



CANADIAN FEDERATION OF
INDEPENDENT BUSINESS

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Mr. Ty Lund
Chair, Regulatory Review Steering Committee
#513 Legislature Building
10800 – 97 Ave.
Edmonton, AB T5K 2B6

Dear Mr. Lund:

On behalf of the 9,200 Alberta members of the Canadian Federation of Independent Business (CFIB), we are pleased to make a submission to your Regulatory Review Steering Committee.

As you know, government regulation and paper burden continues to be a major concern for our small- and medium-sized business members. In this submission, as you have requested, we will outline several specific areas for you to consider addressing. We will also propose an approach your committee can champion that will address the overall burden of forms and paperwork, which is the most onerous form of regulatory burden our members face.

It is important to note that our members are not calling on government to eliminate regulation. In general they want meaningful regulation with less paperwork, less duplication and better information on how to comply with existing rules. According to CFIB's groundbreaking study, *Rated R: Prosperity Restricted by Red Tape*, the cost of regulatory compliance in Alberta is \$3.9 billion annually. On a per employee basis, these costs are among the highest in the country. In addition, CFIB's study found that firms in Alberta were the most likely to say that the regulatory burden had increased in the past three years.

At your request, here are some specific examples of issues that have emerged as irritants for our members.

1. Workers' Compensation Board

Recently two of our members called to complain about fines they had received from the Workers' Compensation Board. Underestimating penalties apply when the actual insurable earnings reported on an annual return exceed 150 per cent of the last recorded estimate. If an employer suspects their annual payroll may be different than the estimate, they are required to take steps to adjust their estimates with WCB throughout the year.

The amount of the underestimating penalty is equal to 10 per cent of the difference between the actual premium and 150 per cent of the estimated or provisional premium. In other words, if a firm estimates its payroll to be \$500,000, the WCB allows an estimation error of \$750,000. If the actual amount of the payroll difference is \$900,000 (and assuming a five per cent premium is owed) the firm would be charged an underestimation penalty of \$750.

The challenge many firms face, particularly those who have a highly variable or seasonal payroll such as construction, is accurately predicting what their payroll would be for the year. The current practice of estimating creates several unnecessary extra steps. As one of our members advised, it was his first year of business and neither he nor his accountant knew what to estimate. In addition to the penalty and fine, this member also has a WCB claim on his work delivery van.

Other provinces give firms the option of paying their premiums on actual insurable earnings, which eliminates the step of estimation and the need for continual reestimation throughout the year. The WCB says that they have examined the implications of offering the payment of premiums based on actual insurable earnings, and rejected it on the basis that it would create higher government administration costs and it would impact the timely collection of premiums.

However, we think this conflict can be easily resolved by giving employers more choice. Since the WCB already provides the option of allowing firms to pay monthly through a pre-authorized debit, they could easily use this option to allow firms to pay on actual earnings so they can eliminate the step of estimation and the fines associated with mistakes.

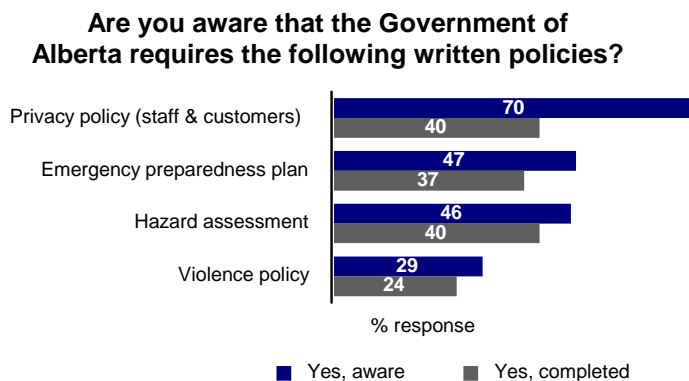
2. Occupational Health and Safety

2.1 Hazard Assessment, Workplace Violence Policy, Emergency Preparedness Plan

As of April 30, 2004, Alberta's new Occupational Health and Safety (OHS) Code came into effect, and all Alberta businesses are expected to comply. In instances where the Act or Code has been severely contravened, the maximum fine for a first offence is up to \$500,000 or imprisonment for up to six months. The maximum fine for a second or subsequent offense is \$1,000,000 or imprisonment for up to 12 months. Knowingly making false statements or giving false information during an investigation can result in fines or imprisonment.

We are particularly concerned that onerous penalties could be applied to mere "paperwork" violations. New to the Code, and a requisite for all Alberta businesses, are several written requirements. Those are: a written hazard assessment, a written workplace violence policy, and a written emergency preparedness plan.

CFIB has worked with the department to develop a toolkit to assist our members in complying with these requirements. However, we feel these particular written policies place an unnecessary burden on small business owners, especially those who have minimal need for individualized written policies.



Source: CFIB 2006 Provincial Survey (January 2007), Alberta data

A recent survey of our members found that the majority of our members are not aware they are required to have these written policies, and even fewer have drafted one for use in their workplace. These results clearly indicate that some businesses may be in contravention of the Act simply because they have neither the time nor the human resources to dedicate to the development of legislated policies.

A simple remedy for this problem is for the department to eliminate the mandatory requirement for these written policies and instead

make available a basic, generic policy for all businesses to follow on an as-needed basis. Another option would be to exempt small firms from such onerous requirements. For example, firms with less than 50 employees could be exempt from the above written requirements.

2.2 Privacy Policy

The Alberta Government has created unnecessary duplication by drafting its own comprehensive privacy policy. In 2003 CFIB actively opposed the inclusion of employee information under the provincial legislation. As employee records represent a major portion of the personal information held by employers, the Government of Alberta had the opportunity to keep provincial legislation streamlined and not contribute to the red tape and regulatory burden of Alberta's entrepreneurs, but it chose not to do so.

We believe the Alberta Government should harmonize its legislation with the federal privacy laws and, as such, drop requirements for employee information.

3. Tax Revenue Administration

CFIB has a long history of advocating for changes to the administration of the Tax Exempt Fuel User Program and the Prescribed Rebate Off-road Percentages Program. These programs are very valuable to our small business members in allowing them to recover some of the fuel taxes they pay on fuel used for offroad purposes. We applaud the effort to expand the PROP program to make it more user-friendly for firms. However, many issues in the transition to a new approach have actually created more paperwork issues for many of our members, rather than streamlining it. We have proposed several recommendations to the TRA officials to improve the administration of this program and reduce the paper burden on filers:

3.1. Issues Related to PROP

3.1.a. Tracking fuel use by vehicle

Background: Filers told us that 1/3 of all companies cannot track fuel by vehicle at all, 1/3 could submit claims by vehicle but it would be difficult for the tax preparer to verify, and only 1/3 could do it easily. Tax filers have asked that a simpler method be used.

Recommendation 1: A company that uses vehicles in a single category should be permitted to track fuel to each vehicle by one of four methods: By unit, by kilometres driven, by truck months, or by calculating an average based on the number of vehicles and fuel used.

Recommendation 2: A company that uses a mix of vehicles should eventually be able to file under PROP under a percentage determined uniquely for that company based on his vehicle mix.

3.1.b. Requirements to file under PROP

Background: Filers indicated that 2-5 per cent of cases have actual fuel consumption patterns that are 20 per cent (or more) above the prescribed rates for PROP. Tax filers said there should be new rules for businesses with exceptional fuel use patterns.

Recommendation 3: TRA should put a process in place formalizing an "exception review" (such as exists at the WCB) to allow filers with large variances to prove it and claim a higher rebate.

Recommendation 4: Where possible, TRA should create new categories if it is demonstrated that a number of filers within a PROP category have extraordinary fuel use.

3.1.c. Quarterly filing

Background: The requirement to fill out separate claims forms for quarterly filing was deemed to be too onerous. TRA says that the program for online filing greatly simplifies the process, by allowing filers to plug the numbers in and have it automatically calculate. However, online filing was not seen to be a good option, since each client needs to renew his password every 90 days. For firms with hundreds of clients, this is not practical.

Recommendation 5: A small-firm threshold should be established to allow for less frequent filing, preferably on an annual basis (this is similar to PST filing in B.C.).

Recommendation 6: TRA should establish a system that allows a company to declare at the beginning whether they will be a quarterly or annual filer, and allow a longer filing period based on size, seasonability of operations, and whether they are in IFTA or not.

Recommendation 7: Allow companies to manage their own passwords for their online accounts, and delegate the authority to their tax filer.

Recommendation 8: Allow filers to file one form annually, and attach a one-page Schedule that allows them to break out the amounts claimed in each quarter.

3.1.d. Inclusion of claims prior to launch of PROP

Background: Companies can file claims going back three years, which creates several transition complications if the industry has switched from TEFU to PROP. Though the filers say the easiest solution would be for the PROP rules to apply to the entire filing period for companies in this situation, TRA says under no circumstances will PROP be applied to claims retroactively.

Recommendation 9: Companies with expired TEFU surveys in industries that have switched to PROP should not be required to conduct a new survey; they should be permitted to use their old survey.

Recommendation 10: The higher auditing standards that exist under PROP should not be applied retroactively to claims in this transition period.

3.2. *Issues Related to TEFU*

3.2.a. Audits

Background: The auditing process is seen to be unfair, as auditors are perceived to go on fishing expeditions that unnecessarily drag out the process.

Recommendation 11: There should be no “double jeopardy” or prolonging the audit process by re-invigorating it with new questions in new areas after claimants have responded to initial audit questions.

3.2.b. Engine diagnostic downloads and one-hour tests

Background: PROP is supposed to simplify the filing process, and yet the requirement for engine diagnostic downloads and five one-hour tests per vehicle use are extremely onerous.

Recommendation 12: The TRA should establish a default consumption rate in a database that tax filers can use when preparing returns. Those companies that wish to do the engine downloads and five-hour tests can continue to do so, and will be assessed based on TRA's range of internal benchmarks.

4. Commercial Vehicle Licensing

One of our members operates a truck and trailer repair business. As part of his service, he has taken out a licence to perform commercial vehicle inspections. This is an important part of his business because through the inspections he is able to identify trucks in need of repair, which is his main source of income. This member identified several problems that make it very difficult for a small business owner such as him (he and his wife are the sole employees) to comply with increasingly stringent regulations.

Part of the new Vehicle Inspection Regulations (AR211/2006), which came into effect on January 1, 2007, requires mandatory facility audits. As part of this process, compliance officers monitor whether his shop is doing a proper inspection by examining a truck and trailer he has recently inspected. Our member has been told by the compliance officer that he must have a truck and trailer onsite when he comes to do the facility audit, otherwise our member's commercial vehicle inspection licence will be cancelled.

The nature of our member's business does not allow for him to arrange this. Most of his business involves servicing livestock trucks and trailers that operate between Alberta and the United States. When he completes inspections and service on a truck and trailer, it departs immediately from his shop. It is not like a large dealership, which has new and used trucks and trailers on hand at all times, allowing for easy compliance audits.

Our member does not know very far in advance when he will conduct a truck or trailer inspection. The compliance officer may call him a month in advance to set up a date for a facility audit, however, his customers only give him a day or two notice that they need the work done.

Our member also says the rules are unnecessarily prescriptive. It requires mechanics to demonstrate that they own certain brand name tools, even though there are other ways to do the inspections without having the tools that are specifically mandated.

There are also new permitting requirements that have added to his cost of doing business. In the past, our member says he was required to have a Commercial Vehicle Licence to be validated to do the inspections. Now he says there is an additional new licence required, the Alberta Motor Vehicle Industry Council Licence, which costs \$175 per year to renew.

A better way of approaching this issue may be for compliance audits to be fault-based. If a truck shows up at the scales and does not meet the appropriate standards, the compliance officers could use that information to trace it back to the mechanic and hold him to account for his work through a comprehensive facility audit once a problem has been identified.

5. The Need for Comprehensive Regulatory Reform

We recognize the committee is interested in addressing particular issues of problematic regulation and we have provided these examples to assist in achieving that end. However, if we simply look at the list of recommendations we presented for changes to the TEFU/PROP programs, for example, you will understand why this approach is not very satisfactory from the perspective of CFIB.

The amount of staff time that has been devoted to understanding this particular file, responding to member complaints, writing letters and participating in meetings has exceeded 500 person hours in the past two years. To this point we have seen no meaningful changes. Meanwhile, over the same period, there have been hundreds (if not thousands) of new regulatory requirements imposed on all businesses across a whole range of sectors.

Unless the province takes serious steps to address the overall regulatory burden, CFIB will have no choice but to judge Alberta's regulatory streamlining effort to be a failure.

In order to make a substantial impact in the number of hours our members spend complying with regulation, the government needs to make a noticeable and meaningful reduction across a range of areas. The government on several occasions has expressed reluctance to consider the B.C. approach to regulatory reform. Fortunately, other governments, including the federal government and the Nova Scotia government, have committed to an approach we think would be more acceptable to the province and would have a real, meaningful and measurable reduction in hours spend on compliance and reporting for our members.

What makes the federal and Nova Scotia governments' approaches so powerful is their focus on forms and paperwork reporting requirements, which are a source of great irritation for small businesses.

5.1 Regulatory Reform in Nova Scotia

As the Nova Scotia government points out, international research has shown that reducing paperwork "boosts economic efficiency and innovation, enhances potential growth, and increases consumer choice and welfare." Nova Scotia's Better Regulation initiative has four key elements to it:

1. Measurement - They developed a baseline inventory of forms and paperwork and a consistent method for assessing how much time it takes to comply with administrative paperwork requirements.

Through this effort, they discovered that Nova Scotia businesses completed 605,000 submissions related to provincial regulation (this does not include any federal or municipal requirements). The process they used to develop their Better Regulation Index included standards to ensure consistency in time estimates, including set times for such things as submitting forms to a local government office. They figured out how much time it took to comply with each requirement, whether a few minutes or a few hours, and calculated that forms and paperwork impose a burden of 615,000 hours per year on the small business community. Based on Statistics Canada's average hourly earnings for Nova Scotia, that amounts to more than \$14 million in paperwork costs – which is actually higher than CFIB's estimate.

2. Reduction Target - Having established the inventory, Nova Scotia set a target to lower the forms and paperwork burden 20 per cent by 2010. They believe it is vital to set a reduction target such as this, to increase the understanding among politicians and regulators about the combined impact of the paperwork burden being levied by all provincial departments.

3. Individual Assessment - The Nova Scotia government developed business profiles to help understand the impact of regulatory paperwork. Through this process they determined that 75 per cent of the businesses that start in Nova Scotia have only a few provincial

regulatory requirements. For instance the regulatory paperwork burden to start a retail store or a business consultancy would require only three forms and take 1.5 hours to complete. To incorporate, with the help of a lawyer, it would take an additional five hours, for a total of 6.5 hours. A service station with a convenience store selling tobacco and prepared food, inspecting or repairing vehicles, selling or renting movies, selling propane and motive fuel, and located on a highway would have 15 permit, licence and registration requirements, taking a total of 16 hours. A restaurant licensed to serve liquor with food, has an elevator, owns the property and is near a highway, and is without municipal water service would have 12 licence, registration, permit requirements, taking a total of 69 hours.

Clearly, the paper burden does not fall equally on all types of businesses. The BizPaL system being adopted by the Alberta government will go a long way toward assisting with the development of this initial inventory of requirements for start-up and expanding a business.

The Regulatory Review Steering Committee should tap into this process as a starting point for developing a baseline for overall forms and paperwork requirements. Incorporating BizPaL in the committee's work will help in convincing Alberta entrepreneurs the government is serious about reducing the red tape burden, rather than creating yet another failed example-driven process.

However, BizPaL addresses only one part of the overall paper burden. The second part to address is all the forms and paperwork requirements associated with operating a business on an ongoing basis, such as the aforementioned problems with Workers' Compensation Board, Occupational Health and Safety, Tax Revenue Administration and numerous other departments and agencies.

4. Better Customer Service - The Nova Scotia Government is leading the effort to make it easier to conduct business with government. Its Service to Business Project is focused on small- and medium-sized businesses, recognizing that the burden of regulation falls more heavily on smaller firms. Through an online portal, as of May 2006, businesses have been able to apply for, pay for and/or renew more than 60 licences, permits, registrations and certifications through government websites. The Alberta Government has the beginnings of a similar system with PABLO, Province of Alberta Business Licensing Online launched earlier this year, but it must be broadened to be of maximum value to business owners.

For instance, Nova Scotia's Service to Business began with a pilot project using the opening of an inn as a model. Innkeepers were brought together in a public consultation to find ways to better serve this business sector. Through sector analysis the government discovered that a business would need to deal with a minimum of nine provincial government departments, divisions or agencies, and find and accurately fill out 34 forms. Of those forms, the government found that almost half of the entries were for duplicate information, and basic information such as name, address and contact information was requested as often as 18 times.

Alberta should undertake a similar assessment to identify duplication and overlap in information reporting requirements, and find ways to reduce it.

5.2 Regulatory Reform in the Government of Canada

The federal government is taking a similar approach, having established an Action Task Force on Small Business Issues, of which the Canadian Federation of Independent Business is a part. The government has set a target to reduce the paper burden 20 per cent by November 2008.

As part of this effort, the Canada Revenue Agency released a report in March about the ways in which it will reduce the burden of paperwork filing requirements. In the budget speech, Finance Minister Jim Flaherty indicated that changing the frequency of certain filings could reduce the paper burden on small businesses by as much as 70 per cent.

CRA's three-pronged approach is to:

1. Simplify, improve and reduce the frequency of interactions with CRA.
2. Improve communication with business.
3. Make burden reduction systemic within CRA.

Some of the measures taken or proposed include:

- ✓ Establishing an inventory of administrative requirements and information obligations with which small business must comply
- ✓ Allowing small businesses to remit their income tax instalments quarterly instead of monthly
- ✓ Adding additional online services through their My Business Account, including enabling representatives to view and transact on the business's behalf
- ✓ Introducing simplified claim forms for the Scientific Research and Experimental Development program
- ✓ Partnering with key small business and professional advisor associations to identify sources of paper burden
- ✓ Creating a Burden Assessment Checklist to ensure that compliance burden reduction is a fundamental element of its forms review process

6. Conclusion

CFIB has participated in many initiatives aimed at reducing the regulatory burden all across Canada and at all levels of government. Through our experience, we have learned a few lessons about what works and what does not. While it is tempting to focus reform exercises at specific examples of problematic regulations, lasting reform requires government to dig deeper and look at the overall burden of regulation. Key components of meaningful regulatory reform include:

1. Establishing a measure - Albertans cannot determine if the government has been successful in reducing regulations if there is not a clear understanding of where it is starting.

2. Instituting public accountability - Regulatory measures should be included in the annual fiscal budget and tracked over time. Impact assessment tests, which are required for all new regulations in Alberta, should be made available to the public.

3. Putting constraints on regulators - Once the baseline has been established, aggressive reduction targets must be set and new processes put in place to ensure the burden does not begin to rise again.

As you know, CFIB has been working tirelessly with various members and regulatory review committee members over the years to move this ball forward. We were thrilled that the government committed publicly to this process in the 2006 Throne Speech and budget. We also were very close to launching a solid approach with the previous chair of the steering committee, but were set back with the leadership race.

We are very pleased to be working with you on this file and hope that we do not lose the commitment and momentum that began last year. Our members are counting on you and will be watching your committee's work with great interest and support.

Thank you again for the opportunity to present to your committee. If you have any question or concerns, please do not hesitate to contact us at (403) 444-9290 or (780) 421-4253.

Sincerely,

Original signed by

Danielle Smith
Director of Provincial Affairs , Alberta

cc: Alana Delong, Member, Regulatory Review Steering Committee
Pearl Calahasen, Member, Regulatory Review Steering Committee
Angela Prokopetz, Regulatory Review Secretariat

Attachments: Better Regulation 2005/06 Progress Report, Government of Nova Scotia
Competitiveness and Compliance Initiative Annual Report 2006, Government of Nova Scotia
Helping Small Business by Reducing the Compliance burden, Canada Revenue Agency