

Safety violations investigation unit

Ohio employers try to provide a workplace free of safety pitfalls. However, oversights can occur, and workers may be injured while on the job. What happens when the injury occurs if an employer overlooks a specific safety requirement?

This brochure is a guide for employers and employees who may, one day, find themselves in this situation.

What the law says

The Ohio Revised Code (ORC) states it is the responsibility of every employer in Ohio to provide a safe workplace and adhere to all safety rules (refer to ORC 4101.12). Likewise, it is the responsibility of every Ohio worker to properly use any provided safety equipment (refer to ORC 4101.13).

What is a violation of a specific safety requirement?

- An injured worker with a BWC claim may be eligible to receive an additional award of compensation if the injury occurred as a result of the employer's violation of a specific safety requirement (VSSR) as outlined in the Ohio Administrative Code.
- The state authorizes the Industrial Commission of Ohio (IC) to grant this additional award to an injured worker when a workers' compensation injury, illness or death results from an employer's VSSR. This additional award ranges from 15 percent to 50 percent of the maximum allowable weekly

compensation rate granted to the injured worker.

- The injured worker appearing before the IC must show the safety requirement was both specific and applicable, the employer was not in compliance when the accident occurred, and the non-compliance contributed to the injury, illness or death.

How to file a VSSR claim

- File an *Additional Award for Violation of Specific Safety Requirement in a Workers' Compensation Claim* (IC-8/9) form within two years of the injury, death or initial diagnosis of illness.
- File the form with the IC's Columbus regional office or with any BWC customer service offices.
- The IC sends proper notification to all involved parties after it receives the VSSR applications.
- The employer may file an answer to the alleged VSSR within 30 days of notification.

How a VSSR claim is investigated

- BWC's safety violations investigation unit (SVIU) assigns an investigator to conduct an impartial investigation of the VSSR allegations. The SVIU then notifies all parties (injured worker, employer, legal representatives, etc.) in writing about the pending investigation.

- The investigator then initiates contact with the involved parties.
- The SVIU sends a request form listing common information requested, along with the initial notification to the employer. During the course of the investigation, the investigator may require additional information from the parties involved.
- The injured worker or his or her legal representative must provide any updates to the investigator regarding person(s) with investigation information.
- The investigator's fact-finding investigation includes an inspection of the incident site, interviews and any documented information relevant to the incident.
- The investigator, upon completion of the investigation, will file a Report of Investigation with the IC and place it in the claim before any IC hearing occurs.

What happens after the investigation?

- The IC forwards copies of the Report of Investigation to the principle parties.
- After receiving the report, all parties involved have 30 days to review it and provide any supplemental information.
- The IC schedules a pre-hearing conference and notifies all involved parties. The IC holds this meeting to review new information, reach a possible settlement, or to set a date for a merit hearing or request a record hearing.

- If the parties do not reach a settlement, the IC schedules the VSSR claim for a merit hearing.
- An IC official hears the VSSR and renders a decision at the merit hearing. Also, the IC issues an order and provides instructions for any appellate actions.

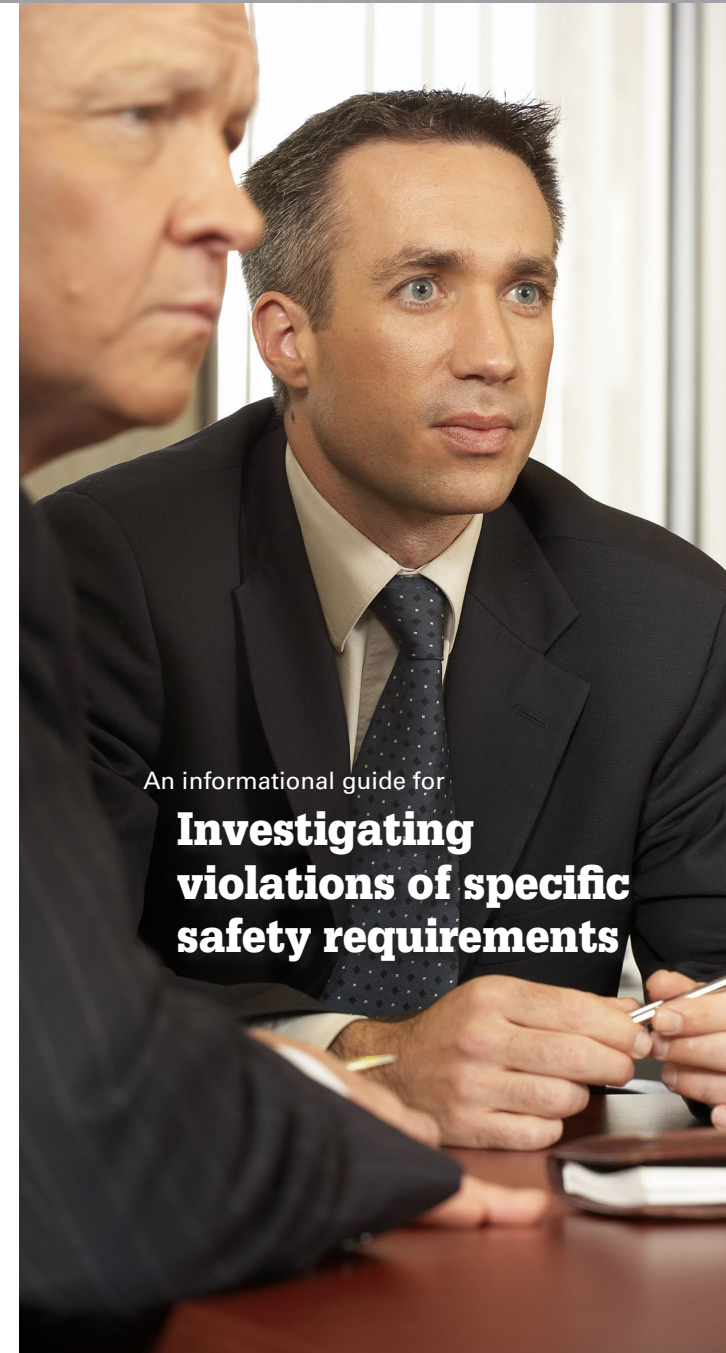
Things to keep in mind before, during and after the process

- The ORC allows the IC to impose a penalty of up to \$50,000 for two or more VSSR violations occurring within a 24-month period.
- Actions, such as intentional tort or third-party lawsuits, may also be filed in civil courts.
- The IC can answer questions regarding additional award calculations and payments only after it has issued an order.
- SVIU investigators revisit the employer when the IC grants an additional award and a correction order is issued. The investigator will ensure the employer has complied with the IC's order regarding the correction of the violation.

For more information

- Call BWC's SVIU at 800-686-1507.
- Call BWC at 1-800-644-6292, or log on to www.bwc.ohio.gov.
- Call the IC at 800-521-2691, or log on to www.ic.ohio.gov.

You may also call the IC VSSR section at 614-466-0615.



An informational guide for

Investigating violations of specific safety requirements