

Marine Protection Rules

Part 180 – Dumping of Waste and Other Matter

MNZ Consolidation

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Part objective

Part 180 incorporates a number of the standards and processes that are required in New Zealand law to enable New Zealand to become party to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972 (London Convention), and to comply with the provisions of the 1996 Protocol to the London Convention, once these take effect in New Zealand.

Part 180 of the marine protection rules operates within the framework established by Part XXI of the Maritime Transport Act 1994. Part XXI establishes the application and enforcement provisions for the standards and processes set out in the London Convention. Part 180 details the specifics of the permitting regime to control ocean dumping and minimise its environmental effects.

The authority for making Part 180 is found in sections 386 and 389(1) 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 the 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.

Disclaimer:

This document is the current consolidated version of Maritime/Marine Protection Rules Part XX produced by Maritime New Zealand, and serves as a reference only. It has been compiled from the official rules that have been signed into law by the Minister of Transport. Copies of the official rule and amendments as signed by the Minister of Transport may be downloaded from the Maritime New Zealand website. www.maritimenz.govt.nz

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General

180.1 Entry into force

Part 180 shall come into force on the 28th day after the date of its notification in the *Gazette*.

180.2 Definitions

In Part 180—

Act means the Maritime Transport Act 1994:

convention state means a state that is a party to the London Convention:

Director means the person who is for the time being the Director of Maritime Safety under section 439 of the Maritime Transport Act 1994:

dumping means,—

- (a) in relation to waste or other matter, its deliberate disposal; and
- (b) in relation to a ship, an aircraft, or an offshore installation, its deliberate disposal or abandonment;—

but does not include the disposal of waste or other matter incidental to, or derived from, the normal operations of a ship, aircraft, or offshore installation, if the purposes of those operations does not include the disposal, or the treatment or transportation for disposal, of that waste or other matter; and “to dump” and “dumped” have corresponding meanings:

London Convention means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972; and includes any subsequent amendment or protocol to, or revision of, that convention accepted or ratified by New Zealand:

minor adverse effect means an effect that does not result in such deleterious consequences as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water, and reduction of amenities:

New Zealand Guidelines for Sea Disposal of Waste means the latest edition of the guidelines on dumping published jointly by the Maritime Safety Authority and the Ministry for the Environment:

offshore installation or **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; but does not include a pipeline:

Part means a group of rules made under the Maritime Transport Act 1994:

radioactive waste or other radioactive matter means any waste or other matter containing any radioactive material within the meaning of the Radiation Protection Act 1965:

rules includes maritime rules and marine protection rules:

territorial sea of New Zealand means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

waste or other matter means material and substances of any kind, form, or description.

180.3 Application of rules

- (1) Rules 180.4 to 180.11 apply to the application for, and issuing of, permits under section 262 of the Act.
- (2) Rule 180.12 applies to the application for, and issuing of, emergency dumping permits under section 262A of the Act

Permit applications

180.4 Application for permit

- (1) Every application for a permit must be—
 - (a) made in accordance with the requirements of section 269 of the Act; and
 - (b) accompanied by information in respect of the proposed dumping that shall include the following—
 - (i) an assessment of the alternatives to dumping; and
 - (ii) a detailed description and characterisation of the waste to be dumped; and
 - (iii) details of the proposed dump site; and
 - (iv) an assessment of potential effects of the proposed dumping on the environment; and
 - (v) details of the proposed monitoring programme for compliance with any dumping permit issued¹.
- (2) Where in the Director's opinion it is necessary in order to make a decision on an application, the Director, subsequent to the receipt of an application for a permit, may in writing require the applicant to—
 - (a) elaborate specified information set out in the application; and
 - (b) supply additional specified information.
- (3) Where the Director requires additional information under rule 180.4(2), he or she may postpone notification of the application under rule 180.5.

180.5 Notification and consultation before assessing permit application

- (1) Before assessing an application for a permit, the Director must—
 - (a) publish a notice of his or her receipt of an application and of the availability of copies of the application and the information supporting it, in—
 - (i) each of the daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin, respectively; and
 - (ii) any other newspaper the Director considers appropriate for the purpose of notifying interested persons; and
 - (b) give interested parties a reasonable time (which shall be not less than 20 working days after the notice of the application) to make submissions on the application; and
 - (c) consult with such persons, representative groups within the maritime industry or elsewhere, tangata whenua, Government departments, Crown entities, and regional councils, as the Director in each case considers appropriate.
- (2) A notice under 180.5(1) shall—
 - (a) contain a description of the application including the location of the proposed dumping; and
 - (b) state that submissions on the application may be made in writing by any person; and
 - (c) state the closing date for the receipt of submissions; and
 - (d) state that a copy of every submission must be served on the applicant; and

¹ Refer to Annex 2 of the 1996 Protocol to the London Convention for the extent of information required and *New Zealand Guidelines for Sea Disposal of Waste* for further explanation. The *Guidelines* includes the application forms for dumping permits under the Maritime Transport Act 1994.

- (e) state the place where the application and accompanying information may be viewed and the address for service of the applicant.

180.6 Duty to provide copy of submission to applicant

A person who makes a submission to the Director on an application for a permit must provide a copy of that submission to the applicant.

180.7 Notification not required in certain cases

The Director is not required to notify an application for a permit and consult as provided for under rule 180.5 before assessing that application if the Director is satisfied that the application relates to dumping of waste or other matter that—

- (a) will have, in the Director's view, a minor adverse effect on the marine environment; or
- (b) is clearly in breach of the London Convention and the application will not be granted.

180.8 Assessment of application for permit

- (1) The Director must assess every application for a permit in accordance with—
 - (a) section 270 of the Act; and
 - (b) the criteria, measures and requirements for the granting of dumping permits set out in the London Convention; and
 - (c) the guidelines for the implementation and uniform interpretation of the London Convention adopted from time to time by resolution of the contracting parties to that Convention and published by the International Maritime Organization.
- (2) When assessing an application, the Director—
 - (a) must have regard to—
 - (i) the views submitted in every case where notification and consultation is carried out under rule 180.5; and
 - (ii) the *New Zealand Guidelines for Sea Disposal of Waste*; and
 - (b) may have regard to any guidelines on dumping not referred to in rule 180.8(1)(c), which he or she considers relevant, published from time to time by the International Maritime Organization, another international organisation, or a national marine environment protection organisation of a state other than New Zealand.
- (3) The Director must not grant an application that would permit the dumping of any waste or other matter in breach of the London Convention.
- (4) The Director must not grant an application that would permit the dumping of any waste or other matter from any New Zealand ship into the sea or onto or into the seabed where that sea or seabed is within an area over which a State other than New Zealand exercises or is entitled to exercise, jurisdiction, for the purpose of preventing pollution by dumping, as provided for in international law.

Issuing of permits

180.9 Scope and duration of permit

- (1) Every permit must specify—
 - (a) the types, sources and quantities of material to be dumped; and
 - (b) the location of the disposal site or sites; and
 - (c) the method of dumping, including any disposal management techniques for dealing with contaminated material.
- (2) Every permit is current for the period, or for the duration of a particular dumping operation, specified in the permit, as determined by the Director.

180.10 Conditions on permit

Every permit is subject to such conditions as may be specified by the Director, including conditions as to—

- (a) reporting; and
- (b) assessment; and
- (c) monitoring; and
- (d) the keeping and maintenance of records²

180.11 Notice of decision

Every decision made by the Director on a permit application must be notified to—

- (a) the applicant for the permit; and
- (b) every person, representative group, tangata whenua, Government department, Crown entity, and regional council consulted by the Director under rule 180.5; and
- (c) every party that made submissions on the application; and
- (d) any other person, representative group, Government department, Crown entity and regional council the Director considers appropriate.

Emergency dumping

180.12 Emergency dumping

- (1) An application for an emergency dumping permit must comply with rule 180.4(1).
- (2) The Director may, in writing, require a person who made an application to—
 - (a) elaborate on information provided in the application; and
 - (b) provide additional information.
- (3) Rule 180.9 applies to the emergency dumping permit.
- (4) Rules 180.5 to 180.8 and 180.10 and 180.11 do not apply to the application.

² Subsequent to its issue, the Director may from time to time impose conditions on a permit in accordance with section 272 of the Act.