

Explanatory Statement

Marine Order 34 Amendment 2011 (No. 1) (Solid bulk cargoes)

Authority

1. Section 257 of the *Navigation Act 1912* (the *Navigation Act*) provides that the regulations may provide for giving effect to the loading, stowing or carriage in ships of cargo, or for the unloading of cargo from ships.
2. Subsection 425 (1) of the *Navigation Act* authorises the Governor-General to make regulations necessary or convenient for carrying out or giving effect to that Act.
3. Subsection 425 (1AA) of the *Navigation Act* allows the Australian Maritime Safety Authority (AMSA) to make orders for any matter in that Act for or in relation to which provision may be made by regulations.

Purpose

4. This instrument amends *Marine Order Part 34, issue 6*. It gives effect to the International Maritime Solid Bulk Cargoes Code (IMSBC Code) in Australia.

Overview

5. Items 1, 3, 4, 5, 12, 14, 18, 19, 20, 21 and 22 are amendments of a minor or technical nature.
6. Item 2 amends provision 1.1 to reflect changes made to SOLAS and the superseding of the BC Code by the IMSBC Code.
7. Items 6, 7, 8, 9 and 10 amend definitions used in the Order due to the introduction of the IMSBC Code and *Marine Order 1, issue 2 (Administration)*.
8. Item 11 amends the interpretation provision to clarify the meaning of **competent authority** in the IMSBC Code, the meaning of **Administration** and an **organisation recognised by the Administration** in SOLAS.
9. Item 13 amends provision 5 to be consistent with *Marine Order 1, issue 2 (Administration)*.
10. Item 15 amends provisions 7 to 12 to reflect the introduction of the IMSBC Code:
 - (a) Provision 7 imposes requirements for the loading, stowage, carriage and unloading of solid bulk cargoes.
 - (b) Provision 7A imposes a requirement for there to be in place a loading and unloading plan before solid bulk cargo is loaded or unloaded from a ship. The plan must be kept by the terminal representative.
 - (d) Provision 7B imposes a requirement for loading and unloading to be in accordance with the plan.
 - (e) Provision 8 requires the shipper to give notice of intention to ship solid bulk cargo to the surveyor at the AMSA office and a copy to the master. Group A or Group B solid bulk cargo as defined in the IMSBC Code, cannot be loaded on the ship if the master has not received a copy of the notice.
 - (f) Provision 8A gives the master the discretion to load onto a ship solid bulk cargo that is not listed in Appendix I of the IMSBC Code, if the Manager, Ship Inspection approves it.
 - (g) Provision 9 imposes requirements for the provision of information mentioned in the IMSBC Code to the master.
 - (h) Provision 10 requires the master of a ship carrying solid bulk cargo or dangerous goods in solid form in bulk to keep on board a copy of the medical guide supplement to the IMDG Code.

- (i) Provision 11 prohibits taking or sending to sea a ship with solid bulk cargo having a moisture content higher than the transportable moisture limit for the cargo as defined in the IMSBC Code. There are exceptions for approved ships.
 - (j) Provision 12 empowers the Manager, Ship Inspection and Registration to set requirements additional to those in the IMSBC Code to ensure the safety of persons or the proper carriage of cargo.
11. Item 16 inserts provisions 13.1.4 and 13.1.5.
- (a) Provision 13.1.4 empowers a surveyor, if a surveyor considers that the loading or unloading of a solid bulk cargo is not in compliance with Marine Order Part 34 or is inconsistent with the IMSBC Code, to direct an appropriate person for the ship that cargo operations are to cease until certain conditions are met.
 - (b) Provision 13.1.5 prohibits the appropriate person from permitting loading or unloading to occur or continue in contravention of the direction.
12. Item 17 substitutes provisions 15 and 16.
- (a) Provision 15 requires the master or other person having charge of a ship to which Part IV of the Navigation Act applies to report particulars of an incident involving the loss or likely loss overboard of dangerous goods in solid form in bulk.
 - (b) Provision 16 requires the master of a ship intending to arrange for fumigation of any cargo hold when the ship is in a port to, within 72 hours before arriving in the port, give to AMSA certain information about the ship.
13. Item 17 substitutes provisions 15 and 16.

Consultation

14. A copy of the draft of this instrument was circulated to:

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| • Accord Australasia Ltd | • Department of Infrastructure, Energy, Resources, Tasmania |
| • AITAC Pty Ltd | • Department of Resources, Energy and Tourism |
| • American Bureau of Shipping | • Department of Transport Victoria |
| • ARC Maritime | • Department of Transport WA |
| • Australian Forum of Explosives Regulators | • Det Norske Veritas |
| • Australian Maritime College | • Flinders Sports |
| • Australian Shipowners Association | • Germanischer Lloyd |
| • AWB Ltd | • Gladstone Ports Corporation Ltd |
| • BHP Billiton Ltd | • Globelink Australia |
| • Bureau Veritas | • Haylock Marine |
| • Challenger TAFE | • Haztech Environmental |
| • China Classification Society | • Hetherington Kingsbury Shipping Agency |
| • Coal Exporting Terminal Operators Association | • Incitec Pivot |
| • Coles | • Korean Register of Shipping |
| • Company of Master Mariners Association | • Lloyds Register |
| • Currie Associates | • Mineral Council of Australia |
| • Customs Brokers and Forwards Council of Australia | • Nippon Kaiji Kyokai |
| • Dale Cole and Associates Pty Ltd | • NSW TAFE |
| • Dalrymple Bay Coal Terminal Pty Ltd | • Plastics and Chemicals Industry Association |
| • Department of Infrastructure and Transport | • Ports Australia Ltd |
| | • Rio Tinto |

- Royal Institute of Naval Architects
- Seafreight Council of Queensland Ltd
- Sea Freight Council of NSW Inc
- Shipping Australia Ltd
- Tasmanian Chamber of Commerce and Industry
- Toll Holdings Pty Ltd
- Transport and Logistics Centre
- Vessel Operators Hazardous Materials Organisation
- Wesfarmers Ltd
- Western Australian Fishing Industry Council

15. A copy of the draft was also placed on the AMSA website for public comment.

Document incorporated by reference

16. International Maritime Solid Bulk Cargoes Code adopted by the Maritime Safety Committee of the IMO by resolution MSC.268 (85), as defined in Chapter VI of SOLAS, available through the IMO website at <http://www.imo.org>.

Commencement

17. This instrument commences on the day after it is registered.

Legislative instrument

18. This instrument is a legislative instrument for the *Legislative Instruments Act 2003*.

Making the instrument

19. This instrument has been made by the Acting Chief Executive Officer of the Australian Maritime Safety Authority, in accordance with subsection 49(4) of the *Australian Maritime Safety Act 1990*.