

Marine Protection Rules

Part 300: Ballast

MNZ Consolidation

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Part objective

The objective of subparts A to J of Part 300 is to prevent, minimise, and ultimately eliminate the risk to the environment, human health, property, and resources arising from the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediment.

Subparts A to J of Part 300 give effect to the provisions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004 and contain the applicable marine protection rules for the discharge of ballast water in section 246B of the Maritime Transport Act 1994 (the Act).

The United Nations Convention on the Law of the Sea 1982 (UNCLOS) provides, in Article 196(1), that "States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto".

The 2002 World Summit on Sustainable Development, in paragraph 34(b) of its Plan of Implementation, calls for action at all levels to accelerate the development of measures to address invasive alien species in ballast water.

The objective of subpart K is to clarify the instances when discharge is permitted.

The authority for Part 300 is found in section 388 of the Act. Section 388(f) of the Act provides the Minister may make marine protection rules for the purpose of prescribing areas of ships where harmful substances, or any specified harmful substance, or ballast water, may not be held. Section 388(n) of the Act provides the Minister may make marine protection rules for the purpose of prescribing requirements and procedures relating to the control and management of ballast water for the purposes of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004. This includes a provision for the Director to issue guidelines that allow for alternative requirements and procedures for certain specified types of ship. Section 388(i) enables rules to regulate or prohibit the discharge of a harmful substance. Section 388(h) enables rules to be made in respect of reception facilities, which this Part contains in its transition provisions to amend Part 100. This links the ballast water requirements in this Part 300 with those requirements in Part 100 that are relevant to reception facilities for ballast water and sediment. Section 390(2) enables marine protection rules to provide for such other matters as are contemplated by or necessary for giving full effect to the provisions of Parts 18 to 26A of the Act and for the due administration thereof, which includes subsection (2) of section 246B in Part 19A of the Act under which ballast water may only be discharged in accordance with applicable marine protection rules.

Marine protection 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 Maritime/Marine Protection Rules Part 300 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 300

Part 300 first came into force on 8 September 2017 and now incorporates the following amendments:

Amendment	Effective Date
Amendment 1	27 July 2018

Summary of Amendments

Amendment 1

Amendments to Ballast and Harmful Substances Provisions 2018

Part 300 Objective, 300.1, 300.2, 300 Subpart A, Subpart J, New Subpart K, Appendix A.

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General

300.1 Application

- (1) Subparts A to J—
 - (a) apply to a New Zealand ship or a foreign ship in New Zealand jurisdiction that is—
 - (i) designed or constructed to carry ballast water; and
 - (ii) on an international voyage; and
 - (b) do not apply to permanent ballast water.
- (2) The application of Subpart K is specified in that subpart.
- (3) This Part applies, in relation to an applicable ship, to the following persons:
 - (a) the operator of that ship:
 - (b) the owner of that ship:
 - (c) the master of that ship:
 - (d) a surveyor performing a survey of that ship.

300.2 Definitions

- (1) In this Part unless the context otherwise requires—

Act means the Maritime Transport Act 1994:

active substance means a substance or organism, including a virus or a fungus, that has a general or specific action on or against harmful aquatic organisms and pathogens:

Administration, in relation to a ship, means—

- (a) in relation to a foreign ship, the government of the State—
 - (i) under whose authority the ship is operating; or
 - (ii) whose flag the ship is entitled to fly; and
- (b) in relation to a New Zealand ship, the Director:

anniversary date means, subject to rule 300.46(5), the day and the month of each year that correspond to the date of expiry of the IBWM certificate:

approved ballast water management system means, in relation to—

- (a) a New Zealand ship, a ballast water management system approved by the Director under rule 300.101; and
- (b) a foreign ship, a ballast water management system in accordance with rule 300.102:

ballast water, in relation to a ship, means water with its suspended matter taken on board the ship to control the ship's trim, list, draught, stability, or stresses:

ballast water capacity means the total volumetric capacity of any ballast water tanks on a ship:

ballast water exchange standard means the standard prescribed in rule 300.120:

ballast water management means mechanical, physical, chemical, and biological processes, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of, harmful aquatic organisms and pathogens within ballast water and sediment:

ballast water operation means—

- (a) the uptake of ballast water; or

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- (b) the discharge of ballast water, whether at sea or to a reception facility; or
- (c) the circulation or treatment of ballast water for ballast water management purposes:

ballast water performance standard means the standard prescribed in rule 300.140:

ballast water tank means any tank on a ship used for carrying, loading, or discharging ballast water, including any multi-use tank designed to allow carriage of ballast water:

constructed, in relation to a ship—

- (a) means constructed to the point that—
 - (i) the ship's keel is laid; or
 - (ii) construction identifiable with a specific ship has begun; or
 - (iii) the assembly of the ship has commenced and reached at least 50 tonnes or 1 percent of the estimated mass of all structural material, whichever is less; and
- (b) includes, the ship undergoing a major conversion:

Convention means the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, and includes any subsequent protocol or amendment to, or revision of, that convention accepted (or deemed to be accepted), or ratified by New Zealand:

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

discharge has the same meaning as in section 225 of the Act:

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

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

FPSO means a floating production, storage, and offloading unit:

from the nearest land means from the baseline from which the territorial sea of the territory in question is established in accordance with international law; except that in relation to the part of the north eastern coast of Australia that lies between the points 11° 00' S, 142° 08' E and 24° 42' S, 153° 15' E, "from the nearest land" means from the nearest of the straight lines joining consecutively the following points:

- 11°00' S, 142°08' E,
- 10°35' S, 141°55' E,
- 10°00' S, 142°00' E,
- 9°10' S, 143°52' E,
- 9°00' S, 144°30' E,
- 10°41' S, 145°00' E,
- 13°00' S, 145°00' E,
- 15°00' S, 146°00' E,
- 17°30' S, 147°00' E,
- 21°00' S, 152°55' E,
- 24°30' S, 154°00' E,
- 24°42' S, 153°15' E:

FSU means a floating storage unit:

gross tonnage means the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships 1969:

harmful aquatic organisms and pathogens means aquatic organisms or pathogens that, if introduced into the sea including estuaries, or into fresh water courses, may—

- (a) create hazards to the environment, human health, property or resources; or
- (b) impair biological diversity; or
- (c) interfere with other legitimate uses of such areas:

IBWM certificate means an international ballast water management certificate:

IMO means the International Maritime Organization:

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

international voyage means a journey by water from—

- (a) a port in New Zealand to a port outside of New Zealand or vice versa; or
- (b) for a New Zealand ship, a port outside New Zealand to another port outside New Zealand:

major conversion, in relation to a ship— means

- (a) a conversion of an existing ship—
 - (i) that alters its ballast water carrying capacity by 15 percent or more; or
 - (ii) that changes the type of the ship; or
 - (iii) the intent of which, in the opinion of the ship's Administration is, to prolong its life by 10 years or more; or
 - (iv) that otherwise results in modifications to its ballast water system other than component replacement in kind; but—
- (b) does not include the conversion of an existing ship that is undertaken only to ensure the ship can meet the requirements of the ballast water exchange standard:

master in relation to a floating platform, FPSO, or FSU means the person on board the platform, FPSO, or FSU who has overall responsibility for its operations:

New Zealand jurisdiction means—

- (a) the internal waters of New Zealand; and
- (b) the territorial sea of New Zealand; and
- (c) the exclusive economic zone of New Zealand:

New Zealand ship means—

- (a) 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; and
- (b) any floating platform, FPSO, or FSU, engaged or utilised in exploration and exploitation of the sea-bed and subsoil within New Zealand jurisdiction:

non-permanent ballast water means ballast water that is not permanent ballast water:

operate, in relation to a ship, means to sail or use the ship, or cause or permit the ship to sail, be used, or be in any place, whether or not the person is present with the ship; and **operating**, **operation**, and **operator** have corresponding meanings:

owner—

- (a) in relation to a floating platform, FPSO, or FSU that is registered—
 - (i) means the registered owner of the floating platform, FPSO, or FSU; and
 - (ii) includes a charterer or other person who is for the time being responsible for the management of the floating platform, FPSO, or FSU, if due to a charter or demise or for any other reason, the registered owner is not responsible for that management:
- (b) in relation to a floating platform, FPSO, or FSU that is not registered, or is registered but does not have a registered owner, means the person who is for the time being responsible for the management of the floating platform, FPSO, or FSU:
- (c) in relation to any other ship, has the same meaning as in section 2 of the Act:

overall length means the length of the hull excluding bowsprits, booms, bumpkins, pulpits, and the like:

Part means a group of rules made under the Act:

pleasure craft means has the same meaning as in section 2 of the Act:

permanent ballast water means ballast water that is contained in a sealed tank and from which discharge of the ballast water or any other form of ballast water management in relation to the ballast water is not intended to occur in the normal course of the operation of a ship:

reception facility, in relation to a ship's ballast water, means a facility for the reception of the ballast water designed in accordance with guidelines developed by the IMO for such facilities:

recognised organisation means an organisation that has entered into a memorandum of agreement with the Director in compliance with the International Maritime Organization's Code for Recognized Organizations (RO Code), governing the undertaking of particular survey and certification functions by that organisation's employees under the Maritime Transport Act 1994 and the rules:

rules includes maritime rules and marine protection rules:

sediment means matter settled out of ballast water within a ship:

ship—

- (a) has the meaning in section 2 of the Act; and
- (b) includes floating platforms, FPSOs, and FSUs:

short voyage means an international voyage that is not more than 200 miles from the port of departure:

surveyor means—

- (a) a person employed as a surveyor by a recognised organisation; or
- (b) a person recognised by the Director under rule 300.200 as a surveyor entitled to undertake surveys for the purposes of this Part 300:

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

- (2) Non-permanent ballast water that exceeds the performance standard specified in rule 300.140 is a harmful substance for the purposes of the definition in section 225 of the Act.
- (3) Sediment carried on a ship to which any of subparts A to J apply is a harmful substance for the purposes of the definition in section 225 of the Act.

Subpart A General requirements under subparts B to I

300.20 General

Each person to whom rule 300.1(3) refers must comply with subparts B to I, as applicable, in the following circumstances:

- (a) the ship is carrying ballast water:
- (b) ballast water is discharged from the ship:
- (c) sediment is discharged from the ship:
- (d) cleaning or repairing a ballast water tank:
- (e) surveying a ship for the purposes to which subpart C applies.

300.21 Exceptions

Emergency conditions other than for discharge¹

- (1) A person may deviate from the requirements in Subparts F, G, and H, and rules 300.100(2), 300.100(4), and 300.102, so far as is necessary and reasonable in the circumstances, where—
 - (a) the uptake of ballast water or sediment is necessary for the purpose of ensuring safety in emergency situations or saving life at sea; or
 - (b) there is an accidental ingress of ballast water or sediment resulting from damage to a ship or its equipment, provided that—
 - (i) all reasonable precautions have been taken before and after the occurrence of the damage or discovery of the damage; and
 - (ii) the owner, operator, and master did not wilfully or recklessly cause the damage; or
 - (c) the uptake of ballast water or sediment is undertaken for the purpose of avoiding or minimising pollution incidents from the ship.

Neutral conditions

- (2) The requirements in Subparts F, G, and H, and rules 300.100(2), 300.100(4), and 300.102, do not apply where—
 - (a) the uptake is from and discharge is to the high seas; or
 - (b) the discharge of ballast water and sediment is at the same location where the whole of that ballast water and sediment originated, provided that no mixing with ballast water and sediment from another location has occurred.
- (3) For the purposes of subrule (2), the same location means the location for discharge is—
 - (a) near the location for uptake; and
 - (b) of sufficient proximity that there is no change in the type of aquatic organism or pathogens in the water.

¹ Refer to s.264D of the Maritime Transport Act 1994 for emergency condition for discharge.

Subpart B Certification

300.40 Applicability of Subpart B

This Subpart applies to a ship, excluding floating platforms, FPSOs, and FSUs, that is—

- (a) 400 or more gross tonnage; and
- (b) designed or constructed to carry ballast water.

300.41 Requirement for IBWM certificate – Party States

- (1) The owner and the master of a ship must ensure that a valid IBWM certificate is—
 - (a) for a New Zealand ship, issued by the Director in accordance with rule 300.45; or
 - (b) for a foreign ship, except as provided under rule 300.44—
 - (i) issued in accordance with the Convention by or on behalf of a State party to the Convention other than New Zealand; and
 - (ii) accepted by the Director in accordance with section 271 of the Act.
- (2) The owner and the master must ensure that the IBWM certificate held in respect of the ship is—
 - (a) carried on board the ship; and
 - (b) readily available for inspection by the Director and by authorised persons acting on behalf of a State party to the Convention at all times.
- (3) The owner and the master must comply with the conditions to which the IBWM certificate is subject.

300.42 Requirement for recognition – Non-Party States

- (1) The owner and the master of a foreign ship that is within New Zealand jurisdiction and that is registered in a State not party to the Convention must ensure that—
 - (a) a valid international ballast water management document (“IBWM document”) that certifies compliance with the applicable requirements of the Convention has been recognised as a marine protection document under section 270 of the Act and is held in respect of the ship; and
 - (b) if the language of the IBWM document is neither English nor French, the text includes a translation into one of these languages.
- (2) The owner and the master must ensure that the IBWM document held in respect of the ship is—
 - (a) carried on board the ship; and
 - (b) readily available for inspection by the Director at all times.
- (3) The owner and the master must comply with the conditions to which the IBWM document is subject.

300.43 [Reserved]

300.44 Issue or endorsement of IBWM certificates and duration – foreign ships

- (1) If requested by another State party to the Convention the Director—
 - (a) may arrange for a foreign ship to be surveyed in accordance with rule 300.62; and
 - (b) must, on receipt of payment of costs under subrule (5) and on receipt of a satisfactory survey report—
 - (i) relating to an initial or renewal survey, and an application under section 269 of the Act, issue an IBWM certificate in respect of the ship under section 270 of the Act; or

- (ii) relating to an annual, intermediate, or additional survey, endorse or authorise a surveyor to endorse the IBWM certificate in respect of the ship.
- (2) An IBWM certificate issued in accordance with subrule (1)(b)(i) must state it was issued at the request of the other State party to the Convention.
- (3) The Director must ensure that a copy of any IBWM certificate issued or endorsed under subrule (1), and the relevant survey report, are transmitted to the requesting State party.
- (4) The Director must not issue an IBWM certificate in respect of a foreign ship entitled to fly the flag of a State that is not a party to the Convention.
- (5) The owner of the foreign ship in respect of which a request is made under subrule (1), is responsible for the costs of the survey, and any other associated costs of the surveyor or Director in relation to the issue or endorsement of the IBWM certificate.
- (6) An IBWM certificate issued by the Director under this rule 300.44 shall be subject to the same conditions specified in rule 300.46(1)(c).
- (7) An IBWM certificate issued by the Director under this rule 300.44 shall be for a period at the discretion of the Director but, in any event, must be issued for a period not exceeding 5 years.

300.45 Issue, renewal, and endorsement of IBWM certificates – NZ ships

- (1) The owner of a New Zealand ship must apply to the Director to issue an IBWM certificate in respect of the ship, in accordance with section 269 of the Act.
- (2) The Director must issue the IBWM certificate in accordance with section 270 of the Act if satisfied that—
 - (a) the ship has undergone an initial survey or renewal survey, as appropriate, in accordance with rule 300.61; and
 - (b) the surveyor who conducted the survey was satisfied that the relevant requirements in rule 300.62 were met.
- (3) An IBWM certificate issued by the Director must be—
 - (a) in English; and
 - (b) in the form in Appendix I of the Convention.
- (4) A surveyor who is satisfied following completion of an annual, intermediate, or additional survey of a ship in accordance with rule 300.62 that the relevant requirements of that rule are met, must endorse the IBWM certificate held in respect of that ship to that effect.

300.46 Duration and conditions of IBWM certificates – NZ ships

- (1) An IBWM certificate issued by the Director in respect of a New Zealand ship—
 - (a) must be issued for a period not exceeding 5 years;
 - (b) if issued or recognised for less than 5 years, may be extended to the maximum 5 year period provided the intermediate survey required by rule 300.61(1)(c) is carried out;
 - (c) is subject to the following conditions—
 - (i) no change, replacement, or significant repair may be made to the ship's structure, equipment, systems, fittings, arrangements and material associated with the ship's ballast water management plan, without the approval of a surveyor except the direct replacement of such equipment or fittings;
 - (ii) the surveys required by rule 300.61 are completed and, where relevant, the IBWM certificate is endorsed to show that the ship has met the survey requirements;

- (iii) the ship is not transferred to the flag of another State.
- (2) Despite subrules (1)(a) and (b), if the ship undergoes a satisfactory renewal survey—
 - (a) within 3 months before the expiry date of the existing IBWM certificate, the new IBWM certificate is valid from the date of completion of the renewal survey to a date not more than 5 years from the date of expiry of the existing IBWM certificate; or
 - (b) after the expiry date of the existing IBWM certificate, the new IBWM certificate is valid from the date of completion of the renewal survey to a date not more than 5 years from the date of expiry of the existing IBWM certificate; or
 - (c) more than 3 months before the expiry of the existing IBWM certificate, the new IBWM certificate is valid from the date of completion of the renewal survey to a date not more than 5 years from the date of completion of the renewal survey.
- (3) Despite subrules (1)(a) and (b), if the ship undergoes a satisfactory renewal survey but a new IBWM certificate cannot be issued or placed on board the ship before the expiry of the existing IBWM certificate held in respect of that ship, the surveyor who undertook the survey may endorse the existing IBWM certificate with a new expiry date not more than 5 months from the date of expiry of that certificate, and the existing IBWM certificate is to be treated as valid up to that date.
- (4) Despite subrule (2) and rules 300.47(4) and 300.48(3), the Director may, if in the Director's opinion special circumstances exist, issue an IBWM certificate in the circumstances in those subrules that is valid to a date not more than 5 years from the date of completion of the renewal survey.
- (5) If an annual survey is completed before the period specified in rule 300.61(1)(b) then—
 - (a) the anniversary date on the IBWM certificate must be amended by endorsement to the certificate to a date that is not more than 3 months after the date on which the survey was completed; and
 - (b) the subsequent annual or intermediate surveys required by rule 300.61 must be completed at the intervals prescribed by that rule using the new anniversary date.
- (6) The expiry date of an IBWM certificate on which the anniversary date is amended in accordance with subrule (5) remains unchanged provided one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys required by rule 300.61 are not exceeded.

300.47 Extensions of IBWM certificates to allow travel to survey port – NZ ships

- (1) This rule applies if an IBWM certificate issued in respect of a New Zealand ship in accordance with rule 300.45 is due to expire at a time when the ship is not in the port in which it is to be surveyed.
- (2) The Director may, if in the Director's opinion it is proper and reasonable to do so, extend the expiry date of the IBWM certificate.
- (3) An extension under subrule (2)—
 - (a) must be granted only for the purpose of allowing the ship to complete its voyage to the survey port; and
 - (b) must not be granted for a period of more than 3 months; and
 - (c) does not entitle the ship, on arriving at the survey port, to leave that port without a new IBWM certificate.
- (4) For the purposes of rule 300.46(2)(b), any new IBWM certificate granted following survey of the ship is valid from the date of completion of the renewal survey to a date not more than 5 years from the original expiry date of the existing IBWM certificate, (not from the date to which the existing IBWM certificate has been extended under this rule 300.47).

300.48 Extensions of IBWM certificates for short voyages – NZ ships

- (1) This rule 300.48 applies if the IBWM certificate issued in respect of a New Zealand ship in accordance with rule 300.45 is due to expire and—
 - (a) the ship to which the certificate relates is engaged on a short voyage; and
 - (b) the certificate has not been extended under rule 300.47.
- (2) The Director may extend the expiry date of the IBWM certificate for a period of up to one month from the date of expiry of the certificate.
- (3) For the purposes of rule 300.46(2)(b), any new IBWM certificate granted following survey of the ship is valid from the date of completion of the renewal survey to a date not more than 5 years from the original expiry date of the existing IBWM certificate, (not from the date to which the existing IBWM certificate has been extended under this rule 300.48).

Subpart C Surveys

300.60 Applicability of Subpart C

This Subpart applies to a ship, excluding floating platforms, FPSOs, and FSUs, that is—

- (a) a New Zealand ship; and
- (b) 400 or more gross tonnage; and
- (c) designed or constructed to carry ballast water.

300.61 Schedule of surveys

- (1) The owner of a ship must ensure that a surveyor carries out the following surveys of the ship:
 - (a) an initial survey before—
 - (i) the ship is put into service; or
 - (ii) an IBWM certificate is issued in respect of the ship for the first time;
 - (b) an annual survey within 3 months before or after each anniversary date of the IBWM certificate held in respect of the ship;
 - (c) an intermediate survey—
 - (i) within 3 months before or after either the second or third anniversary date of the IBWM certificate held in respect of the ship; and
 - (ii) that takes the place of the annual survey required under subrule (b) in that year;
 - (d) a renewal survey at 5 yearly intervals, or such lesser intervals as the Director may specify;
 - (e) an additional survey, either general or partial, after any change, replacement, or significant repair to the structure, equipment, systems, fittings, arrangements, and material necessary to comply with this Part.
- (2) Subrule (1)(d) is subject to any variations permitted in rules 300.46(2), 300.46(3), 300.46(4), 300.47, and 300.48.

300.62 Requirements for surveys

- (1) A surveyor performing an initial survey or renewal survey must consider whether—
 - (a) the ship's ballast water management plan meets the requirements in rule 300.80;
 - (b) any structure, equipment, systems, fittings, arrangements, and material or processes associated with the ship's ballast water management plan meet the requirements in Subpart E.
- (2) A surveyor performing an annual survey must—
 - (a) conduct a general inspection of the equipment, systems, fittings, arrangements, and material or processes associated with the ship's ballast water management plan; and
 - (b) consider whether the equipment, systems, fittings, arrangements, and material or processes have been maintained in accordance with rule 300.105 and that they remain satisfactory for the service for which the ship is intended.
- (3) A surveyor performing an intermediate survey must—
 - (a) inspect the equipment, associated systems, and processes of the ship for ballast water management; and
 - (b) consider whether the equipment, associated systems, and processes fully comply with the applicable requirements of this Part and are in good working order.

- (4) A surveyor performing an additional survey must—
 - (a) inspect the relevant change, replacement, or significant repair of the structure, equipment, systems, fittings, arrangements or material necessary to comply with this Part; and
 - (b) consider whether the change, replacement, or significant repair has been effectively made, so that the ship complies with this Part.

300.63 Failure to meet standards for issue or endorsement of an IBWM certificate

- (1) Subrule (2) applies if, as a result of a survey under rule 300.61, a surveyor—
 - (a) is not satisfied that the relevant survey requirements in rule 300.62 are met; or
 - (b) determines that the ship's ballast water management—
 - (i) does not comply with particulars of the IBWM certificate held in respect of that ship; or
 - (ii) is such that the ship is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property, or resources.
- (2) The surveyor must immediately—
 - (a) instruct the owner of the ship to take corrective action to ensure the ship complies with this Part; and
 - (b) notify the corrective action required to—
 - (i) the Director; and
 - (ii) if the ship is in the port of another State party to the Convention, the Administration of that State party.

Subpart D Ballast Water Management — Plans and Record Books

New Zealand ships

300.80 Ballast water management plan

- (1) The owner of a New Zealand ship must ensure there is a ballast water management plan relevant to the ship that complies with subrule (2).
- (2) The ballast water management plan must—
 - (a) provide details of the processes relevant to the ship, and the actions necessary to implement those processes, for the following matters:
 - (i) ballast water operations;
 - (ii) disposal of sediment at sea;
 - (iii) disposal of sediment on shore; and
 - (b) provide details of the safety procedures for the ship and its crew associated with ballast water operations and the removal and disposal of sediment; and
 - (c) include the procedures relevant to the ship for co-ordinating ballast water operations involving discharge of ballast water into the sea with the authorities of the State into whose waters the discharge will take place; and
 - (d) designate the person in charge of ensuring the plan is properly implemented; and
 - (e) contain the reporting and record keeping requirements in respect of the ship provided for in rule 300.81; and
 - (f) be written in English; and
 - (g) be approved by the Director.
- (3) The owner and the master must ensure that—
 - (a) the ballast water management plan is carried on board the ship; and
 - (b) the officers and crew of the ship are familiar with—
 - (i) the ballast water management plan relevant to the ship; and
 - (ii) their duties under that plan; and
 - (c) ballast water operations on the ship are conducted in accordance with, and all persons on board comply with, the ballast water management plan.

300.81 Ballast water record books

- (1) The owner and the master of a New Zealand ship must ensure that there is a ballast water record book for the ship that is—
 - (a) carried on board the ship at all times or, if the ship is unmanned and under tow, on board the ship or the towing ship; and
 - (b) available for inspection at all reasonable times by the Director and by authorised persons acting on behalf of a State party to the Convention; and
 - (c) maintained without delay following each ballast water operation conducted on the ship in accordance with subrule (3).
- (2) The ballast water record book may be—
 - (a) kept in an electronic or paper form; and
 - (b) integrated into another record book or system.
- (3) The owner and the master must ensure that—
 - (a) the ballast water record book is—

- (i) in English; and
 - (ii) signed on every completed page by the master of the ship; and
 - (iii) contains at least the information specified in the form in Appendix II of the Convention; and
- (b) entry is made in the ballast water record book following each ballast water operation and signed by the officer in charge of the ballast water operation, including:
- (i) when ballast water is discharged in a circumstance specified in rule 300.21:
 - (ii) when ballast water is discharged from a ship to which an exemption granted by the Director under section 395 of the Act relates:
 - (iii) in the event of any other accidental or exceptional discharge of ballast water; and
- (c) the entry in the ballast water record book that relates to a ballast water operation conducted in breach of Subpart F contains the reasons for the failure to comply with that rule; and
- (d) any exemption granted by the Director or another State party from the ballast water management requirements that would otherwise apply in regard to the ship is recorded in the ship's ballast water record book.
- (4) A ballast water record book required by subrule (1) must be kept—
- (a) on board the ship for a minimum of 2 years after the date of the last entry in the book; and
 - (b) after the expiry of the minimum period in subrule (a), in the control of the owner of the ship for a further minimum period of 3 years.

Foreign ships

300.82 Plans and record books

- (1) The owner and the master of a foreign ship that is registered in a State party to the Convention must ensure there is carried on board the ship—
- (a) a current ballast water management plan approved by the Administration of the ship; and
 - (b) a ballast water record book that complies with the requirements of the Annex to the Convention.
- (2) The owner and the master of a foreign ship that is not registered in a State party to the Convention must ensure that there is carried on board the ship—
- (a) a current plan for ballast water management; and
 - (b) a ballast water record book; and
 - (c) evidence that the plan and record book comply with the requirements of this Subpart.

Subpart E Ballast Water Management — Systems and Operations

Systems — New Zealand Ships

300.100 General requirement for ballast water management system

- (1) This rule 300.100 does not apply in respect of any ship from which discharge of its ballast water is to a reception facility.
- (2) Subject to subrule (4), the owner and the master of ship must ensure there is a ballast water management system applied to the ship that complies with the requirements in—
 - (a) Subpart F, for application of ballast water exchange standards; or
 - (b) Subpart G, for application of ballast water performance standards; or
 - (c) Subpart H, for application of any alternative ballast water management system; and
- (3) The owner and the master of ship must ensure that the ballast water management system applied to the ship is—
 - (a) approved by the Director; and
 - (b) safe in relation to the ship, its equipment, and crew.
- (4) The owner and the master of a ship must ensure the ballast water management system is in accordance with the standards and requirements specified in Appendix A.

300.101 Director to approve ballast water management system

- (1) The Director must, for each New Zealand ship, approve the ballast water management system applied to it.
- (2) In approving a ballast water management system under subrule (1), the Director must have regard to guidelines adopted by the IMO in relation to such systems.
- (3) The Director may not approve a ballast water management system that uses an active substance or a preparation containing an active substance unless the active substance, and the ballast water management system have been approved by the IMO.
- (4) The Director must revoke approval of a ballast water management system if satisfied that the system—
 - (a) contains an active substance that is no longer approved by the IMO; or
 - (b) no longer complies with this Part.

Systems — Foreign Ships

300.102 General requirement for ballast water management system

The owner and the master of a foreign ship must ensure that the ballast water management system applied to the ship is—

- (a) approved by the Administration of the ship; and
- (b) safe in relation to the ship, its equipment, and crew.
- (c) if the system uses an active substance or a preparation containing an active substance, approved by the IMO:
- (d) compliant with the standards and requirements specified in regulation B-3 of the Annex to the Convention.

Operational —all ships

300.103 Ballast water discharge

- (1) This rule 300.103 does not apply in respect of any ship from which discharge of its ballast water is to a reception facility.
- (2) The owner and the master of a ship must ensure that no ballast water is discharged from the ship unless—
 - (a) the ballast water is exchanged in accordance with the ballast water exchange standard under Subpart F; or
 - (b) the ballast water meets the ballast water performance standard under Subpart G; or
 - (c) the ballast water has been managed or treated in accordance with any other alternative method of ballast water management approved by—
 - (i) for a New Zealand ship, the Director under Subpart H; or
 - (ii) for a foreign ship, the ship's Administration.

300.104 Sediment management

The owner and the master of a ship must ensure that sediment is removed from the tanks on the ship that are designated to carry ballast water, and disposed of, in accordance with the provisions of the ballast water management plan relevant to the ship.

300.105 Duties in relation to maintenance and changes

- (1) The owner of a ship must ensure that the condition of the ship and its equipment, and the systems and processes in respect of the ship, are maintained—
 - (a) in accordance with the provisions of Part 300; and
 - (b) so as to ensure the ship is fit to proceed to sea without presenting a threat of harm to the environment, human health, property, or resources from the ship's ballast water and sediment.
- (2) The owner of a ship must ensure that no change is made to the ship's structure, equipment, fittings, arrangements, or material associated with the ballast water plan required under rule 300.80 or rule 300.82, without the approval of the Administration of the ship, except the direct replacement of such equipment and fittings.

300.106 Reporting and Investigation of accidents and defects

- (1) The owner and the master of a ship must ensure that, if there is an accident or a defect relating to the ship that substantially affects the ability to conduct ballast water management in respect of the ship in accordance with the requirements of this Subpart, the accident or defect is reported to—
 - (a) the Director; and
 - (b) if the ship is—
 - (i) a New Zealand ship; and
 - (ii) in the port of another State party to the Convention—
that other State party.
- (2) If the Director is notified of an accident or a defect relating to a ship that substantially affects the ability to conduct ballast water management in respect of the ship in accordance with the requirements of this Subpart, the Director must—
 - (a) cause an investigation to be initiated to determine whether an additional survey is necessary; and

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- (b) if the ship is a New Zealand ship and is in a port of another State party to the Convention, ensure that the owner or master has reported the accident or defect to the appropriate authorities of that State party, in accordance with subrule (1).

Subpart F Ballast Water Management Exchange System

300.120 Ballast water exchange standard

Where ballast water exchange is being performed, there must be at least 95% volumetric exchange of the ballast water in the ballast water tank used for carrying ballast water.

300.121 Pump through method

- (1) Where ballast water exchange is being performed in relation to ballast water in a ballast water tank using the pumping through method, the ballast water exchange standard specified in rule 300.120 is met if the method pumps three times the volume of the tank through the tank.
- (2) If the pumping through method referred in subrule (1) pumps less than three times the volume of the tank through the tank, it must demonstrably meet the ballast water exchange standard specified in rule 300.120.

300.122 Places for conduct

- (1) The owner and the master of a ship that conducts ballast water management in accordance with the ballast water exchange standard must ensure that—
 - (a) the ballast water exchange is conducted—
 - (i) at least 200 nautical miles from the nearest land; and
 - (ii) in water at least 200 metres in depth; and
 - (iii) taking into account any relevant Guidelines adopted by the IMO; or
 - (b) if ballast water exchange is unable to be conducted in accordance with subrule (a), the ballast water exchange is conducted—
 - (i) as far from the nearest land as possible, but in all cases not less than 50 nautical miles from the nearest land; and
 - (ii) in water at least 200 metres in depth; and
 - (iii) taking into account any relevant Guidelines adopted by the IMO; or
 - (c) the ballast water exchange is conducted in an area designated by the State in whose jurisdiction the ship is located as a ballast water exchange area.
- (2) Subrule (1) does not apply if the master reasonably believes that complying with the subrule would threaten the safety or stability of the ship, its crew, or its passengers because of adverse weather, ship design or stress, equipment failure, or any other extraordinary condition.

Subpart G Ballast Water Management Performance System

300.140 Ballast Water Performance Standards

- (1) The ballast water performance standard is that ballast water discharged from the ship contains less than—
 - (a) 10 viable organisms per cubic metre that are greater than or equal to 50 micrometres in minimum dimension; and
 - (b) 10 viable organisms per millilitre that are—
 - (i) greater than or equal to 10 micrometres in minimum dimension; but
 - (ii) less than 50 micrometres in minimum dimension; and
 - (c) the maximum concentration of the indicator microbes specified in the following table:

Indicator microbe	Maximum concentration
Toxicogenic <i>Vibrio cholerae</i> (O1 and O139)	(i) 1 cfu per 100 mls; or (ii) 1 cfu per 1 gram (wet weight) zooplankton samples
<i>Escherichia coli</i>	250 cfu per 100 mls
Intestinal Enterococci	100 cfu per 100 mls

- (2) In the table in subrule (1)(c), **cfu** means “colony forming unit”

Subpart H Alternative Ballast Water Management Systems

300.160 Director may approve test programmes and ships

- (1) The Director may approve a ballast water treatment test programme to test and evaluate the effectiveness of new ballast water treatment technology that, in the Director's opinion, has potential to result in treatment technology that achieves a standard higher than the ballast water performance standard.
- (2) The Director must not approve a test programme unless it—
 - (a) has been developed having regard to any relevant IMO guidelines for such programmes; and
 - (b) requires ships that participate to operate the treatment system consistently and as designed during the test and evaluation period; and
 - (c) provides for participation by only the minimum number of ships that in the Director's opinion is necessary to effectively test the technology.
- (3) The Director may, on application by the owner of a ship, approve a ship to participate in an approved test programme.

300.161 Alternative compliance in relation to ballast water management – NZ ships

- (1) The owner and the master are not required to comply with Subparts F, G, and rules 300.100(2), 300.100(4), and 300.102, to the following extent:
 - (a) if, before the date on which the ship would otherwise be required to conduct ballast water management in accordance with the ballast water performance standard, the Director has approved the ship to participate in a test programme under rule 300.160, the ship is not required to comply with that standard until the end of the period 5 years from the date the ship would otherwise have been required to conduct ballast water management in accordance with that standard:
 - (b) if, after the date on which the ship would otherwise be required to conduct ballast water management in accordance with the ballast water performance standard, the Director has approved the ship to participate in a test programme under rule 300.160, the ship is not required to comply with that standard until the end of the period 5 years from the date of installation of the new technology.
- (2) The owner and the master of a ship referred to in subrule (1)(a) or (1)(b) must ensure that the ship conducts ballast water management in accordance with the requirements of the relevant test programme.

Subpart I Equivalent compliance

300.180 Applicability of Subpart I

This Subpart applies in respect to the following ships:

- (a) pleasure craft that—
 - (i) are less than 50 metres in overall length; and
 - (ii) have a maximum ballast water capacity of 8 cubic metres or less;
- (b) any ships specified by the Director as applicable to any guidelines issued under rule 300.181.

300.181 Director may issue guidelines

- (1) The Director may issue guidelines with which an owner and a master of a ship may elect to comply instead of this Part.
- (2) Any guidelines issued by the Director must—
 - (a) provide for procedures that will ensure equivalent compliance for the ships to which the guidelines relate; and
 - (b) take account of and be consistent with the relevant guidelines adopted by the IMO in relation to equivalent compliance for such ships.
- (3) Where there is a requirement in this Part in relation to any ship, a person associated with that ship will not be in breach of that requirement if—
 - (a) there is a guideline issued under subrule (1) providing an equivalent means of compliance in respect of that requirement; and
 - (b) there has been an election made under subrule (1) in respect of that ship to comply with that guideline; and
 - (c) the person is complying with that guideline.

Subpart J Miscellaneous

300.200 Recognition as a surveyor

- (1) The Director may, upon application in accordance with section 269 of the Act, recognise any suitably qualified person as a surveyor by issuing a marine protection document in accordance with section 270 of the Act.
- (2) A marine protection document may be issued to a person under subrule (1)—
 - (a) if the Director is satisfied that the person has the appropriate technical qualifications and experience to undertake the surveys prescribed in this Subpart C; and
 - (b) for a period of up to 5 years.

300.201 [reserved]

300.202 Consequential and other related amendments

- (1) In Part 100, insert in rule 100.2, the following definitions, in the appropriate alphabetical order:

“**ballast water**, in relation to a ship, means water with its suspended matter taken on board the ship to control the ship’s trim, list, draught, stability, or stresses:

dirty ballast water, in relation to a ship, is a harmful substance for the purposes of section 225 of the Act, and means ballast water that exceeds the performance standard specified in rule 300.140:

dirty sediment is a harmful substance for the purposes of section 225 of the Act, and means sediment that exceeds the performance standard specified in rule 300.140:

sediment means matter settled out of ballast water within a ship.”
- (2) In Part 100, insert after rule 100.12, the following subheading and new rule:

“**Facilities for the reception of ballast water and sediment**

100.13 Facilities for the reception of ballast water and sediment

 - (1) A person to whom this rule applies must ensure that, if ships carrying ballast water are at the port, there are reception facilities available at the port—
 - (a) with sufficient capacity to receive, without causing undue delay to ships, all dirty ballast water and dirty sediment for disposal from such ships as a consequence of the application of Part 300; and
 - (b) designed in accordance with guidelines developed by the IMO for such facilities.
 - (2) A person to whom this rule applies must ensure that, if repairs to a ship carrying ballast water are undertaken at the port, the reception facilities have sufficient capacity to receive any dirty ballast water and dirty sediment from the ship being repaired at the port.”.

Subpart K Permitted discharges

300.220 Permitted discharge - ballast water and section 246B of the Act

- (1) This rule 300.220 applies to a ship to which section 246B of the Act applies, except when any of subparts A to J of this Part applies to the ship.
- (2) Unless otherwise prohibited or restricted in rules or other applicable legislation, ballast water may be discharged from a ship in an area to which section 246B of the Act applies.
- (3) For the avoidance of doubt, a discharge of ballast water from a ship in accordance with subrule (2) is a discharge in accordance with the marine protection rules for the purposes of section 246B of the Act.

300.221 Permitted discharge - ballast water as a harmful substance and section 226 of the Act

- (1) This rule 300.221 applies to a ship to which section 226 of the Act applies, except when any of subparts A to J of this Part applies to the ship.
- (2) Unless otherwise prohibited or restricted in rules or other applicable legislation, ballast water that is a harmful substance may be discharged from a ship in an area to which section 226 of the Act applies.
- (3) For the avoidance of doubt, a discharge of ballast water, as a harmful substance, from a ship in accordance with subrule (2) is a discharge in accordance with the marine protection rules for the purposes of section 226 of the Act.

300.222 Permitted discharge - ballast water as a harmful substance and section 226A of the Act

- (1) This rule 300.222 applies to a ship to which section 226A of the Act applies, except when any of subparts A to J of this Part applies to the ship.
- (2) Unless otherwise prohibited or restricted in rules or other applicable legislation, ballast water that is a harmful substance may be discharged from a ship in an area to which section 226A of the Act applies.
- (3) For the avoidance of doubt, a discharge of ballast water, as a harmful substance, from a ship in accordance with subrule (2) is a discharge in accordance with the marine protection rules for the purposes of section 226A of the Act.

Appendix A Different BWM Standards Applicable To Different Ships

Refer rule 300.100

- A.1 The following standards and requirements apply to ships for which an IOPP renewal survey under MARPOL Annex I does not apply:
 - A.1.1 a ship constructed before 8 September 2017 must—
 - A.1.1.1 until 8 September 2024, meet the ballast water exchange standard (rule 300.120) or ballast water performance standard (rule 300.140):
 - A.1.1.2 from 8 September 2024, meet the ballast water performance standard (rule 300.140):
 - A.1.2 a ship constructed on or after 8 September 2017 must meet the ballast water performance standard (rule 300.140).
- A.2 The following standards and requirements apply to ships for which an IOPP renewal survey under MARPOL Annex I applies:
 - A.2.1 a ship constructed before 8 September 2017 must—
 - A.2.1.1 until the applicable date of the relevant renewal survey under MARPOL Annex I determined in the flow chart below, meet the ballast water exchange standard (rule 300.120) or ballast water performance standard (rule 300.140):
 - A.2.1.2 from the applicable date of the relevant renewal survey under MARPOL Annex I determined in the flow chart below, meet the ballast water performance standard (rule 300.140).
 - A.2.2 a ship constructed on or after 8 September 2017 must meet the ballast water performance standard (rule 300.140).

Flow chart for determining the applicable renewal survey under subclause A.2.1 at which time the vessel needs to conduct ballast water management to the performance standard

