

L-01a Compliance Policy and Enforcement Procedures

**Occupational Health and Safety
Operational Procedure
Previously: P-001**

Date Developed: April 8, 2010
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COMPLIANCE POLICY STATEMENT

Albertans expect workplaces that are healthy, fair and safe. The Alberta government, through Employment and Immigration (the ministry), promotes and enforces Occupational Health and Safety (OHS) standards at the work sites. OHS compliance is based on the concept of the internal responsibility system. This means that employers, workers, contractors, owners and suppliers share in the responsibility and accountability for the health and safety of persons at the workplace. The ministry's OHS Branch undertakes the compliance activities to ensure the effectiveness of workplace internal responsibility systems by enforcing the minimum standards of Alberta's OHS legislation.

PURPOSE

The purpose of the Compliance Policy and Enforcement Procedures is to guide ministry staff in selecting the appropriate enforcement tools when responding to instances of non-compliance at Alberta work sites.

The ministry's OHS Officer's (Officer) are responsible for enforcing the *OHS Act*, Regulation and Code. Officer's primary role is to ensure people meet their legislative responsibilities for workplace health and safety at Alberta work sites and enforce the minimum OHS legislated standards. The ministry, along with the employer and worker associations/organizations, provides health and safety information and educational materials to help Alberta work sites implement safety practices and meet minimum legislated OHS standards.

ENFORCEMENT PROCEDURES

The most effective enforcement method in a particular case depends on the circumstances of the violation. Factors to be considered include, but are not limited, to:

- The level of hazard or risk caused by the violation,
- Whether an injury, disease or death has occurred, and
- The party's prior health and safety compliance history.

Tools to promote health and safety awareness and education are used in conjunction with enforcement action to achieve compliance with OHS legislation.

When contraventions of the OHS legislation are observed, Officers may issue Orders under the authority of the *OHS Act* to bring work sites into compliance with the minimum standards of the legislation. The orders require the person responsible for the contravention to correct the situation in a timely manner and comply with the specific or general requirements of the legislation. Different types of enforcement approaches may be used to achieve compliance and are identified in the Compliance Enforcement Ladder.

1. Immediate Verbal Compliance Directive

If the Officer is of the opinion that work is being carried out in a manner that is unhealthy or unsafe to the workers on site and the employer agrees to comply with minimum legislated standards and is able to achieve compliance immediately, an Officer may issue a verbal compliance directive. If a verbal compliance directive is given, the OHS Officer will complete an inspection report and ensure that corrective action has been taken and compliance has been achieved before leaving the work site. If, in the opinion of the Officer, compliance has not been achieved by the end of the inspection, the Officer will issue a written compliance order. Verbal directives to achieve compliance are not to be used in cases where immediate danger exists. Immediate verbal compliance is documented in a Compliance Report.

2. Compliance Order

If an Officer observes non-compliance during an inspection, action will be taken. An Officer must take appropriate action to address observed non-compliance with the legislation. There are a number of compliance tools available to an Officer to achieve compliance. The following enforcement actions may be taken according to what is most appropriate:

a. Compliance Order: under the authority of Section 9(2) of the OHS Act

When non-compliance is observed, the Officer may issue a written standard compliance order noting the contraventions and requiring compliance by a specific date.

b. Stop Use Order: under the authority of Section 11 of the OHS Act

When equipment is observed to be unsafe, or when the Officer is of the opinion that the use of this equipment has the potential to seriously injure workers, the officer will stop the use of the equipment until the appropriate corrective action is taken. The Officer issues a written stop use order on the equipment to prohibit any person from using the equipment. The Officer may attach a Stop Use Tag on the identified piece of equipment.

c. Stop Work Order: under the authority of Section 10 of the OHS Act

When an officer is of the opinion that work is being carried out in a manner that is unhealthy or unsafe, the officer may issue a stop work order to have the employer and workers stop the work in question immediately. The Officer may initially issue a verbal Stop Work Order followed by a written order issued to the employer identifying the measures that the officer considers necessary to remove the source of danger or protect any person from the danger.

d. Director's Order: under the authority of Section 10 of the OHS Act

Certain enforcement actions can only be undertaken under the authority of a Director appointed in accordance with the *Public Service Act*. A Director can be a Director of Inspection, a Director of Occupational Hygiene or a Director of Medical Services. These orders may be issued under sections 14(1), 25, and 33(1) of the *OHS Act* when the circumstances require the broader authorities of a Director, or when a significant benefit will result from the use of those sections of the *OHS Act*.

e. Repeat Non-compliance Order: under the authority of Section 10 of the OHS Act

In situations of repeat non-compliance with the same or similar parts of the OHS legislation and where it is determined that appropriate steps have been taken, and, in the opinion of the Officer/Program Manager there is a continued danger to persons on the worksite, the Officer may issue a Section 10(1)(c) Order, along with Order(s) relating to the observed deficiencies at the worksite. The employer will be advised that the Section 10(1)(c) Order will remain open for an extended period at the discretion of the ministry and may extend to all of the employers' work sites. The extended order is to ensure work sites achieve sustained compliance.

f. Court Order: under the authority of Section 42 of the OHS Act

Where an order has been made under the *OHS Act*, Regulation or Code and the person to whom that order is made is carrying on the work without complying with that order, a Director of Inspection may apply by way of originating notice to the Court of Queen's Bench for an order of the Court requiring that person to comply.

g. Contempt of Court Order: under the authority of the Court of Queen's Bench

Where an order has been made by the Court of Queen's Bench, and the person to whom the order is made is carrying on the work without complying with that order, a Director of Inspection may apply by way of originating notice to the Court of Queen's Bench for a Contempt of Court Order.

3. Prosecution

Prosecution is established as an effective deterrent in reducing non-compliance with legislated requirements. Once a prosecution has been commenced, Alberta Justice retains sole discretion in the handling and conduct of the prosecution in accordance with its guidelines.

4. Lifting of Orders

When an Officer is satisfied that compliance is achieved and that the identified hazard to workers is eliminated or reduced as much as is reasonably practicable, the Officer may lift the order and allow work to resume.

This Operational Procedure is intended as a guideline only. It should be noted that the ministry's OHS Branch is not bound by this Operational Procedure. The legislation has given the Officer the discretion to determine the appropriate action. Therefore, the Officer must consider the individual facts of the case to determine the appropriate action and whether the procedure laid out in this Document is appropriate in the circumstances.

Program Managers and Regional Directors are available to help Officers exercise their discretion in the application of this guideline.

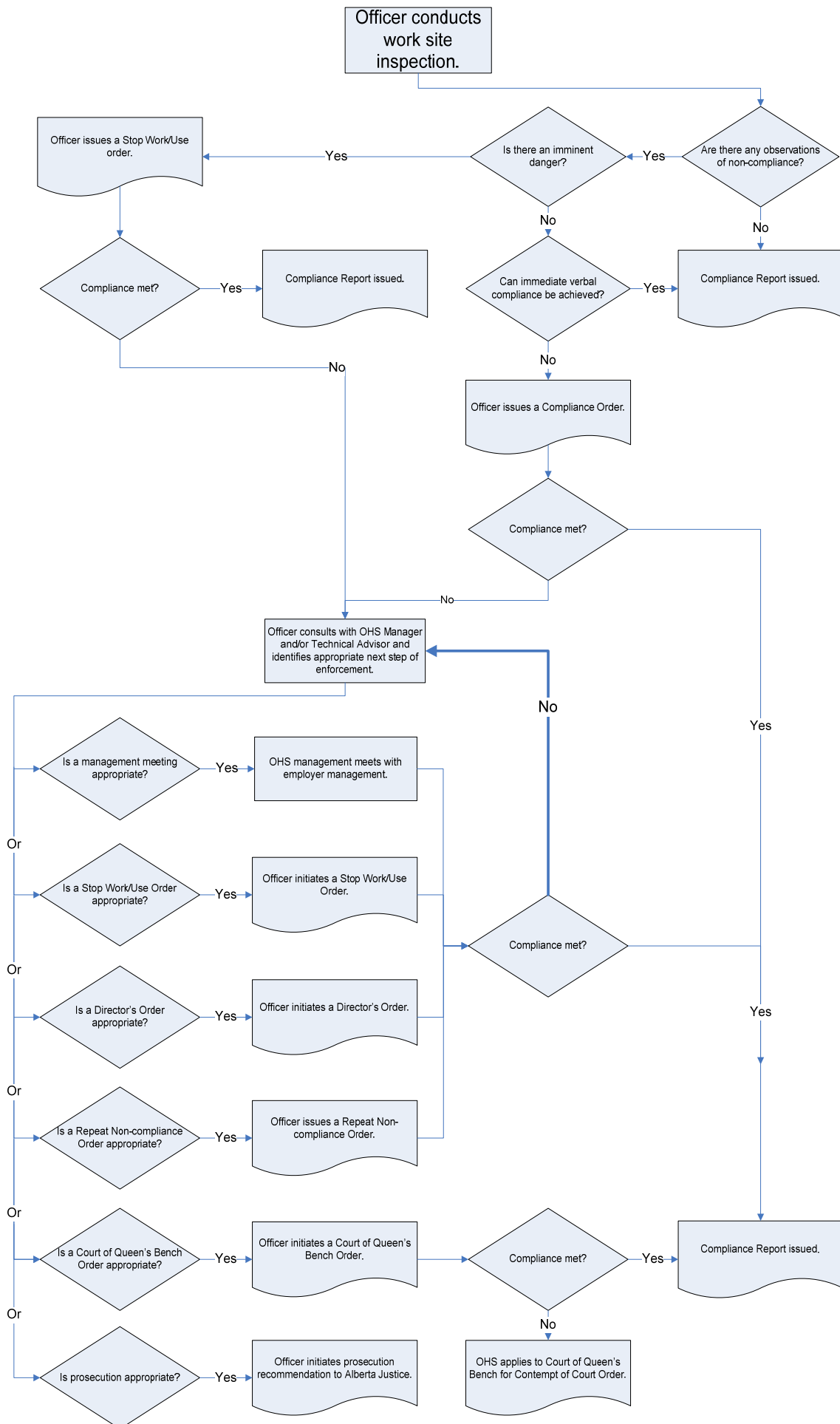
Original Signed by:

Eric Reitsma
Acting Executive Director
Occupational Health and Safety

July 28, 2010

Date

Alberta Employment and Immigration – Occupational Health and Safety Compliance Enforcement Procedures



The purpose of compliance/enforcement ladder is to inform work site stakeholders of the possible OHS actions resulting from an inspection. Work site stakeholders need to ensure hazards are controlled and minimum OHS legislated standards are followed. Depending on infractions observed, the OHS officer can use various enforcement actions, including recommendation for prosecution. This Document is a guideline only. An OHS Officer is not bound by the process outlined in this Document. If the situation warrants, an OHS Officer has the discretion to use any enforcement tool (or combination of enforcement tools) provided under the legislation at any stage of the Inspection/Investigation.