DISALLOWABLE INSTRUMENT

Ministry of **Transport**
TE MANATŪ WAKA

Maritime Transport Act 1994

Marine Protection Rules

Part 132 – New Zealand Oil Spill Control Agents

Pursuant to sections 386, 388, and 390 of the Maritime Transport Act 1994 I, Simon Bridges, Minister of Transport, having had regard to the criteria for making Marine Protection Rules in section 392 of the Maritime Transport Act 1994, hereby make the following Marine Protection Rules.

Signed at Wellington

This 28th day of November 2015

By Hon SIMON BRIDGES

Minister of Transport

Contents

Part objective

New Zealand, as a party to the United Nations Convention on the Law of the Sea, 1982, has an obligation to protect and preserve the marine environment. In addition, as a signatory to the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC 1990), New Zealand has agreed to take all appropriate measures to prepare for and respond to oil pollution incidents.

The New Zealand Marine Oil Spill Response Strategy, marine oil spill contingency plans (shipboard, site, regional, and national), and Part 132 all contribute to New Zealand meeting its international obligations in respect of protecting the marine environment.

Part 132 gives effect to the provisions of the International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL) concerning the control of substances used to combat pollution incidents at sea and the International Convention on Oil Pollution Preparedness, Response and Cooperation 1990 (OPRC) in respect of such incidents.

Regulation 4.3 of Annex I, and regulation 3.3 of Annex II of MARPOL envisages administrations controlling substances containing oil or noxious liquid substances that might be discharged into the sea to combat specific pollution incidents. This Part builds on this scope to include the use or discharge of any oil spill control agent (OSCA) for the purpose of an oil spill response.

Part 132 sets out the procedures, requirements, and standards for an OSCA to be approved as an NZOSCA (and thereby is specified to be a marine protection product under section 225 of the Act) to be used to combat marine oil spills. An OSCA may be specified under this Part as an NZOSCA through approval by the Director.

Once an OSCA becomes an NZOSCA under Part 132, it qualifies to be assessed at the time of an oil-spill as to whether it can be discharged into the internal waters of New Zealand or New Zealand continental waters or otherwise used to contain or clean up the oil spill. The assessment process is not part of this Part as it is set out in the Act. It is relevant to this Part in that the Part sets out the process and criteria for qualification as an NZOSCA that may be subject to such assessment. Such assessment, which is undertaken by an On-Scene Commander, is subject to:

- the statutory limitations on ship, site, regional and national responses to oil spills set out under Part 23 of the Maritime Transport Act 1994:
- compliance with any use restrictions, time limitations, and any other conditions the Director has placed on the NZOSCA:
- compliance with the manufacturer's instructions for the use of the NZOSCA:
- the NZOSCA continuing to meet the technical specifications and chemical formulation provided at the time it was specified as an NZOSCA.

New Zealand ships may discharge an NZOSCA into the sea beyond New Zealand's continental waters subject to the approval of any government in whose jurisdiction the discharge will occur.

The basis for Part 132 is found in sections 225, 386(1), 388(d) and (h), 390(1)(a), (d), and (f), 390(2), 397, 451, and 452 of the Maritime Transport Act 1994.

Marine protection rules are disallowable instruments under the Legislation Act 2012. 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 that Act.

Extent of consultation

On 23 July 2015 MNZ published copies of the proposed Marine Protection Rules Part 132: New Zealand Oil Spill Control Agents on its website. Maritime New Zealand also advised interested parties via email. A notice was published in the *Gazette* on 23 July 2015. Comments on the proposed Rules were requested by 28 August 2015.

No submissions were received on the proposed Rules.

Entry into force

These Rules come into force on 11 January 2016.

General

132.1 Application

This Part applies to—

(a) any oil spill control agent (OSCA) that is, or is intended to be, used or discharged within New Zealand continental waters or internal waters of New Zealand, for the purpose of an oil spill response; and

(b) any person who uses or discharges, or intends to use or discharge, an OSCA, for the purpose of an oil spill response.

132.2 Definitions

In this Part, unless the context otherwise requires—

Act means the Maritime Transport Act 1994:

applicant means–

(a) in relation to a current application for an approval under rule 132.61, the person making that application; and

(b) in relation to an NZOSCA, the person who is listed as the applicant under rule 132.41(d):

approval means an approval, by the Director under Subpart C, of an OSCA as an NZOSCA:

Authority means Maritime New Zealand:

Director means the person who is for the time being the Director of Maritime New Zealand under section 439 of the Act:

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

exclusive economic zone of New Zealand has the meaning given to it by section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

internal waters of New Zealand has the meaning given to it by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

New Zealand continental waters means—

(a) New Zealand marine waters; and

(b) the waters beyond the outer limits of the exclusive economic zone of New Zealand but over the continental shelf of New Zealand:

New Zealand oil spill control agent (NZOSCA) means an oil spill control agent (OSCA) that is approved by the Director under Subpart C as an NZOSCA and that approval has not been withdrawn by the Director under rule 132.68(2):

New Zealand marine waters means—

(a) the territorial sea of New Zealand; and

(b) the waters of the exclusive economic zone of New Zealand:

oil spill means any actual or probable release, discharge, or escape of oil:

oil spill control agent (OSCA) means any product—

(a) that falls within any of the category descriptions in rules 132.80(b)(i) to (ix); and

(b) intended to be used in an oil spill response to avoid, remedy, or mitigate the adverse effects of an oil spill:

product means any compound, material, substance, chemical, or thing:

territorial sea of New Zealand has the meaning given to it by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.

Subpart A Prohibitions

132.20 General prohibition

(1) No person may use or discharge an OSCA for the purpose of an oil spill response, unless the OSCA is approved as an NZOSCA.

(2) Each person performing an activity associated with an NZOSCA must comply with any conditions or requirements the Director has imposed under rules 132.64 or 132.70, or that are applicable under rule 132.65.

Subpart B Register of NZOSCAs

132.40 NZOSCA Register

(1) The Director shall—

(a) maintain a register of NZOSCAs; and

(b) ensure the register contains—

(i) a list of each NZOSCA; and

(ii) the information required under rule 132.41; and

(c) ensure the register is published on the Maritime New Zealand website.

(2) An NZOSCA is removed from the register when its approval is withdrawn by the Director under rule 132.68(2).

(3) A failure of the register to contain a particular NZOSCA does not invalidate the approval of that NZOSCA and will not preclude that NZOSCA from being authorised for use or discharge in an oil spill response under Part 23 of the Act.

132.41 Register information

The register shall contain the following information about each NZOSCA:

(a) the name of the NZOSCA:

(b) the date on which it was approved as an NZOSCA:

(c) the type/category to which it belongs:

(d) the name of the applicant, where applicable:

(e) information relevant to the NZOSCA, including any conditions or requirements the Director has imposed under rules 132.64 or 132.70, or that are applicable under rule 132.65(2).

Subpart C Process for NZOSCA approval and withdrawal

132.60 Approvals

An OSCA is approved as an NZOSCA—

(a) upon the Director's own initiative under rule 132.66 or upon application to the Director under rule 132.61; and

(b) only if the Director is satisfied that the OSCA meets all the relevant standards and requirements under this Subpart.

132.61 Application

(1) A person may apply to the Director for an approval.

(2) An application for an approval must be accompanied by—

(a) copies of any permissions or restrictions granted or imposed by the Environmental Protection Authority in respect of that OSCA; and

(b) test results, supporting data, and certification, as required under this Subpart and Subpart D; and

(c) details of the formulation used in the preparation of the OSCA, including—

(i) percentage by weight of each component of the total formulation; and

(ii) percentage of aromatics; and

(iii) chemical name (if any) of each component; and

(iv) function of each component; and

(v) where applicable, a material safety data sheet; and

(vi) where applicable, CAS (Chemical Abstracts Service) registry number; and

(d) details of the recommended application procedures, concentrations, and conditions for use; and

(e) details of recommended handling and storage procedures and any precautions to be taken when using the OSCA; and

(f) the name and contact details of the manufacturer of the OSCA; and

(g) a warranty from the manufacturer of the OSCA that each subsequent batch of the product will be the same formulation as the batch that was tested under this Part.

(3) The Director may require an applicant to—

(a) elaborate on specified information set out in the application; and

(b) supply additional specified information; and

(c) supply a sample of the OSCA for testing, at the applicant's expense, against the relevant standards and requirements prescribed under Subpart D.

132.62 Supply of OSCA sample and information to Director

(1) The applicant must supply the Director with—

(a) a sample of the OSCA, if requested by the Director; and

(b) instructions from the manufacturer on the use of the OSCA.

(2) The applicant must, when a sample of an OSCA is requested by the Director, supply the Director with the OSCA in one or more containers that are—

(a) sound, clean, and dry; and

(b) suitable for the OSCA; and

(c) marked with—

(i) the name of the manufacturer; and

(ii) the name of the OSCA; and

(iii) the OSCA type; and

(iv) the dispatch date from the supplier; and

(v) the expiry date of the OSCA; and

(vi) any relevant safety warnings in compliance with the labeling requirements of New Zealand Standard 5433.1:2012.

132.63 Approval assessment and decision

(1) Where an application is made under rule 132.61—

(a) the Director must approve an OSCA as an NZOSCA if that OSCA meets the assessment standards and requirements prescribed under Subpart D; and

(b) the applicant must pay to the Authority the appropriate fees for the application in accordance with Schedule 1 of the Shipping (Charges) Regulations 2014; and

(c) before deciding to approve an OSCA as an NZOSCA, or not approve, as the case may be, the Director must—

(i) notify the applicant providing the reasons why the Director is considering to approve, and any conditions and requirements that might attach to that approval, or not approve, as the case may be, and give the applicant 10 working days to make submissions; and

(ii) have regard to the views submitted under subrule (i); and

(d) the Director must notify the applicant of the Director's decision not more than 15 working days of the later of—

(i) the date upon which an applicant may make submissions under subrule (c)(i) closes; and

(ii) receiving payment of the appropriate fees as prescribed by the regulations made under the Act.

(2) The Director must ensure, for each approval—

(a) the Director publishes a notice on the MNZ website as soon as practicable or, if subrule (1) applies, as soon as practicable following notification to the applicant under subrule (1)(d)—

(i) stating the product name of the NZOSCA; and

(ii) stating the name of the manufacturer of the NZOSCA; and

(iii) setting out any conditions or requirements that the Director has imposed under rule 132.64 or that are applicable under rule 132.65(2); and

(iv) setting out any other information relating to the NZOSCA as the Director sees fit; and

(b) the approval is specific to no more than one OSCA.

132.64 Director may impose conditions

When approving an OSCA as an NZOSCA, either upon an application under rule 132.61 or the Director's initiative under 132.66, the Director may impose conditions or requirements as to the performance of any activity associated with that NZOSCA,

including how the NZOSCA is to be used and the purposes for which, and circumstances in which, the NZOSCA may be used.

132.65 Standing condition attaching to each NZOSCA

(1) Each approval determined as a result of an application under rule 132.61 is, in addition to any conditions or requirements the Director may impose, subject to the condition that the applicant must notify the Director as soon as any of the following circumstances arise including, for subrules (b) and (c), the details of the change:

(a) the NZOSCA becomes unavailable:

(b) where the applicant is the manufacturer of the NZOSCA—

(i) where the NZOSCA formulation has changed; and

(ii) a change in the manufacturer or the manufacturer's name or address:

(c) a change in the applicant's address.

(2) Each approval under rule 132.66(2) of a product that is approved, accepted, or otherwise formally authorised to be used as an OSCA by a State is subject to the same conditions and requirements that are applicable in that State to that OSCA, except to the extent those conditions and requirements are amended by the Director under rule 132.64 or 132.70.

132.66 Director may approve without application

(1) The Director may, without an application being made, approve an OSCA as an NZOSCA, provided the Director determines whether to approve that OSCA—

(a) in accordance with the assessment standards and requirements prescribed under Subpart D; or

(b) if the OSCA is one to which subrule (3) applies, in accordance with subrule (2).

(2) For an OSCA to which subrule (3) applies, the Director may approve that OSCA as an NZOSCA if the Director is satisfied that the standards and requirements applicable to the approval, acceptance, or other formal authorisation given by the State in respect of that OSCA are—

(a) relevant to the marine environment within the application of this Part; and

(b) at least equivalent to the standards and requirements prescribed under Subpart D.

(3) The following products may be approved by the Director under subrule (2):

(a) an OSCA that is listed in the Australian Plan Register of Oil Spill Control Agents (also known as the "OSCA register"):

(b) any product that is approved, accepted, or otherwise formally authorised to be used as an OSCA by another State.

132.67 Approval not a marine protection document

An approval is not a marine protection document.

132.68 Duration of an NZOSCA

(1) An OSCA that is approved by the Director as an NZOSCA will cease to be an NZOSCA when it is withdrawn by the Director under subrule (2).

(2) Subject to subrules (3) and (4), the Director may withdraw an approval where the Director is satisfied that—

(a) evidence from analysis of one or more samples of the NZOSCA do not conform to the specifications or chemical formulation upon which the Director had relied when approving the OSCA as an NZOSCA; or

(b) any requirement for permission or approval, or any restriction or control imposed, in respect of that NZOSCA under any applicable New Zealand legislation is not being complied with; or

(c) the NZOSCA, or additional specified information about the NZOSCA, is not being supplied upon request as required under rule 132.69; or

(d) the NZOSCA is not subjected to testing as required under rule 132.69 or is otherwise not available for testing; or

(e) any conditions imposed under rule 132.64, 132.65 or 132.70 relating to the NZOSCA are not being adhered to; or

(f) the NZOSCA no longer meets the standards and requirements prescribed under Subpart D; or

(g) the NZOSCA is no longer manufactured or available for use in New Zealand.

(3) Before deciding to withdraw an approval for any of the reasons specified in subrule (2), the Director must—

(a) publish a notice on the MNZ website; and

(b) where applicable, notify the applicant—

providing the reasons why the Director is considering to withdraw the approval, and giving interested parties 10 working days to make submissions.

(4) When deciding whether to withdraw an approval, the Director must have regard to the views submitted under subrule (3).

(5) The Director must decide whether to withdraw an approval not more than 45 working days from the date upon which interested parties may make submissions under subrule (3) closes.

(6) The Director must as soon as practicable after deciding whether to withdraw an approval under subrule (2)—

(a) publish a notice of the decision on the MNZ website; and

(b) where an approval was determined as a result of an application under rule 132.61, notify the applicant; and

(c) if the decision is to withdraw the approval, amend the register.

(7) The notice required under subrule (6)(b) or (3)(b) is sufficient if given to the address provided by the applicant to the Director.

132.69 Subsequent testing of an NZOSCA

(1) The Director may at any time conduct testing of an NZOSCA to ascertain whether the NZOSCA continues to comply with the appropriate standards and requirements under this Part.

(2) The Director may at any time, in respect of an NZOSCA, require an applicant, at the applicant's own expense, to—

(a) subject a sample of the NZOSCA to any of the tests set out in Subpart D, as applicable, to ensure that the NZOSCA continues to comply with the appropriate standards and requirements; or

(b) supply any additional information requested by the Director; or

(c) supply a sample of the NZOSCA to the Director.

(3) An applicant must, when a sample is requested by the Director under subrule (2)(c), or subjected to testing under subrule (2)(a), supply the Director or the tester, as the case may be, with a sample of the NZOSCA contained in the manner specified under rule 132.62(2).

132.70 Director's power to amend approval

(1) The Director may, at any time, impose any condition or requirement or otherwise amend an approval.

(2) The Director must as soon as practicable after deciding to amend an approval under subrule (1)—

(a) publish a notice of amendment on the MNZ website; and

(b) where an approval was determined as a result of an application under rule 132.61, notify the applicant of the decision; and

(c) amend the register.

(3) The notice required under subrule (2)(b) is sufficient if given to the address provided by the applicant to the Director.

132.71 NZOSCA is a marine protection product

For the purposes of section 225 of the Act, an NZOSCA is a marine protection product.

Subpart D NZOSCA - Standards and requirements

132.80 Assessment requirements

The Director must not approve an OSCA as an NZOSCA under Subpart C unless that OSCA—

(a) does not contain benzene, chlorinated hydrocarbons, phenols, caustic alkali, free mineral acid, or compounds that could expose the user to an unacceptable toxicological hazard during normal usage; and

(b) complies with the relevant specifications by virtue of an assessment against the applicable specifications, as prescribed in—

(i) for a product that is used in an oil spill response as a dispersant principally to, when applied to floating oil, increase the rate of penetration of oil into the water column and increase the persistence of this dispersed oil below the surface, Appendix 1:

(ii) for a product that is used in an oil spill response as a surface cleaner or washing agent principally to, when applied to oil on shorelines or other firm surfaces, facilitate the removal of the oil by natural processes or clean-up activities, Appendix 2:

(iii) for a product that is used in an oil spill response as a bioremediation agent principally to, when applied to oil or oiled substrates, enhance the biological degradation of oil by stimulating the growth of oil degrading bacteria or fungi, Appendix 3:

(iv) for a product that is used in an oil spill response as a loose sorbent principally to adsorb or absorb oil, Appendix 4:

(v) for a product that is used in an oil spill response as a degreaser principally to clean oil from solid surfaces such as machinery or marine structures, Appendix 5:

(vi) for a product that is used in an oil spill response as a solidifying or gelling agent principally to, when applied to oil, cause the oil to form or be incorporated into a solid or semi-solid matrix, Appendix 6:

(vii) for a product that is used in an oil spill response as an emulsion breaker or demulsifier principally to separate oil and water from emulsions, Appendix 7:

(viii) for a product that is used in an oil spill response as a herding agent principally to restrict spreading when added to surface oil, Appendix 8:

(ix) for a product that is used principally in an oil spill response as a wicking agent to facilitate ignition when added to surface oil, Appendix 9.

Subpart E Miscellaneous

132.100 Transitional arrangements

(1) Each substance approved under Part 132 prior to these Rules coming into effect is deemed to be approved by the Director under Subpart C as an NZOSCA.

(2) Each application for approval under Part 132 prior to these Rules coming into effect that has not yet been determined shall be processed under the revoked Part as if that Part was still in effect.

(3) The Director may make any decision in respect of an NZOSCA deemed approved under subrule (1) as if the substance had been approved under Subpart C, including to amend the deemed approval under rule 132.70 or withdraw the deemed approval under rule 132.68(2).

(4) For the avoidance of doubt, a deemed approval under subrule (1) will cease to be an NZOSCA when the approval is withdrawn by the Director under rule 132.68(2).

132.101 Consequential amendments

Part 120

(1) In rule 120.2 delete the definition of "Approved substance".

(2) In rule 120.2 delete the definition of "Dispersant".

(3) In rule 120.2 insert, before the definition of "Offshore installation", the definition "**"NZOSCA"** means a New Zealand oil spill control agent as defined in rule 132.2:".

(4) In rule 120.3(1) replace "approved substance" with "NZOSCA".

Part 130C

(5) In rule 130C.2 delete the definition of "approved substance".

(6) In rule 130C.2 insert, before the definition of "oil", the definition "**NZOSCA** means a New Zealand oil spill control agent as defined in rule 132.2:".

(7) In rule 130C.10(2)(a) replace "approved dispersants" with "any NZOSCA".

Part 140

(8) In rule 140.2 delete the definition of "approved substance".

(9) In rule 140.2 insert, before the definition of "oil", the definition "**NZOSCA** means a New Zealand oil spill control agent as defined in rule 132.2:".

(10) In rule 140.3(2) replace "approved substance" with "NZOSCA".

132.102 Revocation

Part 132 of the marine protection rules in force immediately before the commencement of this Part is revoked.

Appendix 1 Dispersants

A1.1 Specification

Every dispersant that the Director is considering whether to approve as an NZOSCA must—

(a) be categorised as conforming to one of the following types:

Type 2: Water dilutable concentrate. For use after dilution with sea water and sprayed from appropriate spray equipment, using breaker boards or other suitable means of application and agitation; or

Type 3: Concentrate. For use undiluted from aircraft or ships, using appropriate spray equipment; and

(b) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(c) undergo each of the tests prescribed, and meet any applicable standards specified, in column 1 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A1.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (c) for a period of not less than two years commencing at the date of dispatch from the supplier.

A1.2 Documentation

Documentation of the tests referred to in clauses A1.1(b) and A1.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

(i) the tests used, including—

(a) a full description of the test species and test methods; and

(b) acclimation procedures; and

(c) daily animal observations, feeding and medium changes; and

(d) results and statistical analyses including control treatment survivorship; and

(e) reference toxicant tests; and

(ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

(i) the manufacturer stating that a representative product sample was supplied for testing; and

(ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 2 Surface Cleaners and Washing Agents

A2.1 Specification

Every surface cleaner and washing agent that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 2 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 2 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A2.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A2.2 Documentation

Documentation of the tests referred to in clauses A2.1(a), A2.1(b), and A2.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 3 Bioremediation Agents

A3.1 Specification

Every bioremediation agent that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 3 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 3 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A3.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A3.2 Documentation

Documentation of the tests referred to in clauses A3.1(a), A3.1(b), and A3.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 4 Loose Sorbents

A4.1 Specification

Every loose sorbent that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 4 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 4 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A4.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A4.2 Documentation

Documentation of the tests referred to in clauses A4.1(a), A4.1(b), and A4.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 5 Degreasers

A5.1 Specification

Every degreaser that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 5 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 5 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A5.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A5.2 Documentation

Documentation of the tests referred to in clauses A5.1(a), A5.1(b), and A5.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 6 Solidifying Agents and Gelling Agents

A6.1 Specification

Every solidifying agent and gelling agent that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 6 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 6 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A6.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A6.2 Documentation

Documentation of the tests referred to in clauses A6.1(a), A6.1(b), and A6.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 7 Emulsion Breakers/Demulsifiers

A7.1 Specification

Every emulsion breaker/demulsifier that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 7 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 7 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A7.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A7.2 Documentation

Documentation of the tests referred to in clauses A7.1(a), A7.1(b), and A7.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 8 Herding Agents

A8.1 Specification

Every herding agent that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 8 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 8 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A8.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A8.2 Documentation

Documentation of the tests referred to in clauses A8.1(a), A8.1(b), and A8.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 9 Wicking Agents

A9.1 Specification

Every wicking agent that the Director is considering whether to approve as an NZOSCA must—

(a) undergo each of the tests prescribed, and meet any applicable standards specified, in Table 1 in Appendix 10; and

(b) undergo each of the tests prescribed and meet any applicable standards specified, in column 9 of Table 2 in Appendix 11; and

(c) undergo any discretionary test required by the Director, as provided for in column 9 of Table 2 in Appendix 11; and

(d) have documentation issued that complies with clause A9.2; and

(e) retain, when suitably stored in its original sealed containers in a temperature range of between –20°C and 50°C, the properties described in subclause (b) for a period of not less than two years commencing at the date of dispatch from the supplier.

A9.2 Documentation

Documentation of the tests referred to in clauses A9.1(a), A9.1(b), and A9.1(c) must be provided to the Director that comprise—

(a) a copy of the test results and supporting data; and

(b) in the case of the marine ecological toxicity test—

  (i) the tests used, including—

    (a) a full description of the test species and test methods; and

    (b) acclimation procedures; and

    (c) daily animal observations, feeding, and medium changes; and

    (d) results and statistical analyses including control treatment survivorship; and

    (e) reference toxicant tests; and

  (ii) details of the testing laboratory's accreditation; and

(c) certification signed by the relevant officers of—

  (i) the manufacturer stating that a representative product sample was supplied for testing; and

  (ii) the testing laboratory stating that the testing was done using generally accepted laboratory practices and that they believe the results are accurate.

Appendix 10 Table 1

Test No.	Test	Required Result*	Method
1	Appearance	Reporting only	Visual examination
2	Form	Reporting only	
3	Relevant to liquids only. Dynamic viscosity at 0°C, mPas or cPs, maximum.	250 — for dispersants only Reporting — for all other OSCAs	ASTM D445 IP 71 BS 4708 IP 34 ASTM D7042-04
4	Relevant to liquids only. Flash point, °C minimum	Must be >60	ASTM D93 IP 34 BS 2839
5	Relevant to liquids only. Cloud point, °C (as received) maximum	Must be <–5- for dispersants only Reporting - for all other OSCAs	ASTM D2500 IP 219
6	Storage test	Pass	For dispersants the surfactants must be wholly soluble in the solvent, and must remain distributed uniformly according to clause A1.1(e) of Appendix 1 For all other OSCAs the integrity of the OSCA must remain unchanged according to subclause (e) of the first clause of the Appendix relevant to that OSCA
7	Miscibility with water	Reporting only	ASTM D1722 – 09
8	Mutagenicity	Reporting only	World Health Organisation IPCS Harmonised Scheme:
9	Reprotoxicity	Reporting only	OECD Test Guideline 414, 415, 416, 421, 422.
10	Carcinogenicity	Reporting only	Literature review of component chemicals.
11	Chronic aquatic toxicity	Reporting only	ASTM E1562 OECD Test Guideline 210, 211

* Where the required result is “Reporting only”, the tests are required to be reported but there is no pass/fail.

Appendix 11 Table 2

Test Protocol	column 1 **Dispersants**	column 2 **Surface Cleaners Washing Agents**	column 3 **Bioremediation Agents**	column 4 **Loose Sorbents**	column 5 **Degreasers**	column 6 **Solidifying or Gelling Agents**	column 7 **Emulsion Breakers / Demulsifiers**	column 8 **Herding Agents**	column 9 **Wicking Agents**
1.1 Efficacy Testing	WSL – LR448 60% efficiency pass mark Reference oil: Warren Springs standard oil or Australian standard oil or Other suitable reference oil to be approved by the Director (Intermediate Fuel Oil (“IFO”)180 and IFO380)	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary
1.2 Acute Toxicity Tests	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Discretionary If applicable Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Discretionary	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203	Constant exposure (for comparison with other regimes – no pass mark) Pulsed Pass GESAMP slightly toxic or less, LC50/EC50 >10mg/L). One crustacean, one fish and one mollusc. ANZECC compliant test procedures, OECD Test Guidelines 201, 202, 203

Test Protocol	column 1 Dispersants	column 2 Surface Cleaners Washing Agents	column 3 Bioremediation Agents	column 4 Loose Sorbents	column 5 Degreasers	column 6 Solidifying or Gelling Agents	column 7 Emulsion Breakers / Demulsifiers	column 8 Herding Agents	column 9 Wicking Agents
1.3 Bioaccumulation Test	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 • BCF <100	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100	Discretionary If applicable ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100	Discretionary	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100	ASTM E1022 – 94 OECD Test Guidelines 107, 117 Pass mark GESAMP Hazard Profile rating Low potential to accumulate: • Log Pow: <3 BCF <100
1.4 Biodegradation Test	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	Discretionary If applicable OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	Discretionary	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.	OECD Test Guidelines 301A, B, C, D, E Pass mark GESAMP Hazard Profile rating R – readily biodegradable.

The following Organisations and material are referenced in Tables 1 and 2:

Abbreviations:

"ANZECC" Australian and New Zealand Environment and Conservation Council

"ASTM" American Society for Testing and Materials

"BS" British Standard

"IP" Institute of Petroleum

"OECD" Organisation for Economic Co-operation and Development

"GESAMP" The Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection

References:

ASTM D445 *Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity)*

ASTM D7042 *Standard Test Method for Dynamic Viscosity and Density of Liquids by Stabinger Viscometer (and the Calculation of Kinematic Viscosity)*

ASTM D93 *Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester*

ASTM D2500 *Standard Test Method for Cloud Point of Petroleum Products*

ASTM D1722 Standard Test Method for Water Miscibility of Water-Soluble Solvents

ASTM E1562 *Standard Guide for Conducting Acute, Chronic, and Life-Cycle Aquatic Toxicity Tests with Polychaetous Annelids*

ASTM E1022: *Standard Guide for Conducting Bioconcentration Tests with Fishes and Saltwater Bivalve Mollusks*

BS 2839 Standard Test Methods for Flashpoint by Pensky-Martens Closed Tester

BS 4708 *Method For Determination Of Viscosity Of Transparent And Opaque Liquids (Kinematic And Dynamic Viscosities)*

IP 71 *Petroleum products -Transparent and opaque liquids - Determination of kinematic viscosity and calculation of dynamic viscosity*

IP 219 *Petroleum products - Determination of cloud point*

IP 34 *Determination of flash point - Pensky-Martens closed cup method*

OECD Test Guideline 107: Partition Coefficient (n-octanol/water): Shake Flask Method

OECD Test Guideline 117: Partition Coefficient (n-octanol/water), HPLC Method

OECD Test guideline 414: *Prenatal Developmental Toxicity Study*

OECD Test Guideline 415: *One-Generation Reproduction Toxicity Study*

OECD Test Guideline 416: *Two-Generation Reproduction Toxicity*

OECD Test Guideline 421: *Reproduction/Developmental Toxicity Screening Test*

OECD Test Guideline 422: *Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test*

OECD Test Guideline 210: *Fish, Early-life Stage Toxicity Test*

OECD Test Guideline 211: *Daphnia magna Reproduction Test*

OECD Test Guideline 201: *Freshwater Alga and Cyanobacteria, Growth Inhibition Test*

OECD Test Guideline 202: *Daphnia sp. Acute Immobilisation Test*

OECD Test Guideline 203: *Fish, Acute Toxicity Test*

OECD Test Guideline 301A, B, C, D, and E: *Ready Biodegradability Tests*

World Health Organization: International Programme on Chemical Safety (IPCS) Harmonized Scheme for Mutagenicity Testing: *Mutagenicity testing for chemical risk assessment*

WSL – LR448 Warren Spring Laboratory WSL LR 448 protocol