

Marine Protection Rules

Part 101A: Surveys and Inspections – Oil

MNZ Consolidation

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Part objective

The technical standards contained in the International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL), are being incorporated into New Zealand law by means of marine protection rules. These rules enable New Zealand to become party to the Convention.

Specifically, Part 101A applies the survey and inspection requirements of regulation 4 of Annex 1 of MARPOL to the following categories of New Zealand ships—

- New Zealand ships which are oil tankers of 150 tons gross tonnage or more and ships other than oil tankers of 400 tons gross tonnage or more.
- Warships and other ships of the New Zealand Defence Force which are oil tankers of 150 tons gross tonnage or more, or ships other than oil tankers of 400 tons gross tonnage or more.

The basis for Part 101A is found in section 386 and 388 of the Maritime Transport Act 1994.

Marine protection rules are disallowable instruments under the Legislation Act 2012. 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 that Act.

Disclaimer:

This document is the current consolidated version of Marine Protection Rules Part 101A 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

History of Part 101A

Part 101A first came into force on 20 August 1998 and now incorporates the following amendments

Amendment	Effective Date
Amendment 1	1 January 2015
Amendment 2	1 April 2015
Amendment 3	1 April 2015
Amendment 4	13 December 2019

Summary of Amendments

Amendment 1

Marine Protection Rules Various Amendments 2014 101A.8(1)(b)

Amendment 2

Marine Protection Rules Various Amendments 2015 Part Objective

Amendment 3

Marine Protection Rules Various IMO-related Amendments 2015 101A.2, 101A.6, 101A.7

Amendment 4

Marine Protection Rules Various Amendments 2019 Part Objective

All signed rules can be found on our website:

<https://www.maritimenz.govt.nz/Rules/>

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General

101A.1 Entry into force

Part 101A shall come into force on the 28th day after the date of its notification in the *Gazette*.

101A.2 Definitions

In Part 101A—

Anniversary date means the day and the month of each year which will correspond to the date of expiry of the International Oil Pollution Prevention Certificate:

Director means the person who is for the time being the Director of Maritime Safety under section 439 of the Maritime Transport Act 1994:

International Oil Pollution Prevention Certificate means—

- (a) in respect of a New Zealand ship, the marine protection document shown in Appendix 1 to Part 123A that is required under rule 123A.4 and issued pursuant to section 270 of the Maritime Transport Act 1994 and rule 123A.5; or
- (b) in respect of a foreign ship registered in a state party to MARPOL, the certificate shown in Appendix 1 to Part 123A that is required under rule 123A.8 and accepted as a marine protection document pursuant to section 271 of the Maritime Transport Act 1994 and rule 123A.8:

MARPOL means the International Convention for the Prevention of Pollution from ships, 1973, as modified by the Protocol of 1978 relating thereto; and includes any subsequent protocol or amendment to, or revision of, that convention accepted or ratified by New Zealand:

Master means any person (except a pilot) having command or charge of any ship:

New Zealand Defence Force has the same meaning as the term “Defence Force” in section 2(1) of the Defence Act 1990:

New Zealand Ship means a ship that is registered under the Ship Registration Act 1992; and includes a ship that is not registered under that Act but is required or entitled to be registered under that Act:

Oil tanker means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces; and includes combination carriers and any “chemical tanker” as defined in rule 141.2 when it is carrying a cargo or part cargo of oil in bulk:

Owner in relation to any ship includes—

- (a) any person who is the legal or equitable owner, or both, of the ship; and
- (b) any person in possession of the ship; and
- (c) any charterer, manager, or operator of the ship, or any other person (other than a pilot) responsible for the navigation or management of the ship:

Part means a group of rules made under the Maritime Transport Act 1994:

Put in service means, in relation to a ship, put into operation as a commercial ship or as part of the New Zealand Defence Force:

recognised organisation means an organisation that has entered into a memorandum of agreement with the Director in compliance with the International Maritime Organization's Code for Recognized Organizations (RO Code), governing the undertaking of particular survey and certification functions by that organisation's employees under the Maritime Transport Act 1994 and the rules:

Rules includes maritime rules and marine protection rules:

Surveyor means—

- (a) any person employed as a surveyor by a recognised organisation; or
- (b) any person recognised by the Director under rule 101A.8 as a surveyor entitled to undertake the particular functions referred to in Part 101A.

101A.3 Application and compliance dates

- (1) Rules 101A.4 to 101A.6 inclusive apply to—
 - (a) every New Zealand ship that is an oil tanker of 150 tons gross tonnage or more; and
 - (b) every New Zealand ship of 400 tons gross tonnage or more; and
 - (c) every warship and every other ship of the New Zealand Defence Force that is —
 - (i) an oil tanker of 150 tons gross tonnage or more; or
 - (ii) a ship of 400 tons gross tonnage or more; and
 - (d) the master of any ship referred to in rule 101A.3(1), including the master of any warship or any other ship of the New Zealand Defence Force.
- (2)
 - (a) Subject to rule 101A.3(2)(b), compliance with Part 101A is not required until six months after the date on which Part 101A enters into force.
 - (b) In respect of any ship referred to in rule 101A.3(1) which does not make an international voyage, compliance with Part 101A is not required until twenty-four months after the date on which Part 101A enters into force

Surveys and inspections

101A.4 Surveys prior to the issue, renewal or endorsement of an International Oil Pollution Prevention Certificate

- (1) The owner of any ship to which this rule applies must ensure that the ship undergoes the following surveys carried out by a surveyor—
 - (a) an initial survey before the ship is put in service or before the International Oil Pollution Prevention Certificate is issued for the first time; and
 - (b) a renewal survey at five-yearly intervals, or any lesser period specified by the Director, except where rule 123A.5(3) is applicable; and
 - (c) an intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the International Oil Pollution Prevention Certificate, which must take the place of one of the annual surveys specified in rule 101A.4(1)(d); and
 - (d) an annual survey within three months before or after each anniversary date of the International Oil Pollution Prevention Certificate; and
 - (e) an additional survey either general or partial according to the circumstances, after any important repair or renewal.
- (2) The surveys referred to in rule 101A.4(1) must be carried out by the surveyor in the following manner—
 - (a) the initial survey before the ship is put in service must include approval of the calculations required by rules 121A.14 to 121A.17 inclusive, and a complete survey of the ship's structure, equipment, systems, fittings, arrangements, material, and documentation to ensure that the ship complies with the applicable requirements of Parts 120 to 122 inclusive, 123B and 130A;
 - (b) the renewal surveys must ensure that the ship's structure, equipment, systems, fittings, arrangements, material and documentation fully comply with the applicable requirements of Parts 120 to 122, 123B and 130A;
 - (c) the intermediate survey must ensure that the ship's equipment and associated pump and piping systems, including oil discharged monitoring and control systems, crude oil

washing systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of Part 120 to 122 inclusive and are in good working order;

- (d) the annual surveys must ensure that the ship, its equipment, and its documentation are being properly maintained, and confirm that no unapproved modifications have been made to the ship, its equipment, or its documentation.
- (3) When upon completion of an initial survey as referred to in rule 101A.4(2)(a), the surveyor who undertook the survey is satisfied that the ship meets the requirements of that rule, and International Oil Pollution Prevention Certificate must be issued to that ship in accordance with Part 123A.
- (4) When upon completion of a renewal survey as referred to in rule 101A.4(2)(b), the surveyor who undertook the survey is satisfied that the ship meets the requirements of that rule, the ship's International Oil Pollution Prevention Certificate must be renewed in accordance with Part 123A.
- (5) When upon completion of—
- (a) an intermediate survey as referred to in rule 101A.4(2)(c); or
 - (b) an annual survey as referred to in rule 101A.4(2)(d);

The surveyor who undertook the survey is satisfied that the ship meet the requirements of the applicable rule, the surveyor must endorse the ship's International Oil Pollution Prevention Certificate to this effect.

101A.5 Failure to meet standards required

- (1) When a surveyor who has carried out a survey on a ship to which this rule applies determines that—
- (a) the condition of the ship or the ship's equipment does not correspond substantially with the particulars of the ship's International Oil Pollution Prevention Certificate; or
 - (b) the condition of the ship or the ship's equipment is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment;

The surveyor must:

- (i) immediately instruct the owner or the master of the ship to take corrective action; and
 - (ii) notify the Director of the corrective action required under rule 101A.5(1)(i); and
 - (iii) not endorse the ship's International Oil Pollution Prevention Certificate.
- (2) If the corrective action required under rule 101A.5(1)(i) is not taken, the ship's International Oil Pollution Prevention Certificate may be suspended or made subject to conditions in accordance with section 272 of the Maritime Transport Act 1994.

101A.6 Conditions after survey

- (1) The owner and the master of any ship to which this rule applies must ensure that—
- (a) the ship and its equipment is maintained to conform with the provisions of the marine protection rules; and
 - (b) the ship, including its equipment, remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.
- (2) After any survey of a ship under rule 101A.4 has been completed, the owner and the master of that ship must ensure that no change is made to the ship's structure, equipment, systems, fittings, arrangements, or material covered by the survey, without the approval of a surveyor, except the direct replacement of such equipment and fittings.

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- (3) The surveyor's approval required under rule 101A.6(2) may be given by the surveyor unconditionally or subject to such conditions as the surveyor sees fit in the interested of maritime safety and marine environment protection.
- (4) The owner and the master of any ship to which this rule applies must report any accident which occurs to the ship or any defect that is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by Parts 120 to 122 inclusive.
- (5) The owner and the master of any ship to which this rule applies must ensure that every report required under rule 101A.6(4) is made—
 - (a) as soon as possible to the Director, and to the recognised organisation whose employee issued the ship's International Oil Pollution Prevention Certificate where the certificate was not issued by the Director; and
 - (b) immediately to the appropriate authorities of the port state, where the ship is in a port of another party to MARPOL.
- (6) After a report has been made as required by rule 101A.6(5) the Director or, where applicable, the recognised organisation whose employee issued the ship's International Oil Pollution Prevention Certificate, may require the owner of the ship to have the ship surveyed to ensure compliance with the relevant prescribed requirement in respect of that ship's International Oil Pollution Prevention Certificate.

Enhanced surveys

101A.7 Enhanced surveys for oil tankers

- (1) Rule 101A.7 applies to those oil tankers to which rule 121A.10A or 121A.10B applies.
- (2) The owner of any oil tanker to which this rule applies must ensure that the oil tanker is subject to an enhanced programme of inspections during renewal, intermediate and annual surveys, the scope and frequency of which must comply with the International Maritime Organization's International Code on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code) as amended by that organisation from time to time.
- (3) The owner and the master of any oil tanker to which this rule applies must ensure that the oil tanker has on board, available to the competent authority of any Government of a State party to MARPOL, a complete file of the survey reports, including the results of all scantling measurement required, as well as the statement of the structural work carried out.
- (4) The owner and the master of any oil tanker to which this rule applies must ensure that—
 - (a) the file required under rule 101A.7(3) is accompanied by a condition evaluation report, containing conclusions on the structural condition of the ship and its residual scantlings, endorsed to indicate that it has been accepted by or on behalf of the Director; and
 - (b) the file and condition evaluation report are prepared in a standard format as contained in the International Maritime Organization's International Code on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code) as amended by that organisation from time to time.

Surveyors

101A.8 Recognition as a surveyor

- (1) The Director may, upon application in accordance with section 269 of the Act, recognise any suitably qualified person as a surveyor by issuing a marine protection document in accordance with section 270 of the Act. Such marine protection document in accordance with section 270 of the Act. Such marine protection document shall be issued—
 - (a) for the purposes of this Part; and
 - (b) in respect of ships to which Part 19 of the Maritime Rules apply.

- (2) Recognition is conditional on the Director being satisfied that the person has the appropriate technical qualifications and experience to undertake the surveys prescribed on the marine protection document.
- (3) Recognition is to be for a period of not more than 5 years, the period being stated on the marine protection document issued in accordance with rule 101A.8(2).