

Regulatory Impact Statement

Shipping (Charges) Regulations 2000: Maritime Operator Safety System fees

Agency Disclosure Statement

This regulatory impact statement has been prepared by Maritime New Zealand (Maritime NZ) for the Ministry of Transport.

It provides an analysis of options to meet the costs to Maritime New Zealand of providing regulatory services under the Maritime Operator Safety System (MOSS) established by Maritime Rules Parts 19 and 44. The separate regulatory impact statement prepared for Rules Part 19 and 44 provides the options analysis for delivery of an effective safety system for maritime operators¹

The services include recognition of surveyors, audit of surveyors and maritime operations, processing applications for a Maritime Transport Operator Certificate and for amendments to Maritime Transport Operator Plans. The analysis excludes an external service delivery model.

The proposed fees are based on the fully allocated hourly costs of Maritime NZ directly chargeable services, as established by the Maritime NZ funding review in 2011/2012, following an independent value for money review undertaken by Ernst and Young. The hourly cost established by the funding review formed the basis for increased fees for other Maritime NZ services that were implemented with effect from 1 July 2013, as part of the government decision to move Maritime NZ chargeable services progressively onto a full cost recovery footing over a six year transition period.

Maritime NZ carried out a 'ground up' analysis of the effort required for each MOSS regulatory service provided, measured in hours and part hours, and applied the hourly cost (transitioning up to full cost recovery in three tranches over six years) to generate cost assessments.

A new IT system will be introduced in 2014 to provide support, including online processes, for MOSS. It is estimated that MOSS will generate 25 percent of the system's activity and on that basis 25 percent of IT depreciation, interest, software and maintenance costs will be met through MOSS fees. This equates to an additional \$11 per hour for every hour of chargeable activity and is reflected in the proposed fee structure.

The fees proposed would result in an 11 percent average increase in costs for a single vessel operator over the 10 year MOSS certification cycle compared with costs under the existing SSM system. Costs for multi-vessel operators would reduce (by around one third for a 10 vessel operator). Single vessel operators represent some 85 percent of total operator numbers.

Some submitters to consultation on the fees proposal have disputed cost comparison as overstating the costs of the current system. Maritime NZ considers the comparison valid, as it

¹ www.transport.govt.nz/assets/Uploads/Sea/Documents/Rgulatory-Impact-Statement-Maritime-Operator-Safety-System.pdf

includes the costs that would have applied to the existing system had it been retained, as opposed to historical cost.

Other submitters considered the cost of the new system will drive small operators out of business or lead them to operate illegally. Maritime NZ considers that changes to proposed application fees will partly address these concerns, as would resolution of unfounded concerns that the system harbours other, hidden costs.

Due to potential change in future demand for MOSS services, assumptions made around a phased transition to full cost recovery, and the impact (and cost) of the new technology, the proposed fees will be subject to review within 3 years.

The revised fees would not impair private property rights or market competition unnecessarily given the objective, and will not override fundamental common law principles.

Louise Dooley

Principal Policy Advisor

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Executive summary

1. From 1 July 2014, a new Maritime Operator Safety System (MOSS) established by Maritime Rules Parts 19 and 44 will replace the existing Safe Ship Management (SSM) system for domestic commercial maritime transport operators.
2. A key feature of MOSS is that Maritime NZ) will carry out regulatory approvals and audits that are delegated to commercial Safe Ship Management companies under the SSM system.
3. Maritime NZ will be responsible for all regulatory functions under the new system, including processing applications for Maritime Operator Safety Certificates, operator plan amendments and recognition of surveyors, and for auditing maritime transport operations and recognised surveyors.
4. The Shipping (Charges) Regulations 2000, which specify fees for Maritime NZ regulatory services, do not provide for specific fees for the delivery of MOSS services.
5. Amendments to the Shipping (Charges) Regulations 2000 are necessary to establish fees for the full range of services to be provided by Maritime NZ for the purposes of MOSS.
6. Maritime NZ has developed a fee structure for MOSS services based on the \$235 (GST incl) hourly service delivery cost identified by the Maritime NZ funding review in 2011/12. This rate was adopted as part of a Cabinet decision in March 2013 to move Maritime NZ fees progressively onto a full cost recovery basis and phase out the use of safety levies to subsidise fees, with a six year transition period mitigate the impact of the significant fee increases that would be necessary [EGI Min (13) 6/1, CAB Min (13) 10/6 refer].
7. The impact of the proposed MOSS fees is smoothed by moving them to full cost recovery in three steps over the next six years. In years one to three fees are based on the rate of \$166 (incl GST) applied to the second year of the six year transition for other, existing Maritime NZ fees. In years four to six fees are based on the year five transitional rate of \$218 (GST incl), after which they move to full cost recovery. Until then, as for other Maritime NZ fees over the six year transition period, unrecovered costs will be met from levies.
8. The combined effect of Maritime NZ's increased regulatory functions under MOSS and the application of hourly rates based on full cost recovery means that the majority of maritime transport operators will experience increased compliance costs under MOSS if the proposed fees are adopted.
9. Cost increases for some areas of activity will be considerable (more than double) but, based on average costs under both SSM and MOSS, a single vessel operation will on average experience an 11 percent cost increase. Multi-vessel operators will on average experience reductions in costs (for example, a 10 vessel operator's costs would be around 36 percent lower).
10. The comparison includes the cost of vessel surveys, which are an integral part of both the SSM system and MOSS, and under both systems are provided commercially by recognised surveyors. Survey costs comprise the larger part of a multi-vessel operator's costs under both systems, while regulatory functions now performed solely by Maritime NZ make up over half of a single vessel operator's costs under both systems.
11. The limited regulatory role of Maritime NZ under the SSM system, and its central role under MOSS, mean that the costs of Maritime NZ regulating the respective systems are not comparable.

Status Quo and Problem Definition

Maritime New Zealand regulatory role

12. Maritime NZ has direct responsibility for all regulatory functions under MOSS, which includes processing applications for Maritime Operator Safety Certificates, operator plan amendments and recognition of surveyors, auditing maritime transport operations, and auditing recognised surveyors.
13. The maritime rules giving effect to MOSS specify that it will come into force on 1 July 2014, and that from 1 April 2014 maritime transport operators will be able to apply for a Maritime Transport Operating Certificate. Surveyors wishing to be recognised to survey ships under MOSS will be able to apply for such recognition from that date.
14. The Maritime Transport Act 1994 provides for regulations to fix fees and charges to meet, or assist in meeting, costs and expenses incurred by Maritime NZ in providing services under the Act. The Shipping (Charges) Regulations 2000 made under the Act do not prescribe charges for new regulatory activities to be performed by Maritime NZ for the purposes of MOSS. In addition, while the regulations prescribe a fee for recognition of surveyors and a generic fee for audits of maritime activity, both of which can be employed for MOSS purposes, the fees specified in the regulations would not cover all costs specific to performing those functions within MOSS.
15. For Maritime NZ to be able to recover the costs of regulating the new system, new fees will need to be prescribed for the new activities specified in the MOSS rules, and for the recognition of surveyors and the conduct of audits for the purposes of MOSS.

Maritime NZ funding review

16. In 2011, the Maritime NZ funding review examined the relationship between Maritime NZ functions, funding sources and expenditure, and between the actual cost of Maritime NZ chargeable services and the fees specified in the relevant fees and charges regulations.
17. MOSS fees were excluded from the Maritime NZ funding review because revised maritime rules to implement the new system were still under development, stakeholders were yet to be consulted, and costs specific to the new framework were still being modelled.
18. The review found that the average hourly rate of \$104 (GST incl) for chargeable services, on which fees were based, fell far short of fully-allocated service provision costs of \$235 (GST incl) per hour. The shortfall between the actual costs of chargeable services and fee revenue is met from the marine safety charge levied on commercial ships to pay for safety services to shipping, such as radio services and aids to navigation (club goods), that are not amenable to direct user charges.
19. Following the funding review, Cabinet agreed in early 2013 to a future funding scheme for Maritime NZ to achieve a transition to full recovery for directly chargeable services, to be matched by a corresponding reduction in the marine safety charge². Revised fees and levies

² www.transport.govt.nz/assets/Import/Documents/RIS-Future-funding-of-Maritime-New-Zealand-Proposal-for-revised-third-party-changes.pdf

based on the review data have been implemented with effect from 1 July 2013 for maritime operations, marine environment protection and ship registration³. The fee increase is being phased over six years to progressively remove the cross subsidy from levies and mitigate the impact of fee increases for fee payers. Fees recovering the full \$235 (GST incl) service provision cost will not take effect until 2018/19.

Maritime Operator Safety System costs and fees

20. Consultation on the Maritime Operator Safety System was completed in 2012. The new Rules Parts 19 and 44, giving effect to the system, were signed by the Minister of Transport on 3 October 2013, and will come into force on 1 July 2014. Three months earlier, 1 April 2014, is the first day on which those required to operate under the system (maritime transport operators and surveyors wishing to be recognised under the system), may apply for the necessary maritime documents.
21. Maritime NZ has carried out 'ground up' modelling of the time and effort required to process each type of application that may be made under Rule Parts 19 and 44. Base times were established for processing each type of application. Transaction volumes were reviewed, taking into account when existing operators are due to enter the MOSS system as their SSM certification expires, and any trends or other factors likely to influence future demand were taken into account. Efficiency factors were taken into account, including the 'future state' impacts of a transition to new technology and systems, an expected rise in the number of general queries, and the effect of staff turnover, experience levels and training requirements on productivity.
22. The funding review's analysis of the fully-allocated hourly cost of Maritime NZ chargeable services is equally relevant to the costing of MOSS regulatory services, and Maritime NZ has developed a fee structure based on the review's cost analysis and its consequent analysis of effort for MOSS services.

Problem statement

23. The problem has two dimensions:
 - A. Maritime NZ's cost analysis shows that some general fees under the Shipping (Charges) Regulations 2000, if applied in the MOSS context, would recover less than the service provision costs incurred by Maritime NZ
 - B. New certificates and approvals that will be required under the MOSS Rule are not named in the Regulations, so no fees would apply to them
24. In respect of dimension A, the Shipping (Charges) Regulations 2000 prescribe a fee for the recognition of surveyors and for 'audits and inspections of maritime activity'. These extant fees could be applied in the MOSS context but, notwithstanding that they reflect hourly rates agreed by Cabinet following the Maritime NZ funding review, they do not reflect the additional per hour charge required to recover MOSS share of the cost of operating Maritime NZ's new IT system. An estimated 25 percent of activity on the system will relate to MOSS, which as a percentage of system costs equates to \$160,000 per annum. Recovering that amount requires \$11 per hour to be added to the hourly rates currently prescribed in the regulations for audit and for surveyor

³ Shipping (Charges) Amendment Regulations 2013, Ship Registration (Fees) Regulations 2013, Marine Safety Charges Amendment Regulations 2013

recognition - but the additional amount would apply only to an audit of a MOSS operator or surveyor and the recognition of a MOSS surveyor.

25. Not amending the rates would under-recover the MOSS portion of the IT costs by \$93,000 per annum. It would not be appropriate to load the unrecovered cost on to other MOSS fees or to cross-subsidise through drawing on marine safety charge monies.
26. In terms of dimension B, the Shipping (Charges) Regulations 2000 specify no fees that would enable Maritime NZ to charge for applications for a Maritime Transport Operating Certificate, or for an application for approval of an amendment to a Maritime Transport Operating Plan. In the absence of such regulations, Maritime NZ would under-recover the cost of those regulatory activities by \$1.263 million per annum.
27. The absence of a fee may also create an incentive to take advantage of 'free' applications for maritime documents/approvals. Operators could apply to enter the system earlier than the transitional provisions anticipate, in order to 'get in' ahead of any fee and enter MOSS (if accepted) with no charge. This would increase workload for Maritime NZ, would create difficulties in planning workload peaks (which could not be assumed to occur in the transitional sequencing assumed by the expiry dates of extant SSM certificates), and compromise the agency's ability to deliver an efficient service.

Objective

28. The objective of the proposal is to ensure sustainable, efficient, equitable funding of Maritime Operator Safety System services provided in accordance with the Maritime Transport Act 1994, and the applicable maritime rules.

Options and Impact analysis

29. Two non-regulatory options, (external service delivery and the status quo) and one regulatory option, were considered as potential responses to the problem. The regulatory option considered the different elements that would be necessary to provide an effective response to both dimensions of the problem. The two non-regulatory options are not considered feasible options for the reasons discussed below, and were not considered further.

External service delivery

30. The Maritime Transport Act 1994 provides for contracting out or delegation of functions to an alternative service provider after a competitive process where this is considered to provide the most efficient and effective outcome.
31. External service delivery characterises the safety system that MOSS will replace and has been found (under SSM) to be producing outcomes that compel bringing oversight of maritime transport operators (including acceptance of safety systems and audit of the same) back to Maritime NZ.
32. Under SSM, the survey of vessels is conducted by recognised surveyors in employed by SSM companies. The MOSS system does not bring the provision of survey services into Maritime NZ but retains Maritime NZ responsibility for the recognition of surveyors. Surveyors might or might not be employed by a company but in either event will be able to charge a commercial rate for their services. Their performance will be monitored and audited by Maritime NZ, and Maritime NZ will specify requirements for the performance of surveys.

33. The use of an alternative service provider to provide services other than survey would go entirely against the intended outcome of MOSS, and the structural failings of the system if replaces. It was not therefore considered as a feasible option in identifying the fees required under MOSS.

Status Quo

34. The status quo is not a feasible option: it involves retaining the Shipping (Charges) Regulations 2000 without amendment, despite the introduction of the MOSS rules, which introduce a new maritime document and Director's power to approve an amendment to an operators' maritime transport operating plan. It is estimated that the absence of such named fees would cost Maritime NZ \$1.263 million (excl GST) in the 2014/15 financial year and \$4.611 million (excl GST) over the first four years of MOSS.
35. It would potentially have negative consequences for the planned transitioning of current maritime operators into the MOSS system, as it would perversely incentivise early entry (on the assumption of those applying that the fee 'gap' will be addressed at some stage). This would create workload/resourcing issues for Maritime NZ and would compromise the efficiency of its regulatory activities.
36. The extant regulations include named fees that could be relied on for the purpose of auditing MOSS operators and surveyors, and assessing applications for surveyor recognition. However, the hourly rates for these feeable activities do not include the cost of maintaining the IT system that will be used 25 percent of the time for MOSS activity. Not applying the additional \$11 per hour to meet those costs would reduce Maritime NZ's recovery of the same by \$93,000 per annum in year one and \$91,000 per annum thereafter. Furthermore, because the regulations specify only an hourly fee for the relevant activities, they would not accommodate the use of a fixed fee component to cover the cost of straightforward transactions that take a consistent amount of time to complete, with an hourly charge for more complex activity (as is proposed for surveyor fees).

Amendment to existing fees and the inclusion of new fees in the Shipping Charges Regulations 2000

37. This option would see the Shipping (Charges) Regulations 2000 amended to ensure all feeable activity performed under MOSS is fully cost recovered within six years of MOSS coming into force. This approach follows the Maritime NZ future funding model agreed by Cabinet in March 2013, under which directly chargeable services will move to full cost recovery and levy subsidisation of services will be phased out over a six year period.
38. The option addresses two groups of constituent elements:
- the hourly charges necessary to achieve the gradual transition to full cost recovery, including hourly service delivery rates derived from the Maritime NZ Funding Review, recovery of IT costs attributable to MOSS, and the treatment of cost-recovery for activities undertaken off-site
 - changes to existing fees, and the addition of new fees, to ensure that the fees cover all MOSS activities undertaken by Maritime NZ and accurately reflect the hourly charges necessary to recover the costs of MOSS regulatory services

Gradual transition to full cost recovery

39. The transition to full cost recovery would align with decisions made in the context of the Maritime NZ funding review to increase hourly rates for feeable activities to full cost recovery over a six year period.

40. The hourly rate increases for feeable activities under MOSS would be 'smoothed' over two three year phases, rather than escalated year by year. This will ensure that operators entering into the system over each three year period will pay the same fee rates during that period. This will be more equitable and will avoid creating an incentive to enter the system earlier than necessary, which would be disruptive to Maritime NZ workflow and capacity management over the transition period.
41. For years one to three of the MOSS system, the year two (2014/15) hourly rate of the six year transition period (\$166 (GST incl))⁴ has been adopted as the base rate for the new fees (and for amendments to existing fees that will be applied in the MOSS context) subject to an additional component to cover the MOSS share of IT systems costs over the three years 2013/14 to 2015/16, bringing the total rate to \$179 (GST incl).
42. For the fourth to sixth years of MOSS, the Year 5 rate (\$218 GST incl) has been applied (plus the IT system cost component of \$11 per hour), bringing the total rate to \$231 (GST incl).
43. At and from the seventh year of MOSS, the Year 6 rate (\$235 GST incl) has been applied (plus the \$11 per hour IT cost), bringing the total rate to \$248 (GST incl).

Including \$11 per feeable hour to cover the cost of maintaining the IT system

44. Maritime NZ is introducing a replacement IT system for its data, processing, and information collection requirements. The system will provide support, including online processes, for MOSS, which it is estimated will generate 25 percent of IT system activity. On that basis, 25 percent of IT depreciation, interest, software and maintenance costs are met through MOSS fees. This amounts to \$160,000 per year and based on the estimated quantum of MOSS-related activity would translate to \$11 an hour (GST excl).
45. Options for meeting the cost of the IT system (other than its initial purchase) were considered, including absorbing the cost within baseline funding. The Treasury and Office of the Auditor General guidelines were applied to the consideration and a decision was made to propose recovery through adding \$11 per hour (GST excl) to all feeable MOSS activity.

Including a rate for off-site activities

46. Many chargeable Maritime Operator Safety System-related activities will routinely be undertaken by Maritime NZ staff out of the office. In particular, off-site visits will be necessary for the purpose of assessing applications for a Maritime Transport Operator Certificate, and for the auditing of operators and surveyors. The effect of charging for both the time and cost of travel is that operators in remote locations pay considerably more than those based close to a Maritime NZ office. Operators in remote areas are thus disadvantaged purely due to geographical location.
47. The impact of travel-related costs can be evened out by averaging costs over all routine off-site activities, rather than charging directly for the time and expenses for each off-site visit. The Maritime NZ funding review established that this could be achieved by a one third loading on the office-based cost applied to the time actually spent undertaking the off-site activity. For any follow-up visit to deal with matters specific to the individual operator, charging should revert to the standard hourly rate plus time and cost of travel.

⁴ Under the six year transition adopted for other Maritime NZ fees the GST incl hourly rate on which fees are based increases in six steps from \$144 in 2013/14 to \$235 in 2018/19

48. This approach was agreed in relation to other Maritime NZ off-site activities as part of Cabinet's March 2013 decision on Maritime NZ future funding.
49. It is proposed that the same approach be applied for the purposes of the Maritime Operator Safety System, with the one third loading applied to the office-based rate. Under this formulation, the loaded rate would be applicable to the actual time spent undertaking an activity at an off-site location and to time spent in the Maritime NZ office in relation to that off-site activity.

Amending existing fees to reflect the cost of performing the same feeable activity in the MOSS context

50. Several of the feeable activities that will need to be carried out under MOSS are named in the Shipping (Charges) Regulations 2000 and have an applicable hourly rate that reflects the full cost recovery decisions arising from the Maritime NZ funding review. Those fees are: 'audits and inspections of maritime activity' and 'recognition of surveyors'.
51. The existing generic fee for 'audits and inspections of maritime activity' can be relied on to charge for audits of MOSS operators and surveyors. However, the hourly rate specified in the regulations does not factor in the IT cost of \$11 per hour for MOSS. If the fees were not revised to include this cost, Maritime NZ would not recover \$90,000 of the estimated \$160,000 per year of IT costs attributable to MOSS activity. It is considered appropriate that audits carried out under MOSS are subject to an hourly charge that includes the relevant IT costs.
52. The existing fee for 'recognition of surveyors' could also be relied on, as is, to charge for the processing of applications for surveyor recognition under MOSS. Again, however, it does not include the IT cost component, and if not amended would not enable Maritime NZ to recover \$3,000 per annum of the IT costs. It is recognised that this is negligible, but in principle the users of the system should pay equally for it and excluding the IT cost from one part of the fee structure would not be justified on the basis that the cost recovery foregone is minimal.
53. Further, the current recognition of surveyor fee is subject to an hourly charge. The fee proposal for an application for surveyor recognition under MOSS was that the various types of application (these being for recognition, for an extension to recognition, and a renewal of recognition), should attract an initial fixed fee (based on an average of the minimum effort hours in assessing such applications), but also a variable fee based on each additional hour spent on an application. This ensures that straightforward applications incur a minimal fixed fee, while those that are complex or more resource intensive are charged on the basis of extra time taken. This proposal cannot be accommodated in the extant 'recognition of surveyor' fee, which is entirely based on an hourly charge with no fixed component. The surveyor fee proposals are at Appendix 1.

Adding new fees to enable the recovery of costs associated with activity specifically required under MOSS

54. Two new fees need to be named in the regulations to enable Maritime NZ to recover the cost of new activities required under the MOSS rules. These are: processing an application for a Maritime Transport Operating Certificate, and processing an application for approval of an amendment to a Maritime Transport Operating Plan. The fee proposals are at Appendix 1.

Impact of MOSS fees on industry and surveyors

Individual maritime transport operators (multi vessel operations)

55. Based on an analysis of the averaged costs of MOSS over a 10 year period, relative to the cost of SSM, the proposed fees would see multi-vessel operators paying on average approximately \$5,000 less per annum in safety system costs, and around \$3,500 less in 'entry' costs. The

corresponding reductions for an example 10 vessel operator would be \$7,000 and \$5,000. The comparative analysis is based on a number of assumptions, including that: the costs of survey will not increase under MOSS (noting this is not a charge applied by or controlled by Maritime NZ); audits under each system occur at the minimal base frequency; and Maritime NZ-related SSM fees would be charged at the new hourly rates introduced in the context of the Maritime NZ funding review.

56. Due to the design of the MOSS system, multi-vessel operators will benefit from not having to have a separate operating certificate for each vessel. Each vessel will need to be separately surveyed (as under SSM) but the Maritime Transport Operator Certificate will be able to cover the entire operation and all vessels in it.
57. The larger an operation, the more an operator can enjoy 'economies of scale' under MOSS in terms of the fee impacts. For example, audits of a multi-vessel operation will not require every vessel to be audited, but rather a sample of vessels, and the 'on site' assessment of a Maritime Transport Operator Plan will not cover every vessel.
58. Where there are fewer than 10 vessels (but two or more), it is estimated that total costs will be lower but the reduction in costs will not be as great as for larger operations.

Individual maritime transport operators (single vessel operators)

59. As around 85 percent of maritime transport operators have a single vessel, the impact on this part of the maritime sector is proportionately of most significance.
60. A comparison of the 10 year costs of MOSS relative to SSM, based on averaged estimated SSM costs and assuming base audit and survey frequency under each model, indicates that single vessel operators will pay (on average) 11 percent more under MOSS than under SSM.
61. Submissions on the consultation document, which included the comparative cost analysis, were critical of it. The general view among submitters is that MOSS will be significantly more expensive. Based on submissions, the average cost year on year under SSM is between \$500 and \$750 but the averaged MOSS cost per annum is estimated to be \$1,400. This reflects at least a 100 percent increase in costs and in some cases more.
62. In terms of the apparent misalignment between the estimated SSM costs and the costs operators are advising they are actually experiencing, the following is by way of explanation.
63. Prior to the funding review, Maritime NZ did not charge for issuing SSM certificates or for compliance checks. From 1 July 2013, SSM certificates have been charged for (at \$360 each), so only a small proportion of operators have experienced this cost. It was factored into the cost comparison because it was important to compare future costs of both systems rather than historical costs.
64. SSM Certificates over a ten year period for a single vessel operation would cost approximately \$1,400 (this assumes hourly rate increases across a six year transition period to full cost recovery). Further, compliance checks have been factored into the SSM costs. These checks will occur six months after the issue of an SSM certificate and cost on average \$1,800 over ten years. Again, this cost would not have been experienced to date by SSM operators. Appendix 2 illustrates the differences between historical and future SSM costs: it identifies the Maritime NZ fees for issuing an SSM certificate and for inspections, which are both additional to historical SSM costs.

65. A further assumption is that there would be five surveys over 10 years under SSM and that each survey would include an audit, at an average cost of \$1,400. Under MOSS there would be four surveys (at an average of \$1,200 per survey) and, on average, three separate audits at \$2,500 each. Submitters advised that their survey and audit costs have been much lower than \$1400 (combined), but the Maritime NZ estimate was based on an average of what was known to be the industry average (based on the charges of two SSM companies that together hold 73 percent of the market).
66. In summary, the information from submitters re SSM costs does not align with the information Maritime NZ held on SSM company charges. This may be a reflection of the size of operations run by those who submitted. Further, the fact that 'new' Maritime NZ fees pertaining to SSM were factored into the cost comparison means that the resulting SSM costs are higher than most operators have been used to.
67. It is recognised that increased compliance costs are not desirable. However, the MOSS and SSM models are entirely different in terms of the focus (and cost) on entry and maintaining safety standards. The more rigorous assessment process for initial entry into MOSS and the use of audits to verify operators' ongoing compliance are critical to securing improved safety performance standards but require more effort and time from Maritime NZ's.
68. The combined effect of more thorough safety oversight under MOSS and the transition to fully recovery of Maritime NZ regulatory service costs has meant that entry and audit costs for MOSS will be higher, although changes to other aspects of the new system provide offsetting savings, for example though different audit and periods and operator rather than vessel-based certification and auditing. In response to submissions received about the proposed MOSS fees (in particular the proposed MTOC application fee), a decision was made to move from a fixed fee (reflecting average costs and dependent on the complexity of an operation as categorised by Maritime NZ), to a partially fixed and partially variable fee.
69. The fixed component reflects 3.15 hours of predominantly administrative and processing time required for each and every application (including one fit and proper person check). The balance of the fee, which will be incurred on an hourly charge basis, would reflect the time taken above 3.15 hours. A straightforward operation involving one vessel and a single operator could incur a fee reflecting a total of seven hours effort (a decrease of almost \$500 on what they would have paid under the entirely fixed fee proposal).
70. The SSM v MOSS cost comparison table in the fees consultation document assumed three audits over a 10 year period, with each taking 10 hours to complete. Again, this was an average estimate. Operations with relatively low complexity and a good compliance history would likely have audits at the low end of the indicative time range (six hours) and would have a reduction of \$3,000 in MOSS fees (over a 10 year period) For the very simplest operations, up to two hours could be deducted from each audit where an operator is very well prepared and has a good compliance history. This would reduce MOSS fees (over a ten year period) by at least a further \$1000.

Surveyors

71. The fee proposals concerning surveyors (the fee for an application for recognition, and an hourly charge for audit) represent a significant increase in compliance costs for surveyors but are not expected to have a material impact on the ability for existing surveyors to continue in their line of work. Maritime NZ has not historically charged for surveyor recognition (until recently) or for the audit/inspection of surveyors. This reflected an approach that has recently been revised in direct consequence of the value for money review and funding reviews of Maritime NZ.

72. Many existing surveyors, most of who are in SSM company employment, have hitherto not paid any fees to Maritime NZ. The compliance cost 'base' for surveyors is therefore zero. The 'new' costs of surveyor recognition (between \$583 and \$4,450) and surveyor audit (up to two days at the applicable hourly rate) therefore compare unfavourably. For a competent surveyor with a good history, however, 'entry' into MOSS could be at the lower end (less than \$600) and an audit may be of considerably less than two days' duration. There is no fixed audit frequency for surveyors: they will be conducted according to risk, assessed from monitoring and other intelligence. On the basis of two one day audits and a medium cost initial entry and renewal fee over a ten year period, a surveyor would pay \$6784 in compliance costs for a decade of surveyor activity.
73. Concerns were raised in submissions on the fee proposals that the increase in surveyor costs would have two negative effects, namely that fewer people would seek surveyor recognition under MOSS, and that those who were so recognised would pass compliance costs on to operators being surveyed.
74. Maritime NZ does not anticipate that the majority of existing surveyors will be discouraged by the entry costs. Given that most surveyors currently work for SSM companies that are expected to morph into survey companies from 1 July 2014, neither the entry fee nor potential audit costs should be a deterrent.
75. Passing on a 10 year compliance cost of \$6784 through survey charges is not expected to materially increase survey costs on a per vessel basis. Assuming a client base of 40 operators with 50 vessels, with each vessel surveyed four times in a decade, a surveyor would conduct a total of 200 surveys over the ten years. On this basis, the surveyor would need to charge an extra \$34 per survey to recover the \$6,784 compliance costs over that period.

Consultation

76. Consultation with the maritime industry and the general public on the proposed fees took place between 14 October 2013 and 11 November 2013. The proposals were issued in discussion documents published on Maritime NZ's website, sent directly to key stakeholders, and sent to those who had previously made submissions on the Maritime Operator Safety System (MOSS).
77. A large majority of the 55 submissions received on the proposed fees expressed concern at the high costs of MOSS under the proposed fee structure. A large proportion of submitters were small operators, and many of these were single-vessel seasonal operators. Key concerns around the proposed fees included:
 - significant concern at the difference between the proposed fees and the historical costs under the Safe Ship Management (SSM) system
 - the comparisons in the consultation document between the historical costs paid by operators and the proposed fees did not accurately reflect the fees operators were paying
 - operators who were already in SSM opposed the idea of paying an initial entry fee on transition into MOSS
 - the size of the initial entry fee
 - the proposed fees would force operators with small profit margins out of business
 - disappointment that the size or seasonal nature of the business was not reflected in the proposed fees
 - concern that small operators would be forced out of business and become illegal operators

- the use of an hourly rate for audits leaves operators with uncertainty as to the probable cost of an audit

Response to submissions

78. The rationale behind charges making up the initial entry fee was comprehensively reviewed in response to submissions. This consideration also included the reasons why it was proposed that operators already in SSM would be required to pay an application fee to transition into MOSS. This requirement was put in place to ensure that all operators entered the new system with the same level of scrutiny, in order to improve safety across the board. This requirement was not removed.
79. In terms of applying a fee regime based on the turnover or number of days that a business operates, the same costs are incurred by Maritime NZ regardless of such factors. As the fees are based on the principle of cost recovery, as agreed to in the funding review, these fees were not reduced for small or part-time operators.
80. Moving some of the initial application fee from a fixed fee to an hourly rate was considered to partly address what small operators felt was a high level of fees. By moving to an hourly rate, all operators would pay only for the time spent assessing their operation (as opposed to all paying according to the average time that Maritime NZ expected it would take to assess such applications).
81. Concerns that small operators may be forced out of business or become illegal operators would be partly addressed by moving the fee to an hourly rate based on actual time taken rather than a fixed fee based on average time estimates. These concerns can also be partly addressed by clarification of misunderstandings about the incidence of costs – for example, audit frequency and the range of matters for which an operator would be charged. Although the comparative costs illustrated in Appendix 2 clearly show an 11 percent annual average cost increase over the 10 year MOSS cycle for a single vessel operation, that equates to around \$120 (excl GST) per annum, and represents all costs of the new system. It will need to be made clear that there are no hidden additional Maritime NZ costs.
82. The negative aspect of charging activities at an hourly rate is that it does not provide operators with certainty of compliance costs. This uncertainty had to be measured against concern that averaged set fees would exceed the actual cost of processing applications received from the smallest and least complex operations. On balance, it was considered more appropriate to focus on concerns about cost and deal with the ‘uncertainty’ consequence through other means. Such means include operator education and guidance, and the provision of free information about how to prepare good quality Maritime Transport Operator Plans, and how to prepare for site visits.

Conclusions and recommendations

83. The Maritime Operator Safety System that will replace SSM in July 2014 was adopted on the grounds that it represented a model capable of delivering improved safety outcomes in the commercial maritime transport industry. Those outcomes can be met through higher entry controls for both operators and surveyors and a compliance regime that ensures on-going adherence to the safety system accepted by the Director. These matters are addressed specifically in the Regulatory Impact Assessment prepared for Maritime Rules Parts 19 and 44 that implement this new system⁵.

⁵ www.transport.govt.nz/assets/Uploads/Sea/Documents/Rgulatory-Impact-Statement-Maritime-Operator-Safety-System.pdf

84. Maritime NZ applied the recently agreed revised hourly rates for feeable activities to form the basis for hourly charges, and closely analysed effort hours (broken down in detail by component processing parts) for any fixed fees. Maritime NZ relied on previous accepted analysis of the cost of Maritime NZ undertaking feeable activities. In respect of fixed fee proposals, Maritime NZ is confident of the rigour of the analysis of effort hours.
85. The submissions raised a number of issues, most of which centred on cost. In considering the submissions Maritime NZ re-examined the fee proposals and tried to come up with any possible options for reducing the fees. The applicable hourly rates could not be adjusted, as these reflect the actual cost of delivering feeable activities. Amendment of variable fees (such as for audit, and any time beyond the initial consideration of a surveyor recognition application), was therefore not appropriate.
86. Particular consideration was given to proposed fixed fees, and in particular the proposed fee for a Maritime Transport Operator Certificate application. This represents the single largest cost to a maritime transport operator over the 10 year period of an operation. Factoring in the view of at least 70 percent of submitters that this fee was relatively and in itself too high (and did not reasonably reflect the actual time it would take Maritime NZ to assess an application), a decision was made to revise the fee to a mix of fixed and variable components. This will ensure that, where an operation is significantly smaller or less complex than average, there is a probability that the application fee will be less than if a fixed 'average cost' fee applied. This is the only fee proposal that was amended as a consequence of the consultation. A collateral revision of the proposals was the removal of the variable fixed fee Maritime Transport Operator Certificate application rates based on the complexity of an operation.
87. It is recommended that the MOSS fees are adopted as proposed, with the exception of the proposed fixed fee for Maritime Transport Operator Certificate applications. The revised application fee will be a mixture of a fixed fee of \$489 (excl GST) (representing 3.15 hours of administrative and processing time, and a fit and proper person check), with the balance of time taken on an application being charged at the applicable hourly rate.

Implementation

88. The revised fees will be implemented through Maritime New Zealand's existing fee and levy collection system, and will involve no new processes or increases in compliance costs for affected parties.
89. Affected parties will receive advance notice of the changes, which are proposed to come into effect on 1 April 2014. Maritime New Zealand will keep stakeholders informed of changes through its website and publications.

Monitoring and review

90. A MOSS monitoring and evaluation framework is under development as part of this an outcome framework and monitoring programme has been designed. This will provide an evidence-base of the efficacy and efficiency of the new safety system. Part of the formative evaluation phase will include consideration of the appropriateness of the fee structure. In the event it is found to be over or under recovering, early action can be taken to adjust fees as appropriate.

Appendix 1

Proposed fixed and variable fees for MOSS regulatory activities

Surveyor fees

Application type	Fixed	Application fee (initial)	Variable
Initial recognition	3.75 hours	\$670 (1 April 2014 – 30 June 2016) \$865 (1 July 2016 – 30 June 2019) \$929 (1 July 2019 ->)	0 to 20 hours
Extension of scope	3.75 hours	\$670 (1 April 2014 – 30 June 2016) \$865 (1 July 2016 – 30 June 2019) \$929 (1 July 2019 ->)	0 to 20 hours
Recertification (or renewal of recognition)	2.75 hours	\$491 (1 April 2014 – 30 June 2016) \$634 (1 July 2016 – 30 June 2019) \$681 (1 July 2019 ->)	0 to 18 hours

Fees for MTOC application, audits and MTOP amendment fees

Table 1 Fee	Table 2 Type	Table 3 Fixed \$ (incl GST)	Table 4 \$ per hour for variable activities (incl GST)
MTOC Application Fee	Fixed and Variable	\$564 (1 April 2014 – 30 June 2016) \$728 (1 July 2016 – 30 June 2019) \$781 (1 July 2019->)	\$179 (office based) (1 April 2014 – 30 June 2016) \$234 (off-site) (1 April 2014 – 30 June 2016) \$231 (office based) (1 July 2016 – 30 June 2019) \$303 (off-site) (1 July 2016 – 30 June 2019) \$248 (office based) (1 July 2019 ->) \$326 (off-site) (1 July 2019 ->)
Operator and Surveyor Audit	Variable		\$234 (off-site) (1 April 2014 – 30 June 2016) \$303 (off-site) (1 July 2016 – 30 June 2019) \$326 (off-site) (1 July 2019 ->)
MTOP amendment fees			
Change to the full name of the maritime	Fixed	\$196 (2014/15 – 2015/16)	

transport operator		\$252 (2016/17 – 2018/19) \$270 (2019/20 ->)	
Change to a person responsible for exercising the privileges (charge per person being added or having an increase in responsibility)	Fixed	\$327 (2014/15 – 2015/16) \$422 (2016/17 – 2018/19) \$453 (2019/20 ->)	
Addition of a primary port of harbour from which the operation is conducted	Fixed	\$265 (2014/15 – 2015/16) \$342 (2016/17 – 2018/19) \$367 (2019/20 ->)	
Removal of a primary port or harbour from which the operation is conducted	Fixed	\$90 (2014/15 – 2015/16) \$115 (2016/17 – 2018/19) \$124 (2019/20 ->)	
Addition of a category or categories or activity or activities of maritime transport operation	Fixed and Variable	\$268 (2014/15 – 2015/16) \$346 (2016/17 – 2018/19) \$371 (2019/20 ->)	\$179 (office based) (1 April 2014 – 30 June 2016) \$234 (off-site) (1 April 2014 – 30 June 2016) \$231 (office based) (1 July 2016 – 30 June 2019) \$303 (off-site) (1 July 2016 – 30 June 2019) \$248 (office based) (1 July 2019 ->) \$326 (off-site) (1 July 2019 ->)
Removal of a category or categories or activity or activities of maritime transport operation	Fixed and Variable	\$135 (2014/15 – 2015/16) \$173 (2016/17 – 2018/19) \$186 (2019/20 ->)	\$179 (office based) (1 April 2014 – 30 June 2016) \$234 (off-site) (1 April 2014 – 30 June 2016) \$231 (office based) (1 July 2016 – 30 June 2019) \$303 (off-site) (1 July 2016 – 30 June 2019) \$248 (office based) (1 July 2019 ->) \$326 (off-site) (1 July 2019 ->)

10 YEAR COMPARISON OF COSTS (\$ GST Excl) FOR CURRENT SAFE SHIP MANAGEMENT SYSTEM AND NEW MARITIME OPERATOR SAFETY SYSTEM

SINGLE VESSEL OPERATOR

Safe Ship Management System (SSM)			Maritime Operator Safety System (MOSS)		
<u>Year 1</u>	Total	2,945	Total	2,970	
SSM Cert (SSM Co)		100	<i>MTOC application</i>	1,770	
<i>SSM Cert (MNZ)</i>		363			
<i>MNZ inspection</i>		482	Renewal Survey	1,200	
Renewal Survey (incl SSM audit)		1,475			
SSM manual		375			
SSM membership fee		150			
<u>Year 2</u>	Total	180	Total	2,013	
SSM membership fee		180	<i>Initial audit</i>	2,013	
<u>Year 3</u>	Total	1,525	Total	1,200	
Mid term survey (incl SSM audit)		1,375	Mid term survey	1,200	
SSM membership fee		150			
<u>Year 4</u>	Total	180	Total	-	
SSM membership fee		180			
<u>Year 5</u>	Total		Total	2,609	
SSM Cert (SSM Co)		100	<i>Ongoing audit</i>	2,609	
<i>SSM Cert (MNZ)</i>		513			
<i>MNZ inspection</i>		682			
Renewal survey (incl SSM audit)		1,475			
SSM membership fee		150			
<u>Year 6</u>	Total	180	Total	1,200	
SSM membership fee		180	Renewal survey	1,200	
<u>Year 7</u>	Total	1,555	Total	-	
Mid term survey (incl SSM audit)		1,375			
SSM membership fee		180			
<u>Year 8</u>	Total	180	Total	4,004	
SSM membership fee		180	<i>Ongoing audit</i>	2,804	
			Mid term survey	1,200	
<u>Year 9</u>	Total	2,919	Total	-	
SSM Cert (SSM Co)		100			
<i>SSM Cert (MNZ)</i>		513			
<i>MNZ inspection</i>		682			
Renewal survey (incl SSM audit)		1,475			
SSM membership fee		150			
<u>Year 10</u>	Total	180	Total	-	
SSM membership fee		180			
TOTAL		12,763	TOTAL	13,996	
ANNUAL AVERAGE		1,276	ANNUAL AVERAGE	1,400	

MULTI-VESSEL OPERATOR (10 vessels,)

SSM			MOSS		
<u>Year 1</u>	Total	22,404		Total	18,608
SSM Cert (SSM Co)		400	<i>MTOC application</i>		3,343
SSM Cert (MNZ)		1,444			
MNZ inspection		2,805	Renewal survey		10,925
Renewal survey		10,925	Mid term survey		4,340
SSM audit		2,490			
Mid term survey		4,340			
<u>Year 2</u>	Total	14,691		Total	14,187
SSM Cert (SSM C)		200	<i>Initial audit</i>		4,872
SSM Cert (MNZ)		800	Renewal survey		4,615
MNZ inspection		1,886	Mid term survey		4,700
Renewal survey		4,615			
SSM audit		2,490			
Mid term survey		4,700			
<u>Year 3</u>	Total	20,288		Total	13,042
SSM Cert (SSM Co)		200	<i>MTOC amendment</i>		367
SSM Cert (MNZ)		874	Renewal survey		2,825
MNZ inspection		2,159	Mid term survey		9,850
Renewal survey		4,715			
SSM audit		2,490			
Mid term survey		9,850			
<u>Year 4</u>	Total	15,596		Total	6,230
SSM Cert (SSM Co)		200	Renewal survey		1,890
SSM Cert (MNZ)		948	Mid term survey		4,340
MNZ inspection		2,569			
Renewal survey		5,050			
SSM audit		2,490			
Mid term survey		4,340			
<u>Year 5</u>	Total	24,170		Total	11,364
SSM Cert (SSM Co)		400	<i>Ongoing audit</i>		6,314
SSM Cert (MNZ)		2,044	Renewal survey		5,050
MNZ inspection		3,971			
Renewal survey		10,925			
SSM audit		2,490			
Mid term survey		4,340			
<u>Year 6</u>	Total	15,435		Total	15,659
SSM Cert (SSM Co)		200	<i>MTOC amendment</i>		394
SSM Cert (MNZ)		1,022	Renewal survey		10,925
MNZ inspection		2,408	Mid term survey		4,340
Renewal survey		4,615			
SSM audit		2,490			
Mid term survey		4,700			
<u>Year 7</u>	Total	20,802		Total	9,315
SSM Cert (SSM Co)		200	Renewal survey		4,615
SSM Cert (MNZ)		1,022	Mid term survey		4,700
MNZ inspection		2,525			
Renewal survey		4,715			
SSM audit		2,490			
Mid term survey		9,850			

<u>Year 8</u>	Total	15,871		Total	19,462
SSM Cert (SSM Co)		200			
SSM Cert (MNZ)		1,022	Ongoing audit		6,787
MNZ inspection		2,769			
Renewal survey		5,050	Renewal survey		2,825
SSM audit		2,490			
Mid term survey		4,340	Mid term survey		9,850
<u>Year 9</u>	Total	24,170		Total	6,624
SSM Cert (SSM Co)		400			
SSM Cert (MNZ)		2,044			
MNZ inspection		3,971	MTOP amendment		394
Renewal survey		10,925	Renewal survey		1,890
SSM audit		2,490			
Mid term survey		4,340	Mid term survey		4,340
<u>Year 10</u>	Total	15,435		Total	5,050
SSM Cert (SSM Co)		200			
SSM Cert (MNZ)		1,022			
MNZ inspection		2,408			
Renewal survey		4,615	Renewal survey		5,050
SSM audit		2,490			
Mid term survey		4,700	Mid term survey		-
TOTAL		188,861	TOTAL		119,541
ANNUAL AVERAGE		18,886	ANNUAL AVERAGE		11,954