

Marine Protection Rules

Part 130A – Shipboard Marine Oil Spill Contingency Plans

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 be a party to the Convention.

Specifically, Part 130A gives effect to Regulation 26 of Annex I of MARPOL, requiring ships to have shipboard oil pollution emergency plans. Shipboard oil spill contingency plans are designed to assist personnel in dealing with an unexpected or probable discharge or escape of oil. A plan's primary purpose is to set in motion the necessary actions to stop or minimise the discharge or escape and to mitigate its effects.

Part 130A applies to New Zealand oil tankers of 150 tons gross tonnage or more and to other New Zealand ships of 400 tons gross tonnage or more. New Zealand Defence Force ships are also covered, as are foreign ships of the tonnages referred to above, while they are within New Zealand jurisdiction.

For New Zealand ships that do not operate beyond New Zealand marine waters the "New Zealand shipboard marine oil spill contingency plan" required by Part 130A is simply the "shipboard marine oil spill contingency plan" referred to in the Maritime Transport Act 1994. Where a ship operates beyond New Zealand's marine waters, its plan will need to go beyond the New Zealand oil spill response framework established by Part XXIII of the Act to reflect the MARPOL contingency planning requirements for ships trading internationally.

The authority for Part 130A is found in sections 287, 386 and 390 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 125 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 130A

Part 130A first came into force on 20 August 1998 and now incorporates the following amendments:

Amendment	Effective date
Amendment 1	1 April 2015
Amendment 2	1 February 2018
Amendment 3	13 December 2019

Summary of amendments

Amendment 1

Marine Protection Various Amendments 2015	Part Objective
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Amendment 2

Marine Protection Rules Various Amendments [Changes Related to Conventions] 2017	130A.2, 130A.6
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Amendment 3

Marine Protection Rules Various Amendments 2019	Part Objective
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All signed rules can be found on our website:

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

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General

130A.1 Entry into force

Part 130A shall come into force on the 28th day after the date of its notification in the Gazette.

130A.2 Definitions

In Part 130A –

Administration means the Government of the state under whose authority a ship is operating or the Government of the state whose flag the ship is entitled to fly:

Antarctic area means the sea area south of latitude 60°S:

Arctic waters means those waters which are located north of a line from the latitude 58°00'.0 N and longitude 042°00'.0 W to latitude 64°37'.0 N, longitude 035°27'.0 W and thence by a rhumb line to latitude 67°03'.9 N, longitude 026°33'.4 W and thence by a rhumb line to the latitude 70°49'.56 N and longitude 008°59'.61 W (Sørkapp, Jan Mayen) and by the southern shore of Jan Mayen to 73°31'.6 N and 019°01'.0 E by the Island of Bjørnøya, and thence by a great circle line to the latitude 68°38'.29 N and longitude 043°23'.08 E (Cap Kanin Nos) and hence by the northern shore of the Asian Continent eastward to the Bering Strait and thence from the Bering Strait westward to latitude 60° N as far as Il'pyrskiy and following the 60th North parallel eastward as far as and including Etolin Strait and thence by the northern shore of the North American continent as far south as latitude 60° N and thence eastward along parallel of latitude 60° N, to longitude 056°37'.1 W and thence to the latitude 58°00'.0 N, longitude 042°00'.0 W:

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

Coastal state means the country whose land is adjacent to those areas of the sea over which it exercises, or is entitled to exercise, jurisdiction for the purposes of marine environment protection, as provided for in international law:

Combination carrier means a ship designed to carry either oil or solid cargoes in bulk:

Discharge includes any release, disposal, spilling, leaking, pumping, emitting or emptying; but does not include –

- (a) dumping in accordance with a permit issued by the Director under section 262 of the Maritime Transport Act 1994; or
- (b) release of harmful substances for the purposes of legitimate scientific research into pollution abatement and control; –

and “to discharge” and “discharged” have corresponding meanings:

Exclusive economic zone of New Zealand has the meaning given to it by section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977; and **exclusive economic zone** has the same meaning:

Foreign ship means any ship that is not a New Zealand ship:

Internal waters of New Zealand means the internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977:

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 jurisdiction means –

- (a) the internal waters of New Zealand; and
- (b) the territorial sea of New Zealand; and
- (c) the exclusive economic zone of New Zealand; and
- (d) those waters under or about any ship or offshore installation constructed, erected, placed or used in, on, or above the continental shelf of New Zealand but beyond the outer limits of the exclusive economic zone of New Zealand in connection with the exploration of the continental shelf or the exploitation of its natural resources:

New Zealand marine waters means –

- (a) the territorial sea of New Zealand; and
- (b) the waters of the exclusive economic zone of New Zealand:

New Zealand official logbook means a logbook required under rule 73.4 and in the form prescribed in the Appendix to Part 73:

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:

New Zealand shipboard marine oil spill contingency plan means a shipboard marine oil spill contingency plan as defined by section 281 of the Maritime Transport Act 1994 and includes any aspects of a plan prepared under Part 130A which provide for measures to be taken in respect of oil spills outside New Zealand marine waters:

Offshore installation or **installation** includes any artificial structure (including a floating structure other than a ship) used or intended to be used in or on, or anchored or attached to, the seabed for the purpose of the exploration for, or the exploitation or associated processing of, any mineral; but does not include a pipeline:

Oil for the purposes of the marine protection rules and section 222 of the Maritime Transport Act 1994 means petroleum in any form including crude oil, fuel oil, sludge, oil refuse, and refined products (other than petrochemicals that are subject to the provisions of Part 140). Without limiting the generality of the foregoing, “oil” includes the substances declared to be oil in the appendix to Part 120, and any oily mixture. “Oil” as defined here is a “harmful substance” for the purposes of section 225 of the Maritime Transport Act 1994:

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:

Oily mixture means a mixture with any oil content:

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:

Polar Code means the environment-related provisions in the Introduction, and all of Part II-A, of the International Code for Ships Operating in Polar Waters adopted by the International Maritime Organization:

polar waters means any of the following:

- (a) Arctic waters:
- (b) the Antarctic area:

Region has the same meaning as in the Local Government Act 1974:

Regional Council or **council** has the meaning given to the term “regional council” in the Local Government Act 1974; and includes –

- (a) any territorial authority that has the functions, powers, and duties of a regional council; and
- (b) the Chatham Islands County Council:

Rules includes maritime rules and marine protection rules:

Ship means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes –

- (a) a barge, lighter, or other like vessel:
- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates:
- (c) a submarine or other submersible:

Shipboard oil pollution emergency plan means a plan required by Regulation 26 of Annex I of MARPOL:

Territorial sea of New Zealand or **territorial sea** means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.

New Zealand ships

130A.3 Application and compliance dates

- (1) Subject to rule 130A.3(2), rules 130A.4 to 130A.21 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 130A.3(1), including the master of any warship or any other ship of the New Zealand Defence Force.
- (2) Nothing in rules 130A.4 to 130A.21 inclusive applies to any non-self-propelled barge of 400 tons gross tonnage or more provided that that barge is –

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- (a) fitted with auxiliary engines with an output of less than 400 kW; and
 - (b) equipped with installations to ensure storage of oil residues on board for subsequent discharge to reception facilities; and
 - (c) not designed or used to carry oil in bulk in its cargo spaces.
- (3) Compliance with rules 130A.4 to 130A.21 inclusive is not required until six months after the date on which Part 130A enters into force, except that in respect of any ship referred to in rule 130A.3(1) which does not make an international voyage compliance with rules 130A.4 to 130A.21 inclusive is not required until 24 months after the date on which this Part enters into force.

130A.4 New Zealand shipboard marine oil spill contingency plan requirements

- (1) The owner and the master of any ship to which this rule applies must ensure that there is a New Zealand shipboard marine oil spill contingency plan for the ship which is –
- (a) prepared in accordance with rules 130A.5 to 130A.16 inclusive; and
 - (b) approved in accordance with rule 130A.17; and
 - (c) reviewed in accordance with rules 130A.18 and 130A.19; and
 - (d) kept in accordance with rule 130A.20; and
 - (e) carried on board the ship at all times.
- (2) The owner of any ship to which this rule applies must hold an up-to-date copy of the ship's approved New Zealand shipboard marine oil spill contingency plan.

New Zealand ships - New Zealand shipboard marine oil spill contingency plan preparation

130A.5 Language

The New Zealand shipboard marine oil spill contingency plan must be written in the working language of the master and the officers of the ship.

130A.6 Elements of the New Zealand shipboard marine oil spill contingency plan

- (1) The New Zealand shipboard marine oil spill contingency plan must contain –
- (a) the procedure to be followed by the master to report a discharge or escape, or probable discharge or escape, of oil into the sea; and
 - (b) the list of authorities or persons, as set out in rule 130A.9, to be contacted in the event of a discharge or escape, or probable discharge or escape, of oil into the sea; and
 - (c) a detailed description of the action to be taken immediately by persons on board to reduce or control any discharge or escape of oil; and
 - (d) the procedure and point of contact on the ship for coordinating shipboard response activities with national and local authority responses to a discharge or escape, or probable discharge or escape, of oil into the sea.
- (2) If the ship is operating in polar waters, the New Zealand shipboard marine oil spill contingency plan must take into account that operation in polar waters in accordance with paragraph 1.1.4 of Chapter 1 of the Polar Code.

130A.7 Reporting a discharge or escape, or a probable discharge or escape, of oil to the nearest coastal state

- (1) The New Zealand shipboard marine oil spill contingency plan must require that whenever there is –
- (a) a discharge or escape, or probable discharge or escape, of oil into the sea resulting from damage to the ship or its equipment, or for the purpose of securing the safety of a ship or saving life at sea; or
 - (b) a discharge or escape of oil into the sea, during the operation of the ship, that is contrary to Part 120 or to regulations made under section 360 of the Resource Management Act 1991;
- a report is made by the fastest telecommunications channels available and with the highest possible priority to the appropriate authority in the nearest coastal state –
- (i) in accordance with rules 120.12 to 120.14, as applicable, where the nearest coastal state is New Zealand; or
 - (ii) by the master of the ship, or the owner of the ship where the master does not make the report, where the nearest coastal state is not New Zealand.
- (2) The New Zealand shipboard marine oil spill contingency plan must specify the form and content of the reports referred to in rule 130A.7(1) in accordance with the International Maritime Organization Assembly resolution A.648(16) as revised by the International Maritime Organization from time to time. A sample report form must be included or appended to the plan.
- (3) The New Zealand shipboard marine oil spill contingency plan must require that in accordance with the International Maritime Organization Assembly resolution A.648(16) as revised by the International Maritime Organization from time to time –
- (a) initial reports, referred to in rules 130A.7(1) and 130A.7(2), are supplemented as necessary and when possible, and information concerning further developments is provided; and
 - (b) requests from affected states for additional information are complied with as fully as possible.
- (4) The New Zealand shipboard marine oil spill contingency plan must, in accordance with section 299(1) of the Maritime Transport Act 1994, specify the criteria and procedure for notifying the –
- (a) Director; or
 - (b) appropriate regional council;
- of a discharge or escape, or probable discharge or escape, of oil from a ship into the internal waters of New Zealand or New Zealand marine waters which the master of the ship considers cannot be contained and cleaned up using the resources available to the master for that purpose.

130A.8 Identification of probable discharge or escape

The New Zealand shipboard marine oil spill contingency plan must require the master to consider, as a minimum, the following factors when assessing whether there is a probable discharge or escape of oil into the sea and whether a report should be made –

- (a) the nature of the damage, failure or breakdown of the ship, machinery or equipment; and

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- (b) the location of the ship and its proximity to land or other navigational hazards; and
- (c) weather, tide, current and sea state; and
- (d) traffic density.

130A.9 Contact information

- (1) A contact list for the reporting of discharges or escapes, and probable discharges or escapes, of oil into the sea suitable to the range of the ship's operation must be included or appended to the New Zealand shipboard marine oil spill contingency plan. The contact list must identify –
 - (a) state agencies, statutory bodies or officials of the maritime administrations of coastal states responsible for receiving and processing reports of discharges or escapes, or probable discharges or escapes, of oil into the sea; and
 - (b) local agencies and representatives concerned with the operation of the ship located at the ports that the ship visits on a regular basis; and
 - (c) other parties whose interest in the ship, in the view of the owner, are likely to be affected by discharges or escapes, or probable discharges or escapes, of oil into the sea.
- (2) Where –
 - (a) no contact details for a coastal state are listed in the New Zealand shipboard marine oil spill contingency plan; or
 - (b) there is any undue delay in contacting the responsible authority by direct means;the plan must require the master to contact the –
 - (i) nearest radio communication station; or
 - (ii) designated ship movement reporting station; or
 - (iii) rescue coordination centre;by the quickest available means.

130A.10 Establishing contact details on arrival

The New Zealand shipboard marine oil spill contingency plan must require that when a ship visits a port for which no local agency contact information is listed in the plan, the master upon arrival in port is to obtain details concerning local reporting procedures.

130A.11 Scope of contact information

- (1) The information listed in or appended to the New Zealand shipboard marine oil spill contingency plan must –
 - (a) provide 24 hour contact information; and
 - (b) provide alternatives to the designated contact; and
 - (c) specify the preferred means of communication.
- (2) The currency of contact information must be checked in accordance with rule 130A.18 and any necessary amendments made.

130A.12 Action to mitigate damage and control discharges or escapes

- (1) The New Zealand shipboard marine oil spill contingency plan must contain a separate section dealing with each of the following types of occurrence –

- (a) operational spills:
 - (i) oil spilled and contained on deck:
 - (ii) pipe leakage:
 - (iii) tank overflow:
 - (iv) hull damage; and
 - (b) spills resulting from accidents:
 - (i) grounding:
 - (ii) fire and/or explosion:
 - (iii) collision:
 - (iv) hull failure:
 - (v) excessive list.
- (2) Each section dealing with a particular type of occurrence must include guidance to the master on the appropriate action to mitigate damage or control the discharge or escape of oil, including guidance to ensure consideration of all relevant factors.

130A.13 Personnel responsibilities

The New Zealand shipboard marine oil spill contingency plan must define the duties of personnel in dealing with discharges or escapes, or probable discharges or escapes. These must include response duties, and reporting responsibilities under Part 120.

130A.14 Priority actions

- (1) The New Zealand shipboard marine oil spill contingency plan must provide ship-specific guidance to the master for determining priority actions to –
- (a) ensure the safety of personnel and the ship; and
 - (b) prevent the escalation of the discharge or escape, or probable discharge or escape; and
 - (c) stop the discharge or escape at its source, where possible.
- (2) The New Zealand shipboard marine oil spill contingency plan must provide the master with ship-specific guidance and information for –
- (a) assessing the damage sustained by his or her ship; and
 - (b) determining whether or not the oil spill can be contained or cleaned up by the resources available to the master, or other person(s) responsible for implementing the plan, for that purpose; and
 - (c) deciding what remedial action to take; and
 - (d) identifying the stability and stress consequences of remedial actions, including cases where these cannot be determined by the master and must be referred to the owner; and
 - (e) making damage stability and damaged longitudinal strength assessments; and
 - (f) undertaking the transfer of all or part of the cargo to another ship, subject to any authorities required from the coastal state.

130A.15 Ship's information to be appended to New Zealand shipboard marine oil spill contingency plan

- (1) The New Zealand shipboard marine oil spill contingency plan must have appended to it, plans, drawings, and ship-specific details showing the general arrangement of the ship and the location of tanks.
- (2) The New Zealand shipboard marine oil spill contingency plan must show where current cargo, bunker, and ballast information, including quantity and specifications, is available.

130A.16 Coastal state authorisation and requirements

- (1) The New Zealand shipboard marine oil spill contingency plan must identify the circumstances where the master must seek authorisation from the coastal state prior to undertaking specific mitigating actions.
- (2) Where the ship trades to, or in the vicinity of, coastal states which require the owner to initiate the response to oil pollution, the detail and guidance given to the master must be comprehensive.

New Zealand ships - New Zealand shipboard marine oil spill contingency plan approval

130A.17 New Zealand shipboard marine oil spill contingency plan approval and re-submission for new approval

- (1) The owner of a ship to which this rule applies must make application to the Director for approval of the ship's New Zealand shipboard marine oil spill contingency plan.
- (2) Every New Zealand shipboard marine oil spill contingency plan submitted to the Director for approval must be provided to the Director –
 - (a) on a diskette in a commonly used word processing format; and
 - (b) in the form of a hard copy.
- (3) If the New Zealand shipboard marine oil spill contingency plan is not written in English, it must be accompanied by an English language version on diskette and in hard copy.
- (4) Subject to rule 130A.17(5), the Director must give approval in writing to a New Zealand shipboard marine oil spill contingency plan which meets the requirements of rules 130A.5 to 130A.16 inclusive.
- (5) The Director may require the owner to include or omit from any New Zealand shipboard marine oil spill contingency plan submitted for approval such provisions as the Director may reasonably specify.
- (6) A New Zealand shipboard marine oil spill contingency plan must be re-submitted to the Director by the owner for a new approval whenever –
 - (a) the use of the ship is altered in a way which could increase the risk of a discharge or escape of oil; or
 - (b) the use of the ship is altered, or the ship is modified, in a way which increases the amount of oil which can be carried; or
 - (c) the use of the ship is altered in a way which could render the ship's current New Zealand shipboard marine oil spill contingency plan less effective; or
 - (d) a change notified to the Director is, in the Director's opinion, cause for a new approval.

- (7) Whenever a New Zealand shipboard marine oil spill contingency plan is re-submitted to the Director under rule 130A.17(6), the provisions of rules 130A.17(2) to (5) inclusive shall apply.
- (8) The issue of a new New Zealand shipboard marine oil spill contingency plan approval by the Director automatically replaces the ship's former New Zealand shipboard marine oil spill contingency plan approval(s).
- (9) The owner must without delay supply a hard copy of the ship's New Zealand shipboard marine oil spill contingency plan to –
 - (a) the regional on-scene commander in each region that the ship routinely visits; and
 - (b) the District Chief Fire Officer in each region that the ship routinely visits.

New Zealand ships - New Zealand shipboard marine oil spill contingency plan review

130A.18 Periodic review of New Zealand shipboard marine oil spill contingency plan

- (1) A ship's New Zealand shipboard marine oil spill contingency plan must be reviewed by the owner of the ship not less than once every 12 months to check the currency and completeness of the information contained in it.
- (2) After any review of a New Zealand shipboard marine oil spill contingency plan under rule 130A.18(1), the owner of the ship must ensure that –
 - (a) any information in the plan which is not current is updated; and
 - (b) any new information relevant to the plan is incorporated.
- (3) The owner must maintain a record of every review under rule 130A.18(1).

130A.19 Post-use review of New Zealand shipboard marine oil spill contingency plan

- (1) The effectiveness of a ship's New Zealand shipboard marine oil spill contingency plan must be evaluated by the owner of the ship as soon as possible after its use in response to any discharge or escape, or probable discharge or escape, of oil into the sea.
- (2) After any review under rule 130A.19(1), the owner of the ship must ensure that any modifications that would increase the effectiveness of the ship's New Zealand shipboard marine oil spill contingency plan are made.

New Zealand ships - Upkeep of New Zealand shipboard marine oil spill contingency plan

130A.20 Periodic testing of New Zealand shipboard marine oil spill contingency plan

The owner and the master of a ship to which this rule applies must ensure that –

- (a) the ship's New Zealand shipboard marine oil spill contingency plan is tested not less than once every 12 months; and
- (b) accurate details of every such exercise and its results are entered in the ship's New Zealand official logbook, or if no logbook is required for the ship, in the ship's plan; and
- (c) any modifications that would increase the effectiveness of the ship's plan are made.

130A.21 Notification of modifications to New Zealand shipboard marine oil spill contingency plan

The owner of a ship to which this rule applies must –

- (a) notify the Director as soon as possible of any modifications made to the ship's New Zealand shipboard marine oil spill contingency plan, whether arising from a periodic or post-use review, periodic testing or any other cause; and
- (b) notify every other person holding a copy of that ship's New Zealand shipboard marine oil spill contingency plan as soon as possible of any modifications made to the plan, whether arising from a periodic or post-use review, periodic testing or any other cause; and
- (c) have a documented procedure for complying with the owner's obligations under rule 130A.21(a) and 130A.21(b), and for recording the actions taken to meet those obligations.

Foreign ships

130A.22 Application

- (1) Subject to rule 130A.22(2), rule 130A.23 applies to –
 - (a) every foreign ship that is an oil tanker of 150 tons gross tonnage or more that is within New Zealand jurisdiction; and
 - (b) every foreign ship of 400 tons gross tonnage or more that is within New Zealand jurisdiction.
- (2) Nothing in rule 130A.23 applies to any non-self propelled barge of 400 tons gross tonnage or more provided that that barge is –
 - (a) fitted with auxiliary engines with an output of less than 400 kW; and
 - (b) equipped with installations to ensure storage of oil residues on board for subsequent discharge to reception facilities; and
 - (c) not designed or used to carry oil in bulk in its cargo spaces.

130A.23 Requirement to carry approved shipboard oil pollution emergency plan or equivalent

The owner and the master of a ship to which this rule applies must ensure that –

- (a) where the ship is registered in a state party to MARPOL, there is carried on board the ship a current shipboard oil pollution emergency plan approved by the administration; and
- (b) where the ship is registered in a state which is not party to MARPOL, there is carried on board the ship an emergency plan for responding to oil pollution incidents and containing and cleaning up oil spills from the ship, together with evidence that the emergency plan complies with the standards prescribed by Regulation 26 of Annex I of MARPOL.