

Chapter 1

Section 1.07

Ministry of Labour, Training and Skills Development

Health and Safety in the Workplace

Follow-Up on VFM Section 3.07, 2019 Annual Report

RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1		1			
Recommendation 2	1		1			
Recommendation 3	4	1		3		
Recommendation 4	4		2	2		
Recommendation 5	3		3			
Recommendation 6	2		2			
Recommendation 7	1		1			
Recommendation 8	1			1		
Recommendation 9	1			1		
Recommendation 10	3		3			
Recommendation 11	1		1			
Recommendation 12	2	2				
Recommendation 13	3			2	1	
Total	27	3	14	9	1	0
%	100	11	52	33	4	0

Overall Conclusion

The Ministry of Labour, Training and Skills Development, as of August 31, 2021, has fully implemented 11% of the actions we recommended in our 2019 Annual Report. An additional 52% of recommended actions were in the process of being implemented.

Fully implemented recommendations included requiring Health and Safety Associations to track the

use of government funding separately from other revenue and expenses; and reassessing the benefits of conducting further engineering reviews and comprehensive inspections and if determined to be beneficial, prioritizing resources to conduct engineering reviews and/or comprehensive inspections for all underground mining operations and high-risk surface mining operations.

Examples of recommendations in the process of being implemented include the Ministry setting

meaningful targets, and tracking and publicly reporting performance measures to demonstrate the impact of its prevention efforts and strategies; improving the case-management system to allow inspectors to extract compliance data from the system so that they can analyze trends and compare workplaces; linking and comparing compliance data in the Ministry's case-management system with claims data from the Workplace Safety and Insurance Board (WSIB); selecting workplaces for inspection across all sectors based on their compliance history and employee-claims history; and using escalating measures to deter employers or individuals who are responsible for repeat offences.

However, the Ministry has made little progress on 33% of the actions we recommended. These included recovering from Health and Safety Associations any surplus government funding not used by year-end; developing checklists specific to each sector and requiring inspectors to use and include the checklists in their inspection reports; and measuring the impact each sector-specific plan has had toward achieving its objective.

The Ministry will not be implementing one of our recommended actions. That is, to continue to implement the recommendations outlined in the various sector-specific action plans. The Office of the Auditor General continues to support the implementation of this recommended action.

The status of actions taken on each of our recommendations is described in this report.

Background

The Occupational Health and Safety Program is responsible for administering the *Occupational Health and Safety Act* (Act) in Ontario. The Program, which is part of the Ministry of Labour, Training and Skills Development (Ministry), spent about \$204 million in 2020/21 (\$200 million in 2018/19) for prevention and enforcement activities. Almost half of this funding goes to six external Health and Safety Associations to consult with and train businesses and workers on how

to maintain a safe workplace. The Ministry recovers its costs to administer the Act from the Workplace Safety and Insurance Board (WSIB), which derives its revenue primarily from premiums paid by employers to insure their workers.

In 2020, 79 people in Ontario (85 in 2018) died at work. In 2018, an additional 62,000 were absent from work because of a work-related injury (comparable information for 2020 is not readily available, as the 2018 figure was initially identified through detailed data analysis). In addition, another 166 people (143 in 2018) died from an occupational disease, 28 of which were COVID-19-related. Between 2014 and 2018, the number of employers, supervisors or workers prosecuted and convicted for violating the Act totalled 1,382, or about 276 annually, and financial penalties imposed in 2018 totalled \$62.1 million (comparable information for 2020 is not readily available, as these figures were initially identified through detailed data analysis).

Compared to other Canadian jurisdictions, Ontario had consistently one of the lowest worker lost-time injury rates over the 10-year period from 2008 to 2017. In fact, it has had the lowest rate of any province since 2009. Ontario continued to have the lowest worker lost-time injury rates in 2019, the latest information available at the time of our follow-up. With regard to fatalities from workplace injuries or occupational diseases, we calculated that Ontario had the second-lowest fatality rate in Canada on average from 2013 to 2017. However, we found that Ontario had no reason to be complacent. Injury rates for workers who lost time from work as a result of a workplace injury began to decrease from 2009, but have increased since 2016. Further, the number of injuries in the industrial and health-care sectors had increased from 2013/14 to 2018/19 by 21% and 29%, respectively.

Some of our significant audit findings included:

- The Ministry's enforcement efforts were not preventing many employers from continuing the same unsafe practices. We reviewed companies inspected at least three times during the previous six fiscal years and found that many had been

issued orders for violations and contraventions relating to the same type of hazard in multiple years. For example, in the construction sector, 65% of companies we reviewed had repeatedly been issued orders relating to fall-protection hazards.

- The Ministry's information system contained only 28% of all businesses in Ontario, leaving many workplaces uninspected. The Ministry did not maintain an inventory of all businesses that are subject to inspection under the *Occupational Health and Safety Act*, because there was no requirement for businesses to register with or notify the Ministry when they start operating or close down. The inventory is updated only when the Ministry's contact centre receives a complaint or an incident report, or if an inspector happens to notice a new, unrecorded workplace in their area of inspection.
- The Ministry did not identify workplaces for inspection where workers are more likely to get injured, often leaving companies with the highest injury rates uninspected. Although the Ministry used WSIB injury data and its own compliance data to identify high-risk or workplace/worker characteristics for developing enforcement strategies, it did not use this data to identify, rank and select specific higher-risk workplaces for inspection.
- The Ministry provided Health and Safety Associations with about \$90 million in funding per year, but did not know how effective the associations have been at helping to prevent occupational injury or disease. The Ministry assessed the associations' performance solely on outputs (for example, number of training hours provided) rather than the effectiveness of their prevention efforts (for example, changes in the rates of injuries and fatalities in businesses that received their training services).
- The Ministry did not require Health and Safety Associations to account for or repay surplus funding owed to the government. Under the transfer-payment agreements with the Ministry,

the associations were not allowed to retain any portion of unused funding at year's end. In addition to government funding, all five training associations also generated revenue from private sources. None of the associations, however, tracked what portion of expenses related to activities funded by the government, and the Ministry did not require them to do so. We estimated the Ministry's share of the associations' total recoverable surplus to be approximately \$13.7 million. In January 2019, the Ministry reduced 2018/19 fourth-quarter payments by \$2.9 million to the associations and in April 2019, announced a \$12-million reduction to their funding. Associations were permitted to use their accumulated surpluses to offset this.

We made 13 recommendations, consisting of 27 action items, to address our audit findings.

At the time of our audit in 2019, the Ministry of Labour, Training and Skills Development committed to take action to address our recommendations.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of Labour, Training and Skills Development that effective November 12, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Performance of the Worker Occupational Health and Safety Program

Recommendation 1

In working toward a continuous reduction in worker injuries and fatalities, we recommend that the Ministry of Labour, Training and Skills Development set meaningful targets, and track and publicly report

performance measures that demonstrate the impact of its prevention efforts and strategies.

Status: In the process of being implemented by April 2023.

Details

In our 2019 audit, we found that although the Ministry had established outcome-based targets for four key performance measures relating to occupational health and safety, it had not publicly disclosed these targets in its annual report.

In our follow-up, we found that the Ministry no longer planned to use its previous indicators and had begun development of a performance measurement framework to measure the success of prevention efforts. The framework is intended to accompany the Ministry's new Occupational Health and Safety Strategy, released in July 2021. The Ministry expects to release the performance measurement framework after the strategy. At the time of our follow-up, the performance measurement plan was a work in progress, including four objectives based on priorities the Ministry has identified and will try to solve. Each objective is to include a list of activities for the next five years to make positive changes toward measuring not only the strategy's outputs but also its outcomes, including improved knowledge and practices in Ontario's workplaces and ultimately the system's contributions toward measurable reductions in workplace injuries, illnesses and fatalities in the province. At the time of our follow-up, the Ministry had completed the draft performance measures for one of the four objectives.

The Ministry expects to finalize the draft framework by April 2022 and to fully implement performance measures by April 2023. Fiscal 2023/24 is to be the baseline year for the measurement of the performance measures.

The Ministry told us it was in the process of identifying major gaps in data collection in order to identify future methods of data collection, such as large-scale surveys, needed to be able to track outcomes. The Ministry also stated that the first planned public reporting of the indicators is expected in the Ministry's 2023 annual report, to be released in

March 2024, and will include a description of the indicators and baselines and targets for each.

Ministry Oversight of Health and Safety Associations

Recommendation 2

To better measure the effectiveness of the Health and Safety Associations' prevention activities, we recommend that the Ministry of Labour, Training and Skills Development develop a well-documented, outcome-focused performance measurement model including relevant, quantitative metrics that Health and Safety Associations must be accountable for meeting as demonstrated through annual performance measurement.

Status: In the process of being implemented by April 2023.

Details

In our 2019 audit, we found that the Ministry did not know how effective Health and Safety Associations have been at helping to prevent occupational injury or disease, since performance measures focused solely on outputs (for example, the number of training and consulting hours provided), and not on the impact or effectiveness of prevention efforts provided by the associations.

In our follow-up, we found that the Ministry had not yet developed any additional performance metrics for the Health and Safety Associations. However, as noted in **Recommendation 1**, the Ministry was in the process of developing a performance measurement framework and had developed a set of objectives, and for each objective intended outcomes and potential indicators for measurement. Included in the draft objectives are intended outcomes for Health and Safety Associations to demonstrate measurable contributions to preventing injuries, illnesses and fatalities.

In early 2021, the Ministry informed the Health and Safety Associations that following completion of the performance measurement framework in April 2023, it plans to use these indicators to inform

a performance-based funding model for Health and Safety Associations.

The Ministry stated it plans to have the final indicators, along with the performance-based funding model, ready for the start of the 2023/24 fiscal year.

Recommendation 3

So that government funding is both used and recovered in accordance with the Transfer Payment Accountability Directive, we recommend that the Ministry of Labour, Training and Skills Development:

- *require Health and Safety Associations to track government funding and how that money is used, separately from other revenue and expenses;*

Status: Fully implemented.

Details

In our 2019 audit, we found that the Ministry's ability to track and recover government funding that is not used by the Health and Safety Associations for prevention activities was limited because the associations were allowed to commingle funding received from the Ministry with revenue generated from private sources, and the associations did not have mechanisms in place to track what portion of expenses related to activities funded by the government.

In our follow-up, we found that beginning in 2019/20, the Ministry required Health and Safety Associations to report expenses and revenue by program. As a result, the associations and Ministry are now able to identify and track programs that are sustained from Ministry funding.

- *recover any surplus funding not used by year-end;*
- *collect interest income earned by associations on government funds;*

Status: Little or no progress.

Details

At the time of our audit, we estimated that as of March 31, 2018, the Health and Safety Associations were collectively holding \$13.7 million in surplus funding that was recoverable by the Ministry. Instead

of recovering the amounts, the Ministry reduced government funding to the associations by \$2.9 million in the fourth quarter of 2018/19 and \$12 million in 2019/20.

We also found in our 2019 audit that interest income generated by the Health and Safety Associations on Ministry-provided funds was not being returned to the Ministry or used to reduce future funding to the associations. During our audit, we estimated that the Health and Safety Associations had generated approximately \$3.3 million in interest income on Ministry-provided funding from 2013/14 to 2017/18.

In our follow-up, we found that the Ministry had not acted to collect surplus funding from the Health and Safety Associations, nor to collect interest earned on government funding. The Ministry told us that it held discussions with all Health and Safety Associations in February 2021 and came to a verbal agreement to allow the use of surplus funding toward specific projects, if approved by the Ministry, through such means as a business case or transfer-payment agreement. Further, as a result of a reduction in funding for fiscal (2019/20), the Ministry allowed the Health and Safety Associations to use the accumulated surplus to manage the funding change. According to the Ministry's current tracking, for 2019/20 the total accumulated funding surplus from all Health and Safety Associations was \$9.2 million.

Regarding the collection of interest earned on government funding, the Ministry was not able to show any progress.

- *follow up and recover any Ministry funding that may have been inappropriately transferred to the Centre for Health and Safety Innovation.*

Status: Little or no progress.

Details

During our 2019 audit, we noted that two Health and Safety Associations had transferred unrestricted funds to a restricted capital-improvement fund to maintain a leased building as part of a joint investment. The

Ministry had not determined what amount of these transferred funds was attributable to Ministry funding and should therefore be recovered. The use of Ministry funding for unapproved capital improvements rather than prevention efforts goes against the spirit of the transfer-payment agreements between the Ministry and the Health and Safety Associations, which state that the funds are only to be used for prevention activities.

At the time of our follow-up, the Ministry had not yet completed a reconciliation of whether any Ministry funding was transferred inappropriately to allow it to recover funding not used for its intended purpose, and said it anticipates this to be completed by December 2021.

At the time of the 2019 audit, we reported the two associations had collectively transferred \$3.1 million to the restricted capital improvement fund. According to the most recent available financial statements of the two associations, Workplace Safety and Prevention Services (WSPS) no longer had restricted amounts for the fiscal year ending March 31, 2021; however, the Infrastructure Health and Safety Association (IHSA) had \$94,000 in restricted capital for the year ending December 31, 2020.

Identifying Workplaces for Inspection

Recommendation 4

To maintain a more complete inventory of businesses in areas demonstrating a high risk of worker injuries or fatalities, including construction projects, from which to assess risk and prioritize inspections, we recommend the Ministry of Labour, Training and Skills Development:

- *review business registration information captured by the Ministry of Government and Consumer Services and the Workplace Safety and Insurance Board to determine the most useful source of information for the program's needs, and develop an information-sharing agreement with the appropriate party that could include use of their IT systems;*

Status: In the process of being implemented by March 2023.

Details

In our 2019 audit, we found that the Ministry did not have a complete inventory of workplaces that are subject to inspection under the *Occupational Health and Safety Act*, because there was no requirement for businesses to register with or notify the Ministry when they start to operate or close down. Moreover, although new businesses are required to register with the Ontario Business Registry and with the Workplace Safety and Insurance Board, the Ministry was not using these sources to develop a complete inventory of workplaces.

Since April 2018, the Ministry has had a Memorandum of Understanding in place with the Ministry of Government and Consumer Services to receive a monthly extract of business registrations (OnBIS). However, as was the case at the time of our audit, the Ministry was still not using this data to update its workplace inventory. However, as discussed in **Recommendation 5.2**, the Ministry is completing a project to combine data from OnBIS (and other sources) into a common employer record for the purpose of having a single employer record which will include Ministry inspection and enforcement data along with WSIB claims data, and data from other government systems. The expected completion of the project is March 2023.

In regard to information sharing with the WSIB, the Ministry stated it is reviewing the terms and conditions of the current agreement in place, in advance of renewing it in the summer of 2021. The Ministry currently uses WSIB data when assessing hazards within sectors and for selecting specific sectors to focus on, but it is not used to inform workplace inventory. The Ministry expects to have a revised information-sharing agreement with WSIB in place by March 2022 that would formalize the agreement for the collection and use of data between their information systems.

- *develop, in collaboration with the Ministry of Municipal Affairs and Housing, an information-sharing agreement for municipalities to provide a*

listing of building permits on a regular basis, such as weekly or monthly;

Status: In the process of being implemented by March 2022.

Details

In our 2019 audit, we found that not all general contractors or owners of construction projects that were expected to cost at least \$50,000 were notifying the Ministry of these construction projects, even though they were notifying municipalities through the filing of building permits. We noted that the Ministry had not formalized an official arrangement with municipalities to capture building permit information consistently across all regions, to help it capture all large construction sites.

In our follow-up, the Ministry told us it had discussions with the Ministry of Municipal Affairs and Housing (MMAH) and determined that MMAH does not collect building permit information, and so was directed to the Municipal Property Assessment Corporation (MPAC) which does collect information about building permits, to assess if that information would be of value to the Ministry. In March 2021, the Ministry signed a non-disclosure agreement with MPAC to allow for sharing of confidential (personal) information; however, the decision on what specific data will be shared has not been made.

At the time of the follow-up, the Ministry had completed work with 10 select municipalities to informally share building permit information with Ministry regional offices (Brampton, Hamilton, Burlington, Oakville, Brantford, Norfolk, Brant County, Halton Hills, Milton and Ottawa). This building permit information is either sent to the Ministry by the municipality monthly or obtained by the Ministry directly from the municipality website. However, as was the case at the time of our audit, this information is not used to systematically update the inventory of workplaces, but rather can be used by inspectors in those regions to identify construction sites for inspection, which were not required to be filed with the Ministry.

The Ministry has stated it will continue to work toward formal information-sharing agreements with MPAC to share and potentially harmonize building permits and Notice of Project (required to be submitted to the Ministry for projects more than \$50,000). The Ministry expects to have this completed by March 2022. The Ministry told us that since not all municipalities use the same information system for their building permits, this has created a challenge in streamlining an information-sharing agreement that could easily integrate with Ministry information systems.

- *assess whether the \$50,000 reporting threshold is reasonable and whether other factors should be considered for construction work in order to sufficiently capture all worksites that pose a high risk for workers; and*
- *amend the threshold and add any other criteria needed based on the results of the assessment.*

Status: Little or no progress.

Details

In our 2019 audit, we found that having only a financial threshold, like the \$50,000 reporting threshold for construction companies, as a measure of risk did not capture all worksites that posed a risk for workers. For example, roofing projects which usually do not meet the \$50,000 threshold represented 8% of workplace deaths for the period 2014 to 2018.

In our follow-up, we found that the Ministry had prepared a plan to conduct a public consultation about a regulatory change to be made regarding eliminating the monetary threshold for reporting construction projects and replacing it with reporting requirements based on high-risk hazards or activities. The Ministry expects to propose the regulatory change after the public consultation is held and the results of the consultation are reviewed. At the time of our follow-up, the Ministry had not yet determined the date it would conduct the public consultation, and had not done any work to determine what risk-based reporting requirements would be best to replace the monetary threshold.

Recommendation 5

To help prevent and minimize future injuries to workers, we recommend that the Ministry of Labour, Training and Skills Development:

- improve its case-management system to allow inspectors to extract compliance data from the system so that they can analyze trends and compare workplaces;

Status: In the process of being implemented by fall 2024.

Details

In our 2019 audit, we noted that the Ministry's IT system did not allow inspectors to generate reports showing the hazard type, severity, or frequency of violations by workplace. In addition, although the WSIB provided the Ministry with access to its claims data, the Ministry had not been able to link this data to its own inspection and compliance data so that inspectors could select workplaces based on their compliance history and employee-claims history, or the history of other businesses in the same sector.

At the time of our follow-up, the Ministry was planning for the development of a new enforcement case-management system for inspector use. The proposal for the planned system includes the ability for inspectors to search, sort and analyze employers by compliance history in both the health and safety area and in employment standards, as well as by WSIB claims data. The Ministry expects the system will be built and put into use in phases starting the spring of 2023, with completion in the fall of 2024.

We also noted that the Ministry has developed other tools to allow inspectors to analyze and compare workplaces for inspection, based on some risk factors.

- In October 2020, the Ministry opened an online portal which allows Ministry staff access to up-to-date enforcement data. The online portal has the capability to view and sort enforcement information by date, infraction type, and company, both in aggregate by sector or region. It also enables staff to view enforcement information for individual companies.

- In October 2020, the Ministry also developed an online work-planning tool for construction inspectors to assist them in selecting workplaces for proactive inspections based on the submission of notices of project submitted by general contractors. The tool allows inspectors to identify construction projects valued at over \$50,000 and locate them on a map. It also allows inspectors to identify the number of projects the contractor has filed in the previous five years, as well as the number of stop-work orders issued to the contractor per project and the number of critical injuries attributed to their employees. The data for this is pulled from the Ministry's enforcement database.

- link and compare compliance data in its case-management system with claims data from the Workplace Safety and Insurance Board;

Status: In the process of being implemented by March 2023.

Details

In our follow-up, we found that the Ministry was creating a single-source system for employer information including compliance, enforcement and claims information. It was combining information from the Ontario Business Information System (OnBIS) which records business registration, the Ministry's enforcement database which contains inspection results, the Employment Standards Information System which contains employer infractions regarding employment standards, and the Workplace Safety and Insurance Board (WSIB) which contains work-related injury claims data.

At the time of our follow up, the Ministry had completed the matching of employer records through the process of data cleaning and using a standard format to record the name of a business and its address. It also established matching rules applied to the various databases and created algorithms to match both exact matches and potential matches. The Ministry had also designed a process to combine the data from the various databases and told us it was developing

the programming required to complete the data combination.

The Ministry has set a timeline for expected completion of this recommendation, including development of a case-management system based on the combined single employer data record, of the end of March 2023.

- *select workplaces for inspection across all sectors based on their compliance history and employee-claims history.*

Status: In the process of being implemented by fall 2023.

Details

In our 2019 audit, we found that the Ministry did not have a risk-based approach to identify, rank and select other higher-risk workplaces or businesses that may not be otherwise inspected under the Ministry's enforcement initiatives. At the regional offices visited, we found that inspectors selected other workplaces largely based on their own judgment and field intelligence (that is, their knowledge of local workplaces and familiarity with activities within their assigned geographical areas).

In our follow-up, we found that the Ministry has taken steps as noted in the first action of this recommendation. However, it will not be able to fully implement this recommended action until the new case-management system for inspection and enforcement noted above is built and put into use in the fall of 2023 and Ministry compliance data is successfully linked to claims data maintained by the WSIB.

Recommendation 6

In order to identify risks of poor health-and-safety practices that may extend to organizations and associated companies under common ownership, we recommend that the Ministry of Labour, Training and Skills Development:

- *consistently record the names of business owners in its system and analyze reported incidents and inspection results by common ownership, in addition to the business name; and*

- *inspect affiliates with common ownership that might be using the same or similar unsafe practices.*

Status: In the process of being implemented by March 2023.

Details

In our 2019 audit, we found that even though the Ministry's IT system contained a data field to record the names of owners or board of directors of individual businesses, this information was not being consistently recorded – 44% of the records we sampled did not contain details about owners and board of directors. As a result, the Ministry could not always identify and inspect affiliated businesses with common ownership that might be using the same unsafe practices.

In our follow-up, we found that through completion of the Ministry's work to link and compare compliance data in its case-management system with claims data from the Workplace Safety and Insurance Board and other databases, it will be creating a master employer data record as described in **Recommendation 5.2**. This employer record will include the legal entity name as reflected in the Ontario Business Intelligence System (OnBIS), as well as the ownership information, including corporate directors, allowing the Ministry to select and inspect workplaces based on common ownership.

Recommendation 7

To obtain more complete information on critical injuries for investigation that could contribute to preventing future incidents, we recommend that the Ministry of Labour, Training and Skills Development (Ministry) develop a process with the Workplace Safety and Insurance Board to inform the Ministry of claims that meet the Ministry's definition of a critical injury.

Status: In the process of being implemented by March 2022.

Details

In our 2019 audit, we reported that the Ministry conducted a pilot project in 2017 to determine whether critical injuries were being underreported following

a change, in the prior year, in the interpretation of a critical injury. The Ministry reviewed a sample of critical-injury claims received by the WSIB and concluded that 48% had not been reported to the Ministry as required. But, at the time of our audit, the Ministry had not taken any action to address the reasons employers failed to notify the Ministry.

At the time of our follow-up, we found that the Ministry had identified options for developing a harmonized incident-reporting system for reporting critical injuries and fatalities to both the Ministry and to WSIB for claims purposes. The first option is an automatic notice sent to the Ministry from WSIB's claim reporting site, when a WSIB claim is filed that seems to meet the Ministry's definition of a critical injury. The other option is to develop a harmonized reporting system accessible to both the Ministry and WSIB which will meet the needs of both claims reporting and reporting of critical injuries. At the time of our follow-up, the Ministry, in collaboration with WSIB, had yet to select a preferred option; however, in January 2021 had developed a prototype of a digital harmonized reporting form, with input from both the Ministry's and WSIB's IT departments, should they decide to go forward with a harmonized reporting system. The Ministry told us it expected to have a decision made and implementation of sharing of critical-injury information to be in place by March 2022.

Recording of Field Visit Reports and Orders

Recommendation 8

To assist inspectors in efficiently assessing and documenting all health and safety hazards in a workplace, we recommend the Ministry of Labour, Training and Skills Development develop checklists specific to each sector and require that inspectors use and include the checklists in their inspection reports.

Status: Little or no progress.

Details

During our 2019 audit, we noted that the Ministry had checklists for inspection of specific equipment (such as mobile cranes and material hoists), but did not provide a checklist of specific criteria that inspectors should assess when conducting field visits for all health-and-safety areas (for example, assessing certain electrical hazards in construction sites). Moreover, the level of detail documented in inspections reports varied, making it difficult for the reviewing manager to ensure that all relevant areas of the inspection were actually covered by the inspector.

In our follow-up, we found that the Ministry was reviewing whether checklists should be used for three of its sector programs (construction, health care, industrial). For the construction sector, the Ministry stated that it supports the use of checklists for highly technical inspections such as tower cranes, but not an overall inspection checklist. Similarly, in the health-care sector, instead of checklists the Ministry has developed various quick reference guides to be used in response to specific hazards, or while conducting inspections in specific workplace sector(s). A quick reference guide provides a short overview of the hazard and/or sector and then focuses on a compliance summary of key legislated requirements related to the hazard and/or sector. For example, it developed guides for COVID-19 infection prevention and control in the long-term-care sector, occupational illness in the health-care sector, and infection prevention and control in congregate living settings, but there is no plan to develop an overall inspection checklist. For the industrial sector, the Ministry has developed a draft template for the development of future checklists which would be specific to certain hazards (for example, storage of flammable liquids in industrial establishments). However, an expected date to produce and implement a checklist had not been established at the time of our audit, and similarly to the other sectors an overall inspection checklist is not being considered.

In response to the COVID-19 pandemic and in line with the *Reopening Ontario Act, 2020*, to help guide inspectors in ensuring businesses are in compliance

with the COVID-19 health and safety measures and to track areas of non-compliance with required health and safety measures, the Ministry created several checklists and reference guides. For example, some of these were for construction sites, industrial workplaces, temporary foreign agricultural workers, hotels and shared rental accommodations, shopping and retail, food and drink establishments, and personal care services. The Ministry also created a template of questions for inspectors to ask employers during all initial COVID-19-related proactive and reactive initial inspections for all sectors, to help guide whether COVID-related health and safety requirements were met. Inspectors then narrated the answers in their reports and wrote orders for any of the missing required elements.

Although we recognize the above noted guides and specific checklists can be a valuable tool in guiding inspectors in specific areas, they do not fully address the recommendation of developing a checklist to ensure all areas of an inspection are covered.

Recommendation 9

To improve the quality-assurance process for inspections, we recommend that the Ministry of Labour, Training and Skills Development develop and implement metrics to use when assessing whether an inspection has covered applicable hazards and legislative requirements.

Status: Little or no progress.

Details

In our 2019 audit, we found that the quality-assurance process focused on administrative accuracy rather than whether an inspection covered all relevant areas of the Act and regulations, and the hazards present at the workplace. Inspection reports were reviewed but not assessed for quality. As well, although inspectors were accompanied on an inspection once a year by a reviewer, the metrics used to assess their performance were based on whether the inspector had completed an element of an inspection, rather than how well they had completed the task.

In our follow-up, we found that the Ministry had not taken any action toward the development of metrics to be included as part of its quality-assurance process for inspections.

Although the Ministry has stated it is developing performance measures that demonstrate the impact of prevention efforts and strategies as part of its performance measurement framework (discussed in **Recommendation 1**), these will not assess the quality of individual inspections completed.

Ministry Enforcement of Occupational Health and Safety

Recommendation 10

To increase the accountability of employers that have continued violations of the same hazard and to deter future infractions, we recommend that the Ministry of Labour, Training and Skills Development:

- *analyze enforcement data to determine which employers or individuals are repeatedly in contravention of the Occupational Health and Safety Act (Act) for the same hazard;*

Status: In the process of being implemented by December 2021.

Details

In our 2019 audit, we found that many companies that were inspected or investigated at least three times from 2013/14 to 2018/19, had been issued orders for violations and contraventions relating to the same type of hazard at least twice in the six-year period. For example, in the construction sector, 65% of 4,165 companies had repeatedly been issued orders relating to fall-protection hazards. We also reviewed stop-work orders separately, and similarly found that many companies had contraventions for the same type of hazard multiple times.

In our follow-up, we found that the Ministry had not taken any action to perform an analysis of its enforcement and compliance data to identify employers with repeated contraventions of the *Occupational Health and Safety Act*.

As also described in **Recommendation 5.1**, the Ministry has developed other tools to allow inspectors to analyze and compare workplaces for inspection, based on some risk factors. This includes an online portal which allows all Ministry staff access to up-to-date enforcement information, including the capability to allow staff to view enforcement information for individual companies. Also, in October 2020, the Ministry launched an online tool which allows inspectors to identify by construction contractor the number of stop-work orders issued and the number of critical injuries on those construction projects.

The Ministry has also stated, it developed and expects to launch an application for inspectors called the Escalating Enforcement App. This app is to use data from the Ministry's current inspection case-management system and from the Ministry's ticketing system, and produce a risk score for employers based on past compliance and infractions, to indicate the level of repeat contraventions. This application will also allow inspectors to search, sort and analyze employers by compliance history. The Ministry expects this tool to be completed in late 2021.

- *for employers or individuals who are responsible for repeat offences, use escalating measures to deter future infractions, such as issuing more fines through tickets and summonses or recommending prosecution;*

Status: In the process of being implemented by November 2022.

Details

During our 2019 audit, we found that there were no consequences to a company or individual if they did not comply with an order, or if they complied temporarily, unless the Ministry considered issuing the company a fine or pursuing prosecution.

In our follow-up, we found that the Ministry had developed a compliance continuum for when an infraction is observed during inspection, that includes the steps of providing education and awareness, obtaining a commitment to compliance from the workplace, issuing enforcement measures, and prosecution. To inform the inspector where on

the continuum the infraction lies, the continuum includes a decision matrix intended to guide inspector judgment. Based on the number and type of prior infractions and whether they are related to the current infraction, the matrix informs inspector judgment as to whether it presents a low, medium, or high risk of harm and to apply the appropriate enforcement step in the continuum.

The Ministry piloted the compliance continuum in November and December of 2019 with 30 inspectors from all five regions and four programs and has prepared for a phased-in launching of the tool, which is to include built-in functionality in its enforcement case-management system beginning in fall 2021.

Although the Ministry has stated that project implementation was delayed due to immediate enforcement needs related to health and safety during COVID-19, it expects to have the new compliance continuum features incorporated into its existing case-management system by fall of 2022.

- *analyze the effectiveness of the various measures used to deter violations of the Act.*

Status: In the process of being implemented by April 2023.

Details

In our follow-up, we found that the Ministry had not completed any analysis to determine how effective its various enforcement measures have been in deterring health and safety violations.

The Ministry stated that it plans to include indicators to measure the effectiveness of sanctions in the performance measurement framework planned to be developed in response to **Recommendation 1**. The Ministry has an expected project timeline of September 30, 2021, to complete a draft framework, with the framework to be finalized by December 31, 2021, and to begin measurement in fiscal 2022/23. Performance measures related to enforcement include the number of repeat contraventions for orders and for prosecutions, and the compliance rate for specific sanctions, such as commitments and orders issued.

Recommendation 11

To continue to gain knowledge about and limit hazardous exposures in Ontario workplaces, and in order to reduce the incidence and burden of occupational disease, we recommend that the Ministry of Labour, Training and Skills Development continue completing the activities outlined in the Occupational Disease Action Plan, assess the Plan's effectiveness periodically, and make adjustments if necessary.

Status: In the process of being implemented by March 2022.

Details

In our 2019 audit, we reported that deaths from occupational diseases had outnumbered traumatic workplace-fatality claims for at least the past decade. The Ministry, in conjunction with other parties, developed the Occupational Disease Action Plan (Plan) in 2016 to reduce the incidence and burden of occupational disease. At the time of our audit, we followed up with the Ministry on the status of activities that were to be undertaken under the Plan, and noted that as of July 2019, half (50%) had been completed, including those recommendations that have to occur on an ongoing basis. The other 50% either had not been started, were on hold, or were in progress.

In our follow-up, we found that the Ministry had last assessed the status of the recommendations of the Occupational Disease Action Plan in September 2020. At that time, the Ministry determined that it had completed 61% (17) of the recommendations, including those recommendations that have to occur on an ongoing basis, and was in the process of implementing the remaining 39% (11) of the recommendations.

In January 2021, the Ministry began developing a new occupational illness prevention plan for identifying and addressing occupational illness, including to establish and strengthen partnerships to manage occupational illness, enhancing surveillance of occupational illness and exposure, improving knowledge and practices through training for occupational illness prevention, and to strengthen workplace protection and support workplaces to prevent or control

hazardous exposures. The Ministry plans to have the new plan completed by March 2022.

Additionally, in January 2021, the Ministry convened a working group, in partnership with the University of Toronto Dalla Lana School of Public Health and the Occupational Cancer Research Centre, to identify current gaps in exposure and disease-surveillance data and initiate discussions on how to address the gaps. The Ministry had also established an internal working group to design performance measurement and evaluation indicators to allow for collection of data to better understand the causes of occupational illness and measure success toward preventing them, which is expected to allow for future adjustments to its actions toward preventing occupational illness.

Very Little Progress on Newer Initiatives Aimed at Reducing Health and Safety Risks at Mines in Ontario

Recommendation 12

To help identify and correct health-and-safety risks to workers at mining operations, we recommend that the Ministry of Labour, Training and Skills Development:

- *reassess the benefits of conducting further engineering reviews and comprehensive inspections and if these are determined to be beneficial, prioritize resources to conduct engineering reviews and/or comprehensive inspections for all underground mining operations and high-risk surface mining operations;*

Status: Fully implemented.

Details

In our 2019 audit, we found that few comprehensive inspections and engineering reviews of mining operations had been done in the three and four years since they began, because the Ministry did not have the complement of mining inspectors needed to complete these in addition to other inspections and investigations.

In our follow-up, we found that the Ministry had assessed the benefits of completing comprehensive inspections and engineering reviews, in relation to the benefits to stakeholders (internal and external); efficiency (time, cost, and resources); and the impact on safety (worker safety, mine safety and informing enforcement activities).

In September 2020, the Ministry conducted a stakeholder survey of both external stakeholders (e.g., mine operations and the Ontario Mining Association) and internal stakeholders (e.g., specialized professional staff and regional program co-ordinators).

Further to this, for all options considered under both comprehensive inspections and engineering reviews, the Ministry's assessment included the creation of process maps to document the required steps needed for conducting comprehensive inspections and engineering reviews, as well as an analysis of the strengths, weaknesses, opportunities and threats associated with completing the inspections and reviews.

Based on its assessment, the Ministry recommended to move forward with conducting comprehensive inspections using a high-hazard risk-based approach, rather than attempt to conduct these inspections for all mines. Similarly, for engineering reviews the Ministry recommended adopting a risk-assessment model whereby the mining engineer is to tailor the review specific to each mine operation's high-risk hazards versus the earlier engineering review model that focused on three high-risk hazards for each mine (ground control, ventilation and water management).

- *develop procedures for conducting engineering reviews and documenting results in a consistent manner.*

Status: Fully implemented.

Details

In our 2019 audit, we reported that although the Ministry had developed a reporting template to record the findings of engineering reviews, there

were inconsistencies in the level of detail in reports completed by different engineers. With respect to comprehensive inspections, there was no checklist that clearly directed inspectors and other technical staff on what they should be evaluating or standard template for reporting results.

In our follow-up, we found that in late 2019 the Ministry had developed a procedure manual for conducting engineering reviews, including the required documentation (such as design plans and risk assessments) to be requested and reviewed, and detailed compliance criteria to be assessed by the engineer. Following the document review, the engineer could conduct an onsite visit of the mine, if deemed necessary.

The Ministry also established a standard reporting format for its engineering reviews, in which the same reporting template is used regardless of the type of engineering review completed (ground control, water management, ventilation). Each report is to be peer reviewed followed by a review by the Provincial Engineer before it is provided to the inspector.

Although the peer review process is not formally documented, the Ministry told us it consists of a technical review by an engineer in the same discipline (in this instance, it must be a mining engineer, preferably with the same specialty) to ensure technical accuracy and to see if there are any errors or omissions, and a quality-assurance review to ensure the report is presentable, inclusive, defensible, and contains sufficient technical information and calculations to support the findings.

Work Needed to Address Recommendations of Ministry's Action Plans to Reduce Workplace Health-and-Safety Incidents

Recommendation 13

To help prevent and reduce the occurrence of occupational-related fatalities and injuries in workplaces across the province, we recommend that the Ministry of Labour, Training and Skills Development:

- *continue to implement the recommendations outlined in the various sector-specific action plans;*
Status: Will not be implemented. The Office of the Auditor General continues to believe this is a significant recommendation and continues to recommend that the Ministry of Labour, Training and Skills Development implement the remaining recommendations outlined in the various sector-specific action plans, in order to prevent and reduce workplace health and safety incidents.

Details

At the time of our 2019 audit, the Ministry had developed action plans to reduce workplace health and safety incidents for three of the sector programs—construction (2017), mining (2015) and health care (2016), but none of the plans had been fully implemented. Implementation rates were 88% for the construction sector, 44% for the mining sector and 43% for the health-care sector.

Based on the latest assessments performed since our 2019 audit, the implementation rates of the sector action plans were 90% for the construction sector (as assessed in April 2020), and 47% for the mining sector, with the remaining actions noted as ongoing or on hold (as assessed in March 2020).

The implementation rate for the health-care sector action plan was unknown. The Ministry told us it was no longer actively implementing or tracking the status of the recommendations, as the leadership table responsible for the plan had come to an end. According to the Ministry, this was due to changes in Ontario's health-care system, including a realignment of the Ministry of Health and Long-Term Care into two ministries (Health and Long-Term Care), and with the creation of Ontario Health, which has taken over some of the functions of divisions within the Ministry of Health.

The Ministry also told us that it would no longer be actively implementing the recommendations of any of the action plans, as it is transitioning to create new risk-based prevention initiatives, for all sectors.

- *measure the impact each plan has had toward achieving its objective;*
Status: Little or no progress.

Details

In our 2019 audit, we reviewed WSIB claims data for the period since each plan's implementation to determine whether the plans have had an impact on their respective sectors. We reported the impact of the action plans for the mining sector and health-care sector as of 2018. But it was too early to assess the impact of its other two plans which were released in 2017 – one for the construction sector and the other for occupational disease.

In our follow-up, we found that the Ministry had not completed an assessment of the impact of the actions implemented in its current sector action plans. Going forward, the Ministry has begun planning to introduce a risk-based approach to be led by the applicable Health and Safety Association for each sector. The goal of this approach is to identify risks, hazards and controls for each sector, complete a root-cause analysis, develop evidence-based initiatives to address the causes and measure the impact of these initiatives.

- *based on the results of the impact achieved, assess a future course of action.*

Status: Little or no progress.

Details

As the Ministry has not assessed the impact of its action plans, it has also not revised future actions based on the results. In our follow-up, the Ministry stated that it agrees with the recommendations of the Auditor General and, in response, is developing and will eventually implement the next iteration of the Occupational Health and Safety Strategy (discussed in **Recommendation 1**). The Ministry has committed to assess the impact achieved on a continuous basis and, based on evidence, adjust the course of action as it goes. It also noted that the sector risk-based approach it plans to implement in the future will be used to develop, implement and measure prevention and compliance initiatives at the sector level.