



Australian Government
Australian Maritime Safety Authority

AMSA MO 2019/11

**Marine Order 97 (Marine pollution prevention — air pollution) Amendment
Order (No 2) 2019**

I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, make this Marine 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*.

19 December 2019

Michael Kinley
Chief Executive Officer

Section 1

1 Name of Order

This Marine Order is *Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order (No 2) 2019*.

2 Commencement

Each provision of this Marine Order mentioned in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table.

Column 1 Provisions	Column 2 Commencement
1. Sections 1 to 4	The day after this Marine Order is registered.
2. Schedule 1	Immediately after the start of 1 January 2020.
3. Schedule 2	Immediately after the start of 1 March 2020.
4. Schedule 3	Immediately after the start of 1 January 2020.

3 Repeal of *Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order 2019*

Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order 2019 is repealed.

4 Amendment of Marine Order

Schedules 1, 2 and 3 amend *Marine Order 97 (Marine pollution prevention — air pollution) 2013*.

Schedule 1 Amendments about use of low sulphur fuel

[1] Section 30

substitute

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.

[2] Section 31

substitute

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 equivalents

- (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

- (1) For paragraphs 26FEGA(7)(b), 26FEGA(7)(c), 26FEHA(5)(b) and 26FEHA(5)(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>.

[3] Section 32

substitute

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.

[4] Paragraph 33(2)(a)

omit

1.5%

insert

0.10% m/m

[5] Subparagraph 33(2)(b)(i)

omit

1.5%

insert

0.10% m/m

[6] After section 33

insert

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*.

Schedule 2 Amendments about carriage of low sulphur fuel

[1] Section 31

omit

26FEHA(5)(b) and 26FEHA(5)(c)

insert

26FEHA(5)(b), 26FEHA(5)(c), 26FEHA(6)(b) and 26FEHA(6)(c)

Schedule 3 Other changes

[1] Section 6, before definition of Annex VI

insert

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

[2] Section 6, after the definition of IEE certificate

insert

m/m means mass by mass.

[3] Section 6, note 2

omit

- inspector

insert

- inspector
- issuing body
- prescribed officer

[4] Section 7

substitute

7 Interpretation

- (1) For this Order, a reference in the NO_x 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
 - (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.

[5] Subsections 8(2) to (4)

substitute

- (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;

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- (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.

[6] Section 9A

omit

20E

insert

20F

[7] After Division 1

insert

Division 1A Requirements of Annex VI

9B Convention requirements

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

[8] Subsection 20A(2)

substitute

- (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.

[9] Section 34

substitute

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>.

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- (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>.
 - (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.

[10] Subsection 35(1)

omit

paragraph 26FEO(1)(d)

insert

paragraph 26FEO(1A)(c)

Note

1. All legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See <https://www.legislation.gov.au>.