

Concessionaire Safety Plans

Guidelines for Applicants

Introduction

All concessionaires must have an independently audited safety plan if they offer recreation/tourism activities and especially if they offer adventure activities. This leaflet explains why safety plans are necessary and guides you on how you can prepare one and have it checked by a qualified and independent auditor.

The nature of the land managed by DOC means that many concession activities have inherent safety issues. In addition, DOC has obligations to provide for the safety of visitors, concessionaires and their clients, who use land managed by the Department. Concessionaires have similar obligations.

To fulfil its obligations DOC will require you to prepare a safety plan, and have it independently audited, prior to commencing the concession activity. All concessionaires who are “adventure activity operators” under the Health and Safety in Employment (Adventure Activities) Regulations 2011 must have a safety audit certificate and be registered with WorkSafe New Zealand in order to comply with the Regulations.

If you do not offer recreation/tourism activities to clients or competitors then you may not need to prepare a safety plan for DOC. Check with your DOC case manager (permissions advisor or ranger) for advice on this matter.

A safety plan is good for business. It is helpful as a framework to develop a concession operation; it requires you to pro-actively think about possible problems and issues. As a result it will improve the value of the product you provide to your customers and increase the value of your business.



Department of Conservation
Te Papa Atawhai

Why Have A Safety Plan

Safe operations are a vital part of today's business environment. Having good safety management systems for your business is not just a DOC or legal requirement. They are also good for your business and help you to set and support safe operations as your business grows. Safety management systems also offer you advantages that include:

1. Being able to make the most of opportunities: a) high quality operations are becoming increasingly visible in the market place; b) agents and customers increasingly want to ensure that operators are responsible and safe; c) being well prepared for external endorsement assessments; d) capitalising on the emergence of discounted insurance and ACC premium rates.
2. Minimising your risk and exposure to: a) adverse publicity from an incident; b) having your operation suspended or terminated by WorkSafe New Zealand or DOC; c) legal action regarding civil or criminal liability, and d) the costs associated with all of these.
3. Contributing to the continual development of the New Zealand tourism and adventure experience - clean, green and safe.

Who Requires a Safety Plan?

All concessionaires will require a safety plan if they undertake recreation and tourism related activities with clients or competitors.

All concessionaires who are "adventure activity operators" under the Health and Safety in Employment (Adventure Activities) Regulations 2011 must have a safety audit certificate and be registered with WorkSafe New Zealand in order to comply with the Regulations.

[The Guidance for operators \(PDF, 636K\) \(external site\)](#) available on the WorkSafe New Zealand website explains coverage of these Regulations.

Evidence of an audited safety plan will not be required from those operators:

- a. Whose activities are covered by a regulatory agency such as the Civil Aviation Authority or the Maritime Safety Authority.
- b. Who are certified under the tourism industry's 'Quality Tourism Standards' (developed by the Tourism Industry Association and administered by Qualmark). These standards require operations to be assessed as fit for practice, including safety matters. In these instances the Department will request a copy of the operator's recent compliance with these standards. **Note** that adventure activity operators will still require a safety audit certificate as Qualmark is not an approved safety audit provider under the Adventure Activities Regulations.

The Department expects that other concessionaires who do not undertake recreation and tourism related activities with clients (such as grazing, telecommunications and

filming) will be responsible for their employees' health and safety as required by the Health and Safety In Employment Act 1992 (HSE Act).

What Does The Law Require?

Where concession activities are carried out on land managed by the Department the Occupiers' Liability Act 1962 and the Health and Safety in Employment Act 1992 (HSE Act) are likely to apply. The following is a brief, general summary of this legislation as it may affect a concessionaire. To find out the specific requirements that apply to your proposed concession activity you should obtain a copy of the legislation or obtain legal advice.

The Occupiers' Liability Act imposes a duty on occupiers of land or buildings to take such care in all circumstances as are reasonable to ensure that visitors are reasonably safe in using the land or building for the purpose for which they are invited or permitted by the occupier to be there.

The HSE Act requires DOC to take all practicable steps to ensure, among other things, that people in the workplace such as DOC employees, contractors, concessionaires, concessionaires' employees and clients, as well as other people in the vicinity of the workplace are not harmed by any hazards in or arising from the workplace. Concessionaires have similar responsibilities.

The HSE Act places specific obligations on persons who control workplaces. It requires a person who controls a place of work to take all practical steps to ensure that no hazards that are in or arise in the workplace harm:

- People in the vicinity
- Clients of the person
- Employees of the person
- Contractors or subcontractors of the person, or their employees.

The HSE Act imposes obligations on employers. It requires employers to take all practicable steps to ensure the safety of employees while at work; and in particular to take all practicable steps to:

- Provide and maintain a safe working environment for employees
- Ensure that plant used by employee's at work is arranged, designed, made, and maintained that it is safe to use
- Ensure that while at work employees are not exposed to other hazards
- Develop procedures for dealing with emergencies that may arise while employees are at work.

The HSE Act also requires employers to take all practicable steps to ensure that no action or inaction of any employee while at work harms any other person.

The HSE Act applies to the self-employed, requiring them to take all practicable steps to ensure that no action or inaction on their part while at work harms themselves or any other person.

The Health and Safety in Employment (Adventure Activities) Regulations 2011 require “adventure activity operators” to have a safety audit certificate and to be registered with WorkSafe New Zealand in order to comply with the Regulations. Failure to comply with the Regulations would trigger the offence provisions in the HSE Act – meaning that operators may face a fine of up to \$250,000.

Please also note that the Crimes Act can apply in the case of criminal negligence.

How do I Prepare a Safety Plan

The specific requirements for health and safety are set out in the HSE Act but as a general guide your safety plan should contain:

- **Accountability in Relation to Safety:** You need to have established clear lines of accountability to deal with safety within your workplace. Health and safety policies and goals must be clearly stated.
- **Hazard Identification:** You must have established systems to identify hazards your workplace (including environmental hazards) and document their methods of controlling each of the significant hazards identified. This is a key part of any safety plan.
- **Information, Training and Supervision:** You must provide employees with information about all hazards to which they will likely be exposed, adequately train them for the roles they carry out and in the proper use of equipment they will use in carrying out their work. Adequate supervision must be given to employees not fully trained.
- **Equipment and Equipment Maintenance:** You must have established that equipment used in the operation meets accepted standards and must develop planned inspection, maintenance and retirement procedures to prevent equipment that is too old, faulty or damaged from being used.
- **Accident/Incident Reporting, Recording and Investigation:** You must establish and maintain accident and incident registers and ensure procedures are in place to investigate any accident that has caused (or might have caused) harm or any incident that has the potential to cause harm. There must also be procedures in place whereby accidents to employees involving serious harm are notified to WorkSafe New Zealand.
- **Emergency Procedures:** You must ensure appropriate and documented emergency procedures are in place and that all staff are familiar with these. You must also ensure that adequate emergency equipment is provided and properly maintained and there is a system to revise emergency procedures that involves staff.

There must also be trained first aid staff available at all times of operation and adequate first aid supplies available.

- **Procedures for applying and regularly updating your plan:** Your plan is expected to ensure that there are mechanisms to regularly review the safety plan and that someone internally, and possibly external to your organisation, checks that the provisions of your plan are being applied on a regular basis.

Use the self help audit list at Appendix B to ensure that your plan contains the proper elements before it is sent to a qualified auditor.

Possible Safety Plan Structure

The specific requirements for a safety plan will vary depending on the nature of the activity. One way to structure your safety plan is as follows:

1: Introduction

- sets up the scope of the plan and what it is trying to achieve
- identifies any relevant safety policies and goals of the safety plan

2: Legal Obligations and Industry Standards

- identifies and perhaps summarises, any relevant legislation to give the plan a context
- details industry standards relevant to the type of operation

3: Management Procedures

- details the management roles and responsibilities in relation to safety
- identifies accountability for safety within the operation

4: Operational Risk Management Procedures

- details staff experience requirements, training, certification and re-validation procedures
- identifies the responsibilities of staff
- identifies and describes processes for hazard identification
- describes how staff-customer ratios are identified and, where applicable, prescribes these
- identifies and describes procedures for equipment maintenance, documentation and retirement

5: Accident/Incident Reporting

- describes your accident reporting and investigation processes

6: Emergency Plan

- identifies the procedures to deal with emergencies that may arise while people are at work

7: Procedures for applying and updating the plan:

- a statement about how often and when the plan will be reviewed
- outlines who internally and who externally will check that the safety plan provisions are being applied and how often these checks will be made

Guidance and support for drafting safety plans for adventure activities can be found online via [this link](#).

Why Audit a Safety Plan?

The development of a safety plan requires specialist knowledge of quality management systems relating to your proposed concession activity. DOC does not possess this knowledge and therefore is not qualified to judge whether an applicant's safety plan is adequate. Thus DOC requires all applicants to have their safety plan audited and approved by a qualified safety auditor who is independent of the concessionaire and the Department.

The Health and Safety in Employment (Adventure Activities) Regulations 2011 require adventure activity operators to have a safety audit certificate approved by an approved auditor under the Regulations.

What Must An Auditor Do?

An auditor should review the plan and systems you have in place. They should pay particular attention to:

- The presence and adequacy of the safety plans components as described above.
- The competency and qualification levels of staff to carry out the activities including any industry or regulatory standards.
- That the safety plan contains procedures to regularly review the plan.
- That the safety plan contains procedures to regularly check that the plan is being applied and who is responsible for this.
- The history and safety record of the applicant.

For complex or large scale activities the auditor may need to contract the services of an expert in that particular field i.e. with a ski field or heliski operation an auditor may require technical assistance from an avalanche expert to ensure that hazards have been correctly identified.

Once the auditor is satisfied that the safety plan is complete then they will provide you with a letter or certificate stating this. If you are an adventure activity operator this certificate will be provided to WorkSafe New Zealand in order for you to be registered to commence your concession activity. If you are not an adventure activity operator, you should then forward a copy of this to the Department as soon as the audit is satisfactorily completed so that you may commence your activity.

Why Doesn't DOC Set Safety Standards?

The Department wants concessionaires to take full responsibility for their clients' safety and hazard management. The Department believes it is more appropriate for the commercial recreation and tourism sectors to set their own safety standards for the wide array of different concession activities. These are currently being worked on by the Tourism Industry Association and Qualmark and other industry sectors such as mountain guides.

DOC is a conservation agency not a safety agency, as an organisation DOC does not possess the necessary expertise in concessionaires' safety matters. Therefore, the

Department does not set safety standards, or 'judge' the safety plan for any concession operation. This is primarily the responsibility of the operator and the industry in which they operate.

It is the commercial operator that has the necessary competencies, to ensure that their clients are protected from harm.

The government's expectations for the safety of adventure activities on public conservation land are managed through [WorkSafe New Zealand \(external site\)](#) rather than the Department.

Further Assistance and Information

For further information a resource list is provided at Appendix A below.

The Department would like to acknowledge Linda Wensley and Mark Smith for the advice they provided in preparing an earlier version of these guidelines.

Approved Safety Auditors

For concessionaires that will be “adventure activity operators”

You are required to use a recognised audit provider under the Health and Safety in Employment (Adventure Activities) Regulations 2011. These are:

- Bureau Veritas
- OutdoorsMark (Skills Active)
- Quality Solutions International
- SGS
- Telarc

For contact details please refer to the [WorkSafe New Zealand website](#).

Make sure you book your audit well in advance and are well prepared.

For concessionaires that will not be “adventure activity operators”

At present, the Department will accept certification from the following providers:

- OutdoorsMark (Skills Active);
- Quality Solutions International;
- Qualmark; or
- Telarc

Please be aware that concessionaires are responsible for determining whether their activity meets the “adventure activity” definition. If you are unsure, go to the [guidance document for operators](#) or [this flowchart](#) for more information.

Appendix A

Resource List

The following websites can provide concessionaires with some background information to assist with the development of their organisations safety management systems. Many of the sites include documents that can be printed. In most cases hard copies can also be obtained by contacting the organisation directly.

WorkSafe New Zealand

www.business.govt.nz/worksafe (external site) - The publications provided by WorkSafe New Zealand include information on the Health and Safety in Employment Act 1992 (HSE Act), and the management systems required to fulfil obligations under this Act. Of particular note are:

- [Health and Safety in Employment \(Adventure Activities\) Regulations 2011: Guidance for Operators](#) (external site)
- [Safety Audit Standard for Adventure Activities](#) (external site)

Support Adventure

www.supportadventure.co.nz (external site) - This website has been set up by the Tourism Industry Association and Outdoors New Zealand. It is designed to be the one stop shop for safety management by tourism operators and other organisations offering visitor related services in the outdoors.

Sport New Zealand

www.sparc.org.nz (external site) - While orientated predominantly to the sporting arena, this site provides some interesting background to liability and includes examples of legal proceedings following incidents in the sporting and recreational arena.

Appendix B

Self Help Audit Checklist

Before submitting your safety management plan to a qualified auditor use the following checklist as a guide to determine if your plan contains sufficient

information. Your efforts now will assist in completing the safety plan process more efficiently.

The Introduction – Background information

Does your plan provide a description of your business which includes:

- The activities you provide?
- The area and season in which you operate?
- The structure of the business e.g. Employees, contractors?

Management Commitment & Accountability

Is there a statement which reflects the employer's commitment to the health and safety of all involved with the organisation e.g. employees, visitors, clients?

Have specific health and safety responsibilities been assigned to managers, employees etc.?

Does the plan identify the organisations annual health and safety goal?

Hazard Identification and Control

Does the plan identify all hazards in a systematic way?

Does the hazard identification cover all areas and activities of the business? Does it include health hazards as well as safety hazards?

Does the plan identify which hazards are significant (capable of causing serious harm)?

For significant hazards are controls identified to eliminate, isolate or minimise harm from these hazards?

Are controls identified for all other hazards?

Does the plan describe how the organisation will check hazard controls are effective, and identify any new hazards?

Has the plan explained how employees and /or clients are involved in this process?

Information, Training and Supervision of Staff and Clients

Does the plan identify the following:

- The roles within the business; and the skills, qualifications and experience required to fulfil these roles?
- How the organisation determines employees and clients have the required skills to undertake the activities?
- The training, supervision or mentoring provided to staff that are not adequately skilled?
- How employees/clients receive information on hazards to which they may be exposed?
- Are minimum health or fitness requirements identified for clients?
- Are pre activity safety briefings to clients outlined for staff?

Do employees and/or clients require personal protective clothing and equipment (PPE)? If so, does the plan identify how this is supplied and any procedures to check the quality and use of PPE?

Accident Reporting, Recording and Investigation

Does the plan describe how the organisation will achieve the following:

- Maintain an accident register?
- Comply with the WorkSafe NZ requirements for reporting and managing incidents involving serious harm?
- Record and investigate all incidents to determine underlying causes; and where required that corrective action if required?
- Following an investigation, take corrective action if required?
- Regularly review incidents to determine any trends

Emergency Procedures

Does the plan identify the following:

- All likely emergencies within the organisation?
- The procedures to be followed in these emergencies, including individuals' responsibilities and any responsibilities of clients?
- How staff and/or clients receive information on the emergency procedures?
- That staff receive regular (and at least annual) training in emergency procedures?

Are first aid supplies available within the organisation?

If operating in a remote setting is emergency communication available?

Contractors and Subcontractors

If contractors are used within the organisation, does the plan identify:

- The employer recognises their role as 'principal'.
- The responsibility the employer has for the health and safety of the contractor and steps taken to ensure they are not harmed?
- How the organisation measures the health and safety performance on the contractor?

Updating of Plan

Does the plan identify that management will regularly audit and update the health and safety systems?