



Inspections

REGULATORY FUNCTION POLICY

July 2016

BACKGROUND

WorkSafe New Zealand (WorkSafe) was established as a Crown entity under the WorkSafe New Zealand Act 2013. It is New Zealand's primary health and safety regulator with the primary objective of securing the health and safety of the worker and workplaces.¹ WorkSafe is also the regulator for the safe supply and use of electricity and gas.

New Zealand has high rates of workplace fatalities, serious harm injuries, and work related illness compared to other OECD countries. WorkSafe will lead the achievement of the Government targets of:

- > reducing workplace fatalities and serious injuries by 25 percent by 2020
- > reducing the incidence of pleural cancer (mesothelioma), asbestos related lung cancer and asbestosis by 50 percent by 2040.

In addition to these targets, WorkSafe's strategic goals include:

- > zero catastrophic events in high hazard sectors
- > a downward trend in electrical and gas fatalities.

WorkSafe provides leadership, support, information and enforcement activities to improve the health and safety of New Zealand's workplaces.

We undertake assessments, inspections and investigations at workplaces to monitor and enforce compliance with the law. Lessons from our workplace visits inform our operational intelligence and regulatory reviews.

WorkSafe will collaborate with other regulators, as appropriate, to minimise duplication of effort and where practicable, ensure interactions and responses are co-ordinated, consistent and proportionate.

POLICY PURPOSE

This regulatory function policy sets out a high level approach to inspections and how they support WorkSafe to achieve its targets. This policy is not intended to be prescriptive in its application, but will guide inspectors² and managers in their inspection activities.

Inspections are defined differently by WorkSafe business groups. The Assessment team will refer to inspections as assessments and the High Hazard and Energy Safety Unit as either targeted assessments, inspections or audits. Audits conducted by Energy Safety have a broader focus than work activities and workplaces to include consumer safety and the protection of property.

¹ Workplace – means a place where work is carried out, or is customarily carried out, for a business or undertaking, and includes any place where a worker goes or is likely to be while at work (s 20 HSWA).

² The role Inspector also includes Technical Officers who operate in the Energy Safety team.

POLICY SCOPE

Inspections determine whether a duty holder is meeting their obligations under the legislation we administer. For the purposes of this policy an inspection is:

“A targeted and planned examination of a sample of a workplace or work activity to assess the effectiveness of health and safety management.”

The aims of an inspection are to ensure:

- > the health and safety of workers while at work in a business or undertaking
- > the health and safety of workers whose activities in carrying out work are influenced or directed by the PCBU while carrying out work
- > the health and safety of others is not put at risk while carrying out work
- > the result or end product of the work does not pose a risk to the health and safety of others.

For Energy Safety, inspections include auditing energy networks, distribution systems, installations, and appliances relating to the use of electricity and gas in New Zealand.

This policy does not cover the following:

- > The authorisation regimes established by regulation under which a licence, permit, registration, consent, certificate, or other authority is required to commence or continue particular work activities. This is covered in the **Authorisations Policy**.
- > Matters requiring an urgent response from an inspector because there is a credible chance that a person is immediately at risk of death or severe injury. These matters are covered by the **Response Policy**.
- > WorkSafe’s approach to enforcement. This is covered in the **Enforcement Policy**.

PURPOSE OF INSPECTIONS

WorkSafe undertakes inspections to:

1. ensure duty holders are meeting their obligations under the legislation we administer
2. understand how well duty holders are identifying and managing risks
3. promote ways of achieving sustained improvements in managing risks to health and safety.

Inspections are also opportunities to:

- > increase inspectors’ awareness and understanding of particular work activities, processes and new technologies and how they influence practices and risk management
- > gather intelligence on factors that influence industry behaviour
- > build rapport with duty holders.

INSPECTIONS AS AN INTERVENTION

The core objective of an inspection is to engage with duty holders about the systems they have in place to eliminate or minimise the risk that an incident, injury or ill-health will occur from work activities. Carrying out inspections is based on targeting the right resources to the right places in a consistent and proportionate manner to assess the most significant and catastrophic risks and identify the underlying causes. Targeting risk is a proven efficient and effective intervention when trying to ensure the health and safety of workers and others.

INSPECTIONS WILL BE RISK BASED

WorkSafe will maximise its impact by using operational intelligence to target high risk areas and businesses, and identify areas where greater support for workers and others is required.

WorkSafe uses intelligence gained from a wide range of sources to inform its inspection activity.

Selection criteria for inspection can be based on one or more of the following:

- > regulatory notifications
- > health and safety concerns from the public, industry or other regulators
- > ACC claim activity
- > compliance history
- > type of operator
- > local and specialist inspector knowledge.

Those with historical non-performance or those that demonstrate a deliberate non-compliant attitude toward the legislation may also be selected for inspection.

It is not practicable for an inspector to identify and assess all risks during an inspection and to check compliance with all aspects of the legislation. Most inspections are based on a sampling approach.

Those who create risks are best placed to manage them. Inspectors will engage with dutyholders to understand the new responsibilities and rights they have under the legislation we administer. WorkSafe will educate those who need assistance with understanding their obligations. Equally, WorkSafe will hold those who do not comply to account.

Where specific regulations exist, WorkSafe will routinely check to see that duty holders are meeting their obligations under those regulations.

ENGAGEMENT

WorkSafe aims to:

- > strengthen relationships with duty holders
- > influence positive work health and safety practices and encourage innovative solutions to manage risk
- > engage with workers, including health and safety representatives where present, to encourage effective worker engagement, participation and representation practices
- > listen to and understand the health and safety concerns of workers and duty holders
- > learn about the business or undertaking.

EDUCATION

WorkSafe may do one or more the following:

- > educate duty holders about their obligations
- > provide information on effective risk management
- > provide advice about effective health and safety systems and practices to duty holders so they can take action

- > provide advice to ensure the work of the business or undertaking does not put the health and safety of other people at risk
- > indicate any areas of work, activity or system risks that need to have control measures in place and convey this to duty holders.

ENFORCEMENT

WorkSafe has a number of enforcement tools and will use them in accordance with the Enforcement Policy.³

OUTCOMES OF AN INSPECTION

The desired outcome of an inspection is that the duty holder takes responsibility for identifying and managing the risks they create or can control. Duty holders can meet their obligations under the legislation we administer by having competent people, appropriate structures, plant, processes and procedures in place to ensure risks are assessed and managed effectively. The aim is to eliminate or minimise the risk that an incident, injury or ill-health will arise from their activities.

Inspectors will collect and record information about the inspection including key findings, recommendations and what enforcement has been taken, if any, and why. The record provides transparency about the inspector's decision making. It also offers an opportunity for inspectors to share knowledge and recognise good work health and safety practices. Records support WorkSafe to measure its effectiveness and ensure interventions target the right places, at the right time, for the right reasons.

Inspectors will use their enforcement tools where appropriate. WorkSafe's Enforcement Decision Making model (EDM) provides inspectors with a framework to make proportionate and consistent enforcement decisions.

CLOSING AN INSPECTION

Generally inspectors will verify that all significant risks identified in the inspection are being appropriately managed including commitments for actions for improvement, before finalising an inspection. Some actions take time to implement. The inspection will not be closed until these have been completed. In these cases the file remains 'open' until all agreed actions have been completed.

³ Enforcement Policy: www.business.govt.nz/worksafe/information-guidance/legal-framework/enforcement-policy/worksafe-enforcement-policy

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