ESTIMATES

Hazardous Materials Information Review Commission Canada

Performance Report

For the period ending
March 31, 2002

Canada

The Estimates Documents

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament.

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of funds.

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Foreword

In the spring of 2000, the President of the Treasury Board tabled in Parliament the document "Results for Canadians: A Management Framework for the Government of Canada". This document sets a clear agenda for improving and modernising management practices in federal departments and agencies.

Four key management commitments form the basis for this vision of how the Government will deliver their services and benefits to Canadians in the new millennium. In this vision, departments and agencies recognise that they exist to serve Canadians and that a "citizen focus" shapes all activities, programs and services. This vision commits the Government of Canada to manage its business by the highest public service values. Responsible spending means spending wisely on the things that matter to Canadians. And finally, this vision sets a clear focus on results – the impact and effects of programs.

Departmental performance reports play a key role in the cycle of planning, monitoring, evaluating, and reporting of results through ministers to Parliament and citizens. Departments and agencies are encouraged to prepare their reports following certain principles. Based on these principles, an effective report provides a coherent and balanced picture of performance that is brief and to the point. It focuses on outcomes - benefits to Canadians and Canadian society - and describes the contribution the organisation has made toward those outcomes. It sets the department's performance in context and discusses risks and challenges faced by the organisation in delivering its commitments. The report also associates performance with earlier commitments as well as achievements realised in partnership with other governmental and non-governmental organisations. Supporting the need for responsible spending, it links resources to results. Finally, the report is credible because it substantiates the performance information with appropriate methodologies and relevant data.

In performance reports, departments and agencies strive to respond to the ongoing and evolving information needs of parliamentarians and Canadians. The input of parliamentarians and other readers can do much to improve these reports over time. The reader is encouraged to assess the performance of the organisation according to the principles outlined above, and provide comments to the department or agency that will help it in the next cycle of planning and reporting.

This report is accessible electronically from the Treasury Board of Canada Secretariat Internet site:
http://www.tbs-sct.gc.ca/rma/dpr/dpre.asp

Comments or questions can be directed to:

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OR to this Internet address: rma-mrr@tbs-sct.gc.ca

Hazardous Materials Information Review Commission

Conseil de contrôle des renseignements relatifs aux matières dangereuses

Departmental Performance Report

For the
period ending
March 31, 2002

A. Anne McLellan
Minister of Health

Canada

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I Message

President's Message

The 2001–2002 fiscal year was a year of transition for the Commission. After three years of organization renewal, our new culture is maturing, and we are experiencing the benefits of the many changes we have made.

The Commission began renewal in 1998, with a view to becoming a more client-oriented agency, committed to improving the quality and timeliness of our services at a reasonable cost to those who directly benefit from our work. While always ensuring that our regulatory decisions are based on sound scientific principles, we wanted to encourage creative and progressive approaches to making workplaces safer. We also wanted to put in place procedures that would eliminate the causes for as many complaints and disputes as possible, and help us resolve the remaining ones impartially and promptly. To achieve these goals, we created a strategic plan, our *Blueprint for Change* and its accompanying *Workplan* in co-operation with our clients and our partners in the Workplace Hazardous Materials Information System (WHMIS).

For the past four years, we have followed our *Workplan* – sometimes a challenging task, but always rewarding. I believe we have now realized the vision. Of the 29 action items we listed, only a handful remain awaiting regulatory and statutory approval. The rest are already in various stages of implementation, the fruit of several years of planning and systematic progress.

A great deal has been achieved in the past year. Our new fee structure has passed through the process of Treasury Board, Justice, and client consultation and is coming into effect as this report is being written. We have introduced a credit card option for fee payments, simplifying the process both for our clients and our own accountants. Our outreach efforts are beginning to show results, and co-operation with provincial Occupational Health and Safety (OSH) agencies in identifying unfiled claims is growing. Changes in our screening procedures have made claim review more transparent to claimants, bringing greater openness and increasing efficiency, and the new dispute resolution process is well on the way to implementation.

Today, the Hazardous Materials Information Review Commission (HMIRC) is a well-performing organization. A solid legislative and administrative foundation has been laid to deliver on all *Workplan* commitments and we are well positioned to meet the challenges of the future.

Some of those challenges have already presented themselves. One in particular appears to have emerged, at least in part, from the success of our renewal initiatives. Renewal gave the Commission more visibility, and made us more accessible. For the third year in a row, there has been a larger than usual number of new claims. Our annual average for years was approximately 200 claims but, since 1999, the Commission has registered more than 300 claims each year, resulting in a growing backlog. This accumulated workload in the

health and safety evaluation of material safety data sheets (MSDSs) requires serious attention. Last year we commenced a five-year backlog reduction plan, approved by Treasury Board in the fall of 2000 and accompanied by temporary TBS funding for more staff to address the increased workload. We now have, admittedly with some difficulty, managed to recruit almost all the necessary operations and associated support staff. However, the continuing high volume of submissions, combined with staffing-related delays in implementing the 2000 Backlog Reduction Plan, has necessitated a review of that plan. It has become evident that backlog reduction objectives cannot now be achieved without modifying the Commission's resourcing requirements, and we intend to discuss this issue with Treasury Board in the coming year.

To accommodate our increased workload and additional staff, the Commission moved to larger facilities last year, while maintaining full service to clients. I am most appreciative of the efforts of our staff during this disruptive time; the move was handled smoothly and efficiently, with excellent teamwork. In addition to the office space we badly needed, the new facilities provide us with improved security for proprietary information.

We have continued to update our Web site with new information as it becomes available, and it is proving to be an excellent aid to education and efficiency. In the coming year, we plan to explore options for e-payment and e-filing, as an added convenience to claimants.

We have also commenced plans to embark on the modern comptrollership initiative in the coming year, including risk management and integrated performance measurement. At the same time, we will continue to assist with the additional legislative and regulatory changes required to complete our *Blueprint* and *Workplan* initiatives. Although we have successfully brought about the organizational renewal foreseen in those two strategic planning documents, we are finding that renewal, once started, is an ongoing process. Every achievement brings a new perspective and new challenges. In that sense, renewal will continue to shape the Commission's activities for many years to come. I am confident of the results, and I know we will continue to make an important contribution as part of the occupational health and safety community.

Weldon Newton
President and Chief Executive Officer

II Departmental Overview

Agency Context

In Canada, the handling and storage of hazardous chemicals in the workplace is controlled by the Workplace Hazardous Materials Information System (WHMIS), a wide array of legislation, regulations and procedures at various levels of jurisdiction that binds suppliers and employers alike. Established in 1988 through a consensus of labour, industry and government, the goal of WHMIS is to reduce illnesses and injuries resulting from the use of hazardous materials in the workplace.

WHMIS requires manufacturers and suppliers to provide employers with information on the hazards of chemicals produced, sold, or used in Canadian workplaces. It prescribes cautionary labelling for containers of controlled products, as defined in the *Controlled Products Regulations*, as a condition of sale and importation, and requires suppliers of those products to provide material safety data sheets (MSDSs). Information required to be shown on a product's MSDS includes the disclosure of all hazardous ingredients in the product, its toxicological properties, any safety precautions workers need to take when using the product, and treatment required in the case of exposure. Employers pass this information on to employees and institute worker training and education programs.

If a supplier or manufacturer wishes to withhold confidential business information—for example, the identity or concentration of one or more hazardous ingredients in their product—they apply to the Commission for an exemption from the requirement to list such ingredients on the MSDS. We allow suppliers to meet their WHMIS obligations without disclosing critical proprietary information, when the claim for exemption is determined to be valid.

The Hazardous Materials Information Review Commission (HMIRC) was created as an independent agency in 1987 by proclamation of the *Hazardous Materials Information Review Act*. The Commission is accountable to Parliament through the Minister of Health. It is a small but important public sector institution charged with providing the trade secret mechanism within the WHMIS.

HMIRC makes decisions on the compliance of MSDSs and labels within WHMIS' regulatory and legislative requirements. As a direct result of its work, national and international chemical companies have been afforded the ability to protect their industrial intellectual property assets. At the same time, the Commission's efforts to review MSDSs and labels and ensure the disclosure of accurate health and safety information about hazardous chemicals, have directly contributed to a reduction in the risk of workplace-related illness and injury.

HMIRC plays a pivotal role in providing a mechanism whereby trade secret formulations can be maintained by industry while ensuring that full hazard disclosure can be afforded to workers in the workplace. The Commission's efforts must result in a fair balance between the right of workers to be informed about the hazards of the chemicals to which they are exposed and the right of suppliers and employers to protect their bona fide trade secret information. Success in this dual-role framework requires that the Commission balances the tension inherent in providing a service of commercial value to industry on the one hand, and being an advocate for worker health and safety on the other. This dual-challenge continues to define HMIRC's essential role in Canadian society.

The Commission's clientele consists of a number of WHMIS stakeholders: suppliers and employers in the chemical industry who wish to protect their trade secrets from being disclosed on MSDSs or labels; employers who rely on supplier MSDS information to prepare their own workplace MSDSs and training programs; and labour representing all workers who are exposed to these products. (See Annex A – Departmental Organization.)

Our Mandate

Under the authority of the *Hazardous Materials Information Review Act* and the provincial and territorial occupational health and safety acts, the Commission is an administrative agency charged with carrying out a multi-faceted mandate:

- to formally register claims for trade secret exemptions, and issue registry numbers;
- to issue decisions on the validity of claims for exemption using prescribed regulatory criteria;
- to make decisions on the compliance of MSDSs and labels within the WHMIS requirements as set out in the *Hazardous Products Act* and *Controlled Products Regulations* and various provincial and territorial occupational health and safety acts; and,
- to convene independent, tripartite boards to hear appeals from claimants or affected parties on decisions and orders issued by the Commission.

Our Mission

As a vital and independent agency, the mission of HMIRC is to:

- ensure a balance between industry's right to protect confidential business information and the right of employers and workers to know about the hazardous materials they deal with in the workplace;
- provide a trade secret mechanism within WHMIS; and,
- resolve complaints and disputes impartially, fairly and promptly through statutory or alternate means.

III Performance Accomplishments

MSDS Compliance

Strategic Outcome

Provide Canadians with workers that are knowledgeable about the health and safety hazards of exposure to chemicals found in products associated with claims for exemption.

Context
MSDS Compliance is the Commission's "scientific arm". Our scientific evaluators review MSDSs and some labels of products associated with claims for exemption to make sure they provide enough health and safety information to comply with WHMIS requirements. They take into account the relevant federal, provincial and territorial legislation and the latest scientific information available on the product ingredients and their known health and safety hazards. Evaluators provide advice to the Commission's screening officers, who decide whether the MSDS complies with regulations, and issue a formal order for revision if it does not.

At the conclusion of the MSDS review process, a formal Statement of Decisions and Order is forwarded to the claimant. If the MSDS does not meet requirements, the screening officer issues a formal order for its revision and follows up to ensure compliance. All orders specify the period during which various changes must be made if the product is to continue to be sold in Canada. Since the Commission first began this activity in 1990–1991, some 95% of the material safety data sheets reviewed have been found non-compliant with the WHMIS requirements. (See Annex B – MSDS Violations and Claims Statistics.)

A Notice is published in the *Canada Gazette* to make public the decisions and orders issued by the screening officer, and to initiate the time during which the claimant and affected parties may appeal the decisions or orders. If no appeal is filed, the claimant must provide a copy of the amended MSDS to the screening officer, who reviews it to ensure compliance with the order.

Resources

MSDS Compliance		
	$ (thousands)	**Full Time Equivalent**
Planned Spending	**2 154**	**24**
Total Authorities	2 154	24
Actuals	2 057	24

Accomplishments

Backlog Reduction
One outcome of organizational renewal has been an increase in claim submissions. A major element of strategic planning for the Commission has been to deal with the claims backlog, which now numbers more than 900. Some 25 percent are refiled claims.

2001–2002 was the first year of implementing the 5-year Backlog Reduction Plan; a key element of this plan was recruiting and training new personnel, particularly in the MSDS Compliance Division. In addition to hiring extra screening officers and MSDS evaluators with Program Integrity Funding obtained from Treasury Board, several internal vacancies also had to be filled. Staffing the evaluator positions has proved to be difficult, as comparatively few candidates have the necessary qualifications (a degree in biology with experience in the evaluation of hazardous chemicals and toxicology) and competition for these candidates is intense both within and outside government. The Commission made use of all possible options to fill these vacancies, including employment equity programs, job fair recruitments, deployment and internal and external competitions. Most positions are now filled, and staffing will continue into the next fiscal year for the remaining positions.

The delay in staffing, the further delays that will be occasioned by the learning curve for new employees, and the significantly higher-than-estimated volume of new claims in the past three fiscal years have prompted a detailed review of the 5-year Backlog Reduction Plan.

The statistics on workload analysis and prediction needed for the review were produced by the Claims Management System, a computer application originally developed to record and track the progress of claim submissions. The review also identified and assessed new options for claim management. Inputting formulation data for each claim into a computerized database, we were able to determine the frequency of specific hazardous ingredients in the backlog of claims. This enabled us to develop priorities based on Toxicity Profile Summaries for the most frequently occurring hazardous ingredients and to adjust the unit time cost estimates for various stages of claim processing. Also, entering formulation data into the database early in the process will

now greatly facilitate grouping the claims for review efficiency and increase the scope of such groupings beyond what is possible using only the criteria involved for fee purposes.

The new backlog reduction plan is still in development, but it is clear that, to reduce the volume of unprocessed claims to a reasonable level over the next five years, the Commission's resources must be increased to an output capacity of approximately 500 claims annually. Operations and Corporate Services staff will continue to work out the elements of the new plan for backlog reduction in the coming year, and undertake discussions with Treasury Board officials on options for resolving shortfalls in resources.

Client Services

Strategic Outcome

Provide Canadians with protection of valid confidential business information concerning suppliers' or employers' hazardous products.

Context

Client Services helps suppliers and employers protect trade secrets while still meeting health- and safety-related disclosure obligations under WHMIS. We register claims for exemption, issue registry numbers, and ensure the security of claim information. Claim registration allows a company to import or sell its product while the Commission is reviewing the claim and making its decisions. We also provide information and guidance to suppliers, distributors, producers, employers and other stakeholders about regulatory requirements and the Commission's mandate and procedures.

At this time, the Commission deals with about 120 separate companies, many of which have numerous products on which they wish to claim exemptions. Approximately 40 percent of claims submissions come from the United States.

Resources

Client Services		
	$ (thousands)	**Full Time Equivalent**
Planned Spending	**640**	**8**
Total Authorities	640	8
Actuals	612	8

Accomplishments

During the past fiscal year, the Commission monitored its activities respecting claims registered and enquiries serviced, against its service standards. The service standard calls for a Commission response to telephone enquiries normally within 48 hours, and written replies are expected to be handled within a week of receipt. The Commission responded to some 200 enquiries in 2001–2002, all within the established service standards.

Client Services Standards

- Respond to phone enquiries within 48 hours
- Respond to written enquiries within a week
- Complete pre-registration check and register claims within seven days of receipt, provided all necessary information is included
- On special request, register claims within 48 hours, if submission is in order

Note: These standards represent maximum allowable times. In most cases, we are able to provide speedier service.

Once a claim is submitted, Client Services carries out a pre-registration check. The claim is then registered, and a registry number is issued within seven days of receipt, if the supporting documentation is complete. When there is an express request from a claimant, the Commission can and has registered claims within a few hours of receipt. Claim registration allows the company to import or sell their product while the various decision-making processes are carried out at the Commission.

Despite delays in staffing operational positions, and a continued high level of claim submissions, the Commission surpassed its claim processing targets last year. A total of 350 new claims were received and 369 were registered[*], respectively 15 percent and 21 percent above the previous year's totals of 305 in both categories, and well above the 300-claim target. The Commission believes this significant increase is, at least in part, attributable to a renewed confidence in the Commission by industry stakeholders.

Of the 369 claims registered, 211 were registered within 48 hours and 128 between 3 and 7 days of receipt. The remaining 30 claims required significant further consultation with the claimant before registry numbers could be issued. Problems which delayed registration included documentation discrepancies between MSDS information and formulation information, missing mandatory information, delayed receipt of fees, and MSDS software conversion inadequacies which arose when companies amalgamated systems.

The claimant may decide to withdraw their claims at various stages of the registration and review process.

[*] Because of the time involved in processing, 19 claims filed in the last days of fiscal year 2000–2001 were registered in fiscal 2001–2002.

Reasons for Withdrawal of Claims

- The product was never sold in Canada;
- The product is no longer being sold in Canada;
- The confidential business information ingredient(s) has (have) been removed from the product formulation;
- Former confidential business information ingredient(s) is (are) now being disclosed on the MSDS; or,
- There has been a change in product ownership.

Once the Commission considers a claim a trade secret, the claim remains in effect for three years. At the end of that period the claimant can refile a claim for exemption.

To afford affected parties an opportunity to make representations to the Commission with respect to claims, a Notice of Filing must be published in Part I of the *Canada Gazette* outlining the basic characteristics of the registered claims. During the 2001–2002 fiscal year, the Commission published 4 such Notices, covering 367 claims for exemption.

Based on their assessment of the information submitted by the claimant, screening officers then issue a decision to grant or deny the validity of the claim for protection of confidential business information.

Claims are assessed against regulatory criteria which establish when a trade secret is deemed to exist. A valid trade secret claim permits the supplier to withhold confidential business information that would normally be included in the product's MSDS. Every claim for which a decision was issued this fiscal year met the criteria.

Claims Management
The computer system used to register, record, track, manage and analyze claims was completely rebuilt with new software in 1999–2000. It is now providing the greater flexibility and capacity the Commission requires to handle its workload. Further improvements are identified and added on an ongoing basis.

A number of renewal initiatives have progressed through the design, consultation, testing and approval stages and have now reached implementation. To make claim processing more transparent and efficient, advice documents prepared by the MSDS Compliance Division have been shared with claimants for some time now, and a pre-assessment process has been developed and is awaiting staff resources for implementation. Pre-assessment is part of a voluntary MSDS compliance program for claimants, in which they have an opportunity to remedy obvious technical shortcomings in an MSDS before formal review by a screening officer. In addition, the preliminary steps have been taken for the legislative amendments necessary to permit a compliance measures agreement and a procedure for issuing a draft order to claimants.

One factor that, in the past, has often slowed the processing of claims is lack of complete information about the products/substances in question at the time a claim is filed. HMIRC has explored the option of requiring a statement of 100 percent of the composition of any product on which a claim is being made; however, enforcement would require an amendment to the Regulations. We have now asked claimants to provide this information voluntarily, and so far the voluntary approach is working well.

New Fee Schedule
When Treasury Board published its new cost recovery policy in 1997 and updated it in 1998, HMIRC initiated a review of its fee structure, which was no longer congruent with government policy, particularly in terms of charges that relate to services for the public benefit. A new fee schedule successfully made its way through a process of development, claimant feedback, revision and approval by the Council of Governors, and was submitted to Treasury Board.

After Treasury Board approval, new fee regulations were drafted with the aid of the Department of Justice. There followed a formal submission to Treasury Board; the Minister of Health granted approval, as did the President of Treasury Board, and by the end of the fiscal year the new regulations were published in the *Canada Gazette* for public comment. The new fee structure came into force on June 13, 2002.

The new system is simple to administer, since it replaces the previous complicated groupings with one flat rate. It also reduces the amount of fees paid by claimants, on the basis that many aspects of claim registration and review benefit the public, rather than the claimants. The fee for refiled claims (renewal of exemptions on previously accepted claims on which the time has expired) is reduced, as is the amount of supporting information required, and the fee reduction for small business has been retained. Claimants may provide the required information in any form or format. For convenience, a new and simpler *Application for a Claim for Exemption* will be posted on the Web site.

In October 2001, we introduced a credit card option for fee payments, simplifying the process both for our clients and our own accountants and eliminating currency conversion problems for foreign clients.

During 2001, Client Services recorded net payments of $860,000 through cheques and credit cards.

Claimants Favour New Fee Schedule

"We agree with the…concepts that are the foundation of this proposal. Simplifying the fee structure with a flat rate system and fee reductions for refiled claims represent significant improvements…"

"It is much simpler to use [and] understand, and is fair to all users."

"For our company, this new fee schedule will have a positive impact. Being a small company,…it is important to have a user-friendly system."

"The cost reduction may have an impact on whether our parent company chooses to market a product in Canada. Overall, a definite improvement."

"A great step in the right direction."

"I am pleasantly surprised with the public/private split, and think the revisions are very good for small business."

Outreach

In April 2001, the Vice-President, Operations, visited WHMIS co-ordinators and other OSH staff in Manitoba, Saskatchewan, Alberta and British Columbia to discuss cooperation in detecting unfiled claims. Later in the year, similar trips covered Ontario, Quebec and the Maritime provinces. If information about a controlled (hazardous) substance is omitted from a product's MSDS without a claim being filed, the worker's right to know about the hazards he or she is dealing with has been compromised. However, detection of unfiled claims is not within the Commission's mandate; it is the responsibility of the provincial/territorial OHS agencies. Good working relationships with these agencies, therefore, are essential. The meetings helped Commission staff to gain more understanding of the issues and challenges OSH agencies face, and to gauge the demand for any support services from the Commission in the provinces.

The Commission has produced a field reference tool to assist provincial inspectors in detecting and reporting indicators of unregistered trade secrets and proprietary information in the Hazardous Ingredients section of MSDSs. The document was revised with comments from the provinces to make it more user-friendly, and some referrals from the provinces have been received.

Commission representatives also attended Hazardous Material (HAZMAT), Canadian Labour Congress (CLC) and Industrial Accident Prevention Association (IAPA) conferences in 2002 to maintain currency with industry health and safety developments and inform participants about HMIRC services. The Commission has acquired a customized display stand for use at such events, to establish a presence and provide a means of exhibiting and distributing informative material.

In addition to participating in events directly related to serving Canadian stakeholders, the Commission has provided support for the Canadian delegation involved in international discussions on global harmonization of requirements for communicating chemical hazards. In 2001, HMIRC representatives were asked to accompany the Canadian delegation to one of those meetings, where we presented the Canadian experience with trade secret exemption mechanisms and commented on draft documents.

Client Questionnaire
The Client Services questionnaire initiated in the last quarter of 2000–2001 was continued last year. Survey questionnaires are sent each month to companies that have filed claims, to obtain feedback on their level of satisfaction with information obtained from Client Services and from the Web site, on whether they thought their claim was handled promptly and efficiently, and how they rate the service provided overall. Numerous supportive comments have been received, and 84 percent of respondents indicated a satisfaction level of 8 or better on a scale of 10.

Claimants Favour New Fee Schedule

"Your staff is very friendly and helpful. I actually enjoy working with them! They have answered all my questions promptly and very professionally…"

"I will be taking on a new position…There are several areas of responsibility that I'll be glad to be rid of, but dealing with the HMIRC is not one of them."

"In the four years that I have been involved with the HMIRC, I have seen a move to more cooperation, which benefits industry, labour and government."

Dispute Resolution

Strategic Outcome

Provide Canadians with a system that resolves disputes in a fair, efficient and cost-effective manner.

Context
Dispute Resolution provides the means by which claimants and affected parties can deal with a variety of issues that may arise during the Commission's review of claims for exemption and associated MSDSs. Procedures for the resolution of such complaints and disputes supplement the formal appeals process by providing for the early identification and resolution of any problems arising out of work processes related to claim validity and/or MSDS compliance. Our success is demonstrated not only by the fact that no appeals have been filed in over three years, but also that we've been able to rely on our new processes to resolve differences such that no formal complaints or disputes have

arisen in this same period of time. This reinforces our confidence in the direction we have taken with our renewal initiatives.

If it becomes necessary, the Commission is empowered to convene tripartite boards with representatives of industry, labour and government, to confirm, vary or rescind the decisions or orders being appealed.

An appeal may relate to the compliance of a MSDS, the rejection of a claim, or to a request that confidential business information be disclosed in confidence to an affected party for occupational safety and health reasons. Claimants have 45 days to launch an appeal from the date that the Commission's decision on a claim is published in the *Canada Gazette*; the length of the appeal process varies with the complexity of the case. The Commission plans to identify some benchmarks for timing as part of its review of the dispute resolution process.

For each appeal filed, a Notice of Appeal is published in the *Canada Gazette* to provide affected parties with an opportunity to make representations to the appeal board.

The final outcome of the appeals process is a decision by the appeal board to dismiss the appeal and confirm the decisions or orders of the screening officer; or to allow the appeal and either vary or rescind the decisions or orders being appealed. A Notice of Decision, including the purport and reasons, is published in the *Canada Gazette*.

Resources

Dispute Resolution		
	$ (thousands)	**Full Time Equivalent**
Planned Spending	**406**	**2**
Total Authorities	406	2
Actuals	388	2

Accomplishments

Although serious disputes and appeals do not figure largely in the Commission's work, when they do occur, they can be both lengthy and costly. In the interests of achieving our ultimate goal, to promote the health and safety of Canadian workers, we have streamlined our procedures and become more transparent and accessible in all respects. This effort included a new conceptual framework for Dispute Resolution (DR) developed in 2000–2001. The DR team was active last year preparing the new process for implementation and putting some features into practice. The key goals of the new framework are:

- To prevent or minimize disputes;

- When disputes arise, to identify them quickly and resolve them in an expeditious, cost-effective, fair and open manner, recognizing that appeals are not always the best remedy; and,
- To provide parties with options for resolving disputes in a non-adversarial, collaborative and informal atmosphere, particularly in the case of scientific issues.

The new DR framework spans two business lines. As well as dealing with dispute resolution proper, i.e. the formal appeals procedure, it makes changes in the claims process to reduce the incidence of disputes and appeals at their source by making MSDS review more transparent and consultative.

Meetings with the Justice Department took place to sort the components of the new framework into those that require statutory amendments, those that require regulatory amendments, and those that fall under the Commission's administrative authority. Of the latter, several initiatives at the Client Services end have already been put into practice.

We have implemented feedback mechanisms throughout the claims process, both to help eliminate misunderstandings and disputes, and to improve our own performance. New guidelines and manuals ensure a standardized approach at all stages (and serve as a training tool), procedures now ensure improved contact with clients, and clients are provided with more information. A voluntary MSDS pre-screening process (to identify any obvious deficiencies and enable the claimant to correct them before formal screening begins) is in place and awaiting staff resources for implementation.

The advice document prepared for the screening officer by scientific evaluators has been shared with claimants for two years as a pilot project, and continues to be provided under the new DR framework. Some 75 percent of claimants respond to the advice document, and of those, about a third require some level of discussion with the screening officer. Discussions take place in person or by phone and so far, very few issues have been difficult to resolve. We are turning our attention next to developing guidelines for facilitated discussions to deal with more contentious issues, and to refining our training programs and tools, as well as setting up procedures for monitoring and evaluating performance.

The appeal process itself has been significantly modified. New elements include a simplified procedure for appointing appeal board members, longer appointments to provide continuity and to address training issues, and a procedural manual covering all aspects of the process. In addition, a Commission official would be permitted to participate in an appeal hearing to clarify technical information in the findings of a screening officer.

Some aspects of these changes require statutory or regulatory reform, and work is continuing on advancing the amendments that will be required to complete the new process. A number of amendments are also sought to streamline the regulations and to bring them into line with government-wide changes intended to modernize legislation.

IV Other Information

For more information please contact:

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Legislation Administered and Associated Regulations
The following laws and regulations form the regulatory framework within which the Commission carries out its mission. All the documents can be found on our Web site. Printed copies may be obtained from public libraries or purchased from booksellers that carry government publications. Copies can also be ordered from Canadian Government Publishing, Ottawa, Ontario K1A 0S9, Tel: 1 800 635-7943 or (819) 956-4800.

Hazardous Materials Information Review Act
Hazardous Materials Information Review Regulations
Regulations Amending the Hazardous Materials Information Review Regulations
Hazardous Materials Information Review Act Appeal Board Procedures and Regulations
Hazardous Products Act
Controlled Products Regulations
Canada Labour Code – Part II
Canada Occupational Safety and Health Regulations
Provincial and Territorial Occupational Safety and Health Acts and Regulations

List of Commission Publications
The following publications are statutory reports and other publications. They are available from the Commission's Web site in various format for downloading or on-screen viewing. Hard copies may also be requested from the Commission at the address listed above.

Annual Reports, 1988–2002
Report on Plans and Priorities 2001–2003
Departmental Performance Reports 1998–2001
Commission Renewal: Blueprint for Change (strategic plan)
Workplan (operational plan based on the *Blueprint for Change*)
Information Bulletins 1, 2, 3 and 4
Application for a Claim for Exemption
A Guide to Completing an *Application for a Claim for Exemption*
Guidelines for Toxicological Summary Requirements
Statement of Appeal Form 1

Please visit our Web site at www.hmirc-ccrmd.gc.ca

V Annexes

Annex A – Departmental Organization

Council of Governors
The Commission is governed by a Council of Governors, consisting of members representing workers, suppliers, and employers, and the federal, provincial and territorial governments. Each governor is appointed by the Governor in Council to hold office for up to a three-year term. The Council is headed by a Chairperson chosen by the governors for a term of one year.

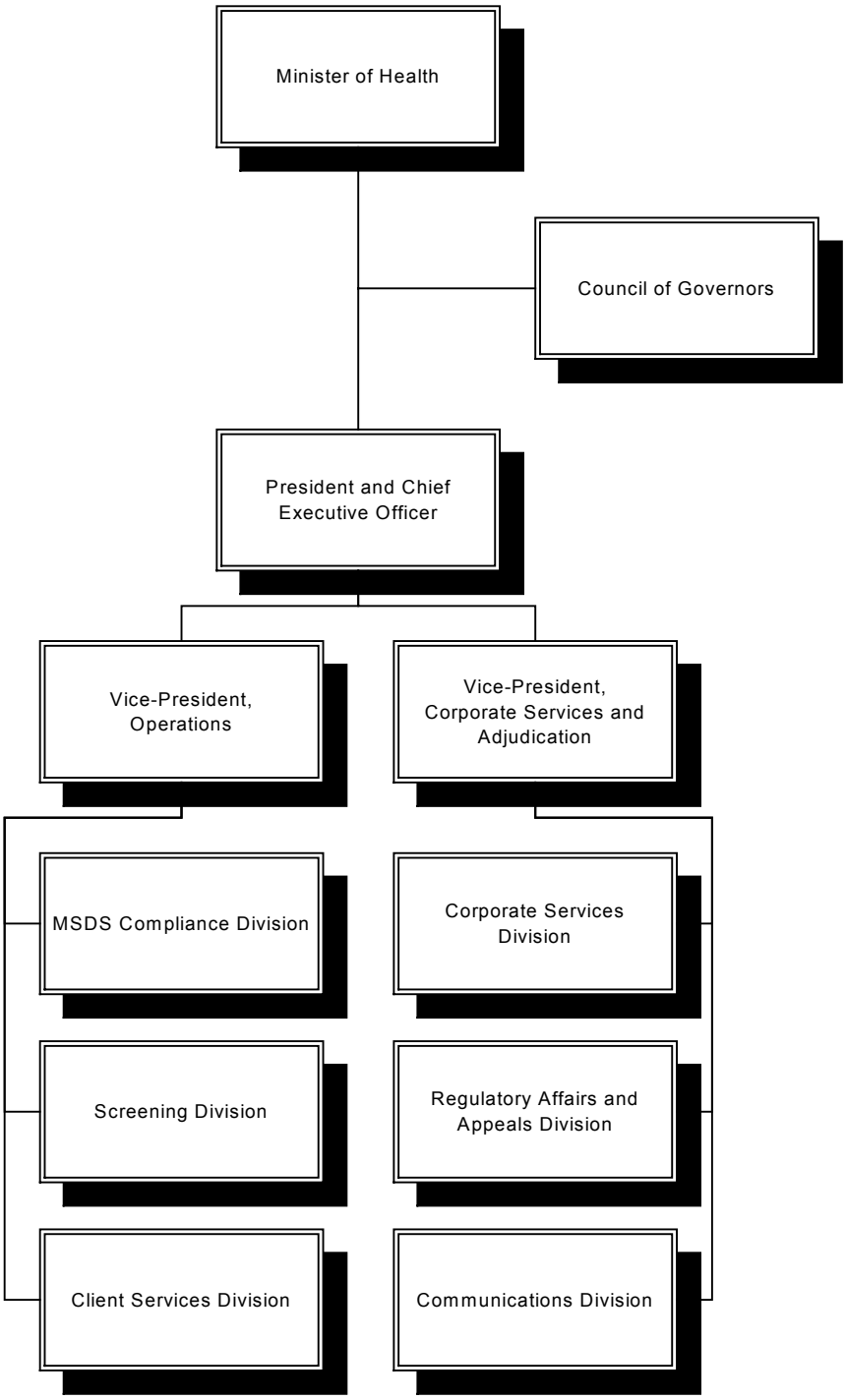
The Council is responsible for making various recommendations to the Minister of Health, including changes to the regulations respecting the Commission's fee structure; to procedures for reviewing claims for exemption; and to appeal procedures.

President and CEO
The President and CEO is appointed by the Governor in Council, and has the authority and responsibility to supervise and direct the organization's work on a day-to-day basis. The President is accountable to the Council of Governors and the Minister of Health. The President's Office acts as Secretariat to the Council of Governors.

Operations Branch
The Vice-President, Operations Branch, has the authority and responsibility to supervise and direct the work within MSDS Compliance and Client Services.

Corporate Services and Adjudication Branch
The Vice-President, Corporate Services and Adjudication Branch, who is also the Chief Appeals Officer, has the authority and responsibility to supervise and direct the work within Dispute Resolution and Corporate Services.

The Commission's Structure



Annex B – MSDS Violations and Claims Statistics

A statistical breakdown of the violations found in respect of MSDSs reviewed by the Commission is detailed below.

Violation Category	No. of Occurrences by Year								
	2001–2002	**2000–2001**	**1999–2000**	**1998–1999**	**1997–1998**	**1996–1997**	**1995–1996**	**Total**	**%**
Toxicological Properties	104	308	182	341	384	698	580	2 597	31.7
Hazardous Ingredients	104	452	164	301	391	716	367	2 495	30.4
First Aid Measures	66	116	47	72	97	114	63	575	7.0
Fire or Explosion Hazard	55	109	21	66	49	56	104	460	5.6
Hazard Classification	13	9	6	38	44	95	42	247	3.0
Physical Data	9	99	13	28	29	49	48	275	3.4
Headings	10	157	19	22	31	71	122	432	5.3
Preparation Information	8	35	3	20	9	14	36	125	1.5
Generic Chemical Identity	6	17	20	17	39	13	27	139	1.7
Product Information	2	81	21	15	24	36	49	228	2.8
Format/Wording	18	44	28	10	41	126	205	472	5.8
Preventive Measures	12	3	2	4	3	8	5	37	0.5
Reactivity Data	25	20	6	2	14	17	19	103	1.3
Total	432	1 450	532	936	1 155	2 013	1 667	8 185	100
No. of Claims	69	155	85	143	150	204	252	1 058	
No. of Occurrences/ Claims	6.3	9.4	6.3	6.5	7.7	9.9	6.6	7.7	

Annex C – Presentation and Financial Information

Table 1 – Summary of Voted Appropriations

Financial Requirements by Authority ($ thousands)			
	2001–2002		
Vote	**Planned Spending**	**Total Authorities**	**Actual**
10 Operating Expenditures	2 793	2 793	2 640
(S) Employee benefit plans	407	407	417
Total Commission	**3 200**	**3 200**	**3 057**

Table 2 – Comparison of Total Planned Spending to Actual Spending

Commission Planned versus Actual Spending ($ thousands)			
	2001–2002		
	Planned Spending	**Total Authorities**	**Actual**
Full Time Equivalents	34	34	24
Operating	3 200	3 200	3 057
Total Gross Expenditures	**3 200**	**3 200**	**3 057**
Less: Respendable Revenues	Nil	Nil	Nil
Total Net Expenditures	**3 200**	**3 200**	**3 057**
Other Revenues and Expenditures			
Non-respendable Revenues*	800	800	800
Cost of services provided by other departments	500	500	500
Net Cost of the Program	**2 900**	**2 900**	**2 757**

* The non-respendable revenues represent claim registration fees paid by Canadian and international chemical manufacturers, distributors and employees with respect to the registration and review of claims for exemption under the WHMIS and its related legislation.

Table 3 – Historical Comparison of Total Planned Spending to Actual Spending

Historical Comparison of Total Planned Spending to Actual Spending ($ thousands)					
			2001–2002		
	Actual 1999–2000	Actual 2000–2001	Planned Revenue	Total Authorities	Actual
HMIRC	1 869	2 230	3 200	3 200	3 057
Total	**1 869**	**2 230**	**3 200**	**3 200**	**3 057**

Table – 4 Non-Respendable Revenues

Non-Respendable Revenues ($ thousands)					
			2001–2002		
	Actual 1999–2000	Actual 2000–2001	Planned Revenue	Total Authorities	Actual
HMIRC	767	733	800	800	800
Total Non-Respendable Revenues*	**767**	**733**	**800**	**800**	**800**

* The non-respendable revenues represent claim registration fees paid by Canadian and international chemical manufacturers, distributors and employers with respect to the registration and review of claims for exemption under the WHMIS and its related legislation.