



Ministry of Transport
TE MANATŪ WAKA

Maritime Transport Act 1994

PART 130C REGIONAL MARINE OIL SPILL CONTINGENCY PLANS 2009

Pursuant to sections 386, 387 and 388 of the Maritime Transport Act 1994
I, Steven Joyce, Minister of Transport, hereby make the following marine protection
rules.

Signed at Wellington

this 27th day of June 2009

by STEVEN JOYCE



Minister of Transport

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Part Objective

The objective of Part 130C – *Regional Marine Oil Spill Contingency Plans* 2009 is to ensure that regional marine oil spill contingency plans incorporate adequately detailed information about environmental resources that are a priority for protection in the event of an oil spill, as well as promoting consistency with the National Marine Oil Spill Contingency Plan.

The amended rules provide that:

- information provided and maintained by Maritime New Zealand on standard operating procedures during an oil spill are incorporated into the regional plans
- detailed and up-to-date information on personnel and systems specific to the regional response effort are included
- site specific environmental information relevant to an oil spill response is included
- at least one practical and one desktop spill exercise is to be conducted annually by the region
- plans are updated in response to the needs identified during exercises or incidents.

In order to make the rules more accessible and coherent for the user, the amended rules have been incorporated in a consolidated text that replaces in full the Part 130C made by the Minister of Transport on 29 June 1998.

Extent of Consultation

On 08 March 2008, Maritime New Zealand published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed marine protection rules. A notice was also published in the *Gazette* on 06 March 2008. The invitation to comment and draft rules were then made available to the public with electronic and hard copies being sent to 35 interested parties. Maritime New Zealand also made the draft available on its website. Comments on the draft rules were requested by 28 April 2008.

Three written submissions were made on the proposed rules. All submissions were considered and the draft rules finalised.

General

130C.1 Entry into force

- (1) This Part comes into force on the 30th of July 2009.
- (2) Part 130C made on 29 June 1998 is revoked.

130C.2 Definitions

In this Part –

Act means the Maritime Transport Act 1994

approved substance means –

- (a) any substance –
 - (i) approved under Part 132 as suitable for discharging into the sea to contain or clean-up an oil spill; and
 - (ii) gazetted under rule 132.4(c); and
 - (iii) not gazetted under rule 132.7(2)(a); and
- (b) any dispersant named in the Appendix to Part 132

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

marine oil spill means an oil spill into the internal waters of New Zealand or New Zealand marine waters

national marine oil spill contingency plan or **national plan** means the plan most recently prepared or reviewed under section 297 of the Act

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

oil spill means any actual or probable release, discharge, or escape of oil

oily mixture means a mixture with any oil content

Part means a group of rules made under the Act

region means a region within the meaning of the Local Government Act 2002

regional council means a regional council within the meaning of the Local Government Act 2002; and includes –

- (a) any territorial authority that has, by reason of the transfer to it under section 17 of the Local Government Act 2002 of a responsibility of a regional council, the functions, powers, and duties of a regional council; and
- (b) the Chatham Islands Council

regional marine oil spill contingency plan or plan means a marine oil spill contingency plan –

- (a) prepared by a regional council in accordance with sections 289 or 290 of the Act and approved by the Director under section 292 of the Act; or
- (b) prepared by the Director under section 295 of the Act

rules includes maritime rules and marine protection rules

ship means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes –

- (a) a barge, lighter, or other like vessel
- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates
- (c) a submarine or other submersible

shipboard marine oil spill contingency plan means a plan prepared under the marine protection rules in respect of a ship and providing for the measures to be taken in respect of marine oil spills from the ship

site marine oil spill contingency plan means a plan prepared under the marine protection rules in respect of an offshore installation, or oil transfer site, and providing for the measures to be taken in respect of marine oil spills from the offshore installation or oil transfer site, as the case may be.

Matters to be Contained in Regional Marine Oil Spill Contingency Plans

130C.3 Application

This Part applies to every regional council required under the Act to prepare a plan.

130C.4 Purpose of the plan

The plan must state the purpose for producing the plan.

130C.5 Objectives to be achieved

The plan must define the objectives to be achieved when implementing the plan.

130C.6 Interface with other plans

The plan must specify how the plan relates to –

- (a) shipboard marine oil spill contingency plans; and
- (b) site marine oil spill contingency plans; and
- (c) the national marine oil spill contingency plan

Including, –

- (i) the relationship of the plan to shipboard or site oil spill contingency plans and the criteria for escalation of a shipboard or site oil spill response to a regional oil spill response; and
- (ii) the criteria for escalation of a regional oil spill response to a national oil spill response.

130C.7 Document control

The plan must contain a list of those functions where the holder of that function must be issued a controlled copy of the plan and a register of controlled copies shall be maintained by the regional council.

130C.8 Standard operating procedures

The plan must contain the procedures to be followed for the –

- (a) discovery and notification of a marine oil spill to the Director; and
- (b) assessment of a marine oil spill, including guidance on the circumstances indicating that an oil spill should be monitored only and no clean-up action initiated; and
- (c) reporting and notification for parties involved in or affected by the oil spill; and
- (d) alerting and mobilising response team personnel ; and
- (e) implementing the incident action plan, including –
 - (i) media and public relations; and
 - (ii) cost tracking and accounting; and
 - (iii) sampling and evidence collection; and
 - (iv) documentation of the incident and response; and
- (f) demobilisation and response termination.

130C.9 Post operations

The plan must contain procedures to be followed for –

- (a) recovering costs from the spill ; and
- (b) debriefing, review and audit of the response operation.

130C.10 Oil spill response equipment and supporting resources

- (1) The plan must contain details of at least one incident command centre facility, which include –
 - (a) the location and address; and
 - (b) a floor plan; and
 - (c) phone number(s); and
 - (d) all supporting equipment and facilities required for the response operation.
- (2) The plan must –
 - (a) contain lists and locations of oil spill response equipment, including approved dispersants, held by the region; and
 - (b) contain lists and locations of oil spill response equipment held by other organisations in the region; and
 - (c) include a list and locations of potential support equipment held by the regional council and other organisations in the region; and
 - (d) provide 24-hour contact information for mobilisation of the oil spill response, including equipment to support the spill response, listed in the plan.
- (3) The plan must list options and detail facilities available to the regional council for –
 - (a) the re-use, recycling, treatment, and disposal of oil and oily waste from the clean-up of an oil spill; and
 - (b) for the cleaning, decontamination, and disposal of oiled equipment and gear.

130C.11 Regional response team structure, roles and responsibilities and assigned duties of support organisations

The plan must –

- (a) include the marine oil spill response team structure as specified in the national plan; and
- (b) identify the persons assigned to key positions as well as alternates and deputies to act in the absence of designated personnel; and
- (c) contain contact details for identified response personnel; and
- (d) contain details of any ancillary services required¹; and
- (e) define the duties assigned to any support organisations; and
- (f) include a list of interested parties to be notified in the event of an oil spill.

130C.12 Regional marine oil spill communications systems

The plan must contain details on communication systems and procedures to be used during a response, including –

- (a) marine, aviation, and land-based communications systems, networks, channels, frequencies, and call signs; and
- (b) equipment types and capabilities; and
- (c) communication control sites and repeater sites; and
- (d) communication limitations and constraints.

¹ For example security, media, contract authorisations.

130C.13 Regional risk sites and threatened resources

- (1) The plan must include—
 - (a) details of areas and locations within the region, such as oil transfer sites, where marine oil spills are likely to occur; and
 - (b) details of likely spill scenarios from sites identified in sub-rule (1)(a), including oil types and volumes.
- (2) The plan must—
 - (a) identify and prioritise the regional resources and amenities most sensitive to an oil spill; and
 - (b) assess the likely risk to the areas and locations referred to in sub-rule 2(a), including the type of spill; and
 - (c) identify preferred response options for the areas and locations identified in sub-rule 2(a) and the associated risks identified in sub-rule 2(b); and
 - (d) map these sites and resources electronically.

130C.14 Information to predict oil movement and behaviour

The plan must include information to assist in predicting the movement and behaviour of spilled oil including —

- (a) predominant coastal currents; and
- (b) tidal flows for major ports and harbours, and for those sites identified in rule 130C.13(1); and
- (c) seasonal average seawater temperatures.

Training and Exercising, and Maintenance and Amendment of Regional Marine Oil Spill Contingency Plans

130C.15 Training

Every regional council that holds a regional marine oil spill contingency plan must ensure that—

- (a) they maintain the minimum number of trained responders as set out by Maritime New Zealand in the national plan.
- (b) all personnel receive training appropriate to their responsibilities for implementing the plan and dealing with oil spills under that plan in accordance with Maritime New Zealand policy; and
- (c) trained personnel responsible for implementing the plan meet the Maritime New Zealand training revalidation requirements; and
- (d) accurate training records and contact details of trained responders are kept.

130C.16 Exercising

Every regional council to which this Part applies—

- (a) must ensure that the plan is regularly tested in accordance with an exercise programme approved by the Director for each year, which includes at least two field exercises involving the deployment of equipment, at least one of which shall involve the production of an incident action plan and/or a site operations plan; and

- (b) must ensure that accurate records of each exercise and its results are kept; and
- (c) may be required to participate in a Maritime New Zealand directed combined exercise in lieu of one of the exercises required in sub-rule (a).

130C.17 Post-use review

- (1) The effectiveness of the regional marine oil spill contingency plan must be assessed, and a record of the assessment kept, by the regional council after its use in response to an oil spill.
- (2) Any proposed amendments to increase the effectiveness of a regional marine oil spill contingency plan must be submitted to the Director as soon as practicable for approval.

130C.18 Maintenance and amendment of regional marine oil spill contingency plan

- (1) The regional marine oil spill contingency plan must be checked by the regional council not less than once every 12 months to verify the currency and completeness of the information contained in it.
- (2) At the time of every check under sub-rule (1) the regional council must ensure that—
 - (a) any information in the regional marine oil spill contingency plan which is not current is updated; and
 - (b) any new information relevant to the regional marine oil spill contingency plan is incorporated in the plan after approval by the Director.
- (3) The regional council must ensure that any amendments that would increase the effectiveness of the plan resulting from exercises are —
 - (a) submitted to the Director as soon as practicable for approval; and
 - (b) added to the plan and provided to all persons who hold a copy of that plan, once approved by the Director.
- (4) the Director may periodically provide updated chapters for inclusion in the regional plan, and these shall be incorporated into the plan.
- (5) The Director and every other person nominated in the controlled copy register plan must be notified by the regional council of any changes made to the plan as a result of a check made under this rule.

130C.19 Format of draft and amended plans

Every regional council that submits—

- (a) a draft regional marine oil spill contingency plan to the Director for approval under the Act; or
- (b) an amendment to a plan to the Director for approval under the Act— must provide the plan, and the amendment to the plan, as two paper copies and one electronic format approved by the Director.

Final provision

130C.20 Transitional provision

- (1) Every regional council must, by a date specified by the Director pursuant to **section 289 of the Act**, draft and submit to the Director, for his or her approval, a marine oil spill contingency plan that complies with the provisions of this Part.
- (2) Notification of the date specified by the Director for the purposes of sub-rule (1) must be published in the *Gazette*.
- (3) Despite the revocation of Part 130C made on 29 June 1998, a regional marine oil spill contingency plan made under the 1998 rules will continue to have effect until the earlier of either –
 - (a) the requirements of sub-rule (1) are met by the regional council; or
 - (b) 18 months after the date on which this Part comes into force.

Marine Protection Rules

PART 130C - REGIONAL MARINE OIL SPILL CONTINGENCY PLANS 2009

Consultation Details

(This text does not form part of the rules contained in Part 130C - Regional Marine Oil Spill Contingency Plans 2009. It provides details of the consultation undertaken before making the rules.)

Summary of Consultation

Prior to general circulation of the amendment extensive consultation was undertaken directly with the regional councils, who will be affected by the rules, during two of the annual Maritime NZ-convened regional council workshops. The final draft of the rule amendments took into account the feedback received during this consultation.

Copies of the proposed Part 130C amendment were circulated to 35 organisations in March 2008 with an invitation to comment. The parties consulted included all of the regional councils and a number of New Zealand government agencies. Three written submissions were received.

Horizons Regional Council noted that "the draft rule is entirely consistent with the consultation and advice given and received by Maritime NZ... in 2007". They also note their support for the exercise requirement, which they note is "more realistic for Tier 2 operations...(and)... will make it easy for regions to comply, and is still considered adequate to effectively test the Tier 2 Plan and response capability".

Environment Bay of Plenty expressed concern that the exercise regime was more demanding than in the previous rules, and state that the quarterly equipment check and involvement of some of their team in Civil Defence Emergency Management meant that additional exercising was unnecessary to ensure their level of spill response preparedness.

Maritime NZ comments: *The council appears to have misinterpreted the rule provisions as the existing exercise requirement 'workload' is greater than that proposed in the revised rule. Regions are currently required to conduct: one desktop exercise every 12 months; one field exercise involving deployment of equipment every 12 months; and one field exercise to integrate field and desktop exercises every three years. Desktop exercises and integrated exercises require considerably more time and resources to plan and conduct than field exercises involving the deployment of equipment. One equipment deployment exercise per year is not enough to ensure that all trained regional responders attend an annual exercise.*

Quarterly equipment checks are typically carried out by only 2 or 3 persons and do not involve the actual deployment of the equipment. The checks only provide an opportunity for limited familiarisation with the equipment, not a deployment training opportunity.

Formal revalidation training is undertaken every 3-4 years. It has been observed that personnel who have not been involved in exercises since their previous training have a significantly lower, and at times inadequate, standard of skills and knowledge than those who have participated in exercises during this period. The training and exercising undertaken for civil defence emergencies does not include the specific skills and knowledge necessary for marine oil pollution response.

Greater Wellington Regional Council expressed their view that Tier 2 plans were generally not referred to by them during spills and the time spent "keeping them up to date to meet

Maritime NZ's changing requirements" was not warranted. It is also noted that the requirement for two exercises is considered excessive and exceeds that required by international airports in New Zealand. The council recommended that only one exercise per year be required. Greater Wellington also expressed concern that the requirement to produce an incident action plan is not realistic given that the vast majority of spill responses in the region are of such a minor nature that a plan is not required to respond to them effectively.

Maritime NZ comments: Maritime NZ's requirements for Tier 2 plans have not changed since the introduction of Part 130C in 1998. However, the time and effort required of regions in maintaining their plans has recently been reduced significantly with Maritime NZ staff now maintaining the 'common' elements of Tier 2 and Tier 3 plans.

As noted, the annual number of exercises has not increased and the time and resources required for regional exercise planning and implementation has been reduced. It is our understanding that Auckland International Airport undertakes two major exercises each year in addition to the Fire and Rescue Service's numerous training and exercise activities. Regional Tier 2 oil spill response exercises are minor in scale when compared to the major exercises conducted at international airports.

Regional exercises are required to be at the Tier 2 level. The proposed rule change requires the production of an incident action plan or site operations plan during only one of the annual exercises. Although it is acknowledged that a written plan is unlikely to be required for the majority of (minor) Tier 2 incidents, a significant Tier 2 incident will require a greater degree of operational planning. It is considered essential that these planning skills and knowledge are exercised at least once a year to ensure regional teams are confident and competent to undertake operational planning activities if required.