

AMSA REGULATORY CONSULTATION

Draft Marine Order 97 (Marine pollution prevention – air pollution) 2022 is open for consultation until 25 February 2022

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

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

Who does this Order apply to?

Marine Order 97 (MO97) deals with the prevention of air pollution from vessels and gives effect to Annex VI of MARPOL. MO97 applies to regulated Australian vessels, domestic commercial vessels, recreational vessels and foreign vessels.

Background

In 2018, amendments were made to MO97 by Marine Order 97 (Marine pollution prevention — air pollution) Amendment Order 2018. These amendments inadvertently introduced the requirements for all domestic commercial vessels (DCVs) to have International Air Pollution Prevention (IAPP) and the International Energy Efficiency (IEE) certificates regardless of type of voyage. The amendments also included the requirement for diesel engines installed on vessels, to hold an Engine International Air Pollution Prevention (EIAPP) certificate regardless of their power output. Some exemptions from Annex VI amendments as provided in IMO resolution MEPC.286(71) are also needed to be captured. It has also been identified that some requirements of MARPOL Annex VI were not captured in the current MO97.

This review encompasses a full review of the current Marine Order 97 (Marine pollution prevention – air pollution) 2013 taking into consideration all outstanding issues.

What are the key changes?

Marine Order 97 (Marine pollution prevention – air pollution) 2013 will be reissued with all necessary updates including allowing an exemption in accordance with IMO resolution MEPC.286(71). Opportunity is being taken to clarify some important requirements, enhance drafting style and make necessary editorial changes.

The main changes:

- requirements for EIAPP certificates for diesel engines installed on any vessel made consistent with MARPOL Annex VI
- requirements for IAPP and IEE certificates for DCVs made consistent with MARPOL Annex VI
- provided alternative control measures for NOx emissions from diesel engines with power output >130 kW already installed on domestic commercial vessels as applicable by Annex VI
- introduced survey requirements for DCVs of 400 gross tonnage and above not on overseas voyages in accordance with MARPOL Annex VI
- allowed exemption for vessels to operate in NOx Tier III emission control areas with NOx Tier II compliant engines under specified conditions as set out in regulations 13.5.4 and 13.5.5 of MARPOL Annex VI as amended by IMO resolution MEPC.286(71)
- allow AMSA to take appropriate actions for vessels not complying with requirements for Ozone depleting substances as provided in Annex VI
- requirements for local fuel oil suppliers updated in accordance with Annex VI and the Pollution Prevention Act
- restructured the order as considered appropriate.

Commencement

It is intended that the Marine Order 97 (Marine pollution prevention – air pollution) 2022 will commence on **1 July 2022**.

All changes are yellow highlighted and deleted texts from the current MO97 are shown as strikethrough.

| Marine Order 97 (Marine pollution prevention – air pollution) 2013 MO 97 compil 200206Z | Draft Marine Order 97 (Marine pollution prevention – air pollution) 2022 MO 97 issue-211118A | Notes on changes All changes are yellow highlighted |
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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>.</p> <p>1A Commencement This Marine Order commences on 1 July 2022.</p> <p>1B Repeal of <i>Marine Order 97 (Marine pollution prevention — air pollution) 2013</i> <i>Marine Order 97 (Marine pollution prevention — air pollution) 2013</i> is repealed.</p> | <p>Added the word “Marine” before the word “Order” throughout as appropriate.</p> <p>Commencement date added with repealing of the current Marine Order 97.</p> |
| <p>4 Purpose This Order: (a) gives effect to Annex VI of MARPOL (which deals with prevention of air pollution from vessels); and (b) provides for matters for Chapter 4 of the Navigation Act (which deals with prevention of pollution from vessels); and (c) prescribes matters for Division 2 of Part IIID of the Pollution Prevention Act (which deals with the sulphur content of fuel oil).</p> | <p>2 Purpose (1) This Marine Order: (a) gives effect to Annex VI of MARPOL (which deals with prevention of air pollution from vessels); and (b) provides for matters for Chapter 4 of the Navigation Act (which deals with prevention of pollution from vessels); and (c) prescribes matters for Part IIID of the Pollution Prevention Act (which deals with prevention of air pollution from vessels)</p> | |
| <p>5 Power (1) This Order is made under both the Navigation Act and the Pollution Prevention Act. (2) The following provisions of the Navigation Act provide for this Order to be made:</p> | <p>3 Power (1) This Marine Order is made under both the Navigation Act and the Pollution Prevention Act. (2) The following provisions of the Navigation Act provide for this Marine Order to be made:</p> | <p>Power provisions are reworded and updated as appropriate for clarity.</p> |

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| <p>(a) subsection 130(1) which provides that the regulations may make provision about pollution certificates;</p> <p>(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;</p> <p>(c) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL.</p> <p>(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.</p> <p>(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;</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>(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>(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>(a) subsection 130(1) which provides that the regulations may provide for pollution certificates;</p> <p>(b) subsection 130(2) which provides that, without limiting subsection 130(1), the regulations may give effect to MARPOL;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p> <p>(f) paragraph 340(1)(c) which provides that the regulations may provide for giving effect to MARPOL;</p> <p>(g) subsection 342(1) which provides that AMSA may make a Marine Order about matters that can be provided for by regulation.</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>(c) 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 <i>2015 Guidelines for exhaust gas cleaning systems</i> 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>4 Definitions</p> <p>In this Marine Order:</p> <p>2015 Guidelines means <i>2015 Guidelines for exhaust gas cleaning systems</i> 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>Some new definitions added as necessary.</p> <p>Some definitions modified for either technical reason or better drafting purpose.</p> |

EEDI means Energy Efficiency Design Index.

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

(a) a pollution certificate relating to air pollution or ozone depleting substances issued under section 132 of the Navigation Act for a marine diesel engine installed on a vessel; or

(b) a certificate issued under section 319 of the Navigation Act certifying that the emissions from a marine diesel engine installed on a vessel are within the limits mentioned in regulation 13 of Annex VI.

Note For the form of certificate — see section 16.

FPSO means a vessel that is:

(a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; or

(b) capable of storing the petroleum and delivering it to another vessel or pipeline; or

(c) capable of modifying the petroleum while in storage on the vessel to suit it for transport or to fit it for the commercial requirements of the consignees; or

(d) designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey,

but does not include a facility that is designed to remain permanently moored for the production life of the related oil field.

FSU means a vessel that is:

(a) constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline; or

(b) capable of storing the petroleum and delivering it to another vessel or pipeline, but which is not capable of modifying the petroleum while in storage on the vessel; or

(c) designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey, but does not include a facility that is designed to remain permanently moored for the production life of the related oil field.

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

Annex VI means Annex VI of MARPOL.

document of compliance means a document of compliance issued under section 26.

EEDI means Energy Efficiency Design Index.

EIAPP certificate (short for engine international air pollution prevention certificate) means an EIAPP certificate issued in accordance with the NOx Technical Code.

Note The form of an EIAPP certificate is set out in Appendix I to the NOx Technical Code.

electronic record book is a record of information in electronic form that is approved by an issuing body in accordance with section 8.

emission control area has the meaning given by regulation 2 of Annex VI.

IAPP certificate (short for 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 13.

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 For the form of certificate — see section 13.

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.

Definitions of FPSO, FSU and MODU removed as these are not mentioned anymore in the draft MO97.

Definition of SEEMP removed as it is not required. It is used only in section 51 where it is self-explanatory.

(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.~~

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

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 that is

(a) for a regulated Australian vessel — issued under section 55; or
(b) for a foreign vessel — mentioned in paragraphs 6 and 7 of regulation 6 of 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

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| <ul style="list-style-type: none"> • inspector • issuing body • prescribed officer • recognised organisation (for organisations that have been prescribed for the definition — see <i>Marine Order 1 (Administration) 2013</i>) • regulated Australian vessel. <p><i>Note 3</i> For delegation of AMSA’s powers under this Order —see the AMSA website at http://www.amsa.gov.au.</p> <p><i>Note 4</i> 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.</p> | <ul style="list-style-type: none"> • recognised organisation (for organisations that have been prescribed for the definition — see <i>Marine Order 1 (Administration) 2013</i>) • regulated Australian vessel. <p><i>Note 3</i> For delegation of AMSA’s powers under this Marine Order —see the AMSA website at http://www.amsa.gov.au.</p> <p><i>Note 4</i> 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> | |
| <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>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>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>Updated referencing to exclusion provisions for foreign vessels and foreign recreational vessels from various applications as relevant.</p> |

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| <p>(b) Division 2; (c) Division 2B, apart from sections 20B and 20C; (d) subsections 22(3) and (6); (e) section 25; (f) Division 6; (g) sections 31 to 34; (h) section 37.</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 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>(b) section 8 (c) Division 3; (d) Division 5; (e) section 34 (f) Division 7, other than subsection 43(1); (g) subsections 45(3) and (6); (h) Subdivision 9.2; (i) sections 53 to 55; (j) sections 60 to 66; (k) 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</i> <i>Marine Order 1 (Administration) 2013</i> deals with the following matters about equivalents:</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</i> <i>Marine Order 1 (Administration) 2013</i> deals with the following matters about equivalents:</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</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>Heading changed as waiver is moved under relevant sections as more appropriate.</p> <p>Note added for 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>Modified and relocated under relevant sections as more appropriate.</p> |

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| | <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>(b) is readily accessible for subsequent reference.</p> <p>(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></p> | New section added allowing electronic record book for maintaining records. |
| | <p>9 Marine incidents</p> <p>For paragraph (1) of the definition of <i>marine incident</i> in subsection 14(1) of the Navigation Act, the following incidents are prescribed:</p> <p>(a) an incident involving a vessel that may affect compliance by the vessel with the requirements of Annex VI;</p> <p>(b) anything that substantially affects the efficiency or completeness of the vessel's equipment covered by Annex VI.</p> <p><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>.</p> | Relocated from section 26 of the current MO97 as part of restructuring. |
| Division 1A Requirements of Annex VI | Division 2 Requirements of Annex VI | Updated Division number. |
| <p>9B Convention requirements</p> <p>A vessel must comply with the requirements of Annex VI that apply to the vessel</p> | <p>10 Convention requirements</p> <p>(1) A vessel must comply with the requirements of Annex VI that apply to the vessel.</p> <p>(2) A person must comply with any requirement for the implementation of Annex VI</p> | Added new provision drawing power from the Navigation Act to apply appropriate control measures as required. |
| Division 2 Certificates | Division 3 Certificates issued under the Navigation Act | Title modified for clarity and created a separate subdivision for each certificate as follows. |
| Subdivision 1 Various matters about certificates | Subdivision 3.1 Matters about certificates | Heading simplified. |
| 10 Certificates required | 11 Certificates required | This section reworded to clarify certificate |

| <p>For subsection 130(3) of the Navigation Act (which enables the regulations to provide that specified kinds of vessels are required to have specified pollution certificates), a vessel must have the following certificates:</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>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):</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>requirements of vessels consistent with convention requirements in Annex VI of MARPOL.</p> <p>EIAPP certificate dealt separately as appropriate.</p> | | | | | | | | | |
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| <p>11 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>12 Status of EIAPP certificates</p> <p>(1) An EIAPP certificate for a marine diesel engine installed on a vessel is taken to be issued for the vessel.</p> <p>(2) A vessel is taken to have an EIAPP certificate if each marine diesel engine installed on the vessel has an EIAPP certificate.</p> | <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 1066 1780 1313"> <thead> <tr> <th>Item</th> <th>Certificate</th> <th>Form</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>IAPP certificate</td> <td>International Air Pollution Prevention Certificate set out in Appendix I to Annex VI</td> </tr> <tr> <td>2</td> <td>IEE certificate</td> <td>International Energy Efficiency Certificate set out in Appendix VIII to Annex VI</td> </tr> </tbody> </table> | Item | Certificate | Form | 1 | IAPP certificate | International Air Pollution Prevention Certificate set out in Appendix I to Annex VI | 2 | IEE certificate | International Energy Efficiency Certificate set out in Appendix VIII to Annex VI | <p>Relocated from section 16 of the current MO97 as more appropriate.</p> <p>All requirements for EIAPP have been rewritten and put under division 7.</p> |
| Item | Certificate | Form | | | | | | | | | |
| 1 | IAPP certificate | International Air Pollution Prevention Certificate set out in Appendix I to Annex VI | | | | | | | | | |
| 2 | IEE certificate | International Energy Efficiency Certificate set out in Appendix VIII to Annex VI | | | | | | | | | |
| <p>13 Criteria for issue of IAPP certificate or IEE certificate</p> | <p>14 Reports of alterations to vessels</p> <p>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</p> | <p>Moved from section 25 of the current MO97 as more appropriate.</p> | | | | | | | | | |

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| <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>(a) has been surveyed in accordance with regulation 5 of Annex VI; and</p> <p>(b) complies with the requirements that apply to it under regulation 5 of Annex VI.</p> | <p>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.</p> <p><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>Subdivision 3.2 IAPP certificates</p> | <p>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>15 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 NOx Technical Code and issued with an EIAPP certificate</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>16 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>Criteria for variation of IAPP certificate separated from section 14 of the current MO97 and relocated here.</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"> <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 Certificate set out in Appendix VIII to Annex VI</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 Certificate set out in Appendix VIII to Annex VI | | <p>Removed EIAPP certificate and relocated under section 12 of the draft. EIAPP certificate is not a certificate under the Navigation Act 2012 but required under Annex VI in accordance with the NO_x Technical Code 2008.</p> |
|--|---|---|------|---|-------------------|---|---|------------------|--|---|-----------------|--|--|---|
| Item | Certificate | Form | | | | | | | | | | | | |
| 1 | EIAPP certificate | Engine International Air Pollution Prevention Certificate set out in Appendix I to the NO _x Technical Code | | | | | | | | | | | | |
| 2 | IAPP certificate | International Air Pollution Prevention Certificate set out in Appendix I to Annex VI | | | | | | | | | | | | |
| 3 | IEE certificate | International Energy Efficiency Certificate set out in Appendix VIII to Annex VI | | | | | | | | | | | | |
| <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>17 Commencement and duration of IAPP certificates</p> <p>An IAPP certificate comes into force when 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>IEE certificate removed from section 17 to deal with separately and text modified for IAPP certificate as appropriate.</p> | | | | | | | | | | | | |
| <p>Subdivision 2 Criteria for revocation of certificates</p> | | | | | | | | | | | | | | |
| <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>18 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 NO_x 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> | <p>Updated with appropriate amendment in subsections (b) and (c).</p> <p>Note updated as appropriate.</p> | | | | | | | | | | | | |

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| <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>Subdivision 3.3 IEE certificates</p> | <p>Separate subdivision for IEE certificate putting everything in one place</p> |
| | <p>19 Criteria for issue of IEE certificates For paragraph 132(1)(b) of the Navigation Act, the criteria for issue of an IEE certificate are that the vessel: (a) has been surveyed in accordance with regulation 5 of Annex VI; and (b) complies with the requirements that apply to it under regulation 5 of Annex VI.</p> | <p>Criteria for issue of IEE certificate separated from section 13 of the current MO97 and relocated here under separate subdivision for IEE certificate.</p> |
| | <p>20 Commencement and duration of IEE certificates (1) An IEE certificate comes into force when 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 paragraph 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>Separated from section 17 of the current MO97 and updated as necessary.</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>21 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>Removed subsection (a) and (c) as those are not relevant for revocation of the certificate rather those will cause cessation of the certificate and captured in subsection 20(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</p> | | <p>EIAPP certificate is not a certificate under the Navigation Act 2012 and remains as a pre-requirement for IAPP certificate.</p> <p>All EIAPP certificate related requirements rewritten and put under division 7.</p> |

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| <p>(c) the engine to which the certificate applies is withdrawn from 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>20A Requirements for foreign vessels (1) Subsection (2) applies to a foreign vessel and a recreational vessel that does not have Australian nationality. (2) A vessel to which Annex VI applies must have the certificates that it is required to have in accordance with Regulations 5 and 6 of that Annex.</p> | <p>22 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 the certificates 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) A vessel to which Annex VI does not apply, but to which regulations 5 and 6 of Annex VI would apply if the country in which the vessel is registered were a party to Annex VI, must carry and comply with any certificate or other document 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) Subsection (6) applies if: (a) Annex VI does not apply to a vessel; and (b) regulation 13 of Annex VI would apply to a marine diesel engine on the vessel if the country in which the vessel is registered were a party to Annex VI. (6) The vessel must carry and comply with any certificate or other document that: (a) is issued for the marine diesel engine by or for the administration of the country in which the vessel is registered; and (b) deals with the prevention of air pollution by the marine diesel engine.</p> | <p>Added new subsection (3) 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 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>New division to deal with domestic commercial vessels including IAPP certificate requirements.</p> |

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| | <p>23 Vessels ≥400 GT not on overseas voyage This Division applies to a vessel ≥400 GT and not engaged on overseas voyages</p> | Application of the division consistent with Annex VI. |
| | <p>24 Documentation required A vessel must have: (a) an IAPP certificate; or (b) a document of compliance. <i>Note</i> Division 3 of this Marine Order gives information on applying for an IAPP certificate</p> | Regulation 5 of Annex VI requires these vessels to be surveyed without certification. Therefore, they must have any of the two as evidence of compliance. |
| | <p>25 Application for document of compliance A person may apply in accordance with <i>Marine Order 1 (Administration) 2013</i> for a document of compliance for a vessel. <i>Note</i> Division 3 of this Marine Order gives information on applying for an IAPP certificate</p> | This provides right to apply. |
| | <p>26 Issue of document of compliance An issuing body may issue a document of compliance if: (a) the vessel has been surveyed by an issuing body in accordance with regulation 5 of Annex VI; and (b) the survey shows that the vessel complies with Chapter 3 of Annex VI. <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> | Criteria for issue of document of compliance. |
| | <p>27 Revocation of document of compliance AMSA may revoke a document of compliance if the vessel no longer complies with Chapter 3 of Annex VI</p> | Criteria for revocation of document of compliance. |
| | <p>28 Taking vessel to sea without document of compliance (1) A person commits an offence if: (a) the person takes a vessel to sea, or causes or permits another person to take the vessel to sea; and (b) the vessel is one to which regulation 5 of Annex VI applies; and (c) the vessel does not have on board: (i) an IAPP certificate; or (ii) a document of compliance. Penalty: 50 penalty units. (2) An offence against subsection (1) is a strict liability offence. (3) A person is liable to a civil penalty if the person contravenes subsection (1).</p> | Enforcement of the document of compliance. |

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| | Civil penalty: 50 penalty units | |
| | Division 6 Ozone depleting substances | New division for emission control of ozone depleting substances. |
| | <p>29 Ozone depleting substances — equipment and installations</p> <p>For this Division:</p> <p><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.</p> <p><i>installation</i> has the same meaning as <i>Installations</i> in regulation 2 of Annex VI</p> | Clarification of the terms, equipment and installation for application of requirements under regulation 12 of Annex VI. |
| | <p>30 Release of ozone depleting substances</p> <p>(1) A person commits an offence if:</p> <p>(a) the person is the master of a vessel; and</p> <p>(b) a deliberate emission of an ozone depleting substance occurs from the vessel.</p> <p>Penalty: 50 penalty units.</p> <p>(2) In this section, a deliberate 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.</p> <p>(3) An offence against subsection (1) is a strict liability offence.</p> <p>(4) A person is liable to a civil penalty if the person contravenes subsection (1).</p> <p>Civil penalty: 50 penalty units.</p> | Prohibition of emission of ozone depleting substances in accordance with regulation 12 of Annex VI. |
| | <p>31 Ozone depleting substances on vessels constructed after 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 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.</p> <p>Penalty: 50 penalty units.</p> <p>(2) An offence against subsection (1) is a strict liability offence.</p> | Phasing out of the use of ozone depleting substances including hydrochlorofluorocarbons. |

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| | <p>(3) A person is liable to a civil penalty if the person contravenes subsection (1). Civil penalty: 50 penalty units.</p> | |
| | <p>32 Ozone depleting substances on vessels constructed between 2005 and 2019</p> <p>(1) A person commits an offence if:</p> <ul style="list-style-type: none"> (a) the person is the owner of a vessel; and (b) the vessel is constructed after 18 May 2005 and before 31 December 2019; and (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>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>Same as above.</p> |
| | <p>33 Delivery of ozone depleting substances to reception facilities</p> <p>(1) A person commits an offence if:</p> <ul style="list-style-type: none"> (a) the person is the master of a vessel; and (b) an ozone depleting substance or equipment containing an ozone depleting substance is removed from the vessel; and (c) the substance or equipment is not delivered to a reception facility designated to receive ozone depleting substances. <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). Civil penalty: 50 penalty units.</p> | <p>Control measure as per regulation 12 of Annex VI.</p> |
| | <p>34 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> <ul style="list-style-type: none"> (a) part of an existing logbook; or (b) the official logbook; or (c) an electronic record book. <p>(2) For subsections 26FET(3), (7) and (8) of the Pollution Prevention Act, each entry and page in an electronic record book</p> | <p>Moved from section 37 of the current MO97 and updated as necessary.</p> |

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| | <p>mentioned in paragraph (1)(c) 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 2B Fuel Oil Consumption Reporting</p> | <p>Division 7 Nitrogen oxide emissions from marine diesel engines</p> | <p>Division 2B of the current MO97 relocated under subdivision 9.3 of the draft. Division 3 of the current MO97 captured here added with some new provisions in accordance with Annex VI.</p> |
| <p>20B Application of this Division</p> <p>(1) This Division applies to a vessel that is engaged on an overseas voyage.</p> <p>(2) However, section 20C applies to a foreign vessel whether or not it is engaged on an overseas voyage.</p> <p>(3) This Division does not apply to:</p> <p>(a) a vessel that is propelled by a means other than mechanical; and</p> <p>(b) a platform, including a FPSO, a FSU and a MODU.</p> <p>Note For a new vessel engaged on overseas voyages or a vessel not normally engaged on overseas voyages that is required to undertake a single overseas voyage, see the AMSA website for guidance material on the application of the requirements of this Division:</p> <p>http://www.amsa.gov.au.</p> | <p>35 Documents for 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 or a recreational vessel with Australian nationality.</p> <p>(2) The marine diesel engine must be issued with an EIAPP certificate and associated technical file in accordance with the NOx Technical Code.</p> | <p>Clarified that EIAPP certificate needs to be issued under the NOx Technical Code.</p> <p>In addition, Technical file is captured as integral to the EIAPP certificate.</p> |
| <p>20C Requirement for statement of compliance</p> | <p>36 Documents for domestic commercial vessels</p> | <p>Clearly provides EIAPP certificate requirements</p> |

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| <p>(1) A vessel that is at least 5000 GT must have:</p> <p>(a) a statement of compliance in accordance with Annex VI; or</p> <p>(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.</p> <p><i>Note</i> Annex VI requires a statement of compliance for a vessel only after data has been collected for a calendar year and submitted to the vessel’s Administration.</p> <p>(2) A statement of compliance must be kept on board the vessel while it remains valid.</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 owner of the vessel must have one of the following documents stating or showing that the marine diesel engine is likely to comply with the emission limits that apply to it under regulation 13 of Annex VI:</p> <p>(a) an EIAPP certificate and associated technical file;</p> <p>(b) a product manual from the engine manufacturer;</p> <p>(c) correspondence from the engine manufacturer;</p> <p>(d) emission certification issued by or for an International Maritime Organization member state;</p> <p>(e) a statement issued by a recognised organisation.</p> <p>(3) However, the owner of the vessel 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 30 June 2022; or</p> <p>(b) the engine undergoes a major conversion after 30 June 2022</p> <p><i>Note</i> If a domestic commercial vessel proceeds on an overseas voyage it may become a regulated Australian vessel and section 35 would apply.</p> | <p>for new engines installed on domestic commercial vessels and alternative documentation for existing engines.</p> |
| | <p>37 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>Provides for applying for an EIAPP certificate.</p> |
| | <p>38 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>Criteria for issue of EIAPP certificate.</p> |

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| | <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>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. <i>Note Under Regulation 22A of Annex VI, the requirement to collect data applies from the commencement of calendar year 2019</i></p> | <p>39 Taking vessels to sea without required documents (1) A person commits an offence if: (a) the person takes a vessel to sea, or causes or permits another person to take the vessel to sea; and (b) there is installed on the vessel a marine diesel engine to which regulation 13 of Annex VI applies; and (c) section 35 or 36 requires the engine to have certain documentation or certification; and (d) the marine diesel engine does not have the documentation or certification. Penalty: 50 penalty units. (2) An offence against subsection (1) is a strict liability offence. (3) A person is liable to a civil penalty if the person contravenes subsection (1). Civil penalty: 50 penalty units.</p> | <p>Enforcement of EIAPP certificate or alternative documentation requirement.</p> |
| <p>20E Application for statement of compliance The owner of a vessel mentioned in section 20D may apply to an issuing body for the issue of a statement of compliance</p> | <p>40 Documents to be kept on board vessels (1) A person commits an offence if: (a) the person is the owner of a vessel; and (b) there is installed on the vessel a marine diesel engine to which regulation 13 of Annex VI applies; and (c) the marine diesel engine has the documentation or certification required by section 35 or 36; and (d) the documentation or certification is not kept on board the vessel. Penalty: 50 penalty units. (2) An offence against subsection (1) is a strict liability offence. (3) A person is liable to a civil penalty if the person contravenes subsection (1). Civil penalty: 50 penalty units.</p> | <p>Enforcement of the requirement that the EIAPP certificate or any alternative documentation must be kept on board.</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</p> | <p>41 Engine suppliers must provide documents (1) A person commits an offence if: (a) the person supplies a marine diesel engine for installation on a domestic commercial vessel; and (b) regulation 13 of Annex VI applies to the engine; and (c) subsection 36(3) requires the engine to be certified; and</p> | <p>Introduced new requirement putting obligation on the engine manufacturer to provide EIAPP certificate and the associated technical file</p> |

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| <p>body is satisfied that the data has been verified as required by that Regulation.</p> <p>(2) A statement of compliance remains valid in accordance with paragraph 12 of regulation 9 of Annex VI.</p> | <p>(d) the person does not provide the EIAPP certificate and associated technical file at the time of supply of the engine.</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>to the owner of the DCV when a new engine is supplied.</p> |
| <p>20G Form of statement of compliance</p> <p>A statement of compliance must be in the form set out in Appendix X to Annex VI.</p> | <p>42 Person who carries out major conversion must provide documents</p> <p>(1) A person commits an offence if:</p> <p>(a) the person carries out a major conversion of a marine diesel engine for a domestic commercial vessel after 30 June 2022; and</p> <p>(b) regulation 13 of Annex VI applies to the engine; and</p> <p>(c) subsection 36(3) requires the engine to be certified; and</p> <p>(d) the person does not, as soon as practicable, provide the EIAPP certificate and associated technical file to the owner of the vessel.</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>Applying the same obligation as above when somebody carries out a major conversion on an engine.</p> |
| | <p>43 Operation of engines not in accordance with emission limits</p> <p>(1) A person commits an offence if:</p> <p>(a) the person operates a marine diesel engine on a vessel; and</p> <p>(b) the engine is of a kind to which regulation 13 of Annex VI applies; and</p> <p>(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.</p> <p>Penalty: 50 penalty units.</p> <p>(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:</p> <p>(a) the emissions occur in relation to:</p> <p>(i) for a newly constructed vessel — the building and sea trials of the vessel; or</p> <p>(ii) converting, repairing or maintaining the vessel; or</p> | <p>Reworded the penal provision in section 21 of the current MO97 as appropriate and capturing exemption for vessels operating on Tier III emission control area with Tier II compliant engines under specified conditions in accordance with IMO resolution MEPC.286(71).</p> |

(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 place in a shipyard or other repair facility located in a NOx Tier III emission control area; and

(c) the engine meets the Tier II NOx limits; and

(d) the vessel:

(i) sails directly to or from the shipyard or other repair facility; and

(ii) does not load or unload cargo; and

(iii) follows any routeing requirements of the port State in which the shipyard or other repair facility is located.

(3) The vessels are as follows:

(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;

(b) a vessel constructed after 31 December 2020 and operating in the Baltic Sea Emission Control Area or the North Sea Emission Control Area;

(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:

(i) the date of adoption under Annex VI of the emission control area: or

(ii) the date mentioned, if one is mentioned, in the amendment to Annex VI that designates the emission control area.

(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:

(a) ***North American Emission Control Area***;

(b) ***United States Caribbean Sea Emission Control Area***;

(c) ***Baltic Sea Emission Control Area***;

(d) ***North Sea Emission Control Area***.

(5) An offence against subsection (1) is a strict liability offence.

(6) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 50 penalty units.

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| | <p>44 Engine status in NOx Tier III emission control 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>Captured requirements of section 21A of the current MO97 modifying for consistency with Annex VI and making it a penal provision for enforcement.</p> |
| <p>Division 3 Nitrogen oxides</p> | <p>Division 8 Incineration on board vessels</p> | <p>Division 4 of the current MO97 captured here while Nitrogen oxide related requirements moved under division 7.</p> |
| <p>21 Restrictions on operation of engines</p> <p>(1) A person must not operate a marine diesel engine on a vessel if:</p> <p>(a) the engine is of a kind to which regulation 13 of Annex VI applies; and</p> <p>(b) none of the conditions mentioned in subsection (2) are met.</p> <p>(2) For paragraph (1)(b), the conditions are:</p> <p>(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</p> <p>(b) an alternative control measure (of a kind mentioned in paragraph 1.2.2 of regulation 13 of Annex VI) is in place to</p> | <p>45 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 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</p> | <p>Restructured and reworded section 22 of the current MO97 as appropriate.</p> <p>Note added to allow burning of sludge under specified conditions as provided by the associated unified interpretation.</p> |

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| <p>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>when the required preheat temperature of 650°C in the combustion chamber is reached. (2) A person commits an offence if: (a) the person incinerates any matter in an incinerator on board a vessel; and (b) the incinerator is one to which regulation 16 of Annex VI applies; and (c) the incinerator does not comply with regulation 16 of Annex VI; and (d) the incinerator is not excluded by AMSA from the application of paragraph 6.1 of regulation 16 of Annex VI. Penalty: 50 penalty units. (3) An offence against subsection (1) or (2) is a strict liability offence. (4) A person is liable to a civil penalty if the person contravenes subsection (1) or (2). Civil penalty: 50 penalty units. (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. (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. Note 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>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>21A Engine status in emission control areas (1) The master of a regulated Australian vessel operating in an emission control area must ensure that any record required to be made for the vessel under paragraph 5.3 of regulation 13 of Annex VI is entered in the official logbook. Note Paragraph 5.3 of regulation 13 of Annex VI provides that the following must be recorded for a vessel constructed on or after 1 January 2016 with marine diesel engines that are certified to Tier II or Tier III standard: details of the engine tier, engine on/off status when entering and exiting an emission control area, any changes to that status within the area, and the date, time and position of the vessel.</p> | | |

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| <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>Division 4 Incineration on board vessels</p> | | <p>Moved under Division 8</p> |
| <p>22 Restrictions on incineration on board vessels (1) A person must not incinerate any matter on board a vessel if incineration of the matter is prohibited (either absolutely or in a specified circumstance or a specified way) by regulation 16 of Annex VI. Penalty: 50 penalty units. (2) A person must not incinerate any matter on board a vessel in an incinerator that does not comply with regulation 16 of Annex VI. Penalty: 50 penalty units. (3) Subsections (1) and (2) do not apply to incineration of any matter in an incinerator for which AMSA has allowed exclusion from subparagraph 6.1 of regulation 16 of Annex VI. (4) An offence against subsection (1) or (2) is a strict liability offence. (5) A person is liable to a civil penalty if the person contravenes subsection (1) or (2). Civil penalty: 50 penalty units. (6) A person may apply, in accordance with the application process set out in <i>Marine Order 1 (Administration) 2013</i>, for exclusion from subparagraph 6.1 of regulation 16 of Annex VI. (7) The decision maker for the application is the holder of an office in AMSA to which AMSA has delegated the power to approve the exclusion. Note Regulation 16 includes requirements for the following: (a) an IMO Type Approval Certificate (or exclusion from that requirement) — see subparagraph 6.1 of regulation 16 and appendix IV to Annex VI; (b) approval taking into account the <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>Relocated under section 45 of the draft with necessary changes.</p> |
| <p>23 Responsibilities of owner (1) The owner of a vessel must ensure that a copy of the manufacturer's operating manual for an incinerator is available in accordance with paragraph 7 of regulation 16 of Annex VI.</p> | <p>46 Responsibilities of owner (1) A person commits an offence if: (a) the person is the owner of a vessel; and</p> | <p>Restructured and reworded for clarity and as appropriate.</p> |

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| <p>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.</p> <p>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).</p> <p>Civil penalty: 50 penalty units.</p> | <p>(b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and</p> <p>(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.</p> <p>Penalty: 50 penalty units.</p> <p>(2) A person commits an offence if:</p> <p>(a) the person is the owner of a vessel; and</p> <p>(b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and</p> <p>(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.</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 owner person contravenes subsection (1) or (2).</p> <p>Civil penalty: 50 penalty unit</p> | |
| <p>24 Responsibilities of master</p> <p>(1) The master of a vessel must ensure that:</p> <p>(a) the combustion chamber gas outlet temperature of an incinerator installed on the vessel is monitored at all times; and</p> <p>(b) waste is not fed into the incinerator when the combustion chamber gas outlet temperature is below 850°C.</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>47 Responsibilities of master</p> <p>(1) A person commits an offence if:</p> <p>(a) the person is the master of a vessel; and</p> <p>(b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and</p> <p>(c) the combustion chamber gas outlet temperature of the incinerator is not monitored at all times.</p> <p>Penalty: 50 penalty units</p> <p>(2) A person commits an offence if:</p> <p>(a) the person is the master of a vessel; and</p> <p>(b) the vessel has on board an incinerator to which regulation 16 of Annex VI applies; and</p> <p>(c) waste is fed into the incinerator when the combustion chamber gas outlet temperature is below 850°C.</p> <p>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</p> | <p>Restructured and reworded as appropriate.</p> |

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| | <p>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).</p> <p>Civil penalty: 50 penalty units.</p> | |
| Division 5 Reporting requirements | | |
| <p>25 Reports of alterations to vessels</p> <p>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.</p> <p><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><i>Note 2</i> For other reporting requirements — see <i>Transport Safety Investigation Act 2003</i>, sections 18 and 19.</p> | | Relocated to section 14. |
| <p>26 Marine incidents</p> <p>For paragraph (1) of the definition of <i>marine incident</i> in subsection 14(1) of the Navigation Act, the following incidents are prescribed:</p> <p>(a) an incident involving a vessel that may affect compliance by the vessel with the requirements of Annex VI;</p> <p>(b) anything that substantially affects the efficiency or completeness of the vessel’s equipment covered by Annex VI.</p> <p><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>.</p> | | Relocated to section 9. |
| Division 6 Energy efficiency | Division 9 Energy efficiency | |
| | Subdivision 9.1 Application of Division | |
| | <p>48 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 49 and 50 do not apply to:</p> <p>(a) to a vessel defined in the Polar Code as a category A ship; or</p> <p>(b) to a vessel with non-conventional propulsion, other than a vessel delivered after 31 August 2019 that is:</p> | New application provision added for clarity consistent with Annex VI. |

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| | <p>(i) a cruise passenger vessel; or (ii) an LNG carrier. (c) if AMSA has given a waiver in accordance with paragraph 4 of regulation 19 of Annex VI. (3) For subsection (2): (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 <i>Cruise passenger ship</i> in regulation 2 of Annex VI; and (d) <i>LNG carrier</i> has the meaning given by regulation 2 of Annex VI. (4) A person may apply, in accordance with the application process set out in Marine Order 1 (Administration) 2013, for a waiver in accordance with paragraph 4 of regulation 19 of Annex VI. (5) AMSA may give a waiver under paragraph 4 of regulation 19 of Annex VI if the vessel is not mentioned in paragraph 5 of regulation 19. <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>Waiver from section 9 of the current MO97 captured in paragraph 2(c) and subsection (5) as more appropriate.</p> |
| | <p>Subdivision 9.2 Energy Efficiency Design Index and ship energy efficiency management plan</p> | <p>New subdivision to place all EEDI related requirements.</p> |
| <p>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</p> | <p>49 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>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.</p> | |
| <p>28 Required EEDI The required EEDI for a vessel must be worked out in accordance with regulation 21 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</i></p> | <p>50 Required EEDI The required EEDI for a vessel must be worked out in accordance with regulation 21 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</i></p> | |

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| <p><i>Energy Efficiency Design Index (EEDI)</i> adopted by IMO Resolution MEPC.231(65) and as amended from time to time.</p> | <p><i>Efficiency Design Index (EEDI)</i> adopted by IMO Resolution MEPC.231(65) and as amended from time to time.</p> | |
| <p>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) 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>51 Ship energy efficiency management plan For subsection 26FEW(3) of the Pollution Prevention Act, a ship energy efficiency management plan (SEEMP) must contain the information set out in the 2016 <i>Guidelines for the development of a ship energy efficiency management plan</i>, adopted by IMO resolution MEPC.282(70) and as amended from time to time. <i>Note</i> The Guidelines include training about the means of implementing a SEEMP — see paragraph 4.1.6 of the Guidelines.</p> | <p>Re-drafted for appropriateness.</p> |
| | <p>Subdivision 9.3 Fuel oil consumption reporting</p> | <p>Captured contents of Division 2B of the current MO97.</p> |
| | <p>52 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 fuel oil consumption. <i>Note</i> Annex VI requires a statement of compliance for a vessel only after data has been collected for a calendar year and submitted to the vessel's Administration. (2) A statement of compliance must, for the time it remains valid, be kept on board the vessel</p> | <p>Minor drafting changes for appropriateness.</p> |
| | <p>53 Fuel oil consumption data (1) The owner of a vessel ≥ 5000 GT must collect and give to an issuing body fuel oil consumption data in accordance with regulation 22A of Annex VI. (2) However, a vessel that is not normally engaged on overseas voyages, but which is required in exceptional circumstances to undertake a single overseas voyage, is not required to report fuel oil consumption data.</p> | <p>Note under subsection 20B(3) of the current MO97 relocated with necessary changes as new subsection (2) here.</p> |
| | <p>54 Issue of statement of compliance (1) An issuing body may issue a statement of compliance if the owner of the vessel has: (a) applied to the issuing body; and</p> | <p>Reworded for clarity without any change in the content.</p> |

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| | (b) given the issuing body fuel oil consumption data for the vessel, collected in accordance with regulation 22A of Annex VI. (2) A decision not to issue a statement of compliance is a reviewable decision for section 17 of <i>Marine Order 1(Administration) 2013</i> . | |
| | 55 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 | Added validity criteria as provided in Annex VI. |
| Division 7 Matters prescribed for the Pollution Prevention Act | Division 10 Matters prescribed for the Pollution Prevention Act | This division is restructured with subdivisions as more appropriate. |
| | Subdivision 10.1 Sulphur content of fuel oil | New subdivision for clarity. |
| 30 Sulphur content of fuel oil — prescribed limits (1) For paragraph 26FEG(1)(b) of the Pollution Prevention Act, the prescribed limit is 0.50% m/m. (2) For paragraph 26FEH(4)(a) of the Pollution Prevention Act, the prescribed limit is 0.10% m/m. | 56 Sulphur content of fuel oil — prescribed limits (1) For paragraph 26FEG(1)(b) of the Pollution Prevention Act, the prescribed limit is 0.50% m/m. (2) For paragraph 26FEH(4)(a) of the Pollution Prevention Act, the prescribed limit is 0.10% m/m. | |
| 30A Prescribed level of total emission of sulphur oxides For paragraphs 26FEGA(4)(b) and 26FEHA(2)(b) of the Pollution Prevention Act, the prescribed level is the level set out in Table 1, paragraph 1.3 of the 2015 Guidelines. | 57 Prescribed level of total emission of sulphur oxides For paragraphs 26FEGA(4)(b) and 26FEHA(2)(b) of the Pollution Prevention Act, the prescribed level is the level set out in Table 1, paragraph 1.3 of the 2015 Guidelines. | |
| 30B Operation of Annex VI approved equivalents (1) For paragraph 26FEGA(1)(b) and subparagraph 26FEH(4)(b)(ii) of the Pollution Prevention Act, an Annex VI approved equivalent that is an exhaust gas cleaning system must be operated in the manner mentioned in the 2015 Guidelines as if the 2015 Guidelines were mandatory. (2) For paragraph 26FEGA(1)(c) and subparagraph 26FEH(4)(b)(iii) of the Pollution Prevention Act, a waste stream arising from the operation of an exhaust gas cleaning system may be discharged only if: (a) there is continuous monitoring and recording of the waste stream; and | 58 Operation of Annex VI approved equivalents (1) For paragraph 26FEGA(1)(b) and subparagraph 26FEH(4)(b)(ii) of the Pollution Prevention Act, an Annex VI approved equivalent that is an exhaust gas cleaning system must be operated in the manner mentioned in the 2015 Guidelines as if the 2015 Guidelines were mandatory. (2) For paragraph 26FEGA(1)(c) and subparagraph 26FEH(4)(b)(iii) of the Pollution Prevention Act, a waste stream arising from the operation of an exhaust gas cleaning system may be discharged only if: (a) there is continuous monitoring and recording of the waste stream; and | |

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| <p>(b) the measures in section 10 of the 2015 Guidelines are applied to the waste stream and the waste stream is found to be in accordance with the limits mentioned</p> | <p>(b) the measures in section 10 of the 2015 Guidelines are applied to the waste stream and the waste stream is found to be in accordance with the limits mentioned</p> | |
| <p>34 Notification of fuel oil non-availability For paragraphs 26FEGA(7)(b), 26FEGA(7)(c), 26FEHA(5)(b), 26FEHA(5)(c), 26FEHA(6)(b) and 26FEHA(6)(c) of the Pollution Prevention Act: (a) notification must be on the approved form; and (b) notification must occur as soon as the person responsible for obtaining fuel oil for use on board the ship becomes aware that it will not be possible to obtain compliant fuel oil; and (c) a copy of the notification must be kept on board the ship for 3 years. <i>Note</i> The approved form is available on the AMSA website: at http://www.amsa.gov.au.</p> | <p>59 Notification of fuel oil non-availability For paragraphs 26FEGA(7)(b), 26FEGA(7)(c), 26FEHA(5)(b), 26FEHA(5)(c), 26FEHA(6)(b) and 26FEHA(6)(c) of the Pollution Prevention Act: (a) notification must be on the approved form; and (b) notification must occur as soon as the person responsible for obtaining fuel oil for use on board the ship becomes aware that it will not be possible to obtain compliant fuel oil; and (c) a copy of the notification must be kept on board the ship for 3 years. <i>Note</i> The approved form is available on the AMSA website: at http://www.amsa.gov.au.</p> | |
| <p>32 Flushing fuel oil service systems For paragraphs 26FEI(1)(d) and 26FEI(2)(d) of the Pollution Prevention Act, the prescribed limit is 0.10% m/m.</p> | <p>60 Flushing fuel oil service systems For paragraphs 26FEI(1)(d) and 26FEI(2)(d) of the Pollution Prevention Act, the prescribed limit is 0.10% m/m.</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.</p> | <p>61 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 \geq400 GT or an oil tanker \geq150GT — (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 SO_x 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</p> | <p>Allowing electronic record book as a means of maintaining records.</p> <p>Restructured and re-sequenced provisions for clarity.</p> |

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| <p>(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>(ii) 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>33A Approval of Annex VI approved equivalent (1) For subsection 26FEKA(2) of the Pollution Prevention Act: (a) a prescribed officer may approve an exhaust gas cleaning system as an Annex VI approved equivalent if the system is able to satisfy all the measures mentioned in the 2015 Guidelines as if those measures were mandatory; and (b) an issuing body is a prescribed officer. (2) A decision about an application for approval of an exhaust gas cleaning system as an Annex VI approved equivalent is a reviewable decision for section 17 of <i>Marine Order 1 (Administration) 2013</i></p> | <p>62 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 (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>New subdivision for clarity</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.</p> | <p>63 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 64(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</p> <p>64 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.</p> | <p>Section 34 of the current MO97 broken down and captured under section 63 to 66 providing more details of requirements for local fuel oil suppliers.</p> <p>Appropriate provisions added for registration and removal from the register of local fuel oil suppliers as required by Annex VI.</p> <p>Drawing power from the Pollution Prevention Act, section 66 is added to the draft allowing AMSA to conduct inspection, audit and sampling of fuel oil.</p> |

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| <p>(5) For subparagraph 26FEM(3)(b)(ii) of the Pollution Prevention Act, a person registered on the Register must give AMSA an annual declaration in the approved form by 1 July each year. <i>Note</i> The approved form is available on the AMSA website: at http://www.amsa.gov.au.</p> <p>(6) If the person does not provide an annual declaration as required, AMSA may remove the person's name from the Register.</p> <p>(7) 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>(8) If, at any time before the first annual declaration is due, any change occurs to information given in the initial application and declaration, the person who completed that form must give to AMSA a new initial application and declaration form with the new information</p> | <p>(3) 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.</p> <p>(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 form must give to AMSA a new initial application and declaration form with the new information</p> <p>65 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>66 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>Notre moved here from under subsection (1) as more appropriate.</p> <p>Redrafted subsection 34(6) as more appropriate.</p> <p>Power given to AMSA to conduct inspections, audit, and sampling.</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</p> | <p>67 Bunker delivery note and sample</p> <p>(1) For paragraph 26FEO1(A)(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>Restructured and reworded for more appropriateness.</p> |

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| <p>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>(2) 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>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 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>68 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>(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>Note modified for clarity.</p> |
| | <p>Division 11 Transitional and savings</p> | <p>New division.</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>(b) an electronic recording system approved by AMSA.</p> <p>(2) Division 3 of <i>Marine Order 1 (Administration) 2013</i> 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>69 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 July 2022; and</p> <p>(b) is not decided before 1 July 2022.</p> <p>(2) The application is taken to be an application to which this <i>Marine Order</i> applies.</p> <p>70 Savings</p> <p>An EIAPP certificate issued before 1 July 2022 is taken to be an EIAPP certificate for this <i>Marine Order</i>.</p> <p><i>Note</i> IAPP and IEE certificates continue in operation after the making of this <i>Marine Order</i> as they are issued under the <i>Navigation Act</i>.</p> | <p>Transitional provisions are added to deal with application for EIAPP certificate or any certificate issued prior to commencement of the new MO97.</p> |

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| <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> | | |
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