

Federal versus Provincial Safety Regulation

How Alberta-based carriers are regulated in terms of workplace safety

Introduction

Most companies in Canada are regulated, from a labour and occupational health and safety (OHS) perspective, by the province in which they are based; their jurisdiction also impacts things like privacy rules, pay, vacation time, and many other aspects of a company's operations. However, certain types of operations fall under federal regulation [1] for these same areas of compliance. Interprovincial trucking is one such type of business, and carriers often find it challenging to navigate between provincial and federal regulations. The purpose of this bulletin is to explain the differences between the two and how to apply this knowledge to a carrier.

Federal versus Provincial Safety Regulation

Trade and related services that cross provincial borders are generally under the regulation of the federal government of Canada. Trucking and busing operations that cross provincial borders are included, as well as any business vital to their operations [1]. As a result, they must follow the OHS rules in Part II of the *Canada Labour Code* as opposed to Alberta's *Occupational Health and Safety Act*. There are also labour provisions in the *Canada Labour Code* that need to be followed, such as rules related to leave and pay [2].

The organization that manages and enforces the *Canada Labour Code* and its related regulations is the Canada Labour Program [3]. They can be contacted for information on applying the rules to any given workplace and can also assist an employer in determining if they should be classed as federal or provincial.

Federal versus Provincial Carriers

Trucking and busing companies also have safety regulations to follow that are based on Canada's National Safety Code (NSC). Carriers in Alberta may have a provincial Safety Fitness Certificate (SFC) if they stay within Alberta; those that leave the province must have a federal SFC [4].

Unlike OHS rules, NSC is governed by the provinces whether the company is federal or provincial. The NSC rules are either built into Alberta's *Traffic Safety Act* through influence or by being incorporated by reference. This means that the Government of Alberta oversees and enforces the commercial vehicle safety rules for federal and provincial carriers.

NSC rules are separate from OHS rules. While both sets of safety rules are all about safety, they are found in separate regulations and administered by separate government departments. As a result, carriers cannot go to a single government department for all questions related to safety. Safety associations, like AMTA, staff experts that can provide guidance on all topics related to safety, either by providing the answer or directing the company to the right source; therefore, it is a good idea for companies to become familiar with the safety staff at the safety association(s) that are knowledgeable about their industry.

It Might Not Always Be Clear

Whether a company is federally regulated or provincially regulated, from an NSC perspective, is straightforward: just read the company's SFC. This assumes the company obtained the correct SFC for their operations [4]. Then, the carrier must follow the NSC rules that apply to them based on their SFC's status and the types of vehicles they operate. Details on this can be found in the Government of Alberta's resource, [*Commercial Vehicle Safety Compliance in Alberta*](#) [5].

However, determining regulation for OHS and labour purposes is not so straightforward. It's possible to get conflicting information from different government officials and safety professionals. When OHS officers have questions about status, provincial generally defaults to the judgement of the federal officers; however, determinations can be challenged, and it may take a court to make the final determination for a particular situation.

As far as OHS is concerned, though, it doesn't have to be complicated. The next section will describe some best practices for managing OHS regulations for companies with cross-border operations.

Best Practices for Cross-Border Carriers

First, it is a best practice for cross-border carriers to meet both provincial and federal OHS regulations. While this may seem daunting, the regulations are fairly similar in many ways and a safety program that is fully compliant with one set of regulations will be mostly compliant with the other. This way, OHS officers will be satisfied with a company's safety system, regardless of whether they are federal or provincial.

Second, companies can contact the Canada Labour Program and ask for more clarity on their specific operations. While a determination from the Canada Labour Program is not a guarantee that all officers – or a court of law – will interpret things the same way, it helps a company become more duly diligent in their OHS efforts.

Finally, companies should seek the advice of a labour and corporate lawyer. These individuals are better able to determine how a company is regulated based on its specific details. Again, it is important to note that federal or provincial regulations also impact things like privacy rules, pay, vacation time, and many other aspects of a company's operations. Professional advice and certainty in this area is crucial, even if the company decides to meet both sets of rules for OHS, and we have summarized some case studies [in this article](#) for those interested in learning more about this topic [6].

Cross-Border Carrier Example

Let's say a trucking company has a warehouse in Alberta with warehouse staff and local drivers who all stay within the local area. This fictitious company also has a fleet of line haul trucks and drivers who bring freight between this warehouse and a second location in Saskatchewan. The company has a federal safety fitness certificate that applies to all of its NSC vehicles.

In this example, those involved in the linehaul driving that crosses provincial borders would be considered federal for OHS purposes. This could extend to those staff who support their operations, like dispatchers. However, those working in the Alberta-based warehouse are likely considered provincial as they are involved in the local delivery part of the operation and would have to comply with Alberta's *OHS Act*.

Despite the above, though, it could be the case that the entire company falls under federal OHS regulation. It's possible OHS officers would have to consult with one another before proceeding in the event of an investigation or inspection. For such a company, it would certainly be a best practice to be knowledgeable about both types of regulations and comply with both.

References

- 1 – Government of Canada. “List of federally regulated industries and workplaces.” January 26th, 2023. Accessed May 29th, 2023, from <https://www.canada.ca/en/services/jobs/workplace/federally-regulated-industries.html>
- 2 – Government of Canada. *Canada Labour Code*, R.S.C., 1985, c. L-2. Current as of May 17th, 2023. Accessed May 29th, 2023, from <https://laws-lois.justice.gc.ca/eng/acts/l-2/>
- 3 – Government of Canada. “Labour Program.” May 15th, 2023. Accessed May 29th, 2023, from <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour.html>
- 4 – Government of Alberta. “Safety Fitness Certificate.” 2023. Accessed May 29th, 2023, from <https://www.alberta.ca/safety-fitness-certificate.aspx>
- 5 – Government of Alberta. “Education manual for commercial carriers.” 2023. Accessed May 29th, 2023, from <https://www.alberta.ca/education-manual-for-commercial-carriers.aspx>
- 6 – Dombowsky, Rob. “Being an Accidental Carrier – the impact on your business.” Alberta Motor Transport Association, January 4th, 2022. Accessed May 30th, 2023, from <https://amta.ca/being-an-accidental-carrier-the-impact-on-your-business/>