

Workplace Safety and Health

Understanding Workplace Safety and Health Enforcement

2016 Safe Healthcare Conference

Manitoba



When Does Workplace Safety and Health Get Involved?

- Contact with Client Services
- Provide general safety and health information
- Complaint (confidential and anonymous)
- Discriminatory Action
- Right to Refuse
- Reporting a Serious Incident

Committee Duties

Duties of committee

40(10) The duties of a committee include

(a) the receipt, consideration and disposition of concerns and complaints

respecting the safety and health of workers;

(b) participation in the identification of risks to the safety or health

of workers or other persons, arising out of or in connection with activities in the workplace;

(c) the development and promotion of measures to protect the safety

and health and welfare of persons in the workplace, and checking

the effectiveness of such measures;

40 The Workplace Safety And Health Act

(d) co-operation with the occupational health service, if such a service

has been established within the workplace;

(e) co-operation with a safety and health officer exercising duties under

this Act or the regulations;

(f) the development and promotion of programs for education and

information concerning safety and health in the workplace;

(g) the making of recommendations to the employer or prime contractor

respecting the safety and health of workers;

(h) the inspection of the workplace at regular intervals;

(i) the participation in investigations of accidents and dangerous occurrences at the workplace;

(j) the maintenance of records in connection with the receipt and disposition of concerns and complaints and the attendance to other

matters relating to the duties of the committee; and

(k) such other duties as may be specified in this Act or prescribed by

regulation.

Committee Duties

(a) the receipt, consideration and disposition of concerns and complaints respecting the safety and health of workers

Proactive Initiatives

The Workplace Safety and Health Branch undertakes both year-round and special enforcement initiatives to ensure Manitoba employers and workers understand their safety and health rights and duties, and that employers are meeting compliance with their legal responsibilities to protect the safety and health of workers and others in the workplace.

Powers of a SHO (24(1))

A safety and health officer may, at any reasonable time, or where in his or her opinion a situation exists that is or may be dangerous at any time:

- **without prior notification enter a workplace**
- **Examine and investigate as necessary including taking pictures, samples, inspecting documents, etc.**
- **Require equipment to be operated and tested**

When we arrive

- Make contact with the employer and the safety and health committee, a safety representative, or a worker not associated with management.
- Review JHSC minutes, accident reports, employer safety initiatives.
- A Safety and Health Officer may request that the committee co-chairperson, representative or worker accompany the Officer during the inspection.

Conducting the Inspection

- The Officer may inspect the entire workplace or a portion, including the basement, the roof, locked areas, offices, lunchrooms etc.
- Discussions held with supervisors, workers, contractors regarding tasks performed and training received.
- Identify hazards in the workplace, and determine if appropriate controls have been implemented.

Report Forms and Orders Issued

- Report Forms
- Improvement Orders
- Stop Work Orders
- Re-Inspection Reports
- Preliminary Incident Report Form

2014 - 2015

Inspections - 11695

Improvement Orders – 7036

Stop Work Orders - 570

Appeals – 24 or .03%

Avg time to resolve appeal – 10.8 weeks

Administrative Penalties – 17

Convictions – 23*

**20 more currently before the courts, more in process*

Officer Discretion

- A Safety and Health Officer will decide which form to use.



Discretion will decrease with increased risk.

Officer Discretion

Improvement orders W210 26(1)

Where a safety and health officer is of the opinion that a person is, or has contravened any provision of this Act or the regulations in circumstances which make it likely that the contravention will continue or be repeated; the officer may make an improvement order against that person, requiring that person to remedy the contravention within such period as may be specified in the order and stating the reasons for making the order and requiring the person to maintain compliance with the improvement order.

What information is on an Improvement Order?

Fall Protection Systems

Workplace Safety and Health Regulation 14.6

Observation: Two Workers were observed working on the roof of this work site location at heights of 3 meters or greater without the use of any fall protection system.

Requirement: The employer must ensure that a worker is protected by at least one of the fall protection systems set out in section 14.6, where there is a risk of a worker falling in any of the circumstances set out in subsection 14.1(1).

Fall protection systems must meet the requirements as prescribed by subsection 14.7(1).

Reference Documentation:
Fall Protection Guide

What to do if you are issued an Improvement Order

- An Improvement order means you can continue working but something needs to be done by a certain date to ensure worker safety.
- Ensure senior management is aware of the Order.
- The safety and health committee/representative also needs to be informed and consulted.
- Orders to be posted in the workplace and need to be communicated.

Improvement Orders continued...

- Make sure you know what has to be done. Refer to Safework Manitoba for copies of the Legislation and reference documents to help you.
- Someone has to be assigned to identify what needs to be done to comply with the order. If an appeal is made you have 14 days after the order is issued.
- Once everything is done to comply the order the SHO needs to be notified. This can be done on a compliance report.

Improvement Orders continued...

- Be very detailed on the compliance report with what you have done. *Ex: Fall protection equipment was issued to all workers, workers were instructed on how to use, store and care for the equipment. Supervisors will enforce the use of ppe.*
- If an extension is needed it has to be done before the due date.

What to do if issued a Stop Work Order

- All work referenced in the SWO must cease immediately or a specific area of the workplace evacuated.
- Unless it is a Province Wide SWO the SWO will reference a specific activity, piece of equipment or area. You are only stopped for these activities for the duration of the order.
- Province wide – repeated contravention for the same offence by the same employer.
- Once the SWO is withdrawn or discontinued you may resume work.

Communication of Orders

- Can be delivered in person, by registered mail or by posting at the workplace.
- IO's posted are deemed to have been communicated 24 hours after the order was posted.
- A SWO is deemed to have been communicated at the time it is delivered, received or posted and takes effect IMMEDIATELY.
- If a SHO issues an order to a contractor a copy will be provided to the prime.

Extensions

- If you are not able to comply within the time given you must notify the Officer who issued the orders Prior To the compliance date. You need to submit in writing the reason for an extension and the time reasonably needed to comply the orders.
- It is the discretion of the Officer if the timelines will be extended. Considerations will include: the risks involved, previous extensions, reasons provided.

Appeals

- A person directly affected by an order or decision of a safety and health officer under
- Section 26 (Improvement Order)
- Section 36 (Stop Work Order)
- Section 42.1 (Discriminatory Action); or
- Section 43 (Right to Refuse)

May appeal the order or decision to the Director of WS&H. Do not appeal directly to the SHO.

How to Appeal

- The person appealing sends a written notice to the Director of WS&H within 14 days of the order or decision stating the reasons for the appeal and list the persons interested in the appeal.
- The Director will provide a decision (confirming, varying or setting aside the order/decision) or refer it to the MB Labour Board.

Appeals

- The order or decision stays in effect until a decision is made.
- The Directors decision can be appealed to the MB Labour Board.
- The MB Labour Boards decision can be appealed to the Court of Appeal, but only on a question of law or jurisdiction and by the leave of a judge of the court.

Report on Compliance

- Consultation with safety and health committee, worker rep, or a worker selected by workers is required
- Written report **Must** be sent in to SHO within 7 days following the compliance date
- Must be posted in the workplace
- SHO will provide a re-inspection report based on progress
- Re-inspection report must be posted

Closing the Orders

- A re-inspection report will be issued subsequent to performing a physical inspection or based on a Report of Compliance.
- Stop Work Orders must be withdrawn or discontinued by SHO. Stays in effect until this happens.

Non-Compliance

- Order can be in “non-compliance” status
- Administrative penalties can be issued
- Prosecution has occurred
- Stop Work Orders, Administrative Penalties, and Prosecutions posted online at safemanitoba.com and on the Workplace Safety and Health website at <http://www.gov.mb.ca/labour/safety/index.html>

Questions?



Contact

204-957-SAFE (7233)

Toll-free at: 1-855-957-SAFE (7233)

Workplace Safety and Health

www.gov.mb.ca/labour/safety

Includes 24 hour emergency line and
serious incident reporting