



MINISTRY of TRANSPORT
TE MANATŪ WAKA

WELLINGTON NEW ZEALAND

PURSUANT to Section 386 of the Maritime Transport Act 1994

I, MAURICE DONALD WILLIAMSON, Minister of Transport,

HEREBY MAKE the following marine protection rules.

SIGNED AT Wellington

This

20

day of

May

1998

by MAURICE DONALD WILLIAMSON

Minister of Transport

Marine Protection Rules

Part 101B

Surveys and Inspections—Noxious Liquid Substances Carried in Bulk

Maritime Transport Act 1994

Marine Protection Rules

Part 101B

**Surveys and Inspections—Noxious Liquid
Substances Carried in Bulk**

Marine Protection Rules

PART 101B—SURVEYS AND INSPECTIONS—NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

PART OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

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 sections 386 and 388 of the Maritime Transport Act 1994.

Extent of Consultation

There was no informal consultation for this Part because there are currently no New Zealand registered chemical tankers or other ships carrying noxious liquid substances in bulk.

On 17 February 1996, (21 February in regard to the *Evening Post* Wellington), the Maritime Safety Authority published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Part 101B. A notice was also published in the *New Zealand Gazette* on 22 February 1996. The Authority then made its Invitation to Comment paper, draft Part 101B and draft Advisory Circular available to the public with 165 copies being sent automatically to interested parties. Comments on the Part were requested to be made by 19 April 1996.

Four submissions were received on Part 101B. All submissions and any verbal comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made.

Commencement

Part 101B as amended was referred to and signed by the Minister of Transport.

Part 101B comes into force 28 days after the date of its notification in the *New Zealand Gazette*. For New Zealand ships carrying noxious liquid substances in bulk and trading internationally, compliance with Part 101B is not required until six months after the Part comes into force. However, New Zealand ships carrying noxious liquid substances in bulk which do not undertake international voyages will have twenty-four months before compliance with Part 101B is mandatory. The same provisions apply to New Zealand Defence Force ships.

Marine Protection Rules

PART 101B

SURVEYS AND INSPECTIONS—NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

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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 Substances in Bulk.

“Authorised organisation” means an organisation which has entered into a memorandum of agreement with the Director in compliance with the International Maritime Organisation Assembly Resolution A.739(18) and the Annexes thereto entitled *Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration*, governing the undertaking of particular survey and certification functions by that organisation’s employees under the Maritime Transport Act 1994 and the rules:

“Category A substance(s)”, “Category B substance(s)”, “Category C substance(s)”, “Category D substance(s)” and “Category III substance(s)” mean the liquid substances—

- (a) listed and categorised as Category A, B, C, D, or III substances in the pollution category column of chapters 17 and 18 of the International Maritime Organisation *International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk* 1994, and superseding editions; or
- (b) otherwise categorised or provisionally categorised as Category A, B, C, D, or III substances by the International Maritime Organisation; or
- (c) provisionally assessed and categorised as Category A, B, C, D, or III substances by the Director under rule 140.28:

“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 2.8kp/cm² at a temperature of 37.8°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; and includes a ship that is not registered under that Act but is required or entitled to be registered under that Act:

"Noxious liquid substance" for the purposes of the marine protection rules and section 222 of the Maritime Transport Act 1994 means—

- (a) any Category A substance;
- (b) any Category B substance;
- (c) any Category C substance;
- (d) any Category D substance;
- (e) any uncategorised substance, except:
 - (i) clean ballast;
 - (ii) segregated ballast;
 - (iii) any category III substance;
- (f) any mixture containing a Category A substance, Category B substance, Category C substance, Category D substance, or an uncategorised substance (except clean ballast, segregated ballast or a category III substance).

"Noxious liquid substance" as defined here is a "harmful substance" for the purposes of section 225 of the Maritime Transport Act 1994:

"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:

“Rules” includes maritime rules and marine protection rules:

“Surveyor” means a surveyor employed by an authorised 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; and
 - (b) every warship and every other ship of the New Zealand Defence Force that is carrying noxious liquid substances in bulk; and
 - (c) the master of any ship referred to in rule 101B.3(1), including the master of any warship 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 rules 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 as 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
 - (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 Condition 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 interests 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 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 authorised 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 authorised 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.

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PART 101B

SURVEYS AND INSPECTIONS—NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Consultation Details

(This text does not form part of the rules contained in Part 101B. It provides details of the consultation undertaken in making the rules.)

Summary of Consultation

The responses to the invitation to comment on the draft rules known as “Part 101B – Surveys and Inspections—Noxious Liquid Substances” come from one shipowners’ association, one environmental consultant, one fishing company and one individual.

General Comment

New Zealand ship

The New Zealand Shipping Federation oppose the wording used in defining “New Zealand ship”.

The definition of “New Zealand ship” is that used in the Maritime Transport Act 1994. The term “New Zealand ship” has been open to some debate. MSA believes that, in line with international practice, a ship can not be treated as a New Zealand ship in respect of issue of Convention documents while it is registered in another State.

Sealord Products are in agreement with the requirements of this draft rule.

Mr W. Waters raises a question about the use of aluminium based paints in cargo holds.

This is a safety question which is more properly addressed by the maritime rules.

Rule 101B.8 Recognition of surveyors

D. Betts of Betts and Lalor Environmental Associates comments on the standards of inspection of ships, and in particular on the loss of the bow of the tanker *Kirki* off the Australian coast. In the light of this he questions the adequacy of rule 101B.8—Recognition of Surveyors. He suggests this be added to require that the surveyor is adequately qualified and experienced etc.

The Advisory Circular indicates in paragraph 3 that recognition of surveyors is a formal process involving a memorandum of agreement between the Director and survey organisation. This memorandum is in a form required by IMO for organisations that are authorised by Administrations and includes clauses relating to the required experience and qualifications of surveyors to whom this work is given. It is not considered necessary to include such administrative details in the rule.

Proposed Amendments Initiated by the Maritime Safety Authority

Part 101B Title

We have changed the title of this Part to "Surveys and Inspections - Noxious Liquid Substances *Carried in Bulk*", to reflect the application of the rule only to ships carrying in bulk.

Rule 101B.2 Definitions

"Bulk Chemical Code"

This definition has been amended by adding in a reference to the IMO resolution in which the Code was adopted.

"International Bulk Chemical Code"

This definition has been amended by adding in a reference to the IMO resolution in which the Code was adopted.

MARPOL

This definition has been altered to bring it into line with the exact wording used in the Maritime Transport Act.

New Zealand ship

The last part of this definition stating that a *New Zealand ship* does not include a *New Zealand Defence Force ship* has been removed as it is superfluous.

Part and Rules

These definitions have been added so that *rules* and *rule parts* can be referred to without the need for further explanation.

Surveyor

This definition has been altered to make it more specific.

Rule 101B.3 Application

The application has been altered to exclude certain chemical tankers from the application of the Part. Chemical tankers which are surveyed and certificated under Part 46 of the Maritime Rules do not have to comply with Part 101B as well.

The reference to section 223 of the Maritime Transport Act has been removed as it is an unnecessary restriction on the application of the Part to the New Zealand Defence Force.

Specific mention has been made to *warships of the New Zealand Defence Force* because of the operation of section 4(1)(a) of the Maritime Transport Act. This section provides that warships will be excluded from the application of the rules unless specifically included.

Rules 101B.4

This rule has been split up to clarify the owner and the master's duties as compared with the surveyor's functions.

Rules 101B.4, and 101B.6

In light of comments received about other draft parts, words have been added, as follows, to link the individual rules to the application provision -

"The owner of every ship to which this rule applies carrying noxious liquid substances in bulk..."

Rule 101B.7 Survey of Chemical Tankers

This rule has been deleted, (refer to comments made under rule 101B.3).

Rule 101B.8 Recognition of surveyors

This rule has been deleted and the definition of surveyor amended. The definitions of the terms surveyor and authorised organisation clarify that the surveyor must be employed by an authorised organisation.

Rules 101B.6(1) and 101B.6(3)

These rules have been split up to assist in defining offences for breaches of the rules.

Advisory Circular

No changes.