



Australian Government
Australian Maritime Safety Authority

Marine Order 34 (Solid bulk cargoes) 2016

made under the *Navigation Act 2012*

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Prepared by the Australian Maritime Safety Authority

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Division 1 Preliminary

1 Name of Order

This Order is *Marine Order 34 (Solid bulk cargoes) 2016*.

2 Purpose

This Order:

- (a) gives effect to:
 - (i) Parts A and B of Chapter VI of SOLAS, dealing with the carriage of solid bulk cargo; and
 - (ii) the IMSBC Code mentioned in Chapter VI of SOLAS; and
 - (iii) Part A-1 of Chapter VII of SOLAS, dealing with the carriage of dangerous goods in solid form in bulk; and
 - (iv) the BLU Code; and
- (b) provides for the loading, stowing, carriage and unloading of solid bulk cargoes (other than grain).

3 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) subsection 112(4) which provides that regulations may provide for the carriage on a vessel of cargo;
 - (b) Subsection 112(5) which provides that regulations may provide for the loading, stowing or carriage of cargo in vessels, the unloading of cargo from vessels, and the giving of notices for the loading, or unloading, stowage or carriage, of cargo into vessels;
 - (c) subsection 112(6) which provides that regulations may provide for the carriage of dangerous goods;
 - (d) subsection 119(1) which provides that regulations may prescribe the manner in which and persons to whom a shipper of dangerous goods must give notice of his or her intention to ship the goods;
 - (e) paragraph 340(1)(a) which provides for regulations to give effect to SOLAS;
 - (f) subsection 341(1) which provides that the regulations may provide for the imposition of penalties for the contravention of provisions of the regulations including the imposition of civil penalties.
- (2) Subsection 339(1) of the Navigation Act 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.
- (3) Subsection 342(1) of the Navigation Act provides that AMSA may make orders about matters that can be provided for by regulations.

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4 Definitions

In this Order:

BLU Code means the *Code of Practice for the Safe Loading and Unloading of Bulk Carriers* adopted by IMO Resolution A.862(20), as in force from time to time.

Note The latest version of the consolidation of the *International Maritime Solid Bulk Cargoes Code* published by the IMO includes a supplement that reproduces the BLU Code and the BLU Manual and other materials related to unloading and loading.

IMSBC Code means the *International Maritime Solid Bulk Cargoes Code*, adopted by IMO Resolution MSC.268(85), as in force from time to time.

terminal representative means a person appointed by a terminal or other facility in Australia, where a vessel is loading or unloading, who has responsibility for operations conducted by the terminal or facility for the vessel.

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

- IMO
- Navigation Act
- SOLAS.

Note 2 Other terms used in this Order are defined in the Navigation Act, including:

- dangerous goods
- inspector
- master
- regulated Australian vessel.

Note 3 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>.

Note 4 For delegation of AMSA's powers to make decisions under this Order — see the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

5 Interpretation

- (1) A term that is used in this Order but is not defined for this Order, and is defined in SOLAS or in a code mentioned in this Order, has the meaning given by SOLAS or the code.
- (2) For this Order, the **competent authority** is:
 - (a) for Australia — AMSA; or
 - (b) for a country other than Australia — the competent authority under the country's law that implements the IMSBC Code.
- (3) For this Order, the **Administration** is:
 - (a) for a regulated Australian vessel — AMSA; or
 - (b) for a foreign vessel — the administration of the country in which the vessel is registered.
- (4) A person is taken to comply with the IMSBC Code if the person complies with the Code as amended for dates of voluntary application of amendments.

Note The IMO invites SOLAS Contracting Governments to apply amendments to the Code voluntarily on an earlier date than the mandatory date. Australia as a SOLAS Contracting Government gives effect to the date for voluntary application.

6 Application

This Order applies to the loading, stowing, carriage and unloading of solid bulk cargoes in:

- (a) a regulated Australian vessel; or
- (b) a foreign vessel.

7 Exemptions

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for an exemption from a requirement of paragraph 11(1)(c).
- (2) AMSA may give an exemption only if satisfied that:
 - (a) requiring compliance with the requirement would be unreasonable or impracticable; and
 - (b) giving the exemption would not contravene SOLAS or the IMSBC Code.
- (3) An exemption is subject to any conditions AMSA specifies in the instrument of exemption to ensure safe vessel operations.
- (4) The person who applies for the exemption must comply with any condition imposed on the exemption that applies to the person.

Penalty: 50 penalty units.

- (5) The person who applies for the exemption must ensure compliance with any other condition imposed on the exemption over which the person has control.
- (6) The master of the vessel must ensure that a copy of the instrument of exemption is kept on the vessel for the duration of each voyage to which the exemption applies.

Penalty: 50 penalty units.

- (7) An offence against subsection (4) or (6) is a strict liability offence.
- (8) A person is liable to a civil penalty if the person contravenes subsection (4) or (6).

Civil penalty: 50 penalty units.

Note *Marine Order 1 (Administration) 2013* deals with the following matters about equivalent and exemptions:

- making an application
- seeking further information about an application
- the time allowed for consideration of an application
- imposing conditions on approval of an application
- notification of a decision on an application
- review of decisions.

8 Equivalentents

- (1) A person may apply, in accordance with the application process set out in *Marine Order 1 (Administration) 2013*, for approval to use an equivalent.
- (2) AMSA may approve use of an equivalent only if:
 - (a) it is satisfied that use of the equivalent would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and

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(b) use of the equivalent would not contravene SOLAS or the IMSBC Code.

9 Approvals by AMSA for IMSBC Code matters

(1) A person may apply to AMSA in writing for an approval for the transport of solid bulk cargo that is mentioned in the IMSBC Code.

Note A fee may be determined for processing an application under this section — see the *Australian Maritime Safety Authority Act 1990*, section 47.

(2) AMSA may, in writing, approve the proposed arrangement for the transport of solid bulk cargo if satisfied that the arrangement is safe.

Note This approval is known as a *Certificate of Approval*.

(3) This section does not apply to an application for approval of the vessel as being specially fitted or specially constructed in accordance with section 7.3.2 of the IMSBC Code that is mentioned in section 10.

10 Approvals by issuing body for specially fitted or constructed cargo vessels

(1) The master or owner of a regulated Australian vessel that is a cargo vessel may apply to an issuing body for an approval of the vessel as being specially fitted or specially constructed in accordance with section 7.3.2 of the IMSBC Code.

Note A fee may be determined for processing an application under this section — see the *Australian Maritime Safety Authority Act 1990*, section 47.

(2) The application must include the information mentioned in section 7.3.2.4 of the IMSBC Code.

(3) The master or owner of the vessel may apply for approval in accordance with the application process set out in *Marine Order 1 (Administration) 2013*.

Note *Marine Order 1 (Administration) 2013* deals with the following matters about applications:

- making an application
- seeking further information about an application
- the time allowed for consideration of an application
- imposing conditions on approval of an application
- notification of a decision on an application
- review of decisions.

(4) An issuing body may, in writing, approve the vessel as being a specially fitted or specially constructed cargo vessel only if it is satisfied that the vessel complies with sections 7.3.2.2 or 7.3.2.3 of the IMSBC Code.

Division 2 Requirements for loading, stowage, carriage and unloading

11 Loading, stowage, carriage and unloading of solid bulk cargoes

(1) Solid bulk cargo must be loaded, trimmed or carried on a vessel, and unloaded from a vessel, in accordance with the following:

- (a) Parts A and B of Chapter VI of SOLAS;
- (b) if the cargo is dangerous goods in solid form in bulk — regulation 7-3 of Chapter VII of SOLAS;
- (c) the IMSBC Code;

- (d) the BLU Code;
 - (e) this Order, including any additional requirements in Schedule 1 for cargo of its kind.
- (2) The master of a vessel to be loaded with a solid bulk cargo must ensure that documents necessary to demonstrate compliance with subsection (1) are:
- (a) carried on the vessel; and
 - (b) made available to an inspector on request.
- Penalty: 50 penalty units.
- (3) A terminal operator or terminal representative may allow solid bulk cargo to be loaded, trimmed or carried on a vessel, or unloaded from a vessel, only in accordance with the following:
- (a) Chapter VI of SOLAS;
 - (b) if the cargo is dangerous goods in solid form in bulk — regulation 7-3 of Chapter VII of SOLAS;
 - (c) the IMSBC Code;
 - (d) the BLU Code;
 - (e) this Order, including any additional requirements in Schedule 1 for cargo of its kind.

Penalty: 50 penalty units.

Note AMSA may detain a vessel if AMSA reasonably suspects that the vessel has been, is or will be involved in a contravention of this Order, either in or outside Australia — see section 248 of the Navigation Act. Detention for a foreign vessel applies only in the places mentioned in subsection 248(5).

- (4) An offence against subsection (2) or (3) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (2) or (3).

Civil penalty: 50 penalty units.

12 Loading and unloading plan

- (1) The master of a vessel must ensure that solid bulk cargo is loaded onto the vessel only if the master and the terminal representative have agreed on a plan for loading that complies with the BLU Code.
Penalty: 50 penalty units.
- (2) The master of a vessel must ensure that solid bulk cargo is unloaded from a vessel only if the master and the terminal representative have agreed on a plan for unloading that complies with the BLU Code.
Penalty: 50 penalty units.
- (3) A plan for loading or unloading and any amendments of it must be lodged with the terminal representative at the port of loading or unloading and a copy kept on board the vessel throughout the voyage.
- (4) The terminal representative must:
 - (a) keep the plan and any amendments of it for at least 6 months; and
 - (b) make the plan available to the inspector at the AMSA office at or nearest to the port of loading or unloading on request by the inspector.

Penalty: 50 penalty units.

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Note The BLU Code refers to any plan mentioned in this section as a **loading or unloading plan**.

- (5) An offence against subsection (1), (2) or (4) is a strict liability offence.
- (6) A person is liable to a civil penalty if the person contravenes subsection (1), (2) or (4).

Civil penalty: 50 penalty units.

13 Loading and unloading to be in accordance with plan

- (1) The master of a vessel must ensure that, within his or her area of responsibility, vessel loading and unloading operations are conducted in accordance with the plan mentioned in subsection 12(1) or (2).

Penalty: 50 penalty units.

Note The BLU Code sets out responsibilities for the master and the terminal representative.

- (2) The terminal representative must ensure that, within his or her area of responsibility, vessel loading and unloading operations are conducted in accordance with the plan mentioned in subsection 12(1) or (2).

Penalty: 50 penalty units.

- (3) If, during loading or unloading, a limit mentioned in the plan is exceeded, or is likely to be exceeded if the loading or unloading continues:

- (a) the master may suspend the loading or unloading; and
- (b) if the master suspends the loading or unloading — the master must tell the person mentioned in subsection (7) about the suspension.

- (4) If the master suspends loading or unloading at a terminal under subsection (3), the master and the terminal representative at the terminal must ensure that corrective action is taken before the loading or unloading resumes.

- (5) The master must ensure that, within his or her area of responsibility, subsection (4) is complied with.

Penalty: 50 penalty units.

- (6) The terminal representative must ensure that, within his or her area of responsibility, subsection (4) is complied with.

Penalty: 50 penalty units.

- (7) For subsection (3), the person is:

- (a) if the port State is Australia — the inspector at the AMSA office at or nearest to the port of loading or unloading; or
- (b) in any other case — a person authorised by the competent authority for the port of loading or unloading.

- (8) An offence against subsection (1), (2), (5) or (6) is a strict liability offence.

- (9) A person is liable to a civil penalty if the person contravenes subsection (1), (2), (5) or (6).

Civil penalty: 50 penalty units.

14 Cargoes that may liquefy — Group A solid bulk cargoes

- (1) The master or owner of the vessel may allow Group A solid bulk cargo to be loaded onto the vessel only if:
 - (a) AMSA has given to the shipper an approval under subsection 9(2) for the sampling, testing and controlling of moisture content procedure; and
 - (b) the shipper has given a copy of the approval to the master.

Note For the application process for an approval see subsection 9(1). When determining an application AMSA may have regard to whether the procedure complies with IMO Circular MSC.1/Circ.1454 *Guidelines for developing and approving procedures for sampling, testing and controlling the moisture content for solid bulk cargoes which may liquefy*, as amended.

- (2) A person must not take a vessel to sea, or cause or permit another person to take a vessel to sea, with Group A solid bulk cargo on board that has a moisture content higher than the transportable moisture limit for the cargo as defined in the IMSBC Code.

Penalty: 50 penalty units.

- (3) Subsection (1) does not apply if there is on board the vessel a copy of an approval mentioned in subsection 10(4).

Note The master or owner of a regulated Australian vessel that is a cargo vessel may apply under subsection 10(1) to an issuing body for an approval that the vessel is a specially fitted or constructed cargo vessel in accordance with section 7.3.2 of the IMBSC Code.

- (4) An offence against subsection (2) is a strict liability offence.
- (5) A person is liable to a civil penalty if the person contravenes subsection (2).

Civil penalty: 50 penalty units.

15 Medical guide

- (1) This section applies to the master of a regulated Australian vessel carrying:
 - (a) solid bulk cargo mentioned in Appendix 1 of the IMSBC Code; or
 - (b) solid bulk cargo assessed for loading under subsection 19(1); or
 - (c) dangerous goods in solid form in bulk.
- (2) The master must ensure that, at all times, a copy of the current supplement to the IMDG Code that includes the *Medical First-Aid Guide for Use in Accidents Involving Dangerous Goods* is kept on board the vessel.

Penalty: 50 penalty units.

Note The *Medical First-Aid Guide for Use in Accidents Involving Dangerous Goods* is published jointly by the IMO, WHO and the ILO. It is also known as the *Chemicals supplement to the international medical guide for ships*, which is published by WHO.

- (3) An offence against subsection (2) is a strict liability offence.
- (4) A person is liable to a civil penalty if the person contravenes subsection (2).

Civil penalty: 50 penalty units.

Division 3 Notice and information requirements

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16 Notice of intention to AMSA to ship solid bulk cargo

- (1) At least 48 hours before starting to load onto a vessel at a port in Australia Group A, Group B or Group A and B solid bulk cargo, the shipper must give to an inspector at the AMSA office at or nearest to the port of loading a signed notice with the following information:
 - (a) the name and IMO number of the vessel;
 - (b) the port and berth of loading;
 - (c) cargo information prescribed by section 4.2 of the IMSBC Code.
- (2) However, the inspector may allow the shipper to give the notice at a later time.
- (3) The shipper may give the notice for more than 1 vessel in the form of a list of vessels, scheduled for loading at a port in the week or fortnight after the preparation of the list.
- (4) The list must set out, for each vessel on the list:
 - (a) the information mentioned in subsection (1); and
 - (b) the expected time and date of berthing, if known to the shipper.
- (5) The shipper must give a new list to the inspector at the AMSA office:
 - (a) at least 48 hours before the expected arrival of:
 - (i) a vessel not mentioned on the last list given to the inspector; or
 - (ii) a vessel whose expected time and date of berthing was not mentioned on that list; or
 - (b) when the shipper becomes aware that:
 - (i) the expected time and date of berthing of a vessel on that list has changed; or
 - (ii) a vessel on that list is not expected to berth in Australia.
- (6) If dangerous goods in solid form in bulk are to be shipped, the notice must include, in accordance with Regulation 7-2 of Chapter VII of SOLAS:
 - (a) a list of the dangerous goods on board the vessel and where they are located; or
 - (b) a detailed storage plan identifying by class all the dangerous goods on board the vessel and their location.
- (7) When the shipper gives the notice to the inspector, the shipper must give a copy of the notice to the master of each vessel mentioned in the notice.
- (8) The master of a vessel may allow Group A, Group B or Group A and B solid bulk cargo to be loaded onto the vessel only if the master has received a copy of the notice.

Penalty: 50 penalty units.
- (9) An offence against subsection (8) is a strict liability offence.
- (10) A person is liable to a civil penalty if the person contravenes subsection (8).

Civil penalty: 50 penalty units.

17 Notice of fumigation of cargo holds

If the master of a vessel intends to arrange for fumigation of any cargo hold when the vessel is in a port, the master must, within 72 hours before arriving in the port, give to AMSA the following information:

- (a) the vessel's name;
- (b) the vessel's IMO number;
- (c) the year the vessel's keel was laid;
- (d) the country whose flag the vessel is entitled to fly;
- (e) the name of the vessel's agent;
- (f) the name and contact details of the fumigator;
- (g) when the vessel is expected to berth in, and depart from, the port;
- (h) whether it is intended to be in-transit fumigation.

Note 1 There is a form for giving the notice on AMSA's website at <http://www.amsa.gov.au>.

Note 2 For information about fumigation — see Regulation 4 of Chapter VI of SOLAS and IMO Circular MSC.1/Circ.1264 *Recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo holds*, as amended.

18 Information for master

- (1) Before the start of loading of solid bulk cargo onto a vessel at a port in Australia, the shipper of the cargo must give to the master or owner, in writing, the information mentioned in section 4.2 of the IMSBC Code.
Penalty: 50 penalty units.
- (2) The master or owner may allow solid bulk cargo to be loaded onto the vessel only if he or she has received the information in accordance with subsection (1).
Penalty: 50 penalty units.
- (3) The master or owner may allow dangerous goods in solid form in bulk to be loaded onto the vessel at a port in Australia only if he or she has the list or manifest mentioned in section 4.8.1 of the IMSBC Code for the goods.
Penalty: 50 penalty units.
- (4) If section 4.3 of the IMSBC Code requires material to be sampled and tested, the shipper must arrange for the material to be sampled and tested as required by the IMSBC Code and, if required by the IMSBC Code, for a certificate to be given to the master or owner of the vessel.
Note The IMSBC Code sets out in more detail the kind of information that should be given by the shipper to the master or owner of the vessel and the methodology to be used.
- (5) The shipper must give to the master a statement that the chemical characteristics of the cargo are, to the best of the shipper's knowledge, those present when the vessel is loaded.
- (6) An offence against subsection (1), (2) or (3) is a strict liability offence.
- (7) A person is liable to a civil penalty if the person contravenes subsection (1), (2) or (3).
Civil penalty: 50 penalty units.

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19 Solid bulk cargo not listed in Appendix 1 of IMSBC Code

- (1) Before the start of loading of solid bulk cargo onto a vessel, the shipper of the cargo must:
 - (a) give information in accordance with section 4 of the IMSBC Code to AMSA; and
 - (b) ensure that AMSA has assessed the cargo in accordance with section 1.3 of the IMSBC Code.
- (2) The master may load onto a vessel solid bulk cargo that is not listed in Appendix 1 of the IMSBC Code only if the shipper has given to the master:
 - (a) information in accordance with section 4 of the IMSBC Code; and
 - (b) AMSA's assessment of the cargo in accordance with section 1.3 of the IMSBC Code.Penalty: 50 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.
- (4) A person is liable to a civil penalty if the person contravenes subsection (2).
Civil penalty: 50 penalty units.
- (5) If the AMSA assessment is that the cargo is a Group A, Group B or Group A and B solid bulk cargo, the master must give a notice of intention to load in accordance with section 16.

Division 4 Other matters

20 Proper precautions

- (1) This section applies if an inspector believes, on reasonable grounds, that the doing of an activity or the failure to do an activity during the loading or unloading, stowage or carriage of cargo on a vessel, may:
 - (a) damage the vessel; or
 - (b) pose a risk to the safety of persons; or
 - (c) damage the environment.
- (2) The inspector may give a written notice to a person requiring:
 - (a) that the doing of an activity is to cease; or
 - (b) that precautions specified in the notice are to be undertaken.
- (3) A person who is given a notice must ensure that the notice is complied with to the extent that it relates to any matter over which the person has control.

Note Section 114 of the Navigation Act provides that a person commits an offence if proper precautions are not taken for an activity involving packing, sending, stowing, loading, unloading, securing or carrying cargo on a vessel.

21 Marine incidents

For paragraph (l) of the definition of *marine incident* in subsection 14(1) of the Navigation Act, the loss or likely loss overboard of dangerous goods in solid form in bulk is prescribed.

Note The owner and master of a vessel must report marine incidents to AMSA — see sections 185 and 186 of the Navigation Act. For the prescribed periods and forms for reporting marine incidents — see *Marine Order 1 (Administration) 2013*. The forms are available from AMSA's website at <http://www.amsa.gov.au>.

Schedule 1 Additional requirements

(subsections 11(1) and (3))

Item	Material	Additional requirements
1	Ammonium nitrate based fertiliser UN 2067	Shipment subject to approval after inspection of the condition and cleanliness of the intended cargo space
2	Ammonium nitrate based fertiliser UN 2071	Result of trough test to be certified by a competent chemist
3	Low specific activity materials	<p>Shipment subject to approval after inspection of the following arrangements:</p> <p>(a) all unpacked material, other than ores containing only naturally occurring radionuclides, to be shipped so that, under routine conditions likely to be encountered, there will be no escape of contents from the cargo space nor any loss of shielding;</p> <p>(b) the cargo space to be for exclusive use of LSA-1, except only surface contaminated objects SCO-1 in which contamination on accessible and inaccessible surfaces is not greater than 4 Bq/cm² (10⁻⁴ Ci/cm²) for beta and gamma emitters or 0.4 Bq/cm² (10⁻⁵ Ci/cm²) for alpha emitters</p>
4	Seedcake, containing vegetable oil UN 1386 — mechanically expelled seeds containing more than 10% of oil or more than 20% of oil and moisture combined	Oil content and moisture content to be certified by a competent chemist
5	SCRAP METAL	Shipper to declare in writing that cargo does not include borings, shavings, turnings or cuttings in a form susceptible to self heating

Notes to *Marine Order 34 (Solid bulk cargoes) 2016*

Note 1

Marine Order 34 (Solid bulk cargoes) 2016 (in force under subsection 342(1) of the *Navigation Act 2012*) as shown in this compilation comprises *Marine Order 34 (Solid bulk cargoes) 2016* amended as indicated in the following tables.

Table of Orders

Year and number	Registration date	FRLI number	Commencement date	Application, saving or transitional provisions
<i>Marine Order 34 (Solid bulk cargoes) 2016</i> (MO 2016/17)	7 December 2016	F2016L01886	1 January 2017	–
<i>Marine Orders (Navigation Act) Administrative Amendment Order 2017</i> (MO 2017/5)	10 October 2017	F2017L01336	11 October 2017	–

Table of amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
1A	rep. <i>Legislation Act 2003</i> , s. 48D
1B	rep. <i>Legislation Act 2003</i> , s. 48C
21.....	am. 2017/5