

1.0 INTRODUCTION

The 2008/2009 Operational Plan for Alberta Employment & Immigration, Workplace Health and Safety (WHS) & Employment Standards (ES) Compliance Branch has identified *Residential Construction* as one of the key industry sectors requiring a health and safety focus.

This plan outlines the compliance monitoring strategies that Occupational Health and Safety (OHS) Officers will apply at residential construction sites. This plan applies to prime contractors, contractors, employers and workers conducting work on residential construction projects.

2.0 INDUSTRY DESCRIPTION

Residential construction refers to new home construction using construction materials, methods and procedures that are essentially those used for typical wood frame single and multiple family dwellings including all walk ups that do not have a full time site superintendent (Examples include: duplex, triplex, 4-plex, row-house or townhouse condominium, or similar building.)

Note: *This program does not apply to apartment-type buildings or any part of a commercial/industrial/institutional building, regardless of its design.*

3.0 HIGHLIGHTS OF PLANNED ACTIONS

- Identify residential construction projects in the North and South Regions of Alberta.
- Conduct inspections to determine compliance with the Occupational Health and Safety (OHS) Act, Regulation and Code. After each inspection provide the client with appropriate documentation.
- Observation of health and safety contraventions may result in orders being issued to all parties who have a vested interest, responsibility or ownership of the residential construction worksite. Homebuilders and contractors may be held accountable for non-compliance issues on their sites. Officers may issue orders to an employer/contractor/prime contractor or worker at the same residential construction worksite.
- Where site conditions suggest continued non-compliance to the legislation, OHS Officers may conduct further inspections at that site and at other sites controlled by the same prime contractor/contractor/employer to ensure that OHS legislation is both complied with and understood. This approach is at the discretion of the WHS Compliance Program Manager and the Senior Regional Manager, as it will depend on the geographical limitations and the availability of officer resources.

4.0 IDENTIFICATION OF RESIDENTIAL CONSTRUCTION PROJECTS

Residential construction sites will be identified by:

- targeting residential construction sites,
- responding to complaints received from the WHS Compliance Contact Centre, and
- OHS Officers randomly observing workers exposed to hazards during routine inspection activities.

Regional teams are to share information through the electronic tracking system to identify non-compliant companies.

5.0 INSPECTION STRATEGY

OHS Officers will perform an inspection of the residential construction project and document observed site conditions. During initial and follow-up inspections, Officers will issue orders as required on any observed contraventions. Photographs may be taken to illustrate non-compliant issues.

Each regional team will identify the residential subdivisions under development in their geographical areas. A subdivision may be considered a worksite (if all of the construction is being carried out by a single Home Builder). Employers are to complete their own hazard assessment.

OHS Officers may conduct inspections individually or as a team. Inspections may be conducted at any time of the year. In rural areas, Officers will attempt to combine residential inspections with other inspection activity during the same travel periods.

5.1 Client Contact Reports

Written notification of any observed health and safety contraventions will be recorded on a Client Contact Report. A copy of the report will be provided to the prime contractor and/or contractor and/or employer or worker on site. The report must be posted in a conspicuous place where workers affected by it can read it. Photographs taken at the project may be placed on the company's file.

OHS Officers use two types of reports to document compliance and non-compliance of legislated OHS standards observed at a work site.

Compliance: Officers will issue Compliance Client Contact Reports for work sites where no contraventions of the legislated OHS standards are observed.

Non-compliance: Contraventions to the Occupational Health and Safety Act, Regulation and Code are observed and the Officer issues written orders on a Client Contact Report to the prime contractor /contractor/ employer or worker on site.

5.2 Residential Construction Noncompliance Issues

OHS Officers will follow the existing operational procedures for dealing with non-compliance and imminent danger situations. Officers may issue orders for the following items observed at a worksite: (Note: this is not a complete list)

- fall hazards (considered imminent danger) including:
 - Ground, floor and wall openings that are unguarded, without markings and covers that are not secured from movement.
 - Falls from roofs, scaffolds, etc
 - Fall hazard situations of less than 3 metres if there is an unusual possibility of injury to a worker.
- fall protection plan not completed.
- trenching/excavation issues (considered imminent danger) including:
 - No cutback, poor entry/exit capabilities, etc.
 - Unidentified underground services when ground disturbance activities could damage buried utility lines or have the potential of causing worker injury.
- unsafe scaffold (missing parts, unstable/unsupported base, improper planking, not inspected or tagged by a competent worker, etc.)
- unguarded penetrating items (i.e. nails, rebar, etc.)
- using unsafe equipment (i.e. not certified, not being used in accordance to its designed intent, not maintained).
- using equipment in an unsafe manner (i.e. riding shingle conveyer or material hoist, overloading the capacity of equipment).
- point loading the structure/roof.
- first aid, WHMIS.
- failing to conduct a written hazard assessment and emergency response plan.
- failing to provide the required essentials of a construction site (i.e. first aid services and equipment, sanitary facilities, illumination, safe access/egress, housekeeping, etc.).
- proper protective equipment not available or not being used by the worker (i.e. chainsaw pants, head, hearing or eye protection, etc.)
- not controlling traffic. Workers near operating equipment without effective hazard controls in place.
- improper rigging and hoisting practices.
- failing to secure building materials or concrete forms.

5.3 Orders to Prime Contractors

A **Prime Contractor** (example: owner, developer, home builder) must be designated for a site if there are 2 or more employers involved in work at the same time. If no prime contractor is designated the owner of the site has the responsibilities of the prime contractor. Officers may issue orders to a prime contractor where the legislation specifically references the term, “prime contractor”. Orders to prime contractors may be issued under Section 3 (3), 18, 30, 32, 33 and 34 of the OHS Act and under Sections 2, 178 and 179 of the OHS Code.

When an Officer has evidence that the prime contractor on site did not ensure that the OHS Act and regulations are being complied with, an order under Section 3(3) of the OHS Act shall be issued

The issued order should contain a list of the violations observed to substantiate the rationale for determining that the prime contractor has contravened Section 3 (3) of the OHS Act. The order must indicate that the prime contractor needs to provide evidence of how the prime contractor will ensure that the OHS Act and regulation are being complied with.

If an OHS Officer observes a recurring trend of non-compliance with the OHS Regulation and/or Code by employers on a worksite under the direction of the prime contractor, or if a review of the prime contractor’s record in the electronic tracking system indicates on-going non-compliance, the OHS Officer will review the case file with the Compliance Program Manager. This review may result in Officers conducting follow up inspections at other sites where the prime contractor is involved.

If the prime contractor demonstrates a continued unwillingness to comply with the OHS legislation the Officer will schedule a meeting between the prime contractor and a Compliance Program Manager to address the observed concerns.

Examples of orders to contractors are shown in Appendix 1 and the attached *Compliance Process* flowchart.

5.4 Orders to Contractors

A **Contractor**, who directs the activities of an employer involved in work at the site and no prime contractor is designated, has responsibilities under the OHS Act. A contractor may be the site owner or general contractor who has engaged the services of an employer (sub-contractor) to conduct work at the site. Officers may issue orders to contractors under Section 2 (5) of the OHS Act where the legislation specifically references “contractor” and if the Officer has evidence that the contractor did not ensure that the employer they hired has complied with health and safety legislation.

The issued order should list the violations observed to substantiate the rationale for determining that the contractor did not meet health and safety requirements. Evidence of this violation may be an employer or sub-contractor, whose activities are directed by a contractor, are not properly securing ladders, or that fall protection systems are not being used or that workers are inadequately trained to operate equipment. The order must state that the contractor provide evidence, in the form of documentation, of how s/he will ensure the employer complies with the OHS Act, Regulation and Code in respect to the worksite.

If an OHS Officer observes a recurring trend of non-compliance with the OHS Regulation and/or Code by employers on a worksite under the direction of the contractor, or if a review of the contractor's record in the electronic tracking system indicates on-going non-compliance, the OHS Officer will review the case file with the Compliance Program Manager. This review may result in Officers conducting follow up inspections at other sites where the contractor is involved.

If the contractor demonstrates a continued unwillingness to comply with the OHS legislation the Officer will schedule a meeting between the Contractor and a Compliance Program Manager to address the observed concerns.

Examples of orders to contractors are shown in Appendix 1 and the attached *Compliance Process* flowchart.

5.5 Orders to [Employers](#)

An Officer may issue an order to any employer in violation of a specific section of the OHS Regulation and or Code. Imminent danger concerns will result in the work being stopped until corrective actions can be taken.

When an Officer observes a recurring trend of non-compliance with the OHS Regulation and/or Code by employers on a worksite or if a review of the employer's record in the electronic tracking system indicates on-going non-compliance, the OHS Officer will review the case file with the Compliance Program Manager. This review may result in Officers conducting follow up inspections at other sites where the employer is working.

Note: Prime Contractors and Contractors may also be classified as Employers, if they have their own employees on site who report directly to them.

5.6 Orders to [Workers](#)

An OHS Officer may issue an order to a worker under specific sections of the OHS Act and code that reference workers.

Imminent danger concerns will result in the work being stopped until corrective actions can be taken. Orders to workers would be issued in circumstances where the prime contractor, contractor and employers are all compliant with the legislation and workers are not cooperating with the employer to protect their own health and safety and the health and safety of other workers on the site.

The order must state that the worker or workers must demonstrate compliance with the employer's requirements under the OHS legislation.

6.0 NON-COMPLIANCE ALTERNATIVES

Department actions to ensure compliance to legislated requirements will be taken in accordance with the WHS Compliance Policy.

7.0 LEGISLATION

Officers will be applying the [Occupational Health and Safety Act Chapter 0-2](#), [Occupational Health and Safety Regulation 62/2003](#), and the [Occupational Health and Safety Code 2006](#).

Hard copies and CD versions of the OHS legislation are available at the [Queens Printer](#):

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10611 - 98 Avenue,
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8.0 CONCLUSION

Focusing on the residential construction industry will help to determine the level of compliance across the province. Through interaction with prime contractors, contractors, employers, and workers constructing subdivisions, OHS Officers can assist in providing information on the OHS Act, Regulation and Code as it applies to the residential construction industry. The goal of this initiative is to improve worker health and safety and to reduce Lost Time Claim (LTC) rates in the residential construction industry.

9.0 PUBLICATIONS

Pre-Project Meeting Guideline:

http://employment.alberta.ca/documents/WHS/WHS-PUB_li025.pdf

The Prime Contractor (LI018):

http://employment.alberta.ca/documents/WHS/WHS-PUB_li018.pdf

Due Diligence (LI015):

http://employment.alberta.ca/documents/WHS/WHS-PUB_li015.pdf

Health and Safety Tool Kit for Small Business (SM001):

http://employment.alberta.ca/documents/WHS/WHS-PUB_smb001.pdf

Managing Health and Safety in Your Workplace - For Small Business

http://employment.alberta.ca/documents/WHS/WHS-PUB_smb002.pdf

Original signed _____

Eric Reitsma
Executive Director
Workplace Health and Safety &
Employment Standards Compliance

May 21, 2008 _____

Date

2. Orders to Employer & Contractor at same worksite.

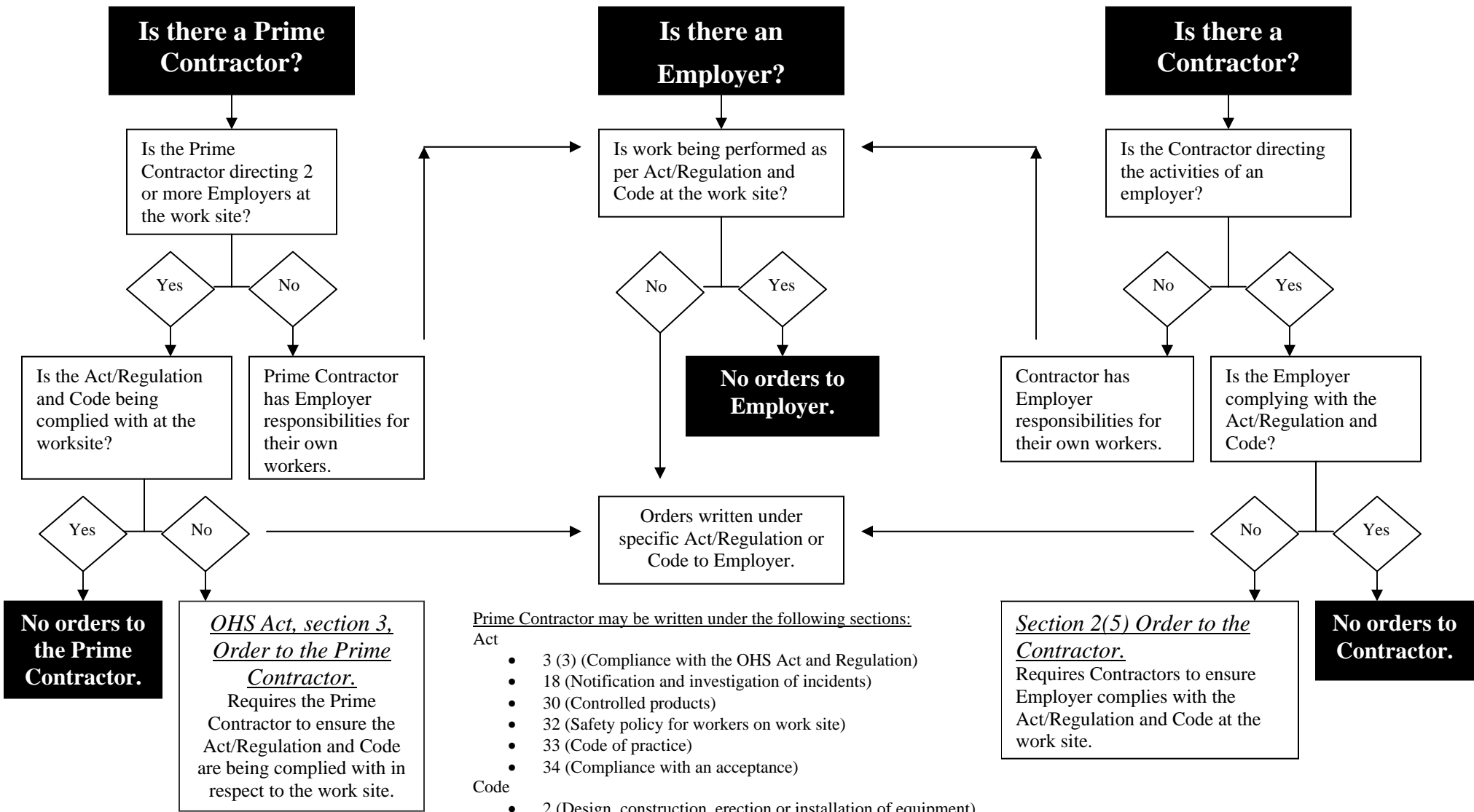
A worker on the roof (Sample Contracting Ltd.) is observed working at a fall hazard of greater than 3 metres without a fall protection system in place.

CCR TO EMPLOYER		
Order #1 Sample Contracting Ltd. (Employer)	<u>Observation:</u> <i>A worker on a roof was observed in a fall hazard position greater than 3 metres without the use of a fall protection system.</i> <u>Requirement:</u> <i>The employer shall provide a fall protection system that complies with a system outlined within the Alberta OHS Code.</i>	Stop Work Order OHS Code Section 139

CCR TO CONTRACTOR (HOME BUILDER)		
Order #1 Home Builder (Contractor)	<u>Observation:</u> <i>A worker was observed in a fall hazard position greater than 3 metres without the use of a fall protection system at the contractors work site.</i> <u>Requirement:</u> <i>The Contractor shall provide OHS with written information on how they will ensure the employers under their direction comply with the Alberta Occupational Health and Safety Act, Regulation, and Code.</i>	Order OHS Act Section 2(5)

Repeated contraventions with the same companies will result in OHS employing consultation, compliance and/or prosecution strategies until legislated requirements are met.

OHS officer observes workers at a worksite.



Prime Contractor may be written under the following sections:
Act

- 3 (3) (Compliance with the OHS Act and Regulation)
- 18 (Notification and investigation of incidents)
- 30 (Controlled products)
- 32 (Safety policy for workers on work site)
- 33 (Code of practice)
- 34 (Compliance with an acceptance)

Code

- 2 (Design, construction, erection or installation of equipment)
- 178 / 179 (First aid supplies and equipment)