



Maritime Transport Act 1994

Marine Protection Rules

**MARINE PROTECTION AMENDMENT RULES
(Parts 120, 121A, 123A, 132 and 170)**

Pursuant to sections 386, 387 and 388 of the Maritime Transport Act 1994 I, Harry James Duynhoven, Minister for Transport Safety, hereby make the following marine protection rules.

Signed at Wellington

this *10th* day of *October* 2006

by HARRY JAMES DUYNHOVEN

Minister for Transport Safety

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Objective

The amendments to Parts 120, 121A, 123A and 170 of the marine protection rules bring those Parts in line with amendments to the International Convention for Prevention of Pollution from Ships 1973/78 (MARPOL 73/78) that have been made since the rules came into force.

The amendments to Part 132 update the list of approved dispersants that may be used to contain or control marine oil spills and allow approval to be withdrawn where a dispersant is no longer manufactured or available in New Zealand.

Part 120

The amendments to Part 120 extend the definition of “special area” to include the North West European Waters and give effect to an amendment to regulation 10 of Annex I of MARPOL 73/78, which came into force on 1 February 1999 and took effect from 1 August 1999. The amendments provide this special area with additional protection from operational discharges of oil cargo residues, on the basis of demonstrated need. Other areas so designated include the Mediterranean, Baltic, Black and Red Seas, the Gulfs area, the Gulf of Aden and the Antarctic sea area.

Part 121A

The amendments to Part 121A give effect to changes to regulation 25A of Annex I of MARPOL 73/78, which provides a design standard for the intact stability of new double hull oil tankers of 5,000 tonnes deadweight or more. This new MARPOL 73/78 regulation, which came into force on 1 February 1999, also allows intact stability criteria to be met, in the case of combination carriers, by written operational procedures.

Part 123A

The amendments to Part 123A supplement Forms A and B to the International Oil Pollution Prevention Certificate, which are incorporated as Appendices 2 and 3 of Part 123A. The changes give effect to amendments to Annex I of MARPOL 73/78 that came into force on 1 January 2001.

Part 132

The amendments to Part 132 –

- (i) update the table of dispersants to remove those substances that are no longer manufactured or available for use in New Zealand; and
- (ii) allow the Director to withdraw the approval of a substance that is no longer manufactured or available for use in New Zealand.

Part 170

Amendments to Part 170 –

- (i) require garbage discharge requirements, notified on placards on board ships of 12 metres or more in length, to incorporate reference to the Resource Management (Marine Pollution) Regulations 1998 (governing

- discharges within 12 miles of the coast) as well as marine protection rule requirements; and
- (ii) reflect amendments to regulations 1 and 3 of Annex V of MARPOL 73/78, which came into force on 1 March 2002, and:
 - (a) align the definition of “nearest land” in respect of the sea area off the coast of north east Australia with the co-ordinates used in the 1975 definition of the Great Barrier Reef Region, the 1981 World Heritage Listing and the 1991 IMO ‘Particularly Sensitive Sea Area’ designation;
 - (b) extend the definition of plastics to include incinerator ash from plastic products which may contain toxic or heavy metal residues;
 - (c) set out requirements applicable to foreign ships in respect of placards, Garbage Record Books, and garbage management plans when such ships are within New Zealand jurisdiction. The amendment extends New Zealand controls on garbage management by foreign ships to the full extent permitted under international law. In accordance with Annex V regulations, it also removes the requirement that foreign ships must have their Garbage Record Books approved by the flag state. Additionally, it provides that placards and Garbage Record Books may be in Spanish;
 - (d) incorporates in the Garbage Record Book the amended definition of plastics including incinerator ash from plastic products that may contain toxic or heavy metal residues, in line with the amendment in regulation 3.

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.

Extent of Consultation

On 4 October 2003, the Maritime Safety Authority published, in each of the daily newspapers in the four main centres of New Zealand, a notice inviting comments on the proposed amendments. A notice was also published in the New Zealand Gazette on 2 October 2003. The Authority then made its Invitation to Comment and the draft amendments available to the public with electronic and hard copies being sent automatically to interested parties. The draft was also posted on, and available for downloading from, the MSA website. Comments were requested by 21 November 2003.

No submissions were received on the proposed amendments. Any oral comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made.

General

1 Entry into Force

These amendment rules come into force on 14 December 2006.

Amendments to Part 120 – Discharge of Oil

2 Part 120 Part Objective

The Part Objective to Part 120 is amended by adding the following paragraph:

“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.”

3 Rule 120.2 Definitions

The definition of “special areas” in Rule 120.2 is amended by inserting the following paragraph:

“(h) the **North West European waters** comprising the area bound by lines joining the following points:

- (i) 48°27' N on the French coast;
- (ii) 48°27' N, 06°25' W;
- (iii) 49°52' N, 07°44' W;
- (iv) 50°30' N, 12° W;
- (v) 56°30' N, 12° W;
- (vi) 62°N, 03° W;
- (vii) 62°N on the Norwegian coast;
- (viii) 57°44.8' N on the Danish and Swedish coasts;”

Amendments to Part 121A – Ship Design and Construction – Oil Tankers

4 Part 121A Part Objective

The Part Objective to Part 121A is amended by adding the following paragraph:

“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.”

5 Rule 121A.18 Intact stability

Part 121A is amended by inserting the following rule:

“121A.18 Intact stability

- (1) Rule 121A.18 applies to any oil tanker of 5,000 tonnes deadweight or more –
 - (a) for which the building contract was placed on or after 1 February 1999; or
 - (b) in the absence of a building contract, the keel of which was laid or which was at a similar stage of construction on or after 1 August 1999; or
 - (c) the delivery of which was on or after 1 February 2002; or
 - (d) that has undergone a major conversion:
 - (i) for which the contract was placed after 1 February 1999; or
 - (ii) in the absence of a contract, the construction work of which begun after 1 August 1999; or
 - (iii) which was completed after 1 February 2002.
- (2) The owner and the master of any oil tanker to which this rule applies must ensure that the tanker complies with the following intact stability criteria, calculated for all conditions as if the ballast tanks are slack:
 - (a) in port, the initial metacentric height GM_0 , corrected for free surface effect measured at 0 degrees heel, must be not less than 0.15 metres; and
 - (b) at sea:
 - (i) the area under the righting lever curve (“GZ” curve) must be not less than 0.055 metre radians up to $\Theta = 30$ degrees angle of heel and not less than 0.09 metre radians up to $\Theta = 40$ degrees or other angle of flooding Θ_f ¹ if this angle is less than 40 degrees. Additionally, the area under the righting lever curve between the angles of heel of 30 degrees and 40 degrees or between 30 degrees and Θ_f , if this angle is less than 40 degrees, must be not less than 0.03 metre radians; and
 - (ii) the righting lever GZ must be at least 0.20 metres at an angle of heel equal to or greater than 30 degrees; and
 - (iii) the maximum righting arm must occur at an angle of heel preferably exceeding 30 degrees but not less than 25 degrees; and

¹ Θ_f is the angle of heel at which openings in the hull, superstructures or deck-houses, which cannot be closed weathertight, immerse. In applying this criterion, small openings through which progressive flooding cannot take place need not be considered as open.

- (iv) the initial metacentric height GM_0 , corrected for free surface effect measured at 0 degrees heel, must be not less than 0.15 metres.
- (3) The requirements of paragraph (2) must be met through design measures except, in the case of any combination carrier, the requirements may be met through simple written supplementary operational procedures for liquid transfer operations.
- (4) The operational procedures referred to in paragraph (3) must:
 - (a) be approved by the Director; and
 - (b) indicate those cargo and ballast tanks that may, under any specific condition of liquid transfer and possible range of cargo densities, be slack² and still allow the stability criteria to be met; and
 - (c) be readily understandable to the officer in charge of liquid transfer operations; and
 - (d) provide for planned sequences of cargo and ballast transfer operations; and
 - (e) allow comparisons of attained and required stability using stability performance criteria in graphical or tabular form; and
 - (f) not require extensive mathematical calculations by the officer in charge of liquid transfer operations; and
 - (g) provide for corrective actions to be taken by the officer in charge of liquid transfer operations in case of departure from recommended values and in case of emergency situations; and
 - (h) be appropriately displayed -
 - (i) in the approved trim and stability booklet; and
 - (ii) at the cargo and ballast transfer control station; and
 - (iii) in any computer software by which stability calculations are performed.”

Amendments to Part 123A - Documents - Oil

6 Part 123A Part Objective

The Part Objective to Part 123A is amended by adding the following new paragraph:

“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.”

² The slack tanks may vary during the liquid transfer operations and be of any combination provided they satisfy the criteria.

7 Part 123A Appendix 2 (Form A): Supplement to the International Oil Pollution Prevention Certificate

Appendix 2 of Part 123A is amended by substituting the following text and diagrams for paragraphs 2.4 to 3.2 of the Supplement to the International Oil Pollution Prevention Certificate Form A (Record of Construction and Equipment for Ships other than Oil Tankers):

- “2.4 Approval standards:
 - 2.4.1 The separating/ filtering equipment:
 - .1 has been approved in accordance with resolution A.393(X)
 - .2 has been approved in accordance with resolution MEPC.60(33)
 - .3 has been approved in accordance with resolution A.233(VII)
 - .4 has been approved in accordance with national standards not based upon resolution A.393(X) or A.233(VII)
 - .5 has not been approved
 - 2.4.2 The process unit has been approved in accordance with resolution A.444(XI)
 - 2.4.3 The oil content meter:
 - .1 has been approved in accordance with resolution A.393(X)
 - .2 has been approved in accordance with resolution MEPC.60(33)
- 2.5 Maximum throughput of the system is m³/h
- 2.6 Waiver of regulation 16:
 - 2.6.1 The requirements of regulation 16(1) or (2) are waived in respect of the ship in accordance with regulation 16(3)(a). The ship is engaged exclusively on voyages within special area(s)
 - 2.6.2 The ship is fitted with holding tank(s) for the total retention on board of all oily bilge water as follows:

Tank identification	Tank location		Volume (m ³)
	Frames (from)-(to)	Lateral position	
Total volume.....m ³			

3. Means for retention and disposal of oil residues (sludge) (regulation 17) and bilge water holding tank(s)*

3.1 The ship is provided with oil residue (sludge) tanks as follows:

Tank identification	Tank location		Volume (m ³)
	Frames (from)-(to)	Lateral position	
Total volume.....m ³			

3.2 Means for the disposal of residues in addition to the provision of sludge tanks:

- 3.2.1 Incinerator for oil residues, capacity.....l/h
- 3.2.2 Auxiliary boiler suitable for burning oil residues
- 3.2.3 Tank for mixing oil residues with fuel oil, capacity m³
- 3.2.4 Other acceptable means:.....

3.3 The ship is fitted with holding tank(s) for the retention on board of oily bilge water as follows:

Tank identification	Tank location		Volume (m ³)
	Frames (from)-(to)	Lateral position	
Total volume.....m ³			

8 Part 123A Appendix 3 (Form B): Supplement to the International Oil Pollution Prevention Certificate

- (1) Appendix 3 of Part 123A is amended by substituting for paragraph 1.11.2 of the Supplement to the International Oil Pollution Prevention Certificate Form B (Record of Construction and Equipment for Oil Tankers) the following:

* Bilge water holding tank(s) are not required by the Convention, entries in the table under paragraph 3.3 are voluntary.

“1.11.2 Product carrier not carrying fuel oil or heavy diesel oil as referred to in regulation 13G, or lubricating oil. ”

- (2) Appendix 3 of Part 123A is amended by substituting the following text and diagrams for paragraphs 2.4 to 3.2 of the Supplement to the International Oil Pollution Prevention Certificate Form B:

“2.4 Approval standards:

2.4.1 The separating/filtering equipment:

- .1 has been approved in accordance with resolution A.393(X)
- .2 has been approved in accordance with resolution MEPC.60(33)
- .3 has been approved in accordance with resolution A.233(VII)
- .4 has been approved in accordance with national standards not based upon resolution A.393(X) or A.233(VII)
- .5 has not been approved

2.4.2 The process unit has been approved in accordance with resolution A.444(XI)

2.4.3 The oil content meter:

- .1 has been approved in accordance with resolution A.393(X)
- .2 has been approved in accordance with resolution MEPC.60(33)

2.5 Maximum throughput of the system is m³/h

2.6 Waiver of regulation 16:

2.6.1 The requirements of regulation 16(1) and (2) are waived in respect of the ship in accordance with regulation 16(3)(a). The ship is engaged exclusively on voyages within special area(s)

2.6.2 The ship is fitted with holding tank(s) for the total retention on board of all oily bilge water as follows:

Tank identification	Tank location		Volume (m ³)
	Frames (from)-(to)	Lateral position	
Total volume.....m ³			

2.6.3 In lieu of the holding tank(s) the ship is provided with arrangements to transfer bilge water to the slop tank.

3. Means for retention and disposal of oil residues (sludge) (regulation 17) and bilge water holding tank(s)*

3.1 The ship is provided with oil residue (sludge) tanks as follows:

Tank identification	Tank location		Volume (m ³)
	Frames (from)-(to)	Lateral position	
Total volume.....m ³			

3.2 Means for the disposal of residues in addition to the provision of sludge tanks:

- 3.2.1 Incinerator for oil residues, capacity.....l/h
- 3.2.2 Auxiliary boiler suitable for burning oil residues
- 3.2.3 Tank for mixing oil residues with fuel oil, capacity m³
- 3.2.4 Other acceptable means:.....

3.3 The ship is fitted with holding tank(s) for the retention on board of oily bilge water as follows:

Tank identification	Tank location		Volume (m ³)
	Frames (from)-(to)	Lateral position	
Total volume.....m ³			

* Bilge water holding tank(s) are not required by the Convention, entries in the table under paragraph 3.3 are voluntary.

- (3) Appendix 3 of Part 123A is amended by inserting after paragraph 5.7.2 of the Supplement to the International Oil Pollution Prevention Certificate Form B the following:

“5.7.3 The ship is required to be constructed according to, and complies with the requirements of, regulation 25A. □

5.7.4 Information and data required under regulation 25A for combination carriers have been supplied to the ship in a written procedure approved by the Administration. □”

Amendments to Part 132 – Dispersants and Demulsifiers

9 Part 132 Part Objective

The Part Objective to Part 132 is amended by adding the following paragraph:

“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.”

10 Rule 132.7 Withdrawal of approval of a substance

Rule 132.7(1) is amended by inserting the following paragraph:

“(g) the substance is no longer manufactured or available for use in New Zealand.”

11 Part 132.9 Dispersant specification

Table 1 in Rule 132.9 is amended by substituting the figure “500” for the figure “5000” in the second column of test number 5.

12 Part 132 Appendix

The table of approved substances in the Appendix to Part 132 is deleted and replaced with the following table:

“APPROVED SUBSTANCES

TYPE	BRAND
1	1100X
1	A-B
2	1100WD
3	Enersperse 1037
2/3	Atpet 787
1	Shell Dispersant LTX
1	Shell Dispersant ND
2	Shell Dispersant Concentrate
2/3	Shell Dispersant VDC (Dasic Slickgone LTSW)
3	Shell Dispersant HEC
1	Tergo Oil Spill Remover low toxic
2	Tergo Oil Spill Remover WSA
3	Tergo R40
2	Solvex OSD 9 Concentrate
1	OSR LT
2/3	Gamlen Oil Dispersant LT
2/3	Corexit 9527
2	Corexit 9600”

Amendments to Part 170 – Prevention of Pollution by Garbage from Ships and Offshore Installations

13 Part 170 Part Objective

The Part Objective to Part 170 is amended by adding the following paragraph:

“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.”

14 Rule 170.2 Definitions

Rule 170.2 is amended by:

- (a) substituting for the definition of “from the nearest land” the following:

‘ “**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.’

- (b) substituting for the definition of “plastics” the following:

‘ “**Plastics**” includes synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ash from plastic products which may contain toxic or heavy metal residues.’

15 Rule 170.5 Placards

Rule 170.5(a) is amended by inserting the words “and regulation 13 of the Resource Management (Marine Pollution) Regulations 1998” after the words “Part 170”.

16 Rule 170.8 Requirement to carry Garbage Record Book

Part 170 is amended by substituting, for the heading “Garbage Record Books – Foreign Ships” and rule 170.8, the following heading and rules:

“Placards, Garbage Management Plans and Garbage Record Books – Foreign Ships

170.8 Application of rules 170.8A to 170.8C

Rules 170.8A to 170.8C inclusive apply to any foreign ship within New Zealand jurisdiction.

170.8A Placards

The owner and the master of any ship of 12 metres or more in length to which this rule applies must ensure that –

- (a) placards are displayed on board to notify all persons of the discharge requirements, set out in Part 170 and regulation 13 of the Resource Management (Marine Pollution) Regulations 1998, that are applicable to the ship;³ and
- (b) if a ship is engaged in international trade, the placards are written –
 - (i) in the working language of the crew; and
 - (ii) in English or French or Spanish; and
- (c) if a ship is engaged in trade other than international trade the placards are written –
 - (i) in the working language of the crew; and
 - (ii) in English.

170.8B Garbage management plans

- (1) The owner and the master of any ship to which this rule applies –
 - (a) of 400 tons gross tonnage or more; or
 - (b) that carries 15 or more persons,must ensure that the ship has a garbage management plan that complies with the requirements of this rule.
- (2) The garbage management plan required under paragraph (1) must –
 - (a) provide written procedures for –
 - (i) collecting, storing, processing and disposing of garbage; and
 - (ii) the use of garbage-related equipment on board; and
 - (b) designate the person in charge of carrying out the plan; and
 - (c) be written in the working language of the crew; and
 - (d) be in accordance with the *Guidelines for the Development of Garbage Management Plans* adopted by the Marine Environment Protection Committee of the International Maritime Organization by resolution MEPC.70(38), as amended by that organisation from time to time.
- (3) The owner and the master of any ship to which this rule applies must ensure that –
 - (a) an up-to-date copy of the garbage management plan is carried on board the ship; and
 - (b) all persons on board comply with the garbage management plan at all times.
- (4) All persons on board a ship to which this rule applies must comply with the garbage management plan at all times.

³ The discharge requirements in Part 170 and regulation 13 of the Resource Management (Marine Pollution) Regulations 1998 are those found in regulation 3 of Annex V of MARPOL 73/78.

170.8C Garbage Record Books

- (1) The owner and the master of any ship to which this rule applies –
 - (a) of 400 tons gross tonnage or more; or
 - (b) that carries 15 or more persons on any voyage,must ensure that a Garbage Record Book in the form shown in the Appendix is:
 - (i) carried on board the ship at all times; and
 - (ii) made available for inspection by the Director at all reasonable times.
- (2) The owner and the master of any ship to which this rule applies must ensure that for each –
 - (a) garbage discharge operation; and
 - (b) completed incineration of garbage generated during the normal operation of the ship at sea,an entry is made in the ship's Garbage Record Book which includes:
 - (i) the date and time of the operation or incineration; and
 - (ii) the position of the ship at the time of the operation or incineration; and
 - (iii) a description of the garbage discharged or incinerated; and
 - (iv) the estimated amount of garbage discharged or incinerated; and
 - (v) the signature of the officer in charge of the discharge or incineration.
- (3) The owner and the master of any ship to which this rule applies must ensure that, in the event of any discharge, escape or accidental loss referred to in rule 170.3(3), an entry is made in the Garbage Record Book of the circumstances of, and the reasons for, the discharge, escape or loss.
- (4) If a ship to which this rule applies is engaged in international trade, entries in the Garbage Record Book –
 - (a) must be in English, French or Spanish; and
 - (b) may also be in the official language of the state whose flag the ship is entitled to fly.
- (5) If a ship to which this rule applies is engaged in trade other than international trade, entries in the Garbage Record Book –
 - (a) must be in English; and
 - (b) may also be in the official language of the state whose flag the ship is entitled to fly.
- (6) Every completed page of the Garbage Record Book for a ship to which this rule applies must be signed by the master of the ship."

17 Part 170 Appendix – Form of Garbage Record Book

The Appendix to Part 170 is amended by inserting the words "except from plastic products that may contain toxic or heavy metal residues" after the words "Incinerator Ash" wherever they appear.