

# Marine Protection Rules

## Part 130B – Oil Transfer Site Marine Oil Spill Contingency Plans

MNZ Consolidation

*1 October 2010*

ISBN 978-0-478-35460-7

Published by

Maritime New Zealand, PO Box 27006, Wellington 6141, New Zealand

Maritime New Zealand Copyright 2010

## **Part objective**

The objective of Part 130B is to prescribe requirements for operators of oil transfer sites to develop contingency plans for dealing with oil spills into New Zealand's internal waters, territorial sea or exclusive economic zone.

Part 130B requires that the operator of an oil transfer site obtain the Director's approval for a site marine oil spill contingency plan. In practice, the power to approve plans is delegated by the Director to regional councils.

A site marine oil spill contingency plan addresses such issues as—

- the procedures for reporting marine oil spills;
- details of the personnel responsible for containing and cleaning up a spill;
- contact information for other persons likely to be affected by a spill; and
- documentation of the response equipment available for use in a spill response. Regular updates, reviews and tests of the plan are also required.

Part 130B replaces Part 130B made 29 June 1998. The revision is the result of operational and interpretative difficulties, encountered by a number of regional councils, with the application of the previous Part 130B.

The aims of this new Part 130B are to:

- improve the quality and effectiveness of site marine oil spill contingency plans;
- increase the focus on risk assessment and oil spill prevention measures that may be audited by the Director; and
- require operators to provide relevant information to enable the Director to verify that response options proposed in the contingency plan are appropriate to the nature of the oil spilled and will not result in greater environmental harm than an oil spill itself.

Part 130B contains transitional provisions that allow any marine oil spill contingency plan approved under the previous Part 130B to continue to have effect as if it had been approved under these rules.

The provisions of Part 130B do not apply to an oil transfer site, associated with an offshore installation, where the contingency plan for the installation covers oil transfers to and from the oil transfer site.

The authority for Part 130B is found in Part 23 and sections 387, 388 and 390 of the Maritime Transport Act 1994.

### *Rules subject to Regulations (Disallowance) Act 1989*

Marine protection rules are subject to the Regulations (Disallowance) Act 1989. Under 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.

### **Disclaimer:**

This document is the current consolidated version of Marine Protection Rules Part 130B produced by Maritime New Zealand, and serves as a reference only. It has been compiled from the official rules that have been signed into law by the Minister of Transport. Copies of the official rule and amendments as signed by the Minister of Transport may be downloaded from the Maritime New Zealand website. [www.maritimenz.govt.nz](http://www.maritimenz.govt.nz)

## History of Part 130B

Part 130B first came into force on 20 August 1998 and now incorporates the following amendments:

<b>Amendment</b>	<b>Effective date</b>
Amendment 1	14 December 2006
Amendment 2	1 October 2010

### Summary of amendments

<b>Amendment 1</b> Marine Protection Rules Part 130B	Revoked and replaced
<b>Amendment 2</b> Marine Protection Various Amendments 2010	130B.2, Schedule: Clause 2

All signed rules can be found on our website:

<http://www.maritimenz.govt.nz/Rules/List-of-all-rules/Part130B-marine-protection-rule.asp>

## **Contents**

### **General**

130B.1	Entry into force	1
130B.2	Definitions	1
130B.3	Application	2

### **Applications for approval**

130B.4	Operator to have a site marine oil spill contingency plan	2
130B.5	Application for approval of a contingency plan	2
130B.6	Consultation with the District Chief Fire Officer	3
130B.7	Approval and duration of a contingency plan	3

### **Operating the site**

130B.8	Conditions for oil transfers sites	3
130B.9	Form and custody of the contingency plan	3
130B.10	Testing and reviewing the contingency plan	3
130B.11	Notification of modifications to the contingency plan	4
130B.12	Changes during the currency of the contingency plan	4
130B.13	Reporting oil spills	4

### **Final provisions**

130B.14	Transitional provisions	4
130B.15	Revocation	4
	Schedule – Contents of a site marine oil spill contingency plan	5



## General

### 130B.1 Entry into force

This Part comes into force on 14 December 2006.

### 130B.2 Definitions

In this Part—

**Act** means the Maritime Transport Act 1994;

**defence area** has the meaning given to it in section 2(1) of the Defence Act 1990;

**District Chief Fire Officer** means the District Chief Fire Officer for the District in which the site is located;

**exclusive economic zone** or **exclusive economic zone of New Zealand** means the exclusive economic zone defined in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

**internal waters of New Zealand** means the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

**New Zealand marine waters** means—

- (a) the territorial sea of New Zealand; and
- (b) the waters of the exclusive economic zone of New Zealand;

**marine oil spill** means any actual or probable release, discharge or escape of oil into the internal waters of New Zealand or New Zealand marine waters;

**offshore installation** includes any artificial structure (including a floating structure other than a ship) used or intended to be used in or on, or anchored or attached to, the seabed for the purpose of the exploration for, or the exploitation or associated processing of, any mineral;

**oil** is a harmful substance for the purpose of section 224 of the Act, and—

- (a) means petroleum in any form, including crude oil, fuel oil, sludge, oil refuse, refined products (other than petrochemicals subject to the provisions of Part 140); and
- (b) includes—
  - (i) the substances declared to be oil in the appendix to Part 120; and
  - (ii) any oily mixture;

**oil transfer site**—

- (a) means any land, site, building, structure or facility (whether on land or above the seabed)—
  - (i) that is used to transfer oil; or
  - (ii) at which or from which oil is transferred,

to or from a ship or offshore installation;

- (b) includes a tank truck operation;
- (c) does not include a ship;

**operator**, in relation to an oil transfer site, includes any manager, lessee, licensee or other person in charge of the site;

**Part** means a group of rules made under the Act; and

**territorial sea** or **territorial sea of New Zealand** means the territorial sea defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977;

**130B.3 Application**

- (1) Except as provided in subrules (2) and (3), this Part applies to every oil transfer site within—
  - (a) the land area of New Zealand;
  - (b) the rivers and other inland waters of New Zealand;
  - (c) the internal waters of New Zealand; and
  - (d) New Zealand marine waters;including an oil transfer site in a defence area.
- (2) This Part does not apply to an oil transfer site that is—
  - (a) an offshore installation;
  - (b) associated with an offshore installation, if the site marine oil spill contingency plan for that installation covers oil transfer operations to and from that oil transfer site; or
  - (c) in the land area, rivers or other inland waters of New Zealand—
    - (i) if an oil spill at that site cannot lead directly to a marine oil spill; and
    - (ii) if the site is used to transfer oil to or from any ship in the inland waters of New Zealand, an oil spill in those waters cannot lead directly to a marine oil spill.
- (3) Nothing in this Part affects the requirements of the Hazardous Substances (Emergency Management) Regulations 2001 and the Hazardous Substances (Classes 6, 8 and 9 Controls) Regulations 2001.

**Applications for approval**

**130B.4 Operator to have a site marine oil spill contingency plan**

No person may operate an oil transfer site without the Director's written approval of a site marine oil spill contingency plan that complies with the requirements of the Schedule.

**130B.5 Application for approval of a contingency plan**

- (1) Every application for approval of a site marine oil spill contingency plan—
  - (a) is an application for the purpose of section 269(1) of the Act;
  - (b) must be in English;
  - (c) may be made by letter or in such other form as the Director may allow;
  - (d) must include the applicant's—
    - (i) address for service in New Zealand;
    - (ii) telephone number;
    - (iii) fax number (if any); and
    - (iv) email address (if any);
  - (e) must include the contents of the proposed contingency plan in electronic and hard copy; and
  - (f) must include evidence of compliance with rule 130B.6.
- (2) The Director may require any additional information he or she considers necessary to support an application for approval of a site marine oil spill contingency plan.
- (3) If the Director requires any additional information, he or she must advise the applicant, in writing, of—
  - (a) the details of the required information; and
  - (b) the reason(s) why the information is required,no later than 15 working days from the date of receipt of the application.

**130B.6 Consultation with the District Chief Fire Officer**

Before an application is submitted for approval of a site marine oil spill contingency plan, the operator must consult with the District Chief Fire Officer on—

- (a) any procedures, set out in the draft plan, relating to notification of the fire service; and
- (b) the role of the fire service in any marine oil spill response, undertaken in accordance with the draft plan.

**130B.7 Approval and duration of a contingency plan**

- (1) If the Director is satisfied that the site marine oil spill contingency plan complies with the requirements of this Part, the Director may approve the plan for a period not exceeding 3 years.
- (2) If an application for a new approval is made, by the holder of an existing approval, at least 2 months before the existing approval expires, the duration of the existing approval is extended until the Director determines the application.
- (3) The Director's written approval of a site marine oil spill contingency plan is a marine protection document for the purposes of the Act.

**Operating the site**

**130B.8 Conditions for oil transfer sites**

The operator of every oil transfer site must—

- (a) ensure that personnel responsible for implementing the contingency plan and dealing with oil spills receive training appropriate to their responsibilities under the plan;
- (b) keep a record of that training;
- (c) maintain access to equipment to deal with an oil spill at a level appropriate to—
  - (i) the risks presented by the site; and
  - (ii) the response options identified in the contingency plan; and
- (d) when called upon by the Director, justify any response option in the contingency plan as effective and achievable.

**130B.9 Form and custody of the contingency plan**

- (1) The operator of every oil transfer site must keep the Director's written approval with the approved site marine oil spill contingency plan at all times and make both documents available to the Director on request.
- (2) A copy of the Director's written approval and the approved site marine oil spill contingency plan must be kept and made available at every site to which the plan applies.
- (3) As soon as practicable after it is issued, the operator must supply a copy of the Director's written approval, together with the approved site marine oil spill contingency plan, to:
  - (a) if the site is in a region, the regional on-scene commander appointed under section 318 of the Act;
  - (b) the Director; and
  - (c) the District Chief Fire Officer.

**130B.10 Testing and reviewing the contingency plan**

- (1) The operator of every oil transfer site must—
  - (a) test the contingency plan not less than once every 12 months;
  - (b) review the effectiveness of the contingency plan as soon as practicable after every—
    - (i) test carried out under paragraph (a);
    - (ii) use of the contingency plan in response to an oil spill; and

## **Marine Protection Rules**

- (iii) change in the response procedures or equipment for the site (other than the direct replacement of equipment).
- (2) The operator must keep a record of every test and review and the results and findings of every such test and review.
- (3) After every review, the operator must—
  - (a) determine any modifications to the contingency plan that, in light of the review, would increase the effectiveness of the contingency plan;
  - (b) implement those changes—
    - (i) immediately, in the case of amendments to the 24 hr contact list or reassignment of personnel responsibilities; and
    - (ii) on the Director's approval, in the case of any other modification.

### **130B.11 Notification of modifications to the contingency plan**

- (1) As soon as possible after every modification of the contingency plan, the operator of an oil transfer site must notify the Director and every other person holding a copy of the plan required to be kept or supplied under rule 130B.9.
- (2) The operator must keep a record of the action(s) taken to meet the obligation in subrule (1).

### **130B.12 Changes during the currency of the contingency plan**

- (1) Except as provided in subrule (3), the operator must apply for approval of any changes to the site marine oil spill contingency plan, in particular, when the operator proposes to alter the use or layout of the site in a way that could increase the risk of a marine oil spill.
- (2) The provisions of rule 130B.5 and the Schedule apply to an application for approval of changes to a site marine oil spill contingency plan.
- (3) The operator may make the following changes to the contingency plan without the prior approval of the Director—
  - (a) modifications to the 24 hr contact list;
  - (b) reassignment of personnel responsibilities.

### **130B.13 Reporting oil spills**

Immediately after any marine oil spill, the operator of an oil transfer site must report the spill, by the fastest means of communication available and with the highest possible priority, to—

- (a) the regional council, if the oil spill occurs in a region;
- (b) the Director, if the oil spill occurs beyond the territorial limits of New Zealand,

using the procedures outlined in the contingency plan.

## **Final provisions**

### **130B.14 Transitional provisions**

Any site marine oil spill contingency plan that was—

- (a) approved under Part 130B made 29 June 1998; and
- (b) in force immediately before this Part came into force,

shall continue in force as if it has been issued under this Part.

### **130B.15 Revocation**

Part 130B made 29 June 1998 is revoked.

**Contents of a site marine oil spill contingency plan**

**1 Risk identification, assessment and prevention**

Every site marine oil spill contingency plan must include—

- (a) up-to-date and accurate drawings, plans or general arrangements of the site, showing—
  - (i) the places and systems associated with the storage or transfer of fuels including tank capacity, filling arrangements, isolation valves and drainage systems highlighting the critical isolation points;
  - (ii) those areas or processes identified as presenting a risk of a marine oil spill; and
  - (iii) locations in the vicinity of the site identified as under threat of environmental damage should a marine oil spill occur;
- (b) particulars of all oils stored at the site including specifications, material safety data sheets and the maximum volume of each type of fuel held on site;
- (c) a detailed description of all the identified processes and activities which present a risk of pollution from an oil spill, with a list of specific actions and procedures to reduce the risk of an oil spill including specific standard operating procedures to be employed at the interface between the site and a vessel; and
- (d) a detailed description of those identified areas which may suffer environmental damage as a result of an oil spill.

**2 Response to marine oil spills**

(1) Every site marine oil spill contingency plan must contain—

- (a) guidance to ensure the safety of personnel at the site;
- (b) information to help personnel at the site deal with an oil spill by initiating the actions necessary to stop or minimise the spill and to mitigate its effects, including procedures for—
  - (i) preventing the escalation of the oil spill;
  - (ii) stopping the discharge at its source, if possible;
  - (iii) deciding what action to take in response to an oil spill;
  - (iv) identifying the safety and environmental consequences of any remedial action; and
  - (v) determining whether or not the oil spill can be contained or cleaned up by the resources available to the operator or any other person responsible for implementing the contingency plan;
- (c) appropriate response options for the site;
- (d) the means and point of contact for co-ordination of response activities;
- (e) the procedure by which spills are to be reported in accordance with rule 130B.13;
- (f) the procedure by which the operator is to report to the regional council or the Director of Maritime Safety if the person responsible for implementing the contingency plan considers that the oil spill cannot be cleaned up or contained using the resources available to that person;
- (g) a list of 24-hour contact information for:
  - (i) the operator or the operator's site representative;
  - (ii) the Director;
  - (iii) the regional council, if the site is within a region;
  - (iv) any organisation contracted to the operator to respond to oil spills at the site;
  - (v) off-duty personnel with responsibilities for dealing with oil spills;

**Marine Protection Rules**

- (vi) other persons whose interests in or around the site are likely to be affected by an oil spill at the site;
  - (h) the name and contact details of any person responsible for implementing the plan;
  - (i) the organisational response structure for the installation, including—
    - (i) duties of all personnel responsible for dealing with spills;
    - (ii) positions consistent with the national civil defence emergency plan made from time to time under section 39 of the Civil Defence Emergency Management Act 2002;
  - (j) an inventory of any response equipment held on site (including the location of that equipment) with personnel responsibilities for the deployment, survey and maintenance of that equipment.
- (2) A site marine oil spill contingency plan for a site within a defence area need not include any information about the site that is classified by the New Zealand Defence Force provided that any such information relevant to an oil spill response is readily available at the site.