

# Marine Protection Rules

## Part 143 – Shipboard Marine Pollution Emergency Plans for Noxious Liquid Substances

*MNZ Consolidation*

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## **Part objective**

The objective of Part 143 is to prescribe requirements for shipboard marine pollution emergency plans for noxious liquid substances. Part 143 applies to ships of 150 gross tons or more that carry noxious liquid substances in bulk as cargo.

Part 143 prescribes the contents of noxious liquid substances plans and makes provision for the approval, maintenance, testing and review of such plans.

Noxious liquid substances plans are intended to—

- assist personnel in dealing with actual or probable discharges of noxious liquid substances;
- enable the initiation of actions to halt, minimise or mitigate the discharge or escape of noxious liquid substances; and
- promote timely and effective response to spills by local, regional and national authorities.

In addition, Part 143 contains supplemental provisions to—

- enable the master to determine if a noxious liquid substance spill is probable; and
- provide further contacts when the responsible authority cannot be contacted or is unknown.

Part 143 will give effect to Regulation 17 of Annex II of the International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL).

The authority for Part 143 is found in sections 223, 387, 388 and 390 of the Maritime Transport Act 1994.

*Rules subject to Regulations (Disallowance) Act 1989*

Marine Protection rules are subject to the Regulations (Disallowance) Act 1989. 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 the Regulations (Disallowance) Act 1989.

### **Disclaimer:**

This document is the current consolidated version of Marine Protection Rules Part 143 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](http://www.maritimenz.govt.nz)

## History of Part 143

Part 143 first came into force on 9 August 2007 and now incorporates the following amendments:

| <b>Amendment</b> | <b>Effective date</b> |
|------------------|-----------------------|
| Amendment 1      | 4 August 2008         |
| Amendment 2      | 1 October 2010        |
| Amendment 3      | 1 January 2015        |
| Amendment 4      | 1 February 2018       |

### Summary of amendments

#### **Amendment 1**

Marine Protection Amendment – MARPOL Annex 2                      Part objective, 143.10(2)(a)(ii),  
143.10(2)(b)

#### **Amendment 2**

Marine Protection Various Amendments 2010                      143.2, 143.7(c)

#### **Amendment 3**

Marine Protection Rules Various Amendments 2014                      143.2, Schedule 7(3)

#### **Amendment 4**

Marine Protection Rules Various Amendments [Changes  
Related to Conventions] 2017                      143.2, 143.10, Part 143: Schedule:  
Contents of a Noxious Liquid  
Substances Plan

All signed rules can be found on our website.

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## General

### 143.1 Entry into force

This Part comes into force on 9 August 2007.

### 143.2 Definitions

In this Part—

**Act** means the Maritime Transport Act 1994:

**Administration** means the government of the state—

- (a) under whose authority the ship is operating; or
- (b) whose flag the ship is entitled to fly:

**Antarctic area** means the sea area south of latitude 60°S:

**Arctic waters** means those waters which are located north of a line from the latitude 58°00'.0 N and longitude 042°00'.0 W to latitude 64°37'.0 N, longitude 035°27'.0 W and thence by a rhumb line to latitude 67°03'.9 N, longitude 026°33'.4 W and thence by a rhumb line to the latitude 70°49'.56 N and longitude 008°59'.61 W (Sørkapp, Jan Mayen) and by the southern shore of Jan Mayen to 73°31'.6 N and 019°01'.0 E by the Island of Bjørnøya, and thence by a great circle line to the latitude 68°38'.29 N and longitude 043°23'.08 E (Cap Kanin Nos) and hence by the northern shore of the Asian Continent eastward to the Bering Strait and thence from the Bering Strait westward to latitude 60° N as far as Il'pyrskiy and following the 60th North parallel eastward as far as and including Etolin Strait and thence by the northern shore of the North American continent as far south as latitude 60° N and thence eastward along parallel of latitude 60° N, to longitude 056°37'.1 W and thence to the latitude 58°00'.0 N, longitude 042°00'.0 W:

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

**Category X, Y, Z and OS substance** mean, respectively, any liquid substance—

- (a) listed and categorised as a Category X, Y, Z and OS substance in the IBC Code; or
- (b) otherwise categorised or provisionally categorised as a Category X, Y, Z and OS substance—
  - (i) in Annex II of MARPOL;
  - (ii) by the International Maritime Organization; or
  - (iii) by the Director under rule 140.28:

**discharge** includes any release, escape, disposal, spilling, leaking, pumping, emitting or emptying; but does not include—

- (a) dumping in accordance with a permit issued by the Director under section 262 of the Act; or
- (b) release of harmful substances for the purposes of legitimate scientific research into pollution abatement and control:

**exclusive economic zone of New Zealand** has the meaning given to it in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

**IBC Code** means the IMO's *International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk*, as revised or re-issued from time to time by the IMO:

**IMO** means the International Maritime Organization:

**IMO Assembly Resolution A.851(20)** means IMO Resolution A.851(20), adopted by the Assembly at its 20th session on 27 November 1997, entitled *General Principles for Ship Reporting Systems and Ship Reporting Requirements, including Guidelines for Reporting*

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*Incidents involving Dangerous Goods, Harmful Substances and/or Marine Pollutants*, as revised or replaced from time to time by the IMO:

**internal waters of New Zealand** has the meaning given to it in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

**MARPOL** means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto; and includes any subsequent protocol, amendment or revision of that convention accepted or ratified by New Zealand:

**New Zealand jurisdiction** means—

- (a) the internal waters of New Zealand;
- (b) the territorial sea of New Zealand;
- (c) the exclusive economic zone of New Zealand; and
- (d) the waters above the continental shelf but beyond the outer limits of the exclusive economic zone of New Zealand:

**noxious liquid substance** is a harmful substance for the purpose of section 225 of the Act, and 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
- (e) any mixture containing a noxious liquid substance:

**noxious liquid substances plan** means a New Zealand shipboard emergency plan for noxious liquid substances:

**official logbook** means a logbook—

- (a) required under rule 73.4;
- (b) in the form prescribed in the Appendix to Part 73:

**owner**, in relation to a ship, includes—

- (a) any legal owner or equitable owner;
- (b) any person in possession of the ship, which may include a salvor or a servant or agent of a salvor;
- (c) any charterer, manager or operator; and
- (d) 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 Act:

**Polar Code** means the environment-related provisions in the Introduction, and all of Part II-A, of the International Code for Ships Operating in Polar Waters adopted by the International Maritime Organization:

**polar waters** means any of the following:

- (a) Arctic waters:
- (b) the Antarctic area:

**territorial sea of New Zealand** has the meaning given to it in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.



**143.3 Application**

- (1) Part 143 applies to ships of 150 tons gross tonnage or more carrying noxious liquid substances in bulk as cargo.
- (2) Section 2 applies to New Zealand ships and warships of the New Zealand Defence Force.
- (3) Section 3 applies to foreign ships in New Zealand jurisdiction.

**Section 2 – New Zealand ships and warships**

**143.4 Requirement for a noxious liquid substances plan**

- (1) The owner and the master must ensure that there is, carried on board the ship at all times, a shipboard emergency plan for noxious liquid substances—
  - (a) approved by the Director;
  - (b) having the contents prescribed in the Schedule; and
  - (c) tested and reviewed and kept in accordance with this Part.
- (2) In the case of any ship to which Part 130A also applies, the noxious liquid substances plan may be combined with the shipboard marine oil spill contingency plan in a shipboard marine pollution emergency plan.

**143.5 Application for approval of a noxious liquid substances plan**

- (1) Every application for approval of a noxious liquid substances plan—
  - (a) must be made by the owner;
  - (b) may be made by letter or in such other form as the Director may allow;
  - (c) must be in English;
  - (d) must include the applicant's—
    - (i) address for service in New Zealand;
    - (ii) telephone number;
    - (iii) fax number (if any);
    - (iv) email address (if any);
  - (e) must include the contents of the proposed plan in electronic and hard copy; and
  - (f) is an application for the purpose of section 269(1) of the Act.
- (2) The Director may require any additional information he or she considers necessary to support an application for approval of a noxious liquid substances plan.
- (3) If the Director requires any additional information, he or she must advise the applicant, in writing, of—
  - (a) the details of the required information; and
  - (b) the reason(s) why this information is required,no later than 15 working days from the date of receipt of the application.

**143.6 Approval and duration of a noxious liquid substances plan**

- (1) If the Director is satisfied that the noxious liquid substances plan complies with the requirements of this Part, the Director may approve the plan for a period not exceeding 3 years.
- (2) If an application for a new approval is made, by the holder of an existing approval, at least 2 months before the existing approval expires, the duration of the existing approval is extended until the Director determines the application.
- (3) The Director's written approval of a noxious liquid substances plan is a marine protection document for the purposes of the Act.

**143.7 Custody of a noxious liquid substances plan**

The owner must—

- (a) keep the Director's written approval with the noxious liquid substances plan at all times and make both documents available to the Director on request;
- (b) ensure that a copy of the Director's written approval and the noxious liquid substances plan is kept and made available on the ship; and
- (c) supply a hard copy of the Director's written approval, together with the noxious liquid substances plan, to the District Chief Fire Officer and Harbourmaster for every region that the ship routinely visits—
  - (i) immediately the written approval is issued; and
  - (ii) prior to arrival in any other port.

**143.8 Testing and review of a noxious liquid substances plan**

- (1) The owner and the master must ensure that—
  - (a) (i) the noxious liquid substances plan is tested not less than once every 12 months; and
  - (ii) the test demonstrates that procedures or actions in the plan are workable and effective;
  - (b) details of every test and its results are recorded in—
    - (i) the official logbook; or
    - (ii) if no logbook is required for the ship, the noxious liquid substances plan.
- (2) The owner must review the ship's noxious liquid substances plan not less than once every 12 months to verify its currency and completeness.
- (3) After every review, and subject to rule 143.9(3), the owner must ensure that—
  - (a) any information in the plan, which is not current, is updated; and
  - (b) any new information is incorporated in the plan.
- (4) The owner must evaluate the effectiveness of the ship's noxious liquid substances plan as soon as practicable after every use of the plan in response to any actual or probable discharge of any noxious liquid substance.
- (5) After every test, review or evaluation, the owner and the master must—
  - (a) determine any modifications that would increase the effectiveness of the noxious liquid substances plan; and
  - (b) implement those modifications, subject to rule 143.9(3).

**143.9 Modifications to a noxious liquid substances plan**

- (1) As soon as possible after every modification of the noxious liquid substances plan, the owner must notify the Director and every other person holding a copy of the plan under rule 143.7 of the changes.
- (2) The owner must keep a record of the action(s) taken to meet the obligation in subrule (1).
- (3) The owner must apply for re-approval of the noxious liquid substances plan if the owner proposes to modify or change the use of the ship in a way that could—
  - (a) increase the risk of discharge or escape of noxious liquid substances;
  - (b) increase the amount of noxious liquid substances that can be carried; or
  - (c) render the ship's noxious liquid substances plan less effective.
- (4) Rule 143.5 and the Schedule apply to an application for re-approval of a noxious liquid substances plan.

## Section 3 – Foreign ships

### 143.10 Requirement to carry emergency plans

- (1) In the case of a ship registered in a state party to MARPOL, the owner and the master must ensure that there is carried on board the ship—
  - (a) a current noxious liquid substances plan approved by the administration; or
  - (b) in the case of a ship to which Part 130A applies, a current shipboard marine pollution emergency plan approved by the administration combining a noxious liquid substances plan and a shipboard oil pollution emergency plan.
- (2) In the case of a ship registered in a state that is not a party to MARPOL, the owner and the master must ensure that there is carried on board the ship—
  - (a) a current emergency plan for—
    - (i) responding to noxious liquid substances incidents; and
    - (ii) containing and cleaning up noxious liquid substances spills from the ship,together with evidence, acceptable to the Director, that the emergency plan complies with the standards prescribed by Regulations 17 and 22 of Annex II of MARPOL; or
  - (b) in the case of a ship to which Part 130A applies, a current marine pollution emergency plan combining shipboard marine pollution emergency plans for noxious liquid substances and oil pollution, together with evidence, acceptable to the Director, that the emergency plan complies with the standards prescribed by Regulation 37 of Annex I and Regulations 16 and 22 of Annex II of MARPOL.

## Section 4 – Miscellaneous provisions

### 143.11 Identification of a probable discharge or escape

In determining whether the discharge of any noxious liquid substance into the sea is probable and, accordingly, whether a report should be made under—

- (a) section 228 of the Act;
- (b) rule 140.30; and
- (c) rule 140.32,

the master must consider the following factors, as a minimum—

- (i) the nature of the damage, failure or breakdown of the ship, machinery or equipment;
- (ii) the location of the ship and its proximity to land or other navigational hazards;
- (iii) the weather, tide, current and sea state; and
- (iv) shipping traffic density.

### 143.12 Reporting a discharge (supplemental)

- (1) If, in the event of an actual or probable discharge of any noxious liquid substance—
  - (a) the noxious liquid substances plan contains no contact details for a coastal state; or
  - (b) there is any undue delay in contacting the responsible authority by the means prescribed by rule 140.32,

the master must contact the nearest—

- (i) radio communication station;
- (ii) designated ship movement reporting station; or
- (iii) rescue coordination centre,

by the fastest telecommunications channels available and with the highest possible priority.

## Schedule

### Contents of a Noxious Liquid Substances Plan

(This Schedule is referenced in rules 143.4 and 143.9)

#### 1 Language

Every noxious liquid substances plan must be in—

- (a) English; and
- (b) the working language of the crew.

#### 2 Elements of the noxious liquid substances plan

Every noxious liquid substances plan must contain—

- (a) the procedures to be followed by the master to report an actual or probable discharge of noxious liquid substances;
- (b) a detailed description of the actions to be taken immediately by persons on board to reduce or control any discharge or escape of noxious liquid substances; and
- (c) the procedure and point of contact on the ship for coordinating shipboard response activities with national or local authority response activities to an actual or probable discharge of noxious liquid substances.

#### 3 Reporting a discharge or escape

- (1) Every noxious liquid substances plan must require that a report is made in accordance with section 227 or 228 of the Act, rule 140.10, rule 140.11, and rule 140.13, in the case of every—

- (a) actual or probable discharge of noxious liquid substances—
  - (i) resulting from damage to the ship or its equipment; or
  - (ii) for the purpose of securing the safety of a ship or saving life at sea; or
- (b) actual discharge of noxious liquid substances during the operation of the ship, contrary to—
  - (i) Part 140; or
  - (ii) regulations made under section 360 of the Resource Management Act 1991.

- (2) Every noxious liquid substances plan must—

- (a) specify the form and content of reports in accordance with the IMO Assembly Resolution A.851(20);
- (b) include, or have appended to it, a sample report form; and
- (c) require that—
  - (i) initial reports are supplemented;
  - (ii) information concerning further developments is provided; and
  - (iii) requests from affected states for additional information are complied with,in accordance with IMO Assembly Resolution A.851(20); and
- (d) if a voyage includes polar waters, take into account the operation in polar waters in accordance with paragraph 2.1.2 of Chapter 2 of the Polar Code.

#### 4 Identification of probable discharge or escape

Every noxious liquid substances plan must require the master to consider, in accordance with rule 143.11, the factors prescribed in that rule for determining whether a discharge of noxious liquid substances is probable and, accordingly, whether a report should be made.

**5 Contact information**

- (1) Every noxious liquid substances plan must include, or have appended to it, a contact list, suitable to the range of the ship's operation, for reporting actual or probable discharges of noxious liquid substances into the sea.
- (2) The contact list must identify—
  - (a) state agencies, statutory bodies or officials of the maritime administrations of coastal states responsible for receiving and processing reports of actual or probable discharges of noxious liquid substances into the sea;
  - (b) local agencies and representatives, concerned with the operation of the ship, at the ports visited by the ship on a regular basis; and
  - (c) other parties, whose interest(s) in the ship, are, in the owner's view, likely to be affected by an actual or probable discharge of noxious liquid substances into the sea.
- (3) The contact list must—
  - (a) provide 24 hour contact information;
  - (b) provide alternatives to the designated contacts; and
  - (c) specify the preferred means of communication.
- (4) The plan must require the master to contact the nearest radio communication station, designated ship movement reporting station or rescue coordination centre in accordance with rule 143.12 if the plan contains no contact details for a coastal state in whose jurisdiction a spill may occur, or there is any undue delay in contacting the responsible authority by direct means.
- (5) Upon arrival in a port for which no local agency contact information is listed in the plan, the master must obtain details of local reporting procedures and update the plan accordingly.

**6 Action to mitigate damage and control discharges or escapes**

- (1) The noxious liquid substances plan must contain separate sections dealing with—
  - (a) operational spills<sup>1</sup>; and
  - (b) spills resulting from accidents<sup>2</sup>.
- (2) Each section must include guidance to the master on the appropriate action to mitigate damage or control the discharge or escape of noxious liquid substances; and that guidance must require the consideration of all relevant factors.
- (3) The noxious liquid substances plan must include procedures for safe removal of noxious liquid substances and guidance for proper disposal of recovered substances and clean-up materials.

**7 Personnel responsibilities**

- (1) The noxious liquid substances plan must define the personnel duties for dealing with actual or probable discharges of noxious liquid substances including response duties and reporting responsibilities under Part 140.
- (2) The owner and the master must ensure that:
  - (a) personnel responsible for implementing the emergency plan and dealing with spills of noxious liquid substances receive training appropriate to their responsibilities under the plan;
  - (b) a record of that training is kept; and

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<sup>1</sup> For example, noxious liquid substances spilled and contained on deck, pipe leakage and tank overflow.

<sup>2</sup> Accidents such as grounding, fire, explosion, collision, hull damage or failure and excessive list.

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- (c) that sufficient personal protective equipment appropriate for the noxious liquid substances carried as cargo is available to personnel identified in the emergency plan.
- (3) The owner and the master should ensure that sufficient equipment is available for personnel to deal with a noxious liquid substances spill at a level appropriate to—
  - (a) the risks presented on board; and
  - (b) the response options identified in the emergency plan.

### **8 Priority actions**

The noxious liquid substances plan must provide the master with ship-specific guidance and information for—

- (a) determining priority actions to—
  - (i) ensure the safety of personnel and the ship (in the case of an actual or probable discharge);
  - (ii) prevent the escalation of an actual or probable discharge; and
  - (iii) where possible, stop a discharge at its source;
- (b) assessing the damage sustained by the ship;
- (c) determining whether or not a noxious liquid substances spill can be contained or cleaned up using the resources available to the master or any other person responsible for implementing the plan;
- (d) deciding what remedial action to take;
- (e)
  - (i) identifying the stability and stress consequences of remedial actions; and
  - (ii) referring to the owner, in those cases where the stability and stress consequences of remedial actions cannot be determined;
- (f) making damage stability and damaged longitudinal strength assessments; and
- (g) undertaking the transfer of all or part of the cargo to another ship, subject to any authority required from the coastal state.

### **9 Ship's information to be appended to noxious liquid substances plan**

The noxious liquid substances plan must—

- (a) have appended to it diagrams, drawings, and ship-specific details showing the general arrangement of the ship and the location of tanks;
- (b) show the location of current cargo, bunker and ballast information (including quantities and specifications);
- (c) show the quantities and location of any protective, containment, neutralisation and response equipment carried on board; and
- (d) provide material safety data sheets for all noxious liquid substances carried on board in bulk as cargo, including specifications, physical properties and internationally recognised identifier numbers.

### **10 Coastal state authorisation and requirements**

- (1) The noxious liquid substances plan must identify the circumstances in which the master must seek authorisation from the coastal state before undertaking specific actions to mitigate marine pollution from noxious liquid substances.
- (2) If the ship trades to, or in the vicinity of, any coastal state that requires the owner to initiate the response to marine pollution from noxious liquid substances, the owner must provide the master with guidance of sufficient detail and appropriate equipment to allow the master to initiate that response.