



Port Health and Safety Leadership Group

FAQs: The draft Approved Code of Practice (ACOP) for the loading and unloading of cargo on ports

What is an Approved Code of Practice?

An ACOP sets out what the regulators' expectations are about how to meet your legal duties. It provides businesses with confidence that if they comply with the practice contained in it that they are meeting the test of what is "reasonably practicable" in a given situation. It is not about imposing new requirements or expectations but rather clarifying for everyone what is reasonably practicable and expected.

What's the scope of the ACOP?

The ACOP covers all activities to do with the loading and unloading of cargo on ports. The title of the draft document now reflects this – Approved Code of Practice for the loading and unloading of cargo on ports. This means that it is not just covering traditional stevedoring activities but will also cover marshalling. Activities that are considered "out of scope" are things like maintenance of plant in warehouses, reefer tech and maintenance/repair of empty containers (as examples).

Does this mean there is only one way of doing something?

No. Following an ACOP is not the only way to demonstrate compliance. Businesses may use other practices as long as they provide a level of work health and safety equivalent to, or higher than, what is set out in the code.

Where are we at in the process?

We have completed four workshops and have gathered an immense amount of information. We have completed the drafting of the first two chapters and have received feedback on the content. We are in the process of starting to draft the rest of the content based on all of the workshop material and we have engaged additional writing capacity to assist with this process. We are making good progress with writing and anticipate the final version will be completed in December. At this stage, we anticipate that **consultation on the draft ACOP will begin around mid-August/September**. As we work through the information for the next chapters we may identify gaps or inconsistencies.

In order to address these, we plan to:

1. Any gaps:
 - Identify, based on the gaps, the subject matter expertise from the workshops, or that we might need from outside the workshops if it was missing, that we can work with face-to-face to gather this content/fill the gaps.
2. Inconsistencies in practice:
 - We may use the above process to also iron out inconsistencies, or
 - Test the inconsistencies and proposed consistent practice through the formal consultation process.

How can I provide feedback?

At the end of drafting process being led by Maritime NZ, and supported by WorkSafe NZ, the draft will be sent out to the relevant people in the sector, including the PIA, unions, port chief executives, port companies, stevedore companies, marshalling companies, agents, transport operators, and any others identified by the Port Health and Safety Leadership Group. We will ask for feedback on the entire draft and this feedback will be used to develop the final version of the ACOP. Until this process happens the ACOP is draft and nothing in it is final. At this stage we anticipate that consultation on the ACOP will begin **around mid-August/September**.

We had previously been distributing the draft chapters as each was written but realised this was not as effective as we hoped because as we write the document, content is being shifted around to align it with information we may already have from other workshops. Essentially the document may not be structured in the same order the topics were covered in workshops. We also recognised that following Cyclone Gabrielle, many in the sector were facing additional pressures and might not be in a position to provide timely feedback on a chapter-by-chapter basis. We are eager to receive your input, so we will be giving a longer consultation period at the end of the process to allow ample time for you to provide feedback.

Who develops and approves an ACOP?

Under s222 of the Health and Safety at Work Act, an ACOP must be developed by the regulator which in this case is Maritime NZ, and it must be approved by the Minister. No other party can develop or recommend an ACOP to a Minister. An ACOP must be freely available to download from the regulator's website.

What happens if consensus can't be reached in the design of an ACOP?

The intent is that there is a collaborative and co-design approach taken to the creation of the ACOP, that draws on the evidence from the Port Sector Insights Picture, information on practice taken from the Good Practice Picture, similar regulator guidance, legislation, and knowledge and experience of the sector. Where there is a lack of consensus with the draft it is hoped this can be ironed out through workshops in the broader consultation process and it is hoped that consensus will be reached on the final form of the ACOP as this is the best way for the sector to buy-in to and support implementation of it. However, if there are issues where consensus cannot be reached, the final decision will be that of the regulators and Ministers.

Will there be support for the industry to implement/understand the ACOP?

Yes, we will work with the sector to understand what support is required and how best we can support uptake and implementation of this important work.

Will there be further guidance provided?

As part of the consultation with the sector on the ACOP, Maritime NZ will be asking what further guidance is needed to support you to get the most from the ACOP, with a view to developing a suite of supporting documents.