime contractor. If the prime contractor's process is found to have been developed and implemented, then the employer (having the greatest degree of control) would be the only party to receive the order.

If the prime contractor was not to organize or coordinate the work of several employers resulting in an uncontrolled hazard posing harm to an employer unrelated to the hazard created, then the prime contractor and the employer which left the uncontrolled hazard may be the only parties to receive an order.

This same philosophy of 'greatest degree of control' can and should be further explored throughout the various workplace parties (including owners, prime contractors, employers, supervisors, workers, and suppliers) as there is currently a disproportionate, distorted and impractical application on prime contractor, and to a large extent the employer.

14. What areas in the OHS Act require additional clarification?

Definitions are crucial to ensure all stakeholders share an understanding of terms as they read through the Act, regulations, and Code. Further clarity and continued focus on improving definitions is needed.

1. *Definition of construction worksites: ACA encourages the definition that it has created with OHS in 2019 be added to the legislation. One key clarification is that the contractor's office is not part of a construction worksite. ACA will send the Interpretation to OHS in a separate email.*
2. *Work Site Parties*
    a. *Define what "person in control" means to the prime Contractor. Supervisor responsibilities need to be clearer as the interpretation can be extreme and create liability that will be very difficult to manage.*
    b. *Any reference to a union in the Act, Regulations, or Code (eg. Act Section 22(1) (a) and Section 24(2) implies that those parties are subject to different rules.*
3. *working at heights: - In particular, the language and direction for assessment of working at heights outside of specifying a specific height of 10 or 6 feet. For example, the language should be risk & hazard focused rather than how the legislation currently reads. - Leading edge work*

and overall control zones is another area which requires clarification. Ladder access (3 points of contact), light duty, short duration is a consistent grey spot that all primes have constant struggles with. Make clearer the language on short duration, three points of contact and light duty.

4. *Consideration should be given to aligning definitions between related legislation (e.g. the OHS Act, WC Act, Employment Standards and Human Rights) where it is appropriate.*

15. What are areas within the OHS Act that would benefit from being less prescriptive to enhance flexibility and innovation?

ACA disagrees with stop work orders being issued across multiple work sites. By the very nature of project-based work such as construction, subcontractors, personnel, and equipment differ across sites so blanket orders are not appropriate.

16. Are there areas of the OHS Act that should remain prescriptive? If yes, please explain how and why. If not, please explain.

Providing Advice to Government

Within the OHS legislation, there are a number of provisions which require the formation of advisory bodies, for example the OHS Advisory Council, Mining Expert Panel, Joint First Aid Training Standards Board. Having the ability to create advisory bodies to provide technical advice and recommendations to government and stakeholders is invaluable and allows the extensive expertise of industry, health and safety professionals, workers, and academics to be leveraged to help develop better legislation and programs. However, the current legislation only provides for advisory bodies in specific areas, in some cases with mandates limited to narrow topics. Changing to a less prescriptive framework will allow government to establish advisory bodies when they are required, ensure the membership reflects the needs for advice, and allow the mandates of the bodies to be tailored to the circumstances or issues that need to be addressed.

Discussion Questions

Advisory committees need to collaborate with industry bodies. Committee agendas, meeting minutes, and reports should be freely accessible to industry.

17. Should OHS legislation specify advisory bodies to address particular issues? If yes, for which issues and why? If not, please explain.

18. What are other ways government could leverage the expertise of stakeholders *and* specialists to get advice?

ACA believes that on-going dialogue and consultation amongst employers and government is essential to moving forwards together. Employers believe they can strengthen the initiatives of government through proactive consultation, rather than reacting after an initiative is in place. Bill 30 provides a case in point.

A Focus on Change Management – *Without getting into specifics of how Bill 30s recent changes were "rolled-out" to industries, it is abundantly evident that change management was not a consideration or a priority. With the Act reopened, suggestion is made for the following:*

- ***Step 1: Involve impacted parties*** *(all affected industries, employers, associations, etc.)* ***in the discussion***
    - *similar to government's desire for worker involvement with OHC's (and the many studied benefits about cross-functional teams), we request the same opportunity be afforded to employers in the review and suggestion about requirements. Requirements, which are performance-based, pragmatic, meaningful and practical. This was not the case in this most recent set of changes.*

- ***Step 2: Jointly determine why the changes are required and what the intended strategy and objectives are.***
    - *Begin with the end in mind – what are we trying to achieve – be transparent about strategies, objectives and goals*

- ***Step 3: Communicate the draft changes to all stakeholders for review and comment***
    - *Give increased opportunity for dialogue and review – don't hide behind obscure websites and impractical timelines – have meaningful consultation and be open-minded and flexible to learn from industries and employers*

- ***Step 4: Revise the draft based on meaningful feedback***

- ***Step 5: Present the final information to stakeholders***

- ***Step 6: Confirm final information and develop training programs which support successful implementation***
    - *Training for OHS officers*
    - *Training for industry, employers, and employees*

- ***Step 7: Deliver training to affected parties about incoming changes***

- ***Step 8: Jointly determine phase in period for implementation and communicate through "purposeful repetition"***

- ***Step 9: Implement changes***

Step 10: Follow up with affected parties to determine if changes as intended are producing desired results or if redirection to Step 1 is needed.

Consolidating Alberta's Radiation Safety Requirements

OHS encompasses a wide variety of hazards, including radiation. In Alberta, like many other jurisdictions, radiation safety in the workplace has additional legislation. This creates the potential for overlap and duplication in requirements. At the same time, it can create gaps where the radiation requirements are not updated in step with those in OHS legislation. Integrating the radiation safety requirements into the OHS legislation has the potential benefits of:

- Removing duplication.
- Aligning requirements and simplifying subsequent legislative amendments.
- Treating radiation hazards in a manner consistent with how Alberta's OHS legislation addresses other workplace hazards – for example, similar approaches to controlling hazards and similar enforcement tools.

A key distinction between OHS and radiation legislation is that OHS legislation primarily focuses on protecting workers, whereas radiation legislation has an equal balance of protecting workers and the public. An example of this is radiation legislation provides maximum exposure limits for both workers and the public. Properly operated radiation equipment provides the lowest dose possible for patients undergoing medical and dental procedures. Maintaining this balance is an important consideration if the legislation is to be consolidated.

Discussion Questions

19. How does the radiation safety legislation impact your workplace?

20. How can current radiation safety legislation be revised to improve health and safety outcomes?

Enhancing Accountability

Work sites parties are responsible under the law, within their sphere of control, for addressing the hazards in the workplace and ensuring the health and safety of those affected by the hazards. The government is responsible to develop and enforce the law but not manage OHS in individual workplaces. As such, it is important that the legislative framework attribute responsibility to the parties who are accountable. At the same time, processes and requirements should be straightforward and clear so all parties understand their responsibilities.

Reporting Potentially Serious Incidents (PSIs)

PSIs are events which could have resulted in a serious injury or fatality under slightly different circumstances. Research has shown relationships between PSIs and serious incidents; efforts to address PSIs can reduce the potential for serious incidents or fatalities. Under the OHS Act, employers and prime contractors must report PSIs to Alberta Labour and Immigration. Employers and prime contractors are responsible to investigate these occurrences and ensure the appropriate controls are in place to ensure worker protection. The reporting requirement was added when the OHS Act was amended in 2017.

The legislation does not define the types of injuries or incidents that must be reported as PSIs. This has led to inconsistency in the application of the requirements and limits the ability of government to conduct follow-up. Some employers have identified the requirement to report as an administrative burden; where legislation imposes administrative burdens on employers, the corresponding value of the requirement should be clear.

Discussion questions

21. How should work site parties be accountable for PSIs?

Eliminate the requirement for reporting of PSIs.

22. Is there value in mandating reporting for PSIs? Please explain and provide examples

The reporting of PSIs raises numerous issues:
First - the definition and method to evaluate – many employers and employees are confused by this when there is no defined, standardized or quantifiable mechanism to evaluate this. Evaluating factors such as probability, severity, and frequency of exposure are themselves riddled with wide and unreliable interpretations – why magnify the problem? Whether it be any one of these factors, they all depend on the end user's knowledge of the subject, training on the issue and experience (either getting away with something or not). These will dramatically influence judgement as to the seriousness of the occurrence. Case in point - If a worker slips on same level and falls without injury, some might imagine the worst possible outcome such as the worker fracturing their skull, while others might see it as being of minor potential. Placing requirements to report, prior to strong communication of meaning and provision of assessment strategies is unwise and very faulted.

Second - the usefulness of gaining such information – the OHS division has access to a plethora of outcome-based information already. WCB claims, orders, COR status, etc. provide more than enough information to trend from and more than enough data to develop prevention strategies. There are serious concerns whether OHS effectively engage in using data-driven decision making with the data they already have access to. One needs only consider the frequency of inspections in specific sectors of construction and industries with much higher claim, injury and fatality rates. What is the point of adding data if the existing data is not fully trended or used? It would appear again to be an over-reach in government's responsibility for safety in the workplace.

Third - the delicate balance between motivation and consequence – many employers struggle for their workforce to report near-miss / no-loss incidents. As a result, many employers work towards fostering a positive culture with no recourse on the worker for reporting these types of events. How does that square with this new requirement? What position does that put employers in and what's the end game? Is government asserting itself too far into an employer's business operation when there is no loss? The negative consequence on the workplace culture is too great for these types of requirements. If a person or employer reports something in good faith and then gets reprimanded for it (i.e. orders, work stoppage, etc.), then how can one expect similar events will be reported after the negative experience of doing so. It appears to put government in a conflicting role between that of support and enforcement.

Fourth – the bureaucratic layer added – once again, it's an additional "thing to do", slowing down the internal responsibility system in getting the issue effectively addressed without providing any perceived or real value to the workforce, the employer, or the government. Instead, it is replaced with misdirection, confusion, apprehension and a strong lack of clarity. It impedes any real progress an employer is working towards.

23. How should a PSI be defined? Where should it be defined?

a. *Although Serious incidents are well defined in ACT, the definitions of potentially serious has a large amount of subjectivity and differs from some of the General contractors' initiatives (i.e. Was there enough hazardous energy present to cause a serious injury/ models that work on both energy and probability and use science to determine potential).*
b. *Still some subjectivity on adequate controls for hazardous energy and how it gets classified as a PSI.*
c. *Lack of clarity between officers' interpretation of a PSI. Overall, the online set up of PSIs is not aligning with interpretation of OH & S Officers.*

24. If the reporting requirement were to be maintained, how should government use information from PSIs?

Eliminate the requirement for reporting of PSIs.

Due Diligence

The Alberta *OHS Act*, similar to corresponding legislation in the rest of Canada, is "strict liability" legislation. This means work site parties are responsible for the consequences of a workplace incident or non-compliance, even where they were not at fault or negligent. The work site party's defense in such a case is that they took all reasonable measures to prevent the incident or non-compliance ("due diligence"). Often, the legal term "reasonably practicable" is used in law in conjunction with strict liability requirements to make it clear that the work site party's responsibility is to take all reasonable actions under the circumstances. The intent is to balance what is needed to ensure the highest level of protection with what is reasonable and possible under the circumstances. In many

jurisdictions, the "due diligence" defense is codified (an onus statement) in legislation to further reinforce how accountability is applied.

Discussion questions

25. Should the due diligence onus on work site parties be codified in the OHS legislation? Please explain.

ACA believes current provisions are adequate and there is no need to codify in the OHS legislation.

Conclusion

Thank you for participating in the engagement process. The answers provided will help inform changes in the OHS and Radiation Protection Acts. The discussion questions are shaped by what we have heard are the concerns from some of our stakeholders. However, we recognize that we may not have heard everything. If there are other ways the OHS framework could be improved, stakeholders are encouraged to provide suggestions and ideas.

26. Are there any other ideas or suggestions for improving the OHS Act?

1. *Workplace Violence and Harassment*
    a. *Revisit the requirement for domestic violence to be included in Violence and Harassment Policies.*
    b. *Harassment should be consistent for Workers as for Employers and Supervisors, ie. 3(1)c)Every employer shall ensure, as far as it is reasonably practicable for the employer to do so, that none of the employer's workers are subjected to or participate in harassment or violence at the work site*

       4(a) (v) Every supervisor shall as far as it is reasonably practicable for the supervisor to do so, ensure that none of the workers under the supervisors supervision are subjected to or participate in harassment or violence at the work site

       5(d) Every worker shall, while engage in an occupation, refrain from causing or participating in harassment or violence.

    c. *Who is determining what harassment is (as far as claims are concerned)? OHS ability to determine what is harassment is quite subjective and can be open to interpretation when it comes to managing performance and / or disagreements.*

2. *Worker and Supervisor training and competency*
   Due to the dynamic nature of the construction industry, the issue of employee mobility is paramount. Having consistent approaches to the topic of training and competency is critical.

A vast enterprise of safety training services has developed. This has opened doors to increased training potential and revenue to training agencies and consultants. It has also created wide gaps between what an employer thinks they are getting by paying for the training and what they end up getting. This extends to factors such as consistency, quality, reliability, acceptance by others, etc.

Employers cannot reasonably be expected to determine the quality or consistency from the plethora of training options and different resources available in the marketplace. This is quite frankly, impractical and not possible given scarce resources of individual employers. Without clearly defined industry and government accepted standards for the training, and no oversight of the training delivered, industry and individual employers are in a compromised position. They are compromised as they simply cannot know with certainty whether the training meets the need and whether the training is acceptable to the government, owners, or prime contractors.

We suggest that a comprehensive and cooperative industry/government review be undertaken to determine where and how employers in our province can be assured that the training they are providing to their employees meets the intent of the legislation and the needs of the industry. We anticipate the review will reveal large deficiencies within the overall provincial strategy to improve workplace safety through quality safety training. More importantly, we believe such a review will help chart a course to provide solutions to this very real issue.

3. *The intent of Certificate of Recognition programs is to affirm an employer's health and safety management system has been evaluated. The Safety Associations are 100% funded by employers and therefore employers should direct the development and maintenance of the COR program to ensure it reflects the needs of industry to continuously improve safety programs. The governance changes in Bill 30 put the Minister between the employer and the safety associations they pay for. Bill 30 removed the employer's rights to direct the policy decisions for their programs and transferred those rights to the Department of Labour- including the right to raise and direct the use of employers' funds without appeal. This is akin to expropriation without compensation or accountability. For example, the recently imposed additional audit process has had little to no impact on improving or enhancing safety programs. The implementation did not contemplate the burden of delivery to the ACSA and redirected essential resources into additional red tape auditors. We recommend that offending provisions in Bill 30 be repealed.*

4. *ACA endorses OHS compliance resources being focused on highest risk employers. Evidence indicates that employers that have made the commitment to a Health and Safety Management System through the Certificate of Recognition program are lower risk than employers that have not invested in the COR program. Compliance resources should focus more on the non-COR employers.*

5. *We further note that no corresponding evidence has been presented that employers with HSC are any safer than employers without HSC.*

6. *Provisions regarding the sharing of information between OHS and the WCB should be revisited and clarified. The WCB is an insurance company and has a role to gather and analyze data for insurance purposes. Dissemination of information to OHS by the WCB should be limited to aggregate data used to monitor the performance of WCB/insurance related programs and activities. The use of insurance claim data by OHS provides inaccurate and flawed data upon*

which OHS is basing assumptions regarding workplace safety and safety performance and undermines the no-fault premise of WCB. The integrity and interpretation of WCB data for injury prevention purposes has been a long-standing concern and continues to be so. WCB data is relevant only for insurance purposes and it is not appropriate to be used for safety and injury prevention purposes. OHS should develop appropriate reporting mechanisms and metrics that do not rely on WCB data.

7. *ACA recommends against a statutory review cycle with so great a frequency as to create uncertainty and confusion in what is already a complex system. The Occupational Health and Safety Regulations and Code should be updated periodically to reflect changes in technology, safe work practices, and understanding of occupational hazards and their prevention. The frequency of updating the OHS Act and Code needs to reflect a balance between reflecting recent change and the impact of increased cost to employers in revising their employee training programs. We recommend that mandatory reviews be dropped or amended to 10 years.*