

# Monthly & Regular Workplace Inspections Compliance Game Plan



Conducting regularly scheduled workplace safety inspections is a critical component of an OHS program. The name of the game: Find and eliminate safety hazards **before** they cause incidents and injuries—and before government OHS inspectors find them for you. Regular inspection also enables you to verify whether the controls you’ve put in place to manage the hazards that you’ve previously identified are working. There’s one more compelling reason to carry out regular workplace inspections: the OHS laws require you to. Having and not having a robust OHS inspections policy and program has a direct impact on your company’s liability risks:

**Company Fined:** A vehicle being held up by a hoist crashed to the ground seriously injuring 2 auto shop workers. Ontario OHS inspectors found that the hoist was in poor condition and riddled with mechanical problems that an inspection would have uncovered. But nobody had inspected the hoist before using it. Worse, the JHSC hadn’t performed monthly inspections of the workplace for at least 2 months. **Result:** The company was fined \$45,000 [*Lakeshore Motors Ltd.*, MOL Press Release, June 25, 2019].

**Company Not Fined:** A worker was found at the rear of a crown press machine with his head and upper torso jammed in the index beam carriage. He later died at the hospital. The employer was charged with violating an OHS regulation requiring exposed moving parts of machines to be fenced or guarded. It argued that it had taken all reasonable steps to avoid the violation, citing as evidence the regular workplace inspections conducted by the JHSC. An Ontario court accepted the company’s due diligence defence and dismissed the charges [*R. v Timminco Ltd.*, [2004] ONCJ 344 (CanLII)].

Here’s an 11-step game plan to help you comply with OHS inspection requirements and perform more effective workplace inspections.

## What Regular Workplace Inspections Are & Are Not

First, let’s define our terms. There are many different kinds of inspections that OHS laws require to be carried out at a workplace. This game plan covers

general workplace inspections that are scheduled in advance at regular intervals and typically performed by or with the participation of the JHSC for the site. The game plan does **not** cover other kinds of mandatory workplace inspections, including:

- **Pre-operational checks** done at the start of a work-shift or before specific kinds of equipment, tools or machinery are used, such as daily inspections of respirators, fall protection equipment and power tools;
- **New equipment inspections** carried out when hazardous machinery, tools and equipment are introduced into a workplace, such as inspecting a new crane or forklift before using it for the first time;
- **Field checks** or daily site inspections of construction or other worksites;
- **Spot checks** or quick, on-the-spot assessments of hazardous work areas or operations like monitoring oxygen levels inside a confined space;
- **Incident investigations** made after fatal or critical injuries or near misses;
- **Special OHS investigations** specifically required in response to work refusals or complaints of workplace harassment or violence;
- **Government inspections** of the workplace by OHS inspectors, the police or other law enforcement personnel; and
- **Investigations by outside consultants** hired by the company, like atmospheric or soil testing by an independent industrial hygienist.

## Step 1. Establish a Regular Workplace Inspection Program

The OHS duty to ensure that regular workplace inspections are performed covers employers in all parts of the country. In all but 3 jurisdictions, certain employers must establish and implement inspection protocols and procedures as part of a broader written OHS program.

**Table 1. When OHS Programs Providing for Regular Workplace Inspections Are Required**

<b>Jurisdiction</b>	<b>Employer Must Have Written OHS Program If:</b>
Federal	N/A
Alberta	They regularly employ 20 or more workers They have EITHER:
British Columbia	*A workforce of 50 or more workers OR *A workforce of 20 or more workers AND at least one of their workplaces is determined to create a moderate or high risk of injury
Manitoba	They have 20 or more regularly employed workers at the workplace
New Brunswick	They have 20 or more employees regularly employed in New Brunswick
Newfoundland	They have 20 or more workers employed at a workplace
Nova Scotia	They regularly employ 20 or more employees
Ontario	N/A
Prince Edward Island	They regularly employ 20 or more employees
Québec	N/A

<b>Jurisdiction</b>	<b>Employer Must Have Written OHS Program If:</b>
Saskatchewan	They have 10 or more workers AND their industry/operation is listed in Schedule 7 of the OHS Regulations
Northwest Territories	They have 20 or more workers working at the site
Nunavut	They have 20 or more workers working at the site
Yukon	They have when 20 or more regularly employed workers

*Source: Bongarde Media*

Implementing an OHS program that provides for regular workplace inspections is also a best practice in the jurisdictions where it's not expressly required, that is, Federal, Ontario and Québec.

## Step 2. Determine Responsibility for Performing Regular Workplace Inspections

OHS laws differ in terms of who's supposed to perform required inspections and the role of the workplace joint health safety committee and/or safety representative (which, for simplicity's sake, we'll refer to collectively as the "JHSC") in the inspection process. There are 2 basic approaches:

**Employer inspects:** Most provinces and territories, including Alberta, BC, New Brunswick, Newfoundland, Nova Scotia, Northwest Territories, Nunavut, Prince Edward Island, Saskatchewan and Yukon, make the employer responsible for conducting and ensuring that the JHSC participates in regular workplace inspections. **Exceptions:** In BC, JHSC participation in inspections is required only if it's "feasible." Under Alberta and New Brunswick OHS laws, the role of the JHSC is not to participate in the inspection but to review the inspection records after it's conducted.

**JHSC inspects:** In the other 4 jurisdictions—Federal, Manitoba, Ontario, Québec—the JHSC must perform the required regular workplace inspections.

## Step 3. Select the Right Person(s) to Perform Regular Workplace Inspections

Whether carried out by the employer or JHSC, the person selected to inspect the workplace must have proper credentials to perform the function. In Ontario, JHSC inspections must be carried out by worker members, preferably certified worker members. Still, criteria for selecting inspectors (including worker JHSC member inspectors in Ontario) should be based not on legal requirements but qualities needed to be a good inspector, including:

- Familiarity with the workplace and work procedures used;
- Knowledge of the laws, regulations, and standards that apply;
- Awareness of previous incidents and problem areas;
- Keen observation skills;
- Strong communications skills and willingness to listen;
- Appreciation for the inspection process and its safety goals; and
- The right attitude and an understanding that inspections are about making the work safe and not about catching people doing things wrong or assigning

blame.

**Best Practice:** At many companies, regular inspections are carried out not by single individuals but teams whose members may include:

- JHSC worker and management members;
- Department or operations heads who are able to initiate immediate corrective actions;
- Floor supervisors;
- Workers at the site; and/or
- Outside experts like engineers, electricians or mechanics.

## Step 4. Create a Workable Schedule for Regular Workplace Inspections

There must be a schedule for regular inspections. Most jurisdictions (all but Federal, Alberta, Manitoba, Québec, Yukon) require the employer to develop the inspection schedule in consultation with the JHSC. In Ontario, the sides must actually agree on the schedule. Some jurisdictions also specify how frequently regular workplace inspections must be performed:

- **At least once a month:** Federal, Manitoba (before the monthly JHSC meeting), New Brunswick, Ontario; and
- **At least once every 3 months:** Northwest Territories and Nunavut.

Of course, companies and JHSCs not only may but should provide for more frequent inspection than the OHS laws require where necessary to maintain safety at the particular workplace.

**Best Practices:** Regular workplace inspections should generally be scheduled during work hours when operations are taking place and people are available. It's also advisable to schedule inspections about 10 days before the JHSC meeting so the inspector has enough time to report and the JHSC has enough time to read and address the inspection results at the meeting.

## Step 5. Determine Physical Locations that Regular Workplace Inspection Will Cover

Workplace inspections aren't something you can do by the seat of your pants. They take planning and preparation. That's why you should create an inspection plan and set of advance instructions for inspectors. First, the inspector needs to know where to inspect. Accordingly, the inspection plan should specify the areas, departments and locations to be inspected, including:

- Walkways, floors, aisles, stairs and ramps;
- Elevators;
- Walls and ceilings;
- Fire and emergency evacuation routes and exits;
- Loading docks;
- Warehouse and storage areas;
- Restrooms;
- Lunchrooms and break rooms;
- Recreational areas;

- Boiler and engine rooms;
- Oil tanks;
- Departments and operational areas, such as the grinding room or welding area;
- Parking lots;
- Perimeters;
- Reception, office and administrative areas;
- Work stations;
- First aid rooms;
- Maintenance rooms and closets;
- Waste disposal areas;
- Overhead areas; and
- Windows.

**Best Practice:** Give inspectors floor plans and maps of the areas to be inspected like fire exit routes, loading areas, restrooms, etc.

**Compliance Pointer:** Many of the items listed in Steps 5 thru 7 must also undergo pre-operational, pre-use, periodic and other types of inspection under OHS laws, many of which require special training, tools and equipment to perform. Keep in mind that the general workplace inspection is designed to **supplement and not substitute** for these location-/equipment-/operation-specific inspections.

## Step 6. Determine Machinery & Equipment that Regular Workplace Inspection Will Cover

In addition to the “where,” the inspection plan should address what the inspection will cover, starting with potentially hazardous machinery and equipment and the safety measures in place to deal with those hazards, including at a minimum:

- Electrical equipment, boxes, and cords;
- Fire extinguishers, sprinkler systems and firefighting equipment;
- Flammables and explosives;
- Other hazardous chemicals and substances;
- Lighting;
- Machinery, machine parts and machine guards;
- Atmospheric conditions and ventilation;
- First aid kits;
- Electric powered hand tools;
- Jacks, hoists, cranes and other lifting equipment;
- Pressure vessels, boilers and pipes;
- PPE;
- Guard rails, safety nets and fall protection systems and equipment;
- Ladders;
- Vehicles and powered mobile equipment like forklifts;
- Storage racks and stacks of materials;
- Warning signs;
- Building security;
- Alarm systems; and

- Communication systems, such as for workers who work alone in the field.

**Best Practice:** Give inspectors a checklist of what to inspect and what to look for in each item.

## **Step 7. Determine Work Processes that Regular Workplace Inspection Will Cover**

The inspection plan should also provide for general assessment of the hazardous work processes and operations performed at the workplace as well as the effectiveness of the safety controls in place to manage them. Examples:

- Confined space entry;
- De-energization of equipment during servicing—lockout/tagout;
- SDS, WHMIS labels and placards for hazardous products;
- Traffic control;
- Noise control;
- Respiratory protection;
- Fall protection for work 3 metres or higher;
- Ladder safety;
- Heat stress and cold stress prevention;
- Musculoskeletal disorder prevention;
- Manual lifting and stacking;
- Operation of forklifts and other powered mobile equipment;
- Workplace violence prevention;
- Emergency response and evacuation; and
- General sanitation and housekeeping.

## **Step 8. Have Inspectors Review Key OHS Records**

Individuals performing regular workplace inspections should review or at least be aware of information contained in key records that bear directly on the workplace's health and safety, including safe work procedures for carrying out hazardous operations performed at the site, as well as copies of any of the following records, documents, reports or other materials to the extent they were created or revised since the previous inspection:

- Hazard assessments and job hazard assessments
- Workers comp claims;
- OHS work refusals initiated or resolved;
- Safety incident reports and investigation reports created in response to those incidents;
- Worker safety complaints;
- JHSC recommendations;
- First aid records;
- Results of any inspections by OHS agencies, fire department or other government authorities;
- OHS orders issued;
- Corrective actions taken;
- Maintenance records;
- Results of machinery or equipment inspections; and
- New government regulations, hazard alerts or guidelines.

**Best Practices:** While the checklist is a key tool, tell inspectors to be on the lookout for hazards that aren't listed and delve into any unexpected hazards that they do observe. Inspectors should also talk to or question to at least some of the workers that they encounter on the ground while doing the inspection.

## Step 9. Establish Process to Report Regular Inspection Results

There needs to be an orderly and effective mechanism to report the findings of the workplace inspection. The simplest approach is to require inspectors to complete and submit an inspection report form within a few days after the inspection that includes:

- The inspector's name;
- The name of any other persons who participated in the inspection;
- The time and date of the inspection;
- The areas, equipment and processes inspected;
- A description of each hazard identified, which may include not just a narrative description but also drawings, photos and/or videos;
- The exact location of the hazard;
- Whether the hazard was new or a repeat of one that had been identified previously;
- Suggestions for addressing the hazard;
- Any other relevant information about the hazard; and
- A copy of the completed inspection checklist.

**Best Practice:** Many companies require inspectors not simply to report the hazards they find but assess how urgent they are and what they think should be done to address them. One approach to consider is having inspectors assign each hazard they spot a hazard rating using the following grading system:

**"A" for hazards** with the potential to cause loss of life, body part, and/or major property damage. **Corrective Action:** "A" hazards generally require immediate corrective action and suspension of operations until the problem is corrected. **Example:** Workers on scaffolding 20 feet high without handrails aren't wearing fall protection

**"B" for hazards** with the potential to cause a serious injury, illness, or property damage. **Corrective Action:** "B" hazards require immediate attention but not suspension of operations. **Example:** Workers are smoking next to tanks containing flammable and explosive gases.

**"C" for hazards** with a probable potential to cause a non-disabling injury or non-disruptive property damage. **Corrective Action:** "C" hazards should be eliminated without delay but don't constitute an emergency. **Example:** Workers are bending their backs to lift heavy objects, exposing themselves to risk of musculoskeletal disorders.

**Compliance Strategy:** It typically takes at least a few days for inspectors to submit and company officials and/or the JHSC to review the regular inspection report. So, inspectors who spot what they believe to be "A" or "B" hazards must tell their supervisor or manager right away. While the normal workplace inspection report for the period should also include any urgent hazards

requiring immediate attention, it shouldn't be the means of providing first notification of those hazards.

## **Step 10. Take Appropriate Action to Correct Hazards the Workplace Inspection Identifies**

In terms of OHS liability risk, the crucial factor is what happens **after** the regular workplace inspection takes place. Simply stated, employers are required to take appropriate steps to address any hazards or potential hazards the inspection uncovers. Failure to do anything about identified hazards opens the door to fines and penalties, especially if somebody later gets killed or injured as a result of that hazard. And if you do get charged with an OHS violation, the inspection report listing the hazard becomes a piece of damning evidence that totally kills your chances of mounting a successful due diligence defence.

**Best Practice:** Require inspectors to submit a copy of the monthly workplace inspection report to all of your key OHS decision makers, including the JHSC so they can assess the hazard and decide what, if anything, needs to be done to control it.

## **Step 11. Document the Corrective Actions You Take**

As lawyers like to say, if it isn't documented, it didn't happen. So, be sure to create written records documenting any follow-up actions you take to address the hazards identified in a workplace inspection report, including:

- Your assessment of the hazard;
- The measures you took to address the hazard;
- When and how you implemented those measures; and
- Subsequent monitoring and assessment of those corrective measures.

Of course, you may determine that you don't need to take corrective action—or at least immediate corrective action—in response to a hazard that a regular workplace inspection identified. In that case, be sure to create a written record of why you decided that corrective action wasn't necessary to ensure workers' safety in case an OHS officer or prosecutor later second guesses your decision.