

Marine Protection Rules

Part 103: Notifications – Oil and Noxious Liquid Substances

MNZ Consolidation

1 November 2016

Marine Protection Rules

ISBN 978-0-947527-31-0

Published by

Maritime New Zealand, PO Box 25620, Wellington 6146, New Zealand

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***Consolidated version
1 November 2016***

Part objective

Part 103 is concerned with procedures for notifying the Maritime Safety Authority of New Zealand and regional councils of the following shipping operations involving harmful substances –

- The prospective operational transfer of oil or a noxious liquid substance to and from a ship, or an emergency transfer where the intention to transfer harmful substances has not already been notified; and
- The prospective arrival in a New Zealand port of a ship carrying oil or a noxious liquid substance in bulk as cargo.

Part 103 replaces the corresponding notification requirement found in the Marine Pollution Act 1974.

The Part requires at least 12 hours notice to be given of arrivals. Operational transfers must be notified at least 3 hours but not more than 4 days (96 hours) before starting. An emergency transfer need only be notified before it gets underway.

Part 103 covers –

- New Zealand ships
- New Zealand Defence Force ships
- Foreign ships

that are:

- (a) involved in transferring oil or noxious liquid substances carried in bulk to or from a ship in the internal waters or territorial sea of New Zealand; or
- (b) carrying oil or noxious liquid substances in bulk as cargo and will be arriving at a port in New Zealand.

The basis for Part 103 is found in section 229, 230, 240, 241, 388(j)(iii) and 388(m) of the Maritime Transport Act 1994.

Maritime rules are disallowable instruments under the Legislation Act 2012. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under that Act.

Disclaimer:

This document is the current consolidated version of Marine Protection Rules Part 103 produced by Maritime New Zealand, and serves as a reference only. It has been compiled from the official rules that have been signed into law by the Minister of Transport. Copies of the official rule and amendments as signed by the Minister of Transport may be downloaded from the Maritime New Zealand website. www.maritimenz.govt.nz

History of Part 103

Part 103 first came into force on 20 August 1998 and now incorporates the following amendments:

Amendment	Effective Date
Amendment 1	4 August 2008
Amendment 2	Multiple
Amendment 3	1 January 2015
Amendment 4	1 April 2015
Amendment 5	1 November 2016

Summary of Amendments

Amendment 1

Marine Protection Amendment – MARPOL Annex 2 103.2, 103.4(d)

Amendment 2

Marine Protection Various Amendments 2010 Effective 1 October 2010: Part objective, 103.3(2)
Effective 1 January 2011
103.2, 103.4(e), 103.6

Amendment 3

Marine Protection Rules Various Amendments 2014 103.2

Amendment 4

Marine Protection Rules Various Amendments 2015 Part Objective

Amendment 5

Marine Protection Rules Various Amendments 2016 103.6

All signed rules can be found on our website:

<http://www.maritimenz.govt.nz/Rules/List-of-all-rules/Part103-marine-protection-rule.asp>

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General

103.1 Entry into force

Part 103 entered into force on 20 August 1998.

103.2 Definitions

In Part 103—

Act means the Maritime Transport Act 1994:

category X, Y, Z or OS substance means, respectively, any liquid substance—

- (a) listed and categorised as a category X, Y, Z or OS substance in the IBC Code; or
- (b) otherwise categorised, or provisionally assessed or categorised, as a category X, Y, Z, or OS substance—
 - (i) by the IMO; or
 - (ii) by the Director under rule 140.9:

Director means the person who is for the time being the Director of Maritime Safety under section 439 of the Act:

foreign ship means any ship that is not a New Zealand ship:

FPSO, in relation to a STS operation, means a floating production, storage, and offloading facility:

FSU, in relation to a STS operation, means a floating storage unit:

in bulk means carried in the cargo or other spaces of a ship without any intermediate form of containment or packaging:

Internal waters of New Zealand means the internal waters of New Zealand as defined in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

master means any person (except a pilot) having command or charge of any ship:

New Zealand Defence Force has the same meaning as the term **Defence Force** in section 2(1) of the Defence Act 1990:

New Zealand marine waters means—

- (a) the territorial sea of New Zealand as defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977; and
- (b) the waters of the exclusive economic zone of New Zealand as defined in section 2(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

New Zealand ship means a ship that is registered under the Ship Registration Act 1992; and includes a ship that is not registered under that Act but is required or entitled to be registered under that Act:

noxious liquid substance means—

- (a) any category X substance;
- (b) any category Y substance;
- (c) any category Z substance;
- (d) any other substance, except—
 - (i) clean ballast;
 - (ii) segregated ballast;
 - (iii) any category OS substance; and

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- (e) any mixture containing a noxious liquid substance; and a noxious liquid substance, as defined here, is a harmful substance and a noxious liquid substance for the purposes of section 225 of the Act:

oil for the purposes of the marine protection rules and section 222 of the Maritime Transport Act 1994 means petroleum in any form including crude oil, fuel oil, sludge, oil refuse, and refined products (other than petrochemicals that are subject to the provisions of Part 140). Without limiting the generality of the foregoing, oil includes the substances declared to be oil in the appendix to Part 120, and any oily mixture. Oil as defined here is a **harmful substance** for the purposes of section 225 of the Maritime Transport Act 1994:

oily mixture means a mixture with any oil content:

owner in relations to any ship includes—

- (a) any person who is the legal or equitable owner, or both, of the ship; and
- (b) any person in possession of the ship, and includes any salvor in possession of the ship, and any servant or agent of any salvor in possession of the ship; and
- (c) any charterer, manager, or operator of the ship, or any other person (other than a pilot) responsible for the navigation or management of the ship:

Part means a group of rules made under the Maritime Transport Act 1994:

port includes place and harbour:

Rescue Coordination Centre of New Zealand means the search and rescue coordination centre established under section 14B of the Civil Aviation Act 1990:

Regional Council or **council** has the meaning given to the term **regional council** in the Local Government Act 1974; and includes—

- (a) any territorial authority that has the functions, powers, and duties of a regional council; and
- (b) the Chatham Islands Council:

Rules includes maritime rules and marine protection rules:

Ship-to-ship (STS) operations means operations involving the transfer of oil cargo between oil tankers at sea; but do not include:

- (a) oil transfer operations associated with fixed or floating platforms including drilling rigs; FPSOs used for the offshore production and storage of oil; and FSUs used for the offshore storage of produced oil;
- (b) bunkering operations:

transfer, in relation to oil or any other harmful substance, means transfer to or from a cargo or fuel tank.

103.3 Application

- (1) Part 103 applies to—
 - (a) every New Zealand ship; and
 - (b) every warship and every other ship of the New Zealand Defence Force; and
 - (c) every foreign ship.
- (2) Where a rule in Part 103 places an obligation on the master of any New Zealand ship, the same obligation will apply to the master of any warship or any other ship of the New Zealand Defence Force to which that rule applies.

Notification of transfers

103.4 Procedure for notifying transfers

- (1) Notice of the transfer of oil or of any noxious liquid substance required by section 230 of the Act, except in the case of—
- (a) a transfer of oil in the form of diesel from a self-service pump for the purposes of bunkering; or
 - (b) a transfer of oil carried out under the authority of an on-scene commander exercising powers under Part XXIII of the Act, or at the direction of the Minister of Transport under that Part of the Act; or
 - (c) a transfer of oil which has been reported under rule 120.15 to 120.18 inclusive; or
 - (d) a transfer of a noxious liquid substance which has been reported under rules 140.10 to 140.13 inclusive;
- must:
- (i) be given, by facsimile or by another means of telecommunication, to:
 - (aa) the regional council within whose region the transfer is intended to be made; or
 - (bb) to the Director where the transfer is intended to be made outside a region; and
 - (ii) be given, in the case of an operational transfer, not less than 3 hours but not more than 96 hours before the transfer is due to begin; and
 - (iii) be given, in the event of an emergency transfer, prior to the transfer beginning; and
 - (iv) state where the transfer of oil or noxious liquid substance is to take place; and
 - (v) state when the transfer is scheduled to begin and when it is scheduled to end; and
 - (vi) state the type(s) of oil or noxious liquid substances(s) to be transferred, giving the correct technical name(s), UN number(s) (if applicable), flashpoint(s) (as appropriate) and quantit(y)(ies); and
 - (vii) provide details of the distribution of any oil or noxious liquid substances carried on board in bulk as cargo, including that which is to be transferred and that which is to remain on board; and
 - (viii) provide details of any defect of hull, machinery or equipment which could constitute a risk to the marine environment, including any defect affecting the safe manoeuvrability of the ship.
- (e) STS operations to which rule 103.6 applies;

Notification of arrivals

103.5 Procedure for notifying arrivals

Notice of the arrival at a port in New Zealand of a ship carrying oil, or any noxious liquid substance, in bulk as cargo required by section 229 of the Act must—

- (a) be given, by facsimile or other means of telecommunication:
 - (i) to the regional council within whose region the port lies; or
 - (ii) to the Director, where the port is outside a region;not later than 12 hours before arrival of the ship at that port; and
- (b) state the type(s) of oil or noxious liquid substance(s) carried, giving the correct technical name(s), UN number(s) (if applicable), flashpoint(s) (as appropriate) and quantit(y)(ies); and
- (c) provide details of the distribution of oil or noxious liquid substances on board; and
- (d) provide details of any defect of hull, machinery or equipment which could constitute a risk to the marine environment, including any defect affecting the safety manoeuvrability of the ship.

Notification of STS operations

103.6 Procedure for notifying of STS operations

- (1) This rule applies to the owner and master of the following ships within the internal waters of New Zealand and New Zealand marine waters:
 - (a) every New Zealand oil tanker of 150 gross tonnage and above:
 - (b) every foreign oil tanker of 150 gross tonnage and above.
- (2) Except as provided in subrule (3), each owner and master shall ensure that, when planning an STS operation, notification of the intended STS operation is provided, containing the information required by subrule (4), to the Rescue Coordination Centre of New Zealand. not less than 48 hours in advance of the operation beginning; and
- (3) Where, due to exceptional circumstances, all the information specified in subrule (4) is not available to be provided in the notification within the time required by subrule (2)—
 - (a) each owner and master of an oil tanker that is to receive the cargo in the STS operation—
 - (i) is not required to provide the notification 48 hours or more in advance of the operation beginning; and
 - (ii) must provide the notification required by subrule (2) as soon as practicable before the STS operation; and
 - (b) the owner and master of an oil tanker that is to discharge the oil cargo in the STS operation must ensure that notification is provided—
 - (i) not less than 48 hours in advance of the operation beginning; and
 - (ii) notifying that all the information specified in subrule (4) is not available; and
 - (iii) outlining the exceptional circumstances why all the information is not available; and
 - (iv) as soon as practicable before the STS operation containing all the information specified in subrule (4).
- (4) The notification required by subrule (2) must contain the following information:
 - (a) the name, flag, call sign, IMO number, and estimated time of arrival of the oil tankers involved in the STS operation at the location of the operation:
 - (b) the date, time, and geographical location at the commencement of the STS operation:
 - (c) whether the STS operation is to be conducted at anchor or underway:
 - (d) the oil type and quantity:
 - (e) the planned duration of the STS operation:
 - (f) the person nominated under rule 125.9(2)(d) who has overall advisory control of STS operations applicable to the oil tanker:
 - (g) confirmation that the applicable STS operations plan, required by rule 125.9, is onboard the oil tanker.
- (5) If, after notification is given under subrule (2), the estimated time of arrival of the oil tanker to the location of the STS operation changes by more than 6 hours, the owner and master of the oil tanker must ensure that a revised estimated time of arrival at the location is communicated to the Rescue Coordination Centre of New Zealand.