



# Hazardous Materials Information Review Commission Canada

1997-98  
Estimates

Part III

Expenditure Plan

## **The Estimates Documents**

The Estimates of the Government of Canada are structured in three 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 Part III documents provide additional detail on each department and its programs primarily in terms of the results expected for the money spent.

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# Hazardous Materials Information Review Commission Canada

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Part III

Expenditure Plan

Approved

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Minister of Health

## THE MINISTER'S EXECUTIVE SUMMARY

As a small independent federal agency comprised of a recently downsized staff of 13, the Hazardous Materials Information Review Commission faces more than the usual challenges of a department endeavouring to effectively exercise its statutory mandate in the realities of day's fiscal environment. This organization has but one priority; consequently, it has none from which to choose. Within that singular priority to administer its narrowly focussed governing statute, it must carry out multidisciplined activities in a highly technical, and legal, milieu. The Commission is held out as an institution that is crucial to the success of the Workplace Hazardous Materials Information System (WHMIS), in that its work must result in the achievement of a balance between the right of workers to be informed about the hazards of the chemicals to which they may be exposed, and the right of chemical suppliers to withhold bonafide trade secret information.

Industry representations have been made which reflect the discontent of certain companies with the current legislation governing the Commission's activities, but there is no consensus amongst the various WHMIS stakeholders on the Commission's Council of Governors as to the need for changes to the system. In response to these concerns, the Hazardous Materials Information Review Commission will, in the coming year, be consulting widely with the various stakeholders on the mandate and operation of the Commission.

I believe that at a level of new/repeat business of approximately 250 claims per year, the Commission is reasonably positioned to successfully carry out its current mandate in a manner which is in line with the government's fiscal expectations. In addition, I am confident that up to 3 separate appeals per year can be accommodated at current resource levels, provided that no extraordinarily complex issues arise in the course of adjudication.

It is important to recognize the achievements of the agency in terms of its endeavors to enhance the health and safety of those Canadian workers whose job entails the handling and/or use of hazardous chemicals, as evidenced by the orders which it has issued for the disclosure of additional health and safety information. The Canadian Labour Congress continues to strongly endorse the work of the Commission.

The Honourable David Dingwall  
Minister of Health

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## I DEPARTMENTAL PLAN

### A. Summary of Departmental Plans and Priorities

The Hazardous Materials Information Review Commission is a small tribunal adjudicating claims to protect confidential business information relating to hazardous chemicals that would otherwise have to be divulged due to requirements of the federal Hazardous Products Act or provincial occupational health and safety acts.

The Commission has two main statutory activities: reviewing and making decisions on the validity of claims for exemption and the compliance of MSDSs and labels associated with claims; and administering an independent appeals process.

The Commission will meet its Program Review commitments, while maintaining the quality of its services, through continuous improvement of its operations, in partnership with Health Canada.

The following table presents the estimates of claims filed, claims processed (decisions), appeals and appeal decisions up to fiscal year 1999-2000.

	Actual 1994-95	Actual 1995-96	Estimates 1996-97	Estimates 1997-98	Planned 1998-99	Planned 1999-00
claims filed	207	158	229	232	258	258
claim decisions	196	252	252	252	252	252
appeals filed	7	0	8	3	3	3
appeal decisions	0	0	7	8	3	3

A. Authorities for 1997-98 -Part II of the Estimates

Financial Requirements by Authority

Vote	(thousands of dollars)	1997-98 Main Estimates	1996-97 Main Estimates
	Hazardous Materials Information Review Commission		
15	Program expenditures	1,030	1,091
(S)	Contributions to employee benefit plans	133	127
	Total Program	1,163	1,218

Votes - Wording and Amounts

Vote	(dollars)	1997-98 Main Estimates
15	Hazardous Materials Information Review Commission - Program Expenditures	1,030,000

## B. Departmental Overview

### 1. Roles, Responsibilities and Mission

The Workplace Hazardous Materials Information System (WHMIS) is a national system developed through extensive consultation between organized labour, industry and the federal, provincial and territorial governments to provide health and safety information about hazardous materials used in the workplace. Recognizing the importance of striking a balance between the workers' right to be provided with information on hazardous substances and the right of employers to preserve the confidentiality of bona fide confidential business information, the Hazardous Materials Information Review Commission (the Commission) was established as an administrative law tribunal to determine the validity of claims for exemption from full disclosure and to provide for appeals arising from such judgements. It should be noted that the Commission plays no inspection role in WHMIS. The responsibility for enforcing the reporting requirements of WHMIS is shared by Health Canada, Human Resources Development Canada and various provincial and territorial occupational safety and health organizations within their respective jurisdiction.

The Commission was established by the Hazardous Materials Information Review Act (HMIRA) enacted in June 1987 and proclaimed in force October 1987. It administers the HMIRA and has delegated authority for provincial and territorial legislation concerning employer claims to trade secrecy.

#### Mission

To allow suppliers or employers involved with hazardous industrial materials to protect confidential business information concerning their products while ensuring that workers are provided with regulated safety and health information for these products.

### 2. Organization and Program Composition

The Commission is an arms-length tribunal charged with making decisions on claims for exemption from the reporting requirements of WHMIS, filed by suppliers of, or employers using hazardous industrial materials, on the basis that disclosure would reveal confidential business information. Taking into account advice from Health Canada toxicologists, Commission staff also determine whether material safety data sheets (MSDSs) and labels which accompany the claims comply with the provisions of the Hazardous Products Act, Canada Labour Code and various provincial and territorial legislations concerning occupational health and safety. An exemption is valid for a 3-year period after which the claimant may re-apply. A claimant or affected parties have the right to appeal a screening officer's decision or order to an independent, tripartite appeal board set up in the province of appeal and administered by the Commission. In addition, the Commission is responsible for the security of confidential business information and may disclose it only for administration and enforcement of the Act or in the event of a medical emergency to persons who are bound to keep it confidential.



Organization Structure: The President, as chief executive officer, has the authority and responsibility to supervise and direct the work of the Commission; he reports directly to the Council of Governors and the Minister of Health.

Consistent with the tripartite nature of WHMIS and the federal provincial nature of the agency due to the delegation of authority to the Commission to administer provincial acts concerning employer WHMIS trade secret provisions, the Hazardous Materials Information Review Act requires that the Council of Governors consists of members appointed by the Governor in Council after consultation with representatives of the federal, provincial and territorial governments, and of suppliers, employers and organized labour. The functions of the Council are, amongst others, to make recommendations to the Minister on changes to the Commission's fee structure and to procedures for reviewing claims for exemption, including procedures to be used by appeal boards.

The organization of the Commission is based on two main statutory activities: reviewing and making decisions on the validity of claims for exemption and the compliance of MSDSs and labels associated with claims; and administering an independent appeals process. These activities are carried out through the Compliance Branch and the Appeals Branch, respectively. The Commission's organization structure is presented in Section IV (see page 20).

This current organizational structure is the minimum provided for in the legislation.

The President's Office acts as the Secretariat to the Council of Governors and ensures that appropriate measures are in place to monitor the activities and cost recovery position of the Commission by preparing reports to the President, the Council of Governors and Treasury Board. It is also responsible for the Commission's communications, financial, personnel, electronic data processing, security and administrative services.

The Compliance Branch is the first point of contact between the Commission and its clientele. It is responsible for the registration, handling and security of claims for exemption including confidential business information and has the statutory responsibilities to decide if claims meet the regulatory criteria to qualify for exemption. In addition, the Branch is also charged with determining whether MSDSs or labels submitted with the claims comply with regulations and WHMIS reporting requirements.

The claims registration function includes controlling the collection and verification of claimant fees and other claim information. Registry numbers are issued for claims and filing dates are established pursuant to the Hazardous Materials Information Review Regulations. Notices of Filing and other statutory notices are prepared for publication in the Canada Gazette in order to afford affected parties an opportunity to make representations.

In deciding on the validity of claims, the Screening Officers review the claims by applying the criteria prescribed in the Hazardous Materials Information Review Regulations.

The review of MSDSs and labels requires the application of legislation which is also administered by other agencies, as well as the consideration of health and safety advice received from Health Canada experts. In cases where labels are declared non-compliant, formal notices and orders are issued respecting not only the decisions but also, where

appropriate, the corrective action to be taken. Once a decision or order is made, a formal notice is published in the Canada Gazette. Claimants are required to submit copies of their revised MSDSs which are then reviewed to ensure compliance with the order.

The Appeals Branch is primarily responsible for convening, as and when needed, independent, tripartite and quasi-judicial boards to hear appeals arising from the decisions or orders of Screening Officers. Claimants or affected parties may appeal by filing a statement of appeal with the Director of Appeals. An appeal may relate to the compliance of an 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. An appeal board is comprised of a chairperson appointed by the Director of Appeals, and two members appointed by the Chairperson, one representing suppliers and/or employers, and the other, workers. Board members are selected from lists of potential nominees established and maintained by the Branch in accordance with HMIRA.

For each appeal filed, a Notice of Appeal is published in the Canada Gazette providing affected parties an opportunity to make representations to the board. Once the Board has heard and ruled on the appeal, a Notice of Decision is published in the Canada Gazette by the Director of Appeals. Parties may then apply to the Federal Court for a judicial review of the Board's decision.

### 3. Corporate Objectives and Priorities

#### Business Line and Mandate:

The Commission has only one business line. As an arms-length tribunal, it pursues a threefold mandate under the authority of its enabling statute the Hazardous Materials Information Review Act, adopted in 1987:

- to make decisions on claims for exemption from full disclosure requirements of WHMIS, filed by suppliers of, or employers using hazardous industrial materials, on the basis that disclosure would reveal confidential business information;
- to make decisions on the compliance of material safety data sheets (MSDS) and labels, accompanying the claims, with the provisions of the Hazardous Products Act, Canada Labour Code and various provincial and territorial legislation concerning occupational health and safety, and where non-compliance is found, it issues formal orders to bring about corrections; and
- to convene independent, tripartite quasi-judicial boards to hear appeals from claimants or affected parties on Commission decisions and orders.

## C. Details

### 1. Program Review

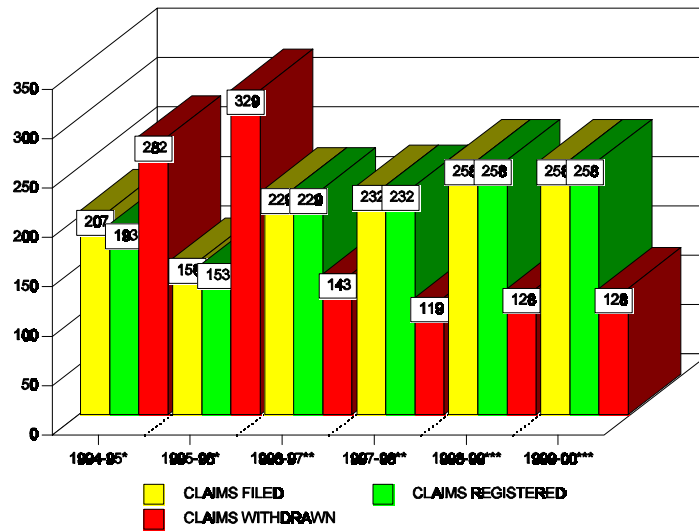
In 1996-1997, the Commission continued its participation in the government-wide Program Review exercise. The Commission's resources will be reduced by approximately 5% for the 1997-1998 fiscal year to meet its commitments under this initiative.

### 2. Objectives

#### Registration and Adjudication

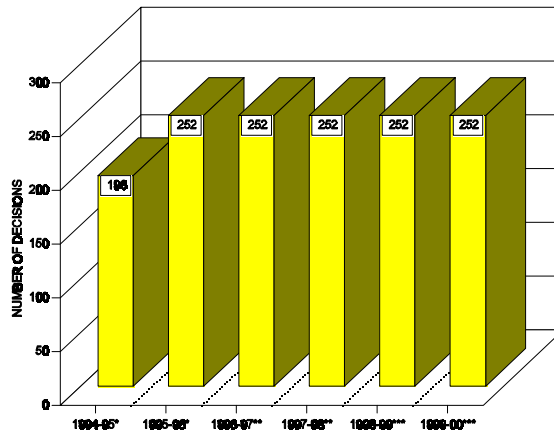
Program Review has resulted in significant budgetary and staff reductions for the Commission, but its legislative mandate has not changed. Therefore, efficiency gains must continue to be sought out and implemented to enable the achievement of the Commission's objective to provide all essential services related to its statutory mandate without compromising current quality standards. In fact, modest increases in outputs have been targeted for future years. (Figures 1 and 2).

Figure 1: Claims Status



\* Actual \*\*Estimates \*\*\*Planned

Figure 2: Decisions Rendered



\*Actual \*\*Estimates \*\*\*Planned

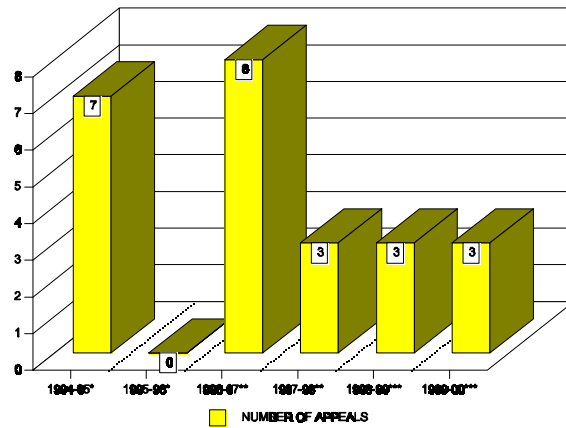
The Commission's fiscal challenges for the future are compounded by a number of important factors. The organization's flexibility in terms of being able to temporarily deploy its increasingly fewer personnel to areas of greatest need has been reduced to a minimum. In addition, with the virtual elimination of the backlog comes new difficulties associated with case-load management, in that with less work in progress, delays in claim processing (which for the most part occur when outstanding information is required from claimants) can have a profound adverse effect on the achievement of output objectives.

### Appeals

The Commission has an obligation to ensure that appeals filed are heard in a timely fashion, and will seek to do so in 1997-98, while respecting all of the prescribed process requirements, and without increasing resources allocated to this Branch. This part of the Commission's operations has required significantly more time and effort than originally planned, principally due to the complexity and volume of issues under appeal and the significant number of procedural and constitutional questions being raised with these initial appeals. The timing of appeals filed is also an important factor, as the handling of several different appeal matters in parallel adds tremendously to the workload of the staff involved. The Commission does not have control over the volume and timing of appeals filed, nor the length and complexity of appeal proceedings nor of the corresponding workload that will be generated to support the work of the independent appeal boards. For that reason, it is not surprising that there exists a concern respecting the costs that may need to be absorbed from the Commission's budget to ensure these statutory obligations are fulfilled, and the resultant potential impact on other Commission activities.

The number of appeals anticipated are presented in figure 3

Figure 3: Appeals



\*Actual \*\*Estimates \*\*\*Planned

#### Cost recovery

Although the organization does not fully recover its cost of operations, it continues to improve upon its efficiency. The costs to be recovered are those incurred by the Commission as well as resources expended by Health Canada in providing health and safety advice on the compliance of MSDSs and labels. Operational efficiencies and effectiveness measures have been considered by the Commission as a priority since its establishment. The Commission, in partnership with Health Canada, will continue to monitor the results of efficiency and streamlining measures already carried out and assess the impact on its ability to further reduce costs.

The Commission can control operational measures that increase its efficiency and reduce the cost per claim processed. These measures would be fully taken into consideration on an accrual accounting basis, which matches revenues (fees) with costs (claims processed). The Commission's cost recovery position, on a cash accounting basis, is very insensitive to gains in operational efficiency, as revenue is not matched to costs. On the other hand, it is sensitive to revenue received (principally the number of claims filed), which depends on the initiative of chemical suppliers and occupational safety and health (OSH) agencies and on the fee required to file a claim (which is under the control of the Commission's Council of Governors).

It continues to be the Commission's objective to support OSH inspections and enforcement efforts. However, this work continues to be discretionary and subject to the availability of resources.

The Commission's cost recovery objectives for the upcoming period, recognizing the current decrease in claims filed, are presented in table 1.

TABLE 1: Cost Recovery

	Main Estimates 1996-97	Main Estimates 1997-98	Planned 1998-99	Planned 1999-00
Main Estimates	1,218	1,163	1,129	1,131
Revenue credited to the Consolidated Revenue Fund	(533)	( 540)	(599)	(599)
Estimated cost of services provided by other departments	925	925	925	928
Net Cost of the Commission	1,610	1,548	1,455	1,460
% Cost Recovery	24%	25%	29%	29%

The preceding revenue objectives and cost recovery position are based on the existing fee structure.

An alternative to increasing revenue received by raising the number of claims filed is to raise the fees. This alternative has been discussed in the past and until now has been deemed inappropriate by the Commission's Council of Governors.

### 3. External Factors Influencing the Program

#### New/Repeat Business

The virtual elimination of the backlog has heightened the amount of uncertainty surrounding the levels of new and repeat business that the Commission can expect to receive on a year-to-year basis. Over the past 5 year period, there has been a reduction in the number of new claims filed, and during the last 2 years, wherein the first expirations have taken place, the number of refiled claims has been significantly lower than expected. The key issue therefore is how this workload will evolve. Estimated withdrawals for 1996-97 are significantly lower than in previous years, in large part because the backlog has been reduced. In the future, the lower backlog should result in fewer withdrawals due to product obsolescence and faster refilings.

The number of claims being received by the Commission is much lower than was anticipated when it was established. One of the causes often mentioned for this situation by representatives of OSH agencies is the deterrence effect that the Commission has by its very existence, cutting

down on frivolous claims. Another cause is the estimated 10 % level of general non compliance with the ingredient identification provisions of the Hazardous Products Act, established by an inspection program done by the Ontario Ministry of Labour. If only a fraction of these noncomplying products are filed as claims to the Commission, new business would be tremendously increased.

#### WHMIS Exclusions

A number of hazardous product classes are currently exempted from the WHMIS requirements in general, and therefore do not represent current business for the Commission. However, the federal government is currently considering whether these exemptions to the Hazardous Products Act should be continued. In turn, some or all of these exemptions may lead to an increase in business for the Commission.

#### General Policy Matters

Certain chemical industry representatives continue to petition the government for change in the WHMIS trade secret mechanism as embodied in the Hazardous Materials Information Review Act administered by the Commission. One of the assertions put forward is that some companies decide not to sell certain products in Canada because of the costs involved in complying with the requirements of this legislation; however, no data in support of this has been provided. Consequently, it has not been possible to determine the extent, if any, to which the Commission's business levels may be affected by such situations as described by some industry representatives.

Chemical industry representatives have also directed their concerns to the Commission's tripartite Council of Governors. Within that body, however, and after consideration of industry's representations, there has been no consensus established that the current system should be substantially modified.

In response to these concerns, the Hazardous Materials Information Review Commission will, in the coming year, be consulting widely with the various stakeholders on the mandate and operation of the Commission.

## II DEPARTMENTAL PERFORMANCE

### A. Summary of Departmental Performance

The following summarizes the performance of the Commission during 1995/96:

Registration: 153 new claims were registered; a Notice of Filing was drafted and published in the Canada Gazette for 184 claims; 329 withdrawals were processed; refunds were calculated and issued for 52 withdrawn claims; 214 enquiries were responded to; ad hoc support was provided to provincial occupational health and safety inspection agencies.

Compliance: decisions were issued on 252 adjudicated claims, of which 243 included orders to correct 1667 deficient items on MSDSs; a Notice of Decision/Order was drafted and published in the Canada Gazette for 294 claims.

Appeals: No new appeals were filed in 1995-96, and the proceedings for the seven appeals filed in 1994-95 went forward and were concluded in 1996-97.

Financial: 19% of costs were recovered, lower than the 30% target put forth. Although Commission costs were less than forecast, the number of claims filed was much lower.

### B. Departmental Overview

As a tribunal, the Commission must render fair and accurate decisions on claims submitted by claimants, and order compliance with the requirements of the legislation, after consultation with claimants, to offer as much flexibility as possible on the means used to comply. In this way, the protection of users of the hazardous products involved is assured, while claimant constraints are considered as much as possible. This task must be met in an environment of cost reduction and increased outputs. It is the Commission's goal, ratified by Council after a tripartite review of its operational policies and procedures by a committee of Council, to meet that challenge. It was also envisaged that the number of claims filed with the Commission, with their accompanying fees, would be increased through inspection and enforcement, thereby increasing levels of cost recovery.

The Commission has applied the principles of continuous improvement from the very beginning of its operations. This has enabled it to continuously increase outputs while controlling costs.

It is only through its ongoing objective to issue accurate, well reasoned and consistent decisions that the Commission can strive to impact on the degree to which claimants may launch appeals.

Through its tripartite Council of Governors, the Commission strives to maintain the WHMIS legacy of consensus, and it is within this realm that the organization's ongoing activities will continue to be balanced with the government's fiscal priorities and WHMIS policy direction.



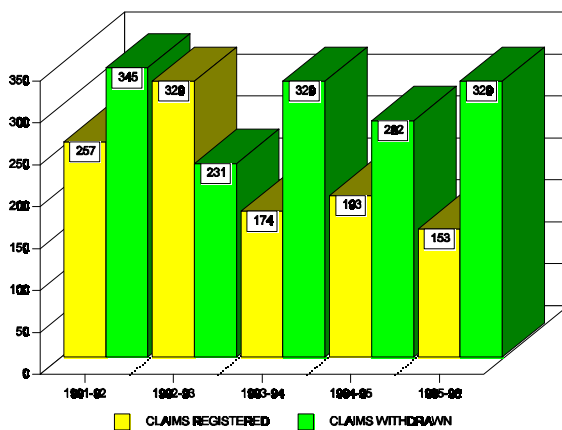
## C. Details

### 1. Claims Registration

Outputs: During fiscal year 1995-1996, the Commission registered 153 new claims to bring the total to 2449 claims registered up to March 31, 1996. To date, 1375 of these have been withdrawn by claimants, while 103 were allowed by claimants to expire at the end of the three-year exemption period, for a total of 1478.

Figure 4, below, presents the claims registered and withdrawn for the last five fiscal years. There has been a fairly high rate of withdrawals, following a surge in filing of claims in the first two years of operation. Registrations, while slowly declining, have oscillated at around 170 for the last three years, while the five year average is 220.

Figure 4: Registrations and withdrawals (Actual)



Notices of Filing: To afford affected parties an opportunity to make representations to the Commission with respect to claims, notices outlining the basic characteristics of registered claims must be published in Part I of the Canada Gazette. During the 1995-1996 fiscal year, the Commission published three such Notices, covering 184 claims for exemption.

Withdrawals and refund processing:

Claimants choose to withdraw claims filed for a variety of reasons including:

- the product was never sold in Canada;
- the product is no longer being sold in Canada;
- the CBI ingredient(s) has (have) been removed from the product formulation;
- former CBI ingredient(s) is (are) now being disclosed on the MSDS; or
- there has been a change in product ownership.

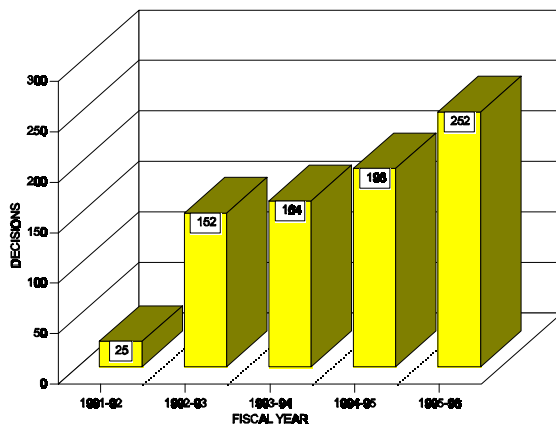
When a claim is withdrawn, the adjudication process on claim validity and on MSDS

compliance halts, as the screening officer loses jurisdiction. The Commission then applies its refund policy to determine if the claimant has any money owing, and processes a submission to Treasury Board, if required, for authorization to refund the claimant. The Commission refunded 52 claimants in 1995-96, for a total of \$222,128.81.

## 2. Claims Processed and Decisions and Orders

Outputs: During the 1995-1996 fiscal year, the Commission rendered decisions and issued orders on 252 claims for exemption. This represents an increase of 28.6% from the previous year's output of decisions, as illustrated in Figure 5 below, and was realized primarily through a one year reallocation of internal resources to the Compliance Branch. An additional 38 claims were withdrawn late in the adjudication process before a decision was rendered, for a total of 290 claims processed.

Figure 5: Decisions



Of the 252 claims which were adjudicated during the 1995-1996 fiscal year, all were found valid when assessed against the regulatory criteria respecting the confidentiality of the claimed information which ordinarily would have to have been disclosed on the relevant MSDS. However, MSDSs for all but nine of the controlled products associated with these claims were found in non-compliance with the WHMIS requirements. In such cases, formal orders were issued by Screening Officers to bring about necessary corrections. An analysis of the MSDS violations found in respect of these claims is presented below in Table 2.

Table 2. MSDS VIOLATION ANALYSIS FOR 1995-1996

Violation Category	No. of Occurrences	%
Hazardous Ingredients	367	22.0
Generic Chemical Identity	27	1.6
Preparation Information	36	2.2
Product Information	49	2.9
Physical Data	48	2.9
Fire or Explosion Hazard	104	6.2
Reactivity Data	19	1.2
Toxicological Properties	580	34.8
Preventive Measures	5	0.3
First Aid Measures	63	3.8
Hazard Classification	42	2.5
Format/Wording	205	12.3
Headings	122	7.3
Total	1667	100.0

The Claims/MSDS Review Process: A significant proportion of time continued to be spent on preparatory work related to the issuance of decisions on claims for exemption and compliance of associated MSDSs. Often, a preliminary review of a claim results in the determination that the claimant has not provided all of the supporting documentation as required by the Hazardous Materials Information Review Regulations.

An opportunity is then given to claimants to supplement their initial submissions so that the decision on claim validity can be based on as much relevant information as possible. Before seeking the advice of Health Canada, regarding MSDS compliance, the Commission contacts claimants to ensure that the latest version of the MSDS has been obtained, and requests information respecting the basis on which it was initially prepared by the claimant. This contact affords the opportunity to identify/confirm claim status, in the event that the claim may be about to be withdrawn. With this information, Health Canada and the Commission are better placed to render higher quality advice and decisions, respectively. It also eliminates, to the fullest extent possible, work being done unnecessarily.

Although the costs to the Commission in rendering decisions could be decreased by foregoing this process and rendering decisions on the face of the information provided by the claimant when the initial filing was made, it is likely that this would simply increase the number of appeals and potentially hamper the availability of products on the Canadian market. At the same time, Canadian workers are protected no less effectively because of these efforts on the part of the Commission.

### 3. Quality Management System

The Commission maintains a quality management system, elements of which were established many years ago and are presented below.

**Quality Control Program:** Quality control measures continued to be applied to the health and safety advice received from Health Canada based on a 10% random sample which included a review of a few of Health Canada toxicological profile summaries. During 1995-1996, advice documents relating to 313 claims were received from the department's WHMIS Evaluation Section.

**Published Service Standards:** During the past fiscal year, the Commission monitored its activities respecting claims registered and enquiries serviced, against its published service standards.

**Claims Registered:** Following a pre-registration check, the service standard calls for claims to be registered within seven (7) days after receipt of filing, if the supporting documentation, as set out in the Hazardous Materials Information Review Regulations, is complete. When there is an expressed request from a claimant, the Commission can and has registered well-prepared claims within 48 hours of receipt; however, this is not accomplished without increases in unit time costs. The Commission's turnaround times for registration are important to claimants because registration allows the company to sell their product while the adjudication process is being carried out.

During fiscal year 1995-1996, the Commission registered 153 new claims, of which 144 were received that same year. The remaining nine (9) were claims received during fiscal year 1994-1995, but since their supporting information required by regulation was incomplete, their registration was impeded until the deficiencies were rectified by the claimant.

Of the 144 claims registered, 57 were also initially submitted with incomplete regulatory required information, thus delaying their registration.

Eighty-seven (87) of the remaining claims immediately met the regulatory criteria for registration purposes. Of these, 38 (43.7%) were registered within 48 hours of their receipt, and the remaining 48 (55.2%) were registered within seven (7) days of their receipt.

**Enquiries Serviced:** 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 a total of 214 enquiries in 1995-1996, of which 166 were by telephone and 48 were written.

With respect to the 166 telephone enquiries, 147 (88.6%) were handled within 24 hours of receipt, 15 (9.0%) were answered within 48 hours, while the remaining four (4) (2.4%) took longer to address.

In regard to the 48 written enquiries, 47 (97.9%) were replied to within a week of receipt.

**In-Branch Reviews:** This is the term given to a process by which draft Statements of Decision/Order prepared by Screening Officers are peer-reviewed within the Compliance Branch against several well-defined criteria. These reviews endeavour to promote such attributes as completeness and clarity.

**Discussions with Claimants:** Immediately prior to the formal signing and issuance of Statements of Decision/Order, Screening Officers conduct a telephone discussion with the claimant. The primary purpose of this discussion is to offer the claimant's representative the option of going through the draft documents with the Screening Officer, and to seek clarification, if required, on any matter dealt with therein. At this time, the claimant may also wish to determine (for example, with a non-compliant MSDS) if the Screening Officer is amenable to corrective action other than that which is specified in the draft Order. If the Screening Officer deems that any revision can be appropriately made, this is done.

#### 4. Appeals Administration

**Ongoing Appeals:** Appeals Branch personnel organized and provided registrar services at three out-of-town procedural conferences in support of the first Appeal Board appointed pursuant to the Hazardous Materials Information Review Act (HMIRA) to hear seven (7) appeals from decisions and orders rendered by the Screening Officers. These appeals were registered in the latter part of 1994-1995. Various preliminary matters of a procedural nature, raised by the parties, were considered by the Appeal Board at these conferences, in order to contribute to the fair and expeditious conduct of the appeal proceedings.

At year end, work was underway to convene the in-camera hearing in the Province of Ontario, with all parties to the proceedings. Extensive discussions were conducted with security officials to carry out the measures required to maintain the confidentiality of the appeal matters according to the Hazardous Materials Information Review Act Appeal Board Procedures Regulations.

**Lists of Potential Appeal Board Members:** The lists of potential board members were updated to reflect the additional nominees recommended to represent workers on future tripartite appeal boards. Briefing material and a request for personal information were sent to the new nominees to initiate the security screening required prior to appointment to appeal boards.

**Client Relations:** As part of the Branch's objective to provide assistance to potential appellants, the personnel responded to a number of enquiries relating to the appeals process, the appointment of appeal boards and the interpretation of the Appeal Board Procedures Regulations. As a result, the Branch prepared and sent out several Appeals information packages to potential appellants.

## 5. Cost Recovery

Commission costs are partly recovered through fees charged for filing claims for exemption and appeals. The cost recovery position of the Commission, presented in the following table, is below the projected 30% for 1995-96. Although the Commission forecast for 1995-96, as presented in last years Estimates, were for expenditures of \$1,202,000.00, the Commission controlled costs and its actual expenditures were for \$1,165,000.00 in 1995-96. The lower than projected cost recovery position is due to lower than projected filings of claims.

### Cost of Program for 1995-1996

(in thousands of dollars)

Commission Operating Costs	Other Costs	Total Program Costs	Revenue	% Cost Recovery
1,165	819	1,984	380	19%

## 6. Communications Activities

In line with the objective to inform potential claimants about its role, the Commission mailed out informational literature on the claim for exemption process to approximately 75 companies.

In addition, during the 1995-1996 reporting period, the Commission responded to enquiries from claimants requesting assistance in understanding WHMIS trade secret requirements and completing the claim for exemption form. Approximately one fifth of these enquiries were general calls related to WHMIS, rather than specific enquiries about the Commission. These callers were referred to the relevant provincial WHMIS coordinators and other departments/agencies. Through its Annual Report, the Commission communicates to its clientele its role, operations, results and achievements for the year in review.

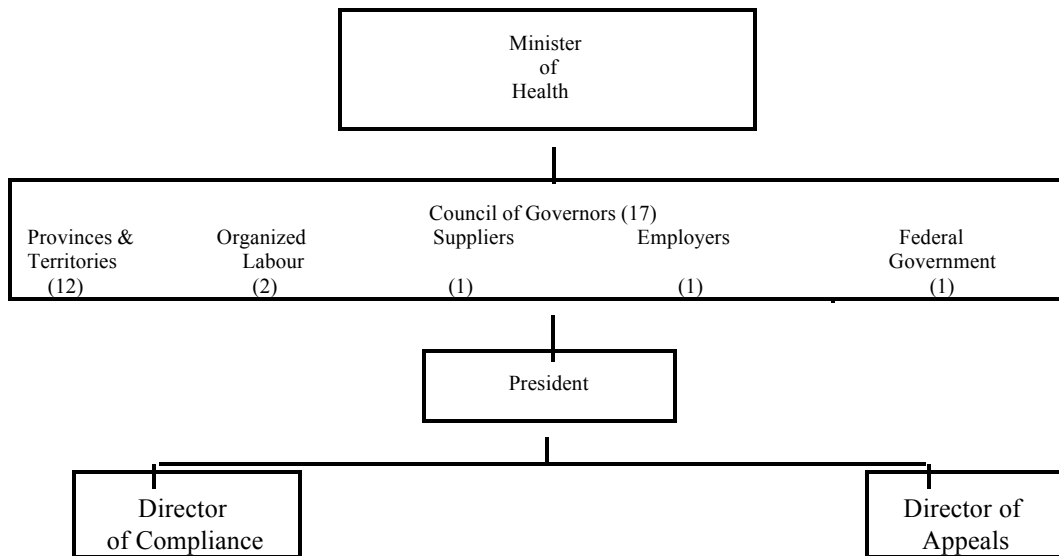
COMMUNICATIONS 1995-1996	
Claim information packages mailed out to suppliers	129
Calls and written enquiries received	214
Calls/written enquiries referred to WHMIS coordinators and other departments/agencies	39
Commission's publications distributed (including the Annual Report)	1500

### III SUPPLEMENTARY INFORMATION

#### Appendix 1 - Organization

##### 1.1 Organization Chart

Chart 1: Organization of the Commission



##### 1.2 Resource Requirements by Branch and Business Line/Activity (\$000)

1997-98 Main Estimates				
Branch				
	Compliance	Appeals	Administration	Total
HMIRC	475	229	459	1,163

## Appendix 2 - Personnel Requirements

### 2.1 Summary by Professional Category (FEES)

	Actual 1994-95	Actual 1995-96	1996-97 Estimates	1997-98 Estimate s	1998-99 Planned	1999-00 Planned
Order-in-Council Appointments	1	1	1	1	1	1
Executive Group	2	2	2	2	1	1
Scientific and Professional	1	1	1	0	0	0
Administrative and Foreign Service	10	11	11	10	10	10
<b>Total</b>	<b>14</b>	<b>15</b>	<b>15</b>	<b>13</b>	<b>12</b>	<b>12</b>



## Appendix 3 - Additional Financial Information

### 3.1 Financial Requirements by Standard Object(\$000)

	Actual 1994-95	Actual 1995-96	Estimates 1996-97	Estimates 1997-98	Planned 1998-99	Planned 1999-00
<b>Personnel</b>						
Salaries and Wages	822	814	874	782	787	789
Contributions to employee benefit plans	113	113	127	133	134	134
	935	927	1,001	915	921	923
<b>Goods and Services</b>						
Transportation and communications	25	52	32	41	31	31
Information	25	30	36	40	35	35
Professional and special services	100	98	84	110	90	90
Rentals	9	4	6	5	5	5
Purchased repair and upkeep	14	13	14	15	15	15
Utilities materials and supplies	35	39	30	32	27	27
Capital -minor	23	2	15	5	5	5
All other expenditures		207*				
<b>Total Operating Expenditures</b>	<b>1,166</b>	<b>1,372</b>	<b>1,218</b>	<b>1163</b>	<b>1129</b>	<b>1131</b>

\*This amount represents refunds of prior year's revenue..

### 3.2 Details of Revenues (\$000)

The Commission receives revenue from user fees for its two statutory activities, namely:

- The review of claims for limited exemption from the requirements of WHMIS; and,
- The appeals process

Based on the currently approved fee schedule, on current workload estimates and on the number of decisions to be rendered, revenue from claims and appeals is estimated at \$540,000 for 1997-98.

	Actual 1994-95	Actual 1995-96	Estimates 1996-97	Estimates 1997-98	Planned 1998-99	Planned 1999-00
Claims Process	472	380	527	534	593	593
Appeals	14	0	6	6	6	6
<b>Total</b>	<b>486</b>	<b>380</b>	<b>533</b>	<b>540</b>	<b>599</b>	<b>599</b>