

DECREE N°684 of 18 November 2019

Regulating navigation occurring in waters under French sovereignty and jurisdiction bordering the French Polynesia and the Clipperton Island in order to prevent pollution at sea and to guarantee the safety of persons and property.

The High Commissioner of the French Republic in French Polynesia,

Having regard to the International Convention relating to intervention on the high seas in cases of oil pollution casualties, adopted in Brussels, Belgium on 29 November 1969;

Having regard to the Convention on the international regulations for preventing collisions at Sea, 1972 signed in London on 20 October 1972 and its amendments;

Having regard to the International Convention for the prevention of pollution from Ships, 1973 (MARPOL), as amended by the 1978 Protocol;

Having regard to the United Nations Convention on the carriage of goods by sea adopted in Hamburg on 30 March 1978;

Having regard to the United Nations Convention on the Law of the Sea signed at Montego Bay on 10 December 1982, and in particular Articles 21 and 194.3.b.;

Having regard to the International Convention for the safety of life at sea, 1974 (SOLAS), as amended, and its 1988 Protocol;

Having regard to the 1990 International Convention on oil pollution preparedness, response and cooperation (OPRC);

Having regard to the Organic Law 2004-192 of 27 February 2004 on the Statute of Autonomy of French Polynesia;

Having regard to the Environmental Code, and in particular Articles L 218-1 to L 218-72;

Having regard to the Transport Code, in particular Articles L 5211-1 to L 5211-5 and L5772-1;

Having regard to Ordinance No 2016-1687 of 8 December 2016 relating to maritime areas under the sovereignty or jurisdiction of the French Republic;

Having regard to Decree No. 2005-1514 of 6 December 2005 on the overseas organisation of State action at sea;

Having regard to Decree No. 2007-422 of 23 March 2007 relating to the mandate of the High Commissioner of the Republic, the organisation and action of State services in French Polynesia and in particular Article 5;

Having regard to the decree 2011-2108 on the organization of the monitoring of maritime navigation;

Having regard to the decree of 13 February 2015 amending the decree of 28 October 2011 on the delimitation of maritime zones;

Having regard to the decree of 8 August 2016 establishing a joint aeronautical and maritime rescue coordination centre in French Polynesia;

Having regard to the decree of 25 October 2016 establishing the list of missions at sea for which the State is responsible in the maritime area of French Polynesia;

Having regard to the Order of 15 November 2016 on the biotope protection of the territorial waters of Clipperton Island known as the "marine protected area in the territorial waters of Clipperton Island";

Whereas:

(1) In order to regulate activity and information relating to ships in the maritime waters of French Polynesia and Clipperton Island, in order to guarantee the safety of persons and property and to prevent marine pollution

HAS ADOPTED THIS REGULATION:

Article 1

Following definitions apply:

- dangerous goods: goods listed in the IMDG Code, noxious liquids substances listed in chapter 17 of the IBC Code, liquefied gases listed in Chapter 19 of the IGC Code, solid bulk referred to in Appendix B of the BC Code ;

- polluting products: oils referred to in MARPOL Appendix 1 of Annex 1, noxious liquid substances defined in MARPOL Annex 2, harmful substances defined in MARPOL Annex 3.

Article 2

This decree applies to:

2.1 all vessels over 15 metres length sailing in waters under French sovereignty or jurisdiction off French Polynesia and Clipperton Island;

2.2 among ships referred to in 2.1, ships engaged in commercial navigation and having a gross tonnage equal to or greater than 3000;

2.3 among ships referred to in 2.2, ships carrying dangerous or polluting goods, oils or residual gaseous or dangerous or polluting oils in the meaning of conventions, codes and protocols in place, whatever their method of storage, light tankers as well as light towed equipment carrying or having carried dangerous or polluting substances.

It does not apply to State vessels and vessels engaged in coasting trade operations in the territorial waters of French Polynesia.

It does not apply to State vessels in the territorial waters of Clipperton. In accordance with the provisions of the decree of 15 November 2016 referred to, anchoring is prohibited in the territorial waters bordering Clipperton Island.

Article 3

The master of any ship referred to in Article 2.1 shall immediately report to JRCC TAHITI by any means of communication at his disposal:

- any incident or accident impacting the ship safety, such as collision, grounding, damage, failure or breakdown, flooding or shifting of cargo, any defects in the hull or structural failure;
- any incident or accident compromising the safety of navigation, such as failures likely to affect the ship's manoeuvring or navigational capabilities, or any defect affecting propulsion systems or steering gear, power generation facilities, navigation or communication equipment;
- any discharge, during the ship operation, of oils or noxious liquids substances exceeding the statutory rates set ;
- any loss of dangerous or polluting goods carried in bulk or in parcel ;
- any slick of polluting products and any container or parcel drifting at sea;
- any danger or weather situation that may affect the safety of navigation.

Reports shall be sent to JRCC TAHITI in accordance with the provisions of Annex 1. This immediate report shall be confirmed as soon as possible by a message in a compliant format with that adopted by Resolution A 851(20) of the International Maritime Organisation, replicated in Annex 2.

The beneficial owner, commercial operator, charterer, or registered owner of the ship shall immediately inform JRCC TAHITI as soon as he becomes aware of a marine accident or incident occurring on a ship under his responsibility, when it appears that the ship's report has not been sent or correctly transmitted or is incomplete.

Article 4

The master of any ship referred to in Article 2.2 about to pass through the French territorial waters of French Polynesia and Clipperton Island shall report to JRCC Tahiti, by a message in accordance with the model in Annex 3 and forwarded in accordance with the provisions of Annex 1:

1. his intentions of movement wise in territorial waters
2. the state of his manoeuvring and navigation skills
3. when applicable, list of dangerous products carried on board.

This message must reach JRCC Tahiti at least 48 hours before entering territorial waters if the vessel is coming from outside, and at least 2 hours before departure if the vessel is preparing to leave those territorial waters from a port or an anchorage, holding or unloading area on the French coast.

Any change in the activity program informed in the aforesaid message of these vessels shall immediately be report to JRCC Tahiti by a corrective message with the same form and in the same manner as the original message.

Article 5

For the ships referred to in Article 2.3 and subject to the rules of pilotage, channeling, and the international regulations for preventing collisions at sea, transit in the territorial waters of French Polynesia and Clipperton Island shall occurred in more than 7 nautical miles from the coast on a continuous route and as direct as possible.

Ships referred to in Article 2.3 approaching or departing from a French port, including the on-hold anchorage and stopover anchorage, within the territorial and internal waters of French Polynesia, shall cross this 7 nautical miles zone on a continuous route and as direct as possible.

Article 6

Any ship referred to in Article 2.1 are required to take any measure formally prescribe by the representative of the State at sea in order to ensure the safety of navigation and to limit the threats of marine pollution.

In the same way, any ship referred to in Article 2.1 must be able to leave its anchorage area at the request of JRCC Tahiti or competent State authorities in order to ensure the safety of navigation and limit the threat of a marine pollution.

Article 7

Violations of this decree expose perpetrators to penalties provided for by laws and regulations in place.

Article 8

The Order of 27 May 2019 regulating reporting of marine casualties and incidents in waters under French sovereignty and jurisdiction bordering French Polynesia and Clipperton Island is revoke.

Article 9

The commander of the Maritime Areas of French Polynesia and Pacific Ocean, the Head of the Maritime Affairs Department of French Polynesia, the Director of JRCC Tahiti and the officers and agents empowered in matters of navigation policing, each in so far as it is concerned, are responsible for the execution of this decree. This decree shall be published in the Official Journal of French Polynesia.

ANNEX 1
JRCC Tahiti contact

Communication to JRCC Tahiti must use one of the following means:

Phone : +689 40544616

Fax : +689 40423915

Inmarsat C (POR): 422 799 192

E-mail : contact@jrcc.pf

ANNEX 2

Template of incident report or situation report message as mentioned in article 3 of this decree:

TO: JRCC TAHITI
TEXT: SURNAV – DAMAGE

The report required should include:

ALPHA Ship's name/Call sign/IMO Number/MMSI Number/Flag;
BRAVO Date and time (UTC) shaped as six figures: DDHHMM (z) on position part
CHARLIE;
CHARLIE Position in latitude and longitude or true bearing and distance from a clearly identified landmark;
ECHO: True course;
FOXTROT Speed;
GOLF Port of departure;
INDIA Port of destination and expected time of arrival;
MIKE State in full names of stations / frequencies guarded;
OSCAR Draught;
PAPA Cargo and brief details of any dangerous cargoes as well as harmful substances and gases that could endanger persons or the environment (Correct technical name, Quantity, UN number or numbers, and IMO hazard class or classes);
QUEBEC Defects, damage, deficiencies or other limitations;
ROMEO Report of each caused or observed pollution or any container, parcel or goods, lost overboard or observed adrift and being a danger to navigation or to environment;
TANGO Ship's representative and/or owner;
UNIFORM Details of length, breadth, tonnage, and type, etc...;
WHISKY Total number of persons on board;
X-RAY Date and time (UTC) of an eventual call for assistance or for towing, eventual presence and name of an assistance ship or rallying time (UTC) of an eventual assistance ship. Any other information.

ZULU: end of message

ANNEX 3

Template of notification message of entry into and exit from French territorial waters regarding ships mentioned at article 4 of this decree:

TO: JRCC TAHITI

TEXT: SURNAV

The report required should include:

ALPHA	Ship's name/Call sign/IMO Number/MMSI Number/Flag;
BRAVO	Date and time (UTC) shaped as six figures: DDHHMM (Z) on position part CHARLIE;
CHARLIE	Position in latitude and longitude or true bearing and distance from a clearly identified landmark;
ECHO	True course;
FOXTROT	Speed;
GOLF	Port of departure;
HOTEL	Date and time (UTC) and position of entering in the French territorial waters OR date and time (UTC) of departure from French harbour;
INDIA	Port of destination and expected time of arrival;
KILO	Date and time (UTC) expressed concerning exit point from French territorial waters OR date and time (UTC) of arrival in port, anchorage or waiting area;
MIKE	State in full names of stations / frequencies guarded;
OSCAR	Draught;
PAPA	Cargo and brief details of any dangerous cargoes as well as harmful substances and gases that could endanger persons or the environment (Correct technical name, Quantity, UN number or numbers, and IMO hazard class or classes);
QUEBEC	Defects, damage, deficiencies or other limitations; a) main propulsion machinery b) steering gear c) anchor and mooring equipment
UNIFORM	Details of length, breadth, tonnage, and type, etc...;
WHISKY	Total number of persons on board;
X-RAY	Any other information.