

Marine Pollution Regulation 2014

[2014-529]



New South Wales

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New South Wales

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Marine Pollution Regulation 2014



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Marine Pollution Regulation 2014*.

2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation:

AMSA means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990* of the Commonwealth.

Port Corporation has the same meaning as it has in the *Ports and Maritime Administration Act 1995*.

RMS means Roads and Maritime Services constituted under the *Transport Administration Act 1988*.

the Act means the *Marine Pollution Act 2012*.

(2) An expression used in this Regulation that is also used in MARPOL (whether or not a particular meaning is assigned to it by MARPOL), has in this Regulation the same meaning as it has in MARPOL.

(3) Notes included in this Regulation do not form part of this Regulation.

4 Waters prescribed as State waters

For the purposes of the definition of **State waters** in section 3 of the Act, the prescribed waters are such parts of the waters specified in Schedule 1 as are within the limits of the State.

Part 2 Adoption of Commonwealth orders

5 Adoption of Commonwealth Order about administration

Marine Order 1 (Administration) 2013 of the Commonwealth, as in force on 14 December 2013, is adopted subject to the modifications set out in Schedule 2.

6 Adoption of Commonwealth Order about pollution from oil

Marine Order 91 (Marine pollution prevention—oil) 2014 of the Commonwealth, as in force on 1 July 2014, is adopted subject to the modifications set out in Schedule 3.

7 Adoption of Commonwealth Order about pollution from noxious liquid substances

(1) *Marine Order 93 (Marine pollution prevention—noxious liquid substances) 2014* of the Commonwealth, as in force on 1 July 2014, is adopted subject to the modifications set out in Schedule 4.

(2) If a tank of a ship from which a noxious liquid substance has been unloaded is not washed in accordance with whichever of the provisions of *Marine Order 93 (Marine pollution prevention—noxious liquid substances) 2014* adopted by this clause is applicable to the tank (having regard to whether the substance unloaded from the tank is a Category A, B, C or D substance), the master of the ship is guilty of an offence.

Maximum penalty: 20 penalty units.

8 Adoption of Commonwealth Order about pollution from packaged harmful substances

Marine Order 94 (Marine pollution prevention—packaged harmful substances) 2014 of the Commonwealth, as in force on 22 February 2014, is adopted subject to the modifications set out in Schedule 5.

9 Adoption of Commonwealth Order about pollution from sewage

Marine Order 96 (Marine pollution prevention—sewage) 2013 of the Commonwealth, as in force on 14 December 2013, is adopted subject to the modifications set out in Schedule 6.

10 Adoption of Commonwealth Order about pollution from garbage

(1) *Marine Order 95 (Marine pollution prevention—garbage) 2013* of the Commonwealth, as in force on 1 July 2013, is adopted subject to the modifications set out in Schedule 7.

(2) A master of a ship who fails to comply with a provision of *Marine Order 95 (Marine pollution prevention—garbage) 2013* adopted under subclause (1) that is expressed in that Order to be a penal provision is guilty of an offence against this Regulation.

Maximum penalty: 20 penalty units.

Part 3 Control of toilet and galley waste from vessels

Division 1 Preliminary

11 Application of Part

This Part does not apply to large ships in State waters.

Note—

Part 6 (Prevention of pollution by sewage) of the Act applies to large ships.

12 Definitions

In this Part:

aquaculture means the commercial production, including breeding, hatching, rearing or cultivation of marine, estuarine or fresh water organisms, including aquatic plants or animals (such as fin fish, crustaceans, molluscs or other aquatic vertebrates).

certified on-board sewage treatment system means an on-board sewage treatment system that has been tested and certified as treating sewage in accordance with the sewage discharge standard by an authority certified by the National Association of Testing Authorities (NATA) as being competent to test and certify on-board sewage treatment systems.

Class 1 commercial vessel means a commercial vessel designated as a Class 1 (passenger vessel) under the National Law within the meaning of the [Marine Safety Act 1998](#).

Class 4 commercial vessel means a commercial vessel designated as a Class 4 (hire and drive vessel) under the National Law within the meaning of the [Marine Safety Act 1998](#).

commercial vessel has the same meaning as in the [Marine Safety Act 1998](#).

greywater means galley waste and shower and bath water from a vessel and any other waste water from a vessel, but does not include waste from a toilet.

greywater tank means any permanent container or receptacle on a vessel that:

- (a) is designed and constructed to receive discharge from any galley, bath or shower on the vessel and to retain the discharge for disposal at a waste collection facility, and
- (b) is separate from any holding tank if the waste collection facility to be used requires faecal matter to be discharged separately from any greywater.

holding tank means any permanent container or receptacle on a vessel that is designed and constructed to receive waste from a toilet on the vessel and to retain the waste for disposal at a waste collection facility.

inland waters means navigable waters not subject to tidal influence.

length means length overall.

marina means premises consisting of one or more moorings, pontoons, jetties, piers or other structures (whether water-based or land-based) that are designed to provide:

- (a) accommodation for, or a means of securing, a vessel, and
- (b) a slipway or some other way of taking a vessel out of the water, and
- (c) at least one of the following:
 - (i) a shipwright service,
 - (ii) sewage pump-out facilities for vessels,
 - (iii) dinghy or tender storage,
 - (iv) fuel for vessels,
 - (v) engineering services for vessels,
 - (vi) mechanical repair services for vessels,
 - (vii) tender services,
 - (viii) provisioning services for vessels,
 - (ix) any other similar marine services or facilities.

Murray River includes:

- (a) the navigable waters of that part of the Darling River and its tributaries from the junction of that river with the Murray River upstream approximately 42 kilometres to the overhead crossing at Avoca, and
- (b) the navigable waters of the anabranches of the Murray River, and
- (c) the backed up waters of all dams and other impoundments on the Murray River from the South Australian border upstream to the source of the Murray River.

navigable waters means all waters (whether or not in the State) that are from time to time capable of navigation and are open to or used by the public for navigation, whether on payment of a fee or otherwise.

on-board sewage treatment system means a sewage waste treatment system installed on a vessel.

owner of a vessel has the same meaning as it has in section 7 of the [Marine Safety Act 1998](#).

sewage discharge standard—see clause 13.

Sydney Harbour locality means the waters of Sydney Harbour, including the waters of all tidal bays, rivers and their tributaries connected or leading to the Harbour bounded by the mean high water mark and lying to the west of a line commencing at the southernmost point of North Head and running to the northernmost point of South Head.

toilet includes a urinal.

treated sewage means sewage that has been treated in accordance with the sewage discharge standard.

untreated sewage means sewage that has not been treated in accordance with the sewage discharge standard.

vessel includes watercraft of any description used or capable of being used as a means of transportation on or in water.

waste collection facility means a facility that is designed and constructed to receive the contents of a holding tank, portable toilet or greywater tank and contains facilities where faecal matter can be discharged separately from greywater where signs at the facility indicate that this is a requirement.

13 Sewage discharge standard

The following **sewage discharge standard** is specified:

- (a) the faecal coliform standard is the geometric mean of the faecal coliform count of the samples of effluent taken during the test period must not exceed 250 faecal coliforms/100 ml M.P.N. (most probable number) as determined by a multiple tube fermentation analysis or an equivalent analytical procedure,
- (b) the suspended solids standard is:
 - (i) if testing is carried out on shore, the geometric mean of the total suspended solids content of the samples of effluent taken during the test period must not exceed 50 mg/l, or
 - (ii) if testing is carried out on board a vessel, the geometric mean of the total suspended solids content of the samples of effluent taken during the test period must not be more than 100 mg/l above the suspended solids content of ambient water used for flushing purposes,
- (c) the geometric mean of 5-day Biochemical Oxygen Demand (BOD) of the samples of effluent taken during the test period must not exceed 50 mg/l.

Division 2 Sewage from vessels

14 No discharge of untreated sewage

- (1) A person must not discharge or deposit untreated sewage from a vessel into any navigable waters or onto the bank or bed of any navigable waters unless the sewage is discharged or deposited:
 - (a) into a waste collection facility, or
 - (b) in accordance with an environment protection licence issued under the *Protection of the Environment Operations Act 1997*.

Maximum penalty: 100 penalty units.

- (2) The owner and master of a vessel are each guilty of an offence if untreated sewage is discharged or deposited from the vessel by any person in contravention of subclause (1).

Maximum penalty: 100 penalty units.

- (3) It is a defence to a prosecution for an offence under subclause (2) if the defendant shows that all reasonable measures were taken to prevent the discharge or deposit from the vessel.

15 No discharge zones for treated sewage

- (1) This clause applies to the following waters:
 - (a) all inland waters,
 - (b) all intermittent closing and opening lagoons,
 - (c) waters in, and waters within 500 metres of, any of the following:
 - (i) an area in which aquaculture occurs,
 - (ii) an area normally used for swimming,
 - (iii) a beach,
 - (iv) a marine park (within the meaning of the *Marine Parks Act 1997*),
 - (v) an area declared to be an aquatic reserve under the *Fisheries Management Act 1994*,
 - (d) waters in which, and waters with 500 metres of waters in which, there is any of the following:
 - (i) a person,

(ii) a moored or anchored vessel,

(iii) a marina.

(2) A person must not discharge or deposit treated sewage from a vessel into any waters to which this clause applies or onto the bank or bed of any such waters or any adjacent waters unless the sewage is discharged or deposited:

(a) into a waste collection facility, or

(b) in accordance with an environment protection licence issued under the *Protection of the Environment Operations Act 1997*.

Maximum penalty: 100 penalty units.

(3) The owner and master of a vessel are each guilty of an offence if treated sewage is discharged or deposited from the vessel by any person in contravention of subclause (2).

Maximum penalty: 100 penalty units.

(4) It is a defence to a prosecution for an offence under subclause (3) if the defendant shows that all reasonable measures were taken to prevent the discharge or deposit from the vessel.

16 On-board sewage treatment systems to be certified

(1) The owner of a vessel operating in navigable waters is guilty of an offence if the vessel is fitted with an on-board sewage treatment system that is not a certified on-board sewage treatment system.

(2) The owner of a vessel must ensure that any on-board sewage treatment system on the vessel:

(a) is fitted in accordance with the manufacturer's instructions (if any), and

(b) is maintained in good condition, and

(c) does not exceed its maximum treatment capacity as specified by the manufacturer.

Maximum penalty: 100 penalty units.

Division 3 Holding tanks and toilets on Class 1 and Class 4 commercial vessels

17 Sewage requirements—Class 1 and Class 4 commercial vessels

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure

that:

- (a) if the vessel has a toilet fitted, the toilet is connected properly to a holding tank that:
 - (i) is of a capacity that complies with clause 19, and
 - (ii) complies with the provisions of the remainder of this Division and has been tested in accordance with this Division, or
- (b) if it is not structurally possible to install a holding tank on the vessel or the vessel has a certified on-board sewage treatment system, there is a plan of management for the vessel that has been approved under clause 31.

Maximum penalty: 100 penalty units.

18 Certificates relating to holding tanks

The owner of a vessel in which a holding tank is installed in compliance with clause 17 must ensure that the vessel is not used for commercial purposes unless:

- (a) the owner has obtained a report in writing by a naval architect or other suitably qualified person certifying that the holding tank complies with the requirements of that clause and that the stability of the vessel has not been, and is unlikely to be, affected adversely in a material way by the installation and intended use of the holding tank, and
- (b) that report has been submitted to RMS and RMS has acknowledged receipt of the report in writing to the owner.

Maximum penalty: 50 penalty units.

19 Minimum capacity of holding tanks

- (1) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the vessel has a holding tank with a capacity that complies with the following:
 - (a) in the case of a vessel used during daylight hours (other than a houseboat):
 - (i) that has not more than 12 persons on board—a capacity of 120 litres, or
 - (ii) that has more than 12 persons on board—a capacity of 120 litres + 7 litres × the number of persons on board in excess of 12,
 - (b) in the case of a vessel used overnight (other than a houseboat):
 - (i) that has not more than 12 persons on board—a capacity of 240 litres, or
 - (ii) that has more than 12 persons on board—a capacity of 240 litres + 15 litres × the number of persons on board in excess of 12,
 - (c) in the case of a houseboat:

- (i) that has 1 to 6 berths—a capacity of 360 litres, or
 - (ii) that has more than 6 berths—a capacity of 720 litres.
- (2) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the capacity of the holding tank of a vessel fitted with an efficient flushing system complies with the following:
 - (a) in the case of a vessel used during daylight hours (other than a houseboat):
 - (i) that has not more than 12 persons on board—a capacity of 60 litres, or
 - (ii) that has more than 12 persons on board—a capacity of 60 litres + 3.5 litres × the number of persons on board in excess of 12,
 - (b) in the case of a vessel used overnight (other than a houseboat):
 - (i) that has not more than 12 persons on board—a capacity of 120 litres, or
 - (ii) that has more than 12 persons on board—a capacity of 120 litres + 7.5 litres × the number of persons on board in excess of 12,
 - (c) in the case of a houseboat:
 - (i) that has 1 to 6 berths—a capacity of 180 litres, or
 - (ii) that has more than 6 berths—a capacity of 360 litres.
- (3) In this clause:

efficient flushing system means a flushing system that uses less than 1.5 litres per flush.

20 Materials

- (1) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that any materials in contact with sewage are resistant to the effects of toilet water or fresh or salt water flush, the marine environment, disinfectants, deodorants, cleaning agents and chemical compounds in solid, liquid or gaseous form or of a toxic or explosive nature likely to be generated in the operation of a holding tank.

Note—

Typical materials for holding tanks include stainless steel lined with rubber, polyester resin fibre-reinforced plastics and fibre-reinforced plastics or polyvinyl chloride without a metal shell.

- (2) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the materials of which the holding tank is constructed are chemically and galvanically compatible.

21 Design and construction

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the holding tank of the vessel is manufactured to meet the following requirements:

- (a) the tank must be capable of operation when heeled 15 degrees to either side (or, in the case of a sailing craft, 30 degrees) and trimmed 10 degrees by bow or stern,
- (b) the design of the tank must preclude the possibility of back-siphoning,
- (c) the design of the tank must prevent the escape of toilet waste to the interior or the exterior of the vessel under all conditions of heel or trim,
- (d) the tank must be securely fastened by means other than any connected piping,
- (e) fittings and openings must be accessible for maintenance and cleaning,
- (f) the tank must not have any common boundary with any potable water tank,
- (g) the tank must be constructed in such a manner as to have a smooth uninterrupted interior surface free from any projections,
- (h) the lower part of the tank must be sloped to be self-cleansing.

22 Tank inlet

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the toilet pan of the vessel is located as close as practicable to the top of the holding tank and that any inlet connection to the tank terminates not less than 75 millimetres inside the tank.

23 Tank outlet

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that:

- (a) the outlet pipe from the holding tank on the vessel has a minimum nominal bore of 40 millimetres and is fitted so that not more than 40 millimetres depth of waste remains in the tank after discharge of the tank contents, and
- (b) the upper end of the outlet pipe is rigidly attached to the vessel and is exposed on, or accessible from, the deck of the vessel, and
- (c) the upper end of the outlet pipe is fitted with the female side of an approved quick coupling device of 40 millimetres nominal bore, and
- (d) a removable gas-tight cover that is capable of protecting the seal is positioned over that coupling.

24 Venting

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that a vent pipe of 38 millimetres nominal bore is fitted to the top of the holding tank and extends to a point outside the vessel, being a point not less than 300 millimetres above the level of the toilet seat pan.

25 Flushing water inlet

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that:

- (a) if the outlet pipe from the holding tank is not alternatively used as a flushing water inlet to the tank, a pipe of 38 millimetres nominal bore is fitted to the top of the tank and be used for that purpose, and
- (b) the upper end of the flushing pipe is fitted with the female side of an approved quick coupling device of 38 millimetres nominal bore and this coupling end is rigidly attached to the vessel and is exposed on, or accessible from, the deck of the vessel, and
- (c) a removable gas-tight cover that is capable of protecting the seal is positioned over that coupling.

26 Inspection opening

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that, except where a toilet with a mechanical seal is mounted directly on top of the holding tank, an accessible inspection opening of 100 millimetres diameter is located in the top of the tank and must be fitted with a removable gas-tight cover.

27 Gas tightness

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that, when all removable gas-tight covers are secured in position, the holding tank and its fittings (except for the vent pipe) are thoroughly gas-tight under normal operating conditions.

28 Tests

- (1) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the holding tank and the connecting piping or tubing (including all fittings) are pressure tested with water as follows:
 - (a) the pressure is to represent a water column of 1.5 times the distance between the tank top and the top of the venting pipe,
 - (b) the minimum height is to be not less than 2 metres of water column,

(c) the tank must hold the water pressure for 30 minutes without any leakage.

- (2) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that the holding tank and the connecting piping or tubing (including all fittings) can withstand the following pump-out test:

The tank is to be emptied with a 170 litre per minute positive displacement pump that remains in operation for 30 seconds after emptying of the tank.

29 Maintenance of toilets, holding tanks and associated fittings

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that any toilet, holding tank and associated fitting on the vessel is maintained in good condition.

30 Consent required for modification or removal of holding tanks

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must not cause or permit any holding tank on the vessel to be modified or removed unless the consent in writing of the Minister is first obtained.

Maximum penalty: 100 penalty units.

Division 4 Plans of management about waste

31 Plans of management for waste from vessels

- (1) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel may submit a plan of management to the Minister for approval for the management of waste in relation to the vessel.
- (2) A plan of management submitted to the Minister for approval must:
- (a) be in a form approved by the Minister, and
 - (b) describe the proposed operations of the vessel, and
 - (c) specify the waters in which the vessel will operate, and
 - (d) specify the areas of those waters in which treated sewage may be discharged from the vessel and the areas in which no sewage may be discharged from the vessel, as prescribed by this Regulation, and
 - (e) indicate the maximum number of persons likely to be on board the vessel.
- (3) The Minister may, after consultation with the applicant for approval, include any additional provisions in a plan of management before it is approved.
- (4) The Minister may:

- (a) approve a plan of management unconditionally or subject to conditions, or
- (b) refuse to approve a plan of management.

(5) The Minister may, by notice in writing served on the owner of a vessel, vary an approved plan of management for the vessel or revoke the approval of a plan of management for the vessel.

32 Contravention of plan of management

The owner of a Class 1 commercial vessel or a Class 4 commercial vessel for which a plan of management has been approved under clause 31 is guilty of an offence if the vessel is operated in contravention of the plan of management.

Maximum penalty: 100 penalty units.

Division 5 Other discharge from vessels

33 Vessels to which Division applies

This Division applies to the following vessels:

- (a) a commercial vessel used on the Murray River, the hull construction of which commenced, or in which a greywater tank was installed, on or after 1 January 2005,
- (b) a commercial vessel used in the Sydney Harbour locality, the hull construction of which commenced, or in which a holding tank or a greywater tank was installed, on or after 1 January 2005,
- (c) a Class 1 commercial vessel or Class 4 commercial vessel not referred to in paragraph (a) or (b), the hull construction of which commenced on or after 1 January 2005.

34 Requirements for greywater tanks

- (1) The owner of a vessel to which this Division applies must ensure that:
- (a) any sink, basin, washbowl or similar permanent container into which greywater is discharged on a vessel is connected to a greywater tank on the vessel, and
 - (b) the greywater tank, the fittings leading from the galley to the tank and the fittings used for the discharge of the contents of the tank are:
 - (i) fabricated from stainless steel, polyester fibreglass, polyvinyl chloride or some other corrosion-resistant material, or
 - (ii) protected internally by polyester fibreglass, rubber or some other continuous liner and protected externally by a coating.

Maximum penalty: 100 penalty units.

(2) As an alternative to complying with subclause (1), the owner of any of the following may instead ensure that an on-board greywater treatment system that complies with Australian Standard AS 4995—2009, *Greywater treatment systems for vessels operated on inland waters* is operated on the vessel:

- (a) a vessel referred to in clause 33 (a) or (c),
- (b) a vessel referred to in clause 33 (b) that is not a Class 1 commercial vessel.

35 Maintenance of greywater tanks

The owner of a vessel must ensure that any greywater tank on the vessel is maintained in a good and serviceable condition.

Maximum penalty: 100 penalty units.

36 Requirement for the proper discharge of galley waste

(1) A person must not discharge or deposit the contents of a greywater tank on a vessel into or onto any navigable waters or the bank or bed of any navigable waters unless the contents are discharged or deposited:

- (a) into a waste collection facility, or
- (b) in accordance with an environment protection licence issued under the [Protection of the Environment Operations Act 1997](#).

Maximum penalty: 100 penalty units.

(2) The owner and master of a vessel are each guilty of an offence if the contents of a greywater tank on the vessel are discharged or deposited from the vessel by any person in contravention of subclause (1).

Maximum penalty: 100 penalty units.

(3) It is a defence to a prosecution under subclause (2) if the defendant shows that all reasonable measures were taken to prevent the discharge or deposit from the vessel.

Division 6 Directions regarding discharge of waste

37 Authorised officer may give certain directions

(1) An authorised officer within the meaning of the [Marine Safety Act 1998](#) may direct the owner or master of a vessel from which sewage or other waste is being discharged or deposited in contravention of this Part to do any or all of the following:

- (a) to take specified action to ensure that no further sewage or waste is so discharged or deposited,
- (b) to return the vessel to its mooring,

(c) if the vessel is a commercial vessel—to cease commercial operations until:

(i) any action specified under paragraph (a) has been taken, and

(ii) an authorised officer has inspected the vessel and approved in writing of the vessel resuming those commercial operations.

(2) A direction referred to in subclause (1) (b) or (c) may be given only if the authorised officer considers that it is necessary to prevent the further discharge or deposit of waste from the vessel concerned.

(3) The owner or master of a vessel to whom a direction is given under this clause must not fail to comply with the direction.

Maximum penalty: 100 penalty units.

Part 4 Emergency plans and other plans

Division 1 Oil spill response plans for trading ships

38 Definitions

In this Division:

oil includes:

(a) any kind of liquid, viscid, unctuous, inflammable, chemically neutral substance that is lighter than and insoluble in water and soluble in alcohol and ether, and

(b) any derivative of a chemically neutral substance referred to in paragraph (a) or of such a substance mixed with water.

trading ship means a ship that is used wholly or principally for the carriage of cargo (including oil).

39 Trading ships to be equipped to deal with oil spills

(1) A trading ship must, while on any voyage to or from Lord Howe Island, or on any voyage on which Lord Howe Island is a port of call, have on board:

(a) an oil spill response plan approved (either generally or in a particular case) by the Minister, and

(b) any equipment, materials and substances required by that plan, and

(c) a master and crew trained in accordance with that plan.

(2) The owner and the master of a trading ship are each guilty of an offence if the vessel is operated in contravention of subclause (1).

Maximum penalty: 100 penalty units.

40 Requirements of an oil spill response plan

- (1) An oil spill response plan required by clause 39 (1) (a) may be approved by the Minister only if the plan provides for the following matters:
 - (a) the equipment, materials and substances to be carried on board a trading ship to assist in dealing with, and minimising the damage from, any oil spilled from the ship,
 - (b) the way in which that equipment and those materials and substances are to be stowed and maintained,
 - (c) the action to be taken by the master and crew of the ship if an oil spill occurs,
 - (d) the relevant training to be completed by the master and crew.
- (2) Subclause (1) does not limit the matters that may be included in an oil spill response plan.

Division 2 Shipboard garbage management plan

41 Exemption from obligation to carry shipboard garbage management plan

Ships that are able to carry more than 15 but less than 37 persons are exempt from the obligation under section 107 of the Act to carry a shipboard garbage management plan.

Part 5 Pollution relating to transfer operations

Division 1 Preliminary

42 References to pipelines and purpose-built pipelines

In this Part, a reference to a pipeline or a purpose-built pipeline includes a reference to any fittings and valves of the pipeline concerned.

43 Exemption for certain purpose-built pipelines

- (1) The following persons are exempt from the operation of the Act in relation to a discharge from a pipeline that is not a regulated purpose-built pipeline:
 - (a) the occupier of the land on which the pipeline is situated,
 - (b) any lessee, licensee or user of any lease, licence or right of user for the use of the pipeline for the carriage of oil,
 - (c) the person in charge of the pipeline,
 - (d) each other person responsible for the discharge of oil or a noxious liquid

substance from the pipeline used in, or in connection with, a transfer operation.

(2) In this clause:

regulated purpose-built pipeline means a pipeline referred to in Schedule 8.

Division 2 Reporting of certain pollution incidents relating to transfer operations

44 Meaning of “reportable transfer operation pollution incident”

In this Division:

reportable transfer operation pollution incident means a discharge of oil or of an oily mixture or of a noxious liquid substance or of a mixture containing a noxious liquid substance into State waters:

- (a) from a ship or place on land in or in connection with a transfer operation, or
- (b) from any apparatus or purpose-built pipeline used in or in connection with a transfer operation, whether or not it is being so used,

but does not include a discharge that occurs on the landward side of the first isolating valve on land of any apparatus or purpose-built pipeline used in or in connection with a transfer operation, whether or not it is being so used.

45 Master must report reportable transfer operation pollution incident (Article I (1) of Protocol I of MARPOL)

- (1) The master of a ship must, without delay, report any reportable transfer operation pollution incident that occurs in State waters in relation to the ship to the Minister.

Maximum penalty: 100 penalty units.

- (2) The report must be in the form set out in Schedule 9.
- (3) A reportable incident under this clause is to be reported by the quickest means available and conveyed through AMSA, a Port Corporation or RMS.
- (4) If the report is conveyed through AMSA, it must:
 - (a) commence with the code letters “POLREP”, and
 - (b) contain the name and radio call sign (if any) of the ship concerned.
- (5) If the report is conveyed through a Port Corporation or RMS, it must contain:
 - (a) the name and radio call sign (if any) of the ship concerned, and
 - (b) the name of the person reporting the incident, and

- (c) the position of the ship.
- (6) A report must be made no later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow.
- (7) A report must be furnished to the Minister in relation to a discharge:
 - (a) not later than 24 hours after receipt of a request for a report, or
 - (b) within such further time (not exceeding a further 14 days) as the Minister may allow.
- (8) In a prosecution of a person for an offence against subclause (1), it is a defence if the person proves that the person was unable to comply with that subclause or had another reasonable excuse.

46 Master must provide supplementary report if Minister requires it (Article IV (b) of Protocol I of MARPOL)

- (1) The master of a ship must provide a supplementary report to the Minister or a person nominated by the Minister in relation to the reportable transfer operation pollution incident not later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow, if the Minister requests such a report.

Maximum penalty: 100 penalty units.

- (2) The report must be in the form set out in Schedule 9.
- (3) A reportable incident under this clause is to be reported by the quickest means available and conveyed through AMSA, a Port Corporation or RMS.
- (4) If the report is conveyed through AMSA, it must:
 - (a) commence with the code letters "POLREP", and
 - (b) contain the name and radio call sign (if any) of the ship concerned.
- (5) If the report is conveyed through a Port Corporation or RMS, it must contain:
 - (a) the name and radio call sign (if any) of the ship concerned, and
 - (b) the name of the person reporting the incident, and
 - (c) the position of the ship.
- (6) In a prosecution of a person for an offence against subclause (1), it is a defence if the person proves that the person was unable to comply with that subclause or had another reasonable excuse.

47 Master must provide supplementary report if further developments arise

- (1) The master of the ship must provide a further supplementary report to the Minister or a person nominated by the Minister not later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow, if any significant further developments arise in relation to the reportable transfer operation pollution incident after a report or supplementary report was required under this Division.

Maximum penalty: 100 penalty units.

- (2) The report must be in the form set out in Schedule 9.
- (3) A reportable incident under this clause is to be reported by the quickest means available and conveyed through AMSA, a Port Corporation or RMS.
- (4) If the report is conveyed through AMSA, it must:
 - (a) commence with the code letters "POLREP", and
 - (b) contain the name and radio call sign (if any) of the ship concerned.
- (5) If the report is conveyed through a Port Corporation or RMS, it must contain:
 - (a) the name and radio call sign (if any) of the ship concerned, and
 - (b) the name of the person reporting the incident, and
 - (c) the position of the ship.
- (6) In a prosecution of a person for an offence against subclause (1), it is a defence if the person proves that the person was unable to comply with that subclause or had another reasonable excuse.

48 Duty of other persons to report if ship abandoned or report cannot be obtained

- (1) The owner, charterer, manager or operator of an abandoned ship in relation to which a reportable transfer operation pollution incident has occurred in State waters, and any agent of the owner, charterer, manager or operator of the ship, are each guilty of an offence if the reportable transfer operation pollution incident is not reported to the Minister without delay and in the manner required by this clause.

Maximum penalty: 100 penalty units.

- (2) The owner, charterer, manager or operator of a ship in relation to which a reportable transfer operation pollution incident has occurred in State waters in other circumstances in which a report cannot be obtained from the master of the ship under this Division, and any agent of the owner, charterer, manager or operator of the ship, are each guilty of an offence if the reportable transfer operation pollution incident is

not reported to the Minister without delay and in the manner required by this clause.

Maximum penalty: 100 penalty units.

- (3) In a prosecution of a person for an offence against this clause in relation to a reportable transfer operation pollution incident, it is a defence if the person proves:
 - (a) that the person was not aware of the incident, or
 - (b) that the person neither knew nor suspected that the ship was abandoned or the circumstances that meant that a report could not be obtained.
- (4) The report must be in the form set out in Schedule 9.
- (5) A reportable incident under this clause is to be reported by the quickest means available and conveyed through AMSA, a Port Corporation or RMS.
- (6) If the report is conveyed through AMSA, it must:
 - (a) commence with the code letters "POLREP", and
 - (b) contain the name and radio call sign (if any) of the ship concerned.
- (7) If the report is conveyed through a Port Corporation or RMS, it must contain:
 - (a) the name and radio call sign (if any) of the ship concerned, and
 - (b) the name of the person reporting the incident, and
 - (c) the position of the ship.
- (8) In a prosecution of a person for an offence against subclause (1), it is a defence if the person proves that the person was unable to comply with that subclause or had another reasonable excuse.
- (9) Subclause (8) does not limit any defence that would, but for that subclause, be available to a person charged with an offence under this clause.

49 Duty of other persons to report if report incomplete (Article I (2) of Protocol I of MARPOL)

- (1) The owner, charterer, manager or operator of a ship and any agent of the owner, charterer, manager or operator of the ship are each guilty of an offence if a report provided under this Division is provided in an incomplete form and the missing particulars are not reported to the Minister without delay.

Maximum penalty: 100 penalty units.

- (2) In a prosecution of a person for an offence against this clause in relation to a reportable transfer operation pollution incident, it is a defence if the person proves that the person was not aware of the incident or had another reasonable excuse.

- (3) Subclause (2) does not limit any defence that would, but for that subclause, be available to a person charged with an offence under this clause.

50 Duty of other persons to provide supplementary report (Article IV (b) of Protocol I of MARPOL)

- (1) A person who has reported the occurrence of a reportable transfer operation pollution incident to the Minister or a person nominated by the Minister pursuant to this Division must provide the Minister with a supplementary report in relation to the reportable transfer operation pollution incident if the Minister requests the supplementary report.

Maximum penalty: 100 penalty units.

- (2) A person who has reported the occurrence of a reportable transfer operation pollution incident to the Minister or a person nominated by the Minister pursuant to this Division must provide a further supplementary report to the Minister about any further developments that arise in relation to the reportable transfer operation pollution incident after a report or supplementary report was required under this Division, not later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow.

Maximum penalty: 100 penalty units.

- (3) The report must be in the form set out in Schedule 9.
- (4) A reportable incident under this clause is to be reported by the quickest means available and conveyed through AMSA, a Port Corporation or RMS.
- (5) If the report is conveyed through AMSA, it must:
- (a) commence with the code letters "POLREP", and
 - (b) contain the name and radio call sign (if any) of the ship concerned.
- (6) If the report is conveyed through a Port Corporation or RMS, it must contain:
- (a) the name and radio call sign (if any) of the ship concerned, and
 - (b) the name of the person reporting the incident, and
 - (c) the position of the ship.

51 False or misleading reports

A person must not, in a report or supplementary report required by this Part, make a statement that is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

52 Evidence

The prosecutor in a prosecution of an individual for an offence against this Part (other than under clause 51) must not adduce evidence of the contents of a report or supplementary report given to the Minister pursuant to this Part without the consent of the person charged.

Part 6 Reporting of pollution incidents

53 Reporting of reportable incidents

- (1) For the purposes of sections 87–90 of the Act, a reportable incident is to be reported by the quickest means available and conveyed through any of the following:
 - (a) AMSA,
 - (b) a Port Corporation,
 - (c) RMS.
- (2) If the report is conveyed through AMSA, it must:
 - (a) commence with the code letters “POLREP” (unless it is made by telephone), and
 - (b) contain the IMO number of the ship, and
 - (c) contain the name and radio call sign (if any) of the ship concerned.
- (3) If the report is conveyed through a Port Corporation or RMS, it must:
 - (a) commence with the code letters “POLREP” (unless it is made by telephone), and
 - (b) contain the IMO number of the ship, and
 - (c) contain the name and radio call sign (if any) of the ship concerned, and
 - (d) contain the name of the person reporting the incident.
- (4) A report must be made no later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow.

54 Time for making supplementary report

For the purposes of section 92 (2) of the Act, a supplementary report of a reportable incident must be furnished to the Minister in relation to a reportable incident not later than 24 hours after receipt of a request for a report, or within such further time (not exceeding a further 14 days) as the Minister may allow.

Part 7 Certification of construction of ships

55 Ship construction certificates and chemical tanker construction certificates

- (1) A certificate issued by a marine safety authority of another State or of the Northern Territory certifying that a ship is constructed in accordance with the provisions of Annex I of MARPOL is prescribed for the purposes of the definition of **ship construction certificate** in section 150 (4) of the Act.
- (2) A certificate issued by a marine safety authority of another State or of the Northern Territory certifying that a ship is constructed in accordance with the provisions of Annex II of MARPOL is prescribed for the purposes of the definition of **chemical tanker construction certificate** in section 151 (4) of the Act.

56 Notice of accident or discovery of defect to ship

For the purposes of sections 157 and 158 of the Act, the notice of accident or discovery of defect that the master is required to give must be forwarded to:

- (a) the Manager, Ship Inspection and Registration, or
- (b) AMSA, or
- (c) RMS.

57 Service of notice of cancellation of NSW certificate

A notice of cancellation of a NSW certificate required to be given to:

- (a) the owner of a ship, may be served personally on the owner, or on all, or any, of the owners, as the case may be, of the ship or, if an owner is a body corporate, on a director, secretary or other officer of the body corporate, and
- (b) the agent of a ship, may be served personally on any agent of the ship or, if an agent is a body corporate, on a director, secretary or other officer of the body corporate, and
- (c) the master of a ship, may be served personally on the master of the ship,

and, in any case, any such notice may be served in the manner set out in section 248 of the Act.

Part 8 Miscellaneous

58 Prescribed officers

For the purposes of sections 20, 34, 76, 121, 132, 145, 188 and 204 of the Act, the following officers are prescribed:

- (a) each harbour master,

- (b) the following officers of a port corporation:
 - (i) the Chief Executive Officer,
 - (ii) the General Manager,
 - (iii) the Company Secretary,
 - (iv) any Chief Operating Officer,
- (c) the following officers of RMS Maritime Division:
 - (i) Director Maritime,
 - (ii) General Manager, Boating Operations,
 - (iii) Principal Manager, Sydney,
 - (iv) Principal Manager, North,
 - (v) Principal Manager, South,
 - (vi) Principal Manager, Statewide Coordination,
 - (vii) each Manager Operations,
 - (viii) each Boating Safety Officer,
 - (ix) each Senior Boating Safety Officer,
- (d) the members of the Transport Service holding the following positions:
 - (i) Manager, Marine Pollution Response,
 - (ii) Marine Incident Preparedness and Response Coordinator.

59 Minister may make orders

The Minister may, by instrument in writing, make orders for and in relation to:

- (a) giving effect to Annex I of MARPOL, other than provisions of that Annex to which effect is given by a provision of the Act or this Regulation, and
- (b) giving effect to Annex II of MARPOL, other than provisions of that Annex to which effect is given by a provision of the Act or this Regulation, and
- (c) giving effect to Annex V of MARPOL, other than provisions of that Annex to which effect is given by a provision of the Act or this Regulation, and
- (d) giving effect to Article 8 of, and Protocol I to, MARPOL, other than provisions of that Article or Protocol to which effect is given by a provision of the Act or this Regulation,

and

(e) the fixing of fees to be paid in respect of any matters under any such orders.

60 Fees

The fee specified in the following table is prescribed for the services specified in the table:

Service	Fee
Preparation and giving of a marine pollution clean-up notice under section 195 of the Act	\$466
Preparation and giving of a marine pollution prevention notice under section 200 of the Act	\$466
Deposit of oil record book	\$40
Deposit of cargo record book	\$40

61 Decisions that are reviewable by Civil and Administrative Tribunal

For the purposes of section 244 of the Act, a person aggrieved by any of the following decisions may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#):

- (a) a refusal to issue a NSW ship construction certificate under section 155 (1) of the Act,
- (b) a refusal to issue a NSW chemical tanker construction certificate under section 155 (2) of the Act,
- (c) a refusal to issue a NSW sewage pollution prevention certificate under section 155 (3) of the Act,
- (d) a refusal to renew a NSW certificate under section 167 of the Act,
- (e) a refusal to extend a NSW certificate under section 168 of the Act,
- (f) the cancellation of a NSW certificate under section 169 of the Act.

62 Exemptions

The following classes of ships are exempt from the provisions of the Act and this Regulation:

- (a) ships belonging to an arm of the Defence Force of Australia or to the naval, military or air forces of a country other than Australia,
- (b) ships not referred to in paragraph (a) that are owned or operated by Australia or another country that is a party to MARPOL and used, for the time being, only on government non-commercial service.

63 Delegation to “approved persons”

The following classes of persons are prescribed for the purposes of section 247 (3) (f) as approved persons to whom the Minister may delegate the exercise of any functions of the Minister under the Act:

- (a) a member of AMSA (within the meaning of section 3 of the *Australian Maritime Safety Authority Act 1990* of the Commonwealth),
- (b) an officer of AMSA (within the meaning of that Act).

64 Savings

- (1) An oil spill response plan approved by the Minister under clause 23 of the *Marine Pollution Regulation 2006* is taken to have been approved by the Minister under clause 39 of this Regulation.
- (2) A plan of management for waste from vessels under clause 30 of the *Marine Pollution Regulation 2006* is taken to be approved under clause 31 of this Regulation.
- (3) An oil record book kept under the *Marine Pollution Act 1987* that complied with clause 9 of the *Marine Pollution Regulation 2006* is taken to comply with this Regulation.
- (4) A cargo record book kept under the *Marine Pollution Act 1987* that complied with clause 11 of the *Marine Pollution Regulation 2006* is taken to comply with this Regulation.

Schedule 1 State waters

(Clause 4)

1 Botany Bay

The waters of Botany Bay and of all bays, rivers and their tributaries connected or leading to Botany Bay bounded by the mean high water mark and by, as upstream boundaries, the eastern side of the Endeavour Bridge in Cooks River and the eastern side of the Captain Cook Bridge in Georges River together with that part of the Tasman Sea below the mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Henry Head.

2 Clarence River (Yamba)

The waters of the main channel of the Clarence River, Iluka Bay and Yamba Channel bounded by the mean high water mark and by, as upstream boundaries, the eastern side of Harwood Bridge in the main channel and, in Yamba Channel, a line drawn from the southernmost point of Freeburn Island to the easternmost point of Rabbit Island and from there produced south-westerly to the opposite shore and by, as seaward boundary, a line drawn between the eastern extremity of the northern breakwater at the entrance to the Clarence River and the eastern extremity of the southern breakwater at that entrance.

3 Coffs Harbour

The harbour known as Coffs Harbour.

4 Eden

The waters of Twofold Bay bounded by the mean high water mark (but excluding all rivers and their tributaries connected or leading to Twofold Bay) and by, as seaward boundary, a line drawn between the southernmost point of Worang Head and the northernmost point of Red Point.

5 Hastings River (Port Macquarie)

The waters of the Hastings River below the mean high water mark from the river entrance to the eastern side of the Dennis Bridge carrying the Pacific Highway, together with the waters below the mean high water mark of the slipway cove in the southern bank of the river immediately east of the Dennis Bridge.

6 Jervis Bay

That part of Jervis Bay below the mean high water mark that lies within the State.

7 Newcastle Harbour

The waters of Newcastle Harbour and of all bays, rivers and their tributaries connected or leading to Newcastle Harbour (but excluding Fullerton Cove) bounded by the mean high water mark and by, as upstream boundary, the eastern side of the Hexham Bridge together with that part of the Tasman Sea below the mean high water mark enclosed by the arc of a circle of radius 3 nautical miles having as its centre the navigation light at Nobbys Head.

8 Port Kembla

The waters of Port Kembla Inner and Outer Harbours bounded by the mean high water mark, together with that part of the Tasman Sea below the mean high water mark enclosed by the arc of a circle of radius 2.5 nautical miles having as its centre the navigation light on the northern extremity of the eastern breakwater at the entrance to the Outer Harbour.

9 Port Stephens

That part of Port Stephens below the mean high water mark bounded by a straight line drawn from the southern extremity of Corrie Island in a south easterly direction across the waterway to a point on the southern shore in line with the highest point of Tomaree Head.

10 Sydney Harbour

The waters of Sydney Harbour and of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by the mean high water mark together with that

part of the Tasman Sea below the mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Hornby Lighthouse.

Schedule 2 Modification of [Marine Order 1 \(Administration\) 2013](#)

(Clause 5)

Note—

This Schedule sets out the Marine Order as adopted and modified.

Division 1 Preliminary

1 Name of Order

This Order is [Marine Order 1 \(Administration\) 2013](#).

2 [Number not used]

3 Purpose

This Order:

- (a) facilitates the consistency and shortening of Marine Orders by setting out:
 - (i) rules of interpretation that generally apply to all Marine Orders, and
 - (ii) generic provisions that a Marine Order may adopt.

4 [Number not used]

5 Definition for this Order

In this Order:

Marine Order means a Marine Order as adopted and modified by this Regulation.

Division 2 Interpretation of Marine Orders

6 Definitions

In a Marine Order, unless otherwise provided:

AMSA means the Australian Maritime Safety Authority established by the [Australian Maritime Safety Authority Act 1990](#) of the Commonwealth.

IMO means the International Maritime Organization.

length, for a vessel, has the same meaning as in the *International Convention on Load Lines, 1966*, as amended by the *Protocol of 1988 relating to the International Convention on Load Lines, 1966*.

Manager, Marine Environment Standards means the person occupying the position of

Manager, Marine Environment Standards, AMSA.

Manager, Ship Inspection and Registration means the person occupying the position of Manager, Ship Inspection and Registration, AMSA.

Manager, Ship Operations and Qualifications means the person occupying the position of Manager, Ship Operations and Qualifications, AMSA.

recognised organisation means a corporation or association mentioned in Schedule 1.

SOLAS has the same meaning as **Safety Convention** in section 14 of the [Navigation Act 2012](#) of the Commonwealth.

7-9 [Numbers not used]

Division 3

10-18 [Numbers not used]

Division 4 Approved forms

19 Approved forms

If AMSA approves a form for a particular purpose in an Order, the approved form must be used for that purpose.

20 [Number not used]

Division 5

21 [Number not used]

Division 6

22-23 [Numbers not used]

Division 7

24-37 [Numbers not used]

Division 8

38-41 [Numbers not used]

Schedule 1 Survey authorities

Item	Corporation or association	Acronym	Website
1	American Bureau of Shipping	ABS	http://www.eagle.org
2	Bureau Veritas	BV	http://www.veristar.com

3	China Classification Society	CCS	http://www.ccs.org.cn
4	Det Norske Veritas	DNV	http://www.dnv.com
5	Germanischer Lloyd	GL	http://www.gl-group.com
6	Korean Register of Shipping	KR	http://www.krs.co.kr
7	Lloyd's Register	LR	http://www.lr.org
8	Nippon Kaiji Kyokai	Class NK	http://www.classnk.or.jp
9	RINA S.p.A	RINA	http://www.rina.org

Note—

These recognised organisations are members of IACS (the International Association of Classification Societies). AMSA has an agreement with each of these recognised organisations for the provision of survey and certification services for vessels registered in Australia. The websites, and the acronyms that are used by IACS for these bodies, were current on commencement of this Regulation.

Schedule 3 Modification of Marine Order 91 (Marine pollution prevention—oil) 2014

(Clause 6)

Note—

This Schedule sets out the Marine Order as adopted and modified.

Division 1 Preliminary

1 Name of Order

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

1A, 1B [Numbers not used]

2 Purpose

This Order:

- (a) gives effect to parts of Annex I of MARPOL, and
- (b) prescribes matters for the *Marine Pollution Act 2012*.

3, 4 [Numbers not used]

5 Interpretation

For this Order:

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

6-8 [Numbers not used]

Division 2

9 [Number not used]

Division 3

10-18 [Numbers not used]

Division 4

19 [Number not used]

Division 5

20-22 [Numbers not used]

Division 6 Other prescribed matters for the [Marine Pollution Act 2012](#)

23 Shipboard oil pollution emergency plan

- (1) For the purposes of section 97 of the [Marine Pollution Act 2012](#), the prescribed form for a shipboard oil pollution emergency plan is the format mentioned in the *Guidelines for the Development of Shipboard Oil Pollution Emergency Plans*, adopted by IMO as Resolution MEPC.54(32).
- (2) A shipboard oil pollution emergency plan must be approved by an issuing body.

24-29 [Numbers not used]

30 Oil record book

- (1) For the purposes of sections 113 and 114 (1) of the [Marine Pollution Act 2012](#):
 - (a) a ship mentioned in paragraph 12 (1) (a) of the [Protection of the Sea \(Prevention of Pollution from Ships\) Act 1983](#) of the Commonwealth must carry oil record books consisting of the form set out in Part I and the form set out in Part II of Appendix III to Annex I, and
 - (b) a ship mentioned in paragraph 12 (1) (b) of the [Protection of the Sea \(Prevention of Pollution from Ships\) Act 1983](#) of the Commonwealth must carry oil record books consisting of the form set out in Part I of Appendix III to Annex I.
- (2) A time that must be stated in an oil record book must, unless expressed in ship's time and the conversion to Co-ordinated Universal Time (UTC) cannot be readily made, be expressed in Co-ordinated Universal Time (UTC).

31 Prescribed operations or occurrences

For the purposes of section 117 (1) of the *Marine Pollution Act 2012*, each of the following is a prescribed occurrence:

- (a) discharging into the sea oil or an oily mixture from a ship to secure the safety of the ship or to save life at sea,
- (b) discharging into the sea oil or an oily mixture because of damage to the ship or its equipment,
- (c) discharging into the sea substances containing oil to deal with a specific pollution incident,
- (d) failure of oil discharge monitoring control system,
- (e) failure of the oil filtering equipment,
- (f) accidental or other exceptional discharge of oil not mentioned in paragraphs (a)-(c).

Division 7

32 [Number not used]

Division 8

33-37 [Numbers not used]

Schedule 4 Modification of Marine Order 93 (Marine pollution prevention—noxious liquid substances) 2014

(Clause 7 (1))

Note—

This Schedule sets out the Marine Order as adopted and modified.

Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 93 (Marine pollution prevention—noxious liquid substances) 2014*.

1A, 1B [Numbers not used]

2 Purpose

This Order:

- (a) gives effect to Annex II of MARPOL, and

(b) prescribes matters for the *Marine Pollution Act 2012*.

3-5 [Numbers not used]

6 Meaning of “the Administration”

- (1) For paragraph 2 and 4 of Regulation 4 of Annex II, **the Administration** is taken to be AMSA.
- (2) For paragraph 5 of Regulation 12 of Annex II, **the Administration** is taken to be a recognised organisation.

7-9 [Numbers not used]

Division 2 Requirements of Annex II

10 Convention requirements

Regulation 12 (Pumping, piping, unloading arrangements and slop tanks), paragraph 3 of Regulation 13 (Ventilation of cargo residues) and Regulation 16 (Measures of control) of Annex II have effect for each vessel to which Part 4 of the *Marine Pollution Act 2012* applies.

Note 1—

For paragraph 5 of Regulation 12, AMSA has approved the procedure for testing the efficiency of a cargo pumping system mentioned in Appendix V of Annex II.

Note 2—

For paragraph 3 of Regulation 13, AMSA has approved the ventilation procedures mentioned in Appendix VII of Annex II.

Note 3—

For Regulation 16, AMSA has approved prewash procedures mentioned in Appendix VI.

Division 3

11-19 [Numbers not used]

Division 4

20 [Number not used]

Division 5

21 [Number not used]

Division 6 Matters prescribed for *Marine Pollution Act 2012*

22 [Number not used]

23 Shipboard marine pollution emergency plan

For the purposes of section 102 of the *Marine Pollution Act 2012*, the matters prescribed are those set out as an example in Appendix II to *Guidelines for the Development of Shipboard Marine Pollution Emergency Plans for Oil and/or Noxious Liquid Substances*, adopted by IMO as Resolution MEPC.85(44), as in force from time to time.

24 Record books

- (1) For the purposes of section 125 (1) of the *Marine Pollution Act 2012*, the matters prescribed are those set out in Appendix 2 to Annex II.
- (2) If a time is required to be specified in a cargo record book, it must, unless expressed in the ship's time and the conversion to Co-ordinated Universal Time (UTC) cannot be readily made, be expressed in Co-ordinated Universal Time (UTC).

25 Prescribed operations or occurrences

For the purposes of section 128 (1) of the *Marine Pollution Act 2012*, each of the following is a prescribed operation or occurrence:

- (a) a discharge mentioned in Regulation 3 of Annex II,
- (b) an operation mentioned in the list of items to be recorded in the form set out in Appendix to Annex II.

26 [Number not used]

Division 7

27-29 [Numbers not used]

Schedule 5 Modification of Marine Order 94 (Marine pollution prevention—packaged harmful substances) 2014

(Clause 8)

Note—

This Schedule sets out the Marine Order as adopted and modified.

Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 94 (Marine pollution prevention—packaged harmful substances) 2014*.

2, 3 [Numbers not used]

4 Purpose

This Order:

- (a) gives effect to Annex III of MARPOL (which deals with prevention of marine pollution by harmful substances carried by sea in packaged form),
- (b) prescribes matters for Part 5 of the *Marine Pollution Act 2012* (which deals with the prevention of pollution by packaged harmful substances).

5 [Number not used]

6 Definitions

In this Order:

Annex III means Annex III to MARPOL.

harmful substance has the same meaning as it has in Regulation 1 of Annex III.

Note—

Criteria for the identification of harmful substances are set out in the Appendix to Annex III.

packaged form has the same meaning as it has in Regulation 1 of Annex III.

Note 1—

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

Note 2—

For information on obtaining copies of IMO documents mentioned in this Order, see AMSA's website at <http://www.amsa.gov.au>. These documents may also be purchased from the IMO—see the IMO website at <http://www.imo.org/publications>.

7 [Number not used]

Division 2 Convention requirements

8 Convention requirements

- (1) If a vessel has on board harmful substances in packaged form, the owner of the vessel must comply with Regulations 2-5 of Annex III.
- (2) For paragraphs 1 and 2 of Regulation 4 of Annex III, AMSA is the designated organisation.
- (3) A copy of the special list, manifest or stowage plan mentioned in paragraph 2 of Regulation 4 of Annex III must be given before departure to AMSA at the AMSA office at or nearest to the port of loading.

Note—

Regulations 2, 3 and 5 of Annex III set out requirements for the packing, marking, labelling and stowage of packaged harmful substances. Regulation 4 of Annex III mentions requirements for the transport of packaged harmful substances including the need to comply with the International Maritime Dangerous Goods Code (the **IMDG Code**) for transport information and the preparation of a special list, manifest or stowage plan. The IMDG Code as currently in force is available from the IMO website at <http://www.imo.org>. The IMO resolution that adopts or amends the IMDG Code is listed on AMSA's website.

Division 3 Prescribed matters

9 Washing substances overboard

For the purposes of section 49 of the *Marine Pollution Act 2012*, the substance may be washed overboard only if the master:

- (a) has considered the physical, chemical and biological properties of the substance, and
- (b) reasonably considers that washing overboard is the most appropriate manner of disposal, and
- (c) has authorised the washing overboard.

10 Prescribed manner of notifying an incident

For the purposes of section 87 (1) of the *Marine Pollution Act 2012*, the report must:

- (a) start with the code letters "POLREP" and the name, IMO number and radio call sign of the ship, and
- (b) be sent by:
 - (i) telephone, or
 - (ii) fax, or
 - (iii) radio, or
 - (iv) email.

Note—

If Australia is the nearest coastal state for reporting an incident, AMSA may be contacted as follows: Rescue Coordination Centre (RCC) Australia: Telephone +61 (0) 26230 6811 Freecall: 1800 641 792 (within Australia) Facsimile: +61 (0) 26230 6868 AFTN: YSARYCYX email: rccaus@amsa.gov.au.

11 Prescribed form—marine pollutants report

For the purposes of section 87 (1) of the *Marine Pollution Act 2012*, the prescribed form for reporting a reportable incident is set out in Schedule 1.

12 Prescribed time for giving a report

For the purposes of section 87 (1) of the *Marine Pollution Act 2012*, a report must be given

within 24 hours after receiving the request for the report.

Schedule 1 Marine Pollutants Report Form

When reporting discharge or potential discharge of a marine pollutant in a packaged form, the following information is to be provided.

Note—

If any of the following items of the ship reporting format are inappropriate they should be omitted from the report. These items of the standard reporting format are referred to in IMO Resolution A.851(20) as amended by MEPC.138(53).

A Ship

Name

Call sign/ship identity

Flag

B Date and time of event

Time must be expressed as Co-ordinated Universal Time (UTC)

C Position

A 4-digit group giving latitude in degrees and minutes suffixed with N (north) or S (south) and a 5-digit group giving longitude in degrees and minutes suffixed with E (east) or W (west)

or

D True bearing (first 3 digits) and distance in nautical miles from a clearly identified landmark (state landmark)

M Radio communications

Full names of stations and frequencies guarded

P Probable discharge

1. Correct technical name or names of goods
2. UN number or number
3. IMO hazard class or classes
4. Names of manufacturers of goods or consignee or consignor
5. Types of packages, their identification marks, kind of cargo transport unit (eg tank, tank vehicle, vehicle container, freight container) from which they were discharged, official registration marks and identification number of the cargo transport unit

6. Estimate of the quantity and likely condition of the goods

Q Condition of ship

Condition of ship if relevant to the discharge

R Discharge

1. Correct technical names or names of goods
2. UN number or numbers if available
3. IMO hazard class or classes
4. Names of manufacturers of goods if known, or consignee or consignor
5. Types of packages, their identification marks, kind of cargo transport unit (eg portable tank, tank vehicle, vehicle container, freight container) from which they were discharged, official registration marks and identification number of the cargo transport unit
6. Estimate of the quantity and likely condition of the goods
7. Whether lost goods floated or sank
8. Whether loss is continuing
9. Cause of loss

S Weather conditions

Give brief details of weather and sea conditions prevailing

T Contact details

Name, address, telephone number and fax or telex number of the ship's owner and representative (charterer, manager or operator of the ship or their agent)

U Ship size and type

1. Type of ship
2. Length of ship
3. Breadth of ship
4. Tonnage of ship

X Action

1. Action being taken with regard to the discharge and the movement of the ship

2. Assistance or salvage efforts which have been requested or have been provided by others
3. Particulars of action planned by assisting or salvaging ship

Schedule 6 Modification of Marine Order 96 (Marine pollution prevention—sewage) 2013

(Clause 9)

Note—

This Schedule sets out the Marine Order as adopted and modified.

Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 96 (Marine pollution prevention—sewage) 2013*.

2, 3 [Numbers not used]

4 Purpose

This Order:

- (a) gives effect to Annex IV of MARPOL (which deals with prevention of marine pollution by sewage from ships).

5 [Number not used]

6 Definitions

In this Order:

2012 Guidelines means the 2012 *Guidelines on implementation of effluent standards and performance tests for sewage treatment plants* adopted by IMO Resolution MEPC.227(64), as in force from time to time.

Annex IV means Annex IV of MARPOL.

Note 1—

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

Note 2—

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

7, 8 [Numbers not used]

Division 2 Systems, equipment etc required by Annex IV

9 Sewage systems (MARPOL IV-9)

A vessel to which Annex IV applies and section 4.2 of the 2012 Guidelines does not apply must be equipped with:

- (a) a sewage treatment plant, approved by AMSA or a recognised organisation, that complies with:
 - (i) Regulation 9 of Annex IV, and
 - (ii) for a system installed on a vessel after 31 December 2015—IMO Resolution MEPC.227(64), other than the requirements of section 4.2 of the 2012 Guidelines, and
 - (iii) for a system installed on a vessel after 31 December 2009 and before 1 January 2016—IMO Resolution MEPC.159(55), and
 - (iv) for a system installed on a vessel before 1 January 2010—IMO Resolution MEPC.2(VI), or
- (b) a sewage comminuting and disinfecting system, approved by AMSA or a recognised organisation, that complies with Regulation 9 of Annex IV, or
- (c) a holding tank, approved by AMSA or a recognised organisation, that complies with Regulation 9 of Annex IV.

10 [Number not used]

11 Standard discharge connections (MARPOL IV-10)

- (1) The vessel must have a standard discharge connection mentioned in Regulation 10 of Annex IV.
- (2) However, for a passenger vessel, the vessel's discharge pipeline may be fitted with a discharge connection approved by AMSA (eg a quick-connection coupling).

Division 3

12-19 [Numbers not used]

Division 4

20 [Number not used]

Division 5

21 [Number not used]

Division 6

22, 23 [Numbers not used]

Schedule 7 Modification of Marine Order 95 (Marine pollution prevention—garbage) 2013

(Clause 10 (1))

Note—

This Schedule sets out the Marine Order as adopted and modified.

Division 1 General

1 Name of Order

This Order is *Marine Order 95 (Marine pollution prevention—garbage) 2013*.

2, 3 [Numbers not used]

4 Purpose

This Order prescribes matters necessary to give effect to Annex V of MARPOL.

Note—

Annex V of MARPOL contains regulations for the prevention of pollution of the sea by garbage from ships.

5 [Number not used]

6 Definitions

In this Order:

inspector means a person appointed as an inspector under section 226 of the *Marine Pollution Act 2012*.

surveyor means a person appointed to be a surveyor under section 190 of the *Navigation Act 2012* of the Commonwealth.

Note—

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

- (a) **AMSA**,
- (b) **IMO**,
- (c) **Manager, Ship Inspection and Registration**,
- (d) **SOLAS**.

7 [Number not used]

Division 2 Prescribed matters

8-10 [Numbers not used]

11 Garbage record book

- (1) For the purposes of section 138 (1) of the *Marine Pollution Act 2012*, the form that includes the matters set out in the Appendix to Annex V of MARPOL is the prescribed garbage record book.
- (2) For the purposes of section 141 of the *Marine Pollution Act 2012*, each operation or occurrence mentioned in section 4 of the Appendix to Annex V of MARPOL is prescribed.
- (3) For the purposes of section 145 (1) (b) of the *Marine Pollution Act 2012*, a surveyor is the prescribed officer.

12 Shipboard garbage management plan

For the purposes of section 108 (1) of the *Marine Pollution Act 2012*, the shipboard garbage management plan must be in a form that includes the matters mentioned in section 4 of the 2012 *Guidelines for the Development of Garbage Management Plans* set out in the Annex to IMO Resolution MEPC.220(63).

Note—

The matters mentioned in these Guidelines are about designating a person in charge of carrying out the plan, and procedures for collecting, processing, storing and discharging garbage.

13 [Number not used]

Division 3 Port State control on operational requirements

14 Inspection of ships

An inspector may inspect a ship in a New South Wales port if the inspector has reasonable grounds to think that the master or crew of the ship is not familiar with essential shipboard procedures for the prevention of pollution by garbage.

15 Detention of ships

- (1) An inspector intending to inspect a ship under section 228 of the *Marine Pollution Act 2012* may detain the ship by order in writing addressed to the master of the ship.
- (2) If an inspector who has detained a ship is satisfied that the ship may proceed to sea without presenting an unreasonable threat of harm to the marine environment, the inspector must revoke the detention order.
- (3) The master of a ship given a detention order under subsection (1) must comply with the order.

This is a penal provision.

16 [Number not used]

Schedule 8 Regulated purpose-built pipelines

(Clause 43 (2))

1 Botany Bay

- (1) The pipelines from Banksmeadow to Kurnell commencing at a control valve Latitude 33 degrees 57.87 minutes south Longitude 151 degrees 13.08 minutes east located within the Caltex Banksmeadow Terminal thence proceeding within the pipeline corridor situated on the southern and western sides of Botany and Bumborah Point Roads respectively for approximately 1,480 metres to Simbilist Road thence generally southerly for approximately 300 metres to the high water mark of Botany Bay near Bumborah Point thence southerly for approximately 100 metres and generally south westerly for approximately 3,450 metres to a point 470 metres west of the westernmost extremity of the Caltex Jetty at Kurnell thence south easterly for approximately 770 metres to a point midway along the inner end of that jetty thence along that jetty to the high water mark of Kurnell Beach thence generally south easterly for approximately 500 metres to a control valve located within the premises of Caltex Refineries (NSW) Pty Ltd at Kurnell, the submarine portion of which is shown as one line of symbols on a copy of Naval Chart AUS 199 of Botany Bay.
- (2) The pipelines from No 3 Berth (Submarine Terminal) in Botany Bay to Kurnell commencing at that berth Latitude 33 degrees 59.76 minutes south Longitude 151 degrees 12.51 minutes east thence southerly for approximately 580 metres to a point midway along the outer end of the Caltex Jetty at Kurnell thence south westerly and south easterly along that jetty to the high water mark of Kurnell Beach thence generally south easterly for approximately 500 metres to a control valve located within the premises of Caltex Refineries (NSW) Pty Ltd at Kurnell, the submarine portion of which is shown by one line of symbols on a copy of Naval Chart AUS 199 of Botany Bay.

2 Port Kembla

- (1) The pipeline commencing at a point on No 6 Jetty, Outer Harbour, Port Kembla, Latitude 34 degrees 28.18 minutes south Longitude 150 degrees 54.20 minutes east thence proceeding south westerly along that jetty to the inshore end of the jetty for approximately 360 metres thence northerly for approximately 100 metres thence westerly for approximately 350 metres to Old Port Kembla Road thence south westerly along the northern side of Flinders Street to the Terminal. No 6 Jetty, Outer Harbour, Port Kembla, is shown on a copy of Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches.
- (2) The pipelines commencing at the control valves located in the fenced enclosure south

of the Saltwater Intake Channel Latitude 34 degrees 28.02 minutes south Longitude 150 degrees 53.91 minutes east thence proceeding northerly for approximately 90 metres to the southern training wall at the entrance to the Inner Harbour thence north westerly across that entrance for approximately 270 metres to the Northern Breakwater where there is a diverter and valves located at Latitude 34 degrees 27.77 minutes south Longitude 150 degrees 54.09 minutes east thence:

- (a) a pipeline generally easterly for approximately 470 metres to the inshore end of the Oil Berth thence southerly along that berth for approximately 40 metres to the control valves located at the outer end, and
 - (b) a pipeline generally westerly for 300 metres to Latitude 34 degrees 27.72 minutes south Longitude 150 degrees 53.92 minutes east thence generally northerly to the southern end of Coal Berth No 1 thence generally northerly beneath Coal Berth No 1 to Coal Berth No 2 and terminating at a Compressor Station at Latitude 34 degrees 27.26 minutes south Longitude 150 degrees 53.82 minutes east.
- (3) The submarine portion of the pipelines is located across the entrance to Inner Harbour, Port Kembla, as shown by one line of symbols on a copy of Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches.
 - (4) The pipeline commencing at a point on No 4 Jetty, Outer Harbour, Port Kembla, Latitude 34 degrees 28.45 minutes south Longitude 150 degrees 54.67 minutes east thence proceeding generally south easterly for 25 metres thence generally southerly for approximately 220 metres to the inshore end of that jetty thence generally southerly for approximately 180 metres to the Terminal. No 4 Jetty, Outer Harbour, Port Kembla, is shown on a copy of Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches.
 - (5) The pipeline commencing at a point on the western end of No 2 Discharge Jetty, Inner Harbour, Port Kembla, Latitude 34 degrees 27.5 minutes south Longitude 150 degrees 53.35 minutes east thence proceeding south easterly in the services tunnel to the eastern end of No 1 Products Jetty for 784 metres thence continuing south easterly for 40 metres thence proceeding southerly for 420 metres above and below ground beside BlueScope Steel Stockpile Road thence entering premises of Port Kembla Marine Fuels (Manildra Energy Australia) and proceeding south westerly for 370 metres thence south easterly to a control valve within those premises.
 - (6) The pipeline commencing at a point on the northern end of BlueScope Steel's Ro Ro Berth dolphin, Inner Harbour, Port Kembla, Latitude 34 degrees 27.35 minutes south Longitude 150 degrees 53.15 minutes east thence proceeding south south easterly for 12 metres to the southern side of the bridge then south westerly for 46 metres to the shoreline end.

3 Port of Newcastle

- (1) The pipeline from the Dyke Berth No 1 to the BP tank farm commencing at a manifold control valve Latitude 32 degrees 54 minutes 55.24 seconds south Longitude 151 degrees 46 minutes 20.09 seconds east, thence via pipe bridge 34 metres to shore, thence proceeding underground along Dyke Road for approximately 1,070 metres to Elizabeth Street thence generally westerly for approximately 710 metres until it enters the BP tank farm facility, thence a further 360 metres to the terminal shipping manifold valve at Latitude 32 degrees 54 minutes 19.94 seconds south Longitude 151 degrees 45 minutes 38.34 seconds east.
- (2) The pipeline from the Mayfield No 4 Berth to the Stolthaven tank farm commencing at a control valve Latitude 32 degrees 53 minutes 35.94 seconds south Longitude 151 degrees 45 minutes 58.35 seconds east thence proceeding under the wharf for approximately 100 metres to emerge above the ground thence generally north westerly for approximately 1,000 metres until it enters the Stolthaven tank farm facility.

Schedule 9 Report of reportable pollution incident relating to transfer operation

(Clauses 45 (2), 46 (2), 47 (2), 48 (4) and 50 (3))

1 Details of the ship

The following details about the ship:

- (a) the ship's name,
- (b) the size of the ship,
- (c) the type of ship,
- (d) the ship's call sign or ship station identity,
- (e) the ship's flag.

2 Date and time of event

The date and time of the event expressed as Co-ordinated Universal Time.

3 Position

The following details about the position of the ship:

- (a) the position of discharge and position of place on land/purpose-built pipeline/apparatus,
- (b) either the position (latitude and longitude) or the position (true bearing and distance)

of the ship,

- (c) the true course of the ship,
- (d) the speed in knots of the ship,
- (e) route information for the ship, including its intended track.

4 Radio communications

Details of the means of radio communication for the ship.

5 Details of probable discharge

In the case of a probable discharge, the following details:

- (a) in the case of a probable discharge of oil:
 - (i) the type of oil onboard, and
 - (ii) an estimate of the quantity of oil,
- (b) in the case of a probable discharge of a noxious liquid substance:
 - (i) the correct technical name of the noxious liquid substances on board, and
 - (ii) the pollution category (Category X, Y or Z) for each noxious liquid substance, and
 - (iii) the UN number of each noxious liquid substance, and
 - (iv) an estimate of the quantity of each noxious liquid substance, and
 - (v) the name of the manufacturer of each noxious liquid substance or of its consignee or consignor.

6 Details of actual discharge

In the case of an actual discharge, the following details:

- (a) whether the discharged substance floated or sank,
- (b) the cause of the discharge,
- (c) an estimate of the trajectory of the discharge, giving weather conditions, if known,
- (d) an estimate of the sea surface area covered by the discharge,
- (e) in the case of a probable discharge of oil:
 - (i) the type of oil onboard, and
 - (ii) an estimate of the quantity of oil discharged,

- (f) in the case of a probable discharge of a noxious liquid substance:
 - (i) the correct technical name of the noxious liquid substances on board, and
 - (ii) the pollution category (Category X, Y or Z) for each noxious liquid substance, and
 - (iii) the UN number of each noxious liquid substance, and
 - (iv) an estimate of the quantity of each noxious liquid substance, and
 - (v) the name of the manufacturer of each noxious liquid substance or of its consignee or consignor.

7 Weather conditions

Details of weather conditions (that is, brief details of weather and sea conditions prevailing).

8 Action being taken

Details of the following:

- (a) the action being taken with regard to the discharge or potential discharge and the movement of the ship,
- (b) assistance or salvage efforts that have been requested or that have been provided by others.

9 Time of next report

The time of the next report (expressed as Co-ordinated Universal Time).

10 Conditions of ship

Details of the following:

- (a) the structural condition of the ship, as relevant,
- (b) the ability to transfer cargo/ballast or fuel.

11 Contact details

The following details of the ship's owner and representative or of the owner or agent of the ship/place on land/purpose-built pipeline/apparatus:

- (a) the name,
- (b) address and contact details of the owner,
- (c) facsimile or telex number,
- (d) email address.