

How we categorise, prioritise and initially respond to notifications

Operational Policy (OP 09)

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Introduction

As a risk-based regulator we prioritise taking action to prevent harm from occurring across the maritime domain.

One of the main ways we prevent harm is by responding to notifications of harm or risk of harm we receive.

This policy sets out:

- how we define a notification
- the notifications this policy applies to
- how we categorise, and prioritise notifications, and
- the initial actions we will take to respond to a notification.

What is a notification?

A notification is information about an event, planned action or administrative change in the maritime sector or at a designated port that must be provided, or that people choose to provide, to Maritime New Zealand (Maritime NZ).

Notifications provide us with information about:

- harm, or potential harm to people, the marine environment or property
- issues or concerns raised by workers or health and safety representatives regarding their workplace that is a commercial vessel or a designated port
- planned actions that could present a risk or cause harm in the maritime sector, or
- administrative matters to ensure we hold up to date information to allow us to perform our regulatory functions.

The notifications this policy applies to

People are legally required to notify us about a broad range of events, planned actions or administrative changes. People also notify us voluntarily about events and other matters involving harm or risk of harm in the maritime sector and at designated ports.

This policy applies to notifications:

- from people who tell us about events, planned actions or administrative changes, as required by legislation, on:
 - New Zealand-flagged commercial vessels
 - foreign-flagged vessels in New Zealand waters
 - foreign-flagged vessels offshore in relation to New Zealand workers
 - vessels on demise charter to New Zealand companies in New Zealand waters
 - a foreign vessel operating between New Zealand and a workplace in connection with an activity that is regulated under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Crown Minerals Act 1991
 - recreational vessels in New Zealand waters, and
 - designated ports.
- from agencies as required by legislation or a formal agreement, and
- made voluntarily by any person about a maritime or port safety matter, including notifications made under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

If a notification is made under the Protected Disclosures (Protection of Whistleblowers) Act 2022, or a notification appears to be a protected disclosure, our operational policy “How we make decisions on Protected Disclosures (OP 07)” will apply.

If a notification is not related to a Maritime NZ function we will refer it to the correct agency, or advise the person who notified us which agency they need to notify.

This policy does not apply to:

- requests for search and rescue assistance
- notifications about oil spills or major maritime incidents
- notifications about maritime security, or
- notifications made by Maritime NZ to other organisations.

These notifications have separate response protocols.

How we categorise notifications

We consider all notifications we receive to be important and deal with them immediately.

If a notification does not have enough information to be categorised and prioritised, we will do our best to get more information from the person who made the notification. If the information provided is not enough to act upon and we are unable to contact the person that made the notification, we will make a risk-based judgment as to what next steps we may take. If we assess it as no or low risk, the notification will be recorded and closed.

Once we have enough information about the notification, we will assign it to one of two categories.

- notifications that relate to a harm or potential harm occurring to a person, property or the environment, or
- administrative and planned action notifications.

Notifications that relate to a harm or potential harm occurring

The notifications that relate to a harm or potential harm occurring are initially prioritised based on our understanding of:

- whether the level of harm that has occurred, or the potential harm that could occur, is high, medium or low, and
- the urgency with which the notification needs to be referred for a response.

How we determine the level of harm or potential harm that could occur

We assign each notification a rating of high, medium or low based on:

- the severity of the harm that has occurred, or
- potential harm:
 - the severity of the potential harm, and
 - the likelihood of the potential harm occurring.

High rated notifications

High rated notifications include events that **have** caused, events that under different circumstances were **highly likely to have caused**, and ongoing situations, where the circumstances are **highly likely to cause**:

- death
- serious injury or serious illness that is life-threatening where the person is likely to have a serious permanent disability or health effect
- serious damage to a vessel or port including equipment used for port operations, or

- serious harm to the environment through a pollution (excluding oil spills) event that is widespread, or in a protected area, or where the event results in the closure of fisheries/aquaculture or significant fatalities to marine animals.

Notifications of a breach of the Maritime Labour Convention that are likely to result in significant financial, nutritional or wellbeing issues for a seafarer are also considered to be a high rated notification.

Medium rated notifications

Medium rated notifications include events that **have caused**, events that under different circumstances were **highly likely to have caused**, and ongoing situations, where the circumstances are **highly likely to cause**:

- a moderate injury or illness, that has caused a temporary disability or health effect, and requires medical attention
- a chronic work-related health matter
- moderate damage to a vessel
- a moderate pollution (excluding oil spills) event. This is an event that is localised or near shore that covers a moderate sized area or involves a highly toxic substance, or where environmental recovery is likely to take less than a year
- moderate damage that makes a navigational aid ineffective, or
- moderate damage where part of a port's operation is compromised or the event has caused moderate disruption to commerce, transport or the public.

Other medium rated notifications are:

- a breach of the Maritime Labour Convention that does not result in significant financial, nutritional or wellbeing issues for a seafarer, and
- a notification relating to a vessel that would have been considered a high rated notification but the vessel has not within or has left New Zealand's jurisdiction.

Low rated notifications

Low rated notifications include events or potential events that would not be considered a high or medium rated event. For example, an incident that is contained and managed with no or minor harm to people, property or the marine environment, and a low potential for further harm to occur.

Planned action notifications and administrative notifications

Notifications about planned actions are prioritised based on:

- their risk
- any legislated requirements, or
- to ensure the required actions are taken.

All planned action and administrative notifications will be acknowledged within 10 working days.

We record and periodically analyse these notifications to help inform our work.

How we will respond after initial prioritisation

Our initial response to a harm related notification will depend on its priority rating, the circumstances and the need for a decision on preserving a site.

High rated notifications

For high rated notifications, we will contact the person who notified us, or if the notification is related to the Health and Safety at Work Act 2015 (HSWA), the duty holders. We will do this as soon as possible but within four hours of receiving the notification to:

- verify the information we have been provided about the event and ensure the appropriate controls at the scene are in place to eliminate or mitigate further harm from occurring
- make a decision on whether the scene needs to be preserved or continue to be preserved using our powers under HSWA or the Maritime Transport Act 1994 (MTA), and
- provide a time frame for when we will attend the scene, if we will be attending.

Where we attend a site and observe ongoing risk of high harm without adequate controls in place, we will use one of our corrective tools to ensure the scene is made safe.

Further details on how we use our corrective tools are in our operational policy “When and how we use our corrective and enforcement tools under the Maritime Transport Act 1994 (MTA) and the Health and Safety at Work Act 2015 (HSWA) (OP 12)”.

Further details on preserving sites are in our operational policy “How we make decisions to preserve and to release preserved sites (OP 08)”.

For most high rated notifications, we will initiate an investigation.

Medium rated notifications

For medium rated notifications we will make an initial assessment as to whether a scene needs to be preserved. Where we believe a scene is required to be preserved, we will contact the person who notified us, or if HSWA related, the duty holders. We will do this as soon as practicable, but within four hours of receiving the notification to:

- verify the details of the notified event and ensure the appropriate controls are in place at the scene to eliminate or mitigate further harm from occurring
- make a decision on whether the scene needs to be preserved or continue to be preserved using our powers under HSWA or the Maritime Transport Act 1994 (MTA), and
- provide a time frame for when we will attend the scene, if we will be attending.

For medium rated notifications where the scene is not required to be preserved, within five working days we will contact the duty holder to:

- verify the details of the notified event, and
- initiate a response to the notification.

In most cases for a medium rated notification, we will undertake an inspection rather than an investigation to form a clear picture of the broad risks or circumstances associated with the notified event. However, if the medium rated notification is part of a pattern of recent non-compliant behaviour and multiple harm-related incidents, we may choose to investigate.

Our focus is on ensuring the person or person conducting a business or undertaking (PCBU) takes the right corrective action to remedy the unsafe circumstances or non-compliance that led to the notified event.

Low rated notifications

If we receive a low rated notification, within 10 working days, we will:

- acknowledge the notification
- record the details of the notified event, and
- close the file.

If the low rated notification indicates a pattern of non-compliant behaviour, or is part of a series of very similar events over a relatively short period of time, we may escalate our rating and undertake an inspection.

Information gathered during the inspection may lead to us applying a corrective tool, or take enforcement action should that be appropriate.

Acknowledging harm related notifications

Unless we make contact earlier, we acknowledge all harm notifications at least within 10 working days and we will let the person who made the notification, or if HSWA related, the duty holder, know the rating that was assigned and any action we have taken.

We will provide regular updates on where a notification is in the process and when it is closed.

We record, periodically analyse, and publish these notifications to help inform our work, and the sector.

Further information

For further information, see our website and our operational policies:

- How we make decisions on Protected Disclosures (OP 07)
- When and how we use our corrective and enforcement tools under the Maritime Transport Act 1994 (MTA) and the Health and Safety at Work Act 2015 (HSWA) (OP 12)
- How we make decisions to preserve and to release preserved sites (OP 08).

Legislative basis for this policy

The following Acts and their regulations and rules provide the legislative basis for this policy:

- Health and Safety at Work Act 2015
- Maritime Transport Act 1994
- Ships Registration Act 1992
- Submarine Cables and Pipelines Protection Act 1996
- Hazardous Substances and New Organisms Act 1996
- Protected Disclosures (Protection of Whistleblowers) Act 2022.

Key terms

Administrative notification	means a notification of information necessary for us to perform our role as a regulator such as the details or a change to the details of a person, organisation, vessel or operator that must be advised to Maritime NZ.
Demise charter	means the demise, letting, hire, or delivery of a vessel to the charterer, by virtue of which the charterer has whole possession and control of the vessel, including the right to appoint its master and crew.

<p>Designated port</p>	<p>means a port operated by a port company within the meaning of the Port Companies Act 1988 and includes the following ports:</p> <ul style="list-style-type: none"> • Northport • Ports of Auckland • Port of Tauranga • Eastland Port • Port Taranaki • Port of Napier • CentrePort Wellington • Port Marlborough • Port Nelson • Lyttelton Port • PrimePort Timaru • Port Otago, • South Port • Ports used in connection with the Cook Strait inter-island ferries. <p>The definition also includes:</p> <ul style="list-style-type: none"> • any area within the securely fenced boundaries of a port listed above, whether or not that area is operated by a port company, and • the buildings and installations, other structures or equipment on or adjacent to a port listed above and used in connection with that port's operation or administration.
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Event	<p>means:</p> <ul style="list-style-type: none"> • an accident, incident, mishap, or potential accident, incident or mishap, as defined in the MTA, occurring on: <ul style="list-style-type: none"> • New Zealand-flagged commercial vessels in New Zealand waters • New Zealand-flagged commercial vessels offshore • recreational vessels in New Zealand waters • foreign-flagged vessels in New Zealand waters • foreign-flagged vessels offshore in relation New Zealand workers • vessels on demise charter to New Zealand companies in New Zealand waters, and • ports, and • a notifiable event, incident, injury, or illness, as defined in section 16 of HSWA, associated with work undertaken on a vessel or at a designated port.
Investigation	<p>means a formal structured inquiry and detailed examination in order to discover and confirm facts and or information.</p>
Maritime domain	<p>for the purposes of this policy, refers to maritime activities related to maritime commercial operators, maritime security for ports and shipping, recreational boating, and national and Pacific search and rescue coordination within New Zealand’s marine waters.</p>
PCBU	<p>means a person conducting a business or undertaking and is defined in detail in section 17 of HSWA. Most New Zealand businesses, whether large corporates, sole traders, or self-employed, are classed as PCBUs.</p>
Planned action notification	<p>means a notification of information required to be provided to us by legislation in advance of an action being undertaken, such as the transfer of oil between vessels at sea.</p>
Property	<p>means either private or publicly owned items with a legal title associated with maritime activity on vessels or on designated ports, and physical property that may be affected by adverse maritime activity such as an aquaculture farm.</p>



Protected disclosure	means a report by an employee or other worker (for example, ex-employee, volunteer, or contractor) alleges serious wrongdoing in their workplace, under the protection of the Protected Disclosures (Protection of Whistleblowers) Act 2022. It is also called whistleblowing.
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Disclaimer

This policy provides information about how Maritime NZ makes decisions on categorising, prioritising and initially responding to notifications under the relevant legislation specified in the policy. This document is not a substitute for legislation.

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