

VESSEL ARRIVAL SYSTEM RULES

Newcastle
VTS/Vessel Arrival System

INTRODUCTION TO RULES

1 Introduction

- 1.1 Under New South Wales law, the Newcastle Port Corporation trading as Port Authority of New South Wales (**Port Authority**) exercises certain port safety functions for the Port of Newcastle in the State of New South Wales, Australia (**Port**), which include these Rules as a Vessel Arrival System for the Port.
- 1.2 These Rules and their enforcement are based on Port Authority's statutory powers to control and determine the manner and order in which vessels may enter and leave the Port. These Rules do not seek to direct masters how to conduct the navigation of their vessel which remains their responsibility. Port Authority's enforcement of these Rules will be subject to the right of innocent passage through the territorial sea of Australia as provided for by the United Nations Convention on the Law of the Sea and the requirements for safe navigation of vessels at sea which will remain the responsibility of each vessel's master.
- 1.3 In certain weather conditions and other circumstances an increased number of vessels at anchor off the Port increases risks to Port safety. Port Authority intends to use these Rules to assist in the discharge of its port safety functions and achieve the safer operation of the Port and enhance the safety of vessels using the Port.
- 1.4 The turn of arrival rules as stipulated by Terminals will continue to be managed by Port Authority according to these Rules which are intended to limit the number of vessels anchoring off the Port more than 48 hours prior to their estimated time of loading at the Port. This 48-hour period should be understood as a "maximum period" (and not a minimum period) during which a vessel may anchor in the Fair Weather Anchorage prior to its ETL without jeopardising its Priority in the Queue. Vessels anchoring in the Vicinity of the Port other than in accordance with these Rules may lose their priority and be demoted in the Queue.
- 1.5 Vessels will be given an ETL once and will subsequently be notified of their Loading Time. Due to factors affecting the transport and assembly of Cargo, Loading Times may change, however, these Rules are intended to not disadvantage vessels whose Loading Times change. For instance, if a vessel has anchored in the Fair Weather Anchorage in accordance with these Rules and its Loading Time is subsequently delayed, Rule 7.2 will not be applied to that vessel for remaining in the Fair Weather Anchorage to await its new Loading Time.
- 1.6 Vessels should also note that a Notice of Readiness (**NOR**) may continue to be required as per usual commercial arrangements between coal and shipping industry participants. Port Authority does not wish to involve itself in these commercial arrangements, however Port Authority has been asked by some of those participants to indicate when an NOR should be issued under the Vessel Arrival System. In Port Authority's view, the NOR should be issued and accepted at the "7 Day Notified Arrival Time" as defined in these Rules. This means that vessels may still issue their NOR at their 7 Day Notified Arrival Time even though at that time they may not yet have arrived at the Port. Therefore vessels transiting at slower speeds to the Port will not be disadvantaged.

- 1.7 Vessels may establish and maintain their Priority only in accordance with these Rules and Port Authority may not accord Priority to a vessel nor permit a vessel to enter the Port until that vessel has acknowledged its receipt and acceptance of these Rules. Vessels failing to observe these Rules may lose their Priority or be demoted in the Queue or may suffer a suspension, **not as a penalty** but in order to effectively and fairly observe the Priority of other vessels in the Queue which are complying with the Vessel Arrival System and thereby contributing to the safer operation of the Port.
- 1.8 Between 14 and 7 days prior to their ETA vessels must provide to the VTS certain Required Information as defined in these Rules and masters should therefore familiarise themselves with the details of that Required Information as defined below.
- 1.9 During their transit to the Port, vessels should use all reasonable endeavours not to anchor elsewhere in the territorial sea of Australia for the purpose of awaiting their ETL at the Port, except if required to do so by an Emergency.
- 1.10 The Fair Weather Anchorage is fully exposed to the weather with onshore winds regularly creating a dangerous lee shore. Sea-room in the Fair Weather Anchorage is also limited, so in adverse weather vessels have no shelter and may have limited room to manoeuvre. It is therefore a Fair weather anchorage and masters of vessels anchoring there should closely monitor the weather conditions as rapid changes do occur which may see wind and swells rapidly increasing. This reduces the time available to masters in which to take appropriate action.

RULES

The Vessel Arrival System Rules are as set out below.

2 The Stem

- 2.1 Prior to being given any Priority, vessels will be nominated to the Stem in accordance with Terminal rules and matched with their Cargo.
- 2.2 A place in the Stem gives no Priority to a vessel.

3 Required Information

- 3.1 Port Authority may not allow a vessel Priority nor permit a vessel to enter the Port unless that vessel has:
 - (a) at least 14 days before the vessel's arrival, the vessel and the local agents e-mail address and contact details are updated in the OnePort System for the vessels to receive the daily ETA updates requests.
 - (b) between 14 and 7 days prior to the vessel's arrival at the Port in a daily log supplied by the VTS the other Required Information as defined in these Rules being the vessel's ETA, its average speed for previous 24 hours and distance to go (DTG) to Newcastle NSW.
- 3.2 To establish and maintain its Priority a vessel must cooperate and promptly comply with:
 - (a) the VTS's requests for any Required Information which the vessel has not supplied to the VTS or other information which Port Authority or the VTS may reasonably require in order to track the vessel's transit to the Port; and
 - (b) Port Authority's directions which do not interfere with the vessel's safe navigation.

4 Establishing Priority

- 4.1 Subject to these Rules a vessel will establish and be accorded its Priority in the same order in which Port Authority notifies the vessel of its 7 Day Notified Arrival Time. Also at or about that time Port Authority will notify the vessel of its ETL on the understanding that the relevant Terminal may vary the vessel's Loading Time depending on factors affecting the transport and assembly of the Cargo to be loaded by the vessel.
- 4.2 To dispute a vessel's 7 Day Notified Arrival Time a Relevant Person must notify Port Authority of the dispute in writing. Port Authority will then check, verify and alter or confirm that vessel's 7 Day Notified Arrival Time. Only one Relevant Person is entitled to dispute a vessel's 7 Day Notified Arrival Time on a particular voyage. If more than one Relevant Person lodges such a dispute, Port Authority will review the first dispute lodged by a Relevant Person in order of time. If a Relevant Person's dispute is not settled then Port Authority and that Relevant Person will engage in the dispute resolution process referred to in Rule 8.
- 4.3 Subject to its compliance with these Rules and the directions given to it by Port Authority, each vessel will enter and have its Priority established in the Queue on the date of its 7 Day Notified Arrival Time as notified by Port Authority.
- 4.4 A vessel will not be given or accorded any Priority unless and until the vessel is notified of its 7 Day Notified Arrival Time by Port Authority.
- 4.5 Vessels transiting to the Port directly from another port located within 7 days voyage of the Port will be expected to notify Port Authority at their earliest opportunity and will be required to arrive at 10 nm off the Port for the purpose of being allocated an arrival time and position in the Queue.
- 4.6 If in relation to a vessel that has complied with Rule 3, Port Authority fails to:
- (a) notify a vessel of its 7 Day Notified Arrival Time and its ETL in accordance with Rule 4.1; or
 - (b) establish a vessel's Priority in the Queue in accordance with Rule 4.3 (unless one of the Rules in Part 7 applies);

then the affected vessel may arrive at 10 nm off the Port and notify Port Authority of its arrival as soon as possible. Having so notified Port Authority of its arrival such a vessel will be allotted a position in the Queue based on the actual time of its arrival at 10nm off the Port and Rule 7 will not be applied to that vessel for arriving at this point.

5 Vessel Substitution

- 5.1 Substitution of a vessel in the Stem may occur at any time prior to the substituted vessel being notified of its 7 Day Notified Arrival Time. In these circumstances, the 7 Day Notified Arrival Time for the substitute vessel will be calculated in accordance with Rule 4.
- 5.2 Substitution of a vessel which has already been notified of its 7 Day Notified Arrival Time may occur in accordance with Terminal policies. Where substitution occurs in these circumstances the 7 Day Notified Arrival Time of the substitute vessel will be calculated as follows:
- (a) if the estimated time of arrival of the substitute vessel is earlier than the estimated time of arrival of the substituted vessel, then the 7 Day Notified Arrival Time of the substituted vessel will be allocated to the substitute vessel; and
 - (b) if the estimated time of arrival of the substitute vessel is later than the estimated time of arrival of the substituted vessel, then a new 7 Day Notified Arrival Time will be calculated and allocated to the substitute vessel in accordance with Rule 4.

6 Arriving at the Port

- 6.1 Except where Rule 4.5 applies, vessels must use all reasonable endeavours to arrive in the Vicinity of the Port not more than 48 hours prior to their ETL as notified to the vessel by Port Authority pursuant to Rule 4.1.
- 6.2 A vessel notified by Port Authority that its Loading Time is to occur prior to its ETL as previously advised pursuant to Rule 4.1, must use all reasonable endeavours to arrive at the Port prior to its new Loading Time provided that Rule 7.1 may be applied to that vessel by Port Authority if that vessel anchors in the Vicinity of the Port more than 48 hours prior to its new Loading Time.
- 6.3 Vessels must use all reasonable endeavours to enter the Port and access their allotted loading berth at the relevant Terminal in accordance with their Loading Time.
- 6.4 A vessel which due to an alleged or claimed Emergency:
- (a) anchors in the Vicinity of the Port;
 - (b) anchors or remains anchored in the Fair Weather Anchorage more than 48 hours prior to its ETL as notified to it pursuant to Rule 4.1; or
 - (c) otherwise fails to comply with these Rules,
- must promptly provide Port Authority with notice and reasonable details of the relevant claimed Emergency.

7 Demotion in the Queue and Suspension

- 7.1 It will be a contravention of these Rules if a vessel anchors in the Vicinity of the Port, except in the following circumstances:
- (a) due to and during a bona fide Emergency; or
 - (b) if a vessel anchors in the Fair Weather Anchorage 48 hours or less prior to its ETL as notified to the vessel by Port Authority pursuant to Rule 4.1.
- 7.2 Except in the circumstances referred to in Rule 7.1(a) or Rule 7.1(b), if a vessel anchors in the Vicinity of the Port, that vessel may as determined at the discretion of Port Authority:
- (a) be issued with warnings by Port Authority; or
 - (b) be demoted in the Queue by Port Authority causing the vessel to lose its Priority; or
 - (c) be suspended from entering or be refused entry to the Port by Port Authority on its current voyage or on subsequent voyages.
- 7.3 A vessel may also, at Port Authority's discretion, be demoted in the Queue or refused entry to the Port by Port Authority for as long as that vessel without reasonable justification (which justification would include as a result of a bona fide Emergency) fails or refuses to comply with these Rules or Port Authority's proper directions given in accordance with New South Wales marine legislation.
- 7.4 A vessel that without justification (which would include as a result of a bona fide Emergency), repeatedly or persistently fails or refuses to comply with these Rules may be suspended from entering the Port or be permanently refused entry to the Port by Port Authority on its current voyage or on subsequent voyages.
- 7.5 Vessels failing or refusing to follow Port Authority's lawful directions given pursuant to New South Wales marine legislation may face prosecution as provided for by that legislation.

8 Dispute Resolution

- 8.1 If a Relevant Person wishes to dispute a vessel's 7 Day Notified Arrival Time:
- (a) the Relevant Person must notify their dispute to the VTS together with reasons in writing and Port Authority will after consulting with the Relevant Person, then check, verify and alter or confirm that vessel's 7 Day Notified Arrival Time; and
 - (b) if the Relevant Person does not accept Port Authority's decision under Rule 8.1(a) Port Authority will refer the dispute to the Harbour Master for final determination and the Harbour Master will promptly determine the dispute and will provide the Relevant Person and Port Authority with reasons for his or her determination.
- 8.2 Provided the Harbour Master complies with Rule 8.1(b), their determination of the dispute will be final and no further negotiations will be entered into.

9 Definition and Interpretation

- 9.1 In these Rules and their Introduction the following definitions shall apply:

7 Day Notified Arrival Time means for the purpose of a vessel being placed in the Queue, that vessel's time of arrival at 10 nautical miles from the Port as established via the vessel tracking system and notified in advance by Port Authority to that vessel and being 7 days after the said time of notification by Port Authority to the vessel. Such 7 Day Notified Arrival Time shall include month/date/hours;

Newcastle Port Masters Declaration Form means a vessel's notification to Port Authority (in such form as Port Authority may from time to time determine) that the vessel requires a berth at a terminal;

Cargo means a cargo of coal to be loaded onto a vessel at a terminal;

Emergency means an event or circumstance reasonably determined by a vessel's master as:

- (a) giving rise to a real and present threat to the safety of that vessel or the wellbeing of its crew including due to accident, illness, adverse weather conditions, mechanical failure or breakdown or other similar emergency situation;
- (b) an event of force majeure; or
- (c) an event of distress making it necessary for a vessel to stop or anchor, but only for the purpose of rendering assistance to persons, other ships or aircraft in danger or distress;

ETA means a vessel's estimated time of arrival at 10 nautical miles from the Port as determined from time to time by the vessel and notified by the vessel to the VTS as part of the Required Information which the vessel is required to provide the VTS in accordance with Rule 3.2(b). Such ETA shall include month/date/hours;

ETL means a vessel's initial estimated time of loading a Cargo as determined by the relevant Terminal and notified by the VTIC to the vessel;

Fair Weather Anchorage means the area off the Port which is south of latitude 32 ° 58 ' S and at a distance greater than three nautical miles from the shoreline;

Harbour Master means the Harbour Master for the Port;

Loading Time means the date and time for actual loading of a vessel's Cargo as determined by the relevant Terminal at which the Cargo is to be loaded;

Port means the Port of Newcastle in the State of New South Wales, Australia;

Port Authority means the Newcastle Port Corporation trading as Port Authority of New South Wales;

Priority means a vessel's turn and place of priority in the Queue;

Queue means the queue of vessels either in transit or waiting at or off the Port for access to a Terminal to take on a Cargo;

Relevant Person means a vessel's master or other authorised representative of the vessel's owner, operator, charterer, agents and producers as may be applicable;

Required Information means the information and consents required by the VTS to be able to effectively poll and track a vessel's transit to the Port for the purpose of taking on a Cargo and includes:

- (a) email address and contact details of the vessel and the local agent;
- (b) a properly completed **Newcastle Port Masters Declaration Form**; and
- (c) when the vessel is between 14 and 7 days from the Port, a Daily Log to the VTS notifying of the vessel's:
 - (1) ETA;
 - (2) Average Speed for the previous 24 hours;
 - (3) Distance to go (DTG) to Newcastle NSW

The Notified Arrival Time (NAT) will be calculated 7 days prior to the ETA. The vessel and Agent will be advised via email. Please note that once the vessel has received the NAT email from VTS the Daily Log is no longer required to be emailed to VTS for the visit.

Stem means the list of Cargos nominated to the Terminals by relevant Cargo producers and vessels nominated by customers of those Cargos before those vessels receive their 7 Day Notified Arrival Time from Port Authority;

Terminal means a coal loading terminal at the Port;

Vicinity of the Port means the area near, surrounding or proximate to the Port; and

VTS means Port Authority's Vessel Traffic Service at the Port contactable by telephone +61-2 4985 8222 or by email NewcastleVTS@portauthoritiesw.com.au

9.2 In these Rules and their Introduction, unless the context indicates a contrary intention:

(vessels) these Rules only apply to vessels transiting to the Port for the purpose of taking on a Cargo at a Terminal.

(headings) clause headings are inserted for convenience only and do not affect interpretation of the Rules.

(person) a reference to a person includes a natural person, corporation, statutory corporation, partnership, and any other organisation or legal entity and their personal representatives, substitutes (including persons taking by novation) and permitted assigns.

(requirements) a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done.

(including) including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.

(corresponding meanings) a word that is derived from a defined word has a corresponding meaning.

(singular) the singular includes the plural and vice-versa.

(gender) words importing one gender include all other genders.

(rules of construction) neither these Rules nor any part of them are to be construed against a person on the basis that the person or its lawyers were responsible for its drafting.

(legislation) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.

(time and date) a reference to a time or date in connection with the performance of a requirement is a reference to the time and date at Newcastle, Australia, even if the requirement is to be performed elsewhere.

(writing) a reference to a notice, consent, request, approval or other communication under these Rules or an agreement between the parties means a written notice, request, consent, approval or agreement and can include notice by facsimile or email. The requirement for written notice does not apply to the notification of Emergencies.

(communications) written notices should be sent to VTS by email to NewcastleVTS@portauthoritiesnsw.com.au . Verbal communications should be directed to the VTS by telephone (+61-2-4985 8222).

Summary of changes -

- ❖ RPM changed to Distance to Go
- ❖ Latitude and Longitude no longer required
- ❖ Newcastle Port Masters Declaration replaces the Newcastle Port e-form (NP e-form)