

# Marine Protection Rules

## Part 123A: Documents – Oil

MNZ Consolidation

*1 April 2015*

***Marine Protection Rules***

ISBN 978-0-478-44778-1

Published by

Maritime New Zealand, PO Box 25620, Wellington 6146, New Zealand

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***Consolidated version  
1 April 2015***

## 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 123A is concerned with requirements, set out in regulations 5, 7, and 8 of Annex I of MARPOL, for the standardised certification and recording of oil pollution prevention equipment on board ships engaged in international trade and the preventive measures built into such ships at the time of construction or conversion.

Regulations 5, 7, and 8 of Annex I require state parties to the Convention to issue International Oil Pollution Prevention Certificates (IOPP Certificates) to their ships as evidence of their compliance with the pollution prevention equipment and survey requirements of MARPOL Annex I.

Part 123A sets out the requirements for the issue and retention of IOPP Certificates by New Zealand ships. IOPP Certificates issued to New Zealand ships are also established as marine protection documents under the Part.

In accordance with the Convention, Part 123A requires ships of other states party to MARPOL to hold IOPP certificates while within New Zealand's jurisdiction. These foreign IOPP Certificates are accepted in New Zealand and deemed to be marine protection documents under section 271 of the Maritime Transport Act 1994 so long as they meet the Convention standards.

Ships visiting New Zealand from countries not party to MARPOL are required by Part 123A to hold a certificate equivalent to an IOPP Certificate. Again, these documents become marine protection documents once recognised by the Director under section 270 of the Maritime Transport Act 1994.

Part 123A extends the application of regulations 5, 7 and 8 of Annex I of MARPOL to all New Zealand ships of 400 tons gross tonnage or more, New Zealand oil tankers of 150 tons gross tonnage or more, and warships and other ships of the New Zealand Defence Force of the same tonnages, regardless of whether they are engaged in international voyages.

While MARPOL does not require ships operating domestically to comply with its IOPP Certification requirements, some form of counterpart New Zealand certificate would still be required by these ships to record and monitor compliance with the convention standards for survey and inspection, design and construction and oil discharge and monitoring equipment. To avoid the costs associated with developing a second certification regime for domestic operators, the IOPP Certification requirements have been applied to all New Zealand ships of the requisite tonnages.

The basis for Part 123A is found in sections 269, 270, 386 and 387 of the Maritime Transport Act 1994.

### *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.

### **Disclaimer:**

This document is the current consolidated version of Marine Protection Rules Part 123A 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](http://www.maritimenz.govt.nz)

## History of Part 123A

Part 123A first came into force on 20 August 1998 and now incorporates the following amendments:

<b>Amendment</b>	<b>Effective Date</b>
Amendment 1	14 December 2006
Amendment 2	14 December 2006
Amendment 3	4 August 2008
Amendment 4	30 July 2009
Amendment 5	Multiple
Amendment 6	1 January 2015
Amendment 7	1 April 2015

### Summary of Amendments

#### Amendment 1

Marine Protection Amendment (Parts 120, 121A, 123A, 132 & 170) Part objective, Appendix 2 (Form A), Appendix 3 (Form B)

#### Amendment 2

Marine Protection Amendment (Parts 121A & 123A) Appendix 3 (Form B)

#### Amendment 3

Marine Protection Amendment Rules – Marpol Annex 1 Appendix 1, Appendix 2 (Form A), Appendix 3 (Form B)

#### Amendment 4

Marine Protection Amendment Rules 2009 Appendix 2 2A.1-2A.2, Appendix 3 2A.1-2A.2

#### Amendment 5

Marine Protection Various Amendments 2010  
*Effective 1/10/10:* 123A.5(3)  
*Effective 1/1/11:* 123A.2, 123A.5(2), 123A.6(1)(a), 123A.6(1)(b), 123A.9(1)(b)(i)-(ii), 123A.13, Appendix 1-3

#### Amendment 6

Marine Protection Rules Various Amendments 2014 123A.2

#### Amendment 7

Marine Protection Rules Various IMO-related Amendments 2015 123A.2

All signed rules can be found on our website:

<http://www.maritimenz.govt.nz/Rules/List-of-all-rules/Part123A-marine-protection-rule.asp>

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## General

### 123A.1 Entry into force

Part 123A shall come into force on the 28th day after the date of its notification in the Gazette.

### 123A.2 Definitions

In Part 123A—

**Act** means the Maritime Transport Act 1994:

**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:

**authorised person** means a person employed by a recognised organisation who has delegated powers from the Director to issue and suspend or to issue or to suspend certain marine protection documents under Part XXII of the Maritime Transport Act 1994, pursuant to an instrument of delegation made under section 444 of the Maritime Transport Act 1994:

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

**foreign ship** means any ship that is not a New Zealand ship:

**Form A** means the “Supplement to the International Oil Pollution Prevention Certificate - Record of Construction and Equipment for Ships Other Than Oil Tankers” that is contained in MARPOL Annex I Appendix II Appendix Form A:

**Form B** means the “Supplement to the International Oil Pollution Prevention Certificate - Record of Construction And Equipment for Oil Tankers” that is contained in MARPOL Annex I Appendix II Appendix Form B:

**International Oil Pollution Prevention Certificate** means—

- (a) in respect of a New Zealand ship, the marine protection document contained in MARPOL Annex I Appendix II, that is required under rule 123A.4 and issued pursuant to section 270 of the Maritime Transport Act 1994 and rule 123A.5:
- (b) in respect of a foreign ship registered in a state party to MARPOL, the certificate contained in MARPOL Annex I Appendix II 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 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 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:

**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, oil fuel, 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 pollution prevention document** means the document required under rule 123A.11 certifying that a ship registered in a state not party to MARPOL complies with the applicable oil pollution prevention requirements of Annex I of MARPOL:

**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:

**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—

- (a) employed by a recognised organisation; or
- (b) holding a valid marine protection document as a surveyor issued under section 270 of the Maritime Transport Act 1994.

## **International Oil Pollution Prevention Certificates – New Zealand ships**

### **123A.3 Application and compliance dates**

- (1) Rules 123A.4 to 123A.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.
- (2) (a) Subject to rule 123A.3(2)(b), compliance with rules 123A.4 to 123A.6 inclusive



is not required until six months after the date on which Part 123A enters into force.

- (b) In respect of any ship referred to in rule 123A.3(1) which does not make an international voyage, compliance with rules 123A.4 to 123A.6 inclusive is not required until twenty-four months after the date on which Part 123A enters into force.
- (3) Where a rule in Part 123A places an obligation on the master of any New Zealand ship, the same obligation will apply to the master of any warship or any other ship of the New Zealand Defence Force to which that rule applies.

**123A.4 Requirement for a New Zealand ship to have an International Oil Pollution Prevention Certificate**

- (1) The owner and the master of any ship to which this rule applies must ensure that a valid International Oil Pollution Prevention Certificate is held in respect of the ship.
- (2) The owner and the master of any ship to which this rule applies must ensure that the International Oil Pollution Prevention Certificate held in respect of the ship is—
  - (a) carried on board the ship at all times; and
  - (b) made readily available for inspection by the Director.

**123A.5 Issue, duration and renewal of an International Oil Pollution Prevention Certificate for a New Zealand ship**

- (1) If the owner of a ship to which this rule applies makes an application under section 269 of the Act for an International Oil Pollution Prevention Certificate in respect of the ship, and the Director (if the application is made to the Director) or an authorised person (if application is made to that person) is satisfied that—
  - (a) the ship has undergone an initial or renewal survey in accordance with Part 101A to the satisfaction of the surveyor; and
  - (b) the ship meets the applicable requirements of Parts 121A, 121B, 122, 123B and 130A; the Director (if application is made to the Director) or the authorised person (if application is made to that person) must issue or renew for that ship an International Oil Pollution Prevention Certificate.
- (2) An International Oil Pollution Prevention Certificate issued to a New Zealand ship must be in the form shown in MARPOL Annex I Appendix II.
- (3) An International Oil Pollution Prevention Certificate is valid for a period specified by the Director where the certificate is issued by the Director, or valid for a period specified by an authorised person where the certificate is issued by that person, up to, in either case, a maximum period of five years from the date of issue, provided that—
  - (a) if a renewal survey is completed—
    - (i) within three months before the expiry date of the existing International Oil Pollution Prevention Certificate, the new International Oil Pollution Prevention Certificate will be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing International Oil Pollution Prevention Certificate; and
    - (ii) after the expiry date of the existing International Oil Pollution Prevention Certificate, the new International Oil Pollution Prevention Certificate will be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing International Oil Pollution Prevention Certificate; and
    - (iii) more than three months before the expiry date of the existing International Oil Pollution Prevention Certificate, the new International Oil Pollution Prevention Certificate will be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.
  - (b) If an International Oil Pollution Prevention Certificate is issued to a New Zealand ship for a period of less than five years, the Director or an authorised person may extend the validity of the International Oil Pollution Prevention Certificate beyond the expiry date to

the maximum five year period, provided that the surveys referred to in rule 101A.4 are carried out as appropriate.

- (c) If a renewal survey has been completed and a new International Oil Pollution Certificate cannot be issued or placed on board a New Zealand ship before the expiry date of the existing International Oil Pollution Prevention Certificate, the Director or authorised person may endorse the existing International Oil Pollution Prevention Certificate and that certificate is to be accepted as valid for a further period which must not exceed five months from the expiry date.
- (d) If a New Zealand ship, at the time when an International Oil Pollution Prevention Certificate issued under rule 123A.5(1) expires, is not in a port in which it is to be surveyed, the Director, or an authorised person, may extend the period of validity of that certificate, provided that the extension—
  - (i) is only granted for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so; and
  - (ii) is not granted for a period exceeding three months; and
  - (iii) shall not entitle a ship, on its arrival in the port in which it is to be surveyed, to be entitled by virtue of such extension to leave the port without having a new International Oil Pollution Prevention Certificate.

When the renewal survey is completed, the new International Oil Pollution Prevention Certificate will be valid to a date not exceeding five years from the date of expiry of the existing International Oil Pollution Prevention Certificate before the extension was granted.

- (e) If an annual or intermediate survey is completed before the period specified in rule 101A.4(1), then—
  - (i) the anniversary date shown on the International Oil Pollution Prevention Certificate must be amended by endorsement to a date which must not be more than three months later than the date on which the survey was completed; and
  - (ii) the subsequent annual or intermediate survey required by rule 101A.4(1) must be completed at the intervals prescribed by that rule using the new anniversary date; and
  - (iii) the expiry date may remain unchanged provided the one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by rule 101A.4(1) are not exceeded.
- (4) An International Oil Pollution Prevention Certificate is subject to the following conditions:
  - (a) no significant alterations may be made to the construction, equipment, systems, fittings, arrangements or material required in the ship under Parts 121A, 121B and 122, as applicable, without the approval of a surveyor in accordance with rule 101A.6(3), except the direct replacement of such equipment and fittings; and
  - (b) satisfactory completion of annual and intermediate surveys required by rule 101A.4(1) takes place within the periods specified by that rule; and
  - (c) the certificate is endorsed in accordance with rule 101A.4(5); and
  - (d) the ship carries on board the oil record books and applicable approved manuals required to be carried by Part 123B; and
  - (e) the ship carries on board a New Zealand shipboard marine oil spill contingency plan in compliance with the requirements of Part 130A; and
  - (f) the International Oil Pollution Prevention Certificate has permanently attached to it a Record of Construction and Equipment as required by, and in the form prescribed by, rule 123A.6; and
  - (g) the ship operates in compliance with any limitations on trades and voyages specified in its Record of Construction and Equipment.

**123A.6 Form of supplement to International Oil Pollution Prevention Certificate - Record of Construction and Equipment**

- (1) Where the Director or an authorised person decides to issue an International Oil Pollution Prevention Certificate for a New Zealand ship, he or she must also issue for that ship a Record of Construction and Equipment in the form identified as—
  - (a) Form A in the case of a ship other than one referred to in rule 123A.6(1)(b); or
  - (b) Form B in the case of an oil tanker, or a ship other than an oil tanker carrying oil as cargo in bulk, as defined in Part 121B.
- (2) The owner and the master of any ship to which this rule applies must ensure that the ship's Record of Construction and Equipment is—
  - (a) carried on board the ship at all times; and
  - (b) made readily available for inspection by the Director.

**International Oil Pollution Prevention Certificates – foreign ships registered in states party to MARPOL**

**123A.7 Application**

Rules 123A.8 to 123A.9 inclusive apply to—

- (a) every foreign ship that is an oil tanker of 150 tons gross tonnage or more that is within New Zealand jurisdiction and that is registered in a state party to MARPOL; and
- (b) every foreign ship of 400 tons gross tonnage or more that is within New Zealand jurisdiction and that is registered in a state party to MARPOL.

**123A.8 Requirement for a foreign ship registered in a state party to MARPOL to have an International Oil Pollution Prevention Certificate**

- (1) The owner and the master of any ship to which this rule applies must ensure that—
  - (a) a valid International Oil Pollution Prevention Certificate issued by or on behalf of the state the ship is registered in is held in respect of the ship; and
  - (b) if the language of the ship's International Oil Pollution Prevention Certificate is neither English nor French, the text includes a translation into one of these languages.
- (2) The owner and the master of any ship to which this rule applies must ensure that the ship's International Oil Pollution Prevention Certificate is—
  - (a) carried on board the ship at all times; and
  - (b) made readily available for inspection by the Director.

**123A.9 Requirement to carry supplement to the International Oil Pollution Prevention Certificate - Record of Construction and Equipment**

- (1) The owner and the master of any ship to which this rule applies must ensure that—
  - (a) a Record of Construction and Equipment issued by or on behalf of the state the ship is registered in is permanently attached to the ship's International Oil Pollution Prevention Certificate; and
  - (b) the Record of Construction and Equipment is in the form identified as:
    - (i) Form A in the case of a ship other than a ship referred to in rule 123A.9(1)(b)(ii); or
    - (ii) Form B in the case of an oil tanker, or a ship other than an oil tanker carrying oil as cargo in bulk, as defined in Part 121B; and
  - (c) if the language of the Record of Construction and Equipment is neither English nor French, the text includes a translation into one of these languages.
- (2) The owner and the master of any ship to which this rule applies must ensure that the ship's Record of Construction and Equipment is—
  - (a) carried on board the ship at all times; and

- (b) made readily available for inspection by the Director.

## **Oil Pollution Prevention Documents – foreign ships registered in states not party to MARPOL**

### **123A.10 Application**

Rules 123A.11 to 123A.12 inclusive apply to—

- (a) every foreign ship that is an oil tanker of 150 tons gross tonnage or more that is within New Zealand jurisdiction and that is registered in a state not party to MARPOL; and
- (b) every foreign ship of 400 tons gross tonnage or more that is within New Zealand jurisdiction and that is registered in a state not party to MARPOL.

### **123A.11 Requirement for a foreign ship registered in a state not party to MARPOL to carry an oil pollution prevention document equivalent to an International Oil Pollution Prevention Certificate**

- (1) The owner and the master of any ship to which this rule applies must ensure that—
  - (a) a valid oil pollution prevention document that has been recognised as a marine protection document under section 270 of the Act is held in respect of the ship; and
  - (b) if the language of the oil pollution prevention document is neither English nor French, the text includes a translation into one of these languages.
- (2) The owner and the master of any ship to which this rule applies must ensure that the ship's oil pollution prevention document is—
  - (a) carried on board the ship at all times; and
  - (b) made readily available for inspection by the Director.

### **123A.12 Requirement to carry supplement to the oil pollution prevention document - Record of Construction and Equipment**

- (1) The owner and the master of any ship to which this rule applies must ensure that—
  - (a) a record of construction and equipment containing all the construction and equipment information required to be recorded by Annex I of MARPOL is permanently attached to the ship's oil pollution prevention document; and
  - (b) if the language of the record of construction and equipment is neither English nor French, the text includes a translation into one of these languages.
- (2) The owner and the master of any ship to which this rule applies must ensure that the ship's record of construction and equipment is—
  - (a) carried on board the ship at all times; and
  - (b) made readily available for inspection by the Director.

## **Savings provision**

### **123A.13 Saving as to form of certificates, records and documents**

A valid International Oil Pollution Prevention Certificate and record of construction and equipment issued to a New Zealand ship or, in the case of a foreign ship registered in a state party to MARPOL, accepted, and an equivalent oil pollution prevention document recognised before 1 January 2011 shall continue in force, or be accepted or recognised until the earliest of:

- (a) the certificate or document expires; or
- (b) the certificate or document is suspended, revoked or withdrawn; or
- (c) a new certificate or document is issued, or accepted, or recognised.

## Appendices

### **Appendix 1 Form of International Oil Pollution Prevention Certificate**

*Revoked by Marine Protection Various Amendments 2010 on 1 January 2011.*

### **Appendix 2 Form A: Supplement to the International Oil Pollution Prevention Certificate – record of construction and equipment for ships other than oil tankers**

*Revoked by Marine Protection Various Amendments 2010 on 1 January 2011.*

### **Appendix 3 Form B: Supplement to the International Oil Pollution Prevention Certificate – record of construction and equipment for oil tankers**

*Revoked by Marine Protection Various Amendments 2010 on 1 January 2011.*