

Maritime Operator Safety System (MOSS)

The Maritime Operator Safety System (MOSS) is designed to cover most commercial operations in New Zealand waters, including those using barges and fishing vessels.

To operate within MOSS, operators require a **Maritime Transport Operator Certificate (MTOC)**. All operators must develop a safety system for their operation and prepare and document it in a **Maritime Transport Operator Plan (MTOPlan)**. The legal requirements for MOSS are set out in the Maritime Transport Act 1994 and the

Maritime rules, in particular Maritime Part 19: Maritime Transport Operator – Certification and Responsibilities. Vessel survey and surveyor details are outlined in Maritime Part 44 – Surveyor responsibilities and survey, certification, and maintenance for ships in maritime transport operations.

The ‘OPERATOR’ is the person who has overall responsibility for a maritime transport operation. For much of New Zealand’s domestic commercial fleet, this is likely to be the person behind the wheel of the vessel.



Under Part 5 of the Maritime Transport Act 1994, individuals who exercise control over the operation are required to be **Fit And Proper Persons**. These may be skippers, owners, or those in charge of crewing requirements.



What is in a MTOPlan?

Your safety system must be documented in your MTOPlan, which must cover your entire operation under MOSS. The MTOPlan will also include information about:

- The key people in your operation.
- Vessel details (including survey certificates and reports).
- Survey and maintenance plans.
- Safety equipment and spare parts lists.

Your safety system under MOSS relates directly to your operation and people. To have an effective safety system you need to aim for:

- The identification of all possible hazards, safety risks and emergencies, and all relevant maritime and marine protection rules.
- Procedures and emergency responses related to the operation that are appropriate, and are easy to understand and communicate.

- All relevant staff /crew know, understand and can follow the procedures.
- Document your safety system in your MTOPlan.
- Continually monitor and review the performance of your safety system. Make improvements where needed because your MTOPlan is a living document and must reflect the reality of your operation.



You must test the effectiveness of the MTOP Procedures



! Under MOSS you must have an MTOC if you want to run a commercial maritime transport operation. You will be issued with an MTOC when your MTOP has been approved by Maritime New Zealand (MNZ).

What is a MTOC?

An MTOC is a Maritime Transport Operator Certificate. It is issued by the Director of MNZ under rule 19.22 of the Maritime Rules. An MTOC is a maritime document hence the requirement that the operator maintain their 'Fit and Proper Person' status (refer also to the Fact sheet on the Maritime Transport Act).

An MTOC entitles the holder to conduct a maritime transport operation subject to any conditions

imposed by the Director and specified on the certificate.

An MTOC is valid for up to 10 years. As long as the operator continues to comply with its conditions certificate, the operator's vessel(s) have a valid survey certificate and an approved MTOP and all those named as responsible persons on the MTOP remain fit and proper persons.

What do I need to do to stay compliant in MOSS?

The holders of an MTOC must ensure that their MTOP is up to date and appropriate for the operation and ensure all the vessel(s) and their operations are safe. MNZ will check to ensure continued safe operations during MOSS audits and that the MTOP is being followed.

! Staying compliant is important! MNZ has prosecuted maritime operators for failing to follow the rules around notification and approval when there are changes to key parts of the operation.

Changes to the MTOP?

There are certain changes to the operation or the MTOC that the operator must notify MNZ about. These are:

- When a vessel enters or exits the operation.
- If the name of the operation or trading name changes.
- If the contact details (address, phone, fax, email) for the operation change.

An operator must obtain approval from MNZ before any changes are made to the transport operator details including:

- The full name of the operator.
- The person(s) responsible for the operation, resourcing of the operation, crew training and competency assessments and operational decisions, including the control and scheduling of maintenance and internal quality assurance.
- The primary harbours or ports from which the operation is conducted.
- The category (or categories) and the activity (or activities) of operation that will be conducted under the MTOC.

Link: www.maritimenz.govt.nz/commercial/safety/safety-management-systems/MOSS/documents/MTOP-update-notification-form.pdf

Maintain a valid certificate of survey

Operators must ensure that each vessel that is already part of their operation, or any new vessel is added to the operation, has a **valid Certificate of Survey (CoS)**.

MNZ MOSS audits for ongoing monitoring

The MOSS audit by MNZ looks at how the operation is performing against the operator's MTOP. MOSS audits look at the whole operation and check that the operator is operating safely and following the operator plan, and that they continue to do so. MNZ will get in touch with the operator up to two months before the audit is due to arrange a time for the audit.

Fit and proper person

A new person exercising responsibilities within the MTOP must complete a Fit and Proper Person form.

Link: www.maritimenz.govt.nz/commercial/safety/safety-management-systems/fit-and-proper-person.asp.



Maritime Operator Safety System (MOSS)



Thinking about MOSS, DO ...

- Give yourself plenty of time. Start the process of applying for or developing your MTOP early! That might be six months before you will begin operation.
- Include all of your safety processes and procedures in your MTOP that pose a risk, even if they have been done for years and appear common sense. Write all procedures with risk down!
- Remember that enforcement officers will also question if you even have a rule or procedure if it's not written down, and this may result in a prosecution during an investigation.
- If making a change to the key operating details in your MTOP such as vessel type, company name, home port and area of operation, seek approval for the change from MNZ.
- Make sure your vessel has a current survey at all times. Put in place a diary/warning system to remind you when a survey or safety equipment is due to expire.
- Actively check procedures are being followed and that they are suitable. You need to monitor compliance yourself. MNZ audits are not the time to discover something is not working correctly.
- Regularly ask your workers if anything has changed in how they do things, or if there are any new things they are doing. Make sure the procedures reflect the actual processes being used by workers. Review any gaps between what is being done and what the MTOP says should be done and decide how to align the procedures with the MTOP. Complying with the MTOP regardless of who produced it is the Operators responsibility.
- When an incident or accident occurs, or new hazards are identified, consider whether your MTOP procedures need changing.
- Record safety conversations or meetings - make a note of every conversation about your MTOP or training or safety matters. A diary note you had the conversation is fine. This shows you are actively engaging in safety matters.



Thinking about MOSS, DO NOT...

- Set up your system, get busy and then forget to maintain it. Don't let this happen. Monitor your own workload to make sure you have enough time to actively monitor your system. If you don't have the time yourself or the skills within your business, get some help.
- Lose sight of the fact that as a director or a key person of a business that is a maritime operation, you need to actively engage with the system. You can't park it up and forget about it, even if you employ someone to look after your MOSS system remember it's your responsibility to follow it and run a safe operation.
- Forget to make changes to your MTOP and notify MNZ/seek approval for events such as adding a new vessel to your MTOP or changing the activities of operation. You may be prosecuted if you fail to do these things.
- Let regular safety meetings become box ticking exercises. Actively inquire into what your workers are doing, get them to explain a particular procedure or process, ask if they have any problems doing a particular task.
- Think MNZ audits satisfy the requirement to monitor your workers compliance with your MTOP. That is your job.
- Allow shortcuts to become the norm. People operating on the front line often change or modify procedures as they go, or become more familiar with the operation, and sometimes shortcuts become the norm. Think about how you can check your crew are following the system. If need be, review the MTOP procedures to see if it is these that need changing rather than the actions crew actually undertake.
- Forget that MOSS dovetails with obligations under the Health and Safety at Work Act 2015. Both sets of rules are designed to ensure safety of workers and you must comply with both. MOSS compliance alone does not mean Health and Safety at Work Act 2015 compliance too.