



## Maritime Transport Act 1994

### Marine Protection Rules

#### PART 130B – OIL TRANSFER SITE MARINE OIL SPILL CONTINGENCY PLANS

Pursuant to sections 387, 388 and 390 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 17<sup>th</sup> day of October 2006

by HARRY JAMES DUYNHOVEN

Minister for Transport Safety

#### Contents

Part Objective		<b>Operating the Site</b>
Extent of Consultation		130B.8 Conditions for oil transfer sites
	<b>General</b>	130B.9 Form and custody of the contingency plan
130B.1 Entry into force		130B.10 Testing and reviewing the contingency plan
130B.2 Interpretation		130B.11 Notification of modifications to the contingency plan
130B.3 Application		130B.12 Changes during the currency of the contingency plan
	<b>Applications for Approval</b>	130B.13 Reporting oil spills
130B.4 Operator to have a site marine oil spill contingency plan		
130B.5 Application for approval of a contingency plan		<b>Final Provisions</b>
130B.6 Consultation with the District Chief Fire Officer		130B.14 Transitional provisions
130B.7 Approval and duration of a contingency plan		130B.15 Revocation
		<b>Schedule</b>
		Contents of a site marine oil spill contingency plan



## Part Objective

The objective of Part 130B is to prescribe requirements for operators of oil transfer sites to develop contingency plans for dealing with oil spills into New Zealand's internal waters, territorial sea or exclusive economic zone.

Part 130B requires that the operator of an oil transfer site obtain the Director's approval for a site marine oil spill contingency plan. In practice, the power to approve plans is delegated by the Director to regional councils.

A site marine oil spill contingency plan addresses such issues as –

- the procedures for reporting marine oil spills;
  - details of the personnel responsible for containing and cleaning up a spill;
  - contact information for other persons likely to be affected by a spill; and
  - documentation of the response equipment available for use in a spill response.
- Regular updates, reviews and tests of the plan are also required.

Part 130B replaces Part 130B made 29 June 1998. The revision is the result of operational and interpretative difficulties, encountered by a number of regional councils, with the application of the previous Part 130B.

The aims of this new Part 130B are to:

- improve the quality and effectiveness of site marine oil spill contingency plans;
- increase the focus on risk assessment and oil spill prevention measures that may be audited by the Director; and
- require operators to provide relevant information to enable the Director to verify that response options proposed in the contingency plan are appropriate to the nature of the oil spilled and will not result in greater environmental harm than an oil spill itself.

Part 130B contains transitional provisions that allow any marine oil spill contingency plan approved under the previous Part 130B to continue to have effect as if it had been approved under these rules.

The provisions of Part 130B do not apply to an oil transfer site, associated with an offshore installation, where the contingency plan for the installation covers oil transfers to and from the oil transfer site.

The authority for Part 130B is found in Part 23 and sections 387, 388 and 390 of the Maritime Transport Act 1994.

### *Rules subject to Regulations (Disallowance) Act 1989*

Marine protection rules are subject to the Regulations (Disallowance) Act 1989. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under the Regulations (Disallowance) Act 1989.

## **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 Part 130B. A notice was also published in the *New Zealand Gazette* on 2 October 2003. The Authority then made its Invitation to Comment and draft Part 130B available to the public with approximately 90 copies being sent automatically to interested parties. Comments on the draft Part were requested, in the newspaper notices, by 7 November 2003 and, in the Gazette notice, by 21 November 2003. However, the consultation period was extended in all cases until 28 November 2003.

Twelve organisations provided written submissions on the draft. All submissions and any oral comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made.

## General

### 130B.1 Entry into force

This Part comes into force on 14 December 2006.

### 130B.2 Interpretation

(1) In this Part –

**Act** means the Maritime Transport Act 1994;

**defence area** has the meaning given to it in section 2(1) of the Defence Act 1990;

**District Chief Fire Officer** means the District Chief Fire Officer for the District in which the site is located;

**exclusive economic zone** or **exclusive economic zone of New Zealand** means the exclusive economic zone defined in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

**internal waters of New Zealand** means the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

**New Zealand marine waters** means –

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

**marine oil spill** means any actual or probable release, discharge or escape of oil into the internal waters of New Zealand or New Zealand marine waters;

**offshore installation** includes any artificial structure (including a floating structure other than a ship) used or intended to be used in or on, or anchored or attached to, the seabed for the purpose of the exploration for, or the exploitation or associated processing of, any mineral;

**oil** –

- (a) means petroleum in any form, including crude oil, fuel oil, sludge, oil refuse, refined products (other than petrochemicals subject to the provisions of Part 140); and
- (b) includes –
  - (i) the substances declared to be oil in the appendix to Part 120; and
  - (ii) any oily mixture;

**oil transfer site** –

- (a) means any land, site, building, structure or facility (whether on land or above the seabed) –
  - (i) that is used to transfer oil; or
  - (ii) at which or from which oil is transferred, to or from a ship or offshore installation;
- (b) includes a tank truck operation;

- (c) does not include a ship;

**operator**, in relation to an oil transfer site, includes any manager, lessee, licensee or other person in charge of the site;

**Part** means a group of rules made under the Act; and

**territorial sea** or **territorial sea of New Zealand** means the territorial sea defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

- (2) Oil as defined in this rule is a harmful substance for the purpose of section 225 of the Act.

### **130B.3 Application**

- (1) Except as provided in subrules (2) and (3), this Part applies to every oil transfer site within –
  - (a) the land area of New Zealand;
  - (b) the rivers and other inland waters of New Zealand;
  - (c) the internal waters of New Zealand; and
  - (d) New Zealand marine waters;including an oil transfer site in a defence area.
- (2) This Part does not apply to an oil transfer site that is –
  - (a) an offshore installation;
  - (b) associated with an offshore installation, if the site marine oil spill contingency plan for that installation covers oil transfer operations to and from that oil transfer site; or
  - (c) in the land area, rivers or other inland waters of New Zealand –
    - (i) if an oil spill at that site cannot lead directly to a marine oil spill; and
    - (ii) if the site is used to transfer oil to or from any ship in the inland waters of New Zealand, an oil spill in those waters cannot lead directly to a marine oil spill.
- (3) Nothing in this Part affects the requirements of the Hazardous Substances (Emergency Management) Regulations 2001 and the Hazardous Substances (Classes 6, 8 and 9 Controls) Regulations 2001.

## **Applications for Approval**

### **130B.4 Operator to have a site marine oil spill contingency plan**

No person may operate an oil transfer site without the Director’s written approval of a site marine oil spill contingency plan that complies with the requirements of the Schedule.

### **130B.5 Application for approval of a contingency plan**

- (1) Every application for approval of a site marine oil spill contingency plan –
  - (a) is an application for the purpose of section 269(1) of the Act;

- (b) must be in English;
  - (c) may be made by letter or in such other form as the Director may allow;
  - (d) must include the applicant's -
    - (i) address for service in New Zealand;
    - (ii) telephone number;
    - (iii) fax number (if any); and
    - (iv) email address (if any);
  - (e) must include the contents of the proposed contingency plan in electronic and hard copy; and
  - (f) must include evidence of compliance with rule 130B.6.
- (2) The Director may require any additional information he or she considers necessary to support an application for approval of a site marine oil spill contingency plan.
- (3) If the Director requires any additional information, he or she must advise the applicant, in writing, of -
  - (a) the details of the required information; and
  - (b) the reason(s) why the information is required,no later than 15 working days from the date of receipt of the application.

### **130B.6 Consultation with the District Chief Fire Officer**

Before an application is submitted for approval of a site marine oil spill contingency plan, the operator must consult with the District Chief Fire Officer on -

- (a) any procedures, set out in the draft plan, relating to notification of the fire service; and
- (b) the role of the fire service in any marine oil spill response, undertaken in accordance with the draft plan.

### **130B.7 Approval and duration of a contingency plan**

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

## **Operating the Site**

### **130B.8 Conditions for oil transfer sites**

The operator of every oil transfer site must -

- (a) ensure that personnel responsible for implementing the contingency plan and dealing with oil spills receive training appropriate to their responsibilities under the plan;
- (b) keep a record of that training;
- (c) maintain access to equipment to deal with an oil spill at a level appropriate to –
  - (i) the risks presented by the site; and
  - (ii) the response options identified in the contingency plan; and
- (d) when called upon by the Director, justify any response option in the contingency plan as effective and achievable.

### **130B.9 Form and custody of the contingency plan**

- (1) The operator of every oil transfer site must keep the Director’s written approval with the approved site marine oil spill contingency plan at all times and make both documents available to the Director on request.
- (2) A copy of the Director’s written approval and the approved site marine oil spill contingency plan must be kept and made available at every site to which the plan applies.
- (3) As soon as practicable after it is issued, the operator must supply a copy of the Director’s written approval, together with the approved site marine oil spill contingency plan, to:
  - (a) if the site is in a region, the regional on-scene commander appointed under section 318 of the Act;
  - (b) the Director; and
  - (c) the District Chief Fire Officer.

### **130B.10 Testing and reviewing the contingency plan**

- (1) The operator of every oil transfer site must –
  - (a) test the contingency plan not less than once every 12 months;
  - (b) review the effectiveness of the contingency plan as soon as practicable after every –
    - (i) test carried out under paragraph (a);
    - (ii) use of the contingency plan in response to an oil spill; and
    - (iii) change in the response procedures or equipment for the site (other than the direct replacement of equipment).
- (2) The operator must keep a record of every test and review and the results and findings of every such test and review.
- (3) After every review, the operator must –
  - (a) determine any modifications to the contingency plan that, in light of the review, would increase the effectiveness of the contingency plan;
  - (b) implement those changes –
    - (i) immediately, in the case of amendments to the 24 hr contact list or reassignment of personnel responsibilities; and
    - (ii) on the Director’s approval, in the case of any other modification.

**130B.11 Notification of modifications to the contingency plan**

- (1) As soon as possible after every modification of the contingency plan, the operator of an oil transfer site must notify the Director and every other person holding a copy of the plan required to be kept or supplied under rule 130B.9.
- (2) The operator must keep a record of the action(s) taken to meet the obligation in subrule (1).

**130B.12 Changes during the currency of the contingency plan**

- (1) Except as provided in subrule (3), the operator must apply for approval of any changes to the site marine oil spill contingency plan, in particular, when the operator proposes to alter the use or layout of the site in a way that could increase the risk of a marine oil spill.
- (2) The provisions of rule 130B.5 and the Schedule apply to an application for approval of changes to a site marine oil spill contingency plan.
- (3) The operator may make the following changes to the contingency plan without the prior approval of the Director –
  - (a) modifications to the 24 hr contact list;
  - (b) reassignment of personnel responsibilities.

**130B.13 Reporting oil spills**

Immediately after any marine oil spill, the operator of an oil transfer site must report the spill, by the fastest means of communication available and with the highest possible priority, to –

- (a) the regional council, if the oil spill occurs in a region;
- (b) the Director, if the oil spill occurs beyond the territorial limits of New Zealand,

using the procedures outlined in the contingency plan.

## **Final Provisions**

**130B.14 Transitional provisions**

Any site marine oil spill contingency plan that was –

- (a) approved under Part 130B made 29 June 1998; and
  - (b) in force immediately before this Part came into force,
- shall continue in force as if it has been issued under this Part.

**130B.15 Revocation**

Part 130B made 29 June 1998 is revoked.

## SCHEDULE

### Contents of a site marine oil spill contingency plan

#### 1 Risk identification, assessment and prevention

Every site marine oil spill contingency plan must include –

- (a) up-to-date and accurate drawings, plans or general arrangements of the site, showing –
  - (i) the places and systems associated with the storage or transfer of fuels including tank capacity, filling arrangements, isolation valves and drainage systems highlighting the critical isolation points;
  - (ii) those areas or processes identified as presenting a risk of a marine oil spill; and
  - (iii) locations in the vicinity of the site identified as under threat of environmental damage should a marine oil spill occur;
- (b) particulars of all oils stored at the site including specifications, material safety data sheets and the maximum volume of each type of fuel held on site;
- (c) a detailed description of all the identified processes and activities which present a risk of pollution from an oil spill, with a list of specific actions and procedures to reduce the risk of an oil spill including specific standard operating procedures to be employed at the interface between the site and a vessel; and
- (d) a detailed description of those identified areas which may suffer environmental damage as a result of an oil spill.

#### 2 Response to marine oil spills

(1) Every site marine oil spill contingency plan must contain –

- (a) guidance to ensure the safety of personnel at the site;
- (b) information to help personnel at the site deal with an oil spill by initiating the actions necessary to stop or minimise the spill and to mitigate its effects, including procedures for –
  - (i) preventing the escalation of the oil spill;
  - (ii) stopping the discharge at its source, if possible;
  - (iii) deciding what action to take in response to an oil spill;
  - (iv) identifying the safety and environmental consequences of any remedial action; and
  - (v) determining whether or not the oil spill can be contained or cleaned up by the resources available to the operator or any other person responsible for implementing the contingency plan;
- (c) appropriate response options for the site;
- (d) the means and point of contact for co-ordination of response activities;
- (e) the procedure by which spills are to be reported in accordance with rule 130B.13;
- (f) the procedure by which the operator is to report to the regional council or the Director of Maritime Safety if the person responsible for implementing the contingency plan considers that the oil spill cannot be cleaned up or contained using the resources available to that person;
- (g) a list of 24-hour contact information for:
  - (i) the operator or the operator's site representative;

- (ii) the Director;
  - (iii) the regional council, if the site is within a region;
  - (iv) any organisation contracted to the operator to respond to oil spills at the site;
  - (v) off-duty personnel with responsibilities for dealing with oil spills;
  - (vi) other persons whose interests in or around the site are likely to be affected by an oil spill at the site;
  - (h) the name and contact details of any person responsible for implementing the plan;
  - (j) the organisational response structure for the installation, including –
    - (i) duties of all personnel responsible for dealing with spills;
    - (ii) positions consistent with the national civil defence emergency plan made from time to time under section 39 of the Civil Defence Emergency Management Act 2002;
  - (k) an inventory of any response equipment held on site (including the location of that equipment) with personnel responsibilities for the deployment, survey and maintenance of that equipment.
- (2) A site marine oil spill contingency plan for a site within a defence area need not include any information about the site that is classified by the New Zealand Defence Force provided that any such information relevant to an oil spill response is readily available at the site.

## Marine Protection Rules

### Part 130B

#### CONSULTATION DETAILS

*(This text does not form part of the rules contained in Part 130B. It provides details of the consultation undertaken in making the rules.)*

#### Summary of Consultation

Copies of the proposed Part 130B were circulated to approximately 90 organisations. These included all regional councils and unitary authorities, all oil companies and the holders of all currently approved oil transfer site (Tier 1) marine oil spill contingency plans.

Subsequently, consultation was undertaken with the New Zealand Shipping Federation and the members of the Oil Pollution Advisory Committee.

Twelve organisations made written submissions on the draft Part 130B. Of these submissions, six were from Regional Councils, one was from the New Zealand Defence Force and five were from commercial operators of oil transfer sites.

Consultation was also undertaken at the MSA annual regional council workshop held in Wellington in November 2003 and the annual MSA regional stakeholder seminars held at Auckland, Paihia and Tauranga.

On 10 February 2004, a letter was sent to all submitters advising them of the amendments proposed to the draft rule, taking into account the submissions received. No further issues were raised by any of the submitters.

#### 130B.2 Interpretation

**Taranaki Regional Council** suggested a need to clarify whether the definition of “oil transfer site” encompassed multiple interests such as those that exist at Port Taranaki.

*Maritime NZ response: The definition of “oil transfer site” does not include multiple sites. However, the advisory circular provides for a port company and site operators to have “a single unified or co-ordinated site marine oil spill contingency plan.”*

**The Chief of Navy** suggested that the definition of “marine oil spill” be revised to allow for discharges that inevitably occur during the normal oil transfer process, and that, through the application of best practice, will not be discharged to the sea.

**New Zealand Aluminium Smelters Ltd** argued that the definition of “oil spill” should be amended to “marine oil spill” to better reflect the application of the rule.

They also suggested that the definition of “oil transfer site” be amended to avoid application to all industrial processes that use petroleum products.

*Maritime NZ response: Maritime NZ accepts the comments made by NZAS regarding the definition of “oil spill” and has amended the definition to that of “marine oil spill”. Maritime NZ notes the comments made by the Chief of Navy. However, the definition of “oil spill” is taken from the Maritime*

Transport Act and there is no scope within this review to amend definitions in the Act. Similarly “oil transfer site” is defined in the Maritime Transport Act and is not subject to review at this time.

### 130B.3 Application of Part 130B

**Mobil Oil New Zealand Ltd** suggested that the rule should reflect the variation between the different types and scales of marine oil transfer sites.

*Maritime NZ response:* Although, the application of one Part to the wide range of Tier 1 sites has always been problematic, and the number of submissions on this matter confirms that this is still the case, Maritime NZ does not consider it appropriate to have separate rules for various types of Tier 1 site.

We do, however, agree that there is a need to have different levels of contingency plans for the different scales of site. Accordingly, we propose to develop three generic templates, which will be incorporated into the advisory circular under development. The templates will set out the specific information requirements for the following broad categories of site –

- mobile refueling facilities;
- small fixed refueling facilities such as marinas and wharf facilities; and
- large storage and transfer sites such as tank farms, tanker terminals and refineries.

These templates will clearly specify the level of information required and, in the case of the mobile operators, will most likely take the form of a template document that must be completed by the operator.

Maritime NZ has consulted with regional councils and operators on the development of the advisory circular.

**The New Zealand Shipping Federation** raised concerns over the application of Part 130B to ships. They suggested that the proposed amendments appear to be unnecessary and that any amendments should address specific identified problems and should exclude ships as all ships are required to have an approved Shipboard Oil Pollution Emergency Plan.

They opined further that the existing controls appear to be adequate and that there was little need to amend them.

*Maritime NZ response:* Part 130B applies only to marine oil transfer sites, which do not include ships.

### 13B.4 Operator to have a licence

**Wellington Regional Council** raised concerns about the need for mobile tank trucks recovering oily waste to have operating licences.

**Mobil Oil New Zealand Ltd** raised significant concerns over the operating licence concept noting that it appeared to duplicate the requirements of the Hazardous Substances and New Organisms (HSNO) Act. Mobil opposed the introduction of an operating licence requirement.

**The New Zealand Shipping Federation** opposed the introduction of an operating licence requirement.

**New Zealand Oil Services Ltd** raised concerns over the operating licence concept noting that it appeared to duplicate the requirements of the HSNO Act.

**BP New Zealand Ltd** also raised concerns over the operating licence concept noting that it appeared to duplicate the requirements of the HSNO Act.

**Taranaki Regional Council** recommended a standard form for operating licences to ensure consistency across New Zealand.

*Maritime NZ response: Significant concerns were raised over the introduction of an Operating Licence requirement. In particular, submitters were concerned with the perceived duplication of the requirements of the new Hazardous Substances and New Organisms Act regulations.*

*As a result, Maritime NZ considers the operating licence concept should not proceed and the amended rule should simply require approval of a site marine oil spill contingency plan.*

### **130B.5 Consultation with Emergency Service**

**Wellington Regional Council** questioned the need to consult with the New Zealand Fire Service and the New Zealand Police in respect of every application.

**New Zealand Oil Services Ltd** considered it unnecessary to consult with the Police.

**BP New Zealand Ltd** accepted the need to consult with the Fire Service but queried the need to consult with the Police or Ambulance Service.

*Maritime NZ response: Maritime NZ has considered this issue and accepts that there is no need to consult with the New Zealand Police or the Ambulance Service. However, Maritime NZ believes consultation with the New Zealand Fire Service is still desirable.*

### **130B.6 Application for Operating Licence**

**Wellington Regional Council** suggested that the Operating Licence should be in a standard form and only be issued by Maritime NZ who are the enforcement authority for Marine Protection Rules.

They were also of the view that the application requirements for small mobile operators were onerous. In particular, they considered that the requirements for contingency plans were unreasonable for small mobile operators.

*Maritime NZ response: As noted above, the requirement for an operating licence will be deleted.*

**New Zealand Oil Services Ltd** queried whether the proposed amendments removed the authority delegated to Regional Councils to approved Tier 1 plans.

**Environment Waikato** queried whether the delegation to Regional Councils to approve Tier 1 plans would continue under the new rule.

**Taranaki Regional Council** sought clarification on the delegation of powers to Regional Councils.

*Maritime NZ response: The functions, powers and duties of the Director, with respect to the approval of site marine oil spill contingency plans under Part 130B, may be delegated to regional councils under section 444 of the Act. The Director's power to delegate remains unchanged. The functions of the regional councils will be clearly explained in the advisory circular.*

**Environment Waikato** also suggested that a more specific mechanism should be provided for Regional Councils to reject plans that do not meet the criteria.

***Maritime NZ response:** Maritime NZ accepts this comment and has amended the rule to allow further information to be requested of an applicant, if the information submitted with the application for approval is considered inadequate to meet the requirements of the rule. However, the corollary to this is that the approving authority (acting on powers delegated by the Director) must specify, in writing and within 15 working days, the nature of and the reasons for the additional information required.*

### **130B.7 What must accompany the application**

**Wellington Regional Council** argued that the application requirements were too onerous for small mobile operators.

**Mobil Oil NZ Ltd** supported both the need to have appropriate contingency plans in place and the greater emphasis placed on spill prevention in the new rules. However, they were concerned that the focus of these prevention measures were aimed more at large fixed facilities than small refuelling facilities, which they suggested present the greater risk. In addition, they also recommended amendments to the text of the rules to provide greater clarity.

***Maritime NZ response:** As noted above, Maritime NZ accepts that the application of the single Part to the wide range of Tier 1 sites is problematic but does not consider it appropriate to have separate rules for the various types of Tier 1 site. Maritime NZ has concluded that the overarching principles of risk minimisation and preparedness are common to all sites and the most effective way of dealing with this issue is to provide a series of templates, which address the needs of the different categories of sites, in the Advisory Circular to Part 130B.*

*While Maritime NZ had stated that the rules should focus more on prevention, this focus was not necessarily apparent in the rule. Accordingly, the rule has been restructured to identify those aspects that relate to planning and prevention and those that relate to response. In addition, one of the main functions of the advisory circular will be to specify the types of prevention measures that site operators should consider for their sites.*

**Auckland Regional Council** supported the proposed amendments noting that the increased focus on spill prevention reflects the Council's own emphasis on risk management and pollution prevention.

They were of the opinion that the requirements of the rules were both clear and detailed.

They also recommended the inclusion of a requirement that the location of spill equipment on site be detailed in either the plan map or the spill equipment inventory.

***Maritime NZ response:** Maritime NZ accepts the suggestion made by the Auckland Regional Council, to insert a requirement for the location of spill equipment to be detailed in the plan, and has amended Part 130B accordingly.*

### **130B.8 What a contingency plan must contain**

**Wellington Regional Council** suggested that the proposed requirements for a contingency plan were too elaborate to be of any practical value when applied to small-scale operations such as mobile fuel trucks and marine pump operations. They recommended that the

requirements for such sites be simplified and that the advisory circular that accompanies the rule include draft templates to reflect the scale of operation.

**Mobil Oil NZ Ltd** reiterated their previous point that the level of detail contained within the plan should reflect the scale and nature of the site.

**New Zealand Oil Services Ltd** noted that all of their sites are required to have an Emergency Response Plan and suggested that the requirements of a contingency plan should reflect this and contain key concise information only.

**Environment Waikato** commented that the rule could be more specific in terms of format and content for Tier 1 plans to improve consistency across New Zealand.

**Environment Southland** maintained that many Tier 1 sites are unmanned and that the requirements of the rule did not address the risks these sites present. They suggested that a specific provision should be included in the rule to address this category of site.

*Maritime NZ response: As noted above, Maritime NZ accepts that the application of the single Part to the wide range of Tier 1 sites is problematic, but does not consider it appropriate to have separate rules for the various types of Tier 1 site. Instead it is proposed to address this issue by developing three generic templates, which will be incorporated into the advisory circular under development.*

**Auckland Regional Council** stated that they would like to see a requirement for a copy of the plan to be kept at a location where it is available to all persons responding to a marine oil spill.

*Maritime NZ response: Rule 130B.5 of the previous Part 130B required that a site marine oil spill contingency plan be available to assist personnel at the site to deal with an oil spill. This requirement has also been incorporated into the new Part in rule 130B.9.*

## **130B.10 Form and Custody of the operating licence**

**Wellington Regional Council** submitted that it was inappropriate for every Tier 1 site plan to be lodged with the Fire Service, the Police and the Ambulance Service.

**New Zealand Oil Services Ltd** argued that the requirement to provide the Fire Service, the Police and the Ambulance Service with copies of their plans added an unnecessary administrative burden.

**BP New Zealand Ltd** commented that there did not appear to be any justification for lodging the plan with the Police or Ambulance Service.

*Maritime NZ response: Maritime NZ has noted these concerns and has amended the rule to require notification of the Fire Service only.*

**New Zealand Aluminium Smelters Ltd** submitted that the maximum term of 3 years for an operating licence is too short and should be extended to a maximum period of 35 years to be consistent with the Resource Management Act 1991.

*Maritime NZ response: As noted above, Maritime NZ is not proceeding with the concept of the operating licence. The maximum term of 3 years for a Marine Oil Spill Contingency Plan is specified in section 290 of the Act, and cannot be amended in the rules.*

## 130B.14 Notification of Modifications to the Plan

**BP New Zealand Ltd** noted the requirement to advise all plan holders of any amendments to the approved plan. However, they submitted that in practice this was difficult to implement and instead suggested that MSA maintain an online copy of the approved plan with access to all approved plan holders.

They also suggested that the requirement to amend the plan as a result of testing the plan should be limited to generic requirements such as contact names and procedures.

**New Zealand Aluminum Smelters** maintained that it was inappropriate to require re-application for a licence if the response procedure(s) change in such a way that reduces risk or improves the ability to respond to marine oil spills.

*Maritime NZ response:* Maritime NZ acknowledges that there are some changes for which it would be inappropriate to require operators to reapply for approval. As a result, Part 130B has been amended to specify those amendments (such as changes in contact details) where it is necessary simply to notify plan holders and those (such as structural changes to the site) where it is necessary to reapply for approval of the plan.

### **Amendments made post-Consultation**

Note: The arrangement of rules has been changed post-consultation for accessibility and consistency with other rules.