

Summary of submissions

*PROPOSED CHANGES TO
SAFETY AUDIT STANDARD
FOR ADVENTURE ACTIVITIES*

August 2023



Te Kāwanatanga o Aotearoa
New Zealand Government

WORKSAFE
Mahi Haumarū Aotearoa



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From 19 October to 25 November 2022, WorkSafe consulted on proposed changes to the Safety Audit Standard for Adventure Activities (Requirements for a Safety Audit of Operators).

This document summarises key submitter feedback from the consultation process, our responses to this feedback, and any resulting changes to the proposals.

Submissions received

SUBMITTER TYPE	NUMBER
Adventure activity operators	12
Individual auditors	4
Recognised safety auditors	3
Sector bodies/government agencies	6
Individual guides/instructors etc	2
Other individuals	3
Total	30

General observations

A number of submissions repeat content nearly verbatim on a number of proposed changes. We acknowledge that this indicates high engagement, such as a person wishing to make individual submission in addition to an organisational submission they're associated with. This high level of engagement is positive, and it also requires caution about weighting an idea more heavily on the basis that it recurs in an anonymised summary of submissions. We adopted the following principles to our analysis:

- Primarily, each thought or idea was assessed on its merits, without excessive weighting on the number of times it is expressed.
- Where the same theme occurred in multiple submissions that are **not** closely connected, we gave some weight to the number of occurrences.

Submissions provided by industry sector associations such as Recreation Aotearoa and Tourism Industry Aotearoa were given careful note because they are informed by a wide range of operations providing comment as members, as well as a perspective that intends to advocate for the good of the sector including businesses that are not currently members of those bodies.

Recognised Safety Auditor (RSA) submissions were also given careful note, on the basis that each represents an independent perspective informed by a close view of approximately half the regulated community.

- One RSA's team is heavily represented via individual submissions in addition to a team submission and a GM submission.
- The other RSA made a single organisational submission.
- Because of this, we were cautious of weighting auditor comments based on frequency alone.

One submission appears to be addressing the previous MBIE consultation regarding policy directions. Although we were unable to link many of its comments to the specific proposed changes to this Standard, we noted a theme of preferring less prescription overall.

Specific observations

Specific observations about feedback and the proposed changes to the Safety Audit Standard are contained in the following tables:

- Table 1: Analysis of comments from submitters on proposed changes to content
- Table 2: Analysis of general comments from submitters on the consultation document
- Table 3: Consequential amendments to content (not consulted on).

Analysis of comments from submitters on proposed changes to content

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>TITLE</p> <p>Issue: The title is often misinterpreted by operators who think it's a document for auditors only, when it is intended for operators reference also.</p>	<p>N = 19</p> <p>Sub IDs: 6, 7, 8, 9, 10, 12, 13, 14, 17, 19, 21, 22, 23, 25, 26, 27, 28, 30, 4</p>	<p>N = 4</p> <p>+1 thinks change should go further</p> <p>Sub IDs: 2, 3, 24, 20, 11</p>	<p>N = 4 (+2)</p> <p>Sub IDs: 1, 5, 18, 29</p>	<p>Current text</p> <p>Safety Audit Standard for Adventure Activities – Requirements for a Safety Audit of Operators.</p> <p>Proposed change</p> <p>We propose to delete the current title and replace with the following: 'Safety Audit Standard for Adventure Activities – Safety Management System Requirements'.</p> <hr/> <p>Feedback themes/comments</p> <p>Seven submissions agree that title needs to change but the proposal doesn't go far enough and offered alternative wording. Some of the alternatives referenced the wording of other relevant Standards. One of the 'disagree' submissions is on the basis that the change does not go far enough to clarify for a reader that the document is intended for a wider audience [than auditors alone].</p> <p>The submissions in support of this change include three industry groups and both Recognised Safety Auditors (certification bodies, not individuals).</p> <p>A small number of submitters mentioned that a Standard implies there is only one way to do something, but there are still a number of subjective factors that rely on judgement, so it may be more appropriate to say these are guidelines for implementation rather than requirements of the Safety Audit Standard.</p> <p>One recognised safety auditor considers the primary issue is that the Standard is perceived by operators to be for auditors only. 'This is an ongoing issue ... and is the source of the majority of the confusion and non-compliance by operators. ... operators are not familiar with this document when it should be driving safety behaviours.' We consider this comment to carry significant weight.</p> <p>WorkSafe response</p> <p>We acknowledge wide support for clarifying the document title, and a clear rationale to go further with the change.</p> <p>As a 'management system' standard that applies to a wide variety of activity types and operational arrangements, it is not possible to provide objective criteria for every requirement, and a degree of expert judgement by auditors is necessary in places. However, we have worked to reduce subjective language where possible throughout the document, in response to this feedback theme.</p> <hr/> <p>Outcome</p> <p>The title will be: 'Safety Management System Requirements for Adventure Activity Operators'.</p> <p>An addition to the Introduction section of the document will state (to avoid any doubt) that 'This is a Safety Audit Standard for the purpose of reg 19(2) of the Regulations' – or equivalent wording.</p> <p>The document type descriptor 'safety audit standard' will be retained on the front page to clarify that it is still a Safety Audit Standard for the purpose of the amended Adventure Activity regulations (despite the title being changed).</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 01 – INTRODUCTION</p> <p>Sub-section 1.4 Ongoing compliance</p> <p>Issue: This section could imply that the SMS cannot be altered between audits, this is not the intent. The SMS should be updated and amended for all significant changes to the system or procedures.</p>	<p>N = 19</p> <p>Sub IDs: 4, 6, 7, 8, 12, 13, 14, 15, 17, 21, 22, 23, 25, 26, 27, 28</p> <p>9, 10, 30, in principle, but with concern about subjective req</p>	<p>N = 7</p> <p>Sub IDs: 2, 3, 11, 16, 19, 24, 29</p>	<p>N = 4</p> <p>Sub IDs: 1, 5, 18, 23</p>	<p>Current text</p> <p>Having passed an audit, it is the operator’s responsibility to continue to comply with this standard. They must ensure their safety culture remains positive, the approved SMS is followed, and good practice is maintained.</p> <p>Additionally, they must review their SMS in response to new information or as their business changes.</p> <p>Proposed change</p> <p>Delete the current text at sub-section 1.4 and replace with the following: ‘Having passed an audit, it is the operator’s responsibility to continue to comply with this standard. They must ensure their safety culture remains positive, the approved SMS is followed, and good practice is maintained. Additionally, they must review their SMS in response to new information or as their business changes and at least annually review the performance of the SMS against the SMS’s stated safety goals and objectives. This review should take into account any audit findings, reports from technical advisers and/or technical experts, and analyses and recommendations from specific reviews, including reviews of incidents.’</p> <hr/> <p>Feedback themes/comments</p> <p>A clear majority of submissions agreed with the proposed change. Several submitters viewed this proposal as clarifying the existing requirements, not adding new requirements. One submission in favour of the proposal thinks that the wording in the last sentence should be changed from ‘should take into account any audit findings...’ to ‘must take into account any audit findings...’.</p> <p>A number of submissions (both for and against) the proposal expressed concerns with subjective wording – principally ‘positive safety culture’ – on the grounds that it is difficult to objectively measure and audit against.</p> <p>Other reasons for disagreeing with the proposal included a view that it is excessively wordy, and a view that it introduces and excessive burden to small-business adventure activity operators. One submitter suggested amendments to reduce the perceived burden on small businesses.</p> <p>WorkSafe response</p> <p>We note that a clear majority of the submissions agreed with the proposed change, which links this section more closely to the existing requirements of section 10.</p> <p>We note that neither of the RSA’s identified any difficulty with the existing ‘must’ requirement in relation to safety culture.</p> <p>We note that the ‘approved SMS’ for each operator includes requirements to review and continually improve the SMS itself, so that a requirement to follow ‘the approved SMS’ does not in fact prevent operators for making updates and amendments between audits.</p> <p>We have decided to.</p> <hr/> <p>Outcome</p> <p>Delete the current text at sub-section 1.4 and replace with the following: ‘Having passed an audit, it is the operator’s responsibility to continue to comply with this standard. They should ensure their safety culture remains positive, and they must ensure the approved SMS is followed and good practice is maintained. Additionally, they must develop, implement, and maintain a process to ensure continual improvement of the SMS and safety outcomes in accordance with the requirements of Section 10 ‘Continual Improvement’ of this standard.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 02 – DEFINITIONS</p> <p>Proposed new definition for ‘natural hazards’</p> <p>Issue: MBIE’s targeted review identified a need to increase the focus on risks from natural hazards. The Audit Standard doesn’t currently define this term and it should be included to provide clarity for operators.</p>	<p>N = 15</p> <p>Sub IDs: 4, 5, 6, 7, 8, 13, 14, 15, 16, 22, 23, 30, 19, 25, 28</p>	<p>N = 11</p> <p>Sub IDs: 2, 3, 9, 10, 11, 12, 17, 21, 24, 26, 27</p>	<p>N = 4</p> <p>Sub IDs: 20, 1, 18, 29</p>	<p>Current text</p> <p><none></p> <p>Proposed change</p> <p>Insert the following definition for natural hazards: ‘Natural hazards are physical, quick-onset natural events with a degree of localised impact that have the potential to cause multiple fatalities. For example: extreme weather (such as high winds or severe temperature changes), water surges and flooding, rockfalls, landslides, avalanches, volcanic eruptions, geothermal hazards, and rapids.’</p> <hr/> <p>Feedback themes/comments</p> <p>This proposal generated a wide range of comments and suggestions ranging from agreement, through agreement with suggested changes to reduce (or extend) the range of hazards identified, to disagreement with aspects of the proposed wording, and a view that the proposal was wordy without adding meaning.</p> <p>About 25% of submissions viewed the proposed wording as overly prescriptive in various ways. 20% of commenters considered that the inclusion or exclusion of earthquakes should be clarified or reviewed. A number of submitters felt that the threshold of ‘potential to cause multiple fatalities’ was too high.</p> <p>A sector body and an individual auditor noted a need to link this definition with other definitions of natural hazard used by government.</p> <p>WorkSafe response</p> <p>A key driver for the proposal we consulted on was consistency with definitions used elsewhere in government. Specifically, the proposal was based on the definition used in the MBIE targeted review of adventure activities.</p> <p>In response to submissions, we considered making changes and adding an explanatory note to this definition. We also looked at merging our definition with wording used in the Natural Hazard Risk Communications Toolbox developed by GNS and Auckland Council and which has been posted on the NEMA website.</p> <p>Subsequently we were made aware of an alternative definition being used in the draft amendment Regulations. This definition differs from what we consulted on. The final form of the definition used in Regulations will be applied consistently across both the regulations and the Audit Standard.</p> <hr/> <p>Outcome</p> <p>The revised Audit Standard will use the same definition for ‘Natural hazard’ as the amended Adventure Activities Regulations. The definition will be as follows: ‘Natural hazard is defined in regulation 3 of the Regulations as meaning any atmospheric or land or water related occurrence (including volcanic activity, landslip, avalanche, rockfall, ice fall, storm, or flooding) the action of which adversely affects a location where an adventure activity is provided.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 02 - DEFINITIONS</p> <p>'Incident' definition</p> <p>Issue: We have been advised that additional wording is needed to better clarify what we mean by a 'near miss'.</p>	<p>N = 15</p> <p>+4 subject to changes being applied</p> <p>Sub IDs: 8, 30, 4, 6, 7, 12, 13, 14, 15, 21, 22, 23, 26, 27, 28</p> <p>3, 9, 10, 24 agreed subject to changes being applied</p>	<p>N = 5</p> <p>Sub IDs: 2, 11, 16, 17, 19</p>	<p>N = 6</p> <p>Sub IDs: 1, 18, 29, 5, 20, 29</p>	<p>Current text</p> <p>Incident: Event that caused or could have caused harm to any person.</p> <p>Note: An incident that did not cause harm is also called a 'near miss', 'near hit', 'close call', 'near-accident', or similar.</p> <p>Proposed change</p> <p>After: 'Note: An incident that did not cause harm is also called a 'near miss', 'near hit', 'close call', 'near-accident', or similar.'</p> <p>Insert the following proposed wording: 'A near-miss is a potential hazard or incident in which no personal injury was sustained, but where, given a slight shift in time or position, injury easily could have occurred. Near misses also may be referred to as close calls, near accidents, or injury-free events.'</p> <hr/> <p>Feedback themes/comments</p> <p>The majority of comments on this proposal involved details of the wording, making suggestions to simplify it and/or reduce the subjective aspects.</p> <p>A few submission supports proposed change and advocated for the creation of a near miss register, supported by WorkSafe, enabling the sharing of this info across the sector.</p> <p>WorkSafe response</p> <p>Of the submitters that did not support (or partially supported) the proposed change, they were mostly concerned with the subjective nature of the wording and the incorrect reference to a near-miss as a 'potential hazard'.</p> <p>We have adopted some suggested changes to address these items. We have also removed the final sentence because it was circular referencing back to the above note.</p> <p>Sharing of information regarding notifiable incidents would raise complications around privacy and duplication of effort for data that must be captured in WorkSafe's primary case management system. We will not pursue this idea at the moment.</p> <hr/> <p>Outcome</p> <p>After: 'Note: An incident that did not cause harm is also called a 'near miss', 'near hit', 'close call', 'near-accident', or similar.'</p> <p>Insert the following proposed wording: 'A near-miss is an incident in which no personal injury was sustained, but where, given a slight shift in situation, injury or death may have occurred.'</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 02 – DEFINITIONS</p> <p>‘Safety management system (SMS)’ definition</p> <p>Issue: The definition should be more detailed and provide examples of the documents that might make up an SMS.</p>	<p>N = 11</p> <p>Sub IDs: 8, 30, 4, 6, 12, 13,19, 22, 23, 25, 26, 27</p> <p>30 agrees in principle</p>	<p>N = 8</p> <p>Sub IDs: 2, 3, 9, 10, 15, 16, 17, 11</p>	<p>N = 11</p> <p>Sub IDs: 1, 18, 29, 5, 7, 14, 20, 21, 24, 28, 29</p>	<p>Current text</p> <p>Documented management system for directing and controlling an operation in regard to safety.</p> <p>Proposed change</p> <p>After: ‘Documented management system for directing and controlling an operation in regard to safety.’</p> <p>Insert the following proposed wording:</p> <p>‘An adventure activity operator’s safety management system should include (but is not limited to):</p> <ul style="list-style-type: none"> - overarching safety management policy statement(s) - a document or statement summarising the components of the SMS and how they relate to each other - safety goals and objectives - roles and responsibilities (including technical advisers) - hazard and risk identification, assessment, and management - policy for managing the risk of drug and alcohol impairment - procedures for communicating relevant safety information to and from staff, participants, potential participants, and other parties - evidence of staff competence (including technical advisers) - staff induction and training - activity and ancillary service SOPs (Standard Operating Procedures) - emergency preparedness and response plans (and results from tests and reviews) - records to show operational processes and procedures have been carried out as planned (for example, trip reports) - procedures for responding to, recording, investigating, and reporting incidents - incident records, investigations, and reports - good documentation and record keeping - audit findings - results of internal reviews of the SMS and their adventure activities - evidence of safety problems and what you did to fix them - process for managing overlapping duties with other PCBU’s <hr/> <p>Feedback themes/comments</p> <p>Although many submissions supported the intent of the proposal, large majority of the submissions (among those in favour and those against) included comments on specific concerns, suggestions or perceived weaknesses of the proposal. The overall message of the submissions (taken together) is that the list of specific examples does not usefully clarify the overall definition.</p> <p>WorkSafe response</p> <p>Its clear that the list provided in the consultation paper has been problematic.</p> <p>Taking into account these submissions, the note to section 3 of the Standard ‘An SMS can differ from one operator to another due to the: size of the operator and type and range of adventure activities; complexity of the adventure activities; competence of persons leading the adventure activities’, and the availability of examples and guidance from the SupportAdventure website, we accepted that the examples may be taken as prescriptive, and will not proceed with this change.</p> <hr/> <p>Outcome</p> <p>Revert to current text from v.1.1: ‘Documented management system for directing and controlling an operation in regard to safety.’</p>

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<p>SECTION 02 – DEFINITIONS</p> <p>‘Technical adviser’ definition</p> <p>Issue: Firstly, the note in the definition say’s that a safety auditor’s technical expert must be fully qualified when there aren’t comprehensive qualifications in place for all activities.</p> <p>Secondly, the definition is focused on the activity, and does not take into account persons that may be needed to advise on natural hazards associated with the activity.</p>	<p>N = 14</p> <p>+ 4 except in relation to natural hazards</p> <p>Sub IDs: 4, 6, 7, 8, 13, 14, 15, 16, 19, 21, 22, 23, 25, 30</p> <p>3, 9, 10, 24 agree but not in relation to natural hazards related change</p>	<p>N = 2</p> <p>+ 3 in relation to natural hazards</p> <p>Sub IDs: 2, 11</p> <p>17, 26, 27 disagree in relation to natural hazards related change</p>	<p>N = 7</p> <p>Sub IDs: 1, 5, 12, 18, 20, 28, 29</p>	<p>Current text</p> <p>Person or group of people that has professional credentials such as a high-level, nationally recognised qualification, or extensive knowledge, skills and experience to assist an operator with various technical tasks, including advising and reviewing the policies, procedures and practices relating to an activity.</p> <p>Note: This term has been changed from Version 1.0 which used the term ‘technical expert’. ‘Technical expert’ is used (with a different definition) by the NZ Adventure Activities Certification Scheme in relation to audit team members. This change clarifies that an operator’s technical adviser is not the same as the audit team’s technical expert.</p> <p>An operator’s technical adviser(s) may be contracted by, or closely connected to the operator. The credentials may be achieved by combining those of two or more people, who may be staff members. In contrast, technical experts are required to be fully qualified as an individual and they must be independent of the operator.</p> <p>Proposed change</p> <p>After: ‘Person or group of people that has professional credentials such as a high-level, nationally recognised qualification, or equivalent knowledge, skills and experience to assist an operator with various technical tasks, including advising and reviewing the policies, procedures and practices relating to an activity’.</p> <p>Insert the following proposed wording: ‘(including natural hazards in the location where the activity is conducted).’</p> <p>and</p> <p>Deleting the current text in the second paragraph of the note: ‘In contrast, technical experts are required to be fully qualified as an individual and they must be independent of the operator.’</p> <p>and replacing with: ‘In contrast, technical experts are required to meet the qualification or attestation requirements detailed in the New Zealand Adventure Activities Certification Scheme and they must be independent of the operator.’</p> <hr/> <p>Feedback themes/comments</p> <p>The majority of concern in submissions related to the proposed requirement for natural hazard technical advice. This was either because of concerns with the definition of ‘natural hazard’ (which is addressed separately, above) or because of concern about the level of expertise required and the cost or availability of sufficient expertise to provide this advice. Some consider that the possibility of natural hazards encompassing a very broad range of subject areas is cause for concern, if the risk is not proportional to the practicability of engaging natural hazards advisors. Two submissions noted that an advisor with a high level of activity knowledge and experience is not necessarily qualified to make comment on the potential for natural hazards in an area they are not familiar with.</p> <p>One submitter considered that the proposal over-emphasised managing natural hazards, as compared to other sources of risk/harm such as human factors, equipment, resourcing.</p> <p>One submitter disagreed on the basis that advisor independence is not achievable in an industry as small as the New Zealand adventure activity sector, and a perception that this approach undermines a collegial sharing of safety information and collective standard-setting. This submission appears to have confused the operator’s technical adviser with an audit team’s technical expert (which is named differently to highlight the differences in competency and independence requirements between the two roles).</p> <p>A small number of submissions favoured a stronger requirement for advisors to hold nationally (or internationally) recognised qualifications, where they exist.</p>

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				<p>WorkSafe response</p> <p>We acknowledge that internationally recognised qualifications may be appropriate for some technical advisers. We did not consider this to be excluded by the previous wording, but we have added wording to allow for nationally 'or internationally' recognised qualifications, to avoid doubt.</p> <p>In response to a ministerial expectation, WorkSafe is developing guidance for all PCBU's on managing risk arising from natural hazards. We anticipate this guidance should clarify when a natural hazards technical adviser is appropriate, and how to identify a suitably competent adviser.</p> <p>We consider that Technical Advisers for natural hazards may not be required by all operations (for example, if all activities are on an artificial structure at a land-based site with no identifiable serious risk arising from natural hazards). We have adjusted the wording to better reflect this.</p> <hr/> <p>Outcome</p> <p>In the first paragraph: Insert 'or internationally' after 'nationally'.</p> <p>After 'activity' insert the following wording '(and may include advising on natural hazards if a serious risk has been identified arising from a natural hazard in the location(s) where the activity is conducted).'</p> <p>and</p> <p>Deleting the current text in the second paragraph of the note: 'In contrast, technical experts are required to be fully qualified as an individual and they must be independent of the operator.'</p> <p>and replacing with: 'In contrast, technical experts are required to meet the qualification or attestation requirements detailed in the New Zealand Adventure Activities Certification Scheme and they must be independent of the operator.'</p>
<p>SECTION 04 - LEADERSHIP AND MANAGEMENT</p> <p>Sub-section 4.5 Communication</p> <p>Issue: MBIE's targeted review of the adventure activities regulatory regime found that statements made by participants suggest they are not always given enough information about the risks to enable them to make informed decisions on the level of risk they are taking.</p>	<p>N = 8</p> <p>+9 in principle but with serious concerns about practicality to implement</p> <p>Sub IDs: 4, 5, 12, 13, 14, 15, 19, 25</p> <p>6, 7, 9, 10, 22, 23, 24, 29 (agree in principle/good intent but have serious concerns re practicality to implement)</p>	<p>N = 9</p> <p>Sub IDs: 8, 1, 2, 3, 21, 26, 27, 28, 11</p>	<p>N = 4</p> <p>Sub IDs: 16, 17, 18, 20</p>	<p>Current text</p> <p>The operator must establish, implement, and maintain procedures for communicating relevant safety information to and from staff, participants, potential participants, and other parties.</p> <p>Note: 'Other parties' may include other PCBUs who have overlapping duties with the operator. See also Sections 33-34 of HSWA.</p> <p>The operator must have procedures for risk disclosure between the operator and participant, and subsequent acknowledgement.</p> <p>The operator must establish and maintain policies and procedures for receiving complaints and using any complaints about safety to review the SMS.</p> <p>Safety must be addressed regularly at internal meetings. Decisions and any action points arising from these meetings must be communicated to staff and implemented.</p> <p>Proposed change</p> <p>After: 'The operator must have procedures for risk disclosure between the operator and participant, and subsequent acknowledgement.'</p> <p>Insert the following proposed wording: 'The procedures must ensure that appropriate risk information is provided to potential purchasers before the activity is booked to enable them to make informed choices about the activity. The procedures must also ensure that appropriate risk information is provided to participants before and during the activity to ensure their participation is as safe as practicable and so they are aware of any changes to information provided previously.'</p>

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<p>The review also found that operators have differing views of how and what information about risks should be passed to participants.</p> <p>To emphasise the importance of risk communication and ensure this is consistently being done to a high standard, it is proposed that a duty will be introduced in the Adventure Activities Regulations requiring operators to have processes in place to communicate the risks associated with an activity to prospective participants, as far as is reasonably practicable.</p> <p>This duty will be supported by the following proposed changes to sub-section 4.5 of the Audit Standard to provide adventure activity operators with information on how to communicate risks to participants and what information should be provided.</p>				<p>As a minimum the information should include:</p> <ul style="list-style-type: none"> - sources of serious risk associated with the adventure activity type - sources of serious risk specific to the location, including risks associated with natural hazards - up to date information on the status of those risks and hazards - actions to take in response to incidents and emergencies. <p>When communicating with participants to manage their health and safety, the operator should take into account, their communication needs and abilities.'</p> <hr/> <p>Feedback themes/comments</p> <p>This proposal also generated a wide range of comments and suggestions. A majority acknowledge positive intent and supported in principle or in part, however implementation is a serious concern</p> <p>It is clear that the proposed wording 'ensure that appropriate risk information is provided to potential purchasers before the activity is booked' is a significant problem for submitters as almost all rejected this part of the proposed change. Submissions were concerned that it would place an unrealistic and unreasonable task on booking agents, who are remote from the activities being conducted.</p> <p>A key sector body considered that this proposal raised a complex issue, particularly in relation to international bookings and concerns about responsibility for the delivery of safety messaging by third parties. Five other submissions echoed this theme.</p> <p>Five submissions were concerned about a perception that booking agents would be responsible for providing current, up-to-date information about risks that are dynamic in nature. Although that was not intended by the proposed wording, this common reading indicates a need to improve clarity of the wording. Three submissions considered the proposal to be not practicable, primarily linked to this same concern.</p> <p>A recurring theme was concern that the proposal would require an increase in the quantity of information provided to customers, which submitters generally considered would not improve participant understanding or informed consent. Concerns included an (increased) information-overload for participants; the subjective nature of a requirement for 'appropriate' information; difficulty for participants in appreciating risk information about an environment or activity of which they have no prior understanding; and a view that information immediately prior to participation was more useful than information at the time of booking;</p> <p>Two submissions highlighted the importance of guide/instructor competency. Their point is that even up-to-date risk disclosure at programmed points does not manage the minute-by-minute variation in risk arising from activities in highly dynamic environments. One of these submissions considered that operators should be required to disclose the qualifications of their staff fully and accurately, with a comparison against the minimum qualification requirements for the activity.</p> <p>One submission noted a difference between communicating the net/residual serious risks for a specific activity/trip and a communicating from a gross/inherent risk perspective. (For example, if there is water there is a risk of drowning so you must include it.) The concern is that emphasis on disclosing a worst-case scenario may be required, which may not fairly represent the risk participants are intended to be exposed to. This submission noted that 'appropriate risk information' could be quite subjective, and considered that the wording needs to be more specific on minimum information 'to potential purchasers' separately from minimum information to 'participants'.</p> <p>A recurring concern was that the proposal may require more wordy documentation that would not improve participants' ability to give informed consent to risk.</p> <p>One submission considered that 'When communicating with participants to manage their health and safety, the operator should take into account, their communication needs and abilities' ought to be required as a 'must', otherwise ineffective communication may undermine the risk disclosure procedures.</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
				<p>WorkSafe response</p> <p>Although we note the concerns above, WorkSafe will make changes to the Safety Audit Standard for adventure activities to 'provide detailed requirements for what information about risks must be provided to participants and how risk communication should occur' in line with Cabinet expectations.</p> <p>After careful consideration, a draft revised proposal was provided to TIA and RA for further review and comment. The revision clarifies that prior to booking, the information only needs to be made readily available, rather than provision being ensured with an auditable trail for each potential participant. Based on the changes made, the form of words below seems to be acceptable to the industry.</p> <p>We note that the suggestion about disclosure of staff qualifications is consistent with a recurring view that guide/ instructor competency is a critical factor for safety in adventure activities. However, the proposal cannot currently be considered for adoption because the qualifications system gives incomplete coverage for the range of activities in scope of the Regulations, and minimum qualification requirements are neither established, nor easy to establish given the widely varying contexts that even a single activity (like kayaking) can occur in.</p> <hr/> <p>Outcome</p> <p>After: 'The operator must have procedures for risk disclosure between the operator and participant, and subsequent acknowledgement.'</p> <p>Insert the following: 'The procedures must ensure that information regarding risks is made available to potential participants before the activity is booked to enable them to make informed choices about participating in the activity. (Note: this does not require evidence that this information is accessed by each potential participant).</p> <p>Information made available before the activity is booked should indicate the sources of serious risk to health and safety that participants may be exposed to and the related safety requirements (for example, minimum fitness levels, medical requirements, description of any required pre-activity training or qualification of participants).</p> <p>The procedures must also ensure that the above information and any necessary additional information is provided to confirmed participants directly before and during participation in the activity to ensure their participation is as safe as practicable and so they are aware of any changes to safety and risk information provided previously.</p> <p>When communicating with participants to manage their health and safety, the operator must take into account their communication needs (for example, language differences).'</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 05 – RISK AND HAZARD MANAGEMENT</p> <p>Sub-section: 5.2 Risk Management Measures</p> <p>Proposal 1 of 3 for this sub-section</p> <p>Issue: This sub-section refers to using the hierarchy of controls to choose the most effective control measures for managing the serious risks arising from their activities, but it does not refer to the need to monitor the performance of the control measures to ensure they remain effective.</p>	<p>N = 16</p> <p>Sub IDs: 8, 4, 3, 6, 7, 9, 10, 12, 13, 14, 15, 19, 22, 23, 25, 28</p>	<p>N = 7</p> <p>Sub IDs: 1, 11, 2, 11, 21, 26, 27</p>	<p>N = 7</p> <p>Sub IDs: 18, 29, 5, 17, 20, 29, 30</p>	<p>Current text</p> <p>The operator must eliminate serious risks arising from their activities, so far as is reasonably practicable.</p> <p>Note: By definition, an adventure activity includes some serious risk. The requirement is to eliminate unnecessary serious risks.</p> <p>When it is not reasonably practicable to eliminate serious risks, the operator must minimise the serious risks arising from their activities.</p> <p>In minimising risks, the operator must (if reasonably practicable) take one or more of the following actions that is most appropriate for the risk:</p> <ul style="list-style-type: none"> - substituting the hazard giving rise to the risk with something that gives rise to a lesser risk - isolating the hazard giving rise to the risk to prevent anyone coming into contact with it - implementing engineering controls. <p>The operator must manage the remaining risk arising from their activities, by using the administrative controls and/or personal protective equipment that are most appropriate for the risk.</p> <p>The operator must engage with staff when making decisions about ways to eliminate or minimise risks.</p> <p>Proposed change</p> <p>After: ‘The operator must manage the remaining risk arising from their activities, by using the administrative controls and/or personal protective equipment that are most appropriate for the risk.’</p> <p>Insert the following proposed wording: ‘Control measures should remain effective; be fit for purpose; be suitable for the nature and duration of the work; and be installed, set up, and used correctly.’</p> <p>This means that control measures must be regularly monitored and checked to ensure that they are still managing the risk effectively. This should occur on an ongoing basis – not just when the control measure is first put in place.’</p> <hr/> <p>Feedback themes/comments</p> <p>Five of the submissions that agreed with the proposal thought that we should expand on this to ‘at least annually’ or ‘seasonally’ to ensure interpretation isn’t too liberal.</p> <p>One submission considered that minimizing risks is clearly outlined and the process has been clearly defined in the current legislation. AI</p> <p>Three submissions agreed but thought it would be more useful to reference best practice safety standards for activities, using equipment within manufacturers specifications, or similar guidance.</p> <p>Two (associated) submissions were concerned that this addition would create additional ‘paperwork’ and workload for operators while addressing something that has not been shown to be a problem.</p> <p>WorkSafe response</p> <p>Ensuring the inclusion of natural hazards does not take away from the requirement to manage other risk and hazards.</p> <p>Based on comments received from submitters we have added the phrase ‘at least annually (or, for certain control measures any longer time frame specified by a specialist, for example, an engineer stipulating a five-year review of a structure)’ into the additional sentence, to read as below.</p> <p>In response to the isolated concern about additional work for a topic that has not been shown to be a problem, we note that the effectiveness of (for example) administrative controls such as SOPs has been associated with harm in this sector.</p>

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				<p>Outcome</p> <p>After: 'The operator must manage the remaining risk arising from their activities, by using the administrative controls and/or personal protective equipment that are most appropriate for the risk.'</p> <p>Insert the following proposed wording: 'Control measures must remain effective; be fit for purpose; be suitable for the nature and duration of the work; and be installed, set up, and used correctly.'</p> <p>Control measures must be regularly monitored and checked at least annually (or, for certain control measures, any longer time frame determined by a specialist, for example, an engineer stipulating a 5-year inspection schedule for a structure) to ensure that they are still managing the risk effectively. This should occur on an ongoing basis - not just when the control measure is first put in place.'</p>
<p>SECTION 05 - RISK AND HAZARD MANAGEMENT</p> <p>Sub-section: 5.2 Risk Management Measures</p> <p>Proposal 2 of 3 for this sub-section</p> <p>Issue: This sub-section doesn't provide clarity on what the elimination of unnecessary risks might look like.</p>	<p>N = 13</p> <p>Sub IDs: 8, 4, 6, 7, 13, 15, 21, 22, 23, 25, 26, 27, 28</p>	<p>N = 9</p> <p>Sub IDs: 2, 3, 9, 10, 11, 12, 14, 16, 30</p>	<p>N = 8</p> <p>Sub IDs: 1, 18, 29, 5, 17, 19, 20, 29</p>	<p>Current text</p> <p>The operator must eliminate serious risks arising from their activities, so far as is reasonably practicable. Note: By definition, an adventure activity includes some serious risk. The requirement is to eliminate unnecessary serious risks.</p> <p>When it is not reasonably practicable to eliminate serious risks, the operator must minimise the serious risks arising from their activities.</p> <p>In minimising risks, the operator must (if reasonably practicable) take one or more of the following actions that is most appropriate for the risk:</p> <ul style="list-style-type: none"> - substituting the hazard giving rise to the risk with something that gives rise to a lesser risk - isolating the hazard giving rise to the risk to prevent anyone coming into contact with it - implementing engineering controls. <p>The operator must manage the remaining risk arising from their activities, by using the administrative controls and/or personal protective equipment that are most appropriate for the risk.</p> <p>The operator must engage with staff when making decisions about ways to eliminate or minimise risks.</p> <p>Proposed change</p> <p>After: 'Note: By definition, an adventure activity includes some serious risk. The requirement is to eliminate unnecessary serious risks.'</p> <p>Insert the following proposed wording: 'An example of eliminating a risk might be where a tree has come down into the main channel in a river used for rafting. This creates a specific risk of drowning in that strainer. By removing that tree from the river, that specific hazard and risk is eliminated.'</p> <hr/> <p>Feedback themes/comments</p> <p>Six submissions disagreed and thought the example offered minimal improvement to understanding due to various limitations. Two of these, including a key sector body, noted the example is specific to only one activity type and doesn't help clarify for others. A view was expressed that there should be a variety of examples across the industry or none at all. One independent submission disagreed with the inclusion of this example and thought the potential for causing confusion is too high.</p> <p>WorkSafe response</p> <p>After considering the submissions, we decided not to proceed with this change.</p> <hr/> <p>Outcome</p> <p>No change to current text</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 05 – RISK AND HAZARD MANAGEMENT</p> <p>Sub-section: 5.2 Risk Management Measures</p> <p>Proposal 3 of 3 for this sub-section</p> <p>Issue: The note in this sub-section refers to ‘office work’ to give examples of support functions within the operator’s business, this has less relevance to the operation compared with other high-risk activities.</p>	<p>N = 18</p> <p>Sub IDs: 4, 6, 7, 8, 9, 10, 12, 13, 14, 15, 19, 21, 22, 23, 25, 26, 27, 28</p>	<p>N = 4</p> <p>Sub IDs: 2, 3, 11, 16</p>	<p>N = 8</p> <p>Sub IDs: 1, 5, 17, 18, 20, 24, 29, 30</p>	<p>Current text</p> <p>The requirements of this section do not cover all requirements of the law in relation to support functions (such as office work, workshops etc) that are more likely to be subject to the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.</p> <p>Proposed change</p> <p>Delete ‘(such as office work, workshops etc)’ and replace with ‘(such as working at heights, lone working, workshops etc)’ so that this paragraph of sub-section 5.2 reads as follows: ‘The requirements of this section do not cover all requirements of the law in relation to support functions (such as working at heights, lone working, workshops etc) that are more likely to be subject to the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.’</p> <hr/> <p>Feedback themes/comments</p> <p>One operator’s submission strongly rejected this proposed change on the basis that their office workers are a key part of their safety on the river. They are important and need training beyond office work and driving. We think this comment is notable, and reflects the situation for a wide range of operations.</p> <p>Two submissions disagreed and thought the proposal was subjective and arbitrary offering minimal improvement to understanding. Two submissions agreed but thought the proposal offered little value.</p> <p>WorkSafe response</p> <p>Based on feedback from submitters, we decided to retain the reference to ‘office work’ and proceed with the rest of the change as follows:</p> <hr/> <p>Outcome</p> <p>Delete ‘(such as office work, workshops etc)’ and replace with ‘(such as working at heights, lone working, office work, workshops etc)’ so that this paragraph of sub-section 5.2 reads as follows: ‘The requirements of this section do not cover all requirements of the law in relation to support functions (such as working at heights, lone working, office work, workshops etc) that are more likely to be subject to the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 05 – RISK AND HAZARD MANAGEMENT</p> <p>Proposed new sub-section 5.4 Managing Natural Hazard Risks</p> <p>Issue: Natural hazards (such as floods, water surges, avalanches, and eruptions) are associated with the majority of harm that occurs in the sector – both from isolated incidents and catastrophic events.</p> <p>MBIE’s targeted review of the Adventure Activities Regulatory Regime found that operators’ understanding of natural hazard risks is patchy and greater attention to these in the regime would be beneficial.</p> <p>The current regulatory system does not set any detailed requirements for operators to assess and manage natural hazard risks. There is an opportunity to set clearer, consistent standards for how this category of risks are managed and to reduce the variations in how operators approach these risks across the sector.</p>	<p>N = 12 + 2 in principle subject to text changes</p> <p>Sub IDs: 8, 4, 5, 6, 7, 12, 13, 14, 15, 22, 23, 25</p> <p>21, 30 (agree in principle, with reservations)</p>	<p>N = 10</p> <p>Sub IDs: 1, 2, 3, 9, 10, 19, 24, 26, 27, 11</p>	<p>N = 6</p> <p>Sub IDs: 16, 17, 18, 20, 28, 29</p>	<p>Current text: <none></p> <p>The risk and hazard management section of the Audit Standard does not currently establish clear minimum standards for the systems operators must have in place to manage risks associated with natural hazards.</p> <p>Proposed change</p> <p>We proposed a new sub-section 5.4 ‘Managing Natural Hazard Risks’ to be introduced in section 05 of the Audit Standard.</p> <p>This new sub-section will set out specific requirements for operators to assess, manage, and monitor risks associated with natural hazards. Introducing such minimum standards will ensure that all operators have basic systems in place to manage risks from natural hazards.</p> <p>The proposed wording for this new sub-section was as follows: ‘5.4 Managing Natural Hazard Risks</p> <p>Operators must have systems to identify and assess the reasonably foreseeable risks arising from natural hazards in the operating area/s where they will be conducting adventure activities. This should include taking into account current information available from experts and landowners or land managers.</p> <p>The operator must minimise the serious risks arising from natural hazards in their operating area/s in line with the hierarchy of controls described at sub-section 5.2.</p> <p>When making decisions about ways to minimise serious risks arising from natural hazards, operators should consider:</p> <ul style="list-style-type: none"> - arrangements for monitoring risks associated with natural hazards within their operating area/s - having clear decision criteria for postponing or cancelling activities based on any change that increases risk from those natural hazards - avoiding or limiting time spent in hazard zones - ensuring emergency preparedness and response plans are workable and effective for dealing with emergencies arising from natural hazard risks in the operating area/s should they occur - ensuring that field equipment, first aid supplies, and clothing provided and/or required takes risks arising from natural hazards in the operating area/s into account.’ <hr/> <p>Feedback themes/comments</p> <p>We acknowledge concerns with the wording, ‘This should include taking into account current information available from experts and landowners or land managers.’ Submissions considered that this might be seen as imposing duties on landowners, and cause landowners to restrict the use of their land as a result. One submitter also thought the proposed wording wrongly assumes that experts are available at all times in all natural hazard areas and will be willing to put their name to advice given.</p> <p>There was concern from one submitter about the reference to ‘reasonably foreseeable risks arising from natural hazards’. It was considered that it may be too broad and too difficult to define what is reasonably foreseeable. They would prefer to remove the reference to ‘reasonably foreseeable’ and replace with ‘serious risk’. Another submission noted that the first sentence of the proposal included all risk arising from natural hazards, and considered that this should be focused on serious risk.</p> <p>There was some concern expressed about the cost-effectiveness of steps that may be required by this proposal, such as the kind of equipment operators would be expected to have in light of natural hazard risks in the operating area/s. It was considered, for example, ‘reasonable and [industry] good practice to wear a transceiver, shovel and probe in avalanche terrain; and perhaps even an air bag for operations such as Heli-ski. However, for an operator operating on a volcano such as Ruapehu or Tongariro would they be expected to carry gas masks with them in the event of an eruption?’ The submitter thought not, but noted that it’s not defined what is reasonably practicable with regards to field equipment and clothing etc. The submitter considered that it is not cost effective to have specific equipment, first aid gear, extensive staff training, in being prepared for an event that ‘might not happen at all’.</p>

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				<p>There was some concern expressed about the ability of operators to assess the risk posed by natural hazards, for example, ‘Are rafting operators expected to employ geotechnical engineers as experts to assess the stability of river channels and the risk of cliff collapse?’ There was some concern about the availability of suitable experts and the reliability of any advice that may be received. One submission noted that different natural hazards may have different degrees of predictability, and that in some environments operators and their front-line staff need to be skilled at continually assessing risk levels and being able to respond to changes throughout the duration of an activity.</p> <p>Three submissions considered that the requirements were subjective and/or vague. They considered that the bullet points offered on risk minimisation did not provide clear expectations of what is required in terms of steps taken or outcomes achieved. Two of these noted that the same natural hazard may present similar risk to members of the public in the area.</p> <p>Five submissions disagreed with the rationale for this proposal and considered that the statement ‘Natural hazards (such as floods, water surges, avalanches, and eruptions) are associated with the majority of harm that occurs in the sector – both from isolated incidents and catastrophic events’ is misleading. Three of these considered that not following policy and people working outside of their competency are greater contributors to outdoor incidents. It was questioned whether the input from experts and land owners or managers would ensure that risk management systems in the SMS were adequate.</p> <p>WorkSafe response</p> <p>Although we note some submitters question the rationale for this proposal, WorkSafe will implement requirements for operators to assess and manage natural hazard risks, in line with Cabinet intent.</p> <p>We acknowledge concerns with unintended effects of the wording, ‘This should include taking into account current information available from experts and landowners or land managers’ and have deleted this phrase.</p> <p>We acknowledge concern with the reference to ‘reasonably foreseeable risks arising from natural hazards’. We have edited this phrase to focus on ‘serious risks arising from natural hazards’. We note that this change will also bring the wording into better alignment with section 5.2 – risk management measures.</p> <p>One submission in support of this proposal suggested that ‘moving’ should be added to ‘having clear decision criteria for postponing or cancelling activities...’ We agree with this suggestion and have adopted it.</p> <p>In response to a ministerial expectation, WorkSafe is developing guidance for all PCBU’s on managing risk arising from natural hazards. We anticipate this guidance should be able to address the concerns about what steps will be required by this sub-section and the concerns about how to obtain suitable assessments of natural hazard risk. We anticipate the guidance will clarify the requirements where the wording is subjective or vague in isolation.</p> <hr/> <p>Outcome</p> <p>Insert a new sub-section 5.4 under subsection 5.3, as follows: ‘5.4 MANAGING NATURAL HAZARD RISKS Operators must have systems to identify and assess the serious risks arising from natural hazards in the operating area(s) where they will be conducting adventure activities. This should take into account any available information from land owners or land managers on the natural hazards in the operating area(s). The operator must eliminate (so far as is reasonably practicable) the serious risks arising from natural hazards in their operating area(s) or (when it is not reasonably practicable to eliminate serious risks) minimise those serious risks in line with the hierarchy of controls described at sub-section 5.2 of this standard. When making decisions about ways to eliminate or minimise serious risks arising from natural hazards, operators should consider:</p> <ul style="list-style-type: none"> - having clear decision criteria for postponing or cancelling activities (or moving the activity to a safer location or taking an alternative route) based on any change that significantly increases risks from those natural hazards - avoiding or limiting time spent in hazard zones - ensuring emergency preparedness and response plans are workable and effective for dealing with emergencies arising from serious risks associated with natural hazards in the operating area(s), should they occur.’

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 06 – STANDARD OPERATING PROCEDURES</p> <p>Sub-section 6.3 Dynamic Management of Risks</p> <p>Issue: MBIE’s targeted review of the Adventure Activities Regulatory Regime found that operators’ understanding of natural hazard risks is patchy and greater attention to these in the regime would be beneficial.</p> <p>Increased communication of natural hazard risk to staff and customers and managerial responsibility for cancelling activities based on natural hazard risk were highlighted as areas for improvement.</p> <p>The Audit Standard does not explicitly refer to the need for SOP’s to provide for the postponing or cancelling of activities (or moving the activity to a safer location) based on changes in risk from natural hazards.</p>	<p>N = 15</p> <p>Sub IDs: 8, 4, 6, 7, 12, 13, 14, 15, 19, 22, 23, 25, 26, 27, 29</p>	<p>N = 8</p> <p>Sub IDs: 11, 2, 3, 9, 10, 17, 21, 24</p>	<p>N = 7</p> <p>Sub IDs: 1, 18, 5, 16, 20, 28, 30</p>	<p>Current text</p> <p>In addition to outlining control measures for serious risks, SOPs must require staff to continually identify and manage risk levels during each activity.</p> <p>Staff must have the authority to halt an activity if they identify increased risks (or combination of risks) that threaten the safety of any person associated with the activity.</p> <p>Proposed change</p> <p>After: ‘Staff must have the authority to halt an activity if they identify increased risks (or combination of risks) that threaten the safety of any person associated with the activity.’</p> <p>Insert the following proposed wording: ‘SOPs must also require the operator to monitor on an ongoing basis the risks associated with natural hazards within their operating area and have clear decision criteria for postponing or cancelling activities (or moving the activity to a safer location) based on any change that increases risk from those natural hazards.’</p> <hr/> <p>Feedback themes/comments</p> <p>Fifteen submitters (including a key sector body) supported the proposed change.</p> <p>Of the eight submitters that did not support the proposed change, some considered that the wording placed too much emphasis on management of natural hazards relative to all hazards. One thought it duplicated the new section for the management of risks associated with natural hazards. Other comments received were not considered to be substantive in nature.</p> <p>WorkSafe response</p> <p>We agree that this proposal duplicates 5.4 to an extent but this is a deliberate decision.</p> <p>Ensuring that SOPs include this aspect of risk does not give it greater emphasis or priority for operator resources. The intention is to ensure that these risks cannot be overlooked during the SMS development or an audit.</p> <p>To make it clearer that changes to the activity are not required in response to minor and insignificant changes in natural hazard risk, we have added the word ‘significantly’ to the end of this change, to read ‘...have clear decision criteria... based on any change that significantly increases risk from those natural hazards.’</p> <hr/> <p>Outcome</p> <p>After: ‘Staff must have the authority to halt an activity if they identify increased risks (or combination of risks) that threaten the safety of any person associated with the activity.’</p> <p>Insert the following proposed wording: ‘SOP’s must also require the operator to monitor on an ongoing basis, the risks associated with natural hazards within their operating area(s) and have clear decision criteria for postponing or cancelling activities (or moving the activity to a safer location or taking an alternative route) based on any change that significantly increases risks from those natural hazards.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 06 – STANDARD OPERATING PROCEDURES</p> <p>Sub-section 6.4 Supervision</p> <p>Issue: Firstly, this sub-section does not address the positioning of assistant supervisors during the activity to ensure their safety is adequately managed.</p> <p>Secondly, this sub-section needs to address the maximum capacity of the operation (that is, the maximum participant numbers for the activity at any given time) to ensure that scaling-up of the operation to accommodate unusually large bookings does not exceed the resourcing and capacity of the SMS.</p>	<p>N = 10</p> <p>Sub IDs: 4, 6, 5, 12, 13, 19, 21, 22, 23, 25</p>	<p>N = 12</p> <p>Sub IDs: 8, 3, 9, 10, 14, 15, 20, 24, 26, 27, 29, 11</p>	<p>N = 6 (+ 2)</p> <p>Sub IDs: 1, 18, 7, 16, 17, 28</p>	<p>Current text</p> <p>The operator must ensure participants are adequately supervised.</p> <p>SOPs must specify:</p> <ul style="list-style-type: none"> - the maximum ratio of participants to staff for each activity as determined by good practice - the positioning of staff in relation to participants during the activity - how and when supervision ratios and positioning should change for differing circumstances. <p>Note: Circumstances requiring changes to supervision structures could include differing participant abilities, weather conditions, staff competence and time constraints.</p> <p>Proposed change</p> <p>Delete the current text at 6.4 and replace with: ‘The operator must ensure participants are adequately supervised.</p> <p>SOPs must specify:</p> <ul style="list-style-type: none"> - the maximum ratio of participants to staff for each activity as determined by good practice - the maximum participant numbers for the activity at any given time - the positioning of staff in relation to participants during the activity - the positioning of any assistants in relation to others during the activity - how and when supervision ratios and positioning should change for differing circumstances. <p>Note: Circumstances requiring changes to supervision structures could include differing participant abilities, weather conditions, staff competence and time constraints.’</p> <hr/> <p>Feedback themes/comments</p> <p>The two key sector bodies do not support the proposed changes re positioning, on the basis they are overly restrictive and do not allow for dynamic management of risk. Similar points were made by eleven other submissions.</p> <p>Some concern was expressed about the level of detail required. For example: ‘...is it [required] to list every single position you would be in for each movement or place on a river or would a more general statement be suitable saying direct supervision at all times close enough to affect a rescue?’</p> <p>WorkSafe response</p> <p>Two submissions commented negatively on the current wording about ratios. We note that this is part of the current Audit Standard. and has not been identified as an issue arising from audits in practice.</p> <p>Similarly, we note that the positioning of staff in relation to participants during the activity is status quo requirement consequently this will remain. We will remove the proposed change re positioning of assistants.</p> <hr/> <p>Outcome</p> <p>Delete the current text at 6.4 and replace with: ‘The operator must ensure participants are adequately supervised.</p> <p>SOPs must specify:</p> <ul style="list-style-type: none"> - the maximum ratio of participants to staff for each activity as determined by good practice - the maximum participant numbers for the activity at any given time - the positioning of staff in relation to participants during the activity - how and when supervision ratios and positioning should change for differing circumstances. <p>Note: Circumstances requiring changes to supervision structures could include differing participant abilities, weather conditions, staff competence and time constraints.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 06 – STANDARD OPERATING PROCEDURES</p> <p>Sub-section 6.6 Field Communications</p> <p>Issue: This sub-section is currently silent on the need for operators to ensure they can establish immediate contact with emergency services while they're in the field.</p>	<p>N = 12</p> <p>Sub IDs: 8, 4, 29, 6, 12, 14, 15, 19, 21, 22, 23, 25</p>	<p>N = 7</p> <p>Sub IDs: 2, 3, 9, 10, 24, 26, 11</p>	<p>N = 6 (+)</p> <p>Sub IDs: 1, 18, 5, 7, 16, 17</p>	<p>Current text</p> <p>This sub-section is currently silent on the need for operators to ensure they can establish immediate contact with emergency services while they're in the field.</p> <p>Proposed change</p> <p>insert '(including being able to establish immediate contact with emergency services when necessary)' after 'during the activity' so that the first paragraph of this sub-section reads as follows: 'The operator must develop, implement, and maintain procedures that enable staff to seek assistance during the activity (including being able to establish immediate contact with emergency services, so far is reasonably practicable).'</p> <hr/> <p>Feedback themes/comments</p> <p>A submission from a key sector body supports clear guidance for field communications, but felt it is not clear whether the amendment overrides existing protocols. This links with another submission which asked whether it would over-ride existing systems which use a base station/base relay for handling emergency situations, and referred to the training of base (office) teams to handle emergency situations. Two submissions considered that it was unclear whether this proposal would only include means such as a PLB/EPIRB.</p> <p>Five submissions considered the word 'immediate' should be deleted because it is not always practicable make contact immediately. One went on to state that 'most' operators in remote areas will have limited ability to respond to incidents and maintain contact with emergency services. Emergency procedures often delegate a chain of contact to the office/ operations team who are in a better position to maintain contact with emergency services while the guides respond to the situation. By specifying staff need to establish immediate contact limits their ability to respond to the situation.</p> <p>WorkSafe response</p> <p>This change was first described as '(including being able to establish immediate contact with emergency services when necessary)' but this was incorrect and should have been '(including being able to establish immediate contact with emergency services, so far is reasonably practicable)' – as was provided for later in that section of the consultation paper.</p> <p>We note also that 'staff' in the audit Standard includes base personnel when their role includes safety-sensitive work such as responding to emergency situations, so the concern about this wording excluding them from meeting the requirement is not an issue.</p> <hr/> <p>Outcome:</p> <p>After: 'The operator must develop, implement and maintain procedures that enable staff to seek assistance during the activity.'</p> <p>Insert: '(including being able to establish contact with emergency services).'</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 07 – EMERGENCY PREPAREDNESS AND RESPONSE PLANS</p> <p>Reference to ‘Adequate first aid supplies’</p> <p>Issue: The current wording does not clarify that the operator must have regard to all relevant matters, including: the nature of the activities being carried out; and the nature of the hazards associated with those activities and the location where those activities are carried out.</p>	<p>N = 18</p> <p>Sub IDs: 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 15, 19, 21, 22, 23, 25, 28, 29</p>	<p>N = 4</p> <p>Sub IDs: 2, 24, 26, 27</p>	<p>N = 8</p> <p>Sub IDs: 1, 5, 11, 16, 17, 18, 20, 30</p>	<p>Current text</p> <p>Adequate first aid supplies must be available at all times during the activity.</p> <p>Proposed change:</p> <p>Delete the current text and replace with the following: ‘Adequate first aid supplies, appropriate to the nature of the hazards associated with the activity and the location where those activities are carried out, must be available at all times during the activity and must be maintained.’</p> <hr/> <p>Feedback themes/comments</p> <p>Both sector bodies support the ready availability of first aid supplies, but considered that clarification of the definition of ‘immediately’ is necessary to distinguish between remote locations and base-facility locations. Depending on the activity, guides may be unable to carry all necessary first aid supplies. However, these supplies may be available within a short distance at a designated storage point.</p> <p>One submission called for ASG guidance instead of relying on operator assessment. A related view was expressed by another submission that ‘adequate’ is not an objective measurement to audit.</p> <p>One submission suggested inclusion of ‘so far as is reasonably practicable’ with this requirement.</p> <p>WorkSafe response</p> <p>We note the substantial support for this proposal, and that it is in keeping with the performance-based approach of comparable Regulations, in particular the first-aid provisions of the HSW (General Risk and Workplace Management) Regulations.</p> <p>Given the wide variety of activities and contexts in scope of Adventure Activity auditing, any additional specificity would be better located in Activity Safety Guideline documents, instead of this Standard.</p> <hr/> <p>Outcome</p> <p>Delete the current text and replace with the following: ‘Adequate first aid supplies, appropriate to the nature of the hazards associated with the activity and the location where those activities are carried out, must be available at all times during the activity and must be maintained.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 07 – EMERGENCY PREPAREDNESS AND RESPONSE PLANS</p> <p>Reference to ‘The emergency preparedness and response plans must be tested and reviewed periodically, reviewed after an incident or emergency, and revised as required’.</p> <p>Issue: The current text is light on details with respect to testing, review, and revision of plans and associated recording of test results.</p>	<p>N = 10</p> <p>Sub IDs: 3, 4, 8, 10, 12, 13, 14, 15, 19, 25</p>	<p>N = 5</p> <p>Sub IDs: 2, 21, 22, 26, 27</p>	<p>N = 15</p> <p>Sub IDs: 1, 3, 5, 6, 7, 9, 11, 16, 17, 18, 23, 24, 28, 29, 30</p>	<p>Current text</p> <p>The emergency preparedness and response plans must be tested and reviewed periodically, reviewed after an incident or emergency, and revised as required.</p> <p>Proposed change</p> <p>Delete the current text and replace with the following: ‘The emergency preparedness and response plans must be tested and reviewed periodically to ensure they are workable and effective for the activities and the operating environment. They must also be reviewed after an incident or emergency. The operator must revise the emergency response plan in response to the findings of any test or review to ensure that the plan is workable and effective.</p> <p>If a person, procedure, or action specified in an emergency response plan is changed, then the operator should ensure that the plan is tested to demonstrate whether: the new person can perform his or her functions under the plan; and the new procedure or action is workable and effective.’</p> <hr/> <p>Feedback themes/comments</p> <p>The most common theme was noting the subjective aspect of the proposed wording.</p> <p>Other feedback included:</p> <ul style="list-style-type: none"> - a suggestion for a specific timeline of at least an Annual Review of emergency and preparedness plans and procedures, rather than ‘periodically’. - amending the clause: ‘The operator must revise the emergency response plan in response to the findings of any test or review to ensure that the plan is workable and effective’ to ‘The operator must revise the emergency response plan in response to the findings of any test or review or as a result of any change to the operating environment to ensure that the plan is workable and effective.’ - a view that operators already meet the proposed requirement - a concern that the wording may force revision (changes) to a plan even if no fault/improvement has been identified. <p>WorkSafe response</p> <p>Although we acknowledge that the proposed wording has subjective components, it is in keeping with the performance-based approach to comparable regulations. We do not see more prescriptive requirements as workable for the wide variety of activities and contexts in scope of Adventure Activity auditing.</p> <p>The use of ‘periodic’ allows operators the flexibility to determine an appropriate frequency which is consistent with emergency preparedness requirements in the HSW (General Risk and Workplace Management) Regulations.</p> <p>We don’t think that ‘must review’ requirement would automatically trigger changes under the ‘must revise in response to findings’ requirement, if the findings are that no room for improvement has been identified. That is not the intention and could be discussed with auditors if required.</p> <p>We decided to proceed with the proposed change.</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
				<p>Outcome</p> <p>Delete the current text and replace with the following: 'The emergency preparedness and response plans must be tested and reviewed periodically, to ensure that they are workable and effective for the activities and the operating environment. They must also be reviewed after an incident or emergency.</p> <p>The operator must revise the emergency response plan in response to significant findings from any test or review to ensure that the plan is workable and effective.</p> <p>If a person, procedure, or action specified in an emergency response plan is changed, then the operator should ensure that the plan is tested to demonstrate whether:</p> <ul style="list-style-type: none"> - the new person can perform his or her functions under the plan - and the new procedure or action is workable and effective.'
<p>SECTION 07 – EMERGENCY PREPAREDNESS AND RESPONSE PLANS</p> <p>Reference to 'The operator must ensure that staff and participants have ready access to someone with an appropriate and current first aid qualification'.</p> <p>Issue: The current text could better qualify what is meant by an 'appropriate' first aid qualification.</p>	<p>N = 10</p> <p>+ 8 subject to the example being dropped</p> <p>Sub IDs: 4, 6, 7, 8, 12, 13, 14, 15, 22, 23</p> <p>2, 3, 5, 9, 10, 20, 24, 30 agree subject to example being dropped</p>	<p>N = 2</p> <p>+ 6 only in relation to the example</p> <p>Sub IDs: 1, 19</p> <p>17, 21, 25, 26, 27, 28, disagree – but only in relation to the example</p>	<p>N = 4</p> <p>Sub IDs: 11, 16, 18, 29</p>	<p>Current text</p> <p>The operator must ensure that staff and participants have ready access to someone with an appropriate and current first aid qualification.</p> <p>Proposed change:</p> <p>Delete the current text and replace with the following: 'The operator must ensure that staff and participants have ready access to someone with a current first aid qualification – appropriate for the nature of the hazards associated with the activity and the location where those activities are carried out.</p> <p>For example, staff and participants should have access to someone who has completed a pre-hospital emergency care course (or equivalent) in situations where the activity presents higher levels of risk and where you are operating in remote/isolated locations where emergency services could be delayed.'</p> <hr/> <p>Feedback themes/comments</p> <p>There was widespread support in principle for the intent of this proposal. However, the dominant theme of feedback indicated that the example given was problematic. In addition, the availability of qualified staff and appropriate qualification opportunities were noted as difficulties.</p> <p>The recurring theme of a requirement being subjective, as opposed to specific and objective was raised here by four submissions. A specific point was that that the reference to 'someone' was too vague and should be tightened up.</p> <p>WorkSafe response</p> <p>Of the submitters that did not support (or partially supported) the proposed change, they were mostly concerned with the example that was provided. Consequently, we will remove the example.</p> <p>We acknowledge the point about 'someone' being vague, and have made an adjustment in response. Consequently, I suggest we adjust the proposed change as follows:</p> <hr/> <p>Outcome:</p> <p>Delete the current text and replace with the following: 'The operator must ensure that staff and participants have ready access to a staff member with a current first aid qualification, appropriate for the nature of the hazards associated with the activity and the location where those activities are carried out.'</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 07 – EMERGENCY PREPAREDNESS AND RESPONSE PLANS</p> <p>Reference to ‘The operator must ensure that staff and participants have ready access to someone with an appropriate and current first aid qualification’.</p> <p>Issue: The current text could better clarify how sole guides have ready access to first aid.</p>	<p>N = 11</p> <p>Sub IDs: 3, 8, 9, 10, 13, 14, 15, 19, 21, 24, 25</p>	<p>N = 10</p> <p>Sub IDs: 2, 6, 12, 17, 22, 23, 26, 27, 29, 30</p>	<p>N = 9</p> <p>Sub IDs: 1, 4, 5, 7, 11, 16, 18, 20, 28</p>	<p>Current text</p> <p>The operator must ensure that staff and participants have ready access to someone with an appropriate and current first aid qualification.</p> <p>Proposed change</p> <p>Add after the current text: ‘Note: if sole guide access to first aid is reliant on participant actions, then the client briefing must address how first aid will be administered in the event that the sole guide is incapacitated.’</p> <hr/> <p>Feedback themes/comments</p> <p>Of the submitters that did not support the proposed change, they were mostly concerned with relying on a participant to be responsible for applying treatment – particularly if the incapacitated guide leaves participant in a highly stressful and exposed position. They considered that it is more appropriate to ensure the participant is fully prepared to call for outside assistance as promptly as possible.</p> <p>WorkSafe response:</p> <p>We have adjusted the wording in response to this feedback, as below.</p> <hr/> <p>Outcome</p> <p>After the new text: ‘The operator must ensure that staff and participants have ready access to a staff member with a current first aid qualification, appropriate for the nature of the hazards associated with the activity and the location where those activities are carried out.’</p> <p>Insert the following note: ‘Note: Where a sole guide is leading, guiding, instructing, supervising, or supporting an activity – and if that individual becomes incapacitated – then participants will need to know how to call for assistance. The operator must ensure that this is addressed in the participant briefing before commencing the activity.’</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
<p>SECTION 08 – INCIDENT MANAGEMENT</p> <p>Sub-section 8.1 Incident Response</p> <p>Issue: Despite ‘near misses’ being provided for in the definition of incidents on page 8 of the Audit Standard, we consider that the current text at sub-section 8.1 should explicitly refer to the need to record near miss incidents. Near miss incidents, if analysed and used correctly, can help inform changes to prevent future accidents from occurring.</p>	<p>N = 30</p> <p>Sub IDs: 2, 3, 4, 6, 7, 8, 9, 10, 14, 15, 19, 21, 22, 23, 24, 25, 26, 27, 30</p>	<p>N = 0</p>	<p>N = 11</p> <p>Sub IDs: 1, 5, 11, 12, 13, 16, 17, 18, 20, 28, 29</p>	<p>Current text</p> <p>The operator must develop procedures for responding to incidents, including communicating and recording incidents internally, and reporting notifiable events to the relevant authority.</p> <p>Proposed change</p> <p>Insert ‘(including near miss incidents)’ after ‘responding to incidents’ so the first paragraph of this sub-section reads as follows: ‘The operator must develop procedures for responding to incidents (including near miss incidents), including communicating and recording incidents internally, and reporting notifiable events to the relevant authority.’</p> <hr/> <p>Feedback themes/comments</p> <p>There was clear support for this proposal.</p> <p>The sector bodies considered it desirable to support a national database that could support information sharing and learning for the sector.</p> <p>WorkSafe response</p> <p>As mentioned in response to calls for a national incident database (‘Incident’ definition above), the sharing of information regarding notifiable incidents would raise complications around privacy and duplication of effort for data that must be captured in WorkSafe’s primary case management system. We will not pursue this idea at the moment.</p> <hr/> <p>Outcome</p> <p>Insert ‘(including near misses)’ after ‘responding to incidents’ so the first paragraph of this sub-section reads as follows: ‘The operator must develop procedures for responding to incidents (including near miss incidents), including communicating and recording incidents internally, and reporting notifiable events to WorkSafe.’</p>
<p>SECTION 10 – CONTINUAL IMPROVEMENT</p> <p>Sub-section 10.2 Internal review of the SMS</p> <p>Issue: The current text should add ‘complaints’ into the list of relevant information that should be considered as part of the SMS review.</p>	<p>N = 19</p> <p>Sub IDs: 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 15, 19, 22, 23, 25, 26, 27, 30</p>	<p>N = 3</p> <p>Sub IDs: 17, 21, 24</p>	<p>N = 8</p> <p>Sub IDs: 1, 5, 11, 16, 18, 20, 28, 29</p>	<p>Current text</p> <p>The operator must review at least annually the performance of the SMS against the SMS’s stated safety goals and objectives. The review should take into account any audit findings, reports from technical advisers and/or technical experts, and analyses and recommendations from specific reviews, including reviews of incidents.</p> <p>Proposed change</p> <p>Insert ‘complaints’ before ‘audit findings’ so the second paragraph of this sub-section reads as follows: ‘The review should take into account any complaints, audit findings, reports from technical advisers and/or technical experts, and analyses and recommendations from specific reviews, including reviews of incidents.’</p> <hr/> <p>Feedback themes/comments</p> <p>One submitter considered this whole clause ought to be a ‘must’ item, not a ‘should’ item.</p> <p>Of the submissions that did not agree, two stated or implied that customer complaints are unlikely to lead to useful change in operating procedures.</p> <p>WorkSafe response</p> <p>We consider that all stakeholders who may make complaints (including, but not limited to) customers have potential to provide useful insight into participant experience of safety. The requirement is not to act on all complaints, only to take them into account alongside other sources of information.</p> <p>We decided to proceed with the proposed change.</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
				<p>Outcome</p> <p>Insert 'complaints' before 'audit findings' so the second paragraph of this sub-section reads as follows: 'The review should take into account any complaints, audit findings, reports from technical advisers and/or technical experts, and analyses and recommendations from specific reviews, including reviews of incidents.'</p>
<p>SECTION 10 – CONTINUAL IMPROVEMENT</p> <p>Sub-section 10.3 Internal Review of Adventure Activities</p> <p>Issue: Firstly, the Audit Standard doesn't currently require operators to consider learnings from relevant incidents that have occurred in the adventure activities sector (both here in New Zealand and internationally).</p> <p>Secondly, we consider that the current reference that an operator 'should' involve technical advisers in the review process should be changed to 'must'. This is because without technical adviser input during the review changes could be made to the adventure activity which potentially vary from good practice.</p>	<p>N = 4 (+8 with reservation)</p> <p>Sub IDs: 3, 46, 7, 12</p> <p>With reservation 2, 10, 13, 14, 15, 22, 23, 24</p>	<p>N = 10</p> <p>Sub IDs: 8, 9, 16, 17, 18, 19, 21, 25, 26, 27</p>	<p>N = 8</p> <p>Sub IDs: 1, 5, 11, 18, 20, 28, 29, 30</p>	<p>Current text</p> <p>The operator must conduct scheduled internal reviews of their adventure activities to ensure compliance with this standard. In addition, the operator must review their adventure activities when prompted by:</p> <ul style="list-style-type: none"> - audit findings - proposed changes to the adventure activities provided, including the sites used, that may change the hazards or the seriousness of the risks or hazards - changes to the environment in which the activity is conducted - changes to key staff - incidents and emergencies - changes in legislation, standards, activity safety guidelines, codes of practice or similar information. - identification of a new relevant hazard or risk. <p>The operator should involve technical advisers to assist in the review process.</p> <p>The operator must ensure that:</p> <ul style="list-style-type: none"> - the reviews are conducted by people with current competence in the activity - any opportunities for improvement are identified - outcomes are communicated to staff and other relevant parties <p>any actions resulting from the reviews are implemented.</p> <p>Proposed change</p> <p>Insert: '- including learnings from relevant incidents that are known (or ought reasonably to be known) to have been experienced by other adventure activity operators in New Zealand or overseas' after 'incidents and emergencies' so the first paragraph of this sub-section reads as follows: 'The operator must conduct scheduled internal reviews of their adventure activities to ensure compliance with this standard. In addition, the operator must review their adventure activities when prompted by:</p> <ul style="list-style-type: none"> - audit findings - proposed changes to the adventure activities provided, including the sites used, that may change the hazards or the seriousness of the risks or hazards - changes to the environment in which the activity is conducted - changes to key staff - incidents and emergencies - including learnings from relevant incidents that are known (or ought reasonably to be known) to have been experienced by other adventure activity operators in New Zealand or overseas - changes in legislation, standards, activity safety guidelines, codes of practice or similar information. - identification of a new relevant hazard or risk.' <p>We also propose to replace 'should' with 'must' in the second paragraph to read as follows: 'The operator must involve technical advisers to assist in the review process.'</p>

TOPIC	SUBMISSIONS IN FAVOUR	SUBMISSIONS DISAGREE	NEUTRAL (PLUS NO COMMENT)	DISCUSSION
				<p>Feedback themes/comments</p> <p>A key theme of submissions is a view that information about incidents at other adventure operations is difficult to obtain. Some expressed a view that WorkSafe should collate such information (such as by maintaining a database for the sector to use) and circulating information to the sector. An example statement is 'Not all Adventure Activity operators are members of professional associations. Many businesses operate in isolated environments away from similar activity providers. An assumption that knowledge is readily accessed [and] shared among operators is incorrect.' Other submissions noted that court processes, for example, delay the availability of detailed findings in many significant cases.</p> <p>Several submissions disagreed with the second proposed change although, notably, one believed this was already being done by themselves and others. The disagreements were mainly on the basis of concern about the triggers for review being subjective, with resulting excessive burden of consulting with advisers. One submission raised the point that reviews may be un-necessarily delayed for adviser availability [where the matter doesn't need their input], and that inappropriate omission of TA involvement could be identified, and improvements required, through by the existing audit process.</p> <p>WorkSafe response</p> <p>In response to this feedback, we have adjusted the wording to clarify that the level of information we expect operators to take into account (about incidents in other operations) is not detailed outcomes from investigation of incidents, but the credible information publicly available about widely known events in similar activity operations. For example, an auditor may expect a canyoning operator in the tourism space to be aware of the Interlaken canyoning tragedy from Switzerland, which highlights certain operating risk factors.</p> <p>Some of the comments to the second part of this proposal may indicate that the submitters have not picked up on the distinction between in-house technical Advisers and the audit team's independent technical Expert. Some submitters appear to have read this as a requirement to involve an external adviser, which is not the case where a suitable in-house adviser is available. Involvement of an in-house TA for reviews is arguably already required by 'people with current competence...' at 10.2 and their function 'to advise operators on SOPs' in the definition.</p> <p>The proposal aimed to clarify this aspect where it has apparently not been universally understood. However, we have decided not to proceed with changing 'should' to 'must' in the second paragraph, to ensure that operators have discretion to involve advisers only where the type of review trigger and initial findings make that appropriate.</p> <hr/> <p>Outcome</p> <p>Insert: '- including information about serious incidents that are known to have been experienced by similar adventure activity operators in New Zealand or overseas' after 'incidents and emergencies' so the first paragraph of this sub-section reads as follows:</p> <p>'The operator must conduct scheduled internal reviews of their adventure activities to ensure compliance with this standard. In addition, the operator must review their adventure activities when prompted by:</p> <ul style="list-style-type: none"> - audit findings - proposed changes to the adventure activities provided, including the sites used, that may change the hazards or the seriousness of the risks or hazards - changes to the environment in which the activity is conducted - changes to key staff - incidents and emergencies - including information about serious incidents that are known to have been experienced by similar adventure activity operators in New Zealand or overseas - changes in legislation, standards, activity safety guidelines, codes of practice or similar information. - identification of a new relevant hazard or risk.'

TABLE 1: Analysis of comments from submitters on proposed changes to content

Analysis of general comments from submitters on the consultation document

The submissions form also invited general comments.

GENERAL COMMENTS

Feedback themes/comments

One submitter considered that:

'...we are heading into the wrong direction. We must make the document simpler, less wordy and less specific. MBIE is forcing a template on a widespread adventure activity industry which doesn't fit in most places. I suggest creating a division between low, medium and high risk adventure activities. Kayaking with a small group of teens on a tranquil lake is not the same as glazier tramping or white island walks. Yet we set the standard for places like these and the lower end activities, their participants and their operators struggle to make it all happen. The stress and pressure of audits, work safe investigations, social media and everything else is almost unbearable.'

Another submission considered that:

'Overall the changes are good improvements and will improve safety as intended. The signalling in the title is extremely important, however. It can still be an audit standard without having audit in the title.'

Although as an audit body we prefer very clear, objective text in relation to requirements within a standard, the reality is that this standard, and all standards, contain language that is necessarily subjective.

For example, there is a dilemma in the use of the subjective terms 'regularly' and 'ongoing' in the proposed changes to Section 5: Risk and hazard management, and 'periodically' under emergency preparedness. To prescribe a period of time for the monitoring and checking of control measures is difficult, if not impossible. Some control measures may need checking every week or month, while others may only require annual or biennial checks. However, it is equally difficult to audit against subjective terms, as our interpretation may differ to Worksafe's interpretation of what those terms mean.

My concern... is that our interpretation of subjective terminology and that of Worksafe's may differ in some future situation which has significant ramifications...

Worksafe should acknowledge that this situation exists and [recognised safety auditors should be] afforded with the requisite trust and confidence to audit against a standard that contains subjective terms.

This trust and confidence could be achieved during the 'audit body recognition' process, whereafter Worksafe could explicitly state that they have the necessary confidence in [recognised safety auditors] to make these judgement calls. ...

The alternative is an impossibly prescriptive Standard, or [recognised safety auditors] accepting what could be significant risk.'

WorkSafe response

We acknowledge these general comments.

The suggestion for divisions of high/ medium/low risk activities within the overall category of adventure activities (which by definition include serious risk) is not consistent with MBIE's decision against developing a risk rating scheme for this sector.

Throughout this revision we have aimed to balance the other factors noted above.

Outcome

Revisions to the Standard have aimed to balance the factors noted above, in addressing the issues raised with version 1.1 and in responding to the feedback to this consultation.

TABLE 2: Analysis of general comments from submitters on the consultation document

Consequential amendments to content (not consulted on)

Changes to Audit Standard definitions that are required, to be consistent with revised definitions in the NZ Adventure Activity Certification Scheme.

<p>Issue ‘Ancillary Services’ definition requires update to be consistent with revised definition in NZAACS</p>	<p>Current text ‘Services provided by an operator to participants that supplement and support the operator’s adventure activities. Note: Ancillary services should be included in an operator’s safety management system. Safety audits against this standard will review only those ancillary services which involve a serious risk to health and safety (such as, for example, off-road transport to or from an adventure activity).’</p> <p>Proposed change Change to definition used in Scheme:</p> <hr/> <p>Updated text Services provided by an operator to participants are integral to the operator’s safe management of their adventure activities and involve a real, serious risk to health and safety, for example, all forms of transport. Note: Most catering and accommodation services will not be integral to the operator’s safe management of the activity. However, tent and hut-type accommodation will most likely be central to participation in the adventure activity, rather than it being an ancillary service.’</p>
<p>Issue ‘Good Practice’ definition requires update to be consistent with revised definitions in NZAACS</p>	<p>Current text ‘Range of actions currently accepted within the adventure and outdoor sector to manage the risk of harm to staff, participants and visitors. Good practice should also reflect relevant standards recognised within the sector for the safe provision of adventure activities where these exist. This may include, but is not limited to: – activity safety guidelines – codes of practice or conduct – other recognised/approved guidelines – accepted professional practices.’</p> <p>Proposed change Minor edits to make consistent with definition used in Scheme:</p> <hr/> <p>Updated text ‘The range of actions that are currently accepted within the adventure and outdoor sector as appropriate and practical means to to manage the risk of harm to staff, participants and visitors. Good practice should also reflect relevant standards recognised within the sector for the safe provision of adventure activities where these exist. This may include: activity safety guidelines – codes of practice or conduct – other recognised/guidelines – accepted professional practices.’</p>
<p>Issue ‘Hazard’ and ‘Serious Hazard’ definitions require update to be consistent with revised definitions in NZAACS</p>	<p>Current text ‘A hazard is anything that does or could cause harm, and includes a situation where a person’s behaviour may be an actual or potential cause or source of harm to themselves or another person (for example, due to the effects of fatigue or drugs and alcohol). A hazard includes anything that does or could cause harm from prolonged exposure, or harm that does not usually occur or become apparent until later. A serious hazard is a hazard that does or could cause a notifiable event.’</p> <p>Proposed change Delete current definition and replace with the following:</p> <hr/> <p>Updated text ‘Hazard is defined in section 16 of HSWA. A serious hazard is a hazard that does or could cause a notifiable event.’</p>

<p>Issue</p> <p>'Notifiable Incident' definition requires update to be consistent with amendments to the Adventure Activities Regulations</p>	<p>Current text</p> <p>'Notifiable incident is defined in section 24 of HSWA as meaning an unplanned or uncontrolled incident in relation to a workplace that exposes a worker or any other person to a serious risk to that person's health and safety arising from an immediate or imminent exposure to:</p> <ul style="list-style-type: none"> - an implosion, explosion or fire - an escape of gas or steam - an escape of a pressurised substance - an electric shock - the fall or release from a height of any plant, substance, or thing - the collapse or partial collapse of a structure - other items listed in the Act.' <p>Proposed change</p> <p>Minor edits to make consistent with the amendments to the Adventure Activities Regulations.</p>
	<p>Updated text</p> <p>'Notifiable incident is defined in section 24 of HSWA as meaning an unplanned or uncontrolled incident in relation to a workplace that exposes a worker or any other person to a serious risk to that person's health and safety arising from an immediate or imminent exposure to:</p> <ul style="list-style-type: none"> - an implosion, explosion or fire - an escape of gas or steam - an escape of a pressurised substance - an electric shock - the fall or release from a height of any plant, substance, or thing - the collapse or partial collapse of a structure - any other incident declared by regulations to be a notifiable incident for the purposes of this section - other items listed in section 24 of the Act. <p>Regulation 19A of the Regulations declares the following to be notifiable incidents:</p> <ol style="list-style-type: none"> a. a natural hazard that, taking into account the hazard's type, severity, and other distinguishing features, is not a hazard routinely encountered during the ordinary course of the adventure activity; b. entrapment, entanglement, or immobilisation, including while in a vehicle or vessel; c. a fall from a height; d. a collision with an object, the ground, or another person; e. a collision between a vehicle and a person or object (including another vehicle), a vehicle overturning (regardless of which part of the vehicle is against the ground when it comes to rest), or an inrush of water into a vehicle; f. a collision between a vessel and a person or object (other than another vessel) or a vessel rolling (see also section 24(1)(l) of the Act); g. a situation where safety critical equipment used to provide an adventure activity: <ol style="list-style-type: none"> i. fails or malfunctions while in use; or ii. is defective and at significant risk of failure or malfunction while in use.'
<p>Issue</p> <p>'Notifiable Injury or Illness' definition requires update to be consistent with revised definitions in NZAACS</p>	<p>Current text</p> <p>'Notifiable injury or illness has the meaning defined in section 23 of HSWA, which includes (in part):</p> <ol style="list-style-type: none"> a. any of the following injuries or illnesses that require the person to have immediate treatment (other than first aid) <ol style="list-style-type: none"> i. The amputation of any part of their body ii. A serious head injury iii. A serious eye injury iv. A serious burn v. The separation of their skin from an underlying tissue (for example, de-gloving) vi. A spinal injury vii. The loss of a bodily function viii. Serious lacerations b. An injury or illness that requires, or would usually require, the person to be admitted to hospital for immediate treatment c. An injury or illness that requires, or would usually require, the person to have medical treatment within 48 hours of exposure to a substance d. Any serious infection to which the carrying out of work is a significant factor e. Any other injury or illness declared by regulations to be notifiable.' <p>Proposed change</p> <p>Minor edits to make consistent with the amendments to the Adventure Activities Regulations.</p>

Updated text

'Notifiable injury or illness has the meaning defined in section 23 of HSWA, which includes (in part):

- a. any of the following injuries or illnesses that require the person to have immediate treatment (other than first aid)
 - i. The amputation of any part of their body
 - ii. A serious head injury
 - iii. A serious eye injury
 - iv. A serious burn
 - v. The separation of their skin from an underlying tissue (for example, de-gloving)
 - vi. A spinal injury
 - vii. The loss of a bodily function
 - viii. Serious lacerations
- b. An injury or illness that requires, or would usually require, the person to be admitted to hospital for immediate treatment
- c. An injury or illness that requires, or would usually require, the person to have medical treatment within 48 hours of exposure to a substance
- d. Any serious infection to which the carrying out of work is a significant factor
- e. Any other injury or illness declared by regulations to be notifiable.

Regulation 19B of the Regulations declares the following to be a notifiable injury or illness:

- an injury sustained or illness acquired by a person in connection with an adventure activity that requires, or would usually require, the person to have medical treatment within 48 hours of the injury being sustained or the illness being acquired.'

TABLE 3: Consequential amendments to content (not consulted on)

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