



Maritime Transport Act 1994

Marine Protection Rules

MARINE PROTECTION AMENDMENT (NO 2) RULES (Parts 121A and 123A)

Pursuant to sections 386, 387 and 388 of the Maritime Transport Act 1994 I, Harry James Duynhoven, Minister for Transport Safety, hereby make the following marine protection rules.

Signed at Wellington

this *10th* day of *October* 2006

by HARRY JAMES DUYNHOVEN

Minister for Transport Safety

Contents

Objective	3	Rules 121A.10-121A.10B Protection of Cargo Tank Length of Oil Tankers
Extent of Consultation		
General		Amendments to Part 123A - Document - Oil
1 Entry into Force	4	Part 123A, Appendix 3 (Form B) Supplement to the International Oil Pollution Prevention Certificate
Amendments to Part 121A - Ship Design and Construction - Oil Tankers		
2 Rule 121A.2 Definitions		

Objective

The Marine Protection Amendment (No 2) Rules amend Parts 121A and 123A of the marine protection rules to bring those Parts in line with changes to the International Convention for Prevention of Pollution from Ships (MARPOL) 1973/78.

Amendments to Part 121A

The amendments to Part 121A give effect to changes to regulation 13G, and the insertion of regulation 13H of Annex I of MARPOL.

The amendment to regulation 13G –

- (i) accelerates the phase-out of single hull tankers (to be complete by 2010);
- (ii) extends the phase-out requirement to all tankers of 5,000 tonnes deadweight or more; and
- (iii) provides that the continued operation of tankers beyond a certain age is subject to compliance with an enhanced inspection regime or the ‘Condition Assessment Scheme’.

The new rule 121A.10 incorporates the discretion, provided for in regulation 13G, that allows an administration to extend the life of certain older tankers beyond the phase-out dates specified. Such tankers must have either double bottoms or double sides not used for the carriage of oil or wing tanks/spaces and double bottom tanks/spaces that do not comply with regulation 13F in all respects. The rule also incorporates the further regulation 13G discretion to allow limited life-extension to other tankers if the enhanced survey regime warrants that the ship remains fit for purpose.

The new regulation 13H prescribes an accelerated phase-out of single hull tankers that carry heavy grade oil (to be complete by 2005). The new rules 121A.10A and 121A.10B include the discretions, provided for in regulation 13H, that allow an administration to permit the continued operation of –

- (i) tankers of 5,000 tonnes deadweight or more that carry crude oil of lower densities;
- (ii) tankers of 600 to 5,000 tonnes deadweight that are fit to continue having regard to a number of factors;
- (ii) tankers of 600 to 5,000 tonnes deadweight engaged in trade exclusively in New Zealand jurisdiction or the jurisdiction of another state party that allows such operation.

The MARPOL amendments came into force internationally on 5 April 2005 and, in respect of regulation 13G, supersede amendments that came into force on 1 September 2002.

Amendments to Part 123A

The amendment to Part 123A substitutes a new paragraph 5.8.4 and inserts a new paragraph 5.8.6 of Form B to the International Oil Pollution Prevention Certificate which is incorporated as Appendix 3 of Part 123A. The change gives effect to amendments to Annex I of MARPOL adopted in Resolution MEPC.111(50) by the International Maritime Organisation’s Marine Environment Protection Committee. The MARPOL amendment entered into force internationally on 5 April 2005.

Rules Subject to Regulations (Disallowance) Act 1989

Marine protection rules are subject to the Regulations (Disallowance) Act 1989. 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 the Regulations (Disallowance) Act 1989.

Extent of Consultation

On 18 December 2004, the then Maritime Safety Authority published, in each of the daily newspapers of Auckland, Wellington, Christchurch and Dunedin, a notice inviting comments on the proposed amendment rules. A notice was also published in the New Zealand Gazette on 16 December 2004.

The draft amendment rules and an Invitation to Comment were made available to the public. Electronic and hard copies were sent automatically to interested parties. The draft was also posted on, and available for downloading from, the MSA website. Comments were requested by 27 February 2005.

Six written submissions were received on the draft amendments. Written submissions and any oral comments were considered and, where appropriate, the proposed rules were amended to take account of the submissions and comments made.

General

1 Entry into Force

These amendment rules come into force on 14 December 2006.

Amendments to Part 121A – Ship Design and Construction–Oil Tankers

2 Rule 121A.2 Definitions

Rule 121A.2 is amended by –

- (a) inserting in the definition of “existing oil tanker” the words “121A.10” after the words “121A.7,”;
- (b) inserting in the definition of “new oil tanker” the words “121A.10,” after the words “121A.8,”;
- (c) inserting the following definitions in the appropriate places –
 - ‘ “CAS” means the Condition Assessment Scheme adopted by the Marine Environment Protection Committee of the International Maritime Organisation by resolution MEPC.94(46) as amended by that organisation from time to time;’
 - ‘ “category 1 oil tanker” means an existing oil tanker of –
 - (a) 20,000 tonnes deadweight or more carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo; or
 - (b) 30,000 tonnes deadweight or more carrying oil as cargo;’
 - ‘ “category 2 oil tanker” means a new oil tanker of –
 - (a) 20,000 tonnes deadweight or more carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo; or
 - (b) 30,000 tonnes deadweight or more carrying oil as cargo;’
 - ‘ “category 3 oil tanker” means an oil tanker of 5,000 tonnes deadweight or more that is not a category 1 or 2 oil tanker;’
 - ‘ “fuel oil” means heavy distillates or residues from crude oil, or blends of such materials, intended for use as a fuel for the production of heat or power and of a quality equivalent to the specification acceptable to the International Maritime Organisation;¹ ’
 - ‘ “heavy diesel oil” means diesel oil, other than those distillates of which more than 50 percent by volume distils at a temperature not exceeding 340°C when tested by the method acceptable to the International Maritime Organisation;² ’
 - ‘ “heavy grade oil” means –
 - (a) crude oil having a density higher than 900kg/m³ at 15°C;
 - (b) fuel oil having –
 - (i) a density higher than 900kg/m³ at 15°C; or
 - (ii) a kinematic viscosity higher than 180mm²/s at 50°C;
 - (c) bitumen;

¹ American Society for Testing and Material’s Specification for Number Four Fuel Oil (Designation D396) or heavier.

² American Society for Testing and Material’s Standard Test Method (Designation D86).

- (d) tar;
 - (e) bitumen or tar emulsion;'
- ' "type AA oil tanker" means an oil tanker -
- (a) that complies with -
 - (i) rules 121A.9(3)(a) and 121A.9(3)(b); or
 - (ii) rules 121A.9(3)(a) and 121A.9(4); or
 - (iii) rule 121A.9(5),
except that the requirement for minimum distances between the cargo tank boundaries and the ship side and bottom plating need not be met in all respects; and
 - (b) whose side protection distances are not less than those specified in the International Bulk Chemical Code for type 2 cargo tank location; and
 - (c) whose bottom protection distances comply with rule 121A.8(4)(b);'

3 Rules 121A.10-121A.10B Protection of Cargo Tank Length of Oil Tankers

For rule 121A.10 is substituted the following rules -

"121A.10 Oil tankers Built before the Dates Specified in Rule 121A.9

- (1) This rule -
 - (a) applies to oil tankers of 5,000 tonnes deadweight or more; but
 - (b) does not apply to -
 - (i) type AA oil tankers;
 - (ii) tankers to which rule 121A.9(1) applies;
- (2) The owner of a category 1 oil tanker must ensure that the tanker complies with rule 121A.9.
- (3) The owner of a category 2 or 3 oil tanker delivered on or before [2 August]* 1978 must ensure that the tanker complies with rule 121A.9.
- (4) The owner of a category 2 or 3 oil tanker delivered after [2 August]* 1978 must ensure that the tanker complies with rule 121A.9 no later than the anniversary date of the delivery of the ship in -
 - (a) 2006, for ships delivered in 1978 and 1979;
 - (b) 2007, for ships delivered in 1980 and 1981;
 - (c) 2008, for ships delivered in 1982;
 - (d) 2009, for ships delivered in 1983; or
 - (e) 2010, for ships delivered in 1984 or later.
- (5) The continued operation of a category 2 or category 3 oil tanker beyond the 15th anniversary date of the delivery of the ship is subject to that tanker complying with CAS.
- (6) The Director may exempt a tanker that complies with CAS from the requirements of subrule (3) or (4) until the 25th anniversary date of the

* This date is dependent on the actual entry into force date in 2006. The day and month of the date this rule comes into force is to be substituted here.

delivery of the ship or the anniversary date of the ship in 2015 whichever is the earlier date.

- (7) The Director may exempt a tanker from the requirements of subrule (3) or (4) until the 25th anniversary date of the delivery of the ship if the tanker –
 - (a) was in service on 1 July 2001; and
 - (b) is fitted with double bottoms or doubles sides that extend to the entire cargo tank length and are not used for carrying oil.

- (8) The Director may relax the requirements of rule 121A.9(2) or (3) until the 25th anniversary date of the delivery of the ship if the tanker –
 - (a) is a category 2 or category 3 oil tanker;
 - (b) was in service on 1 July 2001; and
 - (c) is fitted with wing tanks or spaces and double bottom tanks or spaces that extend to the entire cargo tank length and are not used for carrying oil but do not comply with rule 121A.9(2) or (3) in all respects.

“121A.10A Oil Tankers of 5000 Tonnes Deadweight or More that Carry Heavy Grade Oil as Cargo

- (1) This rule –
 - (a) applies to oil tankers of 5,000 tonnes deadweight or more that carry heavy grade oil as cargo (in addition to any applicable requirements of rule 121A.10); but
 - (b) does not apply to type AA oil tankers.

- (2) The owner of any oil tanker to which this rule applies must ensure that the tanker complies with rule 121A.9.

- (3) The Director may exempt a tanker from the requirements of subrule (2) –
 - (a) if it operates as a floating storage unit or undertakes voyages only within –
 - (i) New Zealand jurisdiction; or
 - (ii) an area in the jurisdiction of another state party to MARPOL provided the Administration of that state party also allows such operation;
 - (b) until the 25th anniversary date of the delivery of the ship, if it –
 - (i) was in service on 4 December 2003 and is fitted with double bottoms or doubles sides that extend to the entire cargo tank length and are not used for carrying oil; or
 - (ii) carries crude oil having a density at 15°C higher than 900kg/m³ but lower than 945kg/m³ and complies with CAS.

- (4) The Director may relax the requirements of rule 121A.9(2) or (3) until the 25th anniversary date of the delivery of the ship if a tanker –
 - (a) was in service on 4 December 2003; and
 - (b) is fitted with wing tanks or spaces and double bottom tanks or spaces that do not comply with rule 121A.9(2) or (3) in all respects.

“121A.10B Oil Tankers of 600 to 5000 Tonnes Deadweight that Carry Heavy Grade Oil as Cargo

- (1) This rule -
 - (a) applies to oil tankers of 600 tonnes deadweight or more but less than 5,000 tonnes deadweight that carry heavy grade oil as cargo; but
 - (b) does not apply to type AA oil tankers.

- (2) The owner of any oil tanker to which this rule applies must ensure that before the anniversary date, of the delivery of the tanker, in 2008, the tanker is fitted with -
 - (a) double bottom tanks or spaces that comply with rule 121A.9(7)(a); and
 - (b) wing tanks or spaces that -
 - (i) are arranged in accordance with rule 121A.9(3)(a); and
 - (ii) comply with the distance requirement for *w* in rule 121A.9(7)(b).

- (3) The Director may exempt a tanker from the requirements of subrule (2) -
 - (a) if it operates as a floating storage unit or undertakes voyages entirely within -
 - (i) New Zealand jurisdiction; or
 - (i) an area in the jurisdiction of another state party to MARPOL provided the Administration of that state party also allows such operation;
 - (b) until the 25th anniversary date of the delivery of the ship, if the Director is satisfied that the ship is fit to continue operation having regard to its size, age, area(s) of operation and structural conditions.”

Amendments to Part 123A - Document (Oil)

4 Part 123A, Appendix 3 (Form B) Supplement to the International Oil Pollution Prevention Certificate

Appendix 3 of Part 123A is amended by -

- (a) substituting for paragraph 5.84 of the Supplement to the International Oil Pollution Prevention Certificate Form B (Record of Construction and Equipment for Oil Tankers) the following:

“5.8.4 The ship is subject to regulation 13G and:

- .1 is required to comply with regulation 13F not later than
- .2 is so arranged that the following tanks or spaces are not used for the carriage of oil.....
- .3 is allowed to continue operation in accordance with regulation 13G(5) until.....
- .4 is allowed to continue operation in accordance with regulation 13G(7) until.....

- (b) inserting the following paragraphs in the Supplement to the International Oil Pollution Prevention Certificate Form B:

“5.8.6 The ship is subject to regulation 13H and:

- .1 is required to comply with regulation 13H(4) not later than
- .2 is allowed to continue operation in accordance
with regulation 13H(5) until
- .3 is allowed to continue operation in accordance
with regulation 13H(6)(a) until.....
- .4 is allowed to continue operation in accordance with regulation
13H(6)(b) until.....
- .5 is exempted from the provisions of regulation 13H in
accordance with regulation 13H(7)(b)

5.8.7 The ship is not subject to regulation 13H

Marine Protection Rules
MARINE PROTECTION AMENDMENT (NO 2) RULES
Consultation Details

*(This text does not form part of the rules contained in Marine Protection Amendment (No 2) Rules.
It provides details of the consultation undertaken in making the rules.)*

Summary of Consultation

An invitation to comment on the draft Marine Protection Amendment (No 2) Rules was issued on 16 December 2004 with a closing date for submissions of 27 February 2005.

As a result of the formal consultation process, five organisations, New Zealand Shipping Federation, Northland Regional Council, Department of Conservation (Marine Conservation Unit), Ports of Auckland Ltd and Silver Fern Shipping Ltd, and one individual, Mr J F Smallridge, provided written submissions.

General

Silver Fern Shipping Ltd, New Zealand Shipping Federation, Department of Conservation (Marine Conservation Unit), Ports of Auckland Ltd and Northland Regional Council advised of their organisations' full support for the implementation of the proposed amendments.

Maritime NZ acknowledges this support.

Mr Smallridge suggested an alternative method of obtaining full compliance of "double skin" tankers throughout the world.

Maritime NZ: The amendment rules give effect to amendments to MARPOL that entered into force internationally on 5 April 2005. Unfortunately, revision of these MARPOL amendments is not possible. The method proposed by Mr Smallridge is simple in concept but would be complex in implementation. In addition, it would take considerable time to obtain international agreement, and appropriate funding would be required, particularly as the proposal would involve the commitment of organisations outside of the IMO.

Silver Fern Shipping Ltd urged the MSA to raise with the IMO the use of Condition Assessment Scheme (CAS) and Condition Assessment Programme (CAP) as an alternative to age as the criteria upon which to phase out any vessel – particularly those vessels involved in "coastal trades".

Maritime NZ has noted the suggestion and will consider this proposal for any possible future amendments to the MARPOL convention or the International Convention for the Safety of Life at Sea (SOLAS).

Amendments to Part 121A

New Zealand Shipping Federation requested clarification of the definitions “category 1”, “category 2” and “type AA” oil tanker.

Maritime NZ: The term “type AA oil tanker” is a New Zealand-developed term and does not appear in the MARPOL amendments. Its purpose is to minimise repetition of a particularly long description of tankers excepted from the amendments. None of the proposed amendments apply to type AA oil tankers and those tankers may continue in service.

As a result of the development of the term “type AA oil tanker”, the definition of “category 1” and “category 2” tankers have been simplified, in comparison with the definitions used in the MARPOL amendments.