

DISALLOWABLE INSTRUMENT



Maritime Transport Act 1994

Marine Protection Rules

Marine Protection Rules Various Amendments 2014

Pursuant to sections 386, 387, 388, 389, and 390 of the Maritime Transport Act 1994 I, Craig Foss, Associate Minister of Transport, having had regard to the criteria in section 392 of the Maritime Transport Act 1994, hereby make the following marine protection rules.

Signed at Wellington

This 24th day of Nov 2014

By Hon CRAIG FOSS

A handwritten signature in blue ink, appearing to read "Craig Foss", is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Associate Minister of Transport

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Rule objective

The objective of the Marine Protection Rules Various Amendments 2014 is to update and correct minor errors contained in the Marine Protection Rules Parts 101A, 102, 103, 121A, 121B, 122, 123A, 123B, 125, 140, 141, 142A, 143, 150, 160, 170 and 180.

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.

Extent of consultation

In March 2014, Maritime New Zealand consulted, via its website, with the public on drafts of the proposed amendments to the marine protection rules in accordance with the Act, including the expected costs and benefits. A notice regarding this consultation was placed in the New Zealand Gazette on 10 July 2014. The deadline for making a submission was 24 July 2014. One submission was received.

Some amendments to Marine Protection Rules Part 102 – Certificates of Insurance were consulted on, as part of a separate amendment to that Rule, between 29 May 2014 and 27 June 2014. No submissions were received on the amendments relevant to this Rule.

Entry into force

These rules enter into force on 1 January 2015.

Part 101A: Surveys and inspections – Oil

1 Rule 101A.8: Recognition as a surveyor

Rule 101A.8(1)(b) is amended by omitting “Part 21, section 2”, and substituting “Part 19”.

Part 102: Certificates of insurance

2 Part 102: Part objective

The Part objective of Part 102 is omitted and substituted with the following:

“Part objective

The objective of Part 102 is to give effect to—

- New Zealand’s obligations and privileges under the 1992 Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969 by requiring owners of oil tankers carrying more than 2,000 tons of oil in bulk as cargo, (regulated oil tankers), to hold insurance or financial security to cover potential liability for oil pollution damage.
- New Zealand’s obligations and privileges under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 by requiring owners of ships of 1,000 gross tonnage and above to hold insurance cover for potential liability for the costs of cleaning up oil pollution or oil pollution damage from bunker oil (oil used on board ships for propulsion and other on board operations).
- national requirements for owners of ships of 400 gross tonnage and less than 1,000 gross tonnage to hold insurance for potential liability for the costs of cleaning up oil pollution costs and oil pollution damage from bunker oil and oil carried as cargo.
- national requirements for owners of offshore installations in New Zealand continental waters to hold insurance for potential liability for the costs of cleaning up oil pollution and oil pollution damage.

The basis for Part 102 is found in sections 363, 363A, 385H, 386, 387 and 390 of the Maritime Transport Act 1994.

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.”

2A Rule 102.2: Definitions

The definition of “Director” is amended in rule 102.2 by omitting “Safety” and substituting “New Zealand”.

3 Rule 102.6: Acceptance of certificate of insurance

Rule 102.6(1) is amended by omitting “363”, and substituting “363A”.

3A Rule 102.8: Application for and issue or recognition of certificate of insurance

- (a) Rule 102.8(2)(d) is amended by omitting “Insurance Companies (Ratings and Inspections) Act 1994” and substituting “Insurance (Prudential Supervision) Act 2010”.
- (b) Rule 102.8(2)(e) is amended by omitting “Insurance Companies (Ratings and Inspections) Act 1994” and substituting “Insurance (Prudential Supervision) Act 2010”.

4 Appendix 1: CLC Certificates for regulated oil tankers

Appendix 1 of Part 102 is amended by—

- (a) omitting “1969” from the first paragraph, and substituting “1992”.
- (b) omitting “1969” from the second paragraph, and substituting “1992”.

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- (c) omitting “Director of Maritime Safety” from the signature block, and substituting “Director of Maritime New Zealand”.

5 Appendix 2: Regulated offshore installations

Appendix 2 of Part 102 is amended by omitting, where it appears, “Director of Maritime Safety” and substituting “Director of Maritime New Zealand”.

6 Appendix 3: Civil liability for oil pollution damage certificates for regulated ships

Appendix 3 of Part 102 is amended by omitting “Director of Maritime Safety” from the signature block, and substituting “Director of Maritime New Zealand”.

Part 103: Notifications – Oil and noxious liquid substances

7 Rule 103.2: Definitions

The definition for “FPSO” in rule 103.2 is amended by omitting “mean”, and substituting “means”.

Part 121A: Ship design and construction – Oil tankers

8 Rule 121A.2: Definitions

Rule 121A.2 is amended by omitting “,” from the end of the definitions for “CAS”, “category 1 oil tanker”, “category 2 oil tanker”, “category 3 oil tanker”, “fuel oil”, “heavy diesel oil”, “heavy grade oil”, and “type AA oil tanker”, and substituting “.”.

9 Rule 121A.16: Limitation of size and arrangement of cargo tanks

Rule 121A.16(4)(c) is amended by renumbering subparagraphs (1) and (2) as subparagraphs (aa) and (bb), respectively.

10 Schedule: Calculation and assumptions for the determination of mean oil outflow parameter (OM)

Paragraph (b) of the definition for “P_{BZ}” in clause 1(1) of the Schedule is amended by omitting “DS”, and substituting “D_S”.

Part 121B: Ship design and construction – Ships other than oil tankers

11 Rule 121B.10: Oil fuel tank protection

- (a) Rule 121B.10(7)(c)(i) is amended by omitting “parameter OM”, and substituting “parameter O_M”.
- (b) Rule 121B.10(7)(c)(ii) is amended by—
 - (i) omitting “OMB(0)”, and substituting “O_{MB}(0)”; and
 - (ii) omitting “OMB(2.5)”, and substituting “O_{MB}(2.5)”.
- (c) Rule 121B.10(7)(e)(i) is amended by omitting “PB(i)”, and substituting “P_{B(i)}”.

Part 122: Marine protection products – Oil

12 Rule 122.2: Definitions

The definition for “IOPP Certificate” in rule 122.2 is amended by adding “.”.

Part 123A: Documents – Oil

13 Rule 123A.2: Definitions

The definition for “surveyor” in rule 123A.2 is amended by omitting “; and” from paragraph (a), and substituting “; or”.

Part 123B: Documents (record books and manuals)

14 Rule 123B.16: Operation Manual – dedicated clean ballast tanks

- (a) Rule 123B.16(1)(a) is amended by omitting “Organisation”, and substituting “Organization”.
- (b) Rule 123B.16(1)(b) is amended by omitting “Organisation”, and substituting “Organization”.

- (c) Rule 123B.16(3)(b) is amended by omitting “Organisation”, and substituting “Organization”.
- (d) Rule 123B.16(3)(c) is amended by omitting “Organisation”, and substituting “Organization”.

15 Rule 123B.17: Operations and Equipment Manual – crude oil washing

- (a) Rule 123B.17(1)(a) is amended by omitting “Organisation”, and substituting “Organization”.
- (b) Rule 123B.17(1)(b) is amended by omitting “Organisation”, and substituting “Organization”.
- (c) Rule 123B.17(3)(b) is amended by omitting “Organisation”, and substituting “Organization”.
- (d) Rule 123B.17(3)(c) is amended by omitting “Organisation”, and substituting “Organization”.

16 Rule 123B.18: Operations Manual – oil discharge and monitoring

- (a) Rule 123B.18(1)(a) is amended by omitting “Organisation” in both places it appears, and substituting “Organization” in each instance.
- (b) Rule 123B.18(3)(b) is amended by omitting “Organisation” in both places it appears, and substituting “Organization” in each instance.

17 Rule 123B.19: Operation Manual – dedicated clean ballast tanks

- (a) Rule 123B.19(b)(i) is amended by omitting “Organisation”, and substituting “Organization”.
- (b) Rule 123B.19(b)(ii) is amended by omitting “Organisation”, and substituting “Organization”.

18 Rule 123B.20: Operations and Equipment Manual – crude oil washing

- (a) Rule 123B.20(b)(i) is amended by omitting “Organisation”, and substituting “Organization”.
- (b) Rule 123B.20(b)(ii) is amended by omitting “Organisation”, and substituting “Organization”.

19 Rule 123B.21: Operations Manual – oil discharge and monitoring

Rule 123B.21(2)(b)(i) is amended by omitting “Organisation” in both places it appears, and substituting “Organization” in each instance.

Part 125: Shipboard operations – Oil

20 Rule 125.9: STS operations plan

Rule 125.9(2)(d) is amended by omitting “.”, and substituting “; and”.

21 Rule 125.10: Carriage of oils in the Antarctic area

- (a) Rule 125.10(2)(a) is amended by omitting “900 kg/m³”, and substituting “900 kg/m³”.
- (b) Rule 125.10(2)(b) is amended by—
 - (i) omitting “900 kg/m³”, and substituting “900 kg/m³”; and
 - (ii) omitting “180 mm²/s”, and substituting “180 mm²/s”.

Part 140: Discharge of noxious liquid substances in bulk

22 Rule 140.2: Definitions

The definition for “IMO” in rule 140.2 is amended by omitting “Organisation”, and substituting “Organization”.

Part 141: Ship design, construction, equipment and operation – Noxious liquid substances in bulk

23 Part 141: Part objective

The third paragraph of the Part objective in Part 141 is amended by omitting “Organisation”, and substituting “Organization”.

24 Rule 141.2: Definitions

The definition for “IMO” in rule 141.2 is amended by omitting “Organisation”, and substituting “Organization”.

Part 142A: Documents (Certificates) – Noxious liquid substances

25 Rule 142A.2: Definitions

In rule 142A.2,—

- (a) the definition for “**authorised organisation**” is amended by—
 - (i) omitting “Organisation”, and substituting “Organization”;
 - (ii) omitting “Organisations”, and substituting “Organizations”.
- (b) the definition for “**Bulk Chemical Code or BCH Code**” is amended by omitting “Organisation”, and substituting “Organization”.
- (c) the definition for “**International Bulk Chemical Code or IBC Code**” is amended by omitting “Organisation”, and substituting “Organization”.
- (d) the definition for “**surveyor**” is amended by omitting “; and” from paragraph (a), and substituting “; or”.

26 Rule 142A.7: Requirement to certificate

The heading to rule 142A.7 is amended by inserting “**have**” after “**Requirement to**”.

Part 143: Shipboard marine pollution emergency plans for noxious liquid substances

27 Rule 143.2: Definitions

In rule 143.2,—

- (a) the definition for “**Category X, Y, Z and OS substance**” is amended by omitting “Organisation”, and substituting “Organization”.
- (b) the definition for “**IMO**” is amended by omitting “Organisation”, and substituting “Organization”.

28 Part 143: Schedule

Clause 7(3) of the Schedule of Part 143 is amended by renumbering subparagraphs (i) and (ii) as (a) and (b), respectively.

Part 150: Carriage of cargoes - Harmful substances carried in packaged form

29 Rule 150.2: Definitions

The definition of “**harmful substance**” in rule 150.2 is amended by—

- (a) adding “and” to paragraph (b);
- (b) inserting the following paragraph after paragraph (b):
 - “(c) any substance that meets the criteria set out in the Appendix;”

30 Part 150: new Appendix

The following Appendix is inserted into Part 150:

“Appendix

Criteria for identification of harmful substances in packaged form

For the purposes of this Appendix, substances identified by any one of the following criteria are harmful substances:

1. Acute (short-term) aquatic hazard

Category: Acute 1	
96 hr LC ₅₀ (for fish)	≤1mg/l and/or
48 hr EC ₅₀ (for crustacea)	≤1mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	≤1mg/l

2. Long-term aquatic hazard

- (a) Non-rapidly degradable substances for which there are adequate chronic toxicity data available:

Category Chronic: 1
 Chronic NOEC or EC_x (for fish) ≤0.1mg/l and/or
 Chronic NOEC or EC_x (for crustecea) ≤0.1mg/l and/or
 Chronic NOEC or EC_x (for algae or other aquatic plants) ≤0.1mg/l

Category Chronic: 2
 Chronic NOEC or EC_x (for fish) ≤1mg/l and/or
 Chronic NOEC or EC_x (for crustecea) ≤1mg/l and/or
 Chronic NOEC or EC_x (for algae or other aquatic plants) ≤1mg/l

- (b) Rapidly degradable substances for which there are adequate chronic toxicity data available:

Category Chronic: 1
 Chronic NOEC or EC_x (for fish) ≤0.01mg/l and/or
 Chronic NOEC or EC_x (for crustecea) ≤0.01mg/l and/or
 Chronic NOEC or EC_x (for algae or other aquatic plants) ≤0.01mg/l

Category Chronic: 2
 Chronic NOEC or EC_x (for fish) ≤0.1mg/l and/or
 Chronic NOEC or EC_x (for crustecea) ≤0.1mg/l and/or
 Chronic NOEC or EC_x (for algae or other aquatic plants) ≤0.1mg/l

- (c) Substances for which adequate chronic toxicity data are not available:

Category: Chronic 1
 96 hr LC₅₀ (for fish) ≤1mg/l and/or
 48 hr EC₅₀ (for crustacea) ≤1mg/l and/or
 72 or 96 hr ErC₅₀ (for algae or other aquatic plants) ≤1mg/l
 and the substance is not rapidly degradable and/or the experimentally determined BCF ≥ 500 (or, if absent, the log K_{OW} ≥4).

Category: Chronic 2
 96 hr LC₅₀ (for fish) >1mg/l but ≤ 10 mg/ l and/or
 48 hr EC₅₀ (for crustacea) >1mg/l but ≤ 10 mg/ l and/or
 72 or 96 hr ErC₅₀ (for algae or other aquatic plants) >1mg/l but ≤ 10 mg/ l
 and the substance is not rapidly degradable and/or the experimentally determined BCF ≥ 500 (or, if absent, the log K_{OW} ≥4).

The following definitions apply for acronyms or terms used in this Appendix:

- EC_x the concentration associated with x% response
 EC₅₀ the effective concentration of substance that causes 50% of the maximum response
 ErC₅₀ EC₅₀ in terms of reduction of growth
 K_{OW} octanol/water partition coefficient
 LC₅₀ (50% lethal concentration) the concentration of a substance in water which causes the death of 50% (one half) in a group of test animals
 NOEC (No Observed Effect Concentration) the test concentration immediately below the lowest tested concentration with statistically significant adverse effect. The NOEC has no statistically significant adverse effect compared to the control.

Further information on the criteria can be found in relevant paragraphs of the IMDG Code.

Part 160: Prevention of pollution by sewage from ships in Antarctic Treaty area

31 Rule 160.2: Definitions

In rule 160.2,—

- (a) the definition for “**authorised organisation**” is amended by—
 - (i) omitting “*Organisation*”, and substituting “*Organization*”;
 - (ii) omitting “*Organisations*”, and substituting “*Organizations*”.
- (b) the definition for “surveyor” is omitted and substituted with—

“**surveyor** means a surveyor—

 - (a) employed by an authorised organisation; or
 - (b) holding a valid marine protection document as a surveyor issued under section 270 of the Maritime Transport Act 1994.”

32 Rule 160.4: Initial and renewal surveys

Rule 160.4(2)(a) is amended by omitting “*Organisation*”, and substituting “*Organization*”.

Part 170: Prevention of pollution from garbage from ships

33 Rule 170.19: Garbage management plans

Footnote 7 in rule 170.19(3)(c) is omitted and substituted with “See Advisory Circular for Part 170.”

34 Rule 170.24: Garbage management plans

Footnote 8 in rule 170.24(3)(c) is omitted and substituted with “See Advisory Circular for Part 170.”

35 Part 170: new Subpart E

Part 170 is amended by inserting the following new subpart after rule 170.25:

“Subpart E – Revocation

170.26 Revocation

Part 170 as in force prior to the commencement of this Part is revoked.”

Part 180: Dumping of waste and other matter

36 Rule 180.8: Assessment of application for permit

- (a) Rule 180.8(1)(c) is amended by omitting “*Organisation*”, and substituting “*Organization*”.
- (b) Rule 180.8(2)(b) is amended by omitting “*Organisation*”, and substituting “*Organization*”.

Summary of Submissions

This Rule and Maritime Rules Various Amendments 2014 were consulted in a combined consultation in July 2014. The consultation summary in Maritime Rules Various Amendments 2014 covers the matters raised in relation to this Rule.