

# Marine Protection Rules

## Part 101B: Surveys and Inspections – Noxious Liquid Substances Carried in Bulk

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 101B applies the survey and inspection requirements of regulation 10 of Annex II of MARPOL to—

- All New Zealand ships which carry noxious liquid substances in bulk; and
- Warships and other ships of the New Zealand Defence Force which carry noxious liquid substances in bulk.

The basis for Part 101B 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 101B 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. <https://www.maritimenz.govt.nz/>



## **Contents**

### **General**

|        |                                 |   |
|--------|---------------------------------|---|
| 101B.1 | Entry into force                | 1 |
| 101B.2 | Definitions                     | 1 |
| 101B.3 | Application and compliance date | 2 |

### **Surveys and inspections**

|        |   |   |
|--------|---|---|
| 101B.4 | Surveys prior to the issue, renewal or endorsement of an International<br>Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances<br>in Bulk | 2 |
| 101B.5 | Failure to meet standards required  | 3 |
| 101B.6 | Condition after survey  | 4 |

## **General**

### **101B.1 Entry into force**

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

### **101B.2 Definitions**

In Part 101B—

**anniversary date** means the day and the month of each year which will correspond to the date of expiry of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substance in Bulk:

**category X, Y, Z or OS substance** means, respectively, any liquid substance—

- (a) listed and categorised as a category X, Y, Z, or OS substance in the IBC Code; or
- (b) otherwise categorised, or provisionally assessed or categorised as a category X, Y, Z or OS substance—
  - (i) by the IMO; or
  - (ii) by the Director under rule 140.9:

**chemical tanker** means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an **oil tanker** as defined in rule 121A.2 when carrying a cargo or part cargo of noxious liquid substances in bulk:

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

**in bulk** means carried in the cargo or other spaces of a ship without any intermediate form of containment or packaging:

**International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk** means the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk required under Part 142A:

**liquid substances** are those substances having a vapour pressure not exceeding  $2.8\text{kp/cm}^2$  at a temperature of  $37.8^\circ\text{C}$ :

**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; includes a ship that is not registered under that Act but is required or entitled to be registered under that Act.

**noxious liquid substance** means—

- (a) any category X substance;
- (b) any category Y substance;
- (c) any category Z substance;
- (d) any substance, except—
  - (i) clean ballast;
  - (ii) segregated ballast;

## **Marine Protection Rules**

- (iii) any category OS substance; and
- (e) any mixture containing a noxious liquid substance; and a noxious liquid substance, as defined here, is a harmful substance and a noxious liquid substance for the purposes of section 225 of the Act:

**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 surveyor employed by a recognised organisation.

### **101B.3 Application and compliance date**

- (1) Except as provided in rule 101B.3(2), Part 101B applies to—
  - (a) every New Zealand ship carrying noxious liquid substances in bulk as cargo; and
  - (b) every warship and every other ship of the New Zealand Defence Force that is carrying noxious liquid substances in bulk as cargo; and
  - (c) the master of any ship referred to in rule 101B.3(1), including the master of any warships or any other ship of the New Zealand Defence Force.
- (2) Part 101B does not apply to chemical tankers which have been surveyed and certificated in accordance with the provisions of rule 46.9 and 46.11(6).
- (3)
  - (a) Subject to rule 101B.3(3)(b), compliance with Part 101B is not required until six months after the date on which Part 101B enters into force.
  - (b) In respect of any ship referred to in rule 101B.3(1) which does not make an international voyage, compliance with Part 101B is not required until twenty-four months after the date on which Part 101B enters into force.

## **Surveys and inspections**

### **101B.4 Surveys prior to the issue, renewal or endorsement of an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk**

- (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; and
  - (b) renewal surveys at five-yearly intervals, or any lesser period specified by the Director; and
  - (c) one 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

- Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk, which will take the place of one of the annual surveys specified in rule 101A.4(1)(d); and
- (d) an annual survey carried out within three months before or after each anniversary date of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk; and
  - (e) an additional survey either general or partial according to the circumstances, after a repair resulting from investigations prescribed in rule 101B.6, or whenever any important repairs or renewals are made.
- (2) The surveys referred to in rule 101B.4(1) are to be carried out by the surveyor in the following manner—
- (a) the initial survey before the ship is put in service must include 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 140 to 142B inclusive; and
  - (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 140 to 142B inclusive; and
  - (c) the intermediate survey must ensure that the ship's equipment and associated pump and piping systems fully comply with the applicable requirements of Parts 140 and 141 and are in good working order; and
  - (d) the annual surveys must include a general examination to ensure that the ship's structure, fittings, arrangements, and material remain in all respects satisfactory for the service for which the ship is intended.
- (3) When upon completion of an initial survey as referred to in rule 101B.4(2)(a), the surveyor who undertook the survey is satisfied that the ship meets the requirements of that rule, an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk must be issued to that ship in accordance with Part 142A.
- (4) When upon completion of a renewal survey as referred to in rule 101B.4(2)(b), the surveyor who undertook the survey is satisfied that the ship meets the requirements of that rule, the ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk must be renewed in accordance with Part 142A.
- (5) When upon completion of—
- (a) an intermediate survey referred to in rule 101B.4(2)(c); or
  - (b) an annual survey as referred to in rule 101B.4(2)(d);
- the surveyor who undertook the survey is satisfied that the ship meets the requirements of the applicable rule, the surveyor must endorse the ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to this effect.

#### **101B.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 Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk; 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 101B.5(1)(i); and

## **Marine Protection Rules**

- (iii) not endorse the ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
- (2) If the corrective action required under rule 101B.5(1)(i) is not taken, the ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk may be suspended or made subject to conditions in accordance with section 272 of the Maritime Transport Act 1994.

### **101B.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 101B.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.
- (3) The surveyor's approval required under rule 101B.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 protections.
- (4) The owner and the master of any ship to which this rules 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 Part 140 to 142B inclusive.
- (5) The owner and the master of any ship to which this rule applies must ensure that every report required under rule 101B.6(4) is made—
  - (a) as soon as possible to the Director, and to the recognised organisation whose employee issued the ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk 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 101B.6(5) the Director or, where applicable, the recognised organisation whose employee issued the ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk, may require the owner of the ship to have the ship surveyed to ensure compliance with the relevant prescribed requirements in respect of that ship's International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.