

Submission on the Review of the Safety Audit Standard for Adventure Activities

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Submitter details

Name of contact person	Sam Newton – Advocacy Manager
Organisation name	New Zealand Recreation Association
Postal address	PO Box 11132, Manners Street, Wellington 6142
Telephone number	027 723 9380
Email	sam@nzrecreation.org.nz

Submission

Introduction

1. Recreation Aotearoa is a registered charity and the organisation responsible for providing leadership, advocacy, and professional development opportunities for those involved in the broader recreation sector. We work at an agency, industry, and professional level to build capability, develop partnerships, and equip individuals and organisations with the skills they need to deliver high-quality recreation experiences that engage participants.
2. The Recreation Aotearoa membership includes recreation policy makers, territorial local authorities, voluntary organisations, regional sports trusts, outdoor recreation businesses, and others involved in the delivery of recreation throughout New Zealand.
3. Our mission is enhancing wellbeing through recreation.
4. In partnership with Tourism Industry Aotearoa (TIA), Recreation Aotearoa provides the SupportAdventure website, publishes the SupportAdventure newsletter and has coordinated the production of Activity Safety Guidelines (ASGs). These are critical pieces of infrastructure for the Adventure Activity sector.
5. Two staff members of Recreation Aotearoa and their counterparts from TIA served, at the request of MBIE, on the Expert Reference Group, during their review of the adventure activities regime.
6. At any given time, dozens of registered Adventure Activity Operators (AAOs) are organisational members of Recreation Aotearoa. A similar amount of AAOs are members of TIA, however it is important to note that many registered AAOs, perhaps a small majority, are not members of either industry body. Regardless, numerous individuals employed at the governance, management, and operational levels of AAOs are members of Recreation Aotearoa, as well as many auditors and technical experts.

7. The perspectives conveyed in this submission are, in part, gleaned from the information Recreation Aotearoa gathered from a survey of outdoor recreation and outdoor education professionals on the Safety Audit Standard.

General comments

8. Recreation Aotearoa submits that not all adventure activities are the same. Each adventure activity has a unique and dynamic mixture of technical and environmental risks. Participants in different types of adventure activities have variable risk appetites. Recreation Aotearoa acknowledges the inherent difficulty of formulating a regulation regime that covers such a variety of contexts.
9. As has been acknowledged by WorkSafe, Recreation Aotearoa notes that the existing Safety Audit Standard has been working well, as the 2016 performance review found. Recreation Aotearoa submits that there is a risk of regulatory overreaction. Most operators adequately account for natural hazard risk. The Whaakari/White Island tragedy has highlighted the volcanic risk, which is quite specific, being present in only a few locations in New Zealand.
10. Recreation Aotearoa cautions against the assumption that accidents indicate that the audit process is inadequate. Most fatalities noted in the media or various consultation documents couldn't be prevented through auditing, being outside the Adventure Activities regime, or due to operators failing to follow their audited safety management system.
11. When considering any reform of the Safety Audit Standard, it should be considered that only a small segment of the wider recreation community is exposed to the adventure activity regulations. When imposing restrictions or costs on professional providers, we must accept that participants are rightly free to pursue adventurous activities independently. We must guard against the unintended outcome of participants moving away from more costly, but probably safer, professional providers and undertaking activities without the (safety) benefit of a guide or instructor.

12. Recreation Aotearoa submits its strong support for revisions and additions to guidance ASGs. This will be by far the most cost-effective and welcome change by the adventure activity sector.
13. With caveats and specifics that will be described in further detail, Recreation Aotearoa submits cautious support for both adjustment and minor changes to the safety audit standard.

Proposed change to the title of the document

14. Recreation Aotearoa supports the title change in order to achieve clarity as to who might benefit from reading and engaging with the document. As it stands, many potential readers might view the document as a tool only for auditors, when we know operators and technical advisors would benefit from using it as a reference. For that reason, the removal of the word “audit” from the title might widen the scope of potential readers.

Proposed changes to Section 1 – Introduction

15. Recreation Aotearoa supports, in principle, the proposed changes to Sub-section 1.4 -Ongoing Compliance. We welcome the clarity that the management of safety is an ongoing process and not something that is focused upon once every three years. We also welcome the more prominent requirements to incorporate incident analysis and findings from reviews. However, we do note that there are some overly subjective components to the language used including ‘positive safety culture’, which is difficult to objectively measure and audit against.

Proposed changes to Section 2: - Definitions

16. Recreation Aotearoa submits its support for a revised definition of natural hazard risks but does not support the proposed definition in the consultation document.
17. Recreation Aotearoa submits that in order to achieve clarity as to what natural hazard risks are to be managed, the safety audit standard should explicitly

include, but limit itself to the 12 natural hazards identified by MBIE in its Targeted Review of the adventure activities regime (2020).

18. In Annex 1 of the document (page 19), MBIE states in consultation with DOC, GNS, and WorkSafe that 12 natural hazard risks intersecting with adventure activities, were identified. They are:

- Risks from extreme weather events – high winds, severe hot and cold weather, lightning strikes.
- Water surge risk – tidal surge, rogue waves, and tsunami, including tsunami and seiche on lakes.
- Flood (enclosed space) risk – flooding of an enclosed/contained space e.g., cave, canyon.
- Flood (surface) risk - river and surface flooding due to rainfall including upstream rainfall.
- Rockfall risk – sudden downward fall or collapse of rock material.
- Landslide risk – includes debris flow. A moving mass of loose mud, sand, soil, rock, water, and air that travels down a slope under the influence of gravity.
- Snow avalanche risk – mass of snow, ice and rocks falling down a mountainside.
- Icefall avalanche risk – falling blocks of ice as a result of glaciers flowing over cliffs.
- Risks from rapids – river rapids including changing river patterns due to obstacles and rainfall.
- Collapse risk – slippage or collapse of ground beneath, e.g., snow bridges, glaciers, cliff edge or inward collapse of natural structure e.g., cave system.

- Risk of volcanic eruption – activity in proximity to active or potentially active vents e.g., Whakaari/Tongariro/Ruapehu.
- Geothermal risk – including gas explosions, steam, ash fall etc. activity taking place in any known geothermal areas.

19. Recreation Aotearoa submits that by explicitly and only including these 12 natural hazards, much needed certainty will be provided to the sector.

20. Recreation Aotearoa submits its support for the change to the definition of 'near miss'. However, we note the inadequacy of the existing near miss reporting infrastructure. We submit that much could be done to support and improve the adventure activity sector by WorkSafe in providing user-friendly systems, that could enhance analysis and information-sharing.

21. Recreation Aotearoa submits its support for a more detailed definition of 'Safety Management System' and examples of what might be included, in principle.

22. However, we submit that while the listed example components are helpful, WorkSafe must guard against the likelihood that examples become the norm, and that the norm becomes standard. Additionally, we submit that in accordance with paragraph 12, these examples in template form, could be shared and maintained by WorkSafe on the SupportAdventure website.

23. Recreation Aotearoa supports the proposed change of the definition of 'technical advisor' and the inclusion of natural hazard assessment, noting that it relies on a clear definition of natural hazard, discussed in paragraphs 17-18.

Proposed changes to Section 4 – Leadership and Management

24. Recreation Aotearoa submits its support for the intent to improve the communication of appropriate risk information, in principle. We agree that in some cases, participants are not always given enough information about the risks to enable them to make informed decisions on the level of risk they are

taking. However, we submit our opposition to the specific proposed changes in the document.

25. Recreation Aotearoa submits that over the last decade there has been a steady trend of adventure activity operators moving away from attempting to absolve themselves of liability by using waivers, and to disclose the risks.
26. In most cases, risks are disclosed during the activity briefing. On rare occasions auditors need to point out that, important as that is, it is too late for most participants to withdraw, and that it also must be done when participants book. Recreation Aotearoa accepts that the Safety Audit Standard doesn't specify when the risk disclosure must occur and that this must be rectified.
27. Recreation Aotearoa submits its concern around the notion of 'appropriate risk information' and how that might be interpreted by operators and auditors. Operators often note that their clients don't process the risk disclosure and may not fully understand the nature and risks of an activity when it is hidden from everyday view. It is a widely held view by AAOs that participants in adventure activities find it difficult to conceptualise risk and understand relative risk.
28. Recreation Aotearoa observes that issues around the communication of risk and risk disclosure will be felt far more keenly by operators in the Adventure Tourism sector, represented by TIA. In that sector, the use of international booking agents and international clients with poor English may provide additional issues for operators. We submit that WorkSafe engage in additional sector consultation, in order to build a workable solution within a revised safety audit standard, beyond this consultation timeframe.

Proposed changes to Section 5 – Risk and hazard management

29. Recreation Aotearoa does not support the inclusion of the tree/rafting example in Section 5.2. A singular, specific example in an individual context does little to improve understanding and may have the perverse effect of narrowing an operator's perspective. There needs to be a variety of examples provided across a number of contexts, or no example at all.

30. Recreation Aotearoa submits its support for the addition of a new subsection 5.4 Managing Natural Hazard Risks, in principle. But we submit some caution.
31. As such, Recreation Aotearoa disagrees with the statement that “*Natural hazards are associated with the majority of harm that occurs in the sector – both from isolated incidents and catastrophic events.*” As stated in paragraph 10, the majority of previous incidents and fatalities occurred outside the Adventure Activities regime or due to operators failing to follow their audited safety management system. Natural hazards were present, but not causal.
32. Recreation Aotearoa submits that natural hazards are generally well managed in the adventure activities regime. Most operators adequately account for natural hazard risk. Operators tend to know well what they are dealing with, and technical experts review their work, both their safety management planning and practice.
33. It is widely acknowledged within the adventure activity sector that the best risk-management system has a process of hazard identification, risk management, and residual risk assessment summarised in brief activity plans. This makes the system usable for instructors and guides, rather than being a detailed document rarely used, as is often the case with traditional hazard and risk registers.
34. Recreation Aotearoa submits that the addition of the additional subsection relies on adequately defining Natural Hazard Risk in Section 2 – Definitions, as outlined in Paragraphs 17-18, above.

Proposed changes to Section 6 – Standard Operation Procedures

35. Recreation Aotearoa submits that the proposed changes to Subsection 6.4 – Supervision, are overly restrictive and do not adequately allow for the dynamic management of risk. This is particularly the case for the positioning of assistant guides/instructors. “How and when” supervision ratios and positioning should change for differing circumstances, is too complex to be included or easily communicated in an SOP.

36. Recreation Aotearoa submits its support for clarity around the role and level of Field Communications in the Safety Audit Standard. However, the proposed changes do not make it sufficiently clear that in some circumstances immediate contact with Emergency Services is impossible (e.g., in caves). Combined with the ambiguity of the term 'reasonably practicable', there is a risk of expensive misinterpretation by operators and auditors.

Proposed changes to Section 7 – Emergency preparedness and response plans

37. Recreation Aotearoa submits its support for the changes that clarify 'adequate first aid supplies'. The vast majority of existing registered AAOs will not have to alter their existing operation to comply. Although, we note that the subjectivity of 'adequate' still places a degree of judgement (and potential disagreement) on the auditor and operator.

38. Recreation Aotearoa submits its support for the issue description and agrees that the current text does not provide adequate clarity. However, we also submit that much of the proposed changes only embed subjectivity and the potential for operators and auditors to disagree. For example, 'periodically' could be firmed up as 'annually'. Similarly, what is 'workable and effective' is open to interpretation and judgement.

39. Recreation Aotearoa submits its support for enhanced clarity of what first aid qualifications are appropriate. But we oppose the inclusion of the example, as the first aid qualifications available to operators are changeable and exposed to changes outside of their control. There is also a risk that the example becomes the norm, and the norm becomes standard.

40. Recreation Aotearoa submits its support for clarity around the provision of first aid to solo guides. However, the proposed additional 'note' could be interpreted as a requirement that a participant be able to administer first aid themselves. This not always the case, it would be appropriate to clarify that 'how first aid will be administered' may include the participant contacting emergency services via field communications.

Proposed changes to Section 8 – Incident Management

41. Recreation Aotearoa submits its support for the recording and reporting of near miss incidents and improvements in the reporting of notifiable incidents to WorkSafe.
42. Recreation Aotearoa notes that the 2010 review of the sector recommended supporting and strengthening the National Incident Database (NID). However, WorkSafe (or MBIE then) was focused on implementing the Adventure Activities Regulations and gave it little attention.
43. Recreation Aotearoa notes that critical to providing safe activities is operators collecting incident information, discussing it openly with staff, and analysing trends. Aggregating that process nationally would considerably enhance safety. Currently, information on significant incidents is hard to obtain.
44. Recreation Aotearoa supports a system by which operators could input information directly to a National Incident Database using an electronic template, or preferably an app. Incidents would include accidents and near hits (usually called near misses) and be mandatory. The experience with the previous National Incident Database was that very few operators used it well and feedback to the sector was sporadic. It also requires an incident severity chart, which would be the basis for reporting. The existing one, that many operators currently use, could be the foundation for a revised version.
45. Over time, WorkSafe should provide workshop opportunities for operators and auditors based on the information on the aggregated incident information they collect.

Proposed changes to Section 10 – Continual improvement

46. Recreation Aotearoa submits its support for the inclusion of 'complaints' into sub-section 10.2 – Internal Review of the SMS.
47. Recreation Aotearoa submits its support, in principle, for improvements that can be derived from the analysis of incidents across the sector. However, the inclusion of language such as 'relevant incidents that are known (or ought to

be reasonably known)' is inherently dependent on the WorkSafe provision of a National Incident Database, as discussed in paragraphs 42-45.

Other issues

48. Recreation Aotearoa submits that there should be a mechanism (constrained at present by the regulations) to evenly spread audits over the year. Currently, the only mechanism available is for operators to move their audit time forward, effectively increasing their cost by paying for a new certificate when their current certificate remains valid. Intervening to spread audits over the year, and indeed across three-years, would enhance the financial sustainability of the audit providers.
49. Recreation Aotearoa notes that the Adventure Activities regime began with five audit bodies but is now down to two. Initially audit bodies were attracted to a market that was thought to include 1500 operators. The current position of about 300 operators isn't financially viable for two or more audit bodies. It is only a matter of time before a monopoly eventuates and operators pay more through a lack of competition. This means that a different financing model needs to be introduced – subsidising audit bodies, reducing audit costs (and sustaining the number of operators), or taking the regime in-house and contracting or employing auditors directly. Recreation Aotearoa looks forward to contributing to the discussion of these critical issues in the future.
50. Regarding the individual auditors, there was clear feedback during the establishment phase of the regime that operators wanted specialist auditors who knew the sector well. This was strongly reinforced by feedback from the Adventure Activities Licensing Authority (AALA), a UK audit regime. This is a critical point and must be held front of mind, whether auditors work for WorkSafe or a third party.
51. Recreation Aotearoa notes that operators are unaccepting of the reasons for auditors not to consult or coach. The sector is small, people tend to know one another, and information sharing is the norm. Any downside is outweighed by the potential value to operators and the goodwill it would bring. Operators

would be more accepting of the audit system if they felt they were getting value for money. For this to happen, the adventure activities scheme would need to be freestanding, that is, it couldn't be based on ISO 17021. Recreation Aotearoa submits that linking to this ISO standard isn't worth the opportunity cost.

Cost implications of proposals

52. Recreation Aotearoa submits that the costs associated with the proposed changes to the safety audit standard could be significant for some operators. Numerous operators have left the sector due to the cost of being audited and registered against the adventure activity regulations, and the numerous spill-over benefits of adventure activity they provided, have been lost to New Zealand.
53. As noted in the previous section, if WorkSafe took a stronger role regarding monitoring audit bodies, and operators reported directly to WorkSafe, audit costs could be reduced.