



MINISTRY of TRANSPORT
TE MANATŪ WAKA

WELLINGTON NEW ZEALAND

PURSUANT to Section 386 of the Maritime Transport Act 1994

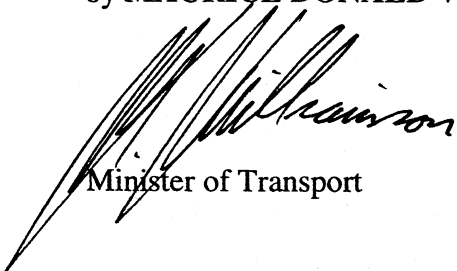
I, MAURICE DONALD WILLIAMSON, Minister of Transport,

HEREBY MAKE the following marine protection rules.

SIGNED AT Wellington

This 20 day of May 1998

by MAURICE DONALD WILLIAMSON


Minister of Transport

Marine Protection Rules

Part 125

Shipboard Operations—Oil

Maritime Transport Act 1994

Marine Protection Rules

PART 125

SHIPBOARD OPERATIONS—OIL

Marine Protection Rules

PART 125

SHIPBOARD OPERATIONS—OIL

PART OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

Objective

The technical standards contained in the International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL) are being incorporated into New Zealand law by means of marine protection rules. These rules enable New Zealand to be a party to the Convention.

The standards are drawn from Annex I of MARPOL, which is concerned with reducing the quantity of environmentally harmful oil entering the sea from ships.

Part 125 imposes constraints on the carriage of ballast water in ships' oil fuel tanks and, in the case of oil tankers, cargo tanks. It also imposes constraints on the discharge of ballast water and oil contaminated water from the cargo tanks of oil tankers. These include the use of appropriate oil discharge monitoring equipment, checks by crew to ensure water to be discharged has not been contaminated with oil, and allowing sufficient time for oil/water separation before discharge.

The specific MARPOL standards given effect by Part 125 are those found in regulations 2(2), 13(3), 13(4), 13B(4), 14(1), and 14(2) of Annex I of the Convention.

The basis for Part 125 is found in sections 386 and 388 of the Maritime Transport Act 1994.

Extent of Consultation

The Maritime Safety Authority published a notice inviting comments on the proposed Part 125 in each of the daily newspapers in the four main centres of New Zealand. The notice was published on 21 February in the *Evening Post* Wellington, and on 17 February for the other newspapers. A notice was also published in the *New Zealand Gazette* on 22 February 1996. The Authority then made its Invitation to Comment paper, draft Part 125 and draft Advisory Circular available to the public with 126 copies being sent automatically to interested parties. Comments on the Part were requested to be made by 19 April 1996.

Three submissions were received on Part 125. All submissions and any verbal comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made.

Commencement

Part 125 as amended was referred to and signed by the Minister of Transport.

Part 125 comes into force 28 days after the date of its notification in the *New Zealand Gazette*. However, compliance with Part 125 is not required immediately. In some cases a six month phase in period has been allowed and in other cases a twenty-four month phase in period, in line with other marine protection rules.

Marine Protection Rules

PART 125

SHIPBOARD OPERATIONS—OIL

General

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Carriage of Ballast in Oil Fuel Tanks

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Carriage of Ballast in Cargo Tanks

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- 125.7 Closure of cargo tank valves
- 125.8 Compliance with operational procedures

General

125.1 Entry into Force

Part 125 shall come into force on the 28th day after the date of its notification in the *Gazette*.

125.2 Definitions

In Part 125—

“**Act**” means the Maritime Transport Act 1994:

“**Administration**” means the Government of the state under whose authority a ship is operating or the Government of the state whose flag the ship is entitled to fly:

“**Clean ballast**” means ballast carried in a tank which, since it was last used to carry oil, has been cleaned so that the outflow from that tank if it were discharged from a ship which is stationary into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system approved by the Director under Part 122, evidence based on such a system to the effect that the oil content of the outflow did not exceed 15 parts per million shall be determinative that the ballast was clean, notwithstanding the presence of visible traces:

“**Combination carrier**” means a ship designed to carry either oil or solid cargoes in bulk:

“**Crude oil**” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes—

- (a) crude oil from which certain distillate fractions may have been removed; and
- (b) crude oil to which certain distillate fractions may have been added:

“**Crude oil tanker or carrier**” means an oil tanker engaged in the trade of carrying crude oil:

“**Dedicated clean ballast tank**” means a tank which can be used for the carriage of either ballast or cargo but which, for the time-being, is dedicated solely to the carriage of clean ballast, and is fitted with an approved washing system:

“**Deadweight**” (DW) means the difference in tonnes between the displacement of the ship in water of specific gravity of 1.025 at the load waterline corresponding to the assigned summer freeboard and the lightweight of the ship:

“**Discharge**” includes any release, disposal, spilling, leaking, pumping, emitting or emptying; but does not include—

- (a) dumping in accordance with a permit issued by the Director under section 262 of the Maritime Transport Act 1994; or
- (b) release of harmful substances for the purposes of legitimate scientific research into pollution abatement and control;—

and “to discharge” and “discharged” have corresponding meanings:

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

“En route” means that the ship is under way at sea on a course, or courses, which so far as practicable for navigational purposes will cause any discharge to be spread over as great an area of the sea as is reasonably practicable:

“Existing oil tanker” means an oil tanker which is not a new oil tanker:

“Foreign ship” means any ship that is not a New Zealand ship:

“Major conversion” means a conversion of an existing ship—

- (a) which substantially alters the dimensions or carrying capacity of the ship; or
- (b) which changes the type of the ship; or
- (c) the intent of which, in the opinion of the Director is, in the case of a New Zealand ship, or a warship or other ship of the New Zealand Defence Force, to substantially prolong its life; or
- (d) the intent of which, in the opinion of the Administration is, in the case of a foreign ship, to substantially prolong its life; or
- (e) which otherwise so alters the ship that, if it were a new ship, it would become subject to relevant provisions of the marine protection rules giving effect to MARPOL not applicable to it as an existing ship;

but does not include the conversion of an existing ship which is—

- (i) an oil tanker of 20,000 tons deadweight or more that is a New Zealand ship, or a warship or other ship of the New Zealand Defence Force, that undergoes a conversion for the purpose of complying with rule 121A.4; or
- (ii) an oil tanker of 20,000 tons deadweight or more that is a foreign ship that undergoes a conversion for the purpose of complying with Regulation 13 of MARPOL; or
- (iii) an oil tanker that is a New Zealand ship, or a warship or other ship of the New Zealand Defence Force, that undergoes a conversion for the purpose of complying with rules 121A.9 and 121A.10; or
- (iv) an oil tanker that is a foreign ship that undergoes a conversion for the purpose of complying with Regulation 13F and 13G of MARPOL:

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto; and includes

any subsequent protocol or amendment to, or revision of, that convention accepted or ratified by New Zealand:

"Master" means any person (except a pilot) having command or charge of any ship:

"New oil tanker" means an oil tanker—

- (a) for which the building contract was placed after 1 June 1979; or
- (b) in the absence of a building contract, the keel of which was laid or which was at a similar stage of construction after 1 January 1980; or
- (c) the delivery of which was after 1 June 1982; or
- (d) which has undergone a major conversion:
 - (i) for which the contract was placed after 1 June 1979; or
 - (ii) in the absence of a contract, the construction work of which was begun after 1 January 1980; or
 - (iii) which was completed after 1 June 1982:

"New ship" means a ship—

- (a) for which the building contract was placed after 31 December 1975; or
- (b) in the absence of a building contract, the keel of which was laid or which was at a similar stage of construction after 30 June 1976; or
- (c) the delivery of which was after 31 December 1979; or
- (d) which has undergone a major conversion:
 - (i) for which the contract was placed after 31 December 1975; or
 - (ii) in the absence of a contract, the construction work of which was begun after 30 June 1976; or
 - (iii) which was completed after 31 December 1979:

"New Zealand Defence Force" has the same meaning as the term "Defence Force" in section 2 (1) of the Defence Act 1990:

"New Zealand jurisdiction" means—

- (a) the internal waters of New Zealand; and
- (b) the territorial sea of New Zealand; and
- (c) the exclusive economic zone of New Zealand; and
- (d) those waters under or about any ship or offshore installation constructed, erected, placed or used in, on, or above the continental shelf of New Zealand but beyond the outer limits of the exclusive economic zone of New Zealand in connection with the exploration of the continental shelf or the exploitation of its natural resources:

"New Zealand ship" means a ship that is registered under the Ship Registration Act 1992; and includes a ship that is not registered under that Act but is required or entitled to be registered under that Act:

"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:

"Offshore terminal" means any place in the sea where cargo is loaded or unloaded:

"Oil" for the purposes of the marine protection rules and section 222 of the Maritime Transport Act 1994 means petroleum in any form including crude oil, oil fuel, 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 any of 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 Maritime Transport Act 1994:

"Oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces; and includes combination carriers and any "chemical tanker" as defined in rule 141.2 when it is carrying a cargo or part cargo of oil in bulk:

"Oily mixture" means a mixture with any oil content:

"Owner" in relation to any ship includes—

- (a) any person who is the legal or equitable owner, or both, of the ship; and
- (b) any person in possession of the ship; and includes any salvor in possession of the ship, and any servant or agent of any salvor in possession of the ship; and
- (c) any charterer, manager, or operator of the ship, or any other person (other than a pilot) responsible for the navigation or management of the ship:

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

"Product carrier" means an oil tanker engaged in the trade of carrying oil other than crude oil:

"Rules" includes maritime rules and marine protection rules:

"Segregated ballast" means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious liquid substances as defined in the marine protection rules:

"Tank" means an enclosed space which is formed by the permanent structure of a ship and which is designed for the carriage of liquid in bulk.

Carriage of Ballast Water in Oil Fuel Tanks

125.3 Application and Compliance Dates

- (1) Rules 125.4(1) and 125.4(2) apply to—
 - (a) every New Zealand ship that is a new ship and that is—
 - (i) an oil tanker of 150 tons gross tonnage or more; or
 - (ii) a ship other than an oil tanker of 150 tons gross tonnage or more, which is fitted with cargo spaces which are constructed and utilised to carry oil in bulk of an aggregate capacity of 200 cubic metres or more; or
 - (iii) a ship of 4,000 tons gross tonnage or more other than an oil tanker; and
 - (b) every warship and every other ship of the New Zealand Defence Force that is a new ship and that is—
 - (i) an oil tanker of 150 tons gross tonnage or more; or
 - (ii) a ship other than an oil tanker of 150 tons gross tonnage or more, which is fitted with cargo spaces which are constructed and utilised to carry oil in bulk of an aggregate capacity of 200 cubic metres or more; or
 - (iii) a ship of 4,000 tons gross tonnage or more other than an oil tanker; and
 - (c) every foreign ship that is within New Zealand jurisdiction that is a new ship and that is—
 - (i) an oil tanker of 150 tons gross tonnage or more; or
 - (ii) a ship other than an oil tanker of 150 tons gross tonnage or more, which is fitted with cargo spaces which are constructed and utilised to carry oil in bulk of an aggregate capacity of 200 cubic metres or more; or
 - (iii) a ship of 4,000 tons gross tonnage or more other than an oil tanker.
- (2) Rules 125.4(3) and 125.4(4) apply to—
 - (a) every New Zealand ship not covered by rule 125.3(1); and
 - (b) every warship and every other ship of the New Zealand Defence Force not covered by rule 125.3(1); and
 - (c) every foreign ship that is within New Zealand jurisdiction and that is not covered by rule 125.3(1).
- (3)
 - (a) Subject to rule 125.3(3)(b), compliance with rules 125.4 and 125.6 is not required until six months after the date on which Part 125 enters into force.
 - (b) In respect of any ship referred to in rule 125.3 or rule 125.5 which does not make an international voyage, compliance with rules 125.4 and 125.6 is not required until twenty four months after the date on which Part 125 enters into force.

- (3) Where a rule in Part 125 places an obligation on the master of any New Zealand ship, the same obligation will apply to the master of any warship or any other ship of the New Zealand Defence Force to which that rule applies.

125.4 Carriage of Ballast Water in Oil Fuel Tanks

- (1) The owner and the master of any ship to which this rule applies must ensure that no ballast water is carried in any of the ship's oil fuel tanks, except as provided for in rule 125.4(2).
- (2) Where abnormal conditions or the need to carry large quantities of oil fuel make it necessary to carry ballast water which is not clean ballast in any oil fuel tank, the owner and the master of the ship must ensure that—
 - (a) any discharge of the additional ballast water is made in compliance with Part 120 or regulations made under section 360 of the Resource Management Act 1991; and
 - (b) appropriate entries of the ballasting and discharge operations are made in the Oil Record Book prescribed by Part 123B.
- (3) The owner and the master of any ship to which this rule applies must ensure that, as far as is reasonable and practicable, no ballast water is carried in any oil fuel tank, except as provided for in rule 125.4(4).
- (4) Where abnormal conditions or the need to carry large quantities of oil fuel make it necessary to carry ballast water which is not clean ballast in any oil fuel tank, the owner and the master of the ship must ensure that—
 - (a) any discharge of the additional ballast water is made in compliance with Part 120 or regulations made under section 360 of the Resource Management Act 1991; and
 - (b) appropriate entries of the ballasting and discharge operations are made in the Oil Record Book prescribed by Part 123B.

Carriage of Ballast Water in Cargo Tanks

125.5 Application

Rule 125.6 applies to—

- (a) every New Zealand ship that is:
 - (i) a new oil tanker that is either a crude oil tanker of 20,000 tons deadweight or more, or a product carrier of 30,000 tons deadweight or more; or
 - (ii) an existing oil tanker of 40,000 tons deadweight or more provided with segregated ballast tanks, that is either a crude oil tanker or a product carrier; and
- (b) every warship and every other ship of the New Zealand Defence Force that is:
 - (i) a new oil tanker that is either a crude oil tanker of 20,000 tons deadweight or more, or a product carrier of 30,000 tons deadweight or more; or
 - (ii) an existing oil tanker of 40,000 tons deadweight or more provided with segregated ballast tanks, that is either a crude oil tanker or a product carrier; and
- (c) every foreign ship that is within New Zealand jurisdiction that is:
 - (i) a new oil tanker that is either a crude oil tanker of 20,000 tons deadweight or more, or a product carrier of 30,000 tons deadweight or more; or
 - (ii) an existing oil tanker of 40,000 tons deadweight or more provided with segregated ballast tanks, that is either a crude oil tanker or a product carrier.

125.6 Carriage of Ballast Water in Cargo Tanks

- (1) The owner and the master of any ship to which this rule applies must ensure that ballast water is not carried in any cargo tank, except as provided in rule 125.6(2).
- (2) Ballast water may be carried in cargo tanks—
 - (a) on voyages when weather conditions are so severe that, in the opinion of the master, it is necessary for the safety of the ship to carry additional ballast water in cargo tanks; and
 - (b) in the following exceptional circumstances where because of the particular character of the operation of the ship it is necessary to carry ballast water in excess of the quantity required under rule 121A.4(1)(b):

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- (i) when a combination carrier is required to operate beneath loading/unloading gantries; or
 - (ii) when an oil tanker is required to pass under a low bridge; or
 - (iii) when a local port or canal regulation requires specific draughts; or
 - (iv) in any other exceptional circumstance identified by the International Maritime Organization as warranting the carriage of ballast water in cargo tanks.
- (3) The owner and the master of any ship that carries additional ballast water in cargo tanks, as provided for in rule 125.6(2), must ensure that —
- (a) any discharge of the additional ballast water is made in compliance with Part 120 or regulations made under section 360 of the Resource Management Act 1991; and
 - (b) appropriate entries of the ballasting and discharge operations are made in the Oil Record Book prescribed by Part 123B.
- (4) In the case of any crude oil tanker to which this rule applies, the owner and the master must ensure that sufficient cargo tanks are crude oil washed prior to each ballast voyage so that, taking into account the tanker's trading pattern and expected weather conditions, any additional ballast carried under the conditions specified in rule 125.6(2) is put only into cargo tanks which have been crude oil washed.

Operational Procedures

125.7 Closure of Cargo Tank Valves

- (1) The master of any ship to which rule 121A.16 applies must ensure that the valves or closing devices required to be fitted under rules 121A.15(3)(c) and 121A.16(6) are kept closed when the ship is en route and the ship's cargo tanks contain cargo oil. Except that the valves or closing devices may be opened for cargo transfer needed for the purpose of trimming of the ship.
- (2) The master of any foreign ship that is within New Zealand jurisdiction and which is an oil tanker of 150 tons gross tonnage or more, must ensure that the valves or closing devices required to be fitted under regulation 24(5) and 24(6) of Annex I of MARPOL are kept closed when the ship is en route and the ship's cargo tanks contain cargo oil. Except that the valves or closing devices may be opened for cargo transfer needed for the purpose of trimming of the ship.

125.8 Compliance with Operational Procedures

The owner and the master of any ship which is required by Part 123B to carry on board approved manuals for the operation of—

- (a) dedicated clean ballast tanks; or
- (b) crude oil washing systems; or
- (c) oil discharge and monitoring systems;

must ensure that the operational procedures set out in the manual(s) are complied with.

Marine Protection Rules

PART 125

Consultation Details

(This text does not form part of the rules contained in Part 125. It provides details of the consultation undertaken in making the rules.)

Summary of Consultation

The responses to the invitation to comment on the draft rules known as "Part 125—Ship Operations—Oil" come from two shipowners and one organisation representing shipowners. No substantive concerns are raised.

125.2 Definitions

Clean ballast

Union Shipping New Zealand proposes that clean ballast discharged from a ship would produce "no visible" traces rather than "not produce" visible traces.

The proposal is an editorial improvement and has been adopted.

Proposed Amendments Initiated by the Maritime Safety Authority

Rule 125.2 Definitions

Clean Ballast

The word "effluent" has been replaced by "outflow" in light of comments received about this definition in other draft Parts.

Discharge and Probable discharge

The word "escape" has been removed from the definition of "discharge" to bring this term into line with the Maritime Transport Act.

Foreign Ship

Refer below to the comment on warships of the New Zealand Defence Force under the heading "Applications".

MARPOL

This definition has been altered to reflect the wording used in the Maritime Transport Act.

New Zealand jurisdiction

Reference in this definition to "...(d) Those areas on or under or above or about any ship or offshore installation..." has been changed to "(d) Those ~~waters areas on or~~ under or ~~above or~~ about any ship or offshore installation..." so that the definition refers to sea areas throughout.

New Zealand Ship

The last part of this definition stating that a *New Zealand ship* does not include a *New Zealand Defence Force ship* has been removed as it is superfluous.

Oil tanker

The reference to Part 141 has been replaced by a specific reference to rule 141.2.

Segregated ballast

The definition of "segregated ballast" has been modified to bring it into line with the definition in Annex I of MARPOL.

Applications

The reference to section 223 of the Maritime Transport Act has been removed as it is an unnecessary restriction on the application of the Part to the New Zealand Defence Force.

Specific mention has been made to *warships of the New Zealand Defence Force* because of the operation of section 4(1)(a) of the Maritime Transport Act. This section provides that warships will be excluded from the application of the rules unless specifically included. This has also necessitated a change to the definition of *foreign ship*.

**Rule 125.8 Discharge of ballast water and oil contaminated oil
from cargo tanks**

This rule has been moved to Part 120.

Advisory Circular

No changes made.