



Australian Government
Australian Maritime Safety Authority

AMSA MO 2014/9

Marine Order 91 (Marine pollution prevention — oil) 2014

I, Mick Kinley, Acting Chief Executive Officer of the Australian Maritime Safety Authority, make this Order 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*.

28 May 2014

Mick Kinley
Acting Chief Executive Officer

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 91 (Marine pollution prevention — oil) 2014*.

1A Commencement

This Order commences 1 July 2014.

1B Repeal of *Marine Order 91 (Marine pollution prevention — oil) 2006*

Marine Order 91 (Marine pollution prevention — oil) 2006 is repealed.

2 Purpose

This Order:

- (a) gives effect to parts of Annex I of MARPOL; and
- (b) prescribes matters for Chapter 4 of the Navigation Act; and
- (c) prescribes matters for Part II of the Pollution Prevention Act.

3 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) section 130 which provides that the regulations may provide for pollution certificates;
 - (b) section 314 which provides that the regulations may prescribe various matters about certificates;
 - (c) subsection 339(1) which provides 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;
 - (d) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL;
 - (e) subsection 342(1) which provides that AMSA may make orders about matters that can be provided for by regulations.
- (3) The following provisions of the Pollution Prevention Act 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.

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4 Definitions

In this Order:

Annex I means Annex I to MARPOL.

certificate of competency has the meaning given by Regulation I/1 of the Annex to the STCW Convention.

Condition Assessment Scheme means the Condition Assessment Scheme adopted by IMO Resolution MEPC.94(46), as in force from time to time.

IOPP certificate means a certificate that is:

- (a) a pollution certificate mentioned in subsection 10(1) relating to vessel structure, systems, fittings, arrangements and material or equipment; and
- (b) in the form of the International Oil Pollution Prevention Certificate set out in Appendix II of Annex I.

management level has the meaning given by Part A, Chapter I, section A-I/1 of the STCW Code.

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

- equivalent
- IMO
- MARPOL
- Navigation Act
- Pollution Prevention Act
- SOLAS
- STCW Code.

Note 2 Other terms used in this Order are defined in the Navigation Act including:

- AMSA
- issuing body
- pollution certificate
- recognised organisation (for organisations that have been prescribed for the definition — see *Marine Order 1 (Administration) 2013*)
- STCW Convention.

Note 3 Other terms used in this Order are defined in the Pollution Prevention Act, including **foreign ship**.

Note 4 Most provisions of this Order are expressed using terms used in the Navigation Act (eg **vessel**). However, some provisions of this Order that are made solely under the Pollution Prevention Act use terms used in that Act (eg **ship**). An example of a provision using terms used in the Pollution Prevention Act is section 30.

Note 5 A copy of IMO documents mentioned in this Order is available on the IMO website at <http://www.imo.org> or AMSA's website at <http://www.amsa.gov.au>.

Note 6 For delegation of AMSA's powers under this Order — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

5 Interpretation

For this Order:

- (a) a reference in Annex I or the Condition Assessment Scheme to **the Administration** is taken to mean AMSA; and
- (b) the *Unified Interpretations of Annex I*, published by IMO, are to be taken into account in complying with a regulation of Annex I; and

- (c) a vessel is taken to have been constructed when:
- (i) the keel is laid; or
 - (ii) both:
 - (A) construction identifiable with a specific vessel starts; and
 - (B) the lesser of at least 50 tonnes, or 1% of the estimated total mass of all structural material, of the vessel is assembled.

Note for paragraph (a) AMSA has an agreement with each of the recognised organisations mentioned in Schedule 1 of *Marine Order 1 (Administration) 2013* for the provision of survey and certification services for vessels registered in Australia. These bodies are authorised to provide these services on behalf of AMSA.

6 Application

- (1) Subject to subsection 33(2) of the Pollution Prevention Act and section 12 of the Navigation Act, this Order applies to a vessel to which Annex I applies that is:
- (a) a regulated Australian vessel; or
 - (b) a domestic commercial vessel; or
 - (c) a recreational vessel that has Australian nationality.

Note The legislation mentioned in this subsection provides, in effect, that this Order does not apply to certain vessels to which MARPOL applies where a law of a State or the Northern Territory or the *Maritime Safety (Domestic Commercial Vessel) National Law* applies Annex I of MARPOL.

- (2) This Order also applies to a vessel that is owned or operated by the Commonwealth and used, for the time being, on government non-commercial service.
- (3) This Order, other than Division 3, also applies to a foreign vessel to which Annex I applies.

Note Division 5 applies to a foreign vessel for subsections 32(1) and 32(1A) of the Pollution Prevention Act (which allows sections 11A to 11G, 12 and 13 of that Act to be applied without modification or exception to a foreign ship).

7 Exemptions and waivers

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for an exemption of a vessel mentioned in regulation 3.1 of Annex I from a requirement of this Order.
- (2) AMSA may give an exemption if satisfied that the construction and equipment of the vessel provides equivalent protection against pollution by oil, having regard to the service for which the vessel is intended.

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

- 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
 - review of decisions.
- (3) AMSA may give a waiver in accordance with regulation 3.4 and 3.5 of Annex I.

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8 Equivalents

- (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 5.1 of Annex I.

Division 2 Requirements of Annex I**9 Convention requirements**

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

Division 3 Certificates issued under the Navigation Act**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 mentioned in regulation 7.1 of Annex I must have an IOPP 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), an IOPP certificate is specified.
- (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 Criteria for the issue of IOPP certificates

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

- (a) has completed the initial or renewal survey mentioned in regulation 6.1 of Annex I; and
- (b) complies with the requirements that apply to it under Annex I.

Note If a regulated Australian vessel is not required to have a certificate mentioned in section 9, the owner may apply for and be issued a certificate if the vessel meets the requirements mentioned in this section.

13 Conditions of IOPP certificates

For paragraph 132(2)(a) of the Navigation Act, an IOPP certificate is subject to the following conditions:

- (a) the vessel and its equipment must be maintained to comply with Annex I;

- (b) any survey mentioned in regulation 6 of Annex I must be completed in accordance with the requirements of that regulation;
- (c) any endorsement required to be made to the certificate under regulation 6 of Annex I is made;
- (d) after any survey mentioned in regulation 6 of Annex I has been completed, any change to the structure, equipment, systems, fittings, arrangements or material covered by the survey, other than the direct replacement of equipment or fittings, must be approved by AMSA.

14 Endorsements of IOPP certificates

For paragraph 13(c), an endorsement on an IOPP certificate must be made by an issuing body.

Note It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.

15 Commencement and duration of certificates

An IOPP certificate comes into force, and ceases to be in force, in accordance with regulation 10 of Annex I.

16 Criteria for the variation of IOPP certificates

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

- (a) the vessel complies with the requirements that apply to it under Annex I; and
- (b) to the extent that the variation relates to matters mentioned in regulation 10 of Annex I — the variation is in accordance with that regulation.

Note for paragraph (b) A variation may be in the form of an endorsement on a certificate. Endorsements are provided for in paragraphs 3, 4, 5, 6 and 8 of Regulation 10 of Annex I.

17 Criteria for the revocation of IOPP certificates

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

- (a) a condition of the certificate has been, or is likely to be, breached; or
- (b) an endorsement to a certificate mentioned in paragraph 13(c) has not been made; or
- (c) the vessel to which the certificates applies ceases to be registered in Australia; or
- (d) the owner of the vessel asks in writing that the vessel's certificate be revoked.

18 Notifying alterations

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

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

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Division 4 Certificate requirements for foreign vessels

19 Requirements for foreign vessels

A foreign vessel to which regulation 7.1 of Annex I applies must have a certificate issued in accordance with that regulation.

Division 5 Reporting requirements

20 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) equipment failure that may affect compliance by the vessel with Annex I;
- (b) an incident involving the vessel that may affect compliance by the vessel with Annex I;
- (c) anything that substantially affects the integrity of the vessel or the efficiency or completeness of the vessel's equipment covered by Annex I.

Note 1 The owner and master of a vessel must report marine incidents to AMSA — see sections 185 and 186 of the Navigation Act.

Note 2 For the prescribed periods and the forms for reporting marine incidents — see *Marine Order 31 (Ship surveys and certification) 2006*. The forms are set out in that Order and are also available from AMSA's website <http://www.amsa.gov.au>.

Note 3 For other reporting requirements — see *Transport Safety Investigation Act 2003*, sections 18 and 19.

21 Incidents involving oil or oily mixture or damage, failure or breakdown

- (1) For subsections 11(1) and (3) of the Pollution Prevention Act, a prescribed incident (which is an incident involving discharge or probable discharge of oil or oily mixture or damage, failure or breakdown) must be notified by any of the following means:
 - (a) telephone to +61 (0)2 6230 6811 or freecall within Australia 1800 641 792;
 - (b) fax to +61 (0)2 6230 6868;
 - (c) email to rccaus@amsa.gov.au;
 - (d) Immarsat C and HF DSC MMSI 005030001;
 - (e) Aeronautical Fixed Telecommunications Network to YSARYCYX.

Note 1 Subsections 11(1) and (3) of the Pollution Prevention Act requires notification of a prescribed incident to be made without delay.

Note 2 Subsections 11(1) and (3) of the Pollution Prevention Act requires notification of a prescribed incident to be made to a prescribed officer. For the definition of *prescribed officer* — see subsection 3(2) of the Act.

- (2) A report mentioned in subsection 11(6) or (7) of the Pollution Prevention Act must be made using Form MO-91/2 Harmful Substance Report.

Note Form MO-91/2 Harmful Substance Report is available on AMSA's website <http://www.amsa.gov.au>.

- (3) For subsections 11(6) and (7) of the Pollution Prevention Act, the report must be given within 24 hours after receiving the request for the report.

22 Notification by oil tankers not meeting construction requirements

The operator or agent of an oil tanker that does not comply with regulation 19 of Annex I must give AMSA the following information at least 48 hours before loading cargo for carriage to or from an Australian port:

- (a) name of vessel;
- (b) IMO number of vessel;
- (c) details of cargo (type, density or kinematic viscosity);
- (d) name of the Australian port;
- (e) expected date of arrival or departure;
- (f) contact details of person or company providing information.

Note Notice should to be sent to AMSA by email (tankers@amsa.gov.au).

Division 6 Other prescribed matters for the Pollution Prevention Act**23 Shipboard oil pollution emergency plan**

- (1) For subsections 11A(4) of the Pollution Prevention Act, the prescribed form for a shipboard oil pollution emergency plan is the format mentioned in the *Guidelines for the Development of Shipboard Oil Pollution Emergency Plans*, adopted by IMO as Resolution MEPC.54(32), as in force from time to time.
- (2) A shipboard oil pollution emergency plan must be approved by an issuing body.

24 Ship-to-ship operations plan — transfer of oil cargo between oil tankers

For subparagraph 11B(2)(a)(i) and paragraph 11D(2)(a) of the Pollution Prevention Act, a ship-to-ship operations plan must be in a form that includes:

- (a) information about the following matters:
 - (i) particulars of the vessel;
 - (ii) conditions that apply to the vessel;
 - (iii) methods of communication;
 - (iv) equipment to be used;
 - (v) procedures for safety and emergencies;
 - (vi) operational preparations before manoeuvring;
 - (vii) performance of cargo transfer operations;
 - (viii) manoeuvring and unmooring;
 - (ix) reporting procedures; and
- (b) the following documents:
 - (i) vessel interest contact lists;
 - (ii) checklists;
 - (iii) general arrangement plan;
 - (iv) cargo tank arrangement plan and capacities;
 - (v) cargo handling system plan;
 - (vi) anchor handling and mooring arrangement plan;
 - (vii) records of STS operations.

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- (2) A ship-to-ship operations plan must be approved by an issuing body.

25 Qualification requirements — transfer of oil cargo between oil tankers

For paragraph 11C(1)(f) of the Pollution Prevention Act, the person with overall advisory control of a transfer must have the following qualifications:

- (a) a management level deck certificate of competency;
- (b) an oil tanker endorsement on the certificate of competency;
- (c) completion of training as required by regulation V/1-1 of the STCW Convention;
- (d) completion of a ship-handling course approved by AMSA.

Note Details of approved courses are available on AMSA's website <http://www.amsa.gov.au>.

26 Ship-to-ship record — transfer of oil cargo between oil tankers

For subsection 11E(3) of the Pollution Prevention Act, a ship-to-ship record must contain the following information:

- (a) the name, flag, call sign and IMO number of the subject oil tanker;
- (b) the date and time when the transfer commenced;
- (c) the geographical location of the ship-to-ship transfer;
- (d) the type and quantity of the oil being transferred;
- (e) the name and contact details of:
 - (i) the transfer service provider; and
 - (ii) the person in overall advisory control of the transfer;
- (f) the date and time when the transfer ceased.

27 Ship-to-ship transfer information

- (1) For subsections 11F(3) and 11G(3) of the Pollution Prevention Act, ship-to-ship transfer information is the following:
- (a) name, flag, call sign, IMO number and estimated time of arrival of the subject oil tanker at the geographical location the ship-to-ship transfer is intended to take place;
 - (b) date, time and geographical location when the transfer is to start;
 - (c) whether the transfer is to be conducted at anchor or underway;
 - (d) type and quantity of oil to be transferred;
 - (e) planned duration of the transfer;
 - (f) identity of the service provider or person in overall advisory control for the transfer, and his or her contact details;
 - (g) confirmation that the subject oil tanker has on board a plan that complies with regulation 41 of Annex I.

Note for paragraph (f) The person in overall advisory control is usually the master of the manoeuvring ship or the person who assists with the mooring and unmooring of ships, coordinates and supervises the transfer and is generally known as the STS Superintendent.

28 Giving ship-to-ship transfer information — Australia

For paragraphs 11F(1)(e) and (f) of the Pollution Prevention Act, the notification of ship-to-ship transfer information must be by:

- (a) email to sts@amsa.gov.au; or
- (b) fax to +61 (0)2 6279 5076.

Note Paragraphs 11F(1)(e) and (f) of the Pollution Prevention Act require notification of ship-to-ship transfer information to be made at least 48 hours before the transfer begins.

29 Giving ship-to-ship transfer information — country other than Australia

For subparagraphs 11G(1)(f)(i) and (ii) and 11G(1)(g)(i) and (ii) and paragraphs 11G(2)(f) and (h) of the Pollution Prevention Act, the notification must be by:

- (a) telephone; or
- (b) fax; or
- (c) email.

Note Subparagraphs 11G(1)(f) and (g) and paragraph 11G(2)(f) of the Pollution Prevention Act require notification of ship-to-ship transfer information to be made at least 48 hours before the transfer begins.

30 Oil record book

- (1) For subsections 12(2) and (3) of the Pollution Prevention Act:
 - (a) a ship mentioned in paragraph 12(1)(a) of that Act must carry an oil record book in the form set out in Parts I and II of Appendix III to Annex I; and
 - (b) a ship mentioned in paragraph 12(1)(b) of that Act must carry an oil record book in the form set out in Part I of Appendix III to Annex I.

Note AMSA publishes *Oil Record Book Part I (Machinery space operations)* and *Oil Record Book Part II (Cargo/Ballast operations — oil tankers)* available for purchase from major AMSA offices.

- (2) A time that must be stated in an oil record book must, unless expressed in ship's time and the conversion to Coordinated Universal Time cannot be readily made, be expressed in Coordinated Universal Time.

31 Prescribed operation or occurrence

- (1) For subsection 12(5) of the Pollution Prevention Act:
 - (a) each machinery space operation mentioned in the form set out in Part I of Appendix III to Annex I is a prescribed operation; and
 - (b) each cargo or ballast operation mentioned in the form set out in Part II of Appendix III to Annex I is a prescribed operation for an oil tanker.
- (2) For subsection 12(5) of the Pollution Prevention Act, each of the following is a prescribed occurrence:
 - (a) discharging into the sea oil or an oily mixture from a ship to secure the safety of the ship or to save life at sea;
 - (b) discharging into the sea oil or an oily mixture because of damage to the ship or its equipment;
 - (c) discharging into the sea substances containing oil to deal with a specific pollution incident;

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- (d) failure of oil discharge monitoring control system;
- (e) failure of the oil filtering equipment;
- (f) accidental or other exceptional discharge of oil not mentioned in paragraphs (a) to (c).

Division 7 Vessels not permitted to enter port

32 Double hull and double bottom oil tankers

The master of an oil tanker must not take a vessel into a port in Australia after:

- (a) for an oil tanker mentioned in regulation 20.5 of Annex I and for regulation 20.8.2.1 of Annex I — the anniversary in 2015 of the date of the delivery of the vessel; or
- (b) for an oil tanker mentioned in regulation 20.7 of Annex I and for regulation 20.8.2.2 of Annex I — the date mentioned in paragraph 4 of regulation 20 of Annex I that applies to the oil tanker; or
- (c) for an oil tanker mentioned in regulation 21.5 or 21.6 of Annex I and for regulation 21.8.2 of Annex I — the date mentioned in regulation 21.4 of Annex I that applies to the oil tanker.

Division 8 Specifications of Annex I

33 Crude oil washing systems

For regulation 33.2 of Annex I, crude oil washing installation and associated equipment and arrangements must comply with IMO Resolution A.446(XI), as in force from time to time.

34 Crude oil washing system operations and equipment manuals

For regulation 35.1 of Annex I, the operations and equipment manual for an oil tanker must be in the form and include the information mentioned in IMO Resolution MEPC.3(XII), as in force from time to time.

35 Oil discharge monitoring and control systems (oil tankers)

For regulation 31.1 of Annex I, an issuing body may approve an oil discharge monitoring and control system only if designed and installed in accordance with the specifications mentioned in:

- (a) for a system installed on board an oil tanker constructed after 31 December 2004 — IMO Resolution MEPC.108(49); or
- (b) for a system installed on board an oil tanker constructed after 1 October 1986 and before 1 January 2005 — IMO Resolution A.586(14); or
- (c) for a system installed on board an oil tanker constructed before 2 October 1986 — IMO Resolution A.496(XII).

36 Oil content meters — approved design (oil tankers)

For regulations 18.8.3 and 31.2 of Annex I, an issuing body may approve the design of an oil content meter only if in accordance with the specifications mentioned in:

- (a) for a meter installed on board an oil tanker constructed after 31 December 2004 — IMO Resolution MEPC.108(49); or

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- (b) for a meter installed on board an oil tanker constructed after 1 October 1986 and before 1 January 2005 — IMO Resolution A.586(14); or
- (c) for a meter installed on board an oil tanker constructed before 2 October 1986 — IMO Resolution A.393(X).

37 Oil filtering equipment — approved design (machinery spaces — all vessels)

- (1) For regulations 14.6 and 14.7 of Annex I, an issuing body may approve the design of oil filtering equipment only if in accordance with the specifications mentioned in:
 - (a) for equipment installed on board a vessel after 31 December 2004 — IMO Resolution MEPC.107(49); or
 - (b) for equipment installed on board a vessel after 29 April 1994 and before 1 January 2005 — IMO Resolution MEPC.60(33); or
 - (c) for equipment installed on board a vessel after 13 November 1978 and before 30 April 1994 — IMO Resolution A.393(X).
- (2) For paragraph (1)(b), an issuing body may approve the design of equipment that is upgraded with add-on equipment to improve its emulsified oil treatment capabilities only if it is in accordance with the specifications mentioned in IMO Resolution MEPC.205(62).

Note

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.