



# *MARINE ORDERS*

## *Part 44*

### *Safe containers*

#### *Issue 5*

Order No 4 of 2002

Pursuant to Section 425(1AA) of the *Navigation Act 1912*, I hereby make this Order repealing Marine Orders, Part 44, Issue 4 and issuing the attached Marine Orders, Part 44, Issue 5, to come into operation on 1 July 2002.

Roger Timms  
Acting Chief Executive Officer

21 June 2002

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- Issue 1, Order No. 1 of 1981
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## 1 Purpose of this Part

**1.1** Subsection 240(1) of the *Navigation Act 1912* provides for the regulations to give effect to the Container Convention. Paragraph 425(1)(c) of that Act provides for the regulations to make provision for and in relation to the protection of the health and the security from injury of persons loading or unloading of ships.

**1.2** Subsection 425(1AA) of the *Navigation Act 1912* provides that AMSA may make orders with respect to any matter for or in relation to which provision may be made by regulation. This Part of Marine Orders therefore prescribes matters for the purposes of Subsection 240(1) of the *Navigation Act 1912* and provides generally for the protection of the health and security from injury of persons loading or unloading containers on and from ships.

## 2 Definitions of words and phrases used in this Part

**AMSA** means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*;

**approved** means approved by the Chief Marine Surveyor or, where appropriate, by an authorised organisation;

**authorised organisation** means an organisation authorised in writing by the Chief Marine Surveyor to give any approval<sup>1</sup> and to undertake any testing or examination specified in this Part;

**cargo** means any goods, wares, merchandise and articles of every kind whatsoever carried in a container;

**Chief Marine Surveyor** means the Manager, Ship Inspections, in AMSA or, in respect of any particular purpose under this Part, a suitably qualified person authorised by the Manager, Ship Inspections, for that purpose;

**container** means an article of transport equipment:

- of a permanent character and accordingly strong enough to be suitable for repeated use;

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<sup>1</sup> The following organisations are authorised in accordance with the above definition: American Bureau of Shipping; Bureau Veritas; Det Norske Veritas; Germanischer Lloyd; Lloyd's Register of Shipping; Nippon Kaiji Kyokai.

- specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
- designed to be secured and/or readily handled, having corner fittings for these purposes,

and includes a container carried on a chassis, but does not include vehicles or packaging;

**dangerous goods** has the same meaning as in section 248 of the *Navigation Act 1912*;<sup>2</sup>

**date** means month and year only;

**General Manager** means the person occupying the position of General Manager, Maritime Operations, in AMSA;

**international sea transport** means the transportation of a container by ship between a port in Australia and a port in a country other than Australia;

**inter-State sea transport** means the transportation of a container by ship between:

- a port in a State and a port in another State;
- a port in a State and a port in a Territory; or
- a port in a Territory and a port in another Territory;

**loaded on to a ship** includes a reference to any handling incidental to the operation of loading on to a ship;

**maximum operating gross mass** means the maximum allowable sum of the mass of a container and its cargo;

**maximum permissible payload (P)**<sup>3</sup> means the difference between the maximum operating gross mass and the tare mass of a container;

**owner** means the person who owns a container or the lessee or bailee of a container where, by agreement between the parties, the exercise of the owner's responsibility for the maintenance and examination of the container has been transferred to a lessee or bailee;

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<sup>2</sup> Section 248 of the Navigation Act defines dangerous goods as the goods listed in the International Maritime Dangerous Goods Code. See Marine Orders, Part 41.

<sup>3</sup> The letter "P" is expressed in units of mass. Where a value is based on the gravitational forces derived from P, that force, which is an inertial force, is indicated as "Pg".

**penal provision** means a penal provision for the purposes of Regulation 4 of the Navigation (Orders) Regulations;<sup>4</sup>

**surveyor** means a person appointed to be a surveyor under s.190 of the *Navigation Act 1912*;

**tare** means the mass of an empty container including permanently affixed ancillary equipment;

**the Container Convention** means the International Convention for Safe Containers as defined in section 187A of the *Navigation Act 1912*;

**type of container** means an approved design type;

**unloaded from a ship** includes a reference to any handling incidental to the operation of unloading from a ship;

**unsafe container** means a container having a defect that could place any person in danger.

### 3 Interpretation

**3.1** If testing or examination is to be undertaken or approval given by an authorised organisation, references to **Chief Marine Surveyor** and **surveyor** are to be read as references to appropriate officers of that organisation.

**3.2** In this Part:

- headings and sub-headings are part of the Part;
- each Appendix is part of the Part;
- a footnote is not part of the Part, but may provide additional information or guidance in applying the Part.

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<sup>4</sup> Regulation 4 of the Navigation (Orders) Regulations provides that a person who contravenes a provision of an order made under subsection 425(1AA) of the *Navigation Act 1912* that is expressed to be a penal provision is guilty of an offence and is punishable, upon conviction:—

- (a) if the offender is a natural person—by a fine not exceeding \$2,000; or
- (b) if the offender is a body corporate—by a fine not exceeding \$5,000.

By virtue of sections 4AB and 4AA of the *Crimes Act 1914*, these penalties are now \$2,200 and \$5,500 respectively.

## 4 Application

**4.1** This Part applies to and in relation to containers used in international or inter-State sea transport, but does not apply to a container which remains for the entire voyage on a road or rail vehicle.

**4.2** Provision 8 applies to a container for which Australian approval is requested.

**4.3** Provision 9 applies to containers in the following circumstances:

- the owner is a natural person living in Australia or a corporation that has its head office in Australia;
- the owner is a natural person living in, or a corporation that has its head office in, a country the government of which has not made arrangements for prescribing or approving an examination scheme, and the owner has requested that the provisions apply in respect of the container.

**4.4** Provision 10 applies to a container that:

- is to be, or is being, loaded on to a ship; or
- is on board a ship;

at a port in Australia.

**4.5** Nothing in this Part precludes the application of additional structural safety requirements or tests to:

- a container specially designed and constructed, or adapted, for the transport of dangerous goods; or
- a container designed and constructed, or adapted, for the carriage of bulk liquid.

## 5 Exemptions and equivalents

### 5.1 Exemptions

The Chief Marine Surveyor, if satisfied that compliance with a provision of this Part would be unnecessary or unreasonable having regard to a container or type of container, may exempt that container or type of container from compliance with such provision to the extent specified and subject to such conditions as that officer thinks fit.

### 5.2 Equivalents

Where a provision of this Part requires a particular fitting, material or procedure, the Chief Marine Surveyor may allow any other fitting, material or procedure if that officer

is satisfied that the other fitting, material or procedure is at least as effective as that required by that provision of this Part.

### **5.3 Exemptions and equivalents not to contravene the Container Convention**

The Chief Marine Surveyor must not give an exemption under 5.1 or allow an equivalent under 5.2 if it would contravene the Container Convention.

## **6 Review of decisions**

### **6.1 Internal review**

**6.1.1** If the Chief Marine Surveyor makes a decision under this Part, a person affected by the decision may apply to the General Manager for review of that decision.

**6.1.2** An application for internal review under 6.1.1 must be made in writing to the General Manager and must be accompanied by such information as the General Manager requires to enable that officer to make a proper decision.

**6.1.3** The General Manager may:

- affirm the original decision by the Chief Marine Surveyor; or
- make any decision that could be made by the Chief Marine Surveyor in accordance with this Part.

### **6.2 Review by the AAT**

**6.2.1** Application may be made to the Administrative Appeals Tribunal for review of a decision by the General Manager under 6.1.3.

**6.2.2** The General Manager must give his or her decision in writing within 28 days of receiving the application for internal review. The notice must include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision. The notice must also include a statement to the effect that the person may request a statement under section 28 of that Act.

**6.2.3** Failure to comply with 6.2.2 in relation to a decision does not affect the validity of that decision.

## 7 Transitional

### 7.1 Exemptions and equivalents

An exemption or equivalent granted or continued under a provision of Marine Orders, Part 44, Issue 4, and in force immediately before this Issue of this Part came into force, is to continue in force as if granted under this Issue of this Part.

### 7.2 Approvals

**7.2.1** A container or type of container approved under Marine Orders, Part 44, Issues 1, 2, 3, or 4, and in service immediately before this Issue of this Part came into force, is deemed to be approved under this Issue of this Part.

## 8 Approval of containers

**8.1** Application for approval of a container must be made to an authorised organisation and be accompanied by such supporting data as is required by that organisation.

**8.2** An authorised organisation may approve a container that complies with the Container Convention. If the area enclosed by the container's 4 outer bottom corners is less than 14 square metres, or less than 7 square metres if it is fitted with top corner fittings, an authorised organisation may approve it if it complies with standards equivalent to those contained in the Container Convention.

**8.3** If an approved container is to be modified in a manner resulting in structural changes, the owner must apply to the approving authorised organisation for approval of the modification.

**8.4** When a container has been approved by an authorised organisation, the owner of the container is entitled to affix a Safety Approval Plate to the container.

**8.5** A Safety Approval Plate must:

- comply with Appendix 1;
- be permanently affixed<sup>5</sup>
  - in a readily visible place;
  - adjacent to any other plate relating to an approval issued for official purposes; and

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<sup>5</sup> A Safety Approval Plate affixed to a container does not remove the necessity to display such labels or other information as may otherwise be required to be displayed on the container.



- in a place where it will not be easily damaged.

**8.6.1** If the Chief Marine Surveyor considers that an approved container does not comply with the provisions of this Part, that officer may, in addition to any other action considered appropriate, cancel the approval issued in respect of that container. Written notification of cancellation must be given to the owner of the container and to the approving authorised organisation.

**8.6.2** If an authorised organisation considers that an approved container does not comply with the provisions of this Part, it may, in addition to any other action, withdraw the approval issued in respect of that container. Written notification of withdrawal must be given to the owner of the container and to the Chief Marine Surveyor.

## **9 Maintenance, examination & marking**

### **9.1 Maintenance**

The owner of a container is responsible for maintaining that container in a safe condition.

### **9.2 Examination**

**9.2.1** The owner must arrange for a container to be examined in accordance with the procedure and at the intervals or at the times set out in Appendix 2, for the purpose of determining whether the container has any defect that could place any person in danger.

This is a penal provision.

**9.2.2** The person who has examined a container for the purpose of 9.2.1, being satisfied that the container is not an unsafe container, must make and sign a written report that:

- identifies the container;
- states the date of the examination; and
- states that, in his or her opinion, the container is not an unsafe container,

and provide the report to the owner.

**9.2.3** The owner must retain the report, in legible form, until receipt of a report in respect of a subsequent examination.

This is a penal provision.

### 9.3 Marking

**9.3.1** The owner must ensure that the date by which a container must undergo its initial examination is clearly marked on its Safety Approval Plate in accordance with 9.3.3.

This is a penal provision.

**9.3.2** Except in the case of a container in respect of which there is an approved continuous examination programme, the owner must ensure that the date by which a container is to be next re-examined is clearly marked on its Safety Approval Plate, or on the container as near as practicable to the Safety Approval Plate, in accordance with 9.3.3.

This is a penal provision.

**9.3.3** An examination or re-examination date must be marked permanently and legibly by stamping, embossing, engraving, applying a decal or other method acceptable to the approving authorised organisation.

**9.3.4** The owner of a container must not permit a re-examination date to be marked on the container under 9.3.2 unless a report of examination has been issued in respect of the container under 9.2.2.

This is a penal provision.

**9.3.5** The owner of a container in respect of which there is an approved continuous examination programme must ensure that the container is marked permanently and legibly by stamping, embossing, engraving or other method acceptable to the approving authorised organisation, with the letters 'ACEP (AUS)'.  
This is a penal provision.

**9.3.6** A decal referred to in 9.3.3 must comply with the colour code specified in Table 1 and the relevant date<sup>6</sup> must be shown in the English language or in Arabic figures on the decal or on the Safety Approval Plate.

**Table 1**

<i>Colour</i>	<i>Year</i>				<i>Colour</i>	<i>Year</i>		
Black	2002	2008	2014	2020	Blue	2005	2011	2017
Green	2003	2009	2015		Yellow	2006	2012	2018
Brown	2004	2010	2016		Red	2007	2013	2019

<sup>6</sup> In accordance with the Container Convention, examination and re-examination dates are specified by month and year only.

## 10 Control

### 10.1 Validity of Safety Approval Plate

**10.1.1** A Safety Approval Plate affixed to a container remains valid until the approval under which it was affixed is withdrawn.

**10.1.2** A Safety Approval Plate affixed to a container by or under the authority of a government that is a party to the Container Convention has, for the purposes of 10, the same validity as if it were affixed in accordance with this Part.

### 10.2 Certain containers not to be loaded or unloaded

**10.2.1** Subject to 10.3, a person must not load a container on to, or unload a container from, a ship if:

- (a) the person has reason to believe that the container is an unsafe container; or
- (b) the container does not have a valid Safety Approval Plate affixed to it; or
- (c) the date indicated on the Safety Approval Plate for the container to be re-examined has passed; or
- (d) no date is indicated on the Safety Approval Plate for the container to be re-examined and the letters 'ACEP' and identification of the approving government are not marked on or near the Safety Approval Plate of the container; or
- (e) the mass of the container (including its contents and any affixed ancillary equipment) exceeds the maximum operating gross mass of the container.

This is a penal provision.

**10.2.2** If a surveyor has reason to believe that a container is to be, has been, or is being loaded on to or unloaded from a ship in contravention of 10.2.1(e), the surveyor may require the person who is directly in control of the persons engaged in the loading or unloading to have the mass of the container, including its contents and any affixed ancillary equipment, determined without any undue delay by a weighing instrument nominated by the surveyor for the purpose.

**10.2.3** In a prosecution for an offence against 10.2.1(e), a certificate issued by the person responsible for or operating the weighing instrument referred to in 10.2.2, stating that a container, its contents and affixed ancillary equipment has, by that person, been weighed and found to be of the mass stated in the certificate, is to be evidence of the facts stated in the certificate.

### **10.3 Surveyor may authorise loading or unloading**

**10.3.1** If a surveyor considers that it is reasonable and proper in the circumstances of the case to allow a container referred to in 10.2.1 to be loaded on to, or unloaded from, a ship, the surveyor may authorise, subject to such conditions as the surveyor specifies, the loading or unloading of that container.

**10.3.2** A person must comply with any condition imposed by a surveyor under 10.3.1.

This is a penal provision.

### **10.4 Unauthorised affixture of Safety Approval Plate**

A person must not affix, or order to be affixed, a Safety Approval Plate to a container in Australia except in accordance with this Part or by or under the authority of a government that is a party to the Container Convention.

This is a penal provision.

### **10.5 Removal of Safety Approval Plate when no longer valid**

The owner of a container must remove the Safety Approval Plate on a container if:

- (a) the container has been modified in a manner which would void the original approval and the information found on the Safety Approval Plate; or
- (b) the container is removed from service and is not being maintained in accordance with this Part; or
- (c) approval has been withdrawn under 8.6.1 or 8.6.2.

This is a penal provision.

### **10.6 Unauthorised examination date**

A person must not mark, or order to be marked, an examination date on a container or on a Safety Approval Plate affixed to a container except in accordance with this Part or under the authority of a government that is a party to the Container Convention.

This is a penal provision.

### **10.7 Maximum gross mass markings**

All maximum operating gross mass markings on a container must be consistent with the maximum operating gross mass indicated on the Safety Approval Plate.

**10.8 Maximum mass to be placed on container**

A container on a ship must not have placed upon it a mass exceeding the allowable stacking mass for 1.8g indicated on the Safety Approval Plate affixed to the container.

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## Appendix 1

### Safety Approval Plate

#### 1 Definitions

For the purposes of this Appendix, the following definitions apply:

**fireproof** means capable of withstanding and remaining legible after not less than 5 minutes exposure to a temperature of 500°C, when mounted on the specified material of construction of the container;

**g** means the standard acceleration of gravity, and equals 9.8 m/s<sup>2</sup>;

**non-corroding** means capable of resisting the effects of the marine environment both at sea and ashore, so as to remain legible for the working life of the container;

**P** means maximum permissible payload; and

**permanent** means having a legible life expectancy equal to or greater than the life expectancy of the container to which the plate is affixed.

#### 2 Requirements

**2.1** A Safety Approval Plate must be a permanent, non-corroding, fireproof rectangular plate measuring not less than 200 mm by 100 mm. The letters and words 'CSC Safety Approval' must be of a minimum letter height of 8 mm. All other words and numbers must be of a minimum height of 5 mm. Words and numbers must be stamped into, embossed on or indicated on a surface of the plate in any other permanent and legible way.

**2.2** An examination date may be indicated by use of a colour coded decal complying with 9.3.6.

**2.3** An ISO alpha numeric identification code may only be used if the owner of a container maintains a record correlating the code identification number with the manufacturer's serial number and such record is available, upon request, to the Chief Marine Surveyor or an authorised organisation.

**2.4** A Safety Approval Plate must conform to the model reproduced in Figure 1 and must contain the following information in English or French:<sup>7</sup>

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<sup>7</sup> If the information required for lines 7, 8 or 9 is not required in respect of any Safety Approval Plate, those lines may be used for marking examination dates.

- Line 1:** The name of the organisation issuing the approval, followed by the approval reference and year in which the approval was issued and preceded by the letters AUS.
- Line 2:** The date of manufacture, being the month and year in which the container was manufactured.
- Line 3:** The manufacturer's identification number of the container or, in the case of a container for which the owner wishes to use an ISO alpha numeric identification code, a number appropriate to that code.
- Line 4:** The maximum operating gross mass of the container expressed in both kilograms and pounds.
- Line 5:** The allowable stacking load for 1.8g expressed in both kilograms and pounds.
- Line 6:** The transverse racking test force expressed in Newtons.
- Line 7:** The end wall strength value, but only if the end walls are designed to withstand a force of less or greater than 0.4 times the gravitational force by maximum permissible payload, i.e.  $0.4Pg$ .<sup>8</sup>
- Line 8:** The side wall strength value, but only if the side walls are designed to withstand a force of less or greater than 0.6 times the gravitational force by maximum permissible payload, i.e.  $0.6Pg$ .<sup>9</sup>
- Line 9:** The first maintenance examination date (month and year) for new containers, and subsequent maintenance examination dates (month and year) if plate is used for this purpose.

**Figure 1: Safety Approval Plate**

	CSC <sup>10</sup> SAFETY APPROVAL	
Line 1.....	(AUS— )	
Line 2.....	DATE MANUFACTURED .....	
Line 3.....	IDENTIFICATION No. ....	
Line 4.....	MAXIMUM OPERATING GROSS MASS .....kg .....lb	
Line 5.....	ALLOWABLE STACKING LOAD FOR 1.8g .....kg .....lb	
Line 6.....	TRANSVERSE RACKING TEST FORCE .....Newtons	
Line 7.....		
Line 8.....		
Line 9.....		

<sup>8</sup> For example: 'End wall strength 0.5P'.

<sup>9</sup> For example: 'Side wall strength 0.8P'.

<sup>10</sup> The letters 'CSC' are omitted if the area enclosed by the container's 4 outer bottom corners is less than 14 square metres, or less than 7 square metres if it is fitted with top corner fittings.

## Appendix 2

### Examination of containers

- 1 Each examination of a container that is required by this Part must be performed by a person trained and experienced in the detection of container structural damage.
- 2 An examination of a container must take into account the particular characteristics of the type of container and the materials of its construction and must include a detailed visual inspection:
  - for defects that could place any person in danger; and
  - of all load-bearing components.
- 3 An examination of a container must take place only when:
  - sufficient time is available for a thorough examination;
  - the container is cleaned and prepared to the extent required by the person undertaking the examination;
  - means of lifting and supporting the container are provided to the extent required by the person undertaking the examination to ensure that the whole of the underside is accessible, and
  - there is provided safe means of access and egress, sufficient lighting and all other facilities necessary to allow the examination to be carried out safely and effectively.
- 4 A person undertaking an examination of a container may require the use of any appropriate test in accordance with the Container Convention or a method of non-destructive testing.
- 5 Subject to 6, a container must be examined:
  - initially, not later than 5 years after the date of manufacture and, subsequently, at intervals of not more than 30 months; or
  - in accordance with an approved continuous examination program.
- 6 A container must be examined:
  - after the repair of any defect in the container that could have placed any person in danger and before the container is loaded on to a ship following that repair;
  - after any modification of the container and before the container is loaded on to a ship following that modification;



and in the case of a container in respect of which there is an approved continuous examination programme:

- after refurbishment of the container and before the container is loaded on to a ship following that refurbishment; and
- during an on-hire/off-hire interchange of the container and before the container is loaded on to a ship following that interchange.

**7** A container that has been examined under 6 must be re-examined:

- not later than the date when, but for the circumstance giving rise to the examination under 6, the container would have been due for examination in accordance with 5; or
- a date that is not more than 30 months after the date of the examination under 6.

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