
5 Labour and Advanced Education: Occupational Health and Safety

Summary

The Occupational Health and Safety Division at the Department of Labour and Advanced Education is responsible for investigations and inspections related to workplace safety. We found the Department's investigations into serious workplace accidents are adequate. However there was insufficient evidence in inspection files to determine whether occupational health and safety inspections were adequately carried out.

Although workplace safety is a shared responsibility, an effective regulatory process is key to success. Practices among inspectors such as preparation of inspection reports, obtaining recipient sign off and collecting evidence of compliance with orders, are not consistent. Checklists which focus on the risk areas an inspector should be examining during an inspection would serve to help ensure all essential risk areas are addressed.

Orders issued by inspectors to address health and safety weaknesses are not adequately followed up to ensure corrective action is taken. 1,228 orders (32%) issued from April 2012 to March 2013 were not complied with by the date required. Yet, inspectors issued only 10 summary offense tickets for violations or noncompliance during that time. The significant rate of noncompliance is concerning. Additional guidance on follow-up and the types of situations and outstanding orders that would warrant a summary offence ticket is needed. Although the seriousness of the deficiencies identified may vary, timely action is necessary to properly mitigate the related risks to health and safety in the workplace.

Improvements in operational planning and monitoring are also needed to ensure high-risk workplaces are targeted for inspections. There are a significant number of workplaces subject to the provisions of the Occupational Health and Safety Act in Nova Scotia – many more than practical for Department staff to regularly inspect. Management uses Workers' Compensation Board information to identify higher-risk industries; however, more specific inspection targets need to be developed and monitored to ensure resources are directed primarily to higher-risk workplaces.

Management does not use the Department's information system to its fullest potential. Information that could be useful to management is not collected or is not collected in a consistent manner. Additionally, the Department's file review process is not functioning. The Department does not have a system to log and track complaints to ensure all complaints received are recorded and investigated. We recommended that the Department establish such a process.



5 Labour and Advanced Education: Occupational Health and Safety

Background

5.1 The Occupational Health and Safety Division of the Department of Labour and Advanced Education promotes the responsibility of employers and employees to create safe and healthy workplaces through the use of safe work practices, adequate training and suitable equipment. The Division conducts worksite inspections to assess compliance with the Occupational Health and Safety Act and associated regulations, and carries out investigations into serious workplace-related incidents and fatalities.

5.2 The foundation of the Occupational Health and Safety Act is an internal responsibility system, which is based on the principle that employers, contractors, and employees “share the responsibility for the health and safety of persons at the workplace.” The Act further clarifies the internal responsibility system is:

“supplemented by the role of the Occupational Health and Safety Division of the Department of Labour and Advanced Education, which is not to assume responsibility for creating and maintaining safe and healthy workplaces, but to establish and clarify the responsibilities of the parties under the law, to support them in carrying out their responsibilities and to intervene appropriately when those responsibilities are not carried out.”

5.3 The Division is responsible for the following regulations under the Occupational Health and Safety Act.

Regulation	Description
Occupational Health and Safety First Aid Regulations	Addresses first aid training for employees and requirements for first aid
Occupational Safety General Regulations	Addresses a variety of topics including personal protective equipment, ventilation, lighting, sanitation, mechanical safety, tools, electrical safety and premises and building safety
Violence in the Workplace Regulations	Addresses acts or threats of violence which endangers the safety of an employee in designated workplaces
Workplace Hazardous Materials Information System (WHMIS) Regulations	Addresses controlled products used, stored or handled at a workplace



Regulation	Description
Temporary Workplace Traffic Control Regulations, and the Fall Protection and Scaffolding Regulations	Addresses temporary workplaces (e.g. roadworks), and fall protection requirements. Consolidated under the Workplace Health and Safety Regulations, effective June 12, 2013
Occupational Health Regulations	Addresses establishing workplace limits related to gases, vapors, mists, smoke, dust and other chemicals. Responsibility was transferred from the Health Protection Act to the Occupational Health and Safety Act, Workplace Health and Safety Regulations in June 2013
Underground Mining Regulations and the Blasting Safety Regulations	Addresses assorted mining and blasting technical requirements including training for supervisors, qualifications of staff, handling of detonators, etc.
Occupational Diving Regulations	Addresses requirements for diving operations conducted at a workplace
Occupational Health and Safety Administrative Penalties Regulations, and the Occupational Health and Safety Appeal Panel Regulations.	Provides for payment of an administrative penalty for contraventions of the Occupational Health and Safety Act, and an appeal process

- 5.4 Additionally, the Department enforces the Smoke-free Places Act and regulations.
- 5.5 The Division is organized into two sections: Inspection and Compliance Services; and Investigations, Technical and Internal Services. Inspection and Compliance Services inspectors provide services to promote safe and efficient work practices, including compliance with regulations, codes and standards. Investigators assigned to Investigations, Technical and Internal Services conduct complex investigations of serious workplace incidents, such as work-related fatalities and serious injuries. The Technical Services section provides technical expertise in occupational hygiene, mining, blasting, radiation, oil and gas, and paralegal services.
- 5.6 For operational purposes, one executive director provides oversight for the province's three regions. Each region has a regional director responsible to oversee the activities of the Occupational Health and Safety officers assigned to the region. Investigators with Investigations, Technical and Internal Services report to a manager of investigations located in the Department's head office. There are 31 inspectors and 5 investigators in the Division.
- 5.7 In 2011-12, the Division conducted 1,048 inspections, investigated 898 complaints, and 244 incidents. 3,964 orders were issued and 13 prosecutions initiated.



- 5.8 In 2001, we conducted an audit of the Occupation Health and Safety division when it was part of the Department of Environment and Labour.

Audit Objectives and Scope

- 5.9 In the fall of 2013, we completed a performance audit of the Occupational Health and Safety Division at the Department of Labour and Advanced Education. The audit was conducted in accordance with Sections 18 and 21 of the Auditor General Act and auditing standards adopted by the Chartered Professional Accountants of Canada.
- 5.10 The objective of the audit was to determine whether the Department's occupational health and safety inspection, investigation, and enforcement programs are adequately designed and implemented to manage workplace safety risks for the protection of employees.
- 5.11 Generally accepted criteria consistent with the objective of the audit did not exist. Audit criteria were developed specifically for this engagement using both internal and external sources. Criteria were accepted as appropriate by senior management of the Department.
- 5.12 Our audit approach included interviews with Division management and staff; documentation of systems and processes; testing of inspection and investigation processes and procedures; and examination of legislation and policies. Our audit period included activities conducted between April 1, 2012 and March 31, 2013.

Significant Audit Observations

Risk-based Planning

Conclusions and summary of observations

The Division uses Workers' Compensation Board information to identify higher-risk industry sectors for targeted inspections. However, management needs to provide more specific direction and oversight to be effective. The Division does not set inspection targets for specific high-risk workplaces. The Division does not set specific targets for inspectors, such as number of inspections or percentage of time that should be spent on the targeted industries. The Division needs to develop and monitor provincial, regional and inspector-specific targets to ensure higher



risk workplaces are receiving sufficient coverage. Our analysis of 2011 Workers' Compensation Board data and 2012-13 inspection information showed only 27 of the 100 workplaces with the highest risk rating were inspected.

- 5.13 *Roles and responsibilities* – The Occupational Health and Safety Act outlines the shared responsibility of employers and employees, among others, for the health and safety of persons at the workplace. The role of the Division is to supplement this internal responsibility by establishing and clarifying standards, supporting persons in the workplace in carrying out their responsibilities, and intervening when those responsibilities are not carried out.
- 5.14 *Risk-based planning* – In our 2001 audit of the Occupational Health and Safety Division, we noted the Occupational Health and Safety Division did not use current information to determine the number of workplaces covered under the Occupational Health and Safety Act. The Division now has access to the Nova Scotia Business Registry and Workers' Compensation Board of Nova Scotia information for a more complete and up-to-date listing of workplaces covered under the Act.
- 5.15 In our 2001 report, we also reported that the Department of Environment and Labour did not have a rigorous approach to targeting higher-risk workplaces for inspection. The Division now has access to Workers' Compensation Board information on industry claims for planning purposes. The Division uses the information to identify higher-risk industry sectors for targeted inspections.
- 5.16 In addition to the targets established for the Division, inspectors identify two to six inspections annually, based on risk factors specific to their territory. Inspections as a result of a workplace incident or complaint have a higher priority than the targeted inspections. Other inspections as a result of inspectors' knowledge and monitoring of their territory have the lowest priority. In choosing which workplaces to focus on, some inspectors use Workers' Compensation Board information for their area. Some inspectors indicated the majority of their time is spent responding to incidents and complaints, leaving very little time to focus on targeted or ad hoc inspections.
- 5.17 While the Division identifies higher-risk industry sectors for inspections, it does not provide more specific inspection targets, such as number of inspections or percentage of time that should be spent on the targeted industries. The Division also does not have a list of specific higher-risk workplaces to be inspected in the year. With over 53,000 workplaces under the Occupational Health and Safety Act in Nova Scotia and a limited number of inspectors to monitor them, the Division needs to ensure its resources are being used to their greatest effect. Guidance to inspectors at the regional



level, detailed in an annual plan, would help ensure they focus their efforts on Division targets and risk areas within their region. The regions could then evaluate inspection results against the plan to determine if targets were met and where adjustments need to be made.

Recommendation 5.1

The Department of Labour and Advanced Education should establish inspection targets for the Occupational Health and Safety Division and its regions to ensure inspection staff focus their efforts on the higher-risk industries identified by the Department. Inspection targets should be documented in an annual plan and monitored.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. In 2014-15, the Occupational Health and Safety division will begin this process by adopting additional goals and staff targets for the higher-risk industries. In 2015-16 and as part of the five year Workplace Safety Strategy released this year, the division will engage in a fuller planning process at the provincial and regional levels.

Recommendation 5.2

The Department of Labour and Advanced Education should evaluate inspection results against the annual plans to determine if targets were met and where adjustments need to be made.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. In addition to the current performance management process and the goals that have already been set in this current year, OHS management will evaluate staff activities against the additional goals adopted as per recommendation 5.1. In 2014-2015, the division will move into a fuller evaluation against annual regional plans on a go forward basis.

5.18 We obtained Workers' Compensation Board information from the Occupational Health and Safety Division for the 2011 calendar year, as well as inspection data from April 2012 to March 2013. We did not audit this information for completeness. We analyzed the Workers' Compensation Board information to determine the 10 industry sectors with the highest risk rating based on a number of factors, such as workers compensation claims. We then analyzed inspection information and determined 84% of inspections completed focused on the top six industries. Due to limitations with the data (not all inspections were linked to an industry sector), this analysis did not include all inspections.

5.19 When we examined the inspection history for the 100 workplaces with the highest risk rating based on our Workers' Compensation Board analysis, we found only 27 of the top 100 had been inspected since April 2012. Our analysis



showed the health and social services industry had the highest risk rating. We found only 15 (30%) of the 50 highest-risk entities were inspected.

- 5.20 Overall, our analysis indicates that while industry sectors with higher risk ratings are being inspected, more focus needs to be directed to the health and social services sector as well as to the higher risk workplaces. Implementation of our recommendations will assist the Division in determining appropriate inspection coverage and where adjustments are needed.
- 5.21 The Division has no process to notify inspectors when a new workplace opens in their area. Inspectors rely on information from their communities, as well as observations from monitoring their territory, to know when a new workplace opens. Awareness of new workplaces is important information to enable inspectors to monitor workplaces in higher-risk industries on a proactive and timely basis. While it would not include every new workplace that falls under the Occupational Health and Safety Act, regular updates of new businesses registered through the Nova Scotia Business Registry and Workers' Compensation Board would assist inspectors in being aware and up-to-date on new workplaces in their territories.

Recommendation 5.3

The Department of Labour and Advanced Education should communicate with the Nova Scotia Business Registry and Workers' Compensation Board to establish a process to obtain information on registered new businesses on a regular basis.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division is currently working to improve its awareness of new businesses as stated in the Workplace Safety Strategy, with a focus on businesses identified in the high risk sectors. The OHS business client within the Amanda Activity Tracking System (ATS) currently interfaces with the Registry of Joint Stocks Companies (RJSC) to validate Business Information. The Province, through SNSMR, is planning to replace and enhance the current RJSC system over the next two years. It is the division's intention to take a more proactive approach with new businesses with the new RJSC system, ideally in 2015-16.

Compliance and Enforcement

Conclusions and summary of observations

Investigations into serious workplace accidents are adequate. However, key aspects of the inspection and enforcement process need to be improved. We



found inconsistencies in inspection practices, including the information recorded in inspection reports, whether recipients sign off on reports, and evidence of compliance with orders. There was insufficient evidence in the files to determine whether inspections were adequately and appropriately carried out. We recommended checklists be developed to provide guidance to staff and permit manager assessment of the extent and appropriateness of the inspection completed. We found management approval for extension of compliance orders was not always obtained when the extensions exceeded 60 days. 32% of orders issued from April 2012 to March 2013 were not complied with by the date required. Only 10 summary offense tickets were issued during the 2012-13 period. The Division needs to provide guidance regarding follow up and enforcement of outstanding orders. Additionally, the Division does not have a complaints logging and tracking system to ensure all complaints received are recorded and appropriately addressed.

- 5.22 *Inspections* – Inspectors carry out their inspections based on occupational health and safety regulations. They use manual notebooks and laptop computers, linked to the Division’s activity information system, to record inspection information. Inspectors note violations of the regulations in an inspection report and issue warnings or orders to address the deficiencies. A copy of the inspection report and orders issued is provided to the appropriate person at the workplace. The activity information system provides a template, with references to applicable regulations, which inspectors use to prepare inspection reports and compliance orders.
- 5.23 Inspection reports and other documentation provide evidence of the nature and extent of the inspections carried out. We examined 60 inspection files to determine if inspections carried out were appropriate and in accordance with Division policies. There was insufficient evidence in the files to determine whether inspections were adequately and appropriately carried out. However, we found inspection reports were issued and orders clearly outlined the deficiencies and corrections required.
- 5.24 From our examination, we found variation in practices between inspectors in completing the inspection report. Some reports were more comprehensive, outlining areas examined and both positive and negative results. Other reports only indicated deficiencies that needed to be addressed. For the less detailed reports, we could not determine the extent of the inspection carried out and whether it covered all necessary areas.
- 5.25 The Division does not have checklists for inspectors to indicate which sections of the regulations were examined, other than for reviewing the occupational health and safety committee structure and training at a workplace. Checklists which focus on the risk areas an inspector should examine would serve to ensure all essential risk areas were reviewed during an inspection. The Division is responsible for a number of regulations and checklists would help inspectors focus on the high risk areas. Inspectors told us that checklists



would be useful in carrying out inspections. Checklists would also assist managers, when reviewing files, to assess the extent and appropriateness of the inspections carried out.

Recommendation 5.4

The Department of Labour and Advanced Education should develop and implement inspection checklists.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division does maintain some checklists, and is interested in providing guidance to staff to assist with doing their jobs more effectively. The division will explore the development of relevant additional checklists to enhance current practice in this area in 2014-15.

5.26 Policies and procedures are established to ensure practices are carried out in an appropriate and consistent manner. The Occupational Health and Safety Division's inspection procedures outline the general inspection process, including issuing of reports and orders. We noted two areas in which some inspectors do more than required by the policy.

5.27 The Division does not require the workplace recipient to sign the inspection report. However, some inspectors have the recipient sign the report to acknowledge receipt. From our testing of 58 inspection reports, we noted 25 (43%) were signed by the recipient while 33 (57%) were not. Having the recipient sign the inspection report provides evidence that the inspection was completed and that the recipient received the report and any related compliance orders.

Recommendation 5.5

The Department of Labour and Advanced Education should request that recipients sign inspection reports as acknowledgement of receipt of the reports and related orders.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation in principle. Current practice does not require a signature; rather, the name of the individual being served the inspection report and /or order is noted on the report. In 2014-15, the OHS division will conduct an analysis on the best way to confirm that the document has been received and ensure consistency of practice of the determined solution.

5.28 Orders outline the section of the Act or Regulation under which the order was issued, the action needed to correct the deficiency, and the timeframe for completion. The person who is issued the order is required to return a compliance notice to the Division, noting the action which was taken to



correct the deficiency. The Division does not require evidence of compliance be provided other than the completed order document. From our testing of 60 files containing 128 orders, 52 orders (41%) included evidence of compliance while 71 (55%) did not. Five orders were rescinded so no evidence of compliance was considered. Orders for violations that pose a higher safety risk should receive more scrutiny and should require stronger proof of compliance. Evidence of compliance, for example sales receipts for items purchased or certificates of inspection or completion, supports that a deficiency was addressed.

Recommendation 5.6

The Department of Labour and Advanced Education should require evidence of compliance with orders be obtained for violations that pose serious health and safety risks.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The Occupational Health and Safety Act currently requires the submission of a compliance notice from the recipient of the order to assert they have complied with the order. In the interest of consistency and certainty that those violations that pose serious health and safety risks are indeed complied with, the OHS division will review the existing inspection standard operating procedure to determine reasonable evidence of compliance based on risk in 2014-2015.

5.29 The Division does not have standard times for recipients to comply with an order. Inspectors indicated the length of time can vary from the day an order is issued, such as for a stop work order, to 30 days or more. Inspectors use their judgment when setting a compliance date. Recipients can request an extension beyond the original compliance date, if needed. If a compliance date extends beyond 60 days from the date of issue of the order, approval by the manager is required. From the 60 inspection files we examined, 12 had compliance dates greater than 60 days. Two (17%) of the 12 files indicated the manager had approved the extension over 60 days. For the remaining 10 files (83%), there was no evidence managers had approved the extensions.

Recommendation 5.7

The Department of Labour and Advanced Education should monitor to ensure approval is obtained and documented in the files for extensions to compliance order dates greater than 60 days.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. This policy for approval of extension exists in current standard operating procedures. The OHS division recognizes that we need to take a further look at this policy to ensure approval is obtained and documented before an extension is granted. The division will review the policy this year.



- 5.30 *Investigations* – Investigations are carried out when there are serious workplace incidents and fatalities. Investigations are undertaken to identify the cause and determine if all legal requirements were being followed at the time of the incident. Fatality investigations require at least two officers involved during the preliminary stage, to ensure a thorough investigation can be completed in a timely manner. Investigations may also be completed in cases of allegations of discriminatory action against individuals exercising the right to refuse unsafe work practices.
- 5.31 Once an investigation is complete, the investigator prepares a report and recommends what action should be taken, such as prosecution or closing of the file. Managers monitor ongoing investigations and consult with the investigators on progress of the files. Department senior management are involved when a recommendation to prosecute is made.
- 5.32 We examined 20 investigation files and found the investigation procedures carried out were in accordance with the Division's policies. For six files in which a recommendation was made for prosecution, there was evidence senior management reviewed the file. Three of the 20 investigations were not completed within six months, as specified in the Division's policies. All three had ongoing activity and the timelines were reasonable.
- 5.33 We found managers reviewed 14 (78%) of the 18 completed files. We found no evidence of review for four files (22%) and the remaining two investigation files were not complete at the time of our testing. There were seven files in which at least two officers should have conducted the preliminary investigation. However this did not happen for one of the seven files. In that case, the fatality incident occurred on the weekend and only one officer was assigned to investigate.

Recommendation 5.8

The Department of Labour and Advanced Education should comply with its policy concerning manager review of investigations.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division staff currently makes every effort to comply with this policy and will continue to do so. The division will also review the policy in this current year to ensure its effectiveness and identify improvements.

Recommendation 5.9

The Department of Labour and Advanced Education should comply with its policy concerning two officers attending at the preliminary investigation of a workplace fatality.



Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division staff currently makes every effort to comply with this policy and will continue to do so. The division will also review the policy in this current year to ensure its effectiveness and identify improvements.

5.34 *Enforcement* – To ensure compliance with regulations, inspectors can issue warnings and orders for corrective action. If a violation has occurred, or corrective action as ordered by the inspector is not taken, inspectors can issue a summary offence ticket. Summary offence tickets impose a fine on the offender and may be paid by out-of-court settlement. The minimum fine is \$462 and maximum is over \$800. Inspectors may also initiate procedures to prosecute if serious violations have occurred.

5.35 We analyzed activity systems data for April 2012 to March 2013 to determine how often orders were met by the compliance date specified.

- 65% (2,500 orders) were completed by the compliance date.
- 32% (1,228 orders) were not completed by the date required.
- 26 orders (1%) were still outstanding at the end of the year.
- For the 1,202 orders completed after the compliance date, the average number of days for compliance after the due date was 15 days, with a range from one to 252 days.
- For 139 orders (3%), a compliance date was not entered into the system.

5.36 The Division has limited guidance for inspectors to follow up the outstanding orders they issued. The decision to issue a ticket for noncompliance with the regulations or an order is at the discretion of the inspectors. We found only 10 summary offense tickets were written for the 3,867 orders issued. Providing guidance on the types of situations and outstanding orders that would warrant a summary offence ticket would better ensure inspectors responded consistently and appropriately in those situations.

Recommendation 5.10

The Department of Labour and Advanced Education should develop and implement policies and procedures that provide guidance to inspectors on follow up and enforcement of outstanding orders.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division is committed to improved workplace safety and to this end has recently reviewed its compliance system, from the issuance of orders to administrative penalties. While we are



satisfied in the time period reviewed that workplace parties complied with more than 95% of orders, we want to be as strategic as possible with the resources we have to influence their future safety behavior. The division will review its policies and procedures in 2014-15 to ensure appropriate follow-up and enforcement of outstanding orders.

- 5.37 In 2010, under the Occupational Health and Safety Administrative Penalties regulations, the Department established an administrative penalty system. The intent of administrative penalties is to encourage voluntary compliance with health and safety laws. Upon assessment by Division staff, administrative penalties may be issued for violations under the Occupational Health and Safety Act. Orders written under certain sections of the Act, such as Section 52 – Power to require reports, assessments and tests, are not assessed for administrative penalties. Penalties can range from \$100 to \$2,000, depending on the individual involved, the efforts to prevent a violation, and the harm or potential harm the violation causes to any person. Penalties may also be increased if the individual or employer receiving the penalty had received another penalty in the prior 3 years. Staff indicated administrative penalties are not assessed until an order has been completed and closed.
- 5.38 Of the 176 orders from the 80 inspection and investigation files we examined, 142 orders required review to determine if an administrative penalty should be issued. The Division had not reviewed 39 of those orders (28%) for possible administrative penalties. Staff indicated this was due to a backlog as a result of the changeover of staff responsible for assessing and administering penalties.
- 5.39 The number of orders issued and the percentage of orders not completed by the date required may indicate enforcement tools are not being used or are not effective. Penalties may lose their effectiveness as an incentive for compliance if they are not administered on a timely basis. The Department indicated it is reviewing the framework and operation of the administrative penalty system, with completion expected by the end of 2013 or early 2014; any new system should consider that penalties should act as an incentive for compliance.
- 5.40 *Complaints* – Complaints or workplace incidents are normally reported to the Division using a 1-800 number. Staff forward complaint and incident details to the officer responsible for the territory where the complaint originated. Staff also email details of the complaint or incident to the officer and the manager. For serious incidents, staff contact the officer by phone with the same information. Division policy requires all urgent and non-urgent complaints be recorded in the activity information system.
- 5.41 Staff told us copies of the emails sent to the officers and managers are maintained in an electronic folder, but the complaint information is not



entered into the activity information system as required until the officer investigates the complaint. Staff indicated difficulties with accessing or amending information in the system as reasons why the information was not entered when initially received.

- 5.42 Officers may also receive complaint calls directly from complainants. The Division does not require officers to enter those complaints in a log or the activity information system when the complaint is first received. Complaints made directly to an officer may be handled by the officer and not come to the attention of the manager until the investigation has been completed and recorded in the system.
- 5.43 Failure to record complaints in the activity information system when first received could result in complaints not being responded to in a timely manner. There is also a risk that a complaint may not be responded to and the Division may not be aware of this. Complaints are an important part of the Division's history of a workplace and should be appropriately recorded when received.

Recommendation 5.11

The Department of Labour and Advanced Education should establish a complaint logging and tracking system to ensure all complaints received are recorded in the activity information system and investigated in a timely manner.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. Currently the OHS division has a practice of maintaining electronic copies of complaints. A formalized complaint tracking system would alleviate administrative burden on the officers, provide a fail-safe method to ensure all complaints are tracked and assist the division to collect valuable associated information, such as types and locations of the complaints. The division will conduct a preliminary analysis this year to determine cost, feasibility and timeframe for a complaint tracking system.

- 5.44 After-hours calls are handled through an external service provider. The service provider collects the details of the complaint or incident, and notifies the appropriate manager. The managers are responsible for determining whether an officer needs to be contacted and dispatched immediately, or if the matter can wait until the next day.
- 5.45 The Division's policies assign highest priority to incidents and complaints. The Department's 2012 Annual Report showed an average response time of six days between receipt of a complaint or incident and start of an inspection or investigation. From our testing of 27 complaint files, we found an average response time of 5.3 days. Response times ranged from less than 1 day to 63 days. Our testing indicated action on serious incidents and complaints was taken in a timely manner.



- 5.46 Performance standards would provide specific guidance to staff on response expectations for the types of incidents and complaints the Division receives. Standards would help the Division in determining whether expectations were met and where additional attention was needed.

Recommendation 5.12

The Department of Labour and Advanced Education should develop and implement performance standards for response times to incidents and complaints.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. Complaints and incidents are normally dealt with quickly, with imminent danger complaints and incidents being addressed immediately, as pointed out in the report. It makes sense that staff be supported as fully as possible to carry out their duties, including having clear direction on response times articulated for complaint and incident types, including those of low and medium risk. The OHS division will begin work on this recommendation in this year and work towards full implementation in 2014-2015.

Monitoring and Management Information Systems

Conclusions and summary of observations

The Division's activity information system can provide relevant and timely information to managers. However, management does not use the system to its fullest potential. The time inspectors spend in carrying out their activities is not recorded. Management does not monitor whether inspectors regularly update their laptops with the activity information system, which could result in lost inspection information. The Division needs to review its system to make better use of its capabilities and monitor system updating by inspectors. The Division's file review process is not functioning and it cannot be sure inspectors are carrying out inspections in a thorough and consistent manner.

- 5.47 *Policies* – The Department has developed policies and procedures to provide guidance to staff. These cover a number of areas, such as inspections, investigations, complaints and case management. The policies are updated periodically, as needed. At the time of our audit, several of the policies were in the process of being revised.
- 5.48 *Activity information system* – The Division has a central database for use by staff and management to record inspections, investigations and other activity. The system captures information such as name of business, date of inspection, and compliance orders issued. Management uses statistical



information generated periodically from the system to monitor Division activity, by inspector, by region and for the entire Division. Management may also obtain ad hoc reports, as required, to meet their needs in monitoring divisional operations.

- 5.49 We found the information system is adequate in its ability to provide relevant and timely information. However, we also found the system is not being used to its full potential due to several factors described below.
- 5.50 *Completeness of information* – Inspectors often generate their inspection reports remotely using mobile software on their laptop computers. Division policy requires staff to connect their laptops to the central system at regular intervals so the database is complete and up to date. Management does not monitor to ensure this requirement is met. Without frequent updating to the central information system, there is increased risk of data loss if a laptop is damaged or stolen. This could have serious consequences if a compliance order is not addressed and there is no follow up by the inspector because the order was not recorded in the system.

Recommendation 5.13

The Department of Labour and Advanced Education should monitor whether inspectors are updating the activity information system as frequently as required.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division has a policy in respect to monitoring the updating of information by inspectors, which is being followed, however the current Activity Tracking System cannot confirm or deliver this data. The division will investigate in 2014-2015 the possibility of incorporating this functionality into the Activity Tracking System to monitor this information.

- 5.51 *Time or activity reports* – The information system can be used to track time spent by inspectors in completing their activities but the Division does not require inspectors to track their time. If the Division collected information on activities and completion time, it would provide valuable information to management for planning and utilizing staff resources. It would also aid in the development of performance standards and monitoring of staff performance. Without time tracking, there is incomplete information available to determine whether time spent on inspections and investigations is reasonable.

Recommendation 5.14

The Department of Labour and Advanced Education should utilize a time tracking system to develop performance standards for planning and monitoring.



Department of Labour and Advanced Education Response:

The Department agrees with the recommendation in principle in respect to the development of performance standards. However, time tracking has been challenging within the existing information system and its value undetermined. The OHS division will review in 2014-2015 appropriate data sources to determine and set the most appropriate performance standards.

- 5.52 *Data gaps* – We examined a variety of reports and observed a number of cases in which information was not provided. For example, for inspections classified as incidents or complaints, the system allows for classification of the type of complaint or incident (such as fall protection, discriminatory action). This information is not always recorded. Gaps in information reduce management’s ability to complete trend analysis on most common types of incidents and complaints. Such trend analysis could aid in isolating industries with more risk and provide support for targeting certain industries or businesses for inspections.

Recommendation 5.15

The Department of Labour and Advanced Education should review system information capabilities to determine what information should be collected in order to fully utilize the system for analysis and decision making.

Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The better the OHS division mines the data it has access to, the more strategic the division can be in determining how to use the resources available to it. The division will begin a review of information system capabilities and assess needed system improvements in 2013-2014.

- 5.53 *File review process* – The Division has a policy requiring periodic management review of inspection and investigation files. Management told us that file reviews are done but are not documented according to the policy requirement; the prescribed review form was not used and not all managers were signing off on a file after completing a review.
- 5.54 There were 28 files that had been signed off as reviewed. There was no evidence of the extent of the review completed on these files. A complete and consistent review process would provide management with assurance that regulations are being adequately monitored for compliance, policies and procedures are being consistently followed, and inspectors are using appropriate professional judgment.

Recommendation 5.16

The Department of Labour and Advanced Education should implement a file review process for inspection and investigation files that includes documentation of the review and sign off by the manager.



Department of Labour and Advanced Education Response:

The Department agrees with the recommendation. The OHS division is confident that files are being reviewed through current practice, however, understands the benefit of better documenting this practice. This recommendation will be addressed in 2013-2014.



Department of Labour and Advanced Education Additional Comments

As stated in paragraph 5.2 of this report, the Occupational Health and Safety Act sets out that workplace parties are ultimately responsible for health and safety in the workplace and clarifies the role of the OHS division to support these parties in carrying out their responsibilities. The division remains vested in and focused on operating in a strategic, professional and effective manner and looks forward to implementing the recommendations to this end.

In 2013-14, the Province, in partnership with the Workers' Compensation Board, launched its five year workplace safety strategy. This strategy represents new activity, founded on research and comprehensive stakeholder consultation, and lays out four goals to improve workplace health and safety, through injury prevention:

1. Nova Scotia workplace safety performance will be among the best in Canada.
2. Leaders at all levels and across all sectors will demonstrate a commitment to and be accountable for safety in Nova Scotia workplaces.
3. The safety culture in Nova Scotia will continuously improve and evolve.
4. All workplaces will have access to and use the services and resources they need to assist them in achieving competency in workplace safety and improving their safety performance.