

Decision-making framework

*HOW WORKSAFE DECIDES TO
INVEST IN STANDARD PROJECTS*

June 2019



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Introduction

The *Investing in Developing and Maintaining Priority Standards Decision Making Framework* (the Framework) describes the approach we will take when deciding if we should provide funds or staff time to a standard project (a project to develop a new standard or review an existing standard).

Purpose

The purpose of this Framework is to ensure that decisions about investing in standards are consistent, transparent and defensible.

The framework describes:

- the factors that guide our decision to invest in a standards project
- how we apply these factors
- a decision making approach.

Background

Standards are documents that set out requirements and specifications to help ensure the safety, performance and reliability of goods, services and systems. Standards are developed by technical committees made up of subject matter experts, academics, industry representatives and regulators. Decisions about the content of standards are made by agreement of the committee.

Our regulatory and non-regulatory instruments (such as guidance) reference a wide range of standards. Standards are a useful part of our regulatory frameworks because they provide technical information in more detail than is practical to include in legislation or guidance.

As the *Health and Safety at Work Act 2015* framework is primarily performance-based legislation, many 'persons conducting businesses or undertakings' (PCBUs) rely on standards to establish health and safety performance requirements.

New Zealand standards

Standards New Zealand is responsible for developing and reviewing New Zealand standards. It operates a cost recovery model and may approach WorkSafe to pay a commissioning fee to cover some of the costs of developing a New Zealand standard. Commissioning fees for New Zealand-only standards are generally more expensive than the commissioning fees for joint standards (discussed below).

Joint standards

New Zealand and Australia work together to develop or review joint AS/NZS standards. In most cases Standards Australia is the lead agency for developing AS/NZS standards. Standards New Zealand pays a commissioning fee to Standards Australia. Commissioning fees range from AU \$1,977 for a simple review to AU \$24,713 for a complex project. Payment of the fee allows New Zealand to participate in development committees, vote on the final content, and enables the standard to be published as a joint AS/NZS standard. If the commissioning fee is not paid, the standard is de-jointed and becomes an Australian standard, even if it is developed by a joint committee.

Payment of commissioning fees

With few industry participants willing to pay commissioning fees, WorkSafe is under increasing pressure to pay, so that New Zealand can continue to participate in the standards development and review process. Industry stakeholders are concerned about the implications of standards becoming de-jointed.

In some cases, investing in standard development may not be a priority for us, especially when there are other mechanisms available that support duty holders to manage risk.

In the first five funding rounds (in three years), we have been asked to contribute to AU\$1.3 million of commissioning fees.

Our participation on standards committees

Our subject matter experts participate in standards development working groups, requiring WorkSafe to cover travel costs to Australia. At January 2019 we have standing members on 47 joint committees. Committee members review and comment on the draft standards, and vote on the final text.

Scope

The Framework outlines our approach to investing in the development and maintenance of a standard. It applies when:

- we are asked to pay all or some of the commissioning fee for a joint standard project
- managers are deciding whether to provide staff time and fund staff travel costs so they can attend committee meetings and working groups
- we are asked to pay or contribute to the commissioning fee for a New Zealand standard
- we want to develop a new standard.

Why do we invest in standards projects?

By participating in standards projects, we can:

- influence the health and safety risk settings in standards to ensure they are appropriate
- provide input into standards so they continue to support the operation of our regulatory frameworks
- ensure that jointly developed standards are appropriate for the New Zealand context; this may include ensuring there are specific requirements applicable to New Zealand duty holders
- support development of standards where industry has a limited number of experts and our people have relevant expertise
- initiate reviews of standards that are no longer fit for purpose
- be aware of changes to standards that may impact on our regulatory frameworks
- ensure our technical specialists keep up with international trends and changes in health and safety risk management, and engage with international peers
- provide our technical specialists with a detailed background to the development process, including what was considered by the committee and what requirements were rejected.

How we invest in standards projects

We invest in standards by:

- funding the commissioning fee for joint AS/NZS standards in full or in part
- funding the commissioning fee for New Zealand standards in full or in part
- providing staff time and paying travel and accommodation costs for staff to attend committee meetings and working groups
- providing staff with time to work on a standard project (reviewing draft, providing advice to working groups).

Part one: The Framework

Factors to consider

WorkSafe is more likely to invest in a standard project when the standard:	WorkSafe is less likely to invest in a standard project when the standard:
- is incorporated into our legislative frameworks (including guidance)	- is not referred to in our legislative frameworks
- establishes a high-level control (eg engineering control)	- establishes a low-level control (eg administrative controls)
- will benefit a large number of workers	- will primarily benefit businesses (financial interests)
- has requirements specific to the New Zealand environment (eg seismic)	- doesn't have requirements specific to the New Zealand environment
- relates to a WorkSafe priority	- does not relate to a WorkSafe priority
- provides information on an emerging risk or novel control	- provides information on a well-established or static control
- is the only source of quality information on how to manage the risk	- is one of many sources of quality information on managing the risk (including ISO/IEC standards)

How to use the framework

PROCESS FOR DECISION MAKING

Step one

Use the factors and the advice provided by the technical specialists to determine whether the standard supports our regulatory frameworks.

- a. Apply each factor to the standard and decide whether we are more or less likely to invest in the standard (think of each factor as a continuum)
- b. Consider the cumulative impact of all the factors. When considered together do they indicate we should or shouldn't invest in the standard?

Step two

If the assessment of the factors suggests that we shouldn't invest, the final step is to consider whether there could be any unintended outcomes from not funding the standard project.

If there could be adverse consequences, it may be appropriate to invest and/or participate on the standards development committee (if possible).

Factors to consider

Is the standard incorporated into regulation?

We are more likely to invest in a standard project if the standard is referred to in regulation, a safe work instrument or guidance, and less likely to invest in a standard that is not referred to.

Standards incorporated into legislation form part of the law and describe what duty holders must do to meet their obligations. We are likely to invest in these standards to ensure they remain fit for purpose and establish appropriate risk management requirements.

Note: Section 53 of the Legislation Act 2012 provides that, where material incorporated by reference is amended after the instrument (regulation or safe work instrument) is made, the amendments have no legal effect as part of the instrument (unless they are specifically incorporated by a later instrument).

While we can amend safe work instruments to refer to updated standards, regulations may not be amended as quickly. Therefore the decision-maker should consider how much impact reviewing the standard will have in the short to medium term.

Our guidance may refer to technical standards that establish specifications or performance requirements for designing, manufacturing, installing and testing plant and structures. We may invest in standards referred to in guidance to ensure they continue to reflect good risk management settings and are fit for purpose.

Note: We have a policy to guide our approach to referring to standards in guidance. When considering whether to invest in a standard referred to in guidance, decision makers should consider the matters discussed in *Operational Policy: referring to standards in regulation and guidance*.

Does the standard describe a high-level control?

We are more likely to invest into a standard project if it establishes a control that is towards the top of the hierarchy of controls, such as an engineering control. We support the use of high-level controls because they provide greater protection to workers by engineering out the risk.

We are less likely to invest in standards that describe administrative controls such as management systems and work processes. Administrative controls provide less protection for workers because they are still exposed to a hazard.

Will the standard benefit a large number of people?

We prefer to invest our resources in interventions that have an impact across the health and safety system. We are more likely to invest in a standard project that will benefit the health and safety of a large number of workers or the general public. A standard is likely to benefit a large number of workers if it describes controls for a large sector, or in a number of sectors.

We are unlikely to invest in a standard where the main beneficiaries are businesses. Some standards require PCBUs to purchase specific goods or services to achieve compliance. Businesses that manufacture or supply goods, or services described in a standard are likely to receive a commercial benefit from the publication of the standard.

Does the standard need to contain requirements specific to New Zealand?

New Zealand has some specific environmental conditions (such as seismic loading) that need to be considered when designing and manufacturing plant and equipment. We are more likely to invest in a standard that addresses New Zealand-specific risks.

We are less likely to invest in a standard that has no requirements that are specific to the New Zealand environment. When a standard does not contain New Zealand-specific information, it may be appropriate for New Zealand duty holders to follow an Australian or international standard.

Does the subject matter of the standard align with our priorities?

To achieve positive health and safety outcomes and to support the government's target of reducing serious injuries and fatalities in the workplace by 25% by 2020, we have identified areas of focus. The areas of focus relate to the industry sectors that have the highest number of workplace injuries, and the most common causes of those injuries. We are more likely to invest in a standard that relates to an area of focus.

Does the standard address an emerging risk or provide new information about risk management?

WorkSafe takes a leadership role in the health and safety system by responding to new and emerging issues. We are more likely to invest in a standard project when it provides information about an emerging risk or significant improvement in risk management. Conversely, we are less likely to invest in a standard project when a lot is known about the risk and the approach to controlling the risk has remained relatively static.

We will request information about the scope of the review. If it does not include updating the health and safety settings we may decide not to invest in the project.

Is the standard the only source of accessible quality health and safety information?

We focus our resources to add value to the health and safety system. This means that we are more likely to invest in a standard project if the standard is the only source of appropriate information available about how to manage or engineer out a risk.

We will consider whether there is guidance or an international standard that provides appropriate information about how to manage the risk. When we decide that an international standard describes an appropriate approach to risk management, we should communicate this to duty holders. Many duty holders believe that they should follow joint AS/NZS or New Zealand standards in preference to international standards.

Where an appropriate international standard is available we should consider the cost to duty holders wanting to purchase the standard. We are unable to influence the price of international standards, whereas Standards New Zealand may be able to influence the price of joint standards. Investing in an Australian/New Zealand standard may be preferable where the resulting product is more affordable.

What are the consequences of not funding the review?

The purpose of this step is to consider any other relevant matters that aren't included in the framework and avoid any unintended consequences that may arise if we don't fund the project.

Some questions to address are:

- What are the consequences of the standard becoming de-jointed?
- Is it likely that a large number of PBCUs will adopt the standard?
- If we aren't involved, could there be an undesirable effect on risk management?
- Is it likely another regulator, industry association, or organisation will fund the commissioning fee?
- Are there any other health and safety regulators on the joint standard development committee who can represent a regulator perspective?

Should we be involved in a standard project?

IS OUR PARTICIPATION IMPORTANT TO ENSURE APPROPRIATE HEALTH AND SAFETY SETTINGS?

The matters discussed above are all relevant considerations when deciding whether we should fund staff attendance at standards development meetings. This section describes some additional matters to consider when deciding if we should participate in working groups.

In cases where WorkSafe has made a contribution to the commissioning fee, it is likely we will want our staff involved in the development of the standard. This is to ensure the content supports the regulatory framework.

We will consider whether participation by the regulator is important to support appropriate risk settings. For example, where the standards will contain requirements specific to New Zealand, it may be important that our staff have input into these.

We may have an interest in participating in standards development even when we don't have a vote on the final content. Even though we don't consider the standard of high importance to the regulatory framework, we may want to be involved if a large number of PCBUs are likely to voluntarily adopt the standard. In such cases, we will be involved to ensure that the standard does not contradict or undermine health and safety legislation or our guidance. In addition, participation by regulators can be important to ensure a standard does not become biased towards business interests.

AVAILABILITY OF TECHNICAL SPECIALISTS

We may also participate in the standards development process where there are very few relevant technical specialists in New Zealand, and involvement of our technical experts is important to ensure the quality of the information in the standard.

STAYING ABREAST OF TECHNICAL DEVELOPMENTS

Participation as standing members on a committee enables our technical specialists stay up to date with the latest technical developments in their areas of expertise. Being up to date on international developments is important to ensure our experts continue to provide high quality advice to WorkSafe.

Part two: How we apply the framework and make decisions

1. **Technical experts** identify standards projects which are relevant to WorkSafe
2. The **Standard Investment Advisory Group (SIAG)** makes investment recommendations to operations managers, and
3. An **operational manager** makes the final decision. The manager responsible for the budget that will fund commissioning fee is the final decision maker.

Technical specialist review

- Technical specialists will identify which standards projects on the work programme are relevant to WorkSafe. A standard is relevant if it establishes health and safety requirements related to work activities undertaken in New Zealand.
- Technical specialists will undertake an initial assessment of the relevant standard using the factors discussed in Part one.
- The technical specialist will also provide advice on potential consequences of the standard becoming de-jointed.
- Technical specialists will record their reasoning. The SIAG will refer to this technical assessment when considering whether the standard project is important to our regulatory frameworks.

The Standards Investment Advisory Group

PURPOSE OF THE GROUP

The purpose of the Standards Investment Advisory Group (SIAG) is to:

- ensure operational, policy, strategy and stakeholder views are considered when making decisions about investing in standards
- identify which standards on the Standards Australia work programme are the most important to our regulatory frameworks, and
- make investment recommendations to the relevant operations manager.

MEMBERSHIP

The membership of the group will change depending on the subject matter of the standards on the work programme. The following teams may be represented on the SIAG:

Operational teams: provide a subject matter expert view on the standard project.

Regulatory frameworks: provide a regulatory policy view and chair the SIAG.

Engagement lead/specialist inspector: support engagement with industry and represent stakeholder interests.

Guidance products: advise whether the guidance development work programme includes guidance on any of the topics covered by the standards projects. Provide advice on whether we could develop guidance rather than commission a standard.

WAYS OF WORKING

Relationship with Standards New Zealand

- The Regulatory Frameworks team will be the main point of contact with Standards New Zealand.
- Regulatory Frameworks will share our decisions with Standards New Zealand

Engagement with external stakeholders

Engagement leads, specialist inspectors and technical specialists will engage with industry stakeholders. The purpose of this engagement is to find out:

- if the standard is adopted by a large number of PCBUs

- whether industry views the standard as establishing good practice
- if industry think it's important that the standard continue as a joint standard (if applicable).

SIAG meetings - frequency

The SIAG will meet twice per year following the release of Standards Australia’s work programme. The SIAG may also meet when Standards Australia proposes standards projects between work programmes.

SIAG meeting - agenda

The Standards Australia work programme often includes 20-30 standard projects that have health and safety implications. To ensure SIAG meetings are efficient, technical specialists will conduct an initial assessment of the standards projects against the factors. Where three factors are identified indicating that we should invest in the project, the project will be added to the agenda.

OUTCOME OF TECHNICAL ASSESSMENT	SIAG AGENDA
<p>Three factors indicate we should invest in the standard project</p>	<p>The standards projects will be added to the agenda for discussion.</p> <p>SIAG will:</p> <ul style="list-style-type: none"> - consider the framework factors - consider the consequences of not funding the review - make recommendation to invest or not to invest - recommend whether we participate in the technical committee (if possible).
<p>Fewer than three factors indicating that we should invest in the standard project</p>	<p>These standards projects will not be added to the agenda unless requested by an SIAG member.</p> <p>The work programme and the assessments by the technical specialists will be shared ahead of the meeting.</p> <p>SIAG can request that the project is added to the agenda if:</p> <ul style="list-style-type: none"> - they consider that the factors indicate we should invest, or - there could be a negative outcome if we don't invest.
<p>Standards projects that external stakeholders have indicated are important to health and safety in their sector</p>	<p>The SIAG will consider all submissions made by external stakeholders.</p>

Recommendations and decision making

The SIAG makes investment recommendations to the appropriate operational manager. The operational manager will make and record the final investment decision.

SHARING DECISIONS WITH STAKEHOLDERS

A number of stakeholders have an interest in our decisions to invest in the development and maintenance of standards. We will share the reasons for our decisions with our social partners, stakeholders and the public on request.

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