

## The Convention for the Protection of Natural Resources and Environment of the South Pacific Region (the Noumea Convention)

### Country Report – New Zealand – August 2015

<b>Glossary</b>	
AMSA	Australian Maritime Safety Authority
Biosecurity Act	Biosecurity Act 1993
CBD	Convention on Biological Diversity
CMS	Convention on Migratory Species
EEZ	Exclusive Economic Zone
EEZ Act	Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
EPA	Environmental Protection Authority
IMO	International Maritime Organisation
Intervention Convention	International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969
Intervention Protocol	Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil 1973
LLMC	Convention on Limitation of Liability for Maritime Claims
London Convention	The London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
Marine Pollution Regulations	Resource Management (Marine Pollution) Regulations 1998
MARPOL	International Convention for the Prevention of Pollution from Ships
MfE	Ministry for the Environment
MNZ	Maritime New Zealand
MPR	Marine Protection Rules
MTA	The Maritime Transport Act 1994
NZNFZ Act	New Zealand Nuclear Free Zone Act
OPRC	International Convention on Oil Pollution Preparedness, Response and Cooperation
PACPLAN	Pacific Islands Regional Marine Spill Contingency Plan
PACPOL	Pacific Ocean Pollution Prevention Programme
RMA	Resource Management Act 1991
RPA	Radiation Protection Act 1965
SOLAS	International Convention for the Safety of Life at Sea
SPREP	Secretariat of the Pacific Regional Environment Programme
Transitional Provisions Amendment Act	The Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Act 2015
UNFCCC	United Nations Framework Convention on Climate Change
Vienna Convention	Vienna Convention on Protection of the Ozone Layer

**What are the main issues and priorities concerning marine pollution for your country? You can attach relevant sections of annual reports, policy documents etc.**

1. New Zealand's current marine pollution priority is to ensure a clean and safe marine environment and effective marine pollution protection. Key to this priority is the prevention of and response to oil pollution from commercial and recreation vessels and offshore installations. New Zealand also has initiatives to prevent pollution by garbage, noxious liquid substances in bulk, harmful substances carried by sea in packaged form and ocean dumping of waste. All of these priorities are implemented in accordance with New Zealand's obligations under international instruments, most notably, as required under International Maritime Organisation (IMO) Conventions including the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC), and the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Convention).

**What measures generally have you initiated to implement this Convention and Protocols?**

2. New Zealand's obligations beyond the territorial sea (i.e., from 12 nautical miles offshore) under the Convention and its respective Protocols are implemented through the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act), the Maritime Transport Act 1994 (MTA) and the Marine Protection Rules (MPR). The EEZ Act regulates the effects of certain activities in the Exclusive Economic Zone (EEZ) and continental shelf including petroleum exploration and production, seabed mining, laying submarine cables and marine scientific research. The MPR specify technical standards to protect the marine environment from pollution from ships, offshore installations and the dumping of waste at sea, in accordance with, and as required under, the MTA. Part 19 of the MPR entered into force on 1 July 2014, and requires operators to include safe operating procedures in their operator plan, which includes, among other things, emergency procedures in response to pollution.
3. New Zealand's obligations under the Convention and its Protocols within the territorial sea are implemented through the Resource Management Act 1991 (RMA) and the Resource Management (Marine Pollution) Regulations 1998 (Marine Pollution Regulations). The Marine Pollution Regulations provide standards to protect the coastal marine area from discharges and the dumping of waste both from land-based sources and vessels.

**Give details of new or amended legislation that covers marine pollution beyond internal waters including any definition of "pollution" and the institutions responsible.**

4. There are three key pieces of legislation and several pieces of delegated legislation that deal with marine pollution beyond internal waters in New Zealand. Marine pollution in areas more than 12 nautical miles offshore falls within the scope of the EEZ Act, the MTA and the MPR.
5. The EEZ Act came into force on 28 June 2013 when the first set of regulations under the Act was made. Regulations currently in force under the EEZ Act are:
  - Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2013;
  - Exclusive Economic Zone and Continental Shelf (Fees and Charges) Regulations 2013; and

- Exclusive Economic Zone and Continental Shelf (Environmental Effects – Non-notified Activities) Regulations 2014.
6. The EEZ Act has been amended twice since coming into force.
  7. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Act 2013 introduced a non-notified discretionary classification. It also transfers regulation of the discharge of harmful substances and the dumping of waste from the MTA to the EEZ Act. This change will take effect when regulations are made under the EEZ Act to classify the discharge and dumping activities. These regulations are planned to be finalised by the end of 2015.
  8. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Act 2015 (Transitional Provisions Amendment Act) addressed an issue with transitional provisions for existing petroleum operators. Transitional provisions under section 162 of the EEZ Act allowed existing petroleum operators to continue their operations without a marine consent for the term of their permits or privileges under the Crown Minerals regime.
  9. The Transitional Provisions Amendment Act enables existing petroleum operators to continue operating while a decision is made on their consent application, and any subsequent objections or appeals are determined.
  10. The Ministry for the Environment (MfE) administers the EEZ Act, and is responsible for the development of regulations and for providing policy advice on the legislation. The Environmental Protection Authority (EPA) makes decisions on marine consent applications and is responsible for the day-to-day operation of the legislation, including monitoring and enforcement.
  11. The responsibility for marine pollution within the MTA and the MPR sits with the Minister of Transport and Maritime New Zealand (MNZ).
  12. The Maritime Transport Amendment Act 2014 amended the MTA to facilitate accession to the following international treaties.

Treaty	Status
<ul style="list-style-type: none"> <li>• The Protocol of 1996 to Amend the International Convention on the Limitation of Liability for Maritime Claims 1976 (LLMC), which doubles shipowners' maximum liability amounts under the LLMC.</li> </ul>	<p>In force internationally.</p> <p>The Maritime Transport (Limitation of Liability for Maritime Claims) Order 2015, which came into force on 8 June 2015, notifies the new limits of liability for maritime claims that are to apply instead of the limits specified in the MTA.</p>
<ul style="list-style-type: none"> <li>• The International Convention on Civil Liability for Bunker Oil Pollution Damage 2001, which separates claims for damage from ships fuel oil from general maritime claims under the LLMC and adopts the increased liability limit of the LLMC Protocol.</li> </ul>	<p>In force internationally.</p> <p>New Zealand lodged its ratification document for the Intervention Protocol on 4 April 2014, which came into force for New Zealand on 4 July 2014.</p>
<ul style="list-style-type: none"> <li>• Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil 1973 (Intervention Protocol) that: <ul style="list-style-type: none"> <li>○ Extends the regime of the International</li> </ul> </li> </ul>	<p>In force internationally</p> <p>New Zealand lodged its ratification document for the Intervention Protocol on 4 April 2014, which came into force for New Zealand on 4 July 2014.</p>

<p>Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 (Intervention Convention) to hazardous and noxious substances other than oil.</p> <ul style="list-style-type: none"> <li>○ Authorises a state to take actions necessary to prevent pollution of its waters and coastline by hazardous and noxious substances in the event of a shipping accident.</li> </ul>	
<ul style="list-style-type: none"> <li>• International Convention for the Control and Management of Ships Ballast Water and Sediments 2004.</li> <li>• The primary objective of this Convention is to prevent, minimize and ultimately eliminate the risks to the environment, human health, property and resources arising from the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments.</li> </ul>	<p>Not yet in force internationally.</p> <p>The Biosecurity Law Reform Act 2012 amended the Biosecurity Act 1993 (the Biosecurity Act) to allow for ratification of this Convention. A relevant MPR is being developed and public consultation on this will take place later in 2015.</p> <p>Agencies responsible:</p> <ul style="list-style-type: none"> <li>• Ministry for Primary Industries leads on the technical and scientific elements concerned with implementation of this Convention.</li> <li>• MNZ leads on implementation of this Convention through port State control.</li> </ul>

13. Proposed amendments to the Biosecurity Act to give effect to the International Convention for the Control and Management of Ship's Ballast Water and Sediments 2004 are currently being considered. Once adopted, the Convention will be jointly implemented by MNZ and Biosecurity New Zealand.

14. Marine pollution within 12 nautical miles of New Zealand's coast falls within the scope of the RMA and the Marine Pollution Regulations.

15. The Marine Pollution Regulations were updated in 2014 to fulfil New Zealand's international obligations as a party to MARPOL, as modified by the Protocol of 1978, by incorporating into the regulations recent changes made to Annex V of MARPOL, which came into force on 1 January 2013. The changes introduce a general prohibition on the discharge of garbage from ships and offshore installations in the coastal marine area (from mean high-water springs to 12 nautical miles offshore), and also to prescribe certain exceptions to the prohibition.

16. MfE is responsible for administering the RMA and the Marine Pollution Regulations.

**What is the estimated volume/type of marine pollution per year in the Convention area from the following sources; the number of permits/licences issued; and any other measures taken to prevent, reduce and control such pollution:**

**a. vessels (article 6)**

17. Parts 120 and 140 of the MPR specify the permitted operational discharges of harmful substances and provides for reporting of non-operational discharges (further outlined under question 8 and 9). A total of approximately 8,417 litres of oil was reported as being spilled in 2013.

**b. land based sources (article 7)**

18. During 2012/2013 local government authorities processed just over 34,000 resource consent applications under the RMA. Three per cent of all resource consents processed to a decision were coastal permits. Coastal permits relate to a variety of development activities which may have impacts on the coastal environment.

**c. mining and coastal erosion i.e. dredging, land reclamation (article 13)**

19. Under the provisions of the London Convention, a total of 2,288,875m<sup>3</sup> of waste material was dumped in the ocean under permit in 2013. This waste consisted mostly of dredge spoils from ports and harbours. No radioactive waste was dumped.

**d. sea-bed and sub-soil activities (article 8)**

20. Mining exploration and extraction permits and licenses issued in New Zealand may be viewed on [www.nzpam.govt.nz](http://www.nzpam.govt.nz).

21. There were a total of 16 incidents of discharges of oil from offshore oil and gas production activities during 2013. The estimated total amount of these discharges is 35 litres.

22. In addition to oil discharges from offshore oil and gas installations there are some exploration and production drilling activities associated with this industry. The use of synthetic or oil-based drilling fluids is regulated under MPR Part 200, limiting the disposal of drill cuttings that may have residues of these substances.

**e. discharges into atmosphere (article 9)**

23. Just over 34,000 resource consents were processed during 2012/2013.

24. New Zealand local government authorities collect information specific to discharges to air. Although the New Zealand Government may access the information through the local authorities, it does not currently collate this information.

**f. dumping and disposal from vessels, aircraft, man-made structures of waste including radioactive waste or matter (article 10)**

25. The dumping in this category is made up of:

- The dredge spoils referred to in (c) above, which is taken by barge to the approved dumping sites; and
- Other dumping permitted under the London Convention including vessels, platforms or other man-made structures, and organic material of natural origin.

26. In 2013, in addition to the dumping referred to in (c) above, one carbon steel well head and one item of mortal remains were disposed of in the Convention area.

**g. storage of toxic and hazardous wastes, including radioactive water or matter (article 11)**

27. See response to question (5) below with respect to measures to prevent pollution from radioactive materials.

## **h. testing of nuclear devices (article 12)**

28. The testing of nuclear explosive devices is prohibited in New Zealand law pursuant to Section 7 of the New Zealand Nuclear Free Zone Act (NZNFZ Act), which provides that no person shall test any nuclear explosive device in the New Zealand Nuclear Free Zone. The New Zealand Nuclear Free Zone comprises (a) all of the land, territory, and inland waters within the territorial limits of New Zealand (b) the internal waters of New Zealand (c) the territorial sea of New Zealand and (d) the airspace above the areas specified in (a) to (c). Every person who commits an offence against the NZNFZ Act is liable on conviction on indictment to imprisonment for a term not exceeding 10 years.

## **Have you prohibited the storage and disposal of radioactive waste in the convention area and the continental shelf beyond the Convention area? If so, what is the legislative provision and what is the penalty? (Article 10)**

29. New Zealand has prohibited the storage and disposal of radioactive waste in the Convention area, except with the written consent of the Minister for the Environment. This is undertaken through the Radiation Protection Act 1965 (RPA) and the MTA.

30. Section 12 of RPA provides that no person other than the Minister shall, except with the prior consent in writing of the Minister or in accordance with or as permitted by regulations made under the RPA –

- (a) Manufacture or otherwise produce; or
- (b) Sell; or
- (c) Bring or cause to be brought or sent into New Zealand; or
- (d) Take or send out of New Zealand; or
- (e) Store or transport any radioactive material.

31. For the purposes of this Section 12, any radioactive material shall be deemed to have been brought into New Zealand when, in any manner whatsoever, it is brought or comes within the territorial limits of New Zealand from any place outside those limits.

32. For the purposes of this Section 12, any radioactive material shall be deemed to have been sent out of New Zealand when it is placed upon any ship or aircraft for the purpose of being taken or carried to any place outside the territorial limits of New Zealand.

33. Section 26(2) of the RPA provides that 'every person who commits an offence against the RPA is liable on summary conviction to a fine not exceeding [NZ\$10,000], and, where the offence is a continuing one, to a further fine not exceeding [NZ\$500] for every day or part of a day during which the offence continues.'

34. The RPA also provides that where an offence is committed against the RPA by any person who is the agent or servant of a person licensed under the RPA, or is otherwise subject to the supervision or instructions of a person so licensed, the person so licensed shall, without restricting the liability of the first-mentioned person, be liable under the RPA in the same manner and to the same extent as if he had personally committed the offence: Provided that, in any proceedings which are taken against a person licensed under the RPA, it shall be a defence for that person to prove that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence. Where any company is convicted of an offence against the RPA, every director and every officer concerned in the management of the company shall be guilty of a like offence unless he proves either (a) That the offence was committed without his knowledge or consent; or (b) That he took all reasonable steps to prevent the commission of the offence.

35. The RPA also provides that the Governor-General may regulate to prescribe the method of treatment or disposal of any package, container, or vessel that has been used to convey, hold, or store any radioactive material; the manner in which and the conditions subject to which radioactive materials may be stored or used; and to make provision to ensure that waste products from any source whatever which contain any radioactive substance are disposed of safely.
36. Part XXI of the MTA has provisions relevant to prohibitions on storing and dumping of radioactive waste. Relevant sections as follows:

**258. Dumping of radioactive waste or other radioactive matter.**

*Radioactive waste or other radioactive matter shall not be:*

- a) *Taken on board any ship or aircraft in New Zealand or in the internal waters of New Zealand or in New Zealand marine waters for the purpose of dumping that radioactive waste or other radioactive matter; or*
- b) *Taken on board any ship or aircraft at any controlled offshore installation for the purpose of dumping that radioactive waste or other radioactive matter; or*
- c) *Dumped from any ship or aircraft into the sea or onto or into the seabed within the exclusive economic zone of New Zealand or onto or into the continental shelf of New Zealand beyond the outer limits of that exclusive economic zone or the sea above that continental shelf; or*
- d) *Dumped from a controlled offshore installation; or*
- e) *Dumped from any New Zealand ship or any New Zealand aircraft into the sea or onto or into the seabed beyond New Zealand continental waters.*

**259. Storing of radioactive waste or other radioactive matter.**

*Radioactive waste or other radioactive matter shall not be stored in the sea or in or on the seabed within the exclusive economic zone of New Zealand or in the continental shelf of New Zealand beyond the outer limits of that exclusive economic zone or the sea above that continental shelf.*

**263. Offences in respect of radioactive waste, other radioactive matter, toxic waste, and hazardous waste.**

- 1) *The master and the owner of a ship each commits an offence if radioactive waste or other radioactive matter is –*
  - a. *Taken on board the ship in breach of paragraph (a) or paragraph (b) of section 258 of this Act; or*
  - b. *Dumped from the ship in breach of section 258(c) of this Act; or*
  - c. *Dumped from the ship (being a New Zealand ship) in breach of section 258(e) of this Act.*
- 2) *The person in possession of, and the owner of, an aircraft each commits an offence if radioactive waste or other radioactive matter is –*
  - a. *Taken on board the aircraft in breach of paragraph (a) or paragraph (b) of section 258 of this Act; or*
  - b. *Dumped from the aircraft in breach of section 258(c) of this Act; or*
  - c. *Dumped from the aircraft (being a New Zealand aircraft) in breach of section 258(e) of this Act.*

- 3) *The owner of a controlled offshore installation commits an offence if radioactive waste or other radioactive matter is –*
  - a. *Taken on board any ship or aircraft at the offshore installation in breach of section 258(b) of this Act; or*
  - b. *Dumped from the offshore installation in breach of section 258(d) of this Act.*
- 4) *Every person commits an offence who stores radioactive waste or other radioactive matter in breach of section 259 of this Act.*
- 5) *Every person commits an offence who stores toxic or hazardous waste in breach of section 260 of this Act.*

## **266. Penalties**

*Subject to section 267 of this Act, every person who commits an offence against section 263 or section 264 of this Act is liable –*

- a) *To a fine not exceeding \$200,000; and*
- b) *If the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued; and*
- c) *For such amount as the court may assess in respect of the costs of all or any of the following, namely, removing or dispersing, or disposing of, any waste or other matter to which the offence relates; and*
- d) *To an additional penalty under section 409 of this Act.*

## **267. Sentence of imprisonment**

- 1) *Subject to subsection (2) of this section, the Court may sentence a person who commits an offence against section 263 of this Act to imprisonment for a term not exceeding 2 years instead of imposing a fine under section 266 of this Act.*
- 2) *The Court shall not sentence to imprisonment any person who commits an offence against section 263 of this Act unless the Court is satisfied,*
  - a. *Where the person is the master or owner of a foreign ship –*
    - i. *That the offence was committed within the territorial sea; and*
    - ii. *That the person intended to commit the offence, or the offence occurred as a consequence of any reckless act or omission by the person with the knowledge that that act or omission would or would be likely to cause serious damage to the marine environment within the territorial sea; and*
    - iii. *That the commission of the offence has caused or is likely to cause serious damage to the marine environment within the territorial sea:*
  - b. *In any other case, that the commission of the offence has caused or is likely to cause serious damage to the marine environment.*

**What technical guidelines and legislation do you have concerning EIA of development activities likely to impact on the marine environment? (Article 16) How many assessments occurred, what were the measures adopted to prevent pollution and what was the extent of public involvement.**

37. The RMA requires resource consents (permissions) for many activities that use or develop natural or physical resources or affect the environment. It applies to activities undertaken on land, the coastal marine area, and the territorial sea. All applications for resource consents must be accompanied by an assessment of environmental effects which includes a description of mitigation measures to help prevent or reduce any actual or potential effects of the proposed activity.
38. Just over 34,000 resource consents were processed during 2012/2013. Around 5% of these applications were subject to either limited (identified potentially affected parties) or full (the public in general) notification. Three per cent of all resource consents processed to a decision were coastal permits. Coastal permits relate to a variety of development activities which may have impacts on the coastal environment. Beyond this, the Government does not hold information on how many of these consents had an impact on, or were likely to have an impact on, the marine environment.
39. The EEZ Act regulates the effects of certain activities in the EEZ and continental shelf including petroleum exploration and production, seabed mining, laying submarine cables and marine scientific research. Activities can only be undertaken if they are classified as permitted or authorised by a marine consent. If a marine consent is required, those wishing to undertake an activity must submit an application to the EPA. Applications must include an impact assessment describing the activity and the current state of the area where the activity is proposed, identifying the effects of the activity on the environment and existing interests, and specifying measures to avoid, remedy or mitigate the adverse effects identified.
40. Since the EEZ Act came into force in June 2013, the EPA has considered six marine consent applications. Four of these were subject to full public notification (two for petroleum activities and two for seabed mining activities), while the other two were for petroleum activities classified as non-notified discretionary.
41. MPR 200 deals with operational discharges from offshore installations and the prevention of spills from offshore installations requires an oil spill contingency plan. Such plans incorporate an assessment of effects from the operations and spills. This Rule is being subsumed by the new proposed draft rule Part 131. This Part will require an oil spill contingency plan to be held on the installation and give effect to the provisions of MARPOL and OPRC. The purpose of the plan is to establish procedures and practices that an operator of an offshore installation will take in response to an operational or accidental discharge of oil. The plan is intended to minimize potential risks to human health and the environment caused by an oil spill. This is a regime based on the transfer of functions to the EPA in the future.
42. MPR 180 addressing New Zealand guidelines for Sea disposal of Waste requires an environmental impact assessment process to look at the quality of the material, potential environmental effects of release, and monitoring of the activity.

**Outline the cooperation/coordination with the other Contracting Parties in implementing the Convention and Protocols (such as agreements for protection, development or management of the marine environment, information sharing, research, monitoring and technical assistance, protection against the threat and effects of 'pollution incidents' (Article 4, 17 and 18)**

43. New Zealand is party to the following agreements to protect, develop and manage the marine environment to protect against 'pollution incidents':

- SOLAS;
- London Convention;
- OPRC;
- Intervention Convention;
- Intervention Protocol;
- Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention);
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- International Atomic Energy Agency Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, 1986;
- International Atomic Energy Agency Convention on Early Notification of a Nuclear Accident, 1986; and
- New Zealand is also in the process of ratifying the IMO Convention on Ships' Ballast Water.

44. MNZ provided regional assistance under the Secretariat for the Pacific Regional Environment Programme's (SPREP) Pacific Ocean Pollution Prevention Programme (PACPOL) and Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN) initiatives in three areas. Firstly, MNZ provides assistance with training, policy development and technical advice under the PACPLAN and PACPOL initiatives. Secondly, in conjunction with Australia and funding assistance from the IMO, MNZ has contributed to a joint programme to define the range and type of equipment for pollution response capabilities for, most recently, Fiji. Thirdly MNZ, in conjunction with the Australian Maritime Safety Authority (AMSA) is providing ongoing assistance to the SPREP PACPOL secretariat on draft legislation to give effect to the international and regional agreements on pollution preparedness and response conventions and associated liability conventions.

45. New Zealand also supported the recent AMSA/SPREP initiative for a regional reception facilities plan under MARPOL at the recently passed Marine Environment Protection Committee of the IMO.

46. New Zealand fully supports Multilateral Environment Agreements (MEAs) and is a party to the following MEAs:

- Convention on Biological Diversity and its Cartagena Protocol on Biosafety;
- Convention Concerning the Protection of the World Cultural and Natural Heritage;
- United Nations Framework Convention on Climate Change (UNFCCC);

- Kyoto Protocol (to UNFCCC);
- Vienna Convention on Protection of the Ozone Layer (Vienna Convention);
- Montreal Protocol (to the Vienna Convention);
- Stockholm Convention (Persistent Organic Pollutants);
- Rotterdam Convention (Prior Informed Consent);
- Convention on International Trade in Endangered Species of Wild Fauna and Flora, with Appendices; and
- Convention on Wetlands of International Importance especially as Waterfowl Habitat.

47. New Zealand is also party to the following agreements related to the protection of the marine environment:

- Agreement on the Conservation of Albatrosses and Petrels;
- The United Nations Convention on the Law of the Sea;
- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;
- Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean;
- Convention for the Regulation of Whaling; and
- Convention on Migratory Species (CMS).

48. New Zealand also has a National Plan of Action to Reduce the Incidental Catch of Seabirds in New Zealand Fisheries and a National Plan of Action for the Conservation and Management of Sharks.

**How many 'pollution incidents' have there been and what were the laws, regulations, institutions and operational procedures used in each? (Protocol on Pollution Emergencies)**

49. A total of 96 oil spills were reported for the period January 2013 to December 2013, all but 21 of which were less than 50l in volume. The 21 larger spills included one spill of 2000l, one spill of 1600l, nine spills of between 100l and 900l and ten spills of between 50l and 100l.

50. Details of other pollution incidents affecting the marine area are held by local authorities and records are not held by the national government.

51. Section 226 of the MTA provides that harmful substances may only be discharged into the sea in accordance with the MPR.

52. Part 120 of the MPR defines oil as a class of harmful substance and includes a list of the various categories of mineral hydrocarbon falling within the definition of oil. The rule then sets out the permitted operational discharges of oil from ships into the seas and provides for reporting of non-operational discharges to the appropriate coastal authorities. The permitted discharges differ according to whether the oil is the residue of a cargo carried by an oil tanker or is oily bilge water from the machinery space of a ship. Part 120 gives effect to standards found in regulations 9, 10 and 11 of Annex I of MARPOL and to that instrument's Protocol I.

53. Part 140 of the MPR categorised all noxious liquid substances as specified in the list of substances set out in chapters 17 and 18 of the IMO Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk 1994 as harmful substances for the purposes of section 226. Part 140 then sets out the permitted operational discharges into the sea of cargo residues from noxious liquid substances carried in bulk by chemical tankers. It applies to all ships carrying such substances in bulk as cargo and sets limits on total quantity and concentration of discharges and specifies minimum water depths and distance from land. More stringent discharge conditions apply to those substances that are categorised as most harmful to the marine environment. Part 140 gives effect to regulations 1, 2(5), 5A, 13 and 14 of Annex II of MARPOL.
54. Part 150 of the MPR sets out requirements, drawn from Annex III of MARPOL, for the prevention of pollution by harmful substances carried by sea in packaged form. Part 150 of the MPR applies to New Zealand ships anywhere, except ships of the New Zealand Defence Force and foreign ships operating within areas of the sea under New Zealand jurisdiction.
55. Standards for discharges within the 12 nautical mile coastal marine area for all ships are found in section 4 of the Marine Pollution Regulations which make it an offence to dump waste or other matter in contravention of the regulations.

**What are the reporting requirements regarding 'pollution incidents' of:**

**a. Government officials**

56. Under the New Zealand system it is the polluter's responsibility to report to the appropriate agency, so government officials do not have reporting requirements as such. However, local authorities do provide data to MNZ on the number of oil spill incidents that occur in their region.

**b. Masters of vessels flying your flag; and**

57. The MPR specify the reporting requirements of Masters of New Zealand ships involved in a pollution incident in contravention of the rules.
58. Part 120 of the MPR sets out the permitted operational discharges of oil from ships into the sea and provides for reporting of non-operational discharges to the appropriate coastal authorities. The permitted discharges differ according to whether the oil is the residue of a cargo carried by an oil tanker or is oily bilge water from the machinery space of a ship. The operational discharge requirements set out in Part 120 apply to New Zealand ships and warships and other ships of the New Zealand Defence Forces operating outside the 12 nautical mile coastal marine area.
59. Part 140 of the MPR sets out the permitted operational discharges into the sea of cargo residues from noxious liquid substances carried in bulk by chemical tankers. It applies to all ships carrying such substances in bulk as cargo and sets limits on total quantity and concentration of discharges and specifies minimum water depths and distance from land. More stringent discharge conditions apply to those substances that are categorised as most harmful to the marine environment. The operational discharge requirements set out in Part 140 apply to New Zealand ships and warships and other ships of the New Zealand Defence Forces operating outside the 12 nautical mile coastal marine area.

60. Part 150 of the MPR sets out requirements, drawn from Annex III of MARPOL, for the prevention of pollution by harmful substances carried by sea in packaged form. Part 150 applies to New Zealand ships anywhere, except ships of the New Zealand Defence Force and foreign ships operating within areas of the sea under New Zealand jurisdiction.
61. Part 170 (Prevention of Pollution by Garbage from Ships) of the MPR defines the classes of garbage that may be discharged from ships and offshore installation outside the coastal marine area. It also incorporates requirements for shipboard garbage management plans, the maintenance of garbage record books and the display of placards indicating to crew and passengers the applicable garbage discharge requirements.
62. As with other MARPOL-based operational discharge requirements, the MPR deal with such discharges outside the coastal marine area. Within the coastal marine area (the 12 mile limit) these requirements are found in Marine Pollution Regulations.
63. Part 170 of the MPR gives effect to requirements found in Annex V of MARPOL 73/78 and applies to New Zealand ships, warships and other ships of the New Zealand Defence Force and foreign ships operating in areas of the sea under New Zealand jurisdiction.

**c. Masters of all vessels and pilots of all aircraft in the vicinity of your coasts (Article 5)**

64. Foreign ships operating within areas of the sea under New Zealand jurisdiction are subject to the reporting requirements of Part 120 and Part 140 and Part 150 and Part 170 of the MPR as outlined above.