

1975/84



**THE MARINE POLLUTION (DISPERSANTS AND
EXCEPTIONS) REGULATIONS 1975**

DENIS BLUNDELL, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 21st day of April 1975

Present:

THE RIGHT HON. W. E. ROWLING PRESIDING IN COUNCIL

PURSUANT to section 68 of the Marine Pollution Act 1974, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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3. Exception for dispersants
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Marine Pollution (Dispersants and Exceptions) Regulations 1975.

(2) These regulations shall come into force on the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Act” means the Marine Pollution Act 1974, and expressions defined therein have the meanings so defined:

“Dispersant” means a substance used or intended to be used for the dispersion or emulsification of oil in the sea:

“Director” means the person for the time being holding the position of Director of the Marine Division of the Ministry of Transport; and includes his deputy:

“From the nearest land” means—

(a) In relation to New Zealand, from the baseline of the territorial sea as defined in sections 5 and 6 of the Territorial Sea and Fishing Zone Act 1965:

(b) In relation to any land outside New Zealand, from the baseline of the territorial sea of the territory in question established in accordance with the provisions of the Convention on the Territorial Sea and the Contiguous Zone, Geneva 1958:

Provided that in the case of the part of the north-eastern coast of Australia which lies between 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; 9° 10' S, 143° 52' E; 9° 00' S, 144° 30' E; 13° 00' S, 144° 00' E; 15° 00' S, 146° 00' E; 18° 00' S, 147° 00' E; 21° 00' S, 153° 00' E; 24° 42' S, 153° 15' E:

“In ballast”, in relation to a tanker, means any occasion on which the tanker is not carrying oil in bulk as cargo but has on board oil residues from a cargo of oil in bulk previously carried:

“Instantaneous rate of discharge of oil content”, when expressed in litres per mile, means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant:

“Local authority” means any City Council, Borough Council, Town Council, County Council, or District Council:

“Mile” means the international nautical mile of 1,852 metres:

“Tanker” means a ship the greater part of the cargo space of which is constructed or adapted for the carriage of liquid cargoes in bulk and which is either carrying a cargo of oil in bulk in that part of its cargo space or has on board oil residues from a cargo of oil in bulk previously carried.

PART I—DISPERSANTS

3. Exception for dispersants—Subject to regulation 5 of these regulations, section 3 (1) of the Act shall not apply in respect of a dispersant approved by the Director under regulation 4 of these regulations which is discharged from any ship or from any tanker for the purpose of dispersing oil which has been discharged or has escaped into the sea.

4. Approval of dispersants—The Director may, by notice in the *Gazette*, approve any dispersant that he is satisfied complies with the provisions of the Schedule to these regulations.

5. Prohibition on the use of dispersants—The Director may, by notice in writing to the local authority or Harbour Board having the control of any area of the sea or coast of New Zealand, either prohibit or impose such conditions as he considers appropriate on the use of any

specified dispersant in that area, if he is satisfied that the use of the dispersant would result in significantly greater damage to that area of sea or coast of New Zealand than would have resulted by action of oil alone.

PART II—EXCEPTIONS

6. Exception for ships other than tankers—(1) This regulation applies to every New Zealand ship that is not a tanker and to every home-trade ship that is not a tanker.

(2) Every ship to which this regulation applies is hereby excepted from the operation of section 4 (1) of the Act, provided all of the following conditions are satisfied:

- (a) The ship is proceeding en route; and
- (b) The instantaneous rate of discharge of oil content does not exceed 60 litres per mile; and
- (c) The oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture; and
- (d) The discharge is made as far as practicable from the nearest land.

7. Exceptions for tankers—(1) This regulation applies to every New Zealand tanker and to every home-trade tanker.

(2) Every tanker to which this regulation applies is hereby excepted from the operation of section 4 (1) of the Act, provided all of the following conditions are satisfied:

- (a) The tanker is proceeding en route in ballast; and
- (b) The instantaneous rate of discharge of oil content does not exceed 60 litres per mile; and
- (c) The total quantity of oil discharged does not exceed 1/15,000 of the total oil-cargo carrying capacity of the tanker; and
- (d) The tanker is more than 50 miles from the nearest land.

(3) Every tanker to which this regulation applies is hereby further excepted from the operation of sections 3 (1) and 4 (1) of the Act in relation to the discharge of ballast from a cargo tank which since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water.

(4) Subclause (2) of this regulation shall not apply to the discharge of oil from the machinery space bilges of a tanker. Every such discharge shall comply with the provisions of regulation 6 (2) of these regulations, but shall not be made at the same time as a discharge to which subclause (2) of this regulation applies.

PART III—REVOCATION

8. Revocation—The Oil in Navigable Waters (Exceptions) Regulations 1971* are hereby revoked.

SCHEDULE

Reg. 4 DISPERSANT SPECIFICATION

1. *General*—This specification relates to the supply of detergents, dispersants, emulsifiers, solvent-emulsifiers, and similar materials required for use in beach-cleaning operations and for oil dispersal at sea. These materials are handled in the liquid phase, and for this reason the material offered against this specification should, under normal operating conditions, contain no solid material, no suspended matter, and no additional liquid phases. It should be non-corrosive to the storage containers, and should not contain substances that are normally considered to be toxic to humans or are likely to cause irritation of the eyes and skin.

2. *Prohibited Ingredients*—The dispersant supplied shall not contain benzene, halogenated compounds, phenol, cresols, caustic alkali, or free mineral acid.

3. *Flash Point*—The flash point of the dispersant, as determined by Pensky Marten closed cup method IP 34, shall not be less than 61°C.

4. *Cloud Point*—The cloud point of the dispersant as determined by method IP 219 shall not be more than -5°C. The dispersant shall not separate into 2 layers at temperatures greater than -10°C.

5. *Viscosity*—If the dispersant is hydrocarbon based and is intended to be used in an undiluted form, the viscosity as determined by method IP 71 at 0°C shall not be more than 50 centistokes ($5 \times 10^{-5} \text{m}^2 \text{s}^{-1}$).

If the dispersant is in the form of a concentrate which is intended to be diluted with sea water prior to use, the viscosity as determined by method IP 71 at 0°C shall not be more than 250 centistokes ($2.5 \times 10^{-4} \text{m}^2 \text{s}^{-1}$).

If the dispersant is in the form of a concentrate and is intended to be diluted with sea water prior to use and if the material exhibits non-Newtonian flow, the viscosity as measured by a Ferranti-Shirley Cone and Plate Viscometer at 0°C shall not be more than 250 centipoises ($2.5 \times 10^{-4} \text{Nsm}^{-2}$) at a shear rate of 10^8s^{-1} .

6. *Hydrocarbon Solvent*—The hydrocarbon solvent, if one is used in the manufacture of the dispersant, shall be low in aromatic hydrocarbons, with an upper limit of 3 percent total aromatic hydrocarbons.

7. *Toxicity*—Dispersants, either conventional or concentrate at the recommended dilution rate, shall either have a LC_{50} to European brown shrimp (*Crangon crangon*), greater than 3,300 ppm in a 48 hour exposure test, or shall comply with an equivalent standard approved by the Director.

8. *Biodegradability*—The biodegradability of the surface-active component(s) of the material should not be inferior to the level established as desirable by current policy of the Water Resources Council.

9. *Temperature Stability*—The temperature stability—

(a) After heating to 60°C for 6 hours; and

(b) After cooling to -10°C for 1 hour and returning to room temperature,

shall show no precipitation, solidification, gelling, layering, or loss of homogeneity.

SCHEDULE—*continued*

10. *Containers*—The dispersant shall be supplied in steel drums of 182–228 litres capacity or in other containers approved by the Director.

11. *Labelling*—All containers shall be clearly labelled with the name of the supplier, the name, number, or other mark to identify the material, the batch number, and the flash point. In the case of bulk deliveries, the relevant information should be included on the delivery note.

12. *Shelf Life*—The dispersant, in approved containers as supplied, or in bulk storage shall have a shelf life of not less than 5 years.

13. *Sampling*—A sample of not less than 5 litres of the material to be supplied against this specification shall be submitted to the Director. The supplier shall undertake that all supplies of material to be delivered against this specification shall conform in every way (except in relation to the sample container) with that of the sample supplied. The Director may arrange for the dispersant sample supplied to be tested for efficiency in promoting the dispersal of oil in water and beach cleaning, the methods of such testing to be in accordance with such standards as the Director may decide. Only those products which are deemed effective in both operations shall be approved.

The Director may at any time perform any of the inspections set forth in the specification where he considers such inspections to be necessary to ensure that supplies conform with the prescribed requirements.

14. *Composition and Manufacturer's Specification*—Each supplier shall submit to the Director details of the composition and specifications used in the preparation of his product. This information shall be treated as confidential.

The supplier shall also submit details of the scale of production that can be undertaken, and if necessary maintained, to meet exceptional, urgent, or emergency requirements for such materials.

15. *Variation of Specification*—All material supplied shall conform with this specification. In the event of a manufacturer being unable to maintain supplies of material under emergency conditions, full details of changes that will be required to meet the heavy demand (for example, changes in solvent composition) must be notified in advance. Such “modified” materials, may not be supplied without special authority, and the containers holding any such modified material must be clearly marked with the letter M, both in front of and behind the letters or number, or both, identifying the product. (Thus, for example, a product normally identified by the letters ABC followed by the numbers 123 would, if supplied in a modified form, be labelled MABC 123M).

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations—

- (a) Permit the use of approved dispersants for the purpose of dispersing or emulsifying oil that has been discharged or has escaped into the sea.

- (b) Make exceptions from the operation of sections 3 (1) and 4 (1) of the Marine Pollution Act 1974 (which prohibit the discharge of oil or pollutants into New Zealand waters and other waters) subject to compliance with certain conditions.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 April 1975.

These regulations are administered in the Ministry of Transport.