

Have your say on changes to Marine order 504 to keep passengers safe

We are making changes to *Marine Order 504 (Certificates of operation and operation requirements – national law) 2018* (Marine order 504) to clarify requirements for monitoring and accounting for passengers on domestic commercial vessels.

We will strengthen the existing requirement that the master must know the number of passengers on board at any time. We are also saying that the safety management system for the vessel must include a new procedure to make sure there is a way for the master to stay informed of passenger numbers.

Counting passengers

We will require operators of certain vessels to count all passengers on board a vessel. They will need to do this at any point where one or more passengers embark or disembark the vessel, including at the following times:

- at a landing point
- when they undertake a water activity.

The results of passenger counts must be recorded in the vessel's logbook.

We will do this through [Marine Order 504 \(Certificates of operation and operation requirements – national law\) Amendment Order 2020](#) (the Marine order 504 amendment order), which is available on our website.

These new rules will be supported by guidance material, and a passenger safety campaign.

Who may be affected

Owners, operators, masters and crew of domestic commercial vessels that carry passengers will need to implement the new requirements.

When we will make the changes

We intend to publish the Marine order 504 amendment order in early April 2020. There will be a transition period to allow time for safety management systems to be updated.

The new changes will come into effect on 1 July 2020.

We want to know:

- whether this timeframe is appropriate
- what support the industry needs to implement the new requirements.



Why we are making changes

In light of recent fatal and serious non-fatal incidents, we are enhancing arrangements for monitoring numbers of passengers on vessels.

During August to October 2019, we asked for feedback about examples of ways to improve passenger safety. The [feedback from the consultation](#) is available on our website.

We are now making changes to strengthen and clarify the requirements for passenger safety in Marine order 504.

Have your say

We want to know about any issues you may have with the implementation of the changes.

Our questions are about:

- The period of time we allow for you to comply.
- Whether the draft amendments will achieve the objectives.
- Any state or territory laws that we may need to take into account.

Please read the draft amendments and the section on 'How the amendments work' below. Tell us what you think by answering the following questions:

1. Is a transition period of three months enough to update your safety management system?

Note that:

- There is an existing requirement that a review of all safety procedures must be conducted every 12 months.

2. Are the criteria for applying the more prescriptive passenger counts appropriate? Note that the criteria are intended to:

- Include charter and party cruise operations and exclude commuter ferry operations.
- Be simple and measurable.

3. Do you have to comply with any state or territory laws that would conflict with these changes? If so, please provide as much detail as possible so that we can deal with any potential conflicts.

4. Is the support we are proposing to give helpful? Does it help you to build an effective and compliant safety management system? What else is needed?

How the amendments work

Here we describe each change in the Marine order 504 amendment order. We explain what you will need to do, and our intention in making each change.

Amendments to improve passenger safety

Key onboard procedures to include passenger monitoring

Marine order 504 already states that the master of any vessel carrying passengers must know the number of passengers on the vessel at all times. We are strengthening the requirement so that passenger monitoring is a key onboard operation that must be covered by a specific procedure in the safety management system.

We are doing this to make it clear that:

- The owner must specifically consider how the master is going to stay informed of the number of passengers on board.
- This procedure must be written in the safety management system.

We are moving the requirement from its current location in the Documentation section (Clause 11(9)(b) of Schedule 1) to the Procedures for Onboard Operations section (Clause 7(6)(b) of Schedule 1). It will sit within the list of procedures that must be included in the safety management system.

We expect that a safety management system for a vessel that carries passengers will already deal with

passenger monitoring – the change reinforces this requirement.

We are also providing examples in a note. These examples will show the different methods that you could consider using. We do not seek to prevent an operator using an innovative way of accounting for passengers.

Item [5] Schedule 1, after paragraph 7 (6)(b)

(ba) for a Class 1 vessel, or a Class 2 vessel that is permitted to carry passengers — an effective and verifiable means of passenger monitoring to ensure that the master of the vessel is able to find out the number of passengers on board the vessel at any time;

Item [6] Schedule 1, subclause 7(6), after the note

Note for paragraph (ba) Examples of passenger monitoring systems include counting, monitored or recorded closed circuit television, crew stationed as sentries to visually monitor, configuration of the vessel that allows the master of the vessel to see passengers.

Requiring a passenger count on embarkation and disembarkation for certain vessels

Marine order 504 already states that the master must make sure at least one headcount is done on any vessel carrying passengers that is on a voyage less than 12 hours long.

We want to prescribe that, for certain vessels, a passenger count is done every time passengers embark or disembark the vessel. Subparagraphs (i) to (iv) provide criteria about which vessels.

Our focus is on the following higher risk situations:

- Voyages in waters where passengers may be more likely to fall overboard in rougher conditions. This is B, C or D waters, see (subparagraph (iv)(A)).
- Operations in darkness where a passenger may be more likely to fall overboard unnoticed, and be harder to locate if they have fallen overboard. This is E waters outside of daylight hours (subparagraph (iv)(B)).
- Charter and party cruise operations.

Limiting the requirement to passenger vessels permitted to carry up to 75 passengers

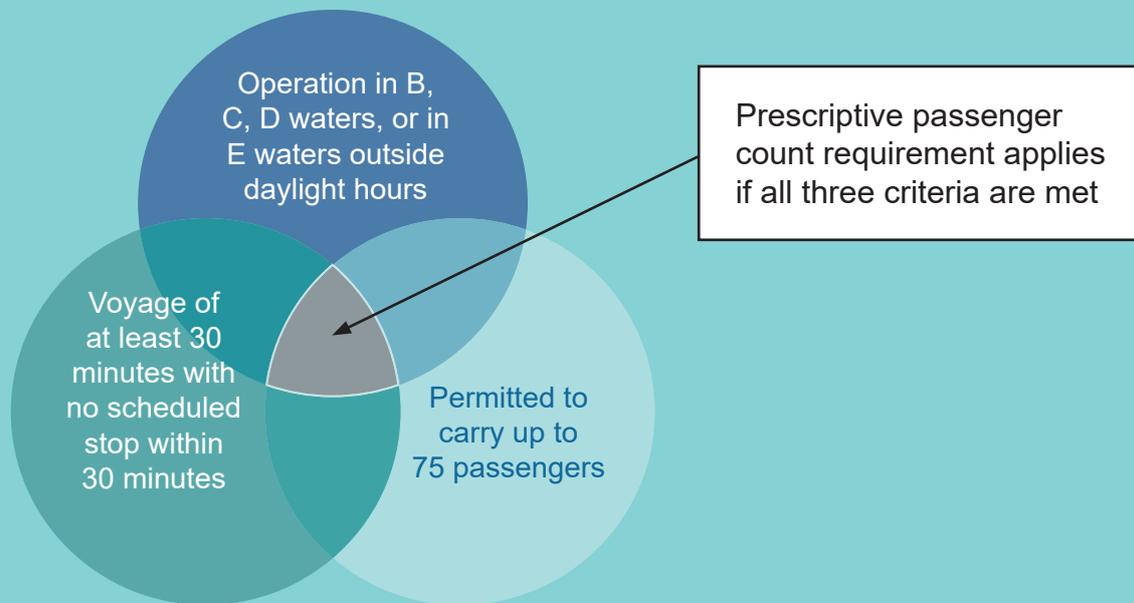
We will limit the prescriptive requirement to passenger vessels permitted to carry up to 75 passengers (subparagraph (i)).

We consider this a reasonable number for the following reasons:

- It is a reasonable number to count using basic, inexpensive methods such as visual counts, wristbands or lanyards, clicker counts or roll calls. The method would be chosen by the vessel owner, depending on the specific operation.
- We have found that in general, vessels that are permitted to carry a larger number of passengers are likely to already have a well-developed procedure ensuring all passengers are accounted for. These include basic counting methods, as well as methods such as:
 - crew whose primary role is to supervise or manage passengers
 - electronic monitoring systems
 - crowd management systems of controlling passenger access so they are always in monitored, supervised or indoor areas.

Commuter ferries

We do not intend to make prescriptive rules for commuter ferries which stop frequently and have large numbers of passengers embarking and disembarking at each stop. Feedback received during our consultation in August to October 2019 clearly showed us that this would be impractical.



30 minute voyages

We will limit the prescriptive requirement to vessels that:

- are on a voyage of at least 30 minutes overall
- are not scheduled to stop within the first 30 minutes.

The criteria work together to identify a subset of vessels that carry passengers to which the prescriptive requirement will apply.

Criteria

We have used simple, measurable criteria. This is to make it clear which vessels must follow the prescriptive rule.

We recognise that there will always be situations that fall just under or just over any numerical threshold.

If a vessel is unintentionally excluded when it should be included (due to a specific safety risk) we can do one of the following:

- apply a prescriptive rule through a condition on the vessel's certificate of operation.
- use our existing enforcement mechanisms (for example prohibition notices) to make sure the owner improves passenger safety on a vessel.

On the other hand, we can grant a specific exemption for a vessel that has been included. We may do this if we are satisfied that an included vessel can operate without conducting a passenger count on every embarkation and disembarkation without jeopardising safety.

Item [5] Schedule 1, after paragraph 7(6)(b)

(bb) for a Class 1 vessel, or a Class 2 vessel that is permitted to carry passengers — a passenger count on embarkation and disembarkation if:

- (i) the vessel is permitted to carry no more than 75 passengers; and
- (ii) the scheduled duration of the voyage is at least 30 minutes and no more than 12 hours; and
- (iii) the vessel is not scheduled to stop for embarkation or disembarkation in the first 30 minutes; and
- (iv) the vessel is operating in:
 - (A) B, C or D waters; or
 - (B) E waters outside of daylight hours.

Logging the numbers of passengers

We sought feedback in our previous consultation about whether the results of passenger counts should be recorded in the logbook. Most feedback told us that this was a reasonable expectation.

To make sure this happens, we will add 'all passenger counts conducted for the vessel' to the list of items that must be recorded in the logbook (subparagraph (f)). This will provide a record to help verify that counts on each trip are being undertaken according to the safety management system.

Item [9] Schedule 1, paragraph 11(4)(f)

(f) all passenger counts conducted for the vessel;

(g) any operation of the vessel for recreational purposes.

[Paragraph (g) was paragraph (f) and is not a new requirement]

Ensuring the appropriate crewing evaluation considers the demands of passenger monitoring

Marine order 504 already requires that the appropriate crewing evaluation take into account the number of persons carried on the vessel, and the effectiveness and timeliness of arrangements for any passenger monitoring by the crew.

We are adding the words 'taking into account that the master of the vessel must be able to find out the number of passengers on board the vessel at any time'. This provides a clearer link between the crewing evaluation and the key onboard procedures in relation to passenger monitoring. We are providing a clearer direction that the owner will need to consider how many crew they need to carry out the procedures for passenger monitoring when they decide on appropriate crewing.

We are also correcting a minor drafting error to add the word 'of', after 'timeliness'. It does not change the intention of the provision.

Item [3] Schedule 1, paragraph 6(6)(b)

(b) the number of persons to be carried on the vessel and the effectiveness and timeliness of arrangements for passenger monitoring, taking into account that the master of the vessel must be able to find out the number of passengers on board the vessel at any time;

Ensuring that action is taken when a person is unaccounted for

Marine order 504 already requires that there is an emergency procedure for a person overboard. We are providing clarification that this should include a person unaccounted for (who may have fallen overboard).

Item [8] Schedule 1, paragraph 8 (3)(b)

omit

overboard

insert

overboard or unaccountably missing

Activities supporting transition to an effective and compliant safety management system

The changes to Marine order 504 are one part of a strategy to improve passenger safety.

Feedback on the consultation conducted during August to October 2019 told us that there was no 'one-size-fits-all' solution to minimise risks.

Feedback also showed that industry want more of the following:

- guidance about safety management systems
- scrutiny of safety management systems
- enforcement of requirements.

From April 2020, we will carry out activities to help industry develop effective and compliant safety management systems.

We will update our published guidance on safety management systems to include more advice on:

- identifying risks to passenger safety
- the various types of passenger counts
- how to write procedures for passenger counts
- how to record the results of passenger counts
- resolving discrepancies in passenger counts
- developing and implementing effective emergency procedures for a person overboard or a person unaccounted for
- technological solutions that could be considered by operators and ideas for choosing the best solution
- how to provide the best crewing arrangements to make sure of accurate passenger monitoring
- crew training
- other operational controls to minimise the risk to passengers. Controls could include:
 - encouraging, asking or requiring passengers to wear lifejackets
 - passenger safety briefings
 - responsible service of alcohol
 - moving passengers indoors or to seats in rough conditions
- minimum mandatory requirements and optional enhancements to vessel design in relation to passenger safety, such as railings, additional barriers (for example non-climbable mesh), signage and passenger seating arrangements.

This guidance will be used for communications and education material. We will use these to talk to industry about passenger safety and safety management systems.

We will reinforce these messages through inspections and enforcement.

Editorial amendments

Several amendments are also proposed to correct minor drafting errors.

The following change corrects a grammatical error in the existing Marine order 504. It does not change the intention of the provision.

Item [1] Section 10

omit

section 9 of Marine Order 501

insert

section 9 of Marine Order 501, include

The following change corrects a referencing error in the existing Marine order 504. It does not change the intention of the note.

Item [2] Schedule 1, subclause 2(3), note

omit

subparagraph (b)(iv)

insert

paragraph (c)

The following change makes the terminology used within Marine order 504 clearer without changing the intention of the provision. This is that the safety management system for any vessel that carries passengers should include a safety induction for passengers.

Item [4] Schedule 1, paragraph 7(6)(b)

omit

passenger vessel

insert

vessel that carries passengers

The following change clarifies that the operational manuals in NSCV Part F1C (Fast craft – category 2 fast craft) only cover the key onboard procedures for a vessel if the vessel is a vessel to which the NSCV Part F1C applies (that is, a category 2 fast craft). It does not change the intention of the provision.

Item [7] Schedule 1, subclause 7(7)

omit

The

insert

For a vessel to which the NSCV Part F1C applies - the