

GAO

United States General Accounting Office

Fact Sheet for the Chairman, Committee
on Education and Labor, House of
Representatives

December 1988

OCCUPATIONAL SAFETY AND HEALTH

Differences Between Program in the United States and Canada





United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-250248

December 6, 1993

The Honorable William D. Ford
Chairman, Committee on Education
and Labor
House of Representatives

Dear Mr. Chairman:

Every year an estimated 1.7 million workers suffer disabling on-the-job injuries; 10,500 of these are fatal. In addition, 390,000 cases of occupational illness are identified and 100,000 workers lose their lives to work-related diseases each year. In 1991, an industrial fire that killed 25 workers and injured more than 50 others focused attention on whether the United States' approach to ensuring workplace safety and health could be improved. At the same time, negotiations for the North American Free Trade Agreement between the United States, Mexico, and Canada have heightened interest in how workers are protected in the three countries.

During discussions with your staff, we agreed to (1) compare the U.S. and Canadian programs for ensuring workplace safety and health and (2) identify issues to consider in improving safety and health in the United States. As agreed, we reviewed the workplace safety and health programs in the three largest Canadian provinces, Ontario, Quebec, and British Columbia. Because these provinces include 75 percent of the Canadian population, we used our observations in the three provinces to characterize Canadian programs. In these provinces and the federal capital in Ottawa, we met with program officials, employer and worker representatives, and program evaluators, such as our counterpart in the Office of the Auditor General of Canada. (See app. I.) We also conducted a literature review of international comparisons of workplace safety and health programs and convened a panel of experts with participants from academia, business, and labor.

Our information on the combined federal-state approach in the United States comes from our previous work in this area and from an ongoing review we are completing for you and the Ranking Minority Member of the House Committee on Education and Labor that compares U.S. federal and state programs for ensuring workplace safety and health. We focused our comparison on the federal program of the Occupational Safety and Health Administration (OSHA) in the United States because the program operates in the majority of states and those states operating their own programs are monitored by OSHA as described in appendix II. In appendix III, we provide

information on state safety and health programs that have elements different from those of the federal program but similar to those of programs in the Canadian provinces.

As agreed with your office, we limited our comparison to how the programs are designed to operate and did not review actual program performance. We did our review between August 1992 and June 1993 in accordance with generally accepted government auditing standards.

Background

Canada has only slightly more land area than the United States but one-tenth the population (27 million versus 250 million). Canada and the United States, in addition to sharing the longest demilitarized border in the world, have the world's largest bilateral trading relationship. The volume of trade is expected to grow with the reduction in trade barriers included in the Free Trade Agreement between Canada and the United States, which is being phased in over a 10-year period that began in 1989.¹

The Congress is currently considering major changes to the Occupational Safety and Health Act of 1970, which forms the legal basis for the U.S. approach to workplace safety and health. Numerous proposals for the first major changes to the act since its passage over two decades ago have been introduced in this Congress and the last. Two fundamental changes under consideration are to require that (1) employers have safety and health programs and that (2) all workplaces with more than 11 employees have joint management-worker safety and health committees.

Summary

Programs to ensure occupational safety and health in the United States compared with those in Canada differ in three major areas.

- The first is in who operates and funds the programs. Ensuring workplace safety and health is a federal responsibility in the United States, but the provinces have this responsibility in Canada. Also, programs for preventing and compensating for work-related injuries and illnesses are linked in Canada but generally not in the United States.² Employers in

¹In April 1991, we testified on occupational safety and health policies in the United States and Mexico. See Occupational Safety and Health and Child Labor Policies of the United States and Mexico (GAO/T-HRD-91-22). See also the 1992 joint report of the U.S. Department of Labor and the Mexican Secretariat of Labor and Social Welfare entitled A Comparison of Occupational Safety and Health Programs in the United States and Mexico: An Overview.

²The Workers' Compensation Boards in British Columbia and Quebec are responsible for both preventing injuries and illnesses and compensating workers after an injury or illness occurs.

Canada directly fund health and safety programs, whereas the U.S. program is funded solely through a congressional appropriation.

- A second area of difference is in workers' involvement. In the United States, generally employers decide whether and to what extent workers participate in ensuring that the workplace is safe and healthy. Laws in the Canadian provinces mandate joint employer and worker responsibility and accountability.
- The third area of difference is enforcement. The United States and Canada differ in how occupational safety and health rules and regulations are enforced with respect to both sanctions and inspections. Penalties are used more frequently in the United States, while there is a greater enforcement presence and potential for immediate response to hazardous situations in Canada. (See app. II for more detailed information on these issues.)

Several state-operated programs in the United States use program elements similar to those used in Canada. These states provide some information on how these programs might work in the United States. Other issues to consider in deciding whether elements of the Canadian program could be used to improve safety and health in this country are how well the programs are working in Canada and differences between the programs and countries that might affect specific program elements. Little information is available on the effectiveness of the programs in Canada, although employer and worker representatives with whom we spoke expressed general satisfaction. Differences that must be considered in evaluating the programs include (1) the relative sizes of the programs; (2) the extent to which the workforces are organized; (3) the propensity to litigate; and (4) constitutional issues, such as a prohibition against unreasonable search and seizure. (See app. IV for more detailed information on these issues.)

Agency Comments

OSHA officials reviewed a draft of the fact sheet. They had no comments other than to note that it contained information that will be useful to OSHA as it looks for ways to bring about worker-management cooperation in safety and health.

As agreed with your office, we will send copies of this fact sheet to the U.S. Secretary of Labor and other interested parties and make it available to others upon request. If you have any questions, please call me at (202) 512-7014. Other major contributors are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink that reads "Linda G. Morra". The signature is written in a cursive style with a large initial "L" and "M".

Linda G. Morra
Director, Education
and Employment Issues

Contents

Letter		1
Appendix I		8
Interviews in	Safety and Health Programs	8
Canadian Provinces	Business and Worker Organizations	8
	Audit Offices	9
	Other	9
Appendix II		11
Comparison of U.S.	Differences in Who Operates and Funds Programs for Ensuring	11
Federal and Canadian	Workplace Safety and Health	
Occupational Safety	Differences in Workers' Involvement in Obtaining Compliance	14
and Health Programs	Differences in Enforcement	17
Appendix III		24
Differences in U.S.	State-Operated Programs With Elements More Like Those in	26
Federal and State	Canada	
Occupational Safety		
and Health Programs		
Appendix IV		28
Issues to Consider in	Program Effectiveness	28
Deciding Whether	Differences Between the United States and Canada That May	30
Canadian Program	Affect Transferability of Program Elements	
Elements Might Be		
Useful to the United		
States		
Appendix V		32
Major Contributors to		
This Fact Sheet		

Related GAO Products		36
Tables		
	Table II.1: Differences Between the United States and Canadian Provinces in Who Operates and Funds Workplace Safety and Health Programs	13
	Table II.2: Differences Between the United States and Canadian Provinces in Roles of Employers and Workers in Safety and Health Programs	16
	Table II.3: Differences Between the United States and Canadian Provinces in Requirements for Worker Participation in Occupational Safety and Health	17
	Table II.4: Differences Between the United States and Canadian Provinces in Inspection Procedures	19
	Table II.5: Differences Between the United States and Canadian Provinces in Enforcement Sanctions	21
	Table II.6: Differences Between the United States and Canadian Provinces in How Health and Safety Standards Are Set	23
	Table III.1: States That Have Program Elements Similar to Those of the Canadian Provinces	27
Figures		
	Figure I.1: Canadian Provinces GAO Visited	10
	Figure III.1: Distribution of Federal and State Enforcement Programs	25

Abbreviations

BLS	Bureau of Labor Statistics
DOL	Department of Labor
OSHA	Occupational Safety and Health Administration

Interviews in Canadian Provinces

We interviewed safety and health program officials, business representatives, worker representatives, and program evaluators of the organizations listed below. We conducted the interviews in three Canadian provinces: British Columbia, Ontario, and Quebec (see fig. I.1).

Safety and Health Programs

British Columbia	Workers' Compensation Board, British Columbia British Columbia Ministry of Energy, Mines and Petroleum Resources, Resource Management Branch
Federal	Labour Canada Statistics Canada
Ontario	Ontario Ministry of Labour, Occupational Health and Safety Branch and Health and Safety Policy Branch
Quebec	Commission de la sante et de la securite du travail (Commission of Occupational Health and Safety [CSST])

Business and Worker Organizations

British Columbia	Arrow Transportation Systems Audaciter Enterprises, Incorporated British Columbia Hydro, Corporate Safety and Health Construction Labour Relations Association of British Columbia
------------------	---

Appendix I
Interviews in Canadian Provinces

Council of Forest Industries of British Columbia

Vancouver School Board

British Columbia United Federation of Union Workers

British Columbia Federation of Labour

Ontario

Ontario General Contractors Association¹

Ontario Federation of Labour²

Quebec

Conseil du Patronat du Quebec (Employers' Council of Quebec)

Federation des Travailleurs et Travailleuses du Quebec (Quebec Federation of Labour)

Audit Offices

British Columbia

Workers' Compensation Board, British Columbia, Office of the Internal Auditor

Federal

Office of the Auditor General

Labour Canada, Corporate Services

Ontario

Ontario Office of the Provincial Auditor

Other

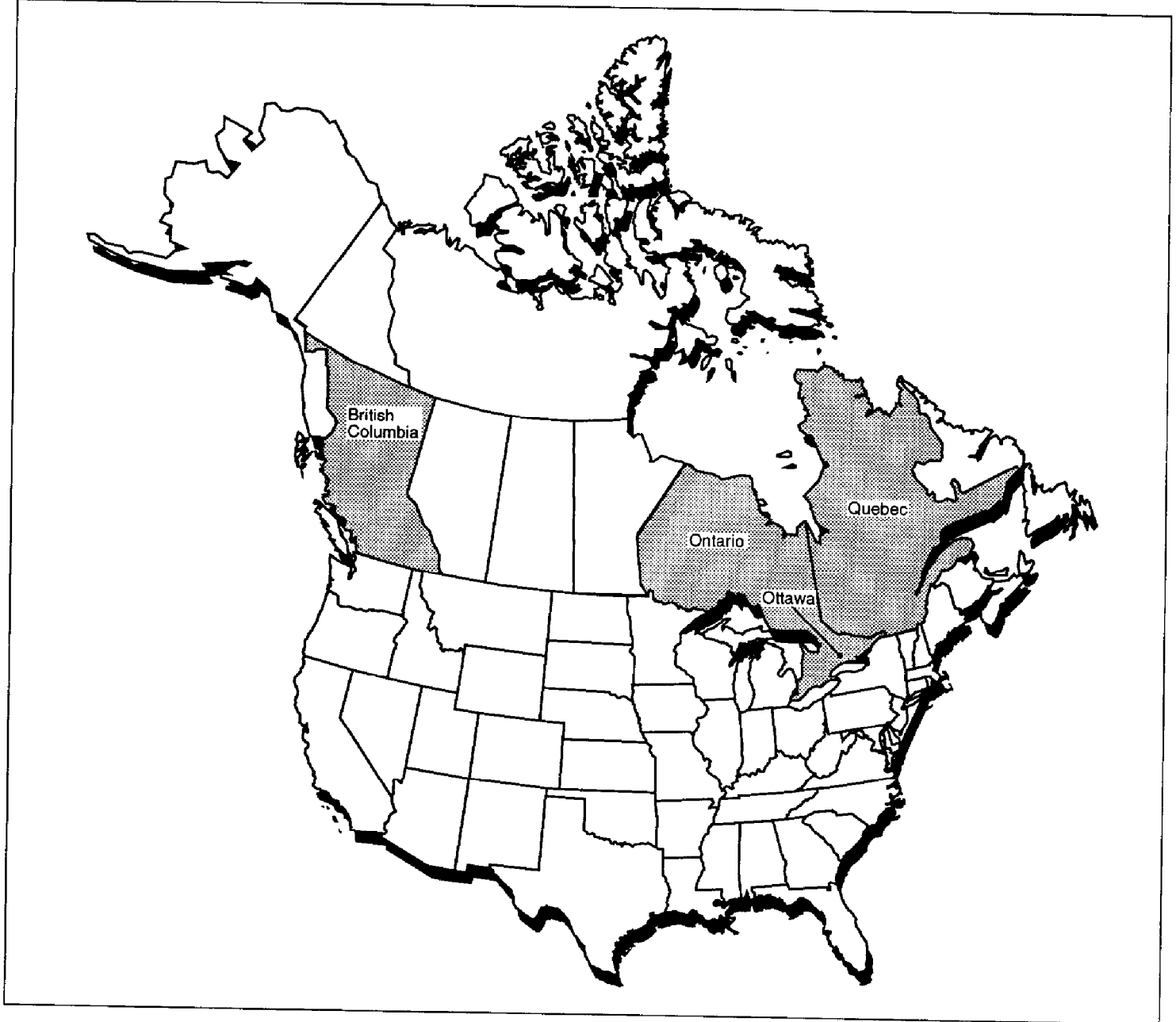
British Columbia

British Columbia Ministry of Labour and Consumer Services

¹Representative is Vice-Chair, Management, of the bipartite Workplace Health and Safety Agency.

²Representative is Vice-Chair, Labour, of the bipartite Workplace Health and Safety Agency.

Figure I.1: Canadian Provinces GAO Visited



Comparison of U.S. Federal and Canadian Occupational Safety and Health Programs

Programs to ensure occupational safety and health in the United States and the three Canadian provinces we visited differ in three major areas: (1) who operates and funds programs, (2) worker' involvement in obtaining compliance, and (3) enforcement mechanisms. In describing the U.S. system, we focus on the U.S. federal program, which operates in 29 states and covers about 60 percent of all workers. Appendix III includes a map showing the distribution of federal and state jurisdiction and identifies those state-operated programs with program elements more like Canada's.

Differences in Who Operates and Funds Programs for Ensuring Workplace Safety and Health

Federal-State Role

Ensuring workplace safety and health is a federal responsibility in the United States, while it is a provincial responsibility in Canada.¹ The U.S. federal system ensures a uniform minimum set of required enforcement activities throughout the country, while the Canadian provincial system establishes legislative and programmatic control at a level closer to the individual workplace. In the United States, federal statute covers 93 percent of workers, while in Canada federal statute covers about 7 percent of workers.²

The combination of the federal statute, the Occupational Safety and Health Act of 1970, and the program administered by the Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA), a federal agency, largely defines the U.S. workplace safety and health program. States may, and 21 states do, operate their own workplace safety and

¹The Canadian provinces intentionally place "health" before "safety" in referring to their programs out of concern that health is often an underemphasized part of such programs. We will use "safety and health," as is the U.S. practice, for consistency.

²This is the percentage of workers covered by state, provincial, or federal occupational safety and health law. It does not reflect differences in those not covered by any law, such as the self-employed in the United States.

health program with partial federal funding.³ However, the act allows states to operate these programs only under federal monitoring to ensure that the state program is "as effective as" the federal programs operated in other states. OSHA generally requires states to use policies and procedures similar to its own as a way to meet the federal statutory requirement.

Unlike the United States, Canada has no one key piece of safety and health legislation that covers all private sector workplaces. The central government's role is limited to the regulation of government-controlled industries, such as the nuclear industry, and federal worksites in all provinces. For all other industries, each province promulgates and enforces its own workplace safety and health laws within its own borders.

Link Between Workplace Injury and Illness Prevention and Compensation Programs

Programs for prevention of and compensation for work-related injuries and illnesses are organizationally linked in Canada but are generally not in the United States. Independent workers' compensation boards in British Columbia and Quebec are responsible for both preventing injuries and illnesses and compensating workers after an injury or illness occurs. This allows program officials trying to prevent accidents to gain immediate access to information about injuries and illnesses at specific workplaces and improve their targeting of inspections. In Ontario, workers' compensation and safety and health are both the responsibility of the provincial government but are in sister agencies.

In contrast, the U.S. federal program does not link programs to prevent workplace injuries and illnesses with programs for compensating disabled workers. Workers' compensation is a state rather than a federal responsibility.⁴ While all states have workers' compensation laws, they generally are not the sole providers of compensation. Thirty-one states rely on private insurers, and another 13 states have a state fund that competes with private insurers. In addition, most states allow firms to self-insure while none of the three Canadian provinces do.

Funding

Unlike the U.S. OSHA program, which is funded by the Congress, employers directly fund workplace safety and health programs in Canada, which may strengthen incentives to support effective programs in individual

³Two territories, the Virgin Islands and Puerto Rico, also operate their own workplace safety and health programs. Two additional states operate only partial programs, covering just employees of state and local government while the federal program covers private sector employees in those states.

⁴The federal government provides compensation for U.S. maritime workers, victims of black lung disease, and federal civilian and military workers who sustain work-related injuries or illnesses.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

workplaces. In all three Canadian provinces, the workplace safety and health program is partially or fully funded by annual employer assessments. These assessments are based on total payroll, the workers' compensation claims of the industry, the claims of the individual employer, or a combination of these items.

In British Columbia, for example, the Workers' Compensation Board may increase an employer's annual assessment by the total cost of workers' compensation claims that it determines to be related to the employer's failure to comply with safety and health requirements. In the United States, federal OSHA is totally funded through general tax revenue. Nine of the 21 states that operate their own programs for private sector workers fund all or part of the state share of program costs through employer assessments.⁵ (See table II.1 for a detailed comparison by province of who funds and operates workplace safety and health programs.)

Table II.1: Differences Between the United States and Canadian Provinces in Who Operates and Funds Workplace Safety and Health Programs

	United States	Canada		
		British Columbia	Ontario	Quebec
Federal-state role	Federal responsibility States permitted to operate their own program with OSHA monitoring	Provincial responsibility Federal responsibility for federal workers and a few specific industries such as the nuclear industry in all provinces		
Link with workers' compensation	No link between federal OSHA and state workers' compensation programs	Both prevention and compensation are the responsibility of independent workers' compensation board	Ministry of Labour is responsible for both prevention and compensation but in separate agencies	Both prevention and compensation are the responsibility of independent workers' compensation board
Funding	General tax revenue	Employer assessments	General tax revenue and employer assessments	Employer assessments

⁵Federal OSHA funds up to 50 percent of program costs for state-operated programs through general tax revenue.

Differences in Workers' Involvement in Obtaining Compliance

The U.S. and Canadian approaches to ensuring safe and healthy workplaces differ in that OSHA generally gives employers the option to involve workers in programs to ensure safety and health, while Canadian provinces rely on mandatory joint employer and worker responsibility and accountability, often referred to as the internal responsibility system. Both the United States and the Canadian provinces emphasize that inspections and sanctions are secondary to the role of employers and workers as a means of ensuring safety and health, but they use them differently.

The difference in general approach is evident in the roles that employers and workers play in the United States and Canada. Both U.S. and Canadian laws require that employers provide a safe and healthy workplace and that workers comply with all regulations. In the United States, worker participation is generally left to the discretion of the employer, and employers are held solely accountable for failure of workers to comply with safety and health requirements. In Canada, however, worker participation is mandatory and both employers and workers are held individually accountable for failure to comply with regulations.

Specifically, all three Canadian provinces require that employers have comprehensive written safety and health programs that include worker participation. Worker participation in workplaces above a specified size is mandated by the requirement for joint management and worker safety and health committees with at least half of the members representing workers. British Columbia requires committees in industries classified as high or medium risk with workplaces of 20 or more employees and for low-risk industries with workplaces of 50 or more workers. Ontario requires committees for all workplaces of 20 or more employees, while Quebec requires them for more than 20. Worksites in Ontario with 6 to 19 workers are required to have a worker safety and health representative who performs many of the same functions as the joint committee, including inspection, education, and response to imminent danger situations.⁶

Nine U.S. states require employers to have comprehensive worksite safety and health programs; four of the nine states require such programs only for employers with injury and illness experience above a specified level. Six of the nine states also mandate workplace safety and health committees in at least some workplaces.

⁶In Quebec, workplaces with committees must also have at least one designated safety representative selected by the workers. The safety representative's functions include inspecting the workplace and assisting workers in exercising their rights under the occupational safety and health act.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Canadian workers in all three provinces have a clear right to refuse work that they believe is dangerous to either their own safety and health or that of another person and to be paid until the hazard is abated.⁷ This is referred to as “the right to act.” In addition, in Ontario, designated committee representatives of both employers and workers—who must have completed a certification program—have the right to jointly shut down a work process until the hazard is abated. The right of workers in the United States to refuse hazardous work is less clear. OSHA guidance states that workers do not have the right to refuse to work when they believe that there is a health or safety violation but that if they are in “imminent danger of death or serious physical harm,” their refusal to work “may be protected by OSHA.” Workers in the United States, however, do not have a right to be paid should they refuse such work.

While workers have specific rights in Canada that they do not have in the United States, Canadian workers are also held more directly accountable. Workers in all three provinces can be held accountable for failure to comply with safety and health regulations, such as refusal to wear a hard hat in a dangerous area. In British Columbia and Quebec, sanctions are the same for workers as for employers. In Ontario, fines of up to \$500 are issued like parking tickets and can be assessed on workers who are found to violate rules and regulations. In both British Columbia and Ontario, employers are also cited, although not necessarily fined, when workers are fined. While U.S. law requires that workers comply with safety and health standards, it does not impose fines on workers. (See table II.2 for a comparison of employer and worker roles by province and table II.3 for differences in requirements for worker participation.)

⁷Workers have the right to refuse hazardous work unless such danger is a normal part of the job or the refusal would endanger the life, health, or safety of another person. The hazard must be verified either immediately by certified members of the joint safety and health committee or without undue delay by one of the enforcement agency’s compliance officers.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Table II.2: Differences Between the United States and Canadian Provinces in Roles of Employers and Workers in Safety and Health Programs

	United States	Canada		
		British Columbia	Ontario	Quebec
Employer comprehensive workplace safety and health programs	No federal requirement for employers to have a comprehensive program but written programs required to address certain specific hazards	Written safety and health program that states the employer's aims and outlines the responsibility of the employer, supervisors, and workers must be signed by employer and posted where it is readily accessible to workers ^a	Written safety and health policy and program to implement it must be reviewed at least once a year and posted where workers are most likely to see it	Written safety and health policy must be reviewed at least once a year and posted where workers are most likely to see it
Worker accountability	Workers not held accountable	Workers can be given the same penalties as employers for violating safety and health regulations ^b	Workers can be given \$300 citations for failure to comply with safety and health regulations	Workers can be given the same penalties as employers for violating safety and health regulations
Worker right to refuse hazardous work	Right to refuse work is limited and such refusal is often risky for workers	Right to refuse work believed to be dangerous, unless such danger is a normal part of the job or the refusal would endanger the life, health, or safety of another person	Right to refuse work believed to be dangerous, unless such danger is a normal part of the job or the refusal would endanger the life, health, or safety of another person	Right to refuse work believed to be dangerous, unless such danger is a normal part of the job or the refusal would endanger the life, health, or safety of another person

^aEmployers in workplaces classified as involving a high or medium degree of hazard with 20 or more workers and workplaces with 50 or more workers in less hazardous workplaces are required to have a formal program. All other workplaces are required to have a program that includes monthly meetings and written minutes at a minimum.

^bEmployer penalties are administered as an increase to their annual workers' compensation assessment. Because there is no similar assessment on workers, penalties for workers are administered through the courts.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Table II.3: Differences Between the United States and Canadian Provinces in Requirements for Worker Participation in Occupational Safety and Health

	United States	Canada		
		British Columbia	Ontario	Quebec
Requirement for joint employer and worker health and safety committees	No federally mandated joint safety and health committees ^a	Committees required at workplaces with 20 or more workers in high- and medium-risk industries and with 50 or more workers in low-risk industries	Committees required at workplaces with 20 or more workers	Committees required at workplaces with more than 20 workers (25 or more for construction)
How committee members selected	Not applicable	At least half of the members must be workers selected by workers they represent or the union, where applicable	At least half of the members must be workers selected by workers they represent or the union, where applicable	At least half of the members must be workers selected by workers they represent or the union, where applicable
Size of the committee	Not applicable	Minimum of four members, more for larger workforces	At least 2 persons for workplaces with fewer than 50 workers; at least 4 for workplaces with 50 or more workers At least one worker and one employer representative must be certified	Minimum size of the committee is determined from number of workers at the worksite
Worker safety and health representative	No requirement for worker representative	No requirement for worker representative	Worker representative required at workplaces with 6-19 workers where there is no committee	One or more worker representatives required at workplaces with a safety and health committee

^aWorkers have the right to be represented during OSHA inspection walkarounds, but employers do not have to pay them for the time spent accompanying an OSHA inspector.

Differences in Enforcement

The United States and Canada differ in how occupational safety and health rules and regulations are enforced through both inspections and sanctions. The United States and Canada differ in the use of penalties in that employers who violate the occupational safety and health rules and regulations in the United States are penalized more often than in Canada. However, there is a greater enforcement presence and potential for immediate response to hazardous situations in Canada than in the United States.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Canadian jurisdictions impose penalties infrequently. In fact, in Ontario only the courts can levy penalties. In addition, none of these provinces require penalties for first-time violators, whereas in the United States federal statute requires that OSHA assess penalties for all serious or willful violations.⁸

The greater enforcement presence in Canada is due to a greater number of inspectors and the constant enforcement presence provided by the joint safety and health committees and worker representatives. Canada has, depending on the province, three to seven times the number of inspectors per covered worker than does the United States.⁹ Specifically, the U.S. federal OSHA program had an estimated 55,000 covered workers for each safety and health inspector in fiscal year 1991. Ontario had 3 times the inspection force, with 1 for every 16,000 workers, and Quebec had 7 times the force, with 1 for every 8,000 workers. (See table II.4 for a summary of inspection procedures in the United States and by province.)

⁸The law requires that any employer who willfully violates a standard, rule, or order be fined a minimum of \$5,000 and a maximum of \$70,000 per violation and that any serious violation must result in a fine of up to \$7,000 for each violation.

⁹The number of workers for each inspector differs in the United States between the state and federally operated programs, with wide variation among the states. Two states have about the same numbers of covered workers per inspector as does Ontario, while five states have more covered workers per inspector than does federal OSHA.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Table II.4: Differences Between the United States and Canadian Provinces in Inspection Procedures

	United States	Canada		
		British Columbia	Ontario	Quebec
Agency inspections by enforcement				
Worksite access	Inspector must obtain search warrant if employer refuses access ^a	Unlimited access	Unlimited access	Unlimited access
Targeting	Determined from industry-level data Generally, worksites with fewer than 11 workers will be inspected only after OSHA receives an unsolicited complaint or a catastrophe or a fatality occurs.	Determined from industrywide and worksite-specific data	Determined from industrywide and worksite-specific data	Determined from industrywide and worksite-specific data
Inspections by joint safety and health committee				
	No requirement for joint safety and health committees	Committee must ensure that employer is carrying out and will participate in regular inspections as required by the safety and health program	Specific worksite inspections required at least once a month and cover entire workplace at least once per year. In absence of a committee, the safety representative will carry out inspections.	No mandatory inspection requirements

^aIf there is a known emergency situation or the structure is in "open view," such as exterior scaffolding, a warrant may not be required.

The joint safety and health committees and worker representatives provide a constant enforcement presence in that all three provinces give the committees specific inspection rights and responsibilities. These inspections must be documented by minutes in all three provinces, and in British Columbia these minutes must be forwarded by the employer to the director of the provincial occupational safety and health program. Workers who have concerns about safety and health hazards may request an immediate inspection in those workplaces with joint committees or worker representatives.

Canadian inspectors have access to employer and worksite-specific data on injuries and illnesses. Such data are not available in the United States for use by federal OSHA inspectors. This allows Canadian inspectors to

Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs

concentrate limited enforcement efforts on the most dangerous worksites. In the United States, the Labor Department's Bureau of Labor Statistics (BLS) collects workplace-specific injury and illness data. However, BLS considers these data to be confidential and does not share them with OSHA because of its concern that to do so would cause an increase in underreporting. In addition, many states do not make workers' compensation data available to federal OSHA inspectors. As a result, OSHA must generally limit enforcement targeting to the industries, rather than the individual worksites, with the highest injury and illness rates. Fourteen of the 21 states operating their own programs use worksite-specific data to target inspections.

Inspectors in all three Canadian provinces have unlimited access to workplaces and can immediately abate hazards by shutting down work processes that they determine pose an imminent threat to the safety or health of workers. U.S. federal inspectors must obtain a search warrant if the employer refuses access and must obtain an injunction through the courts to shut down a dangerous work process. In 10 of the 21 states operating their own programs for private sector workers, inspectors have the authority to shut down work processes in the face of imminent danger. (See table II.5 for a comparison of enforcement sanctions in the United States and Canada by province.)

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Table II.5: Differences Between the United States and Canadian Provinces in Enforcement Sanctions

	United States	Canada		
		British Columbia	Ontario	Quebec
Shut-down authority	DOL must obtain a court order to halt operations in cases of imminent danger.	Inspector has authority to shut down for a 24-hour period any place, equipment, machine, device, article, thing, or process deemed to be a danger or health hazard Board may extend the order	Inspector has the authority to shut down any place, equipment, machine, device, article, thing, or process deemed to be a danger or health hazard	Inspector has the authority to shut down any place, equipment, machine, device, article, thing, or process deemed to be a danger or health hazard
Administrative penalties	Must be assessed for all serious, willful, or repeat violations Fines up to \$7,000 for nonwillful violations and up to \$70,000 for willful or repeat violations, minimum of \$5,000 per willful violation	Fine of \$1,500-\$30,000 for each violation depending on type of violation and size of payroll Repeat and multiple violations can lead to penalties in excess of \$30,000 with no maximum	None in manufacturing and mining In construction, maximum fine of \$300 for both employers and employees	Fine of \$500-\$1,000 for a worker or employer and \$5,000-\$20,000 for a company Repeat offenses increase fines to \$1,000-\$2,000 for an individual and \$10,000-\$50,000 for a company
Criminal penalties	Fines up to \$10,000 and/or 6 months' imprisonment or up to \$250,000 for an individual or \$500,000 for a corporation and/or 6 months' imprisonment if violation is willful and results in the death of a worker	Fines of up to \$1,000 for violation of health and safety regulation, up to \$5,000 and/or 3 months' imprisonment for violations that cause an injury to or death of a worker Fines of up to \$50,000 and/or 6 months' imprisonment for violating an inspector's closure order	Maximum penalty for an individual is \$25,000 and/or up to 1 year's imprisonment Maximum penalty for a corporation is \$500,000	No criminal penalties provided by law

Standard-Setting

The process for setting standards for safety and health, such as the maximum permissible level of exposure to lead, differ between Canadian provinces and the United States in that in Canada the employers and workers are more directly involved in standard development and approval. Participants in the Canadian standard-setting process report that standards developed by the consensus of both employers and workers are most likely to be accepted and complied with by both employers and

Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs

workers. Both Canada and the United States provide opportunity for public comment through published draft regulations and public hearings. However, in Canada both identifying and developing standards is the responsibility of employers and workers, while in the United States it is the responsibility of government.

In all three Canadian provinces, a committee with equal employer and worker representation uses a consensus approach to both identify areas requiring regulation and to develop the standard.¹⁰ The government's role is to select the representatives with the advice of employer and labor organizations, provide technical expertise, and, in Ontario, to appoint a representative to chair the committee.¹¹ In the United States, DOL is responsible for drafting regulations. As part of the U.S. process, the Office of Management and Budget must approve the draft and final regulations.¹² The process in all three Canadian jurisdictions and the United States requires that proposed regulations be published and allows for a period of public comment.

The courts also play a different role in standard setting in the United States and Canada. In the United States, the courts have been increasingly involved in standard setting by directing the regulations to be developed, the schedule for implementation, and reviewing issued regulations. In British Columbia, Ontario, and Quebec, standards are not subject to judicial review. (See table II.6 for a comparison of standard-setting procedures by province.)

¹⁰In British Columbia, the standards are set by committees of the Workers' Compensation Board, which includes two representatives of the general public in addition to representatives of employers and workers.

¹¹In Ontario, the process used to set standards is left to the discretion of the Ministry of Labour, which is currently using the participatory consensus approach.

¹²DOL is currently attempting a negotiated rulemaking process, which involves employers and workers in the drafting of several occupational safety and health standards.

**Appendix II
Comparison of U.S. Federal and Canadian
Occupational Safety and Health Programs**

Table II.6: Differences Between the United States and Canadian Provinces in How Health and Safety Standards Are Set

	United States	Canada		
		British Columbia	Ontario	Quebec
Organization responsible for setting standards	DOL drafts and issues regulations and Office of Management and Budget approves the draft and final regulations	Bipartite board with equal employer and worker representation uses a consensus approach to identify and develop standards Minister of Labour must sign	A bipartite committee chaired by representative of Ministry of Labour with equal employer and worker representation uses a consensus approach to identify and develop standards Minister of Labour must sign	Bipartite board with equal employer and worker representation uses a consensus approach to identify and develop standards Minister of Labour must sign
Public comment	The public comment period is open once OSHA publishes the intent to propose, amend, or revoke a standard The public may also request a public hearing	The process must include public hearings and publication of the proposed regulation	The process must include public hearings and publication of the proposed regulation	The process must include public hearings and publication of the proposed regulation
Court role	Courts increasingly involved in directing what regulations will be developed, by when, and reviewing issued regulations	No court involvement	No court involvement	No court involvement

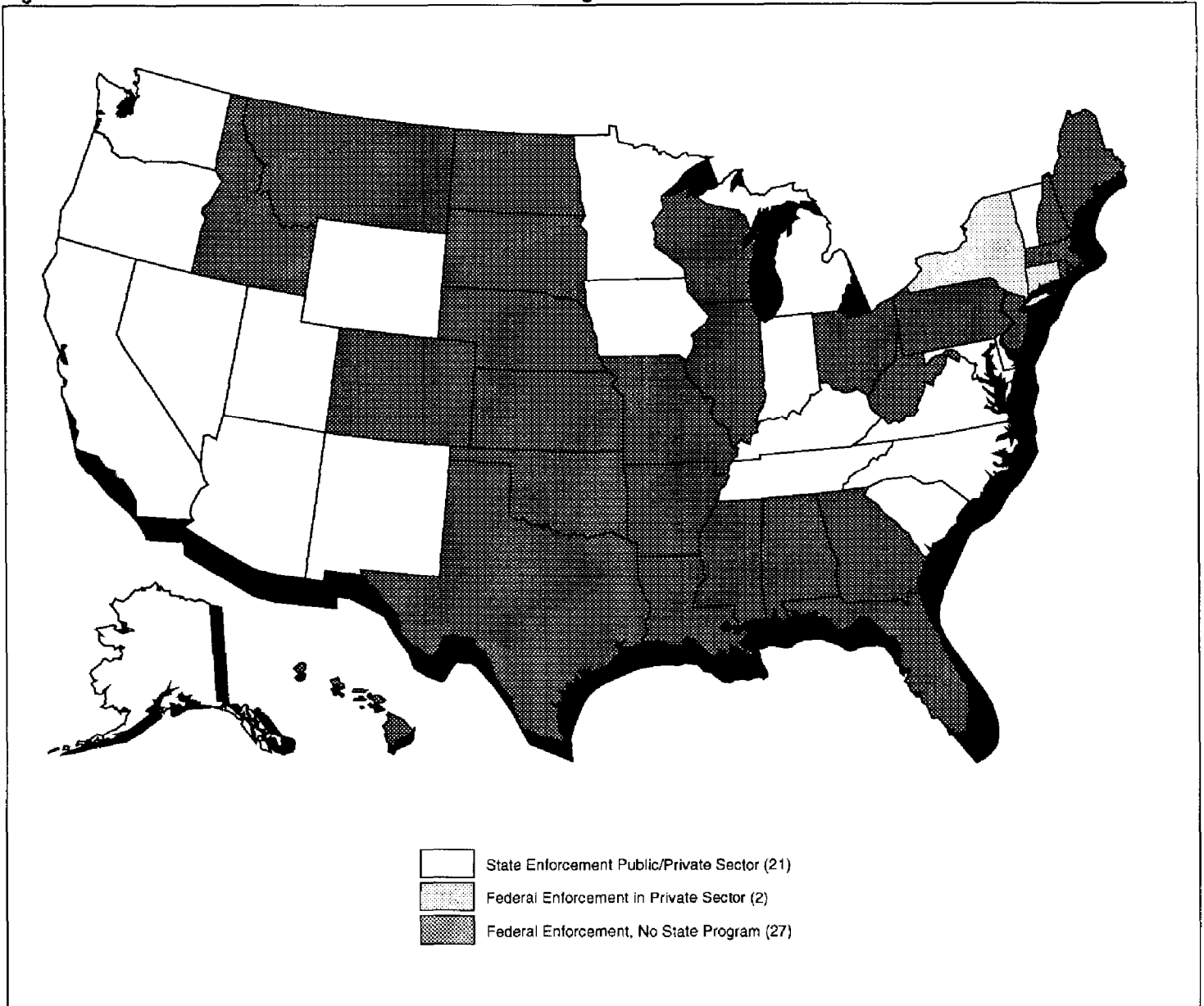
Differences in U.S. Federal and State Occupational Safety and Health Programs

Under the Occupational Safety and Health Act of 1970, the Secretary of Labor is responsible for ensuring occupational safety and health. The act authorizes the states to develop and operate their own safety and health programs under federal monitoring to ensure that the program is “as effective as” the federal programs operated in other states. As shown in figure III.1, the federal government operates the program in 27 states, 2 states operate the program for employees of state and local government with the federal government covering all private sector workers, and 21 states operate the program for both public and private sector workers.¹

¹Two territories, the Virgin Islands and Puerto Rico, also operate their own programs, for both private sector and territorial employees.

Appendix III
Differences in U.S. Federal and State
Occupational Safety and Health Programs

Figure III.1: Distribution of Federal and State Enforcement Programs



State-Operated Programs With Elements More Like Those in Canada

Some of the 21 state-operated safety and health programs use program elements that are more like those used in Canada than are those of the federal program.² Many of these provisions have been adopted only within the last few years. Additional states are considering similar provisions. As of February 1993, 9 states assessed employers for all or part of their program costs, while the remaining 12 followed the federal system of using general tax revenue. Nine states required employers to have comprehensive safety and health programs. Six of these states also required workplace joint safety and health committees, although the rights and responsibilities of these committees differ from those in Canada. Fourteen states used worksite-specific data for targeting inspections. Ten state programs provided inspectors with shut-down authority in imminent danger situations.

²We did not review the programs of the territories or of the two states that only operate programs for state and local employees.

**Appendix III
Differences in U.S. Federal and State
Occupational Safety and Health Programs**

Table III.1: States That Have Program Elements Similar to Those of the Canadian Provinces (as of February 1993)

	Funding	Employer and worker involvement		Enforcement	
	Assess employers to fund some or all of program operations	Require comprehensive worksite safety and health programs	Require workplace safety and health committees ^a	Target inspections using worksite-specific data	Inspectors have authority to shut down operation in face of imminent danger
Alaska		X	X ^b	X	X
Arizona	X			X ^c	
California		X			X
Hawaii		X		X	
Indiana	X ^d				
Kentucky	X				X
Maryland				X	
Michigan	X ^d			X	X
Minnesota	X	X ^e		X	X
Nevada	X	X ^e	X ^e		X
North Carolina		X ^e	X ^e	X	
Oregon	X	X	X	X	X
Tennessee	X	X ^e	X ^e	X	X
Utah				X	
Vermont				X	X
Virginia				X	
Washington	X	X	X	X	X
Wyoming				X	

^aThe role of the committee may differ among these states and the provinces. For example, five of the six states do not require committees to conduct workplace inspections as do the provinces. Oregon requires such inspections at least quarterly.

^bEmployers in pulp, paper, and paperboard mills industries.

^cPilot program.

^dEmployers fund only education and training activities.

^eOnly required of employers with injury and illness experience above a specified level.

Issues to Consider in Deciding Whether Canadian Program Elements Might Be Useful to the United States

Issues to consider in deciding whether elements of the Canadian program could be used to improve safety and health in this country are (1) how effective the programs are in Canada and (2) differences between the two countries that might affect the transferability of program elements.

Program Effectiveness

Empirical data are lacking to determine the effectiveness of the Canadian program in reducing workplace injuries and illnesses.¹ However, both employer and worker representatives we interviewed identified certain program elements that differ from those used in the United States—such as the right of workers to refuse hazardous work—as the strongest part of their program.² For example, representatives of a Quebec association of manufacturers told us that when the right of workers to refuse hazardous work was first proposed they were sure that it would be grossly misused and ruin their companies. After 12 years of experience, they now believe that not only is it rarely misused but that it also has reduced injuries and illnesses.

Limitations to the Use of Injury and Illness Data in Determining Effectiveness

There are serious limitations to using the reported number of occupational injuries and illnesses to assess relative program effectiveness. Limitations on using injury data to compare programs include (1) differences in how the rates are calculated, (2) differences in how the data are collected, and (3) explanations for differences in the rates other than program effectiveness. Limitations for using illness data are even greater because of the long interval between the workplace exposure and the onset of the illness.

Difference in How the Injury Rates Are Calculated

British Columbia and Quebec calculate injury rates in a way that would be expected to result in higher rates than the method used by Ontario. In all three jurisdictions, the rate is the total number of injuries that result in at least 1 lost workday divided by the total number of workers multiplied by 100. They differ, however, in how they count workers. In Ontario, the number of workers is the total of all workers who worked for any part of the year. It represents actual people regardless of how many hours they worked. British Columbia and Quebec use the total number of hours

¹A notable exception to this is the Ontario Advisory Council on Occupational Health and Safety's 1986 survey of joint safety and health committees. The study concluded that most workplaces required to have committees did so and that the majority of management and worker members regarded the committees as successful. Specific problem areas, such as the need for increased training, were identified and became the basis for recent changes to Ontario's Occupational Health and Safety Act.

²Employer and worker comments we obtained were limited to the organized segment of the employer and worker community who participate in the program through bipartite boards.

**Appendix IV
Issues to Consider in Deciding Whether
Canadian Program Elements Might Be
Useful to the United States**

worked for all workers to derive a full-time equivalent. To do this, they assume that all workers work 2,000 hours per year (40 hours per week, 50 weeks per year). Because the workforce includes part-time or seasonal workers or experiences periods of layoff or strike, the full-time equivalent will be lower than the actual number of workers, resulting in an injury rate that appears higher.³

**Differences in How Injury Data
Are Collected**

The source for injury and illness data used in the United States is more likely than the Canadian source to undercount the actual injuries and illnesses. The responses are from a sample survey in the United States and workers' compensation claims in Canada. BLS calculates the number of injuries and illnesses from employer responses to an annual survey with a sample approaching a census for employers of more than 100 workers. The data come from logs kept by private sector employers during the year. We have previously raised questions about the accuracy of these logs,⁴ and BLS has stated that the accuracy may be affected by the employer's lack of understanding of which cases are work-related and must be recorded. In contrast, the number of injuries and illnesses in the three Canadian provinces is the total number of claims accepted for workers' compensation. If a worker does not file a claim, he/she will not get government reimbursement for lost wages.

**Other Explanations for
Differences in Injury and Illness
Rates**

Other differences in the injury rates for the United States and the provinces may be explained by (1) definitional differences and (2) alternate hypotheses. Definitional differences include the kinds of workers covered under the law, what is considered a work-related incident, and which incidents must be reported; for example, the Canadian injury and illness rates, unlike those in the United States, include self-employed and public sector workers. Examples of alternative hypotheses cited by BLS are changes in the level of economic activity, working conditions and work practices, worker experience and training, and the number of hours worked.⁵

³The United States uses the same method as British Columbia and Quebec.

⁴See Occupational Safety and Health: Assuring Accuracy in Employer Injury and Illness Records (GAO/HRD-89-23, Dec. 30, 1988).

⁵Survey of Occupational Injuries and Illnesses, 1991, DOL, BLS (Dec. 1992), p. 1.

Differences Between the United States and Canada That May Affect Transferability of Program Elements

As shown in appendix III, many state programs already include program elements similar to those used in Canada. Many factors must be considered in assessing how a Canadian type of program would work in the United States. The ways in which the individual program elements work together, such as employer assessments and involvement in standard setting, are important to consider. Other key factors to consider include (1) the relative size of the programs, (2) the extent of unionization of the workforce, (3) the propensity to litigate, and (4) constitutional prohibition against unreasonable searches.

In the United States, OSHA is responsible for ensuring the safety of approximately 100 million workers in 6.5 million workplaces. The Canadian provinces are responsible for a fraction of that many workers: 1.4 million workers in 280,000 workplaces in British Columbia, 5 million workers in 287,000 workplaces in Ontario, and 3 million workers in 218,000 workplaces in Quebec. The larger scale of the program might, for example, make it more difficult to identify participants for consensus standard-setting that would be accepted by employers and workers as representing their interests.

Canada has nearly twice the proportion of workers represented by unions that the United States has: 31 percent as compared to 16 percent for all workers and 29 percent as compared to 12 percent for nongovernmental workers. Canadian safety and health program officials stated that it is easier to organize a joint safety and health committee in an organized workplace than in a nonunion workplace. On the other hand, some officials stated that the effectiveness of safety and health committees can be compromised if union representatives use safety and health as a negotiating tool for labor disputes.

Using the courts to resolve conflicts is much more common in the United States than in Canada. While establishment of joint safety and health committees might be easier if employers see the participation of workers as a way to reduce litigation, stakeholders who are accustomed to seeking a remedy through the courts may be less likely to go through the time and effort needed in consensus decisionmaking. In addition, the threat of suit could inhibit committee participation and could limit employers' willingness to share decisionmaking and information.

The U.S. Supreme Court has held that administrative inspections are subject to the Fourth Amendment prohibition against unreasonable searches. While an exception has been made for highly regulated

**Appendix IV
Issues to Consider in Deciding Whether
Canadian Program Elements Might Be
Useful to the United States**

industries, the court specifically decided that OSHA inspections required a warrant to protect the rights of employers. Transferring the Canadian provision of immediate access to workplaces would, therefore, raise constitutional issues.

Major Contributors to This Fact Sheet

**Human Resources
Division, Washington,
D.C.**

Larry Horinko, Assistant Director, (202) 512-7001
Carlotta C. Joyner, Assistant Director
Lise Levie, Evaluator-in-Charge
Patricia Bundy, Evaluator
Ann McDermott, Publishing Adviser
Laurel Rabin, Reports Analyst

Related GAO Products

Occupational Safety and Health: Changes Needed in the Combined Federal-State Approach (GAO/HRD-94-3, Oct. 20, 1993).

Occupational Safety and Health: Uneven Protections Provided to Congressional Employees (GAO/HRD-93-1, Oct. 2, 1992).

Occupational Safety and Health: Improvements Needed in OSHA's Monitoring of Federal Agencies' Programs (GAO/HRD-92-97, Aug. 28, 1992).

Occupational Safety and Health: Worksite Safety and Health Programs Show Promise (GAO/HRD-92-68, May 19, 1992).

Occupational Safety and Health: Options to Improve Hazard-Abatement Procedures in the Workplace (GAO/HRD-92-105, May 12, 1992).

Occupational Safety and Health: Employers' Experiences in Complying With the Hazard Communication Standard (GAO/HRD-92-63BR, May 8, 1992).

Occupational Safety and Health: Penalties for Violations Are Well Below Maximum Allowable Penalties (GAO/HRD-92-48, Apr. 6, 1992).

Occupational Safety and Health: OSHA Action Needed to Improve Compliance with Hazard Communication Standard (GAO/HRD-92-8, Nov. 26, 1991).

Managing Workplace Safety and Health in the Petrochemical Industry (GAO/T-HRD-92-1, Oct. 2, 1991).

Occupational Safety and Health: OSHA Policy Changes Needed to Confirm That Employers Abate Serious Hazards (GAO/HRD-91-35, May 8, 1991).

Occupational Safety and Health and Child Labor Policies of the United States and Mexico (GAO/T-HRD-91-22, Apr. 30, 1991).

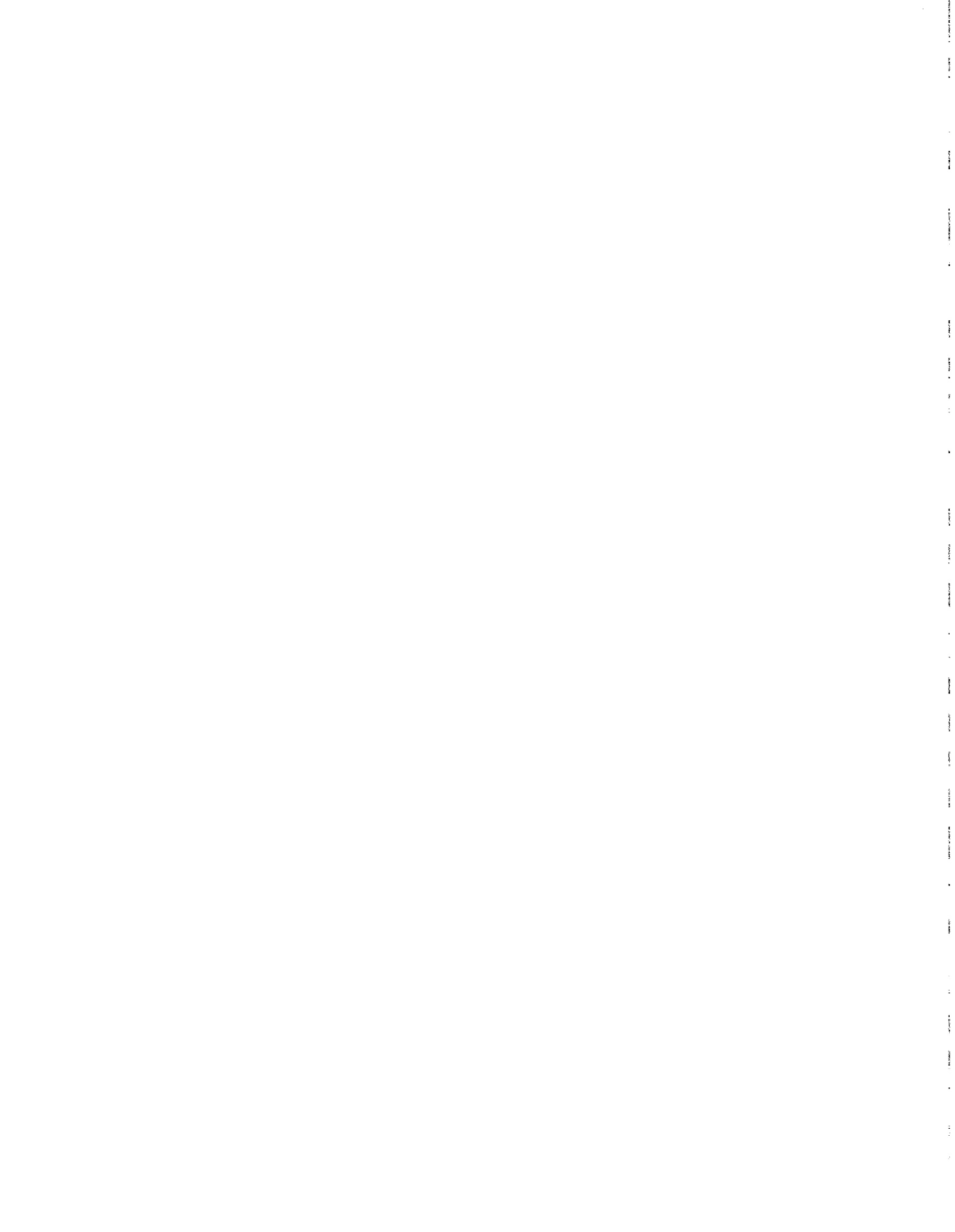
Occupational Safety and Health: Inspectors' Opinions on Improving OSHA Effectiveness (GAO/HRD-91-9FS, Nov. 14, 1990).

Occupational Safety and Health: Options for Improving Safety and Health in the Workplace (GAO/HRD-90-66BR, Aug. 24, 1990).

Occupational Safety and Health: Assuring Accuracy in Employer Injury and Illness Records (GAO/HRD-89-23, Dec. 30, 1988).

Related GAO Products

OSHA's Monitoring and Evaluation of State Programs (GAO/HRD-88-13, Apr. 20, 1988).



Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015**

or visit:

**Room 1000
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

**Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066.**

**United States
General Accounting Office
Washington, D.C. 20548**

**Official Business
Penalty for Private Use \$300**

**First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100**
