



Australian Government
Australian Maritime Safety Authority

Marine Order 97 (Marine pollution prevention — air pollution) 2013

made under the *Navigation Act 2012* and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*

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Section 1

Division 1 Preliminary**1 Name of Order**

This Order is *Marine Order 97 (Marine pollution prevention — air pollution) 2013*.

4 Purpose

This Order:

- (a) gives effect to Annex VI of MARPOL (which deals with prevention of air pollution from vessels); and
- (b) provides for matters for Chapter 4 of the Navigation Act (which deals with prevention of pollution from vessels); and
- (c) prescribes matters for Division 2 of Part IIID of the Pollution Prevention Act (which deals with the sulphur content of fuel oil).

5 Power

- (1) This Order is made under both the Navigation Act and the Pollution Prevention Act.
- (2) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) subsection 130(1) which provides that the regulations may make provision about pollution certificates;
 - (b) subsection 314(3) which provides that the regulations may prescribe various matters about certificates, including the time when certificates, variations of certificates and revocation of certificates come into force;
 - (c) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL.
- (3) Subsection 339(1) of the Navigation Act also provides for regulations to be made prescribing matters required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.
- (4) The following provisions of the Pollution Prevention Act also provide for this Order to be made:
 - (a) paragraphs 33(1)(a) and (b) which provide for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act;
 - (b) paragraph 33(1)(c) which provides for regulations under paragraphs 33(1) (a) and (b) to be made to give effect to MARPOL;
 - (c) subsection 34(1) which provides that AMSA may make orders for any matter (other than the imposition of penalties) for which provision may be made by regulation.
- (5) Subsection 342(1) of the Navigation Act provides that AMSA may make a Marine Order about anything that may or must be made by the regulations.

6 Definitions

In this Order:

2015 Guidelines means *2015 Guidelines for exhaust gas cleaning systems* adopted by IMO Resolution MEPC.259(68) and as amended from time to time.

Annex VI means Annex VI of MARPOL.

EEDI means Energy Efficiency Design Index.

EIAPP certificate (or *engine international air pollution prevention certificate*) means:

- (a) a pollution certificate relating to air pollution or ozone depleting substances issued under section 132 of the Navigation Act for a marine diesel engine installed on a vessel; or
- (b) a certificate issued under section 319 of the Navigation Act certifying that the emissions from a marine diesel engine installed on a vessel are within the limits mentioned in regulation 13 of Annex VI.

Note For the form of certificate — see section 16.

FPSO means a vessel that is:

- (a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; or
 - (b) capable of storing the petroleum and delivering it to another vessel or pipeline; or
 - (c) capable of modifying the petroleum while in storage on the vessel to suit it for transport or to fit it for the commercial requirements of the consignees; or
 - (d) designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey,
- but does not include a facility that is designed to remain permanently moored for the production life of the related oil field.

FSU means a vessel that is:

- (a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; or
 - (b) capable of storing the petroleum and delivering it to another vessel or pipeline, but which is not capable of modifying the petroleum while in storage on the vessel; or
 - (c) designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey,
- but does not include a facility that is designed to remain permanently moored for the production life of the related oil field.

IAPP certificate (or *international air pollution prevention certificate*) means:

- (a) a pollution certificate relating to air pollution or ozone depleting substances issued under section 132 of the Navigation Act for a vessel; or
- (b) a certificate relating to air pollution or ozone depleting substances issued under section 319 of the Navigation Act for a vessel.

Note For the form of certificate — see section 16.

IEE certificate (or *international energy efficiency certificate*) means:

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- (a) a pollution certificate relating to the energy efficiency of a vessel issued under section 132 of the Navigation Act; or
- (b) a certificate relating to the energy efficiency of a vessel issued under section 319 of the Navigation Act.

Note For the form of certificate — see section 16.

m/m means mass by mass.

MODU has the same meaning as in *Marine Order 47 (Offshore industry units) 2019*.

NOx Technical Code has the same meaning as in Annex VI.

ship energy efficiency management plan (or **SEEMP**) means the plan required to be kept on board a vessel by section 26FEW of the Pollution Prevention Act.

statement of compliance means a Statement of Compliance — Fuel Oil Consumption Reporting that is

- (a) for a regulated Australian vessel — issued under Division 2A; or
- (b) for a foreign vessel — mentioned in paragraphs 6 and 7 of Regulation 6 of Annex VI.

Note 1 Some terms used in this Order are defined in *Marine Order 1 (Administration) 2013* including:

- IMO
- MARPOL
- national law
- Navigation Act
- Pollution Prevention Act.

Note 2 Some terms used in this Order are defined in the Navigation Act or Pollution Prevention Act, including:

- AMSA
- foreign vessel
- inspector
- issuing body
- prescribed officer
- recognised organisation (for organisations that have been prescribed for the definition — see *Marine Order 1 (Administration) 2013*)
- regulated Australian vessel.

Note 3 For delegation of AMSA's powers under this Order — see the AMSA website at <http://www.amsa.gov.au>.

Note 4 Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

7 Interpretation

- (1) For this Order, a reference in the NOx Technical Code or Annex VI to *the Administration* is taken to mean, for a vessel registered in Australia, AMSA or a recognised organisation.
- (2) For this Order, a reference in Annex VI to *the competent authority* is taken to mean:
 - (a) for the Pollution Prevention Act — a prescribed officer; or

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(b) for the Navigation Act — AMSA or an inspector.

Note for paragraph (a) See subsection 3(2) of the Pollution Prevention Act — A reference in a section of that Act to a prescribed officer is a reference to AMSA or such person, or the holder of such office in AMSA, as is prescribed for the purposes of that section.

Note for paragraph (b) See subsection 254(1) of the Navigation Act which provides for the appointment of an inspector. In addition to powers under the Pollution Prevention Act, Chapters 4 and 8 of the Navigation Act give powers to AMSA and inspectors to verify compliance and enforce the provisions of Annex VI which include the powers that may be exercised as the competent authority under that Annex.

8 Application

- (1) This Order applies to a vessel that is:
 - (a) a regulated Australian vessel; or
 - (b) a foreign vessel; or
 - (c) a recreational vessel; or
 - (d) a domestic commercial vessel.
- (2) However, the following provisions do not apply to a foreign vessel or a recreational vessel that does not have Australian nationality:
 - (a) section 9;
 - (b) Division 2;
 - (c) Division 2B, apart from sections 20B and 20C;
 - (d) subsections 22(3) and (6);
 - (e) section 25;
 - (f) Division 6;
 - (g) sections 31 to 34;
 - (h) section 37.

Note The application of this Order is subject to subsection 33(2) of the Pollution Prevention Act and section 12 of the Navigation Act. Those provisions have the effect that parts of this Order that give effect to parts of MARPOL do not apply to certain vessels in an area if a law of a State or the Northern Territory or the national law gives effect to the same parts of MARPOL for vessels in the area.

9 Equivalentents and waivers

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for approval to use an equivalent.
- (2) AMSA may approve the use of an equivalent if:
 - (a) it would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and
 - (b) approving the use of the equivalent would not contravene regulation 4 of Annex VI.

Note *Marine Order 1 (Administration) 2013* deals with the following matters about equivalentents:

- making an application
- seeking further information about an application
- the time allowed for consideration of an application
- imposing conditions on approval of an application
- notifying a decision on an application

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- review of decisions.
- (3) AMSA may give a waiver in accordance with regulation 19 of Annex VI from a requirement of the Order.

9A Review of decisions

A decision under section 20F is a reviewable decision for section 17 of *Marine Order 1 (Administration) 2013*.

Division 1A Requirements of Annex VI**9B Convention requirements**

A vessel must comply with the requirements of Annex VI that apply to the vessel.

Division 2 Certificates**Subdivision 1 Various matters about certificates****10 Certificates required**

For subsection 130(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified pollution certificates), a vessel must have the following certificates:

- (a) an EIAPP certificate for each marine diesel engine installed on the vessel;
- (b) an IAPP certificate;
- (c) an IEE certificate.

11 Applying for certificates

- (1) For subsection 131(1) of the Navigation Act (which enables a person to apply to an issuing body for a pollution certificate specified in the regulations), the following certificates are specified:
- (a) an EIAPP certificate;
 - (b) an IAPP certificate;
 - (c) an IEE certificate.

- (2) Division 3 of *Marine Order 1 (Administration) 2013* (other than section 17) applies to an application to AMSA for a certificate mentioned in subsection (1).

Note Division 3 of *Marine Order 1 (Administration) 2013* prescribes some general rules about the making and determination of various kinds of applications. Section 17 of that Order provides for internal review of decisions about applications. That section does not apply to decisions about pollution certificates because those decisions are reviewable under subsection 313(1) of the Navigation Act.

12 Status of EIAPP certificates

- (1) An EIAPP certificate for a marine diesel engine installed on a vessel is taken to be issued for the vessel.
- (2) A vessel is taken to have an EIAPP certificate if each marine diesel engine installed on the vessel has an EIAPP certificate.

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13 Criteria for issue of IAPP certificate or IEE certificate

For paragraph 132(1)(b) of the Navigation Act, the criteria for issue of an IAPP certificate or an IEE certificate are that the vessel:

- (a) has been surveyed in accordance with regulation 5 of Annex VI; and
- (b) complies with the requirements that apply to it under regulation 5 of Annex VI.

14 Criteria for variation of IAPP certificate or IEE certificate

For subsection 133(1) of the Navigation Act, the criteria for variation of an IAPP certificate or an IEE certificate are that:

- (a) the vessel has been surveyed in accordance with regulation 5 of Annex VI; and
- (b) for an IAPP certificate that is required to be endorsed under regulation 6 of Annex VI — the certificate is endorsed accordingly; and
- (c) to the extent that the variation relates to the period of validity of an IAPP certificate — the variation is in accordance with regulation 9 of Annex VI.

Note for paragraph (b) The requirements that apply under regulation 5 of Annex VI include a requirement for maintenance of equipment — see paragraph 5 of regulation 5.

15 Criteria for issue of EIAPP certificate

For paragraph 132(1)(b) of the Navigation Act, the criteria for the issue of an EIAPP certificate for a marine diesel engine installed on a vessel are that:

- (a) the engine has been surveyed in accordance with the NO_x Technical Code; and
- (b) if regulation 13 of Annex VI applies to the engine — the emissions from the engine are likely to be within the limits specified in regulation 13 of Annex VI for the intended operation of the engine.

Note See also *Guidelines for on-board NO_x verification procedure — direct measurement and monitoring method* adopted by IMO resolution MEPC.103(49) and as amended from time to time.

16 Form of certificates

A pollution certificate must be in the form mentioned in the following table.

Item	Certificate	Form
1	EIAPP certificate	Engine International Air Pollution Prevention Certificate set out in Appendix I to the NO _x Technical Code
2	IAPP certificate	International Air Pollution Prevention Certificate set out in Appendix I to Annex VI
3	IEE certificate	International Energy Efficiency Certificate set out in Appendix VIII to Annex VI

17 Commencement and duration of certificates

- (1) An IAPP certificate and an EIAPP certificate come into force, and cease to be in force, in accordance with regulation 9 of Annex VI.

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- (2) An IEE certificate for a vessel remains in force for the life of the vessel in accordance with paragraph 10 of regulation 9 of Annex VI.

Note A certificate may be revoked in accordance with the criteria mentioned in this Division.

Subdivision 2 Criteria for revocation of certificates**18 Criteria for revocation of IAPP certificate**

For section 134 of the Navigation Act, the criteria for revocation of an IAPP certificate are that:

- (a) a survey is not completed in the time required by regulation 5 of Annex VI for the survey; or
- (b) the vessel does not comply with the requirements that apply to it under regulation 5 of Annex VI; or
- (c) the certificate has not been endorsed (after a renewal survey) as required by regulation 6 of Annex VI; or
- (d) the vessel to which the certificate applies ceases to be registered in Australia.

Note for paragraph (b) The requirements that apply under regulation 5 of Annex VI include a requirement for maintenance of equipment — see paragraph 5 of regulation 5.

19 Criteria for revocation of IEE certificate

For section 134 of the Navigation Act, the criteria for revocation of an IEE certificate are that the vessel to which the certificate applies:

- (a) is withdrawn from service; or
- (b) undergoes a major conversion (within the meaning of regulation 2 in Annex VI); or
- (c) ceases to be registered in Australia.

20 Criteria for revocation of EIAPP certificate

For section 134 of the Navigation Act, the criteria for revocation of an EIAPP certificate for a marine diesel engine installed on a vessel are that:

- (a) a survey of the engine is not completed in the time required by the NO_x Technical Code; or
- (b) if regulation 13 of Annex VI applies to the engine — the emissions from the engine are not within the limits specified in regulation 13 of Annex VI for the intended operation of the engine; or
- (c) the engine to which the certificate applies is withdrawn from service; or
- (d) the vessel ceases to be registered in Australia.

Division 2A Certificate requirements for foreign vessels**20A Requirements for foreign vessels**

- (1) Subsection (2) applies to a foreign vessel and a recreational vessel that does not have Australian nationality.
- (2) A vessel to which Annex VI applies must have the certificates that it is required to have in accordance with Regulations 5 and 6 of that Annex.

Division 2B Fuel Oil Consumption Reporting

20B Application of this Division

- (1) This Division applies to a vessel that is engaged on an overseas voyage.
- (2) However, section 20C applies to a foreign vessel whether or not it is engaged on an overseas voyage.
- (3) This Division does not apply to:
 - (a) a vessel that is propelled by a means other than mechanical; and
 - (b) a platform, including a FPSO, a FSU and a MODU.

Note For a new vessel engaged on overseas voyages or a vessel not normally engaged on overseas voyages that is required to undertake a single overseas voyage, see the AMSA website for guidance material on the application of the requirements of this Division:

<http://www.amsa.gov.au>.

20C Requirement for statement of compliance

- (1) A vessel that is at least 5000 GT must have:
 - (a) a statement of compliance in accordance with Annex VI; or
 - (b) for a vessel whose flag State is not a party to Annex VI — documentary evidence issued by or on behalf of the Administration of that State that the vessel complies with the requirements of the State for the reporting of fuel oil consumption.

Note Annex VI requires a statement of compliance for a vessel only after data has been collected for a calendar year and submitted to the vessel's Administration.

- (2) A statement of compliance must be kept on board the vessel while it remains valid.

20D Fuel oil consumption data

The owner of a vessel that is at least 5000 GT must collect and give to an issuing body fuel oil consumption data in accordance with Regulation 22A of Annex VI.

Note Under Regulation 22A of Annex VI, the requirement to collect data applies from the commencement of calendar year 2019.

20E Application for statement of compliance

The owner of a vessel mentioned in section 20D may apply to an issuing body for the issue of a statement of compliance.

20F Issue of statement of compliance

- (1) An issuing body may issue a statement of compliance if:
 - (a) an application has been made; and
 - (b) fuel oil consumption data has been collected for the vessel in accordance with Regulation 22A of Annex VI and the issuing body is satisfied that the data has been verified as required by that Regulation.
- (2) A statement of compliance remains valid in accordance with paragraph 12 of regulation 9 of Annex VI.

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20G Form of statement of compliance

A statement of compliance must be in the form set out in Appendix X to Annex VI.

Division 3 Nitrogen oxides**21 Restrictions on operation of engines**

- (1) A person must not operate a marine diesel engine on a vessel if:
 - (a) the engine is of a kind to which regulation 13 of Annex VI applies; and
 - (b) none of the conditions mentioned in subsection (2) are met.
- (2) For paragraph (1)(b), the conditions are:
 - (a) the emissions of nitrogen oxides from the engine are likely to be within the limits specified in regulation 13 of Annex VI for the intended operation of the engine and equipment; or
 - (b) an alternative control measure (of a kind mentioned in paragraph 1.2.2 of regulation 13 of Annex VI) is in place to reduce onboard emissions of nitrogen oxides from the engine at least to the limit mentioned for the engine in regulation 13 of Annex VI.

Penalty: 50 penalty units.

- (3) An offence against subsection (1) is a strict liability offence.
- (4) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units

21A Engine status in emission control areas

- (1) The master of a regulated Australian vessel operating in an emission control area must ensure that any record required to be made for the vessel under paragraph 5.3 of regulation 13 of Annex VI is entered in the official logbook.

Note Paragraph 5.3 of regulation 13 of Annex VI provides that the following must be recorded for a vessel constructed on or after 1 January 2016 with marine diesel engines that are certified to Tier II or Tier III standard: details of the engine tier, engine on/off status when entering and exiting an emission control area, any changes to that status within the area, and the date, time and position of the vessel.

- (2) For subsection (1), an emission control area is an emission control area mentioned in paragraph 6 of regulation 13 of Annex VI.

Division 4 Incineration on board vessels**22 Restrictions on incineration on board vessels**

- (1) A person must not incinerate any matter on board a vessel if incineration of the matter is prohibited (either absolutely or in a specified circumstance or a specified way) by regulation 16 of Annex VI.

Penalty: 50 penalty units.

- (2) A person must not incinerate any matter on board a vessel in an incinerator that does not comply with regulation 16 of Annex VI.

Penalty: 50 penalty units.

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- (3) Subsections (1) and (2) do not apply to incineration of any matter in an incinerator for which AMSA has allowed exclusion from subparagraph 6.1 of regulation 16 of Annex VI.
- (4) An offence against subsection (1) or (2) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

Civil penalty: 50 penalty units.

- (6) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for exclusion from subparagraph 6.1 of regulation 16 of Annex VI.
- (7) The decision maker for the application is the holder of an office in AMSA to which AMSA has delegated the power to approve the exclusion.

Note Regulation 16 includes requirements for the following:

- (a) an IMO Type Approval Certificate (or exclusion from that requirement) — see subparagraph 6.1 of regulation 16 and appendix IV to Annex VI;
- (b) approval taking into account the *2014 Standard specification for shipboard incinerators* adopted by IMO Resolution MEPC.244(66) and as amended from time to time — see subparagraph 6.1 of regulation 16.

23 Responsibilities of owner

- (1) The owner of a vessel must ensure that a copy of the manufacturer's operating manual for an incinerator is available in accordance with paragraph 7 of regulation 16 of Annex VI.
- Penalty: 50 penalty units.
- (2) The owner of a vessel must ensure that seafarers responsible for operating an incinerator mentioned in regulation 16 of Annex VI are trained so that they can implement the guidance given by the manufacturer's operating manual.
- Penalty: 50 penalty units.
- (3) An offence against subsection (1) or (2) is a strict liability offence.
- (4) The owner of a vessel is liable to a civil penalty if the owner contravenes subsection (1) or (2).

Civil penalty: 50 penalty units.

24 Responsibilities of master

- (1) The master of a vessel must ensure that:
- (a) the combustion chamber gas outlet temperature of an incinerator installed on the vessel is monitored at all times; and
- (b) waste is not fed into the incinerator when the combustion chamber gas outlet temperature is below 850°C.
- Penalty: 50 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

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Division 5 Reporting requirements**25 Reports of alterations to vessels**

For paragraph 137(1)(c) of the Navigation Act, the period within which AMSA and an issuing body must be informed of an alteration to a vessel is 7 days after the alteration is made.

Note 1 An approved form for reporting of alterations to vessels is available from the AMSA website: <http://www.amsa.gov.au>.

Note 2 For other reporting requirements — see *Transport Safety Investigation Act 2003*, sections 18 and 19.

26 Marine incidents

For paragraph (l) of the definition of *marine incident* in subsection 14(1) of the Navigation Act, the following incidents are prescribed:

- (a) an incident involving a vessel that may affect compliance by the vessel with the requirements of Annex VI;
- (b) anything that substantially affects the efficiency or completeness of the vessel's equipment covered by Annex VI.

Note The owner of a vessel must report marine incidents to AMSA — see s 185 of the Navigation Act. The master of a vessel must report marine incidents to AMSA — see s 186 of the Navigation Act. For the prescribed periods for reporting marine incidents — see section 23A of *Marine Order 1 (Administration) 2013*.

Division 6 Energy efficiency**27 Attained EEDI**

The attained EEDI for a vessel must be worked out in accordance with regulation 20 of Annex VI.

Note The guidelines mentioned in regulation 20 for working out the attained EEDI are the *2014 Guidelines on the method of calculation of the attained Energy Efficiency Design Index (EEDI) for new ships* adopted by IMO Resolution MEPC.245(66) and as amended from time to time.

28 Required EEDI

The required EEDI for a vessel must be worked out in accordance with regulation 21 of Annex VI.

Note For guidance on working out reference line values for required EEDI — see the *2013 Guidelines for calculation of reference lines for use with Energy Efficiency Design Index (EEDI)* adopted by IMO Resolution MEPC.231(65) and as amended from time to time.

29 Ship energy efficiency management plan

For subsection 26FEW(3) of the Pollution Prevention Act, a SEEMP must contain the information required by *2016 Guidelines for the development of a ship energy efficiency management plan*, adopted by IMO resolution MEPC.282(70) and as amended from time to time.

Note 1 The Guidelines include training among the means of implementing a SEEMP — see paragraph 4.1.6 of the Guidelines.

Note 2 Information about obtaining copies of IMO resolutions is available on the AMSA website at <http://www.amsa.gov.au>.

Division 7 Matters prescribed for the Pollution Prevention Act**30 Sulphur content of fuel oil — prescribed limits**

- (1) For paragraph 26FEG(1)(b) of the Pollution Prevention Act, the prescribed limit is 0.50% m/m.
- (2) For paragraph 26FEH(4)(a) of the Pollution Prevention Act, the prescribed limit is 0.10% m/m.

30A Prescribed level of total emission of sulphur oxides

For paragraphs 26FEGA(4)(b) and 26FEHA(2)(b) of the Pollution Prevention Act, the prescribed level is the level set out in Table 1, paragraph 1.3 of the 2015 Guidelines.

30B Operation of Annex VI approved equivalent

- (1) For paragraph 26FEGA(1)(b) and subparagraph 26FEH(4)(b)(ii) of the Pollution Prevention Act, an Annex VI approved equivalent that is an exhaust gas cleaning system must be operated in the manner mentioned in the 2015 Guidelines as if the 2015 Guidelines were mandatory.
- (2) For paragraph 26FEGA(1)(c) and subparagraph 26FEH(4)(b)(iii) of the Pollution Prevention Act, a waste stream arising from the operation of an exhaust gas cleaning system may be discharged only if:
 - (a) there is continuous monitoring and recording of the waste stream; and
 - (b) the measures in section 10 of the 2015 Guidelines are applied to the waste stream and the waste stream is found to be in accordance with the limits mentioned.

31 Notification of fuel oil non-availability

For paragraphs 26FEGA(7)(b), 26FEGA(7)(c), 26FEHA(5)(b), 26FEHA(5)(c), 26FEHA(6)(b) and 26FEHA(6)(c) of the Pollution Prevention Act:

- (a) notification must be on the approved form; and
- (b) notification must occur as soon as the person responsible for obtaining fuel oil for use on board the ship becomes aware that it will not be possible to obtain compliant fuel oil; and
- (c) a copy of the notification must be kept on board the ship for 3 years.

Note The approved form is available on the AMSA website: at <http://www.amsa.gov.au>.

32 Flushing fuel oil service systems

For paragraphs 26FEI(1)(d) and 26FEI(2)(d) of the Pollution Prevention Act, the prescribed limit is 0.10% m/m.

33 Record of prescribed fuel-changeover operation

- (1) For paragraphs 26FEJ(1)(a) and 26FEJ(3)(a) of the Pollution Prevention Act, the following are prescribed record books:
 - (a) for a ship over 400 GT or an oil tanker over 150GT — the vessel's oil record book (Part 1) or the official logbook;
 - (b) for any other ship — the official logbook.
- (2) For paragraph 26FEJ(1)(a) of the Pollution Prevention Act, an entry must:

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- (a) be made as soon as only fuel oil with a sulphur content of less than 0.10% m/m is being burned; and
- (b) include:
 - (i) the volume of low-sulphur fuel oil (up to 0.10% sulphur content) in each tank; and
 - (ii) the date, time and position of the vessel when any fuel-changeover operation is completed.
- (3) For paragraph 26FEJ(1)(a) of the Pollution Prevention Act, a prescribed fuel-changeover operation is any fuel-changeover operation carried out before entering an emission control area mentioned in paragraph 3 of regulation 14 of Annex VI.
- (4) For paragraph 26FEJ(1)(b) of the Pollution Prevention Act, the prescribed period is 3 years after the last entry has been made.

33A Approval of Annex VI approved equivalent

- (1) For subsection 26FEKA(2) of the Pollution Prevention Act:
 - (a) a prescribed officer may approve an exhaust gas cleaning system as an Annex VI approved equivalent if the system is able to satisfy all the measures mentioned in the 2015 Guidelines as if those measures were mandatory; and
 - (b) an issuing body is a prescribed officer.
- (2) A decision about an application for approval of an exhaust gas cleaning system as an Annex VI approved equivalent is a reviewable decision for section 17 of *Marine Order 1 (Administration) 2013*.

34 Register of Local Suppliers of Fuel Oil

- (1) For paragraph 26FEM(3)(a) of the Pollution Prevention Act, the Register of Local Suppliers of Fuel Oil must contain the information given by:
 - (a) an initial application and declaration mentioned in subsection (3); and
 - (b) an annual declaration mentioned in subsection (5).
- (2) For subparagraph 26FEM(3)(b)(i) of the Pollution Prevention Act, a person seeking registration on the Register must apply in accordance with the application process set out in *Marine Order 1 (Administration) 2013*.

Note Sections 17 and 18 of *Marine Order 1 (Administration) 2013* provide for review of decisions that are made in accordance with the application process in that Order.
- (3) The application must be on the approved initial application and declaration form.

Note The approved form is available on the AMSA website: at <http://www.amsa.gov.au>.
- (4) AMSA may approve a person for inclusion on the Register if the person has applied in accordance with this section and provided the information required on the approved form.
- (5) For subparagraph 26FEM(3)(b)(ii) of the Pollution Prevention Act, a person registered on the Register must give AMSA an annual declaration in the approved form by 1 July each year.

Note The approved form is available on the AMSA website: at <http://www.amsa.gov.au>.

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- (6) If the person does not provide an annual declaration as required, AMSA may remove the person's name from the Register.
- (7) A decision by AMSA to remove a person's name from the Register is a reviewable decision for section 17 of *Marine Order 1 (Administration) 2013*.
- (8) If, at any time before the first annual declaration is due, any change occurs to information given in the initial application and declaration, the person who completed that form must give to AMSA a new initial application and declaration form with the new information.

35 Bunker delivery note and sample

- (1) For paragraph 26FEO(1A)(c) of the Pollution Prevention Act, a completed bunker delivery note must be given to the master or the officer in charge of the bunker operation on completion of bunkering operations.

Note AMSA has approved the Bunker Delivery Note set out in Appendix V to Annex VI as the approved form.

- (2) For paragraph 26FEO(2)(d) of the Pollution Prevention Act, a representative sample must be given to the master or the officer in charge of the bunker operations on completion of bunkering operations.
- (3) For paragraph 26FEO(2)(d) of the Pollution Prevention Act, a representative sample must be signed and sealed by the supplier's representative and the master or officer in charge of the bunker operation on completion of bunkering operations.

36 Fuel oil sample retention

For paragraph 26FER(1)(d) of the Pollution Prevention Act, the sample of fuel oil mentioned in paragraph 26FER(1)(c) of that Act must be retained:

- (a) on board the vessel; or
- (b) at a shore based location, for example a port office or other similar facility, where the samples can be accessed readily.

Note For the period for which a sample must be retained — see subsection 26FER(1) of the Pollution Prevention Act.

37 Ozone depleting substances record book

- (1) For paragraph 26FET(3)(a) of the Pollution Prevention Act, an ozone depleting substances record book must be:
 - (a) part of an existing logbook; or
 - (b) an electronic recording system approved by AMSA.
- (2) Division 3 of *Marine Order 1 (Administration) 2013* applies to an application to AMSA for an approval mentioned in paragraph (1)(b).
- (3) The decision maker for the application is the holder of an office in AMSA to which AMSA has delegated the power to approve the electronic recording system.
- (4) For subsections 26FET(3), (7) and (8) of the Pollution Prevention Act, each entry and page in an electronic recording system mentioned in paragraph (1)(b) is taken to have been signed by the master of the vessel.
- (5) For paragraphs 26FET(6)(a) and (8)(b) of the Pollution Prevention Act, the following operations or occurrences are prescribed:

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- (a) recharge, full or partial, of equipment containing ozone depleting substances;
- (b) repair or maintenance of equipment containing ozone depleting substances;
- (c) discharge of ozone depleting substances to the atmosphere:
 - (i) deliberately; or
 - (ii) not deliberately;
- (d) discharge of ozone depleting substances to land-based reception facilities;
- (e) supply of ozone depleting substances to the vessel.

Notes to Marine Order 97 (Marine pollution prevention — air pollution) 2013

Note 1

Marine Order 97 (Marine pollution prevention — air pollution) 2013 (in force under subsection 342(1) of the *Navigation Act 2012*) and subsection 34(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* as shown in this compilation comprises *Marine Order 97 (Marine pollution prevention — air pollution) 2013* amended as indicated in the following tables.

Table of Orders

Year and number	Registration date	FRL number	Commencement date	Application, saving or transitional provisions
<i>Marine Order 97 (Marine pollution prevention — air pollution) 2013</i> (MO 2013/16)	2 September 2013	F2013L01659	3 September 2013	
<i>Marine Order 97 (Marine pollution prevention — air pollution) Amendment 2016 (No. 1)</i> (MO 2016/14)	7 November 2016	F2016L01720	1 December 2016	
<i>Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order 2017</i> (MO 2017/4)	27 July 2017	F2017L00961	1 September 2017	
<i>Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order 2018</i> (MO 2018/2)	27 February 2018	F2018L00159	1 March 2018	
<i>Marine Orders Amendment (Marine Order 47 — consequential changes) Order 2019</i> (MO 2019/5)	16 October 2019	F2019L0331	1 November 2019	
<i>Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order 2019</i> (MO 2019/10)	18 December 2019	F2019L01663	Schedules 1-3: repealed before commencing	
as repealed by <i>Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order (No 2) 2019</i> (MO 2019/11)	20 December 2019	F2019L01678	21 December 2019	
<i>Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order (No 2) 2019</i> (MO 2019/11)	20 December 2019	F2019L01678	Sections 1-4 21 December 2019 Schedules 1 and 3 1 January 2020 Schedule 2 1 March 2020	

Table of amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
2.....	rep. <i>Legislation Act 2003</i> , s. 48D
3.....	rep. <i>Legislation Act 2003</i> , s. 48C
6.....	am. MO 2016/14; am. MO 2018/2; am. MO 2019/5; am. 2019/11
7.....	rs. 2019/11

Provision affected	How affected
8.....	rs. MO 2018/2, am. 2019/11
9.....	rs. MO 2016/14
9A	ad. MO 2018/2; am. 2019/11
9B	ad. 2019/11
11.....	am. MO 2016/14; am. MO 2018/2
15.....	am. MO 2018/2
Division 2A.....	ad. MO 2018/2
Division 2B.....	ad. MO 2018/2
20A	am. 2019/11
21A	ad. MO 2017/4
22.....	am. MO 2016/14; am. MO 2018/2
26.....	am. MO 2016/14; am. MO 2018/2
27.....	am. MO 2016/14; am. MO 2018/2
28.....	am. MO 2018/2
29.....	am. MO 2018/2
30.....	rs. MO 2019/11
30A	ad. MO2019/11
30B	ad. MO2019/11
31.....	am. MO 2016/14; rs. 2019/11; am 2019/11
32.....	rs. 2019/11
33.....	am. 2019/11
33A	ad. 2019/11
34.....	am. MO 2016/14; rs. 2019/11
35.....	am. 2019/11
37.....	am. MO 2016/14