Ministry of Labour, Immigration, Training and Skills Development

NCSO®/NHSA™ Educational Conference 2024

What to Expect When We are Inspecting

Brian Barron
Senior Manager, Construction Program
Occupational Health and Safety Branch
Fair, Safe and Healthy Workplaces Division

November 21, 2024

Ontario

1

Ministry of Labour, Immigration, Training and Skills Development

Ministry of Labour, Immigration, Training and Skills Development

Helping protect workers and settle workplace disputes, supporting skilled trades, apprenticeships and employment services, attracting highly-skilled newcomers and helping people get settled in Ontario.



Image credit: https://www.ontario.ca/page/ministry-labour-immigration-training-skills-development

Ontario

2

Ministry of Labour, Immigration, Training and Skills Development

FAIR, SAFE AND HEALTHY WORKPLACES DIVISION

Our Vision

We envision an Ontario that is the most attractive place to work in the world because every employee is treated fairly and comes home safely.

Our Mission

We set, communicate and enforce legislation to help make Ontario workplaces fair, safe and healthy. Through our professionalism, innovation and collaboration, we earn and maintain the public trust.

3

Ontario

3

T(0

Ministry of Labour, Immigration, Training and Skills Development

The Occupational Health and Safety Act

- The *Occupational Health and Safety Act* (OHSA) forms the basis of and supports the OHS system and its objectives. Its mandate is to promote workplace health and safety and protect workers from workplace hazards.
- The OHSA sets out a number of powers, requirements, and rights related to occupational health and safety.
- The underlying philosophy of OHSA, and of OHS legislation across Canada, is the Internal Responsibility System (IRS): all workplace parties (employers, workers, supervisors, etc.) share the responsibility for health and safety, to the extent that each party has control over it.
- The OHSA does not apply to:
  - work done by the owner or occupant, or a servant, in a private residence, and
  - workplaces under federal jurisdiction



The OHSA applies to all provincially-regulated workplaces in Ontario, covering **6.8M** employed workers.

Ontario

4

Ministry of Labour, Immigration, Training and Skills Development

What Can You Expect from the Inspectors

- The inspectors will introduce themselves and identify as MOL inspectors.
- They will explain the purpose of the visit and provide general information regarding the inspection or enforcement process
- They may provide a contact number if other information or feedback is required.
- Inspectors will ask to meet with management representative, health and safety representative or the joint health and safety committee (JHSC) worker member
- Ministry of Labour health and safety inspectors have broad powers, including to:
  - ✓Enter any workplace without appointment and inspect for compliance
  - ✓Interview workplace parties
  - ✓Look at documents and records and take photographs
  - ✓Issue orders

Ontario

5

Ministry of Labour, Immigration, Training and Skills Development

Types of Workplace Visits

Consultations
- Consultation may occur before an actual workplace inspection.
- An inspector may discuss with the employer and/or joint health and safety committee member the purpose of their visit and may request information for the workplace parties to prepare for their next visit.

Inspections
- Workplace inspections are proactive visits by an Inspector to review compliance with the OHSA and its regulations.
- Workplaces may be identified for proactive inspection by: their history of injuries and fatalities; inherent hazards to their working environment; or age since start-up (new businesses).

Investigations
- Investigations are reactive visits to a workplace in most cases because of a complaint, work refusal, injury, or fatality.
- All fatalities and injury/incidents which raise matters of immediate potential threat to life, limb or health are investigated.

Ontario

6

Slide 4

LT(0 Delete OHSA/IRS slide if not needed
Lagrandeur, Tammy (MLITSD), 2024-09-20T19:37:29.225

Ministry of Labour, Immigration, Training and Skills Development

Who Should Be Present During an Inspection

- **Proactive (unannounced) Inspection**
  - The supervisor or competent person appointed by the supervisor
  - The health and safety representative, JHSC (at least the labour rep) and workers trade committee, if any
- **Investigation**
  - The supervisor or competent person appointed by the supervisor
  - The health and safety representative, JHSC (at least the labour rep) and workers trade committee, if any
  - Any related parties to the issue being investigated

7

Ministry of Labour, Immigration, Training and Skills Development

What Paperwork Do We Want to See

- All regulated postings, i.e. NOP, emergency plans, explanatory posters, copy of the Act and regulations, name of the constructor and contact information, names of the H&S rep/JHSC members, etc…
- JHSC meetings
- Previous inspections
- Workplace inspections
- Form 1000's
- If a tower crane is present: all inspection and testing documentation
- If the project is a tunnel: Diesel variances and tunnel rescue committee information
- If traffic is a consideration: Traffic protection plan and traffic control person qualifications

8

Ministry of Labour, Immigration, Training and Skills Development

What Are We Looking For and What Are We Discussing

- An inspection can look at anything on a project, from a piece of equipment to a process to a specific area
  - We tend to seek out high hazard areas, i.e. falls, struck-by's, excavations, etc..
- We will generally seek out workers and talk to them about their health and safety and ensure that the IRS is functional
  - We are gauging the strength of the supervision, information and instruction given
  - We are determining whether the right levels of protection have been considered
  - We are following up on the concerns observed in the JHSC minutes to ensure they are being addressed
  - We are seeking to understand a workers comfort level with the task they are performing

9

Ministry of Labour, Immigration, Training and Skills Development

What Does a Field Visit Include

- A field visit will always include key pieces of information
  - Name and location of the project
  - Unique identification numbers
  - Constructor and employer names and contact information
  - Persons contacted and spoken to
  - A summary of discussions had
  - A general description of the work taking place at the time of the visit
  - Notification of non-compliant items if an order cannot be issued
  - Orders issued along with compliance related information, i.e. instruction as to when they must be complied with

10

Ministry of Labour, Immigration, Training and Skills Development

What Happens When a Contravention is Found

- An order or requirement is issued
- An order can be issued as Forthwith (immediate compliance), Time (given a specific date that it must be complied with) or a stop work order (all productive work in the area is to be stopped, only remedial work to correct the issue is permitted)
- An requirement is issued when we want to see documentation that may not be readily available or when we suspect there may be an issue but would need an expert to review or test something first.
- A prosecution may be initiated under the Provincial Offences Act under Part 1 or Part 3
- Part 1 tickets and summons' can be issued to anyone up to a max of $1000 plus victim fine surcharge per offence

11

Ministry of Labour, Immigration, Training and Skills Development

What Happens When a Contravention is Found (Cont'd)

- **Part 3 prosecution**
- 66 (1) Subject to subsections (2) and (2.1), every person who contravenes or fails to comply with,
- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or a Director; or
- (c) an order of the Minister,
- is guilty of an offence and on conviction is liable to a fine of not more than $500,000 or to imprisonment for a term of not more than twelve months, or to both
- (2) If a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is $2,000,000.
- (2.1) A director or officer of a corporation who contravenes or fails to comply with section 32 is guilty of an offence and on conviction is liable to a fine of not more than $1,500,000 or to imprisonment for a term of not more than twelve months, or to both.

12

Ministry of Labour, Immigration, Training and Skills Development

How to Comply With an Order

- First, make sure you understand what the order is for and what it is directing you to do, i.e. time requirements…
- Consult the Occupational Health and Safety Act and/or applicable regulations to understand the minimum requirement that the order was based on
- Look to your industry or to health and safety associations (IHSA) for best practices
  - E.g. Health and Safety Manual (IHSA)
- Involve your health and safety representative/JHSC in the solution
- Once complied with either fill out the notice of compliance with the required information/signatures or in the case of stop work order, call the inspector and arrange to have the issue reinspected
- Once the order is complied with, it will be marked in the MLITSD database as complied with.

13

Ministry of Labour, Immigration, Training and Skills Development

Questions?

14