

AMSA REGULATORY CONSULTATION

Draft Marine Order 97 (Marine pollution prevention – air pollution) 2022 is open for consultation until 20 March 2022

We invite you to make comment on this draft *Marine Order 97 (Marine pollution prevention – air pollution) 2022* (MO97) by using the following link:

[Have your say—make a submission \(amsa.gov.au\)](https://amsa.gov.au)

Who does this Order apply to?

MO97 deals with preventing air pollution from vessels and gives effect to MARPOL regulations on the prevention of air pollution from ships (MARPOL Annex VI). MO97 applies to regulated Australian vessels, domestic commercial vessels, recreational vessels and foreign vessels.

Background

The updates proposed to MO97 build on work undertaken earlier this year to review MO97 to ensure consistency with MARPOL Annex VI, for which consultation concluded in March this year ('phase one').

This 'phase two' review of MO97 mainly looks to give effect the short-term measure adopted by the International Maritime Organization (IMO) to reduce the carbon intensity of international shipping by 40% by 2030, compared to 2008.

From 1 January 2023, the new short-term measure will require specific types of foreign-flagged vessels and commercial Australian vessels that undertake international voyages to make technical energy efficiency improvements under the Energy Efficiency Existing Ship Index (EEXI) framework and operational energy efficiency improvements under the Carbon Intensity Indicator (CII) framework. Detailed information on the short-term measure, including specific vessel types affected by the new rules, can be found on the [AMSA website](#).

In addition, the phase two updates introduce a procedure for granting exemptions for unmanned non-self-propelled (UNSP) barges from certain survey and certification requirements relating to the International Air Pollution Prevention (IAPP) certificate.

Refinements have also been made to MO97 following the consultation undertaken earlier this year, including updates to clarify the application of the Engine International Air Pollution Prevention (EIAPP) certificate requirements.

It is intended that the updated *Marine order 97 (Marine pollution prevention – air pollution) 2022* will commence on **1 January 2023**.

What are the key changes?

The below **table** contains two sets of changes to reflect the changes made through the 'phase one' (in **blue** highlight) and 'phase two' (in **yellow** highlight).

Phase One Review – The first phase of consultation regarding changes to MO97 ran from January to March 2022. The key changes proposed in the phase one review were:

- Requires an EIAPP certificate for a diesel engine with output power >130 kW installed on DCVs on or after 1 January 2023.
- Introduces an onus on suppliers to provide EIAPP certificates for relevant marine diesel engines to DCVs.
- Aligns the requirements for IAPP and IEE certificates for DCVs with MARPOL Annex VI.
- Introduces an exemption provision for vessels to operate in NOx Tier III emission control areas with NOx Tier II compliant engines under specified conditions, consistent with amendments adopted to MARPOL Annex VI.
- Introduces provisions for AMSA to take appropriate actions for vessels not complying with requirements for ozone depleting substances.
- Updates requirements for local fuel oil suppliers to make them more consistent with MARPOL Annex VI and the Pollution Prevention Act.

Phase Two review – This phase two review builds on the changes already proposed to MO97 through the phase one review, mainly to give effect to the short-term measure for greenhouse gas emission reductions for international shipping, as explained above. Consultation for this review will run until midnight on 9 October 2022. The key changes in the updated MO97 from the phase two review are:

- Introduce requirements for existing international cargo and passenger vessels of ≥ 400 GT to comply with the Energy Efficiency Existing Ships Index (EEXI) framework, including calculation of the attained and required EEXI.
- Introduce requirements for international cargo and passenger vessels of ≥ 5000 GT to comply with the Carbon Intensity Indicator (CII) framework, including updates to the ship energy efficiency management plan (SEEMP) and requirements to obtain and hold a statement of compliance.
- Introduce a procedure for granting exemptions for unmanned non-self-propelled (UNSP) barges from certain survey and certification requirements relating to the International Air Pollution Prevention Certificate (IAPP).
- Refinement to the EIAPP certificate requirements proposed through the phase one review to:
 - Confirm ongoing application of the existing EIAPP certification requirements to recreational vessels.
 - Expand the onus on suppliers to provide EIAPP certificates for relevant marine diesel engines to recreational vessels to be consistent with the requirements for DCVs.
 - Provide additional information relating to the entry into force date of an EIAPP certificate and circumstances when an EIAPP certificate would cease to be in force.
- Refinements to the IAPP certificate requirements proposed through the initial review to:
 - Clarify that an IAPP certificate comes into force on the day it is issued.
 - Provide procedures for the endorsement of an IAPP certificate.
- Refinements to the International Energy Efficiency (IEE) certificate requirements proposed through the initial review to:
 - Clarify that an IAPP certificate comes into force on the day it is issued.
 - Provide procedures for the endorsement of an IAPP certificate.
- Minor refinements to MO97 to simplify the text and provide clarity on requirements.

All changes proposed through the initial review of MO97 are blue highlighted – Phase One

All changes proposed through this review of MO97 are yellow highlighted – Phase Two.

Deleted texts from the current MO97 are shown as ~~strikethrough~~.

<p>Marine Order 97 (Marine pollution prevention – air pollution) 2013 MO 97 compil 200206Z</p>	<p>Draft Marine Order 97 (Marine pollution prevention – air pollution)2022 MO 97 issue 220808A</p>	<p>Notes on changes:</p>
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<p>Division 1 Preliminary</p>	<p>Division 1 Preliminary</p>	
<p>1 Name of Order This Order is <i>Marine Order 97 (Marine pollution prevention — air pollution)-2013</i>.</p>	<p>1 Name of Marine Order This Marine Order is <i>Marine Order 97 (Marine pollution prevention — air pollution) 2022</i>. 1A Commencement This Marine Order commences on 1 January 2023. 1B Repeal of Marine Order 97 (Marine pollution prevention — air pollution) 2013 <i>Marine Order 97 (Marine pollution prevention — air pollution) 2013</i> is repealed.</p>	<p>‘Phase one’ review: Word “Marine” added before “Order” throughout as appropriate. Commencement date added with repealing of the current MO97.</p>

<p>4 Purpose This Order:</p> <p>(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).</p>	<p>2 Purpose (1) This Marine Order:</p> <p>(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 Part IIID of the Pollution Prevention Act (which deals with prevention of air pollution from vessels)</p>	<p>‘Phase one’ review: Word “Marine” added before “Order” throughout as appropriate.</p>
<p>5 Power</p> <p>(1) This Order is made under both the Navigation Act and the Pollution Prevention Act.</p> <p>(2) The following provisions of the Navigation Act provide for this Order to be made:</p> <p>(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; (e) 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:</p> <p>(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.</p>	<p>3 Power</p> <p>(1) This Marine Order is made under both the Navigation Act and the Pollution Prevention Act.</p> <p>(2) The following provisions of the Navigation Act provide for this Marine Order to be made:</p> <p>(a) subsection 130(1) which provides that the regulations may provide for pollution certificates; (b) subsection 130(2) which provides that, without limiting subsection 130(1), the regulations may give effect to MARPOL; (c) paragraph 130(3)(e) which provides that the regulations may provide that vessels in a particular class must have pollution certificates of specified kinds, either generally or in specified circumstances, including certificates relating to air pollution or ozone depleting substances; (d) section 314 which provides for regulations to be made prescribing matters for the application for certificates and, among other things, the criteria for issue, variation and revocation of certificates, the conditions which certificates are subject to and the time certificates cease to be in force; (e) 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 (f) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL; (g) subsection 342(1) which provides that AMSA may make a Marine Order about matters that can be provided for by regulation.</p>	<p>‘Phase one’ review: Power provisions reworded and updated for clarity</p>

<p>(b) (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.</p>	<p>(3) The following provisions of the Pollution Prevention Act provide for this Marine Order to be made:</p> <p>(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;</p> <p>(b) paragraph 33(1)(c) which provides for regulations under paragraphs 33(1)(a) and (b) to be made to give effect to MARPOL;</p> <p>(b) subsection 34(1) which provides that AMSA may make orders for matters for which provision may be made by regulation</p>	
<p>6 Definitions</p> <p>In this Order:</p> <p>2015 Guidelines means 2015 Guidelines for exhaust gas cleaning systems adopted by IMO Resolution MEPC.259(68) and as amended from time to time.</p> <p>Annex VI means Annex VI of MARPOL.</p> <p>EEDI means Energy Efficiency Design Index.</p> <p>EIAPP certificate (or engine international air pollution prevention certificate) means:</p> <p>(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</p> <p>(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.</p> <p><i>Note</i> For the form of certificate—see section 16.</p> <p>FPSO means a vessel that is:</p> <p>(a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; or</p> <p>(b) capable of storing the petroleum and delivering it to another vessel or pipeline; or</p> <p>(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</p> <p>(d) designed to be disconnected from its mooring during bad</p>	<p>4 Definitions</p> <p>In this Marine Order:</p> <p>2015 Guidelines means 2015 Guidelines for exhaust gas cleaning systems adopted by IMO Resolution MEPC.259(68) and as amended from time to time.</p> <p>Annex I means Annex I of MARPOL.</p> <p>Annex VI means Annex VI of MARPOL.</p> <p>CII means carbon intensity indicator.</p> <p>EEDI means Energy Efficiency Design Index.</p> <p>EEXI means Energy Efficiency Existing Ship Index.</p> <p>EIAPP certificate (short for engine international air pollution prevention certificate) means an EIAPP certificate issued in accordance with the NOx Technical Code.</p> <p><i>Note</i> The form of an EIAPP certificate is set out in Appendix I to the NOx Technical Code.</p> <p>electronic record book is a record of information in electronic form that is approved by an issuing body in accordance with section 8.</p> <p>emission control area has the meaning given by regulation 2 of Annex VI.</p> <p>IAPP certificate (short for international air pollution prevention certificate) means:</p> <p>(a) a pollution certificate relating to air pollution or ozone depleting substances issued under section 132 of the Navigation Act for a vessel; or</p>	<p>‘Phase two’ review:</p> <p>Updates to definitions as appropriate, including new definitions added to support changes and new provisions within MO97.</p> <p>‘Phase one’ review:</p> <p>Updates to definitions as appropriate, including:</p> <ul style="list-style-type: none"> • New definitions added to support changes and new provisions within MO97. • Definitions are modified for either technical reasons or to improve drafting. • Definitions of FPSO, FSU and MODU were removed as these are no longer mentioned in MO97. • Definition of SEEMP removed as it is not required.

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:

- (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.

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

Note The form of an IAPP certificate is set out in Appendix I to Annex VI.

IAPP exemption certificate (short for international air pollution prevention exemption certificate for unmanned non-self-propelled (UNSP) barges) means an exemption certificate issued under paragraph 4 of regulation 3 of Annex VI.

Note The form of an IAPP exemption certificate is set out in Appendix XI to Annex VI.

IEE certificate (short for international energy efficiency certificate) means:

- (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 The form of an IAPP certificate is set out in Appendix I to Annex VI.

installed for a marine diesel engine has the meaning given by regulation 2 of Annex VI.

major conversion has the meaning given by regulation 13 of Annex VI

m/m means mass by mass.

NOx Technical Code has the meaning given by regulation 2 of Annex VI.

NOx Tier III emission control area is an emission control area mentioned in paragraph 6 of regulation 13 of Annex VI.

Ozone depleting substance means any substance covered by the definition of *Ozone-depleting substances* in regulation 2 of Annex VI

Register means Register of Local Suppliers of Fuel Oil established under section 26FEM of the Pollution Prevention Act.

statement of compliance means a Statement of Compliance — Fuel Oil Consumption Reporting and Operational Carbon Intensity Rating that is

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>.

(a) for a regulated Australian vessel — issued under **section 55**;
or

(b) for a foreign vessel — mentioned in paragraphs 6 to 8 of regulation 6 of Annex VI.

Note The form of a statement of compliance is set out in Appendix X to Annex VI.

SOx emission control area is an emission control area mentioned in paragraph 3 of regulation 14 of Annex VI.

Tier II and **Tier III** have the same meaning as in regulation 13 of Annex VI.

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

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

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

- AMSA
- **domestic commercial vessel**
- foreign vessel
- inspector
- issuing body
- marine incident
- **official logbook**
- **overseas voyage**
- **Polar Code**
- 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 Marine 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 Marine Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

<p>7 Interpretation</p> <p>(1) For this Order, a reference in the NOx Technical Code or Annex VI to <i>the Administration</i> is taken to mean, for a vessel registered in Australia, AMSA or a recognised organisation.</p> <p>(2) For this Order, a reference in Annex VI to <i>the competent authority</i> is taken to mean:</p> <p>(a) for the Pollution Prevention Act — a prescribed officer; or</p> <p>(b) for the Navigation Act — AMSA or an inspector.</p> <p><i>Note for paragraph (a)</i> 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.</p> <p><i>Note for paragraph (b)</i> 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.</p>	<p>5 Interpretation</p> <p>(1) For this Marine Order, a reference in the NOx Technical Code or Annex VI to <i>the Administration</i> is taken to mean, for a vessel registered in Australia, AMSA or a recognised organisation.</p> <p>(2) For this Marine Order, a reference in Annex VI to <i>the competent authority</i> is taken to mean:</p> <p>(a) for the Pollution Prevention Act — a prescribed officer; or</p> <p>(b) for the Navigation Act — AMSA or an inspector.</p> <p><i>Note for paragraph (a)</i> 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.</p> <p><i>Note for paragraph (b)</i> 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.</p>	<p>‘Phase one’ review: Word “Marine” added before “Order” throughout as appropriate.</p>
<p>8 Application</p> <p>(1) This Order applies to a vessel that is:</p> <p>(a) a regulated Australian vessel; or</p> <p>(b) a foreign vessel; or</p> <p>(c) a recreational vessel; or</p> <p>(d) a domestic commercial vessel.</p> <p>(2) However, the following provisions do not apply to a foreign vessel or a recreational vessel that does not have Australian nationality:</p> <p>(a) section 9;</p> <p>(b) Division 2;</p> <p>(c) Division 2B, apart from sections 20B and 20C;</p> <p>(d) subsections 22(3) and (6);</p> <p>(e) section 25;</p> <p>(f) Division 6;</p> <p>(g) sections 31 to 34;</p> <p>(h) section 37.</p> <p><i>Note</i> 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</p>	<p>6 Application</p> <p>(1) This Marine Order applies to a vessel that is:</p> <p>(a) a regulated Australian vessel; or</p> <p>(b) a foreign vessel; or</p> <p>(c) a recreational vessel; or</p> <p>(d) a domestic commercial vessel.</p> <p>(2) However, the following provisions do not apply to a foreign vessel or a recreational vessel that does not have Australian nationality:</p> <p>(a) section 7;</p> <p>(b) section 8</p> <p>(c) Division 3;</p> <p>(d) section 25;</p> <p>(e) section 31;</p> <p>(f) Division 7, other than section 41;</p> <p>(g) section 42;</p> <p>(h) section 44;</p> <p>(i) Subdivision 9.2;</p> <p>(j) sections 55 and 56;</p>	<p>‘Phase one’ and ‘phase two’ review: Updated referencing to exclusion provisions for foreign vessels and foreign recreational vessels as relevant.</p> <p>‘Phase one’ review: Word “Marine” added before “Order” throughout as appropriate.</p>

<p>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.</p>	<p>(k) sections 61 to 67; (l) Division 11</p> <p><i>Note</i> The application of this Marine 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 Marine 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.</p>	
<p>9 Equivalents and waivers</p> <p>(1) A person may apply, in accordance with the application process set out in <i>Marine Order 1 (Administration) 2013</i>, for approval to use an equivalent.</p> <p>(2) AMSA may approve the use of an equivalent if:</p> <p>(a) it would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and</p> <p>(b) approving the use of the equivalent would not contravene regulation 4 of Annex VI.</p> <p><i>Note Marine Order 1 (Administration) 2013 deals with the following matters about equivalents:</i></p> <ul style="list-style-type: none"> • 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. <p>(3) AMSA may give a waiver in accordance with regulation 19 of Annex VI from a requirement of the Order</p>	<p>7 Equivalents</p> <p>(1) A person may apply, in accordance with the application process set out in <i>Marine Order 1 (Administration) 2013</i>, for approval to use an equivalent.</p> <p>(2) AMSA may approve the use of an equivalent if:</p> <p>(a) it would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and</p> <p>(b) approving the use of the equivalent would not contravene regulation 4 of Annex VI.</p> <p><i>Note Marine Order 1 (Administration) 2013 deals with the following matters about equivalents:</i></p> <ul style="list-style-type: none"> • 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. <p><i>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.</i></p>	<p>‘Phase one’ review:</p> <p>Heading changed as waiver provisions have been moved under relevant sections as more appropriate.</p> <p>Note added on the review process.</p>
<p>9A Review of decisions</p> <p>A decision under section 20F is a reviewable decision for section 17 of <i>Marine Order 1 (Administration) 2013</i></p>		<p>‘Phase one’ review:</p> <p>Modified and relocated under relevant sections as more appropriate.</p>
	<p>8 Approval of electronic record books</p> <p>(1) A person may apply to an issuing body for approval of an electronic record book.</p> <p>(2) An issuing body may approve a record of information in electronic form as an electronic record book if it:</p> <p>(a) provides a reliable means of maintaining the integrity of the information it stores; and</p>	<p>‘Phase one’ review:</p> <p>A new section is added, allowing the use of electronic record books for maintaining records.</p>

	(b) is readily accessible for subsequent reference. (3) A decision not to approve an electronic record book is a reviewable decision for section 17 of <i>Marine Order 1 (Administration) 2013</i>	
26-Marine incidents For paragraph (1) of the definition of <i>marine incident</i> 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. <i>Note</i> 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 <i>Marine Order 1 (Administration) 2013</i> .	9 Marine incidents For paragraph (1) of the definition of <i>marine incident</i> 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. <i>Note</i> 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 <i>Marine Order 1 (Administration) 2013</i> .	‘Phase one’ review: Relocated from section 26 of the current MO97 as part of a restructuring.
Division 4A Requirements of Annex VI	Division 2 Requirements of Annex VI	‘Phase one’ review: Updated Division number.
9B-Convention requirements A vessel must comply with the requirements of Annex VI that apply to the vessel	10 Convention requirements (1) A vessel must comply with the requirements of Annex VI that apply to the vessel. (2) A person must comply with any requirement for the implementation of Annex VI	‘Phase one’ review: Added new provision drawing power from the Navigation Act to apply appropriate control measures as required.
Division-2 Certificates	Division 3 Navigation Act certificates and exemption certificate	‘Phase two’ review: Title updated as division contains provisions for the exemption for UNSP barges. ‘Phase one’ review: A separate subdivision is created for each certificate.
Subdivision 1 Various matters about certificates	Subdivision 3.1 Matters about certificates	‘Phase one’ review: Heading simplified.
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	11 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):	‘Phase one’ review: This section has been reworded to clarify the certificate requirements of

<p>following certificates:</p> <p>(a) an EIAPP certificate for each marine diesel engine installed on the vessel;</p> <p>(b) an IAPP certificate;</p> <p>(c) an IEE certificate.</p>	<p>(a) a vessel mentioned in paragraph 1 of regulation 6 of Annex VI must have an IAPP certificate; and</p> <p>(b) a vessel mentioned in paragraph 4 of regulation 6 of Annex VI must have an IEE certificate.</p>	<p>vessels consistent with Annex VI of MARPOL.</p> <p>EIAPP certificate is not a certificate under the Navigation Act but is required under Annex VI in accordance with the NOx Technical Code 2008. As a result, EIAPP has been moved and is dealt with separately under division 7.</p>																					
<p>14 Applying for certificates</p> <p>(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:</p> <p>(a) an EIAPP certificate;</p> <p>(b) an IAPP certificate;</p> <p>(c) an IEE certificate.</p> <p>(2) Division 3 of <i>Marine Order 1 (Administration) 2013</i> (other than section 17) applies to an application to AMSA for a certificate mentioned in subsection (1).</p> <p><i>Note</i> Division 3 of <i>Marine Order 1 (Administration) 2013</i> 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.</p>	<p>12 Applying for certificates</p> <p>(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:</p> <p>(a) an IAPP certificate;</p> <p>(b) an IEE certificate.</p> <p>(2) Division 3 of <i>Marine Order 1 (Administration) 2013</i> (other than section 17) applies to an application to AMSA for a certificate mentioned in subsection (1).</p> <p><i>Note</i> Division 3 of <i>Marine Order 1 (Administration) 2013</i> prescribes 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.</p>	<p>‘Phase one’ review:</p> <p>EIAPP certificate is not a certificate under the Navigation Act but is required under Annex VI in accordance with the NOx Technical Code 2008. As a result, EIAPP has been moved and is dealt with separately under division 7.</p>																					
<p>16— Form of certificates</p> <p>A pollution certificate must be in the form mentioned in the following table.</p> <table border="1" data-bbox="91 1149 943 1468"> <thead> <tr> <th>Item</th> <th>Certificate</th> <th>Form</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>EIAPP certificate</td> <td>Engine International Air Pollution Prevention Certificate set out in Appendix I to the NO_x Technical Code</td> </tr> <tr> <td>2</td> <td>IAPP certificate</td> <td>International Air Pollution Prevention Certificate set out in Appendix I to Annex VI</td> </tr> <tr> <td>3</td> <td>IEE certificate</td> <td>International Energy Efficiency</td> </tr> </tbody> </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	<p>13 Form of certificates</p> <p>A pollution certificate must be in the form mentioned in the following table.</p> <table border="1" data-bbox="943 1101 1756 1468"> <thead> <tr> <th>Item</th> <th>Certificate</th> <th>Form</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>IAPP</td> <td>International Air Pollution Prevention certificate Certificate set out in Appendix I to Annex VI</td> </tr> <tr> <td>2</td> <td>IEE</td> <td>International Energy Efficiency certificate Certificate set out in Appendix VIII to Annex VI</td> </tr> </tbody> </table>	Item	Certificate	Form	1	IAPP	International Air Pollution Prevention certificate Certificate set out in Appendix I to Annex VI	2	IEE	International Energy Efficiency certificate Certificate set out in Appendix VIII to Annex VI	<p>‘Phase one’ review:</p> <p>EIAPP certificate is not a certificate under the Navigation Act but is required under Annex VI in accordance with the NOx Technical Code 2008. As a result, EIAPP has been moved and is dealt with separately under division 7.</p>
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1	EIAPP certificate	Engine International Air Pollution Prevention Certificate set out in Appendix I to the NO_x Technical Code																					
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<p>Certificate set out in Appendix VIII to Annex VI</p>		
<p>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. <i>Note 1</i> An approved form for reporting of alterations to vessels is available from the AMSA website: http://www.amsa.gov.au. <i>Note 2</i> For other reporting requirements — see <i>Transport Safety Investigation Act 2003</i>, sections 18 and 19.</p>	<p>14 Reports of alterations to vessels For paragraph 137(1)(c) of the Navigation Act (which requires an owner or master of a vessel to report alterations to the vessel if they might affect the pollution certificates held by the vessel) the period within which AMSA and an issuing body must be informed of an alteration is 7 days after the alteration is made. <i>Note 1</i> An approved form for reporting of alterations to vessels is available from the AMSA website: http://www.amsa.gov.au.</p>	<p>‘Phase one’ review: Moved from section 25 of the current MO97.</p>
	<p>15 Exemption (1) The owner of a vessel may apply, in accordance with the application process set out in Marine Order 1 (Administration) 2013, for an exemption from the requirement for the vessel to have an IAPP certificate. (2) AMSA may issue an IAPP exemption certificate in the form set out in Appendix XI to Annex VI, exempting a vessel from the requirement to have an IAPP certificate, if it is satisfied that: (a) the vessel is a barge; and (b) the vessel has undergone a survey that shows that the vessel: (i) is not propelled by mechanical means; and (ii) has no system, equipment or machinery capable of generating emissions regulated by Annex VI; and (iii) has no person or living animal on board. 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) An IAPP exemption certificate comes into force on the day it is issued and ceases to be in force on the earlier of: (a) the day mentioned in the exemption certificate; and (b) the day 5 years from the day it is issued.</p>	<p>‘Phase two’ review: New section that introduces a procedure for granting exemptions for UNSP barges from certain survey and certification requirements relating to the IAPP.</p>
	<p>Subdivision 3.2 IAPP certificates</p>	<p>‘Phase one’ review: New separate subdivision for IAPP certificate putting everything in one place.</p>

<p>14 Criteria for variation of IAPP certificate or IEE certificate</p> <p>For subsection 133(1) of the Navigation Act, the criteria for variation of an IAPP certificate or an IEE certificate are that:</p> <p>(a) the vessel has been surveyed in accordance with regulation 5 of Annex VI; and</p> <p>(b) for an IAPP certificate that is required to be endorsed under regulation 6 of Annex VI — the certificate is endorsed accordingly; and</p> <p>(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.</p> <p><i>Note for paragraph (b)</i> The requirements that apply under regulation 5 of Annex VI include a requirement for maintenance of equipment — see paragraph 5 of regulation 5.</p>	<p>16 Criteria for issue of IAPP certificates</p> <p>For paragraph 132(1)(b) of the Navigation Act, the criteria for issue of an IAPP certificate are that:</p> <p>(a) the vessel has been surveyed in accordance with regulation 5 of Annex VI; and</p> <p>(b) the vessel complies with the requirements that apply to it under regulation 5 of Annex VI; and</p> <p>(c) each marine diesel engine with an output >130 kW that is installed on the vessel has been surveyed in accordance with the NO_x Technical Code and issued with an EIAPP certificate</p>	<p>‘Phase one’ review:</p> <p>Criteria for issue of IAPP certificate separated from section 13 of the current MO97 and updated as per Annex VI.</p>
<p>15 Criteria for issue of EIAPP certificate</p> <p>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:</p> <p>(a) the engine has been surveyed in accordance with the NO_x Technical Code; and</p> <p>(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.</p> <p><i>Note</i> See also <i>Guidelines for on board NO_x verification procedure — direct measurement and monitoring method</i> adopted by IMO resolution MEPC.103(49) and as amended from time to time.</p>	<p>17 Criteria for variation of IAPP certificates</p> <p>For subsection 133(1) of the Navigation Act, the criteria for variation of an IAPP certificate are that:</p> <p>(a) the vessel has been surveyed in accordance with regulation 5 of Annex VI; and</p> <p>(b) for an IAPP certificate that is required to be endorsed under regulation 6 of Annex VI — the certificate is endorsed accordingly; and</p> <p>(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.</p>	<p>‘Phase one’ review:</p> <p>Criteria for variation of IAPP certificate separated and moved to new subdivision for IAPP certificate.</p>
<p>17 Commencement and duration of certificates</p> <p>(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.</p> <p>(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.</p> <p><i>Note</i> A certificate may be revoked in accordance with the criteria mentioned in this Division.</p>	<p>18 Commencement and duration of IAPP certificates</p> <p>An IAPP certificate comes into force on the day it is issued and ceases to be in force on the occurrence of any of the matters mentioned in paragraph 9 of regulation 9 of Annex VI.</p> <p><i>Note</i> A certificate may be revoked in accordance with the criteria mentioned in this Division.</p>	<p>‘Phase two’ review:</p> <p>Clarification on when an IAPP certificate comes into force.</p> <p>‘Phase one’ review:</p> <p>Commencement and duration of IAPP certificate separated and modified for a new subdivision on IAPP certificate.</p> <p>Commencement and duration</p>

		of IEE certificate separated and modified for a new subdivision on IEE certificate.
Subdivision 2 Criteria for revocation of certificates		'Phase one' review: Moved to separate subdivisions for each Certificate as appropriate.
<p>18 Criteria for revocation of IAPP certificate</p> <p>For section 134 of the Navigation Act, the criteria for revocation of an IAPP certificate are that:</p> <p>(a) a survey is not completed in the time required by regulation 5 of Annex VI for the survey; or</p> <p>(b) the vessel does not comply with the requirements that apply to it under regulation 5 of Annex VI; or</p> <p>(c) the certificate has not been endorsed (after a renewal survey) as required by regulation 6 of Annex VI; or</p> <p>(d) the vessel to which the certificate applies ceases to be registered in Australia</p> <p><i>Note for paragraph (b)</i> The requirements that apply under regulation 5 of Annex VI include a requirement for maintenance of equipment — see paragraph 5 of regulation 5.</p>	<p>19 Criteria for revocation of IAPP certificates</p> <p>For section 134 of the Navigation Act, the criteria for revocation of an IAPP certificate are that:</p> <p>(a) the vessel does not comply with the requirements that apply to it under regulation 5 of Annex VI; or</p> <p>(b) the emissions from a marine diesel engine installed on the vessel are not within the limits set out in regulation 13 of Annex VI; or</p> <p>(c) a marine diesel engine installed on the vessel has not been surveyed in accordance with the NOx Technical Code.</p> <p><i>Note for paragraph (a)</i> Regulation 5 of Annex VI includes a requirement for maintenance of equipment — see paragraph 5 of regulation 5.</p>	'Phase one' review: Updated with an amendment in subsections (b) and (c).
	<p>20 Endorsement of IAPP certificate</p> <p>An issuing body may endorse an IAPP certificate in accordance with regulations 5 and 9 of Annex VI.</p> <p><i>Note</i> It is practice for an issuing body endorsing a certificate to be the same as the issuing body that originally issued the certificate.</p>	'Phase two' review: Provides for the endorsement of an IAPP certificate, as mentioned under section 16 of MO97.
	Subdivision 3.3 IEE certificates	'Phase one' review: Separate subdivision for IEE certificate putting everything in one place
<p>13 Criteria for issue of IAPP certificate or IEE certificate</p> <p>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:</p>	<p>21 Criteria for issue of IEE certificates</p> <p>For paragraph 132(1)(b) of the Navigation Act, the criteria for issue of an IEE certificate are that the vessel:</p>	'Phase one' review: Criteria for issue of IEE certificate separated and moved to a new subdivision 16

<p>(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.</p>	<p>(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.</p>	<p>for IEE certificate.</p>
<p>17 Commencement and duration of certificates (3) An IAPP certificate and an EIAPP certificate come into force, and cease to be in force, in accordance with regulation 9 of Annex VI. (4) 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. <i>Note</i> A certificate may be revoked in accordance with the criteria mentioned in this Division.</p>	<p>22 Commencement and duration of IEE certificates (1) An IEE certificate comes into force on the day it is issued and remains in force for the life of the vessel. (2) However, the certificate ceases to be in force on the occurrence of any of the matters mentioned in paragraphs 9 and 11 of regulation 9 of Annex VI. <i>Note</i> A certificate may be revoked in accordance with the criteria mentioned in this Division.</p>	<p>‘Phase two’ review: Clarification on when an IAPP certificate comes into force.</p> <p>Added reference to paragraph 9 of regulation 9 of Annex VI as relevant to occurrences when an IEE certificate ceases to be in force.</p> <p>‘Phase one’ review: Commencement and duration of IEE certificate separated and moved to a new subdivision for IEE certificate.</p>
<p>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.</p>	<p>23 Criteria for revocation of IEE certificates For section 134 of the Navigation Act, the criterion for revocation of an IEE certificate is that the vessel to which the certificate applies undergoes a major conversion within the meaning of regulation 2 of Annex VI.</p>	<p>‘Phase one’ review: Removed subsections (a) and (c) as these are not relevant for revocation of the certificate, and rather these matters would cause cessation of the certificate, which is captured in subsection 22(2) of the draft.</p>
<p>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</p>		<p>‘Phase one’ review: EIAPP certificate is not a certificate under the Navigation Act but is required under Annex VI in accordance with the NO_x Technical Code 2008. As a result, EIAPP has been moved and is dealt with separately under division 7.</p>

<p>service; or (d) the vessel ceases to be registered in Australia.</p>		
<p>Division 2A Certificate requirements for foreign vessels</p>	<p>Division 4 Certificate requirements for foreign vessels</p>	<p>‘Phase one’ review: Division number updated</p>
<p>20A Requirements for foreign vessels (1) Subsection (2) applies to a foreign vessel and a recreational vessel that does not have Australian nationality. 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.</p>	<p>24 Requirements for foreign vessels and certain recreational vessels (1) This Division 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 any certificate or other document that it is required to have in accordance with regulations 5 and 6 of Annex VI. (3) A marine diesel engine to which regulation 13 of Annex VI applies must comply with the NOx Technical Code in accordance with regulation 13 of Annex VI. (4) If Annex VI does not apply to a vessel but regulations 5 and 6 of Annex VI would apply if the country in which the vessel is registered were a party to Annex VI, the vessel must carry any certificate that: (a) is issued for the vessel by or for the administration of the country in which it is registered; and (b) deals with the prevention of air pollution by the vessel. (5) If Annex VI does not apply to a vessel but regulation 13 of Annex VI would apply if the country in which the vessel is registered were a party to Annex VI, the vessel must carry any certificate that: (a) is issued for a marine diesel engine installed on the vessel; and (b) deals with the prevention of air pollution from the engine.</p>	<p>‘Phase two’ review: Updates for clarity and to ensure consistent application of the MARPOL Annex VI requirements to foreign vessels.</p> <p>‘Phase one’ review: New subsection (3) is added to capture compliance with the NOx Technical Code.</p> <p>Also added subsection (4) along the line of subsection 19(2) of Marine Order 91 to ensure no favourable treatment is extended to foreign vessels and foreign recreational yachts whose flag state is not a party to Annex VI.</p>
	<p>Division 5 Vessels not engaged on overseas voyages</p>	<p>‘Phase one’ review: New division to deal with domestic commercial vessels</p>
	<p>25 Vessels ≥400 GT not on overseas voyage A vessel ≥400 GT that does not engage in overseas voyages, must be surveyed in accordance with regulation 5 of Annex VI to ensure that the vessel complies with Chapter 3 of Annex VI. <i>Note</i> Once a vessel ≥400GT proceeds on an overseas voyage, it is not covered by this section and therefore must</p>	<p>‘Phase one’ and ‘phase two’ review: Updates to survey requirement for DCVs 400GT and above as required by regulation 5 Annex VI to ensure</p>

	have all the certificates required by Annex VI.	compliance with Chapter 3 of Annex VI.
	Division 6 Ozone depleting substances	‘Phase one’ review: A new division for emission control of ozone depleting substances.
	26 Ozone depleting substances — equipment and installations For this Division: <i>equipment</i> does not include permanently sealed equipment, whether or not it is part of an installation, that has no refrigerant charging connections or potentially removable components containing ozone depleting substances. <i>installation</i> has the same meaning as <i>Installations</i> in regulation 2 of Annex VI	‘Phase one’ review: Clarification of the terms, equipment and installation for application of requirements under regulation 12 of Annex VI.
	27 Release of ozone depleting substances (1) A person commits an offence if: (a) the person is the master of a vessel; and (b) an emission of an ozone depleting substance occurs from the vessel. Penalty: 50 penalty units. (2) In this section, an emission includes an emission occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment but does not include a minimal release associated with the recapture or recycling of an ozone depleting substance. (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.	‘Phase one’ review: Prohibition of emission of ozone depleting substances in accordance with regulation 12 of Annex VI.
	28 Ozone depleting substances on vessels constructed after 2019 (1) A person commits an offence if: (a) the person is the owner of a vessel; and (b) the vessel is constructed after 31 December 2019; and (c) an installation on the vessel, or equipment contained in an installation on the vessel, contains an ozone depleting substance. Penalty: 50 penalty units.	‘Phase one’ review: Phasing out of the use of ozone depleting substances, including hydrochlorofluorocarbons.

	<p>(2) An offence against subsection (1) is a strict liability offence.</p> <p>(3) A person is liable to a civil penalty if the person contravenes subsection (1).</p> <p>Civil penalty: 50 penalty units.</p>	
	<p>29 Ozone depleting substances on vessels constructed between 2005 and 2019</p> <p>(1) A person commits an offence if:</p> <p>(a) the person is the owner of a vessel; and</p> <p>(b) the vessel is constructed after 18 May 2005 and before 31 December 2019; and</p> <p>(c) an installation on the vessel, or equipment contained in an installation on the vessel, contains an ozone depleting substance, other than a hydrochlorofluorocarbon.</p> <p>Penalty: 50 penalty units.</p> <p>(2) An offence against subsection (1) is a strict liability offence.</p> <p>(3) A person is liable to a civil penalty if the person contravenes subsection (1).</p> <p>Civil penalty: 50 penalty units.</p>	<p>‘Phase one’ review:</p> <p>Phasing out of the use of ozone depleting substances, including hydrochlorofluorocarbons.</p>
	<p>30 Delivery of ozone depleting substances to reception facilities</p> <p>(1) A person commits an offence if:</p> <p>(a) the person is the master of a vessel; and</p> <p>(b) an ozone depleting substance or equipment containing an ozone depleting substance is removed from the vessel; and</p> <p>(c) the substance or equipment is not delivered to a reception facility designated to receive ozone depleting substances.</p> <p>Penalty: 50 penalty units.</p> <p>(2) An offence against subsection (1) is a strict liability offence.</p> <p>(3) A person is liable to a civil penalty if the person contravenes subsection (1).</p> <p>Civil penalty: 50 penalty units.</p>	<p>‘Phase one’ review:</p> <p>Control measure as per regulation 12 of Annex VI</p>
<p>37 Ozone depleting substances record book</p> <p>(1) For paragraph 26FET(3)(a) of the Pollution Prevention Act, an ozone depleting substances record book must be:</p> <p>(a) part of an existing logbook; or</p>	<p>31 Ozone depleting substances record book</p> <p>(1) For paragraph 26FET(3)(a) of the Pollution Prevention Act, an ozone depleting substances record book must be:</p> <p>(a) part of an existing logbook; or</p>	<p>‘Phase one’ review:</p> <p>Moved from section 37 of the current MO97 and updated allowing the use of electronic record book.</p>

<p>(b) an electronic recording system approved by AMSA.</p> <p>(2) Division 3 of Marine Order 1 (Administration) 2013 applies to an application to AMSA for an approval mentioned in paragraph (1)(b).</p> <p>(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.</p> <p>(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.</p> <p>(5) For paragraphs 26FET(6)(a) and (8)(b) of the Pollution Prevention Act, the following operations or occurrences are prescribed:</p> <p>(a) recharge, full or partial, of equipment containing ozone depleting substances;</p> <p>(b) repair or maintenance of equipment containing ozone depleting substances;</p> <p>(c) discharge of ozone depleting substances to the atmosphere:</p> <p>(i) deliberately; or</p> <p>(ii) not deliberately;</p> <p>(d) discharge of ozone depleting substances to land-based reception facilities;</p> <p>(e) supply of ozone depleting substances to the vessel.</p>	<p>(b) the official logbook; or</p> <p>(c) an electronic record book.</p> <p>(2) For subsections 26FET(3), (7) and (8) of the Pollution Prevention Act, each entry and page in an electronic record book mentioned in paragraph (1)(b) is taken to have been signed by the master of the vessel.</p> <p>(3) For paragraphs 26FET(6)(a) and (8)(b) of the Pollution Prevention Act, the following operations or occurrences are prescribed:</p> <p>(a) recharge, full or partial, of equipment containing ozone depleting substances;</p> <p>(b) repair or maintenance of equipment containing ozone depleting substances;</p> <p>(c) discharge of ozone depleting substances to the atmosphere:</p> <p>(i) deliberately; or</p> <p>(ii) not deliberately;</p> <p>(d) discharge of ozone depleting substances to land-based reception facilities;</p> <p>(e) supply of ozone depleting substances to the vessel.</p>	
<p>Division 3 Nitrogen oxides</p>	<p>Division 7 Nitrogen oxide emissions from marine diesel engines</p>	<p>‘Phase one’ review: Division 3 of the current MO97 is captured here with some updated provisions from division 2 of the current MO97 and some new provisions in accordance with Annex VI.</p>
	<p>32 EIAPP certificates for engines on regulated Australian vessels and recreational vessels with Australian nationality</p> <p>(1) This section applies if regulation 13 of Annex VI applies to:</p> <p>(a) a marine diesel engine installed on a regulated Australian vessel or a recreational vessel with Australian nationality; or</p> <p>(b) a marine diesel engine that has undergone a major conversion after installation on a regulated Australian vessel</p>	<p>‘Phase two’ review: Subheading updated to confirm the ongoing application of EIAPP certification requirements to recreational vessels.</p> <p>‘Phase one’ review: The provision clarifies that the EIAPP certificate</p>

	<p>or a recreational vessel with Australian nationality.</p> <p>(2) The marine diesel engine must have an EIAPP certificate and associated technical file in accordance with the NOx Technical Code.</p> <p><i>Note</i> Regulation 13 of Annex VI applies to a marine diesel engine with a power output >130 kW.</p>	<p>needs to be issued under the NOx Technical Code, and the Technical file is captured as integral to the EIAPP certificate.</p> <p>Note added to clarify the application of regulation 13</p>
	<p>33 EIAPP certificates for engines on domestic commercial vessels</p> <p>(1) This section applies if regulation 13 of Annex VI applies to a marine diesel engine installed on a domestic commercial vessel.</p> <p>(2) The marine diesel engine must have an EIAPP certificate and associated technical file in accordance with the NOx Technical Code if:</p> <p>(a) the engine is installed on the vessel after 31 December 2022; or (b) the engine undergoes a major conversion after 31 December 2022</p> <p><i>Note</i> Regulation 13 of Annex VI applies to a marine diesel engine with a power output >130 kW.</p>	<p>‘Phase one’ review: Provides EIAPP certificate requirements for new engines installed on domestic, commercial vessels and major conversion of existing engines.</p> <p>Note added for clarity of application of regulation 13</p>
	<p>34 Application for EIAPP certificate</p> <p>A person may apply in accordance with Marine Order 1 (Administration) 2013 for an EIAPP certificate for a marine diesel engine.</p>	<p>‘Phase one’ review: Provides for applying for an EIAPP certificate.</p>
	<p>35 Issue of EIAPP certificate</p> <p>(1) An issuing body may issue an EIAPP certificate for a marine diesel engine if:</p> <p>(a) the engine has been surveyed in accordance with the NOx Technical Code; and</p> <p>(b) a technical file in accordance with the NOx Technical Code has been approved by the issuing body; and</p> <p>(c) the emissions from the engine have been measured in accordance with the NOx Technical Code and the measurements indicate that the emissions from the engine are likely to be within the limits set out in regulation 13 of Annex VI for the operation of the engine.</p> <p><i>Note</i> 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.</p>	<p>‘Phase one’ review: Criteria for issuing an EIAPP certificate</p>

	<p>36 Commencement and duration of EIAPP certificates</p> <p>(1) An EIAPP certificate comes into force on the day it is issued and remains in force for the life of the engine.</p> <p>(2) However, the certificate ceases to be in force if;</p> <p>(a) the engine undergoes a major conversion; or</p> <p>(b) the onboard NOx verification procedures required by the NOx Technical Code:</p> <p>(i) have not been carried out; or</p> <p>(ii) show that the engine:</p> <p>(A) does not conform to its technical file; or</p> <p>(B) no longer complies with regulation 13 of Annex VI.</p>	<p>‘Phase two’ review:</p> <p>Provides for the commencement date of an EIAPP certificate and circumstances that would cause an EIAPP certificate to cease to be in force.</p>
	<p>37 Taking vessels to sea without required documents</p> <p>(1) A person commits an offence if:</p> <p>(a) the person takes a vessel to sea, or causes or permits another person to take the vessel to sea; and</p> <p>(b) there is installed on the vessel a marine diesel engine to which regulation 13 of Annex VI applies; and</p> <p>(c) section 30 or 31 requires the engine to have an EIAPP certificate and technical file; and</p> <p>(d) the marine diesel engine does not have an EIAPP certificate and technical file.</p> <p>Penalty: 50 penalty units.</p> <p>(2) An offence against subsection (1) is a strict liability offence.</p> <p>(3) A person is liable to a civil penalty if the person contravenes subsection (1).</p> <p>Civil penalty: 50 penalty units.</p>	<p>‘Phase one’ review:</p> <p>Provides for enforcement of EIAPP certificate requirements.</p>
	<p>38 Documents to be kept on board vessels</p> <p>(1) A person commits an offence if:</p> <p>(a) the person is the owner of a vessel; and</p> <p>(b) there is installed on the vessel a marine diesel engine to which regulation 13 of Annex VI applies; and</p> <p>(c) the marine diesel engine has an EIAPP certificate and technical file required by section 30 and 31; and</p> <p>(d) the EIAPP certificate and technical file are not kept on board the vessel.</p> <p>Penalty: 50 penalty units.</p> <p>(2) An offence against subsection (1) is a strict liability offence.</p>	<p>‘Phase one’ review:</p> <p>Provides for enforcement of EIAPP certificate requirements.</p>

	<p>(3) A person is liable to a civil penalty if the person contravenes subsection (1). Civil penalty: 50 penalty units.</p>	
	<p>39 Engine suppliers must provide documents (1) This section applies if a person supplies a marine diesel engine for installation on: (a) a domestic commercial vessel; or (b) a recreational vessel with Australian nationality that: (i) is not going overseas; or (ii) is going overseas and is <400GT. (2) The person commits an offence if: (a) the person supplies the marine diesel engine after 31 December 2022; and (b) regulation 13 of Annex VI applies to the engine; and (c) the person does not provide an EIAPP certificate and associated technical file for the marine diesel engine at the time of its supply. Penalty: 50 penalty units. (3) An offence against subsection (2) is a strict liability offence. (4) A person is liable to a civil penalty if the person contravenes subsection (2). Civil penalty: 50 penalty units.</p>	<p>‘Phase two’ review: New requirement putting an obligation on the engine supplier to provide an EIAPP certificate and the associated technical file to the owner of a recreational vessel that does not hold an IAPP certificate (a vessel that is not going overseas or is going overseas and is <400GT) when a new or replacement engine is supplied, aligning with the requirements for DCVs proposed through the phase one review.</p> <p>‘Phase one’ review: New requirement putting an obligation on the engine supplier to provide an EIAPP certificate and the associated technical file to the owner of a DCV when a new or replacement engine is supplied.</p>
	<p>40 Person who carries out major conversion must provide documents (1) This section applies if a person carries out a major conversion of a marine diesel engine for: (a) a domestic commercial vessel; or (b) a recreational vessel with Australian nationality that: (i) is not going overseas; or (ii) is going overseas and is ≤400GT. (2) The person commits an offence if: (a) the person carries out the major conversion after 31 December 2022; and (b) regulation 13 of Annex VI applies to the engine; and (c) the person does not, as soon as practicable, provide an</p>	<p>‘Phase two’ review: New requirement putting an obligation on a person that carries out a major conversion of a marine diesel engine to provide an EIAPP certificate and the associated technical file to the owner of a recreational vessel that does not hold an IAPP certificate (a recreational vessel that is not going overseas or is going overseas and is <400GT) when the person</p>

	<p>EIAPP certificate and associated technical file for the marine diesel engine to the owner of the vessel. Penalty: 50 penalty units. (3) An offence against subsection (2) is a strict liability offence.(4) A person is liable to a civil penalty if the person contravenes subsection (2). Civil penalty: 50 penalty units.</p>	<p>carries out the major conversion, aligning with the requirements for DCVs proposed through the phase one review.</p> <p>‘Phase one’ review: New requirement putting an obligation on a person that carries out a major conversion of a marine diesel engine to provide an EIAPP certificate and the associated technical file to the owner of a DCV when the person carries out the major conversion.</p>
<p>21 Restrictions on operation of engines</p> <p>(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</p>	<p>41 Operation of engines not in accordance with emission limits</p> <p>(1) A person commits an offence if: (a) the person operates a marine diesel engine on a vessel; and (b) the engine is of a kind to which regulation 13 of Annex VI applies; and (c) the emissions of nitrogen oxides from the engine are not within the limits mentioned in regulation 13 of Annex VI for the intended operation of the engine and equipment. Penalty: 50 penalty units. (2) Subsection (1) does not apply, for the periods mentioned in regulation 13.5.5 of Annex VI, to emissions from a vessel mentioned in subsection (3) if: (a) the emissions occur in relation to: (i) for a newly constructed vessel — the building and sea trials of the vessel; or (ii) converting, repairing or maintaining the vessel; or (iii) converting, repairing or maintaining, a Tier II engine installed on the vessel; or (iv) converting, repairing or maintaining a dual fuel engine on the vessel if the vessel is required for safety reasons not to have gas fuel or gas cargo on board; and (b) the activities mentioned in subparagraphs (a)(i) to (iv) take</p>	<p>‘Phase one’ review: Penal provision reworded from section 21 of the current MO97 as appropriate, capturing exemption for vessels operating on Tier III emission control areas with Tier II compliant engines under specified conditions in accordance with IMO resolution MEPC.286(71).</p>

	<p>place in a shipyard or other repair facility located in a NOx Tier III emission control area; and</p> <p>(c) the engine meets the Tier II NOx limits; and</p> <p>(d) the vessel:</p> <p>(i) sails directly to or from the shipyard or other repair facility; and</p> <p>(ii) does not load or unload cargo; and</p> <p>(iii) follows any routing requirements of the port State in which the shipyard or other repair facility is located.</p> <p>(3) The vessels are as follows:</p> <p>(a) a vessel constructed after 31 December 2015 and operating in the North American Emission Control Area or the United States Caribbean Sea Emission Control Area;</p> <p>(b) a vessel constructed after 31 December 2020 and operating in the Baltic Sea Emission Control Area or the North Sea Emission Control Area;</p> <p>(c) a vessel operating in a NOx Tier III emission control area not mentioned in paragraphs (a) or (b) if the vessel is constructed after the later of:</p> <p>(i) the date of adoption under Annex VI of the emission control area: or</p> <p>(ii) the date mentioned, if one is mentioned, in the amendment to Annex VI that designates the emission control area.</p> <p>(4) For subsection (3), each of the following terms has the meaning given for that term by paragraph 6 of regulation 13 of Annex VI:</p> <p>(a) <i>North American Emission Control Area</i>;</p> <p>(b) <i>United States Caribbean Sea Emission Control Area</i>;</p> <p>(c) <i>Baltic Sea Emission Control Area</i>;</p> <p>(d) <i>North Sea Emission Control Area</i>.</p> <p>(5) An offence against subsection (1) is a strict liability offence.</p> <p>(6) A person is liable to a civil penalty if the person contravenes subsection (1).</p> <p>Civil penalty: 50 penalty units.</p>	
21A Engine status in emission control areas	42 Engine status in NOx Tier III emission control	'Phase one' review: 26

<p>(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.</p> <p><i>Note</i> 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.</p> <p>(2) For subsection (1), an emission control area is an emission control area mentioned in paragraph 6 of regulation 13 of Annex VI.</p>	<p>areas</p> <p>(1) This section applies if the following vessels are operating in a NOx Tier III emission control area:</p> <p>(a) a regulated Australian vessel;</p> <p>(b) a recreational vessel with Australian nationality that is ≥ 24 m long, in accordance with the meaning of length in Annex I, if the vessel is</p> <p>(i) ≥ 500 GT; or</p> <p>(ii) constructed after 31 December 2020.</p> <p>(2) A person commits an offence if:</p> <p>(a) the person is the master of a vessel to which this section applies; and</p> <p>(b) the person does not ensure that a record required for the vessel under paragraph 5.3 of regulation 13 of Annex VI is entered in:</p> <p>(i) the official logbook; or</p> <p>(ii) an electronic record book.</p> <p>Penalty: 50 penalty units</p> <p>(3) An offence against subsection (2) is a strict liability offence.</p> <p>(4) A person is liable to a civil penalty if the person contravenes subsection (2).</p> <p>Civil penalty: 50 penalty units.</p>	<p>Requirements of section 21A of the current MO97 captured and modified for consistency with Annex VI and making it a penal provision for enforcement.</p>
<p>Division 4 Incineration on board vessels</p>	<p>Division 8 Incineration on board vessels</p>	<p>‘Phase one’ review: Division 4 of the current MO97 is captured here.</p>
<p>22 Restrictions on incineration on board vessels</p> <p>(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.</p> <p>Penalty: 50 penalty units.</p> <p>(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.</p> <p>Penalty: 50 penalty units.</p> <p>(3) Subsections (1) and (2) do not apply to incineration of any matter in an incinerator for which AMSA has allowed exclusion</p>	<p>43 Restrictions on incineration on board vessels</p> <p>(1) A person commits an offence if:</p> <p>(a) the person incinerates any matter on board a vessel; and</p> <p>(b) the incinerator is one to which regulation 16 of Annex VI applies; and</p> <p>(c) the person incinerates the matter in a circumstance or a way that is prohibited by regulation 16 of Annex VI; and</p> <p>(d) the incinerator is not excluded by AMSA from the application of paragraph 6.1 of regulation 16 of Annex VI.</p> <p>Penalty: 50 penalty units.</p> <p><i>Note</i> The Unified Interpretation of paragraph 9 of regulation 16 of</p>	<p>‘Phase one’ review: Paragraph (2)(d) and subsection (6) capture exclusion provisions of Annex VI related to incinerators as more appropriate here rather than under section 9 of the current MO97.</p> <p>Provision updated for clarity and consistency with MARPOL Annex VI.</p>

<p>from subparagraph 6.1 of regulation 16 of Annex VI.</p> <p>(4) An offence against subsection (1) or (2) is a strict liability offence.</p> <p>(5) A person is liable to a civil penalty if the person contravenes subsection (1) or (2). Civil penalty: 50 penalty units.</p> <p>(6) A person may apply, in accordance with the application process set out in <i>Marine Order 1 (Administration) 2013</i>, for exclusion from subparagraph 6.1 of regulation 16 of Annex VI.</p> <p>(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.</p> <p><i>Note</i> Regulation 16 includes requirements for the following:</p> <p>(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 <i>2014 Standard specification for shipboard incinerators</i> adopted by IMO Resolution MEPC.244(66) and as amended from time to time — see subparagraph 6.1 of regulation 16.</p>	<p>Annex VI provides that sludge oil generated during the normal operation of a ship should not be regarded as waste for regulation 16 and can be fed into the unit when the required preheat temperature of 650°C in the combustion chamber is reached.</p> <p>(2) A person commits an offence if:</p> <p>(a) the person incinerates any matter in an incinerator on board a vessel; and</p> <p>(a) the incinerator is one to which regulation 16 of Annex VI applies; and</p> <p>(b) the incinerator does not comply with regulation 16 of Annex VI; and</p> <p>(c) the incinerator is not excluded by AMSA from the application of paragraph 6.1 of regulation 16 of Annex VI.</p> <p>Penalty: 50 penalty units.</p> <p>(3) An offence against subsection (1) or (2) is a strict liability offence.</p> <p>(4) A person is liable to a civil penalty if the person contravenes subsection (1) or (2). Civil penalty: 50 penalty units.</p> <p>(5) A person may apply, in accordance with the application process set out in <i>Marine Order 1 (Administration) 2013</i>, for exclusion from the application of paragraph 6.1 of regulation 16 of Annex VI.</p> <p>(6) AMSA may allow exclusion from the application of paragraph 6.1 of regulation 16 of Annex VI if the requirements of paragraph 6.2 of that regulation are met.</p> <p><i>Note</i> Sections 17 and 18 of <i>Marine Order 1 (Administration) 2013</i> provide for review of decisions that are made in accordance with the application process in that Order.</p>	<p>Exclusion moved to new section 44 of updated MO97.</p>
	<p>44 Exclusion of incinerator from Annex VI requirements</p> <p>(1) The owner of a vessel on which an incinerator is installed may apply, in accordance with the application process set out in <i>Marine Order 1 (Administration) 2013</i>, for exclusion of the incinerator from the application of paragraph 6.1 of regulation 16 of Annex VI.</p> <p>(2) AMSA may allow exclusion from the application of paragraph 6.1 of regulation 16 of Annex VI if the requirements of paragraph 6.2 of regulation 16 of Annex VI are met.</p> <p><i>Note</i> Sections 17 and 18 of <i>Marine Order 1 (Administration) 2013</i> provide</p>	<p>‘Phase two’ review: The exclusion provided in section 22 of the current MO97 is moved to this new section and modified for clarity as appropriate.</p>

	for review of decisions that are made in accordance with the application process in that Order.	
<p>23 Responsibilities of owner</p> <p>(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.</p> <p>(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.</p> <p>(3) An offence against subsection (1) or (2) is a strict liability offence.</p> <p>(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.</p>	<p>45 Responsibilities of owner</p> <p>(1) A person commits an offence if: (a) the person is the owner of a vessel; and (b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and (c) the person does not ensure that a copy of the manufacturer’s operating manual for the incinerator is available in accordance with paragraph 7 of regulation 16 of Annex VI. Penalty: 50 penalty units.</p> <p>(2) A person commits an offence if: (a) the person is the owner of a vessel; and (b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and (c) the person does not ensure that the 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.</p> <p>(3) An offence against subsection (1) or (2) is a strict liability offence</p> <p>(4) A person is liable to a civil penalty if the owner person contravenes subsection (1) or (2). Civil penalty: 50 penalty unit</p>	<p>‘Phase one’ review: Restructured and reworded for clarity and consistency with MARPOL Annex VI.</p>
<p>24 Responsibilities of master</p> <p>(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.</p> <p>(2) An offence against subsection (1) is a strict liability offence.</p> <p>(3) A person is liable to a civil penalty if the person contravenes subsection (1). Civil penalty: 50 penalty units.</p>	<p>46 Responsibilities of master</p> <p>(1) A person commits an offence if: (a) the person is the master of a vessel; and (b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and (c) the combustion chamber gas outlet temperature of the incinerator is not monitored at all times. Penalty: 50 penalty units</p> <p>(2) A person commits an offence if: (a) the person is the master of a vessel; and (b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and (c) waste is fed into the incinerator when the combustion</p>	<p>‘Phase one’ review: Restructured and reworded for clarity and consistency with MARPOL Annex VI.</p>

	<p>chamber gas outlet temperature is below 850°C. Penalty: 50 penalty units.</p> <p><i>Note</i> The Unified Interpretation of paragraph 9 of regulation 16 of Annex VI provides that sludge oil generated during the normal operation of a ship should not be regarded as waste for regulation 16 and can be fed into the unit when the required preheat temperature of 650°C in the combustion chamber is reached.</p> <p>(3) An offence against subsection (1) or (2) is a strict liability offence.</p> <p>(4) A person is liable to a civil penalty if the person contravenes subsection (1) or (2). Civil penalty: 50 penalty units.</p>	
Division 5 Reporting requirements		<p>‘Phase one’ review: Division removed, and provisions moved to more appropriate locations within draft MO97.</p>
Division 6 Energy efficiency	Division 9 Energy efficiency	
	Subdivision 9.1 Application of Division	<p>‘Phase one’ review: New application subdivision on application added for clarity.</p>
	<p>47 Application of this Division</p> <p>(1) This Division applies to a vessel to which Chapter 4 of Annex VI applies.</p> <p>(2) However, sections 48 to 51 do not apply to a vessel: (a) defined in the Polar Code as a category A ship; or (b) with non-conventional propulsion, other than a vessel delivered after 31 August 2019 that is: (i) a cruise passenger vessel; or (ii) an LNG carrier.</p> <p>(3) For paragraph(2)(b): (a) <i>non-conventional propulsion</i> has the meaning given by regulation 2 of Annex VI; and (b) <i>vessel delivered after 31 August 2019</i> has the same meaning as <i>A ship delivered on or after 1 September 2019</i> in regulation 2 of Annex VI; and (c) <i>cruise passenger vessel</i> has the same meaning as</p>	<p>‘Phase two’ review: Updated section references to reflect the new provisions added for the required and attained EEXI.</p> <p>‘Phase one’ review: New application provision added for clarity consistent with Annex VI</p> <p>Waiver from section 9 of the current MO97 is captured in paragraphs 2(c) and subsection (5).</p>

	Cruise passenger ship in regulation 2 of Annex VI; and (d) LNG carrier has the meaning given by regulation 2 of Annex VI.	
Division 6 Energy efficiency	Subdivision 9.2 EEDI and EEXI	‘Phase two’ review: Subdivision title updated to reflect the new EEXI provisions contained in this subsection.
27-Attained EEDI The attained EEDI for a vessel must be worked out in accordance with regulation 20 of Annex VI. <i>Note</i> The guidelines mentioned in regulation 20 for working out the attained EEDI are the <i>2014 Guidelines on the method of calculation of the attained Energy Efficiency Design Index (EEDI) for new ships</i> adopted by IMO Resolution MEPC.245(66) and as amended from time to time	48 Attained EEDI The attained EEDI for a vessel must be worked out in accordance with regulation 22 of Annex VI. <i>Note</i> The guidelines mentioned in regulation 22 for working out the attained EEDI are the <i>2018 Guidelines on the method of calculation of the attained Energy Efficiency Design Index (EEDI) for new ships</i> adopted by IMO Resolution MEPC.308(73) and as amended from time to time.	‘Phase two’ review: References to MARPOL Annex VI regulations updated as required.
	49 Attained EEXI (1) The attained EEXI for a vessel must be worked out in accordance with regulation 23 of Annex VI. <i>Note</i> The guidelines mentioned in regulation 23 for working out the attained EEXI are the <i>2022 Guidelines on the method of calculation of the attained Energy Existing Ship Index (EEXI) adopted by IMO Resolution MEPC.350(78)</i> and as amended from time to time.	‘Phase two’ review: A new section is added that provides for new EEXI requirements consistent with MARPOL Annex VI.
28 Required EEDI The required EEDI for a vessel must be worked out in accordance with regulation 24 of Annex VI. <i>Note</i> For guidance on working out reference line values for required EEDI — see the <i>2013 Guidelines for calculation of reference lines for use with Energy Efficiency Design Index (EEDI)</i> adopted by IMO Resolution MEPC.231(65) and as amended from time to time.	50 Required EEDI The required EEDI for a vessel must be worked out in accordance with regulation 24 of Annex VI. <i>Note</i> For guidance on working out reference line values for required EEDI —see the <i>2013 Guidelines for calculation of reference lines for use with Energy Efficiency Design Index (EEDI)</i> adopted by IMO Resolution MEPC.231(65) and as amended from time to time.	‘Phase two’ review: References to MARPOL Annex VI regulations updated as required.
	51 Required EEXI (1) The required EEXI for a vessel must be worked out in accordance with regulation 25 of Annex VI.	‘Phase two’ review: A new section is added that provides for new EEXI requirements consistent with MARPOL Annex VI.
29-Ship energy efficiency management plan For subsection 26FEW(3) of the Pollution Prevention Act, a SEEMP must contain the information required by 2016 <i>Guidelines for the development of a ship energy efficiency management plan</i> , adopted by IMO resolution MEPC.282(70)	52 Ship energy efficiency management plan (SEEMP) (1) For subsection 26FEW(3) of the Pollution Prevention Act, a ship energy efficiency management plan must contain the matters mentioned in: (a) regulation 26 of Annex VI; and	‘Phase two’ review: Re-drafted to provide for new CII requirements consistent with MARPOL Annex VI.

<p>and as amended from time to time. <i>Note 1</i> The Guidelines include training among the means of implementing a SEEMP — see paragraph 4.1.6 of the Guidelines. <i>Note 2</i> Information about obtaining copies of IMO resolutions is available on the AMSA website at http://www.amsa.gov.au</p>	<p>(b) the 2022 Guidelines for the development of a ship energy efficiency management plan, adopted by IMO resolution MEPC.346(78) and as amended from time to time. (2) However, for a vessel defined in the Polar Code as a category A ship, the information mentioned in subsection (1) does not include CII calculations.</p>	<p>‘Phase one’ and ‘phase two’ review: Modifications as appropriate for clarity and consistency with MARPOL Annex VI.</p>
<p>9 Equivalents 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 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 19 of Annex VI from a requirement of the Order.</p>	<p>53 Waiver of certain requirements (1) The owner of a vessel may apply, in accordance with the application process set out in Marine Order 1 (Administration) 2013, for a waiver from the requirements mentioned in sections 48 and 50. (2) AMSA may give a waiver if the vessel is not mentioned in paragraph 5 of regulation 19 of Annex VI. <i>Note</i> 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.</p>	<p>‘Phase two’ review: Provisions on waiver provided under section 9 of the current MO97 included in this new section with modifications as appropriate for clarity and consistency with MARPOL Annex VI.</p>
<p>Division 2B Fuel Oil Consumption Reporting</p>	<p>Subdivision 9.3 Fuel oil consumption and CII reporting</p>	<p>‘Phase two’ review: Captures contents from Division 2B of the current MO97 with updates to provide for new CII requirements consistent with MARPOL Annex VI.</p>
<p>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</p>	<p>54 Requirement for statement of compliance (1) A vessel ≥ 5000 GT must have: (a) a statement of compliance; or (b) for a vessel that is registered in a country that 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 : (i) fuel oil consumption; and</p>	<p>‘Phase two’ review: Minor drafting changes for clarity. Modification to provide for new CII requirements consistent with MARPOL Annex VI.</p>

<p>Administration. (2) A statement of compliance must be kept on board the vessel while it remains valid.</p>	<p>(ii) carbon intensity data. (2) A statement of compliance must be kept on board the vessel for at least 5 years from its date of issue.</p>	
<p>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.</p>		<p>‘Phase two’ review: Section 20D of current MO97 removed as requirements to collect and report fuel oil consumption data is required to meet the provisions under sections 54 and 55 of the draft MO97.</p>
<p>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.</p>	<p>55 Issue of statement of compliance (1) An issuing body may issue a statement of compliance if: (a) the owner of the vessel has applied to the issuing body; and (b) the owner of the vessel has given the issuing body fuel oil consumption data for the vessel, collected in accordance with regulation 27 of Annex VI; and (c) for a vessel other than a vessel defined in the Polar Code as a category A ship—the owner of the vessel has given the issuing body the attained annual operational CII for the vessel, calculated in accordance with regulation 28 of Annex VI; and (d) in the case of a vessel that is required to develop a plan of corrective actions in accordance with regulation 28 of Annex VI—the issuing body is satisfied that the revised ship energy efficiency management plan for the vessel adequately addresses the plan of corrective actions. (2) A decision not to issue a statement of compliance is a reviewable decision for section 17 of Marine Order 1 (Administration) 2013.</p>	<p>‘Phase two’ review: Provide for new CII requirements consistent with MARPOL Annex VI.</p>
<p>20G Form of statement of compliance A statement of compliance must be in the form set out in Appendix X to Annex VI.</p>	<p>56 Form and duration of statement of compliance A statement of compliance: (a) must be in the form set out in Appendix X to Annex VI; and (b) remains valid in accordance with paragraph 12 of regulation 9 of Annex VI</p>	<p>‘Phase one’ review: Added validity criteria as provided in Annex VI</p>

<p>Division 7 Matters prescribed for the Pollution Prevention Act</p>	<p>Division 10 Matters prescribed for the Pollution Prevention Act</p>	<p>‘Phase one’ review: Captures content from division 7 of the current MO97.</p>
	<p>Subdivision 10.1 Sulphur content of fuel oil</p>	<p>‘Phase one’ review: New subdivision for clarity.</p>
<p>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: (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.</p>	<p>62 Record of prescribed fuel-changeover operations (1) For paragraphs 26FEJ(1)(a) and 26FEJ(3)(a) of the Pollution Prevention Act, the following are prescribed record books: (a) for a vessel \geq 400 GT or an oil tanker \geq 150GT — (i) the vessel’s oil record book (Part 1); or (ii) the official logbook; or (iii) an electronic record book (b) for any other vessel — (i) the official logbook; or (ii) an electronic record book. (2) For paragraph 26FEJ(1)(a) of the Pollution Prevention Act, a prescribed fuel-changeover operation is any fuel-changeover operation carried out before entering a SOx emission control area. (3) For paragraph 26FEJ(1)(a) of the Pollution Prevention Act, an entry must: (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 the date, time and position of the vessel when any fuel-changeover operation is completed. (4) For paragraph 26FEJ(1)(b) of the Pollution Prevention Act, the prescribed period is 3 years after the last entry has been made.</p>	<p>‘Phase one’ review: Moved from section 33 of the current MO97 and updated allowing the use of electronic record book. Minor editorial changes for clarity.</p>
<p>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</p>	<p>63 Approval of Annex VI approved equivalents (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</p>	<p>‘Phase one’ review: Minor editorial change for clarity.</p>

<p>(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 <i>Marine Order 1 (Administration) 2013</i></p>	<p>(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 <i>Marine Order 1 (Administration) 2013</i></p>	
	<p>Subdivision 10.2 Fuel oil — suppliers and delivery</p>	<p>‘Phase one’ review: New subdivision for clarity capturing some content from the current division 7 of MO97.</p>
<p>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 <i>Marine Order 1 (Administration) 2013</i>. <i>Note</i> Sections 17 and 18 of <i>Marine Order 1 (Administration) 2013</i> 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. <i>Note</i> 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. 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. <i>Note</i> 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</p>	<p>64 Register of Local Suppliers of Fuel Oil (1) For paragraph 26FEM(3)(a) of the Pollution Prevention Act, the Register must contain the information given by: (a) an initial application and declaration mentioned in subsection 65(2); and (b) an annual declaration mentioned in subsection (2). (2) 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. <i>Note</i> The approved form is available on the AMSA website: at http://www.amsa.gov.au 65 Requirements for registration (1) 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 <i>Marine Order 1 (Administration) 2013</i>. (2) The application must be on the approved initial application and declaration form. <i>Note</i> The approved form is available on the AMSA website: at http://www.amsa.gov.au. 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. <i>Note</i> Sections 17 and 18 of <i>Marine Order 1 (Administration) 2013</i> provide for review of decisions that are made in accordance with the application process in that Order. (4) 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</p>	<p>‘Phase two’ review: Update to subsection referenced to account for section number updates across the draft MO97.</p> <p>‘Phase one’ review: Section 34 of the current MO97 is broken down, providing more details on requirements for local fuel oil suppliers.</p> <p>Provisions were added on the removal of local fuel oil suppliers from the register as required by Annex VI.</p> <p>Power from the Pollution Prevention Act, section 65 is added to the draft allowing AMSA to conduct inspection, audit and sampling of fuel oil.</p> <p>Note from under subsection (1) moved to under section 65 of draft MO97 as more appropriate.</p> <p>Power given to AMSA to conduct inspections, audits, and sampling.</p>

<p>Register is a reviewable decision for section 17 of <i>Marine Order 1 (Administration) 2013</i>.</p> <p>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</p>	<p>form must give to AMSA a new initial application and declaration form with the new information</p> <p>66 Removal from Register</p> <p>(1) AMSA may remove a person from the Register if:</p> <p>(a) the person does not provide an annual declaration as required; or</p> <p>(b) the person has failed to comply with a requirement of the Pollution Prevention Act.</p> <p>(2) AMSA may give a person on the register directions for compliance.</p> <p>(3) A decision by AMSA to remove a person's name from the Register is a reviewable decision for section 17 of <i>Marine Order 1 (Administration) 2013</i>.</p> <p>67 AMSA to conduct inspections, audit, sampling</p> <p>For subparagraphs 26FEM(3)(b)(i) and 26FEM(3)(b)(ii) of the Pollution Prevention Act, AMSA may conduct inspections or audits of, or take samples from, a fuel oil supplier:</p> <p>(a) to assess whether a person should be included on the Register; and</p> <p>(b) to monitor fuel oil suppliers on the Register.</p>	
<p>35 Bunker delivery note and sample</p> <p>(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.</p> <p><i>Note</i> AMSA has approved the Bunker Delivery Note set out in Appendix V to Annex VI as the approved form.</p> <p>(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.</p> <p>(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.</p>	<p>68 Bunker delivery note and sample</p> <p>(1) For paragraph 26FEO(1A)(c) of the Pollution Prevention Act, a completed bunker delivery note must be provided when the bunkering operation is complete.</p> <p><i>Note 1</i> AMSA has approved the Bunker Delivery Note set out in Appendix V to Annex VI as the approved form.</p> <p><i>Note 2</i> Under section 26FEQ of the Pollution Prevention Act, the master and owner of a vessel commit an offence if the bunker delivery note is not kept for 3 years. The local fuel oil supplier must keep a copy of the bunker delivery note or an offence is committed</p> <p>For paragraph 26FEO(2)(d) of the Pollution Prevention Act, when the bunkering operation is complete a representative sample must be:</p> <p>(a) signed and sealed by the supplier's representative and either the master of the vessel or the officer in charge of the bunker operation; and</p> <p>(b) provided to the master of the vessel as soon as practicable.</p>	<p>'Phase one' review:</p> <p>Restructured and reworded for clarity and consistency with MARPOL Annex VI.</p>
<p>36 Fuel oil sample retention</p> <p>For paragraph 26FER(1)(d) of the Pollution Prevention Act, the sample of fuel oil mentioned in paragraph 26FER(1)(e) of that</p>	<p>63 Fuel oil sample retention</p> <p>For paragraph 26FER(1)(d) of the Pollution Prevention Act, the sample of fuel oil must be retained:</p>	<p>'Phase one' review:</p> <p>Note modified for clarity and consistency with MARPOL</p>

<p>Act must be retained:</p> <p>(a) on board the vessel; or</p> <p>(b) at a shore based location, for example a port office or other similar facility, where the samples can be accessed readily.</p> <p>Note For the period for which a sample must be retained — see subsection 26FER(1) of the Pollution Prevention Act.</p>	<p>(a) on board the vessel; or</p> <p>(b) at a shore based location, for example a port office or other similar facility, where the samples can be accessed readily.</p> <p><i>Note</i> Under paragraph 26FER(1)(d) of the Pollution Prevention Act, a sample must be retained until the later of the time of substantial consumption or 12 months after the supply of the fuel.</p>	<p>Annex VI.</p>
	<p>Division 11 Transitional and savings</p>	<p>‘Phase one’ review: New division</p>
	<p>70 Transitional</p> <p>(1) Subsection (2) applies to an application made under <i>Marine Order 97 (Marine pollution prevention — air pollution) 2013</i> if the application:</p> <p>(a) is made before 1 January 2023; and (b) is not decided before 1 January 2023.</p> <p>(2) The application is taken to be an application to which this Marine Order applies.</p> <p>71 Savings</p> <p>An EIAPP certificate issued before 1 January 2023 is taken to be an EIAPP certificate for this Marine Order.</p> <p><i>Note</i> IAPP and IEE certificates continue in operation after the making of this Marine Order as they are issued under the Navigation Act.</p>	<p>‘Phase one’ review: Transitional provisions are added to deal with the application for an EIAPP certificate or any certificate issued prior to the commencement of the new MO97.</p>