

## Maritime Transport Act 1994

### Marine Protection Rules

#### PART 170: Prevention of Pollution from Garbage from Ships

Pursuant to section(s) 386 and 388 of the Maritime Transport Act 1994 I, Simon Bridges, Associate Minister of Transport, hereby make the following marine protection rules.

Signed at Wellington

This 13<sup>th</sup> day of December 2012

By Simon Bridges



Associate Minister of Transport



# Contents

## Part objective

## Extent of Consultation

## Entry into force

### General

- 170.1 Definitions
- 170.2 Application
- 170.3 General prohibition on discharge of garbage into the sea
- 170.4 General exceptions to prohibition

### **Subpart A: Exceptions to prohibition in respect of discharge of garbage from ships outside special areas**

- 170.5 Application of rules 170.6 to 170.9
- 170.6 Discharge of food waste outside special area
- 170.7 Discharge of cargo residue outside special area
- 170.8 Discharge of animal carcass outside special area
- 170.9 Discharge of cleaning agent or additive in wash water outside special area

### **Subpart B: Exceptions to prohibition in respect of discharge of garbage near offshore installations**

- 170.10 Application of rule 170.11
- 170.11 Discharge of food waste near offshore installations

### **Subpart C: Exceptions to prohibition in respect of discharge of garbage from ships within special areas**

- 170.12 Application of rules 170.13 to 170.16
- 170.13 Discharge of food waste within special area
- 170.14 Discharge of cargo residue within special area
- 170.15 Discharge of cleaning agent or additive in wash water within special area
- 170.16 Ships operating in Antarctic special area

### **Subpart D: Placards, garbage management plans, and garbage record-keeping**

#### **Placards, garbage management plans, and Garbage Record Books – New Zealand ships**

- 170.17 Application of rules 170.18 to 170.21
- 170.18 Placards
- 170.19 Garbage management plans
- 170.20 Garbage Record Books
- 170.21 Reporting accidental loss or discharge of fishing gear

#### **Placards, garbage management plans, and Garbage Record Books – foreign ships**

- 170.22 Application of rules 170.23 to 170.25
- 170.23 Placards
- 170.24 Garbage management plans
- 170.25 Garbage Records Books

### **Appendix – Form of Garbage Record Book**

## Part objective

The objective of Part 170 is to incorporate into New Zealand law the technical standards contained in Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified (MARPOL) – Regulations for the Prevention of Pollution by Garbage from Ships.

This Part specifies that garbage is a harmful substance for the purposes of section 225 of the Maritime Transport Act 1994, and specifies a general prohibition on the discharge of garbage from ships. This Part provides for exceptions from the general prohibition in certain circumstances and in certain areas beyond the coastal marine area. These requirements work in concert with the Resource Management (Marine Pollution) Regulations 1998, which apply to garbage discharges from ships and offshore installations within the coastal marine area.

Part 170 also requires that specified ships have garbage management plans, use garbage record books, and display placards to indicate to all persons on board the discharge requirements that apply to the ship.

Other matters regulated by annexes to MARPOL, which are not covered under this Part, are oil, noxious liquid substances carried in bulk, harmful substances carried in package form, sewage, and air pollution. Rules relating to the discharge of garbage from offshore installations are set out in Part 200.

The basis for Part 170 is found in sections 226, 386, 388(a), 388(i)(i) and (ii), 388(j)(i) and (v) of the Maritime Transport Act 1994.

The Part 170 rules made in 1998 and subsequently amended in 2006, 2009, and 2010 are revoked. The new part is issued to recognise new definitions, reinforce a general prohibition on garbage discharges and strengthen operational requirements for ships and pleasure craft. as a result of the International Maritime Organisation's initiative to strengthen maritime garbage regulations in Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL).

### *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

The proposed new draft rule part was released for consultation on 8<sup>th</sup> October 2012, as part of Part 170 and Part 200: Garbage Amendment 2012. The closing date for submissions was 5<sup>th</sup> November 2012.

On the 9<sup>th</sup> of October 2012 738 people who had previously indicated that they wished to be informed of MNZ consultations, were sent emails. The email contained an Invitation to Comment and a copy of the proposed amendments. The recipients were asked for comments on specific proposals and also invited to make any general comments on the proposed changes to the rules. 226 people opened the email.

A range of interested parties were also directly emailed the Invitation to Comment and proposed rule amendments on the 9<sup>th</sup> of October 2012. The consultation was also notified in the four main newspapers on the 13<sup>th</sup> of October.

A total of four submissions were received by email.

## Entry into force

These rules come into force on 17 January 2013.

## General

### 170.1 Definitions

In this Part—

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

**animal carcass** means the body of any animal that is carried on board as cargo and that dies or is euthanised during the voyage:

**cargo residue**—

- (a) means the remnants of any cargo that are not covered by any annex to MARPOL other than Annex V and which remain on the deck or in holds following loading or unloading, including loading and unloading excess or spillage, whether in wet or dry condition or entrained in wash water; but
- (b) does not include cargo dust remaining on the deck after sweeping or dust on the external surfaces of the ship:

**coastal marine area** has the same meaning as in section 2 of the Resource Management Act 1991:

**continental shelf** or **continental shelf of New Zealand** has the same meaning as in the Continental Shelf Act 1964:

**cooking oil** means any type of edible oil or animal fat used or intended to be used for the preparation or cooking of food, but does not include the food that is prepared using such oil or fat:

**crew** has the same meaning as in section 2 of the Act:

**Director** has the same meaning as in section 2 of the Act:

**discharge** has the same meaning as in section 225 of the Act:

**domestic waste** means any type of waste not covered by any annex to MARPOL other than Annex V that is generated in the accommodation spaces on board the ship, but does not include grey water:

**en route**, in relation to a ship, means that the ship is underway at sea on a course which, as far as practicable for navigational purposes, will cause any discharge from the ship to be spread over as great an area of the sea as is reasonable and practicable:

**exclusive economic zone of New Zealand** has the same meaning as in section 222 of the Act:

**fishing gear** means any physical device or part thereof or combination of items that may be placed on or in the water or on the seabed with the intended purpose of capturing, or controlling for subsequent capture or harvesting, marine or fresh water organisms:

**food waste** means any spoiled or unspoiled food substance, and includes any fruit, vegetable, dairy product, poultry, meat product, and food scraps generated aboard a ship:

**foreign ship** has the same meaning as in section 2 of the Act:

**from the nearest land** means from the baseline from which the territorial sea of the territory in question is established in accordance with international law, except that in relation to the part of the north eastern coast of Australia that lies between the points 11°00' S, 142°08' E and 24°42' S, 153°15' E, **from the nearest land** means from the nearest of the straight lines joining consecutively the following points:

11°00' S, 142°08' E,  
10°35' S, 141°55' E,  
10°00' S, 142°00' E,  
09°10' S, 143°52' E,  
09°00' S, 144°30' E,  
10°41' S, 145°00' E,  
13°00' S, 145°00' E,  
15°00' S, 146°00' E,  
17°30' S, 147°00' E,  
21°00' S, 152°55' E,  
24°30' S, 154°00' E,  
24°42' S, 153°15' E:

**garbage—**

- (a) means all kinds of food waste, domestic waste, operational waste, plastic, cargo residue, incinerator ash, cooking oil, fishing gear, and any animal carcass generated during the normal operation of the ship and liable to be disposed of continuously or periodically; but
- (b) does not include—
  - (i) any substance that is defined or listed in any annex to MARPOL other than Annex V; or
  - (ii) fresh fish and parts of fresh fish generated as a result of fishing activity undertaken during a voyage, or as a result of aquaculture activity that involves the transport of fish including shellfish for placement in an aquaculture facility and the transport of harvested fish including shellfish from such facilities to shore for processing:

**incinerator ash** means ash and clinkers resulting from a shipboard incinerator used for the incineration of garbage:

**internal waters of New Zealand** has the same meaning as in section 2 of the Act:

**MARPOL** has the same meaning as in section 225 of the Act:

**master** has the same meaning as in section 2 of the Act:

**New Zealand Defence Force** has the same meaning as in section 2 of the Act:

**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** has the same meaning as in section 2 of the Act:

**operational waste—**

- (a) means any solid waste (including slurry) not covered by any annex to MARPOL other than Annex V that is collected on board during normal maintenance or operations of a ship, or used for cargo stowage and handling; and
- (b) includes any cleaning agent or additive contained in cargo hold and external wash water; but

- (c) does not include grey water, bilge water, or other similar discharges essential to the operation of a ship:

**offshore installation** has the same meaning as in section 222 of the Act:

**owner** has the same meaning as in section 222 of the Act:

**passenger** has the same meaning as in section 2 of the Act:

**plastic** means a solid material which contains as an essential ingredient one or more high molecular mass polymers and which is formed (shaped) during either manufacture of the polymer or the fabrication into a finished product by heat or pressure or both, and includes synthetic rope, synthetic fishing net, plastic garbage bag, and incinerator ash from the incineration of plastic:

**special area** means—

- (a) the Mediterranean Sea area comprising the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41° N parallel and bounded to the west by the Straits of Gibraltar at the meridian 5°36' W; and
- (b) the Baltic Sea area comprising the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland, and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57° 44.8' N; and
- (c) the Black Sea area comprising the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41° N; and
- (d) the Red Sea area comprising the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12° 28.5' N, 43° 19.6' E) and Husn Murad (12° 40.4' N, 43° 30.2' E); and
- (e) the Gulfs area comprising the sea area located north-west of the rhumb line between Ras al Hadd (22° 30' N, 59° 48' E) and Ras al Fasteh (25° 04' N, 61° 25' E); and
- (f) the North Sea area comprising the North Sea proper including seas therein with the boundary between:
  - (i) the North Sea southwards of latitude 62° N and eastwards of longitude 4° W; and
  - (ii) the Skagerrak, the southern limit of which is determined east of the Skaw by latitude 57° 44.8' N; and
  - (iii) the English Channel and its approaches eastwards of longitude 5° W and northwards of latitude 48° 30' N; and
- (g) the Antarctic area comprising the sea area south of latitude 60° S; and
- (h) the Wider Caribbean Region comprising the Gulf of Mexico and Caribbean Sea proper including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by the 30° N parallel from Florida eastward to 77°30' W meridian, from there to a rhumb line to the intersection of 20° N parallel and 59° W meridian, from there to a rhumb line to the intersection of 7°20' N parallel and 50° W meridian, and from there to a rhumb line drawn southwesterly to the eastern boundary of French Guiana:

**territorial sea of New Zealand** has the same meaning as in section 2 of the Act:

**warship** has the same meaning as in section 2 of the Act.

## 170.2 Application

Unless expressly provided otherwise, Part 170 applies to every—

- (a) New Zealand ship outside the coastal marine area; and
- (b) warship or other ship of the New Zealand Defence Force outside the coastal marine area; and
- (c) foreign ship within the exclusive economic zone of New Zealand; and

- (d) foreign ship involved with the exploration or exploitation of the sea or the seabed beyond the outer limits of the exclusive economic zone of New Zealand but over the continental shelf of New Zealand.

**170.3 General prohibition on discharge of garbage into the sea**

- (1) Garbage is a harmful substance for the purposes of section 225 of the Act.
- (2) The discharge of garbage into the sea from a ship is prohibited, except as provided in this Part or the Act.

**170.4 General exceptions to prohibition**

Nothing in this Part prohibits or restricts any person from discharging garbage from a ship if—

- (a) the discharge is necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or
- (b) the discharge is an accidental loss of garbage resulting from damage to a ship or its equipment, and all reasonable precautions have been taken before and after the occurrence of the damage to prevent or minimise the accidental loss; or
- (c) the discharge is an accidental loss of fishing gear from a ship and all reasonable precautions have been taken to prevent such loss; or
- (d) the discharge is a discharge of fishing gear from a ship for the protection of the marine environment or for the safety of that ship or its crew.

**Subpart A: Exceptions to prohibition in respect of discharge of garbage from ships outside special areas**

**170.5 Application of rules 170.6 to 170.9**

- (1) Rules 170.6 to 170.9 apply to a discharge of garbage from a ship outside a special area.
- (2) Rules 170.6 to 170.9 do not apply to a discharge of garbage if the garbage is mixed with or contaminated by other harmful substances that are prohibited from discharge or have different discharge requirements, in which case the more stringent requirements apply.

**170.6 Discharge of food waste outside special area**

- (1) The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of food waste outside a special area if—
  - (a) the discharge occurs—
    - (i) while the ship is en route; and
    - (ii) as far as practicable from the nearest land but in no case less than 3 nautical miles from the nearest land; and
  - (b) the food waste has been passed through a comminuter or grinder; and
  - (c) the comminuted or ground food waste is capable of passing through a screen with openings no greater than 25 millimetres.
- (2) The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of food waste outside a special area if the discharge occurs—
  - (a) while the ship is en route; and
  - (b) as far as practicable from the nearest land but in no case less than 12 nautical miles from the nearest land.
- (3) Despite subrules (1) and (2), the requirement for the discharge of food waste to occur while a ship is en route does not apply if the discharge is necessary because the retention on board of the food waste presents an imminent health risk to the people on board.



**170.7 Discharge of cargo residue outside special area**

The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of cargo residue outside a special area if—

- (a) the discharge occurs—
  - (i) while the ship is en route; and
  - (ii) as far as practicable from the nearest land but in no case less than 12 nautical miles from the nearest land; and
- (b) the cargo residue cannot be recovered using commonly available methods for unloading; and
- (c) the cargo residue does not contain any substance classified as harmful to the marine environment.<sup>1</sup>

**170.8 Discharge of animal carcass outside special area**

The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of an animal carcass outside a special area if the discharge occurs—

- (a) while the ship is en route; and
- (b) as far from the nearest land as possible.<sup>2</sup>

**170.9 Discharge of cleaning agent or additive in wash water outside special area**

The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of any cleaning agent or additive contained in cargo hold, deck, or external surfaces wash water outside a special area if the substances are not harmful to the marine environment.<sup>3</sup>

**Subpart B: Exceptions to prohibition in respect of discharge of garbage near offshore installations**

**170.10 Application of rule 170.11**

Rule 170.11 applies to a discharge of garbage if the discharge is from a New Zealand ship or a foreign ship that is—

- (a) within 500 metres of an offshore installation; and
- (b) within the exclusive economic zone of New Zealand or over the continental shelf of New Zealand.

**170.11 Discharge of food waste near offshore installations**

The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of food waste from a ship to which this rule applies if—

- (a) the food waste has been passed through a comminuter or grinder; and
- (b) the comminuted or ground food waste is capable of passing through a screen with openings no greater than 25 millimetres.

**Subpart C: Exceptions to prohibition in respect of discharge of garbage from ships within special areas**

**170.12 Application of rules 170.13 to 170.16**

- (1) Rules 170.13 to 170.16 apply to a discharge of garbage if the discharge is within a special area and the discharge is from—
  - (a) a New Zealand ship; or
  - (b) a warship or other ship of the New Zealand Defence Force.

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<sup>1</sup> See Advisory Circular for Part 170

<sup>2</sup> See Advisory Circular for Part 170

<sup>3</sup> See Advisory Circular for Part 170

- (2) Rules 170.13 to 170.16 do not apply to a discharge of garbage if the garbage is mixed with or contaminated by other harmful substances that are prohibited from discharge or have different discharge requirements, in which case the more stringent requirements apply.

**170.13 Discharge of food waste within special area**

- (1) The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of food waste within a special area if—
  - (a) the discharge occurs—
    - (i) while the ship is en route; and
    - (ii) as far as practicable from the nearest land but in no case less than 12 nautical miles from the nearest land or ice shelf; and
  - (b) the food waste has been passed through a comminuter or grinder; and
  - (c) the comminuted or ground food waste is capable of passing through a screen with openings no greater than 25 millimetres; and
  - (d) the food waste is not contaminated by any other garbage type.
- (2) Despite subrule (1), the requirement for the discharge of food waste to occur while a ship is en route does not apply if the discharge is necessary because the retention on board of the food waste presents an imminent health risk to the people on board.
- (3) Despite subrule (1), the discharge of avian products, including poultry and poultry parts, from a ship into the sea in the Antarctic area is prohibited, unless the products have been treated to be made sterile.

**170.14 Discharge of cargo residue within special area**

The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of cargo residue within a special area if—

- (a) the discharge occurs—
  - (i) while the ship is en route; and
  - (ii) as far as practicable from the nearest land or ice shelf but in no case less than 12 nautical miles from the nearest land or ice shelf; and
- (b) the cargo residue cannot be recovered using commonly available methods for unloading; and
- (c) the cargo residue is a cargo residue, cleaning agent or additive contained in hold washing water and does not contain any substance classified as harmful to the marine environment;<sup>4</sup> and
- (d) the port of departure of the ship and the next port of destination are within the special area, and the ship will not transit outside the special area between those ports; and
- (e) no adequate reception facilities are available at those ports.<sup>5</sup>

**170.15 Discharge of cleaning agent or additive in wash water within special area**

The prohibition on the discharge of garbage in rule 170.3 does not apply to the discharge of any cleaning agent or additive contained in deck and external surfaces wash water within a special area if the substances are not harmful to the marine environment.<sup>6</sup>

**170.16 Ships operating in Antarctic special area**

The owner and the master of any ship to which this rule applies must, prior to entering the Antarctic special area, ensure that—

- (a) the ship has sufficient capacity for the retention of all garbage on board while the ship is in the Antarctic special area; and

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<sup>4</sup> See Advisory Circular for Part 170

<sup>5</sup> See Advisory Circular for Part 170

<sup>6</sup> See Advisory Circular for Part 170

- (b) arrangements have been made to discharge garbage at a reception facility after leaving the Antarctic special area.

## **Subpart D: Placards, garbage management plans, and garbage record-keeping**

### **Placards, garbage management plans, and Garbage Record Books - New Zealand ships**

#### **170.17 Application of rules 170.18 to 170.21**

Rules 170.18 to 170.21 apply to—

- (a) any New Zealand ship (including any New Zealand ship within the coastal marine area); and
- (b) any warship or other ship of the New Zealand Defence Force (including any warship or other ship of the New Zealand Defence Force within the coastal marine area).

#### **170.18 Placards**

The owner and the master of any ship of 12 metres or more in length must ensure that placards in the working language of the crew and in English are displayed to notify all persons on board of the discharge requirements set out in this Part and regulation 13 of the Resource Management (Marine Pollution) Regulations 1998 that are applicable to the ship.

#### **170.19 Garbage management plans**

- (1) This rule applies to every ship—
  - (a) of 100 gross tonnage or more; or
  - (b) certified to carry 15 or more persons.
- (2) The owner and the master of a ship to which this rule applies must ensure that—
  - (a) the ship has a garbage management plan that complies with this rule; and
  - (b) an up-to-date copy of the ship's garbage management plan is carried on board the ship; and
  - (c) all persons on board comply with the garbage management plan at all times.
- (3) The garbage management plan required under this rule must—
  - (a) prescribe written procedures for minimising, collecting, storing, processing, and disposing of garbage, including the use of garbage related equipment on board; and
  - (b) designate the person in charge of carrying out the plan; and
  - (c) be written in the working language of the crew and in English.<sup>7</sup>
- (4) Every person on board a ship to which this rule applies must comply with the garbage management plan at all times.

#### **170.20 Garbage Record Books**

- (1) This rule applies to every ship—
  - (a) of 400 gross tonnage or more; or
  - (b) certified to carry 15 or more persons engaged on any voyage to a port or offshore terminal under the jurisdiction of another state party to Annex V of MARPOL.
- (2) The owner and the master of a ship to which this rule applies must ensure that—
  - (a) there is a Garbage Record Book for the ship that is—
    - (i) in the form shown in the Appendix; and
    - (ii) in the working language of the crew and in English; and
    - (iii) carried on board the ship at all times; and

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<sup>7</sup> Guidance on the development of garbage management plans is contained in [insert reference to relevant Advisory Circular]

- (iv) readily available for inspection by the Director and by authorised persons acting on behalf of a state party to Annex V of MARPOL at all reasonable times; and
- (b) for each discharge of garbage into the sea, and each completed incineration of garbage, an entry is promptly made in the Garbage Record Book that includes—
  - (i) the date and time of the discharge or incineration; and
  - (ii) the position of the ship at the time of the discharge or incineration; and
  - (iii) the category of the garbage discharged or incinerated; and
  - (iv) the estimated amount of garbage discharged or incinerated; and
  - (v) the signature of the officer in charge of the discharge or incineration; and
- (c) for each discharge or accidental loss referred to in rule 170.4, an entry is made in the Garbage Record Book that includes—
  - (i) the location, circumstances of, and reasons for the discharge or loss; and
  - (ii) details of the items discharged or lost; and
  - (iii) the reasonable precautions taken to prevent or minimise such discharge or accidental loss.
- (3) Each completed page of the Garbage Record Book must be signed by the master of the ship.
- (4) The Garbage Record Book required by subrule (2) must be preserved by the owner of the ship for 24 months after the last entry has been made.
- (5) The Garbage Record Book required by subrule (2) may be included in a ship's official logbook.

**170.21 Reporting accidental loss or discharge of fishing gear**

In the event of an accidental loss or discharge of fishing gear referred to in 170.4(c) or (d) that poses a significant threat to the marine environment or navigation, the owner and the master of a ship to which this rule applies must report the accidental loss or discharge—

- (a) to the Director; and
- (b) if the accidental loss or discharge occurs within waters subject to the jurisdiction of a coastal State, to the appropriate authority in that coastal State.

**Placards, garbage management plans, and Garbage Record Books – foreign ships**

**170.22 Application of rules 170.23 to 170.25**

Rules 170.23 to 170.25 apply to any foreign ship within New Zealand jurisdiction.

**170.23 Placards**

The owner and the master of any ship of 12 metres or more in length must ensure that—

- (a) placards are displayed to notify all persons on board of the discharge requirements set out in this Part and regulation 13 of the Resource Management (Marine Pollution) Regulations 1998 that are applicable to the ship; and
- (b) if a ship is engaged in international trade, the placards are written—
  - (i) in the working language of the crew; and
  - (ii) in English, French, or Spanish; and
- (c) if a ship is engaged in trade other than international trade, the placards are written—
  - (i) in the working language of the crew; and
  - (ii) in English.

**170.24 Garbage management plans**

- (1) This rule applies to every ship—

- (a) of 100 gross tonnage or more; or
  - (b) certified to carry 15 or more persons.
- (2) The owner and the master of a ship to which this rule applies must ensure that—
- (a) the ship has a garbage management plan that complies with this rule; and
  - (b) an up-to-date copy of the ship's garbage management plan is carried on board the ship; and
  - (c) all persons on board comply with the garbage management plan at all times.
- (3) The garbage management plan required under this rule must—
- (a) prescribe written procedures for minimising, collecting, storing, processing and disposing of garbage, including the use of garbage-related equipment on board; and
  - (b) designate the person in charge of carrying out the plan; and
  - (c) be written in the working language of the crew.<sup>8</sup>
- (4) Every person on board a ship must comply with the garbage management plan at all times.

#### **170.25 Garbage Record Books**

- (1) This rule applies to every ship—
- (a) of 400 gross tonnage or more; or
  - (b) certified to carry 15 or more persons on any voyage.
- (2) The owner and the master of a ship to which this rule applies must ensure that—
- (a) there is a Garbage Record Book for the ship that is—
    - (i) in the form shown in the Appendix; and
    - (ii) carried on board the ship at all times; and
    - (iii) readily available for inspection by the Director at all reasonable times; and
  - (b) for each discharge of garbage into the sea, and each completed incineration of garbage, an entry is promptly made in the Garbage Record Book that includes—
    - (i) the date and time of the discharge or incineration; and
    - (ii) the position of the ship at the time of the discharge or incineration; and
    - (iii) the category of the garbage discharged or incinerated; and
    - (iv) the estimated amount of garbage discharged or incinerated; and
    - (v) the signature of the officer in charge of the discharge or incineration; and
  - (c) for each discharge or accidental loss referred to in rule 170.4, an entry is made in the Garbage Record Book that includes—
    - (i) the location, circumstances of, and reasons for the discharge or loss; and
    - (ii) details of the items discharged or lost; and
    - (iii) the reasonable precautions taken to prevent or minimise such discharge or accidental loss.
- (3) If a ship to which this rule applies is engaged in international trade, entries in the Garbage Record Book—
- (a) must be in English, French, or Spanish; and
  - (b) may also be in the official language of the state whose flag the ship is entitled to fly.
- (4) If a ship to which this rule applies is engaged in trade other than international trade, entries in the Garbage Record Book—
- (a) must be in English; and

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<sup>8</sup> Guidance on the development of garbage management plans is contained in [insert reference to relevant Advisory Circular]

- (b) may also be in the official language of the state whose flag the ship is entitled to fly.
- (5) Each completed page of the Garbage Record Book for a ship to which this rule applies must be signed by the master of the ship.
- (6) The Garbage Record Book required by subrule (2) must be preserved by the owner of the ship for 24 months after the last entry has been made.
- (7) The Garbage Record Book required by subrule (2) may be included in a ship's official logbook.

## Appendix – Form of Garbage Record Book

Name of ship: \_\_\_\_\_

Distinctive number or letters: \_\_\_\_\_

IMO No.: \_\_\_\_\_

Period: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

### 1 Introduction

In accordance with regulation 10 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL), a record is required by Part 170 of the Marine Protection Rules to be kept of each discharge operation or completed incineration. This includes discharges into the sea, to reception facilities, or to other ships, as well as the accidental loss of garbage.

### 2 Garbage and garbage management

Garbage means all kinds of food waste, domestic waste, operational waste, plastic, cargo residue, incinerator ash, cooking oil, fishing gear, and animal carcasses generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances which are defined or listed in other annexes to MARPOL. Garbage does not include fresh fish and parts of fresh fish generated as a result of fishing activity undertaken during the voyage, or as a result of an aquaculture activity which involves the transport of fish including shellfish for placement in an aquaculture facility and the transport of harvested fish including shellfish from such facilities to shore for processing.

The Guidelines for the Implementation of Annex V of MARPOL should also be referred to for relevant information.

### 3 Description of the garbage

Garbage is to be grouped into categories for the purposes of the Garbage Record Book (or ship's official logbook) as follows:

- A Plastic
- B Food waste
- C Domestic waste
- D Cooking oil
- E Incinerator ash
- F Operational waste
- G Cargo residue
- H Animal carcass
- I Fishing gear

### 4 Entries in the Garbage Record Book

4.1 Entries in the Garbage Record Book shall be made on each of the following occasions:

4.1.1 When garbage is discharged to a reception facility ashore or to other ships:

- (a) Date and time of discharge
- (b) Port or facility, or name of ship
- (c) Categories of garbage discharged
- (d) Estimated amount discharged for each category in cubic metres
- (e) Signature of officer in charge of the operation.

4.1.2 When garbage is incinerated:

- (a) Date and time of start and stop of incineration
  - (b) Position of the ship (latitude and longitude) at the start and stop of incineration
  - (c) Categories of garbage incinerated
  - (d) Estimated amount incinerated in cubic metres
  - (e) Signature of the officer in charge of the operation.
- 4.1.3 When garbage is discharged into the sea in accordance with subparts A to C of Part 170 or rule 200.15 of the Marine Protection Rules:
- (a) Date and time of discharge
  - (b) Position of the ship (latitude and longitude). Note: for cargo residue discharges, include discharge start and stop positions.
  - (c) Category of garbage discharged
  - (d) Estimated amount discharged for each category in cubic metres
  - (e) Signature of the officer in charge of the operation.
- 4.1.4 Accidental or other exceptional discharges or loss of garbage into the sea, including in accordance with rule 170.4:
- (a) Date and time of occurrence
  - (b) Port or position of the ship at time of occurrence (latitude, longitude and water depth if known)
  - (c) Categories of garbage discharged or lost
  - (d) Estimated amount for each category in cubic metres
  - (e) The reason for the discharge or loss and general remarks.
- 4.2 In relation to clause 4.1.1, the master of a ship must obtain from the operator of the reception facilities, which includes barges and trucks, a receipt or certificate specifying the estimated amount of garbage transferred. The receipts or certificates must be kept together with the Garbage Record Book. When no receipt is available from the reception facility, this must be noted in the Garbage Record Book.
- 4.3 The amount of garbage on board must be estimated in cubic metres and, if possible, separately according to category. The Garbage Record Book contains many references to estimated amount of garbage. It is recognised that the accuracy of estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a usable estimate of volume, e.g., the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.



**Record of Garbage Discharges**

Name of ship: \_\_\_\_\_

Distinctive number or letters: \_\_\_\_\_

IMO No.: \_\_\_\_\_

**Garbage categories:**

- A. Plastic
- B. Food waste
- C. Domestic waste (e.g. paper products, rags, glass, metal, bottles, crockery, etc.)
- D. Cooking oil
- E. Incinerator ash
- F. Operational waste
- G. Cargo residue
- H. Animal carcass
- I. Fishing gear

Date / Time	Position of Ship/Remarks (e.g. accidental loss)	Category	Estimated Amount Discharged or Incinerated	To Sea	To Reception Facility	Incineration	Certification / Signature

Master's signature: \_\_\_\_\_ Date: \_\_\_\_\_”

## Consultation Details

This paper provides a brief summary of all submissions made concerning the proposed reissue of Marine Protection Rules Part 170 – Prevention of Pollution by Garbage from Ships and amendments to Marine Protection Rule Part 200 – Offshore Installations – Discharge.

The proposed new draft rule parts were released for consultation on 8<sup>th</sup> October 2012. The closing date for submissions was 5<sup>th</sup> November 2012.

On the 9th of October 2012 738 people who had previously indicated that they wished to be informed of MNZ consultations, were sent emails. The email contained an Invitation to Comment and a copy of the proposed amendments. The recipients were asked for comments on specific proposals and also invited to make any general comments on the proposed changes to the rule. 226 people opened the email.

A range of potentially interested parties, including those in the shipping and waste management industry, government agencies, NGO's, ports and local government, were also directly emailed the Invitation to Comment and proposed rule amendments on the 9<sup>th</sup> of October 2012. The consultation was also notified in the four main newspapers on the 13<sup>th</sup> of October.

A total of four submissions were received by email.

### Consultation Summary

Submissions are summarised by theme, with reference to submitters by the following numbers. Maritime New Zealand ("MNZ") responses are italicised.

Number	Submitter	Affiliation
1	William Woods	Planning and Environmental Manager, Centreport Limited
2	David Robinson	Chief Executive, Petroleum Exploration and Production Association of New Zealand (PEPANZ)
3	Doug Saunders-Loder	President, New Zealand Federation of Commercial Fishermen (the Fed)
4	Ali Undorf-Lay	Industry Liaison Manager, Sanford Limited

### General Comments by Submitters

Centreport and PEPANZ submitted that the proposed changes to garbage rules would have little impact and could be readily complied with.

Both the Fed and Sanford Ltd indicated that they would like further involvement to ensure there was pragmatic implementation of new requirements such as the reporting of lost fishing gear.

*Maritime New Zealand Comment:* Noted. This offer has been gratefully accepted.

Sanford Ltd noted that operational requirements such as placards, garbage management plans and record books should be incorporated into operator plans which are proposed under the new Maritime Operator Safety System that Maritime New Zealand is developing and intends to launch in 2013. They recommended that proposed new garbage rules come into force when MTOP/MTOC's are approved.

*Maritime New Zealand Comment:* While the practice of preparing a plan for managing garbage has parallels with, and could even be incorporated into, an MTOP, there is not a persuasive argument for deferring the in-force date of the garbage rule changes. Operational requirements in the garbage rules are neither complicated nor costly to comply with, they have been applied to larger vessels for many years and there is guidance available to facilitate compliance with these requirements, which will be in force in other signatory jurisdictions from 1 January 2013.

## Rule-Specific Submissions

### Garbage Definitions

**170.1** Sanford Ltd note that “by-products” captured during fishing or aquaculture, such as seaweed or unwanted shellfish, are routinely returned to the sea but that this material is not explicitly excluded from the definition of garbage. They propose adding an exception for “marine products” that are gathered during fishing or aquaculture activity to the definition of garbage.

*Maritime New Zealand Comment:* Notes and agrees that the intention of Annex V of MARPOL is not to regulate naturally occurring material brought on board during fishing or aquaculture activity, whether that be fish, shellfish, seaweed or other bycatch. However, MNZ does not believe it is necessary to alter the garbage definition in the rules, which adheres closely to Annex V of MARPOL. Instead, MNZ will provide additional guidance in the Advisory Circular that expands on the exemption described in the rules.

Sanford Ltd also sought clarification whether fish bait was included as garbage, and therefore would be subject to discharge restrictions within, and outside special areas. They proposed alternative wording for the definition of garbage to specifically include an exception for “fresh or frozen fish used as bait”.

*Maritime New Zealand Comment:* The proposed definition of garbage is faithful to Annex V of MARPOL, however, guidance which accompanies Annex V highlights that releasing fish into the sea for the purpose of fishing should not be considered a discharge of garbage in the context of Annex V. This guidance will also accompany the new rules, but amendment of the definition such that it no longer reflects wording in the Annex is not a preferred option.

Sanford Ltd submitted that it was impractical (and impossible) to contain operational waste water and bilge water and discharge these to port reception facility, particularly when this water is not harmful to the marine environment. Sanford suggested that waste water should either be excluded from the definition of garbage, or provided with an exception under Rule 170.4.

*Maritime New Zealand Comment:* Garbage includes “operational waste” but operational waste specifically excludes “grey water, bilge water or other similar discharges essential to the operation of the ship”. These “other similar discharges” have been more fully described in the IMO Guidelines for the Implementation of MARPOL Annex V and this will be included in the new Advisory Circular. Discharges of water, fish waste, bilge water and cleaning agents described in the submission do not appear to be captured by the proposed rules, provided the cleaning agents contained in washwater are not harmful to the marine environment. It should be noted that discharges containing oil are regulated through other Marine Protection rules.

### Animal Carcasses

Sanford Ltd expressed concern that the regulations may not keep ahead of changing fish harvesting techniques, particularly their intention to retain live wild fish and re-locate them to ocean-based or onshore facilities for on-growing. They were concerned that Annex V of MARPOL, which regulates the discharge of animal carcasses when carried as cargo, may impact the implementation of novel fishing approaches. Sanford Ltd maintain that there is no likelihood that stock temporarily housed in sea cages would likely carry pathogens that put other wild fish stocks at risk.

*Maritime New Zealand Comment:* When this type of fishing occurs MNZ will be better equipped to understand how it works in relation to the garbage rules and other legislation. Until this time, it is anticipated that fish transported as cargo (ie received from a holding facility at sea or on land and shipped elsewhere) that die and are subsequently discharged overboard, is garbage and should be recorded in the garbage record book. Mortalities exceeding those generated during the normal operation of a ship would only be discharged overboard with a dumping permit issued by Maritime New Zealand. The threshold at which mortalities exceed normal operations should be described in the garbage management plan of vessels involved in this activity. It is anticipated that fish carcasses

discharged from an aquaculture facility may be subject to consent conditions under either the RMA or EEZ (Environmental Effects) Act.

**170.8** The Fed sought to clarify that fish may be discharged when it is part of fishing activities, and it will not be subject to restrictions similar to those that are placed on the discharge of food waste.

*Maritime New Zealand Comment:* As noted by the submitter, fish and parts of fresh fish generated as a result of fishing activity undertaken during a voyage, are not included in the definition of garbage. Furthermore, fish caught during a voyage are not subject to animal carcass disposal regulations, which are intended to manage the discharge of dead livestock loaded as cargo.

## Cleaning Agents

**170.9 and 170.15** The Fed noted that they would like guidance on “safe” cleaning agents and are prepared to assist with the identification of agents commonly used in the fishing industry. Sanford Ltd submitted that more work was necessary for operators to be able to determine which cleaning agents are harmful to the marine environment and therefore cannot be discharged. They indicated that Material Safety Data Sheets and labelling was insufficient to determine whether the cleaning agents are ecotoxic, carcinogenic, mutagenic or reprotoxic. They proposed a delay of the requirement until further information is made available.

*Maritime New Zealand Comment:* Cleaning agent labelling typically instructs users about the safe use and disposal of the product. The onus for clear labelling and the provision of information describing the toxicity of cleaning agents lie with the manufacturer and supplier. Vessel operators can use any cleaning agent but those that are harmful to the marine environment must not be disposed of overboard. MNZ will be issuing guidance in the Advisory Circular to assist operators with the identification of suitable cleaning agents, but to ensure compliance with the rules, operators should select cleaning agents with clear documentation about their toxicity. Due to the changing nature of chemical classifications, it is impractical to list all harmful substances in the Rules.

## Operational Requirements

**Subpart D** Sanford Ltd note that many crew do not encounter the garbage management plan or record book, particularly on foreign charter fishing vessels, and that it would be more appropriate for these to be written in the language of “senior” crew and English only.

*Maritime New Zealand comment:* Noted but consider there to be no need to change garbage management plan and record book requirements. In practical terms, these items should be in English and the language of any crew expected to manage garbage on board or record its fate in the record book. This does not fall to senior crew in all instances, hence the wider requirement.

Sanford Ltd noted that the guidelines encourage governments to develop appropriate placards for ships in their registry and suggested MNZ should have these in place, in the languages of ships operating in New Zealand, at the time the rules enter into force.

*Maritime New Zealand Comment:* The Advisory Circular will include sample placards which will be in English. To comply with the rules, vessel operators, who employ crew and understand the needs of their passengers, must translate sample placards into the appropriate languages.

Sanford Ltd generally approve of the changes to the Garbage Record Book format but recommended changing the heading “To reception facility” to “Landed to port”, and that the “fishing gear” category should be extended to specifically exclude fish bait.

*Maritime New Zealand Comment:* Noted but the wording, which mirrors Annex V of MARPOL and is already used in existing garbage record books, will be retained. The definition of fishing gear in Rule 170.1 is not ambiguous and does not include fish bait, whether fresh or frozen.

## Lost Fishing Gear

**170.4(c) and 170.4(d)** The Fed noted that there was discretion in the requirement that all reasonable precautions must be taken to avoid the accidental loss of fishing gear. They submitted that this exception must be fairly interpreted, accounting for the practical realities of fishing.

*Maritime New Zealand Comment:* The generation of garbage while fishing is predictable, as is the likelihood that the vessel will encounter rough weather, so it is reasonable that these factors will be considered by operators. Effective garbage management can reduce the amount of garbage lost overboard accidentally. The new rules extend the requirement for garbage management plans to smaller vessels than were previously regulated, ensuring that more vessels actively manage this waste stream. The Advisory Circular and the Waste Management Handbook for Inshore Vessels will provide guidance on what should be considered when developing these plans.

**170.21** The Fed submitted that they were concerned about the lack of clarity about lost fishing gear that must be reported if it poses a “significant threat to the marine environment or navigation”. They commented that the Director already has powers to remove hazards to navigation and sought greater engagement on this matter, noting that there appears to be no urgency attached to the reporting. They also questioned what type of vessel this requirement might apply to, suggesting smaller vessels of the inshore fleet need not be captured by these regulations. Lastly, they noted that it would be difficult to issue prescriptive rules regarding this issue because each situation would be different

Sanford Ltd submitted a possible definition for “significant threat” in relation to the loss of fishing gear, noting that lost gear does not occur often and that every effort is made to retrieve lost gear, particularly in light of the significant financial cost of equipment. They also suggested that it is sufficient to report any loss at the end of the fishing voyage.

*Maritime New Zealand Comment:* “Significant threat” will be inferred from the type of equipment lost. A list of applicable gear will be developed following further targeted engagement and circulated via the Advisory Circular. This prescriptive approach will ensure that there is certainty for operators regarding when to report lost fishing gear. Reports of lost fishing gear should be submitted as soon as practicable.

## Waste reception

PEPANZ submitted that sorting and recycling measures undertaken at sea were often not supported by shore-based waste reception facilities.

*Maritime New Zealand comment:* The discrepancy between shipboard waste management and shore-side waste reception standards is beyond the scope of these marine protection rule changes. Inadequate waste reception facilities in ports should be reported to MNZ (as the port state authority) and the vessels flag state (if other). Reporting should follow the format described in the International Maritime Organization (IMO) document MEPC.1/Circ.469/Rev.1.

**Appendix – Form of Garbage Record Book (4.2)** Sanford noted that it would be difficult and unnecessarily burdensome to get a receipt, with details about the estimated volume, from some port reception facilities, given that in some instances these are unmanned skips and vessels arrive in port at all hours.

*Maritime New Zealand Comment:* Agree that in some instances it will not be possible to get a receipt from the operator of a garbage reception facility. The rule will be amended so that when no receipt is available this should be noted in the garbage record book.