

# Stakeholder Consultation: Occupational Health and Safety

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Report to:

Alberta Agriculture and Rural Development

Alberta Employment and Immigration

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## I. Executive Summary

People are the key to the success of any industry and the agriculture industry is no exception. The health and safety of farm owners, their families and employees is a big concern for all involved in agriculture. Government shares the responsibility together with employers and employees to create safe and healthy work environments for all Albertans.

Farms and ranches have many potential risks to the health and safety for people working on them. According to the Canadian Agriculture Injury Surveillance Program (CAISP), agriculture is in the top five for high risk occupations in Canada. The face of agriculture continues to change as farms and ranches operations grow and intensify. Owners have challenges to find and retain people to run their operations. Some farms and ranches employ casual, seasonal and full time people. Some hire foreign workers. Many of these do not have farm experience or also have challenges with language barriers.

The Alberta Ministers of Agriculture and Rural Development (ARD) and Employment and Immigration (E&I) believe it is important to explore future options for health and safety education and legislation for the agriculture industry. In May 2009 the Ministers requested a team of E&I and ARD staff to undertake a stakeholder consultation. The team retained Stroh Consulting to facilitate the process.

Over the six month process from May to October 2009, the project team informed and invited industry and workers' organizations to participate. The process included individual interviews, organizations' feedback and discussions with members of the farm safety advisory committee and policy advisors.

The project team has put forward 10 recommendations for consideration which are outlined on page six of the report. These recommendations include enhanced industry engagement and education to improve farm safety. The project team strongly encourages continued active engagement of stakeholders. Government and industry must work together to pave the way for enhanced health and safety on farms and ranches. Industry is prepared to be an active partner in finding the solutions and this will ensure stakeholders commitment and acceptance.

The agriculture industry wants to be competitive in attracting and retaining employees and therefore believes farm and ranch employees expect the same benefits offered by other industries. Most farming operations in Alberta are currently exempt from Alberta's *Occupational Health and Safety (OHS) Act*. Therefore, when there is an injury or fatality on a farm, OHS officers do not investigate the circumstances to find ways to prevent future incidents. As well at this time, employees with health and safety concerns have no avenue for grievances other than their employers. Organizations representing workers say their members feel unprotected and demand some changes.

## II. Acknowledgements

The project team and consultants would like to thank many people who willingly shared their experience and knowledge with us during the OHS consultation. This includes the individual employers, contractors and employees who helped us better understand the current situation and perceptions on farms and ranches. We appreciated the organizations that hosted discussions and submitted their comments on the options. We were thankful for the advice provided by three members of the farm safety advisory committee. We trust our combined wisdom will help the Ministers move forward to improved health and safety on farms and ranches.

## III. Background

In March 2009, ARD initiated a project to explore future options for health and safety education and OHS legislation for the agriculture industry. ARD retained Stroh Consulting to develop and facilitate a stakeholder consultation process. The consultation was to help make recommendations for changes to policy, programs and legislation. The project was in partnership with E&I, with two staff members as members of the project team.

In Alberta, most operations directly or indirectly related to farming and ranching are exempt from Alberta's *OHS Act*. Therefore, when there is a fatality on a farm or ranch, there is no formal OHS investigation of the circumstances surrounding the fatality. The RCMP may be contacted to determine if there was criminal activity surrounding the death under the *Fatality Act*. This applies to farm and ranch employees as well as employees of outside contractors working on the farm or ranch. In the case of an injury, there is no government investigation for purposes of improved safety practice or third party reports for insurance claims.

Farming and ranching are also exempt from the *Workers' Compensation (WC) Act*. Workers' Compensation Board (WCB) coverage for disability and insurance is not mandatory for farm and ranch workers. WCB coverage is available to farmers and ranchers for their employees, on a voluntary basis however costs limit subscriptions. The *OHS Act and WC Act* are two independent Acts. The project will focus on the *OHS Act*.

As for other labour legislation, farm workers are protected under the *Employment Standards Code (ES Code)* for their entitlement to wages, maternity and parental leave, and termination pay and notice. The *ES Code* exempts farm workers from standards on hours of work, overtime, general holiday pay and vacation pay. Farm workers are excluded from the *Labour Relations Code*.

According to CAISP, there were 1,769 agricultural fatalities in Canada from 1990 to 2005. Overall, more than half of the agricultural fatalities were due to machine-related causes. 55.3 per cent of the persons killed in agricultural injury events were farm operators. A further 16.1 per cent of the victims were children of farm operators and 12.8 per cent were hired workers. Only six per cent of those fatally injured were visitors or contractors. From April 1, 1990 to March 31, 2000, 14,884 agriculture-related hospital admissions were identified across Canada.

Currently, the Farm Workers Union of Alberta is advocating for farm workers to be covered under *OHS Act*.

## IV. Project Scope and Objectives

The project outcome was to make recommendations for consideration by the Minister of ARD and the Minister of E&I to ensure policies, programs, legislation and regulations in Alberta encourage healthy and safe work environments for farm and ranch employees. The project focused on the *Occupational Health and Safety (OHS) Act*.

The following were the key project objectives and deliverables.

Project Objectives:

- Gather current perceptions of a sample of employers, employees and contractors about health and safety on ranches and farms.
- Test health and safety assumptions about work environments on farms and ranches.
- Identify gaps in understanding of the current regulatory situation and resources available to help protect the health and safety of farm and ranch workers.
- Increase understanding of what needs to be done to enhance health and safety of farm and ranch employees.
- Invite agriculture industry organizations' and industry and worker associations' feedback on options for the future.
- Develop recommendations for consideration to make changes to policies, programs and legislation.

## V. Stakeholder Consultation Process

The project was completed in three phases. Phase one gathered opinions from a sample of stakeholders on the current situation and their thoughts on how to improve health and safety on farms and ranches. Stakeholders included employers, employee and contractors. Phase two invited worker and industry organizations to comment on the current OHS legislation and to provide thoughts on four options for enhancing health and safety. An interactive PowerPoint and workbook was sent to each of the organizations. Phase three was discussions with key people from ARD and E&I, members of the Alberta Farm Safety Advisory Committee together with the project team. The group reviewed the responses and discussed possible changes to policies, programs and legislation.

## VI. Recommendations Arising from the Consultation

The following recommendations are based on the 2009 OHS stakeholder consultation responses, advice from members of the Farm Safety Advisory Team and from discussions with key people in ARD and E&I. The results of the consultation support enhancing industry engagement and education to improve agriculture health and safety on farms and ranches. These recommendations would be best implemented and phased in between 2010 – 2013.

### Anticipated Outcomes:

- ❖ Agriculture is as safe to work in as industries in Alberta.
- ❖ The industry is committed to the solutions/strategies to improve agriculture health and safety.

### Recommendations for Consideration

	Recommendation	Timeline
A	Create and launch a multi-phase awareness campaign for OHS in the agriculture industry.	January 2011
B	Continue E&I and ARD OHS project team to facilitate industry engagement.	Immediate
C	Facilitate an industry and government process to develop a long term Agriculture Health and Safety Enhancement Strategy	January 2010
D	Explore ways to get others involved in health and safety by encouraging collaboration and partnerships. Initiate process so Agricultural Societies would include a health and safety activity as part of their grant. Increase the farm safety grant program to encourage uptake of safety training programs.	Immediate
E	Identify possible incentives for improved practices (i.e. reduced Workers' Compensation premiums, reduced premiums for crop insurance, interest rates or increased benefits of grant programs).	December 2011
F	Identify an industry champion for health and safety on farms and ranches to maintain profile and promote safety initiatives	Winter 2010
G	Research approaches used for OHS in other jurisdictions and consider adopting best practices in Alberta, i.e. do we need a safety organization?	April 2010
H	Investigate possible recognition programs similar to the Partnerships in Health and Safety Certificate of Recognition (COR) Program to cover the agriculture industry	December 2010
I	Investigate possible inclusion of contractors carrying out non-agricultural work on farms under OHS legislation	Spring 2011
J	Develop best practices guide for high risk duties	December 2010

An industry stakeholder group will be asked to support the development of a long term Agriculture Health and Safety Enhancement plan. Activities may include:

- Ministers offer a challenge with a defined vision to industry organizations including commodity groups, workers organizations.
- All 24 organizations involved in the stakeholder consultation will be invited to elect a board (must represent both employers and employees) to represent them. ARD and E&I will have ex-officio members to facilitate and provide information.
- Modeled on the “Work Safe Alberta” template with a proven track record.
- Establish safety performance measures for farming and ranching.
- Target set by the Ministers, e.g. 10 per cent reduction in injuries/fatalities per year by 2015 based on an established baseline.
- Government will facilitate and support implementation of the plan.
- Significant resources from industry and government will be needed to build and implement the plan (dollars, regional coordinators).
- The government will suggest a list of actions/tasks that the group needs to complete by a certain time frame for funding.
  - Investigate models in other jurisdictions like the Farm and Ranch Safety and Health Association in British Columbia.
  - Identify an Agriculture Health and Safety Champion.
  - Identify peer review process for sharing lessons that can be learned from farm injuries and fatalities.

## VII. Summary of the Consultation

### Phase I: Individual Interviews

#### Consultation Process

The purpose of Phase I was to gather the current perceptions of a sample of employers, employees and contractors about health and safety on farms and ranches. This phase was to test some of the project assumptions and to identify gaps in understanding in the current OHS laws. Phase I will provide direction for the education and consultation tool that will be used to consult with industry organizations in Phase II of the project.

Twenty-four organizations were sent a letter from ADM Jason Krips informing them of the project and asking for referrals to employers from their industry to interview as part of the consultation. A few organizations provided names of employers in response to the letter. The consultants contacted 16 organizations by phone to inform them of the project because they had not responded directly to the initial letter. Three quarters of the organizations contacted provided names of employers to interview. The consultants made changes to update the organization contact list as required. One member from the Alberta Farm Safety Advisory Committee agreed to test the interview process with the consultants.

With the help of ARD staff, specifically the Green Certificate Program, a list of employees to interview was assembled. The consultants picked a random sample from this list. ARD staff also provided the consultants with a website listing contractors who work on farms and ranches in the province as well as a few names of specific contractors to interview.

The consultants conducted the phone interviews from June to mid July 2009. The interviews spanned from 20 minutes to 90 minutes in length. In general the employers, employees and contractors were willing to provide their thoughts even though this is a very busy time of the year.

The consultants have completed the interviews for Phase I and initial analysis of the results from the sample of interviews conducted. The individual interview responses were documented and shared with the project team for review and to assist with further analysis and observations. The project team met at the end of July 2009 to discuss the consultants' findings.

#### Highlights from Employer Interviews

The project team agreed to interview between 12 and 15 employers from a cross section of sectors throughout the province and a mix of gender and age. The criteria also included the employers have a minimum of three full time or seasonal employees who live off the farm or ranch. The consultants conducted 15 employer interviews. Eleven males and four females were interviewed. Four people were from the intensive livestock sector including feedlot, dairy, swine and eggs/poultry. The other employers interviewed included mixed farming, cattle, bees, equine, mushrooms, nursery and tree farm, greenhouse, grains and oilseeds and fruits and vegetables. Seven of the employers were from central Alberta, two represented northern Alberta and six were from Calgary and south. Employers represented a range of ages and number of years in the agriculture industry. Thirteen of the employers are excluded from the *OHS Act* and two were included. The employers hired from three to more than 100 permanent,



casual, seasonal or part time employees. Ten of those interviewed had foreign workers from Mexico, Europe or the Philippines employed on their operations. Although the numbers varied throughout the year most of those interviewed indicated that their employee numbers had been constant over the last few years. One employer indicated that their numbers of employees has increased and three said the number of employees on their operation has decreased in the last few years. The sample met the criteria set out by the project team.

Most employers interviewed talked about the on-going difficulty in hiring and retaining suitable employees. A few of the employers mentioned whenever possible they hire employees with farm backgrounds as they believe it reduces the training required. In general, employers said they valued their employees and needed them to run their operations. Employers also said they wanted to develop a culture of health and safety for their employees. They feared liability issues and commented that they focused much attention on the safety of the employees' work environment. They continually observed employees' work habits and identified risks that required changes. Most employers indicated that they were more concerned about worker safety than their employees. In fact, some thought that their employees refused to work safely. Only two of the 15 employers interviewed said their employees were safety conscious. Employers were well aware of the risks of working on their operations. When asked if there had been serious injuries or fatalities on their operations, none of the employers reported any serious incidents. None of the employers were aware of their employees carrying their own disability insurance.

Most employers cited that they provided informal coaching and training for their employees. A few of the employers indicated that they provided more formal training and orientation for staff including regular staff meetings. In a few cases employers incorporated daily manual inspections, rewarded performance, developed comprehensive safety manuals and provided orientation for employees. In most cases, employers provide the tools and equipment (e.g. safety glasses and mobile radios) to mitigate risks. A few employers mentioned that employees are always rushing and they would like to see their employees slow down and think more about various tasks. Most employers thought that agriculture is different from other industries as employees work long hours at great distances from each other and often work alone.

In general, the employers interviewed had limited knowledge about the current legislation in Alberta which governed their business. Nine employers were not familiar with the current *OHS Act*. A few had heard of the current discussions on the exemptions from the *OHS Act* but were unaware of the specifics. The consultants observed that few people were aware of the difference between the *OHS Act* and *WC Act*. Eight of the employers carried WCB insurance as a good business decision but could not answer whether this was voluntary or mandatory for their business. One employer is involved in business in Alberta, Saskatchewan and Ontario. He said the farms in Ontario are "legislated to death" with OHS and WCB. One employer commented that regulations fit within a trade setting but are difficult to put into practice in a farm setting.

Three people specifically mentioned the *Employment Standards Code* including overtime, hours of work and holiday pay. The consultants thought that it was difficult to get specifics on employers' thoughts on the current legislations. Most of the employers were unable to comment on the legislation because they lacked awareness of the specifics and details. Five thought that the current legislation should remain the same. Only one person thought that there should be changes and the rest had no comments on changes needed. However, they

were concerned about potential barriers as a result of changes in legislation. Increases in cost and time to their operations were mentioned as concerns by most if changes were made. An employer included in the *OHS Act* commented that they didn't identify the current legislation as a barrier to running their operation. Another employer included in the *OHS Act* said that the regulations interfered with their company's ability to repair their own equipment and increased paperwork significantly. The consultants noted that many of the employers were uninformed about the differences in current Acts and legislation. Several of the employers were of the opinion that you can't legislate against employees' ignorance or lack of concern for safety. They expressed that the agriculture industry would be difficult to comply with OHS regulations because of the vast differences in operations. One employer thought that he took a proactive approach to safety and that a visit from an OHS Officer wouldn't improve safety on his operation.

All of the employers said they have used outside contractors on a regular basis or as required. Employers had a range of responses on the health and safety of contractors. Some questioned contractors if they carry insurance. Others have never thought about who is responsible for their safety. Some employers thought both the contractors and employers would be responsible. One employer said that the managers on his sites try to educate contractors about best practices to ensure safety. The consultants identified that this is an area for clarification as there appears to be confusion.

In looking at solutions, some wanted to know how serious the problem is, for example they wanted the specifics about fatalities and injuries. They warned the government to be careful not to create bigger problems in attempt to enhance health and safety. In general employers appeared to be interested in learning more about the current situation and thought their organization would welcome the opportunity to participate in the next phase. Those interviewed recommended further study into what is happening in other provinces in regards to this issue. Many commented that education is a better way to reduce farm accidents rather than regulations. A couple thought that voluntary education would be met with much less resistance and more acceptance. Employers suggested that training could be provided by government, equipment suppliers, and industry organizations. A jointly planned and funded effort for education would work the best for the industry according to some of the employers.

The following are suggestions on solutions to enhance health and safety on farms and ranches provided by the sample of employers interviewed:

- Establish a farm safety association.
- Establish a farm labour pool service (e.g. to help with screening potential employees).
- Provide assistance with human resources management in agriculture (government).
- Offer more safety education courses.
- Locate affordable disability insurance.
- Explore moving farming in to the *OHS Act*.
- Educate employers on the current legislation governing farms and ranches.
- Learn from other processes, such as the beekeepers food safety program.
- Develop information brochures and DVDs.
- Create simple picture books/manuals for training.
- Discuss best practices with employers.

- Engage both employers and employees in safety discussions so that they can be part of the solution.
- Offer certification for working with farm equipment.
- Study the effects of additional regulations in Saskatchewan and Ontario.

### **Highlights from Employee Interviews**

The project team targeted to interview five to seven employees working on farms and ranches in Alberta. The employees were to represent a cross section of enterprises and regions in the province and be a mix of gender and age. They could be employed full time, part time or seasonally. The consultants found few sources of employee referrals and this group was more difficult to reach. Three of the employees were referrals from the Green Certificate Program list provided. None of the employees were working for any of the employers interviewed.

The consultants interviewed five employees, three males and two females. The employees ranged in age from early 20's to over 50. Two were from Northern Alberta, two from central and one from the south. The sample group was involved with swine, equine, turkeys and feedlots. One of the employees interviewed emigrated from Germany three years ago.

Although the sample was small there was a diverse range of opinions about employers and their concerns with health and safety on farms and ranches. The consultants suggest that this sample was a good cross-sectional representation of the employees working in agriculture. The employees appeared to be aware of the risks involved with their jobs and their responsibility to ensure their own safety. The employees commented that they had informal training and supervision on the job. None of the employees interviewed had been injured seriously on the job. One of the employees carried work and play insurance.

Only one of the five employees interviewed was critical of their employer's attitude and role in ensuring their employees' safety. The same employee was more familiar with the current OHS debate and thought agriculture should be included in the *OHS Act*. The other four employees were not familiar with OHS or other labour legislation governing agriculture.

The employees provided a few suggestions for enhancing health and safety on farms and ranches: spell out best practices, formalize training, hire suitable employees and inspect for unsafe equipment or practices.

### **Highlights from Contractor Interviews**

The project team wanted to interview 3-5 contractors whose majority of work is completed on farms and ranches and represented a variety of services. The consultants conducted four interviews with contractors. All contractors interviewed were male and ranged from 40 to 60 years of age. Their service area included all of Alberta and involved work with crops, forages and intensive livestock operations. They employed from one to 20 employees in their businesses. Three of the four thought they were likely responsible for their own and their employees' health and safety when on a farm or ranch. One of the contractors had an employee killed while performing work on farm.

Two of the four contractors interviewed thought farms and ranches should continue to be exempt from OHS. One thought there are positives both ways and one suggested a phased in approach of some aspects of farming and ranching be included under the *OHS Act*.

## **Phase II: Worker Groups & Industry Organization Consultation**

### **Consultation Process**

In phase two, the consultants and the project team developed an interactive PowerPoint and workbook to provide information and gather input from industry and worker organizations. Twenty-four organizations were invited to participate in the consultation through a letter from ADM Jason Krips. Groups were asked to complete the consultation with a group of people from their organization to encourage discussions about occupational health and safety.

The objectives of phase two were:

- Identify gaps in understanding of the current regulatory situation and resources available to help protect safety and health of farm and ranch workers
- Increase understanding of what needs to be done to enhance health and safety of farm and ranch employees
- Invite industry and worker organizations' feedback on options for the future

The following options were developed by the project team and were presented to the organizations for consideration. Organizations had the option to submit additional options for consideration.

1. No change but continue to enhance the current educational aspects of the farm safety program of ARD
2. Change legislation to include operations indirectly related to farming under *OHS Act* but continue to exempt operations directly related to farming and ranching
3. Change legislation to include all farming and ranching operations under the *OHS Act*.
4. Change legislation to include farming and ranching operations that have paid employees under the *OHS Act*.

### **Profile of Worker Groups and Industry Organizations**

The following 24 groups were invited to participate in the consultation:

- Alberta Association of Ag Societies
- Alberta Association of Municipal Districts and Counties
- Alberta Barley Commission
- Alberta Beef Producers
- Alberta Beekeepers Commission
- Alberta Cattle Feeders' Association
- Alberta Centre for Injury Control and Research
- Alberta Egg Producers
- Alberta Equestrian Federation
- Alberta Farm Fresh Producers Association
- Alberta Farm Safety Centre
- Alberta Federation of Labour
- Alberta Greenhouse Growers Association

- Alberta Milk Producers
- Alberta Pork
- Alberta Urban Municipalities Association
- Canadian Federation of Independent Business
- Intensive Livestock Working Group
- Landscape Alberta Nursery Trades Association
- Potato Growers of Alberta
- The Farm Workers Union of Alberta
- United Food and Commercial Workers, Local 1118
- Wild Rose Agricultural Producers
- Workers' Compensation Board - Alberta

The consultant was able to obtain a response rate of 60 per cent from the organizations invited to participate. Most of the organizations completed the consultation through discussions with various people in the organizations using the PowerPoint presentation and the workbook. Discussion included two to ten people. The Alberta Association of Municipal Districts and Counties distributed a survey on the topic to all 69 members. ARD met with the Intensive Livestock Working Group to gather their feedback.

#### **Comments on the Current *OHS Act* and Legislation**

The consultation attracted discussions in organizations about health and safety on farms and ranches. This was a topic that is new for some of the organizations and several commented that they had limited information and knowledge on the current situation. The results from Phase II were very consistent with the results from Phase I. The results were not surprising to the project team. It was anticipated that their knowledge of the *OHS Act* and legislation would be limited due to the fact that it doesn't currently apply to most of the agriculture industry. Labour organizations were in support of legislative change to include farm workers while those representing employers supported more training and education.

The following are some comments from the organizations who responded to the consultation on the current *OHS Act* and legislation:

- Few (members) have working experience with OHS.
- Differing views from "Alberta lags behind other provinces" to "The exclusion does not have a negative impact on farm safety practices" to "Poor job of voluntary farm safety training."
- Education rather than enforcement.
- The legislation is insufficient.
- The proposed options may have implication for WCB coverage.
- There is a problem, the solution is not legislation.
- Workers are currently not protected.
- The current legislation is "insufficient."
- Do not have full knowledge of current legislation.
- Satisfied with the current legislation.
- Legislation does not make people and workplaces safer. It is in the education, training, and practice that makes people and work environments safe.
- For Industry in general the legislation is appropriate however you always have the "human factor" that is difficult to control.

The following are some opportunities and barriers to increased health and safety on farms and ranches identified by the organizations:

Opportunities:

- Better understanding of the problem
- Working together to find solutions
- Education and training
- Legislation

Barriers:

- Cost and time (government and operations)
- Concern for smaller operations
- Compliance and monitoring

Organizations were asked to comment on what could be learned from other provinces. Currently Alberta is the only province where agriculture is not included under OHS. There were varying opinions on whether legislation has made a difference in other provinces. There were also varying opinions on the available farm injury statistics and if OHS legislation has made an improvement on health and safety on farms and ranches. Several organizations support British Columbia's approach, especially FARSHA, their farm safety organization. If agriculture was to be included under OHS, the organizations suggested learning from other provinces on how better to implement the change (i.e. phased in approach).

### **Support for the Proposed Options for Safety Education and Occupational Health and Safety Legislation**

Organizations were asked to review the four options provided (see page 12), identify pros and cons, implications of the option and choose an option which they could support. Ten organizations supported option 1. No organization supported option 2. The project team thought there was no support for this option because they likely felt the option does not impact the members of their organizations. Two organizations supported option 3 and no organizations supported option 4. The Farm Workers Union suggested another option for consideration by the project team including legislation changes and enhanced education and training. WCB did not support a specific option but provided information on the implications of each option on WCB coverage.

### **Phase III: Workshop with Project Team, ARD, E & I and Members of the Alberta Farm Safety Advisory Committee**

Twenty people at the workshop discussed the consultation process, reviewed the highlights of phase one and heard the feedback received in phase two from the 14 organizations. The group shared comments and questions to clearly understand both the individual and group consultations. The OHS project team asked the group for advice on which recommendations to make to the Ministers. The attendees provided advice on the timeline and how to proceed. The consultants discussed with OHS project team following the meeting to firm up the recommendations which will be presented to the Ministers for consideration.