

Marine Pollution Regulation 2001

As at 27 November 2003

Part 1 - Preliminary

1 Name of Regulation

This Regulation is the *Marine Pollution Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note: This Regulation replaces the *Marine Pollution Regulation 1995* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

AMSA means the Australian Maritime Safety Authority.

marine safety authority of another State or Territory means the following:

- (a) AMSA,
- (b) the Department of Transport and Works of the Northern Territory,
- (c) the Department of Transport of Queensland,
- (d) the Department of Transport, Urban Planning and the Arts of South Australia,
- (e) Marine and Safety Tasmania,
- (f) the Marine Board of Victoria,
- (g) the Department of Transport of Western Australia.

Port Corporation means Newcastle Port Corporation, Port Kembla Port Corporation or Sydney Ports Corporation (each of which is constituted by the *Ports Corporatisation and Waterways Management Act 1995*).

the Act means the *Marine Pollution Act 1987*.

Waterways Authority means the Waterways Authority constituted under Part 4 of the *Ports Corporatisation and Waterways Management Act 1995*.

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

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation (other than the notes in Schedule 1) do not form part of this Regulation.

Part 2 - State waters

5 Waters prescribed as State waters

For the purposes of the definition of **State waters** in section 3 (1) of the Act, the prescribed waters are such parts of the waters of the following Ports (as described in Schedule 1 to the *Ports Corporatisation and Waterways Management Regulation 1997* beneath the name of the port concerned) as are within the limits of the State:

- (a) Botany Bay,
- (b) Clarence River (Yamba),
- (c) Newcastle Harbour,
- (d) Port Kembla,
- (e) Sydney Harbour,
- (f) Eden.

Part 3 - Pollution by oil or noxious substances

6 Prescribed officers

(1) For the purposes of sections 8 (2), 13 (3) and (4), 18 (2), 23 (5) and (6), 27 (2), 50 (3) and 58 (d) and (e) of the Act, the following officers are prescribed officers:

- (a) each harbour master,
- (b) the following officers of Newcastle Port Corporation, Port Kembla Port Corporation and Sydney Ports Corporation:
 - (i) the Chief Executive Officer,
 - (ii) the General Manager,
 - (iii) the Company Secretary,
- (c) the following officers of the Waterways Authority:
 - (i) each Regional Manager,
 - (ii) each Boating Safety Officer,
 - (iii) each Vessel Survey Manager.

(2) For the purposes of section 18 (6), (7), (8) and (9) of the Act, a prescribed officer is any officer of AMSA appointed or authorised by that body for the purpose of implementing Regulation 5 of Annex II of the Convention.

7 Notification of discharges

(1) For the purposes of sections 10 (1) and (3) and 20 (1) and (3) of the Act, a prescribed incident is to be notified by the quickest means available and conveyed through AMSA, a Port Corporation or the Waterways Authority.

(2) If the notification 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.

(3) If the notification is conveyed through a Port Corporation or the Waterways Authority, it must contain:

- (a) the name and radio call sign (if any) of the ship concerned, and
- (b) the name of the person notifying the incident, and
- (c) the position of the ship.

8 Time for furnishing discharge report

For the purposes of sections 10 (6) and (7) and 20 (6) and (7) of the Act, a report must be furnished to the Minister in relation to a prescribed 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.

9 Discharge reports

For the purposes of sections 10 (6) and (7) and 20 (6) and (7) of the Act, Form 1 of Schedule 1 is the prescribed form in relation to a discharge or probable discharge of:

- (a) oil or an oily mixture, or
- (b) a noxious liquid substance that is carried as a cargo or part cargo in bulk.

10 Oil record book

(1) An oil tanker to which section 11 of the Act applies is to carry an oil record book in the form set out in Part I of Appendix III to Annex I of the Convention.

(2) A ship (other than an oil tanker) to which section 11 of the Act applies is to carry an

oil record book in the form set out in Part II of Appendix III to Annex I of the Convention.

11 Matters to be recorded in oil record book

(1) For the purposes of section 11 (5) of the Act:

(a) each of the following operations (being a machinery space operation) is a prescribed operation in relation to a ship (including an oil tanker):

- (i) the ballasting or cleaning of an oil fuel tank,
- (ii) a discharge of dirty ballast or cleaning water from an oil fuel tank,
- (iii) a disposal of oily residues (sludge),
- (iv) a discharge overboard or other disposal of bilge water that has accumulated in any machinery space, and

(b) each of the following operations (being a cargo operation or a ballast operation) is a prescribed operation in relation to an oil tanker:

- (i) the loading of oil cargo,
- (ii) an internal transfer of oil cargo during a voyage or in port,
- (iii) the unloading of oil cargo,
- (iv) the ballasting of a cargo tank or a dedicated clean ballast tank,
- (v) the cleaning of a cargo tank (including crude oil washing),
- (vi) a discharge of ballast from a tank other than a segregated ballast tank,
- (vii) a discharge of water from a slop tank,
- (viii) the closing, after an operation referred to in subparagraph (vii), of all applicable valves or similar devices,
- (ix) the closing, after an operation referred to in subparagraph (vii), of valves necessary for the isolation of a dedicated clean ballast tank from cargo and stripping lines after slop tank discharge operations,
- (x) a disposal of residues.

(2) For the purposes of section 11 (5) of the Act, each of the following occurrences is a prescribed occurrence in relation to a ship (including an oil tanker):

(a) the discharge into the sea of oil or an oily mixture from the ship for the purpose of securing the safety of the ship or of saving life at sea,

(b) the discharge into the sea of oil or an oily mixture in consequence of damage to the ship or its equipment,

(c) the discharge into the sea of substances containing oil for the purpose of combating specific pollution incidents,

(d) the failure of the ship's oil discharge monitoring and control system,

(e) the discharge into the sea of oil or an oily mixture, being:

- (i) a discharge for an exceptional purpose other than a purpose referred to in paragraph (a) or (c), or
- (ii) an accidental discharge other than a discharge referred to in paragraph (b).

12 Cargo record book

For the purposes of section 21 of the Act, the prescribed form of cargo record book is the form set out in Appendix IV to Annex II of the Convention.

13 Matters to be recorded in cargo record book

(1) For the purposes of section 21 (5) of the Act, each of the following operations is a prescribed operation in relation to a ship:

- (a) the loading of cargo,
- (b) an internal transfer of cargo during a voyage or in port,
- (c) the unloading of cargo,
- (d) the ballasting of a cargo tank,
- (e) the cleaning of a cargo tank,

- (f) a discharge of ballast from a cargo tank,
 - (g) a disposal of residues to a reception facility,
 - (h) the discharge of a noxious liquid substance, or of a mixture containing such a substance, into the sea in accordance with Regulation 5 of Annex II of the Convention,
 - (i) the removal by ventilation procedures of cargo residues from a tank in accordance with Regulation 5 of Annex II of the Convention.
- (2) For the purposes of section 21 (5) of the Act, each of the following occurrences is a prescribed occurrence in relation to a ship:
- (a) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, for the purpose of securing the safety of the ship or of saving life at sea,
 - (b) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, in consequence of damage to the ship or its equipment,
 - (c) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, being:
 - (i) a discharge for an exceptional purpose other than a purpose referred to in paragraph (a), or
 - (ii) an accidental discharge other than a discharge referred to in paragraph (b).

14 Regulation 8 of Annex II to have the force of law

- (1) The provisions of Regulation 8 of Annex II of the Convention, other than paragraph (1) of that Regulation, apply to, and in relation to, the washing of a tank of a ship from which a noxious liquid substance has been unloaded.
- (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 Regulation 8 of Annex II of the Convention 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 (subsection (2)): 20 penalty units.
- (3) In the application of Regulation 8 of Annex II of the Convention to, or in relation to, the washing of a tank of a ship:
 - (a) a reference to the receiving Party is to be read as a reference to Australia or the State, and
 - (b) a reference to the Administration is to be read as a reference to a person designated by AMSA or by the Chief Executive of the Waterways Authority, and
 - (c) a reference to the surveyor (however described), including a surveyor authorised for the purpose of implementing that Regulation, is to be read as a reference to the Administration (as defined in paragraph (b)).
- (4) A surveyor is to comply, in the exercise of any power, or the performance of any function, for the purpose of implementing Regulation 8 of Annex II of the Convention, with any control procedures developed by the International Maritime Organization.
- (5) An exemption referred to in paragraph (2) (b) or (5) (b) of Regulation 8 of Annex II of the Convention may be granted only to a ship engaged in voyages to ports or terminals under the jurisdiction of States (other than Australia) that are parties to the Convention. When such an exemption has been granted to a ship, the appropriate entry made in the ship's cargo record book is to be endorsed by a surveyor.

Part 4 - Pollution relating to transfer operations

15 Purpose-built pipelines

For the purposes of the definition of **purpose-built pipeline** in section 25 (1) of the Act, the pipelines described in Schedule 2 are prescribed.

16 Notification of discharges

For the purposes of section 28 (1) of the Act, a discharge to which Part 4 of the Act applies is to be notified by the quickest means available and conveyed through AMSA, a Port Corporation or the Waterways Authority and containing:

- (a) in the case of a discharge from a ship or from an apparatus on a ship--the name and radio call-sign (if any) of the ship concerned followed by the name of the person notifying the discharge and the position of the ship, or the location of the ship within a port, or
- (b) in the case of a discharge from a place on land, from an apparatus or from a purpose-built pipeline--the name and address of the person notifying the discharge and the location of the discharge.

17 Time for furnishing discharge report

For the purposes of section 28 (3) of the Act, a report must be furnished to the Minister in relation to a discharge 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.

18 Discharge reports

For the purposes of section 28 (3), of the Act, Form 1 of Schedule 1 is prescribed.

Part 5 - Ships carrying or using oil or carrying noxious liquid substances

19 Surveys of ships

For the purposes of sections 38 and 43 of the Act, each period of 5 years (the first of which commences on the commencement of this clause) is a prescribed period in relation to a ship referred to in either of those sections.

20 Adoption of Commonwealth Orders

The Marine Orders, Part 91 (Marine Pollution Prevention--Oil) and Part 93 (Marine Pollution Prevention--Noxious Liquid Substances), as in force on 1 March 2001, and made by AMSA under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, are adopted, subject to the modifications set out in Schedule 3.

21 Ship construction certificates and chemical tanker construction certificates

- (1) A certificate issued by a marine safety authority of another State or Territory certifying that a ship is constructed in accordance with the provisions of Annex I of the Convention is prescribed for the purposes of Division 2 of Part 5 of the Act.
- (2) A certificate issued by a marine safety authority of another State or Territory certifying that a ship is constructed in accordance with the provisions of Annex II of the Convention is prescribed for the purposes of Division 3 of Part 5 of the Act.

22 Notice of alteration or damage to ship

For the purposes of section 37 (1) and 42 (1) of the Act, the prescribed form is Form 2 of Schedule 1.

Part 5A - Oil spill response plans--trading ships

22A Definitions

In this Part:

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).

22B 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 (subsection (2)): 100 penalty units.

22C Requirements of an oil spill response plan

(1) An oil spill response plan required by clause 22B (1) 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.

Part 5B - Control of toilet and galley waste from vessels

Division 1 - Preliminary

22D 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 for which a class 1 (passenger vessels) permit is in force under the *Commercial Vessels Act 1979* .

Class 4 commercial vessel means a commercial vessel for which a class 4 (hire and drive vessels) permit is in force under the *Commercial Vessels Act 1979* .

commercial vessel means any vessel used or intended to be used for or in connection with any business or commercial activity, and includes (but is not limited to) a vessel used or intended to be used wholly or principally for:

- (a) carrying passengers or cargo for hire or reward, whether within or outside State waters or in the course of overseas or interstate voyages, or
- (b) providing services to vessels for reward.

grey water 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.

grey water 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 grey water.

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 pumpout 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.

master of a vessel means the person having the command or charge of the vessel, but does not include a marine pilot.

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.

operator of a marina means the owner, lessee or occupier of, or other person responsible for, the marina.

owner of a vessel means the person who owns the vessel (whether jointly with another person or otherwise) and includes:

(a) a person registered as the vessel's owner in the relevant licence for the vessel under the *Commercial Vessels Act 1979* or the *Maritime Services Act 1935* or other certificate of registry for the vessel, or

(b) a person who is the charterer of the vessel.

sewage discharge standard means the Standard specified in Schedule 4.

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 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 water.

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

Division 2 - Sewage from vessels

22E No discharge zones for 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 within the meaning of 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.

22F No discharge zones for treated sewage

(1) This clause applies to the following waters:

- (a) all inland waterways,
- (b) all intermittent closing and opening lagoons,
- (c) waters within 500 metres of:
 - (i) any area in which aquaculture occurs, or
 - (ii) any area normally used for swimming or any beach, or
 - (iii) any person in the water, or
 - (iv) any moored or anchored vessel or any marina, or
 - (v) any marine park within the meaning of the *Marine Parks Act 1997* or any area declared to be an aquatic reserve under the *Fisheries Management Act 1994*.

(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 within the meaning of 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 appropriate measures were in place to prevent the discharge or deposit from the vessel.

22G 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, 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.

22H Sewage requirements--Class 1 and Class 4 commercial vessels

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

- (a) the vessel has a toilet fitted that is connected properly to a holding tank that:
 - (i) is of a capacity that complies with Schedule 5, and
 - (ii) complies with the provisions of Schedule 6 and has been tested in accordance with that Schedule, 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 22I.

(2) The owner of a Class 1 commercial vessel or a Class 4 commercial vessel must ensure that any toilet, holding tank and associated fittings on the vessel are maintained in good condition.

(3) 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.

(4) 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 22I is guilty of an offence if the vessel is operated in contravention of the plan of management.

Maximum penalty: 100 penalty units.

22I 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) be accompanied by an application fee of \$150, and
- (c) describe the proposed operations of the vessel, and
- (d) specify the waters in which the vessel will operate, and
- (e) 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
- (f) 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) If the Minister determines that an inspection of the vessel the subject of the proposed plan of management is required, an additional inspection fee is payable to the Minister on completion of the inspection calculated on the basis of the time taken to make the inspection at the hourly rate of \$120.

(5) The Minister may:

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

(6) 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.

Division 3 - Other discharge from vessels

22J 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 grey water 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 grey water 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.

22K Requirements for grey water tank

(1) Any sink, basin, washbowl or similar permanent container into which grey water is discharged on a vessel must be connected to a grey water tank on the vessel.

(2) The grey water tank, the fittings leading from the galley to the tank and the fittings used for the discharge of the contents of the tank must be:

- (a) fabricated from stainless steel, polyester fibreglass, polyvinyl chloride or some

other corrosion-resistant material, or

(b) protected internally by polyester fibreglass, rubber or some other continuous liner and protected externally by a coating.

(3) The owner of a vessel must ensure that the requirements of this clause are complied with in relation to the vessel.

Maximum penalty (subclause (3)): 100 penalty units.

22L Maintenance of grey water tanks

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

Maximum penalty: 100 penalty units.

22M Requirement for the proper discharge of galley waste

(1) A person must not discharge or deposit the contents of a grey water 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 grey water tank on the vessel are discharged or deposited from the vessel by any person in contravention of subclause (2).

Maximum penalty: 100 penalty units.

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

Division 4 - Provision of waste collection facilities

22N Requirements for commercial marina operators

(1) Until 1 January 2005, an operator of a marina that has 9 or more berths in the Sydney Harbour locality and is being operated on a commercial basis must ensure that:

(a) there is an adequate and readily accessible waste collection facility at the marina for use by all vessels moored at the marina, and

(b) the waste collection facility is maintained in good order and condition so that it is available for efficient use.

Maximum penalty: 100 penalty units.

(2) On and from 1 January 2005, the operator of any marina in the Sydney Harbour locality that is being operated on a commercial basis must ensure that:

(a) there is an adequate and readily accessible waste collection facility at the marina for use by all vessels moored at the marina, and

(b) the waste collection facility is maintained in good order and condition so that it is available for efficient use.

Division 5 - Directions regarding discharge of waste

22O 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 6 - Miscellaneous

23 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 the Convention, 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 the Convention, 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 Article 8 of, and Protocol I to, the Convention, other than provisions of that Article or Protocol to which effect is given by a provision of the Act or this Regulation, and

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

24 Fee for deposit of oil record book or cargo record book

A fee of \$40 is payable by the owner of a ship for:

(a) the deposit of an oil record book of the ship in accordance with section 13 (4) of the Act, or

(b) the deposit of a cargo record book of the ship in accordance with section 23 (6) of the Act.

25 Exemptions

(1) Each of the following classes of ships is exempt from the provisions of the Act and this Regulation:

(a) ships belonging to an arm of the Defence Forces 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 State and used, for the time being, only on government non-commercial service.

(2) In subclause (1) (b), **State** has the same meaning as in the Convention.

26 Service of certain notices

For the purposes of sections 37 (4) and (5) and 42 (5) and (6) of the Act, a notice 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, or

(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, or

(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 30A of the *Maritime Services Act 1935* .

27 Savings and transitional provisions

(1) Any act, matter or thing that was done, or immediately before the repeal of the *Marine Pollution Regulation 1995* had effect, under that Regulation is taken to have been done, or to have effect, under this Regulation.

(2) Subject to subclauses (3) and (4), any approval, exemption or agreement given or

entered into for the purposes of a provision of Division 6 or 7 of Part 2 of the *Management of Waters and Waterside Lands Regulations--N.S.W.* (as in force immediately before the repeal of that provision) is taken to have been given or entered into for the purposes of the corresponding provision of Part 5A or 5B of this Regulation.
(3) A Lectra San EC and MC Marine Sanitation Device manufactured by Raritan Engineering Company Inc. is taken to be a certified on-board sewage treatment system for the purposes of Part 5B of this Regulation:

(a) in a case where the Device is fitted in a Class 1 commercial vessel or Class 4 commercial vessel--until 13 November 2005, or

(b) in a case where the Device is fitted in any other vessel--for the life of the Device, but only if the Device was fitted in the vessel before 13 November 2005.

(4) For the purposes of clause 22G (2) (c), the maximum treatment capacity of a Marine Sanitation Device referred to in subclause (4), as specified by the manufacturer, is taken to be the treatment of the waste of not more than 15 persons per day.

Schedule 1 Forms

Form 1 - Marine pollutants report form

(Clauses 9 and 18)

(*Marine Pollution Act 1987* , sections 10, 20 and 28)

Note: (For use when reporting any discharge or probable discharge of oil or an oily mixture or a discharge or probable discharge of a noxious liquid substance carried in bulk)

Note: The items of this form that are inappropriate in a particular case should be omitted from the report.

name, size, type, call sign/ship
identity and flag

address and contact details of
owner and agent of ship/place on
purpose-built pipeline/apparatus

name of discharge and position of
discharge on land/purpose-built
pipeline/apparatus

date and time of event

Note: Express as Universal Co-ordinated
Time

1: latitude and longitude, or

1: true bearing and distance

Note: Give C or D

course

speed in knots

direction of information: intended track

communications: means of
communication

of next report

Note: Express as Universal Co-ordinated
Time

of oil or the correct technical
of the noxious liquid
on board

numbers

in category (A, B, C or D)
of noxious liquid substance

of manufacturers of
of consignor or consignee or
of

of the quantity of each
of

Note: Include item P in the case of
probable discharge

of condition of ship, as
of

of transfer cargo/ballast/fuel

of oil or the correct technical
of the noxious liquid
of discharged into the sea

numbers

in category (A, B, C or D)
of noxious liquid substance

of manufacturers of
of consignor or consignee or
of

of the quantity of each
of

of discharged substances
of or sank

r discharge is continuing

of discharge

e of the trajectory of the
ge, giving weather
ons, if known

e of the sea surface area
l by the discharge

Note: Include item R in the case of
actual discharge

r conditions (i.e. brief details of
t and sea conditions prevailing)

being taken with regard to
harge and the movement of
,

nce or salvage efforts which
en requested or which have
vided by others

Note: The master of an assisting or
salvaging ship should also report the
particulars of action undertaken or
planned

Form 2 - Notice of alteration or damage to ship

(Clause 22)

(*Marine Pollution Act 1987* , sections 37 and 42)

To: Waterways Authority

1 Name of ship:

2 Official number (if any):

3 Home port/port of registry:

4 Call sign:

5 Name of owner(s) or agent:

6 Address of principal place of business of owner(s) or agent:

7

(a) Date of issue and reference number of International Oil Pollution Prevention Certificate (in the case of a ship constructed in accordance with Annex I of the Convention):

(b) Date of issue and reference number of International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (in the case of a ship constructed in accordance with Annex II of the Convention):

8 Description of nature and extent of alteration or damage to the ship (including date(s) on which damage occurred and date(s) on which repairs or alterations, as the case may be, were commenced and completed):

9 Name and address of person or corporation effecting alteration or repairs:

10 Reason(s) for, or cause(s) of, alteration or repairs:

11 Particulars of changes in the construction of the ship:

12

(a) Additional information (if any) affecting the compliance of the ship with the provisions of Annex I of the Convention (in the case of a ship constructed in accordance with Annex I):

(b) Additional information (if any) affecting the compliance of the ship with the provisions of Annex II of the Convention (in the case of a ship constructed in accordance with Annex II):

Signature of master or owner: Date:

Schedule 2 Purpose-built pipelines

(Clause 15)

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 (or Ampol) 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 Womeai Reserve 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 (or Ampol) 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 Refining Company Proprietary Limited (or of Ampol Refineries (NSW) Proprietary Limited) 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 (or Ampol) 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 Refining Company Proprietary Limited (or of Ampol Refineries (NSW) Proprietary Limited) 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.

Eden

The pipeline at Eden commencing at the Tanker Mooring Latitude 37 degrees 4.72 minutes south Longitude 149 degrees 54.41 east thence proceeding in a northerly direction for approximately 110 metres thence north easterly for approximately 340 metres to a control valve located within the Mobil Coastal Bulk Plant, Eden, the submarine portion of which is shown on a copy of Naval Chart AUS 191 of Twofold Bay.

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.

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.

3

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.

Schedule 3 Modifications to Marine Orders

(Clause 20)

1 Modifications to Marine Orders, Part 91 (Marine Pollution Prevention--Oil)

The Marine Orders, Part 91 (Marine Pollution Prevention--Oil) are adopted subject to the following modifications:

- (a) Clause 1.1 is omitted.
- (b) The matter "Paragraph 33 (1) (a) of the Pollution Prevention Act" is omitted from clause 1.2 and replaced by the matter "Section 61 of the Act".
- (c) Clause 1.3 is replaced by the following:
 - 1.3 This Part of Marine Orders gives effect to Regulations 13 to 19 (inclusive)

and 22 to 25 (inclusive) of Annex I of MARPOL, and prescribes matters for the purposes of section 10 (10) and Division 2 of Part 5 of the Act.

(d) The words "(or by the Chief Executive Officer of the Waterways Authority constituted under the *Ports Corporatisation and Waterways Management Act 1995*)" are inserted after the words "Ship Inspections," in the definition of **Chief Marine Surveyor** in clause 2.

(e) The definition of **IOPP Certificate** is omitted from clause 2 and replaced by the following definition:

IOPP Certificate means a ship construction certificate referred to in section 39 (4) of the Act.

(f) The definition of **survey authority** is omitted from clause 2 and replaced by the following definition:

survey authority means a corporation or association for the survey of shipping approved for the purposes of the *Marine Pollution Regulation 2001* by any of the following::

- (a) AMSA,
- (b) the Department of Transport and Works of the Northern Territory,
- (c) the Department of Transport of Queensland,
- (d) the Department of Transport of South Australia,
- (e) the Navigation and Survey Authority of Tasmania,
- (f) the Marine Board of Victoria,
- (g) the Department of Transport of Western Australia.

(g) The following definition is inserted in alphabetical order in clause 2:

the Act means the *Marine Pollution Act 1987* .

(h) The definition of **the Pollution Prevention Act** is omitted from clause 2.

(i) Clauses 3.4 and 3.5 are omitted.

(j) The words "Subject to sub-section 33 (2) of the Pollution Prevention Act and sub-section 267 (2) of the Navigation Act, this Part" are omitted from clause 4.1 and replaced by the words "This Part".

(k) Clauses 4.2, 5.2, 6 and 7 are omitted.

(l) The words "of the Commonwealth" are omitted from clause 8.1 and 8.2 wherever occurring and replaced by the words "of New South Wales".

(m) The matter "section 11 of the Pollution Prevention Act, in addition to the meanings set out in subsection 11 (10)" is omitted from clause 8.3 and replaced by the matter "section 10 (10) of the Act, in addition to the meanings set out in that subsection".

(n) Clauses 10.1 and 11 are omitted.

2 Modifications to Marine Orders, Part 93 (Marine Pollution Prevention--Noxious Liquid Substances)

The Marine Orders, Part 93 (Marine Pollution Prevention--Noxious Liquid Substances) is adopted subject to the following modifications:

(a) Clause 1.1 is replaced by the following:

1.1 This Part prescribes matters under the Act for the purposes of giving effect to Annex II of the Convention.

(b) The matter "Paragraph 33 (1) (a) of the Pollution Prevention Act" is omitted from clause 1.2 and replaced by the matter "Section 61 of the Act".

(c) Clause 1.3 is replaced by the following:

1.3 This Part of Marine Orders prescribes matters for the purposes of Division 3 of Part 5 of the Act.

(d) The words "(or by the Chief Executive Officer of the Waterways Authority

constituted under the *Ports Corporatisation and Waterways Management Act 1995*)" are inserted after the words "Ship Inspections," in the definition of **Chief Marine Surveyor** in clause 2.

(e) The definition of **IPP Certificate** is omitted from clause 2 and replaced by the following definition:

IPP Certificate means a chemical tanker construction certificate referred to in section 267Q of the *Navigation Act 1912* of the Commonwealth or section 44 (2) of the Act.

(f) The definition of **survey authority** is omitted from clause 2 and replaced by the following definition:

survey authority means a corporation or association for the survey of shipping approved for the purposes of the *Marine Pollution Regulation 2001* by any of the following:

- (a) AMSA,
- (b) the Department of Transport and Works of the Northern Territory,
- (c) the Department of Transport of Queensland,
- (d) the Department of Transport of South Australia,
- (e) the Navigation and Survey Authority of Tasmania,
- (f) the Marine Board of Victoria,
- (g) the Department of Transport of Western Australia.

(g) The following definition is inserted in alphabetical order in clause 2:

the Act means the *Marine Pollution Act 1987* .

(h) The definition of **the Pollution Prevention Act** is omitted from clause 2.

(i) Clauses 3.4 and 3.5 are omitted.

(j) The words "Subject to sub-section 33 (2) of the Pollution Prevention Act and sub-section 267 (2) of the Navigation Act, this Part" are omitted from clause 4.1 and replaced by the words "This Part".

(k) Clauses 4.2, 5.2, 6 and 7 are omitted.

(l) The words "regulation 5A and regulation 8 of Annex II have the force of law as part of the law of the Commonwealth" are omitted from clause 8.1 and replaced by the words "regulation 5A, regulation 8 and regulation 13 of Annex II have the force of law as part of the law of New South Wales".

(m) Clause 10.1 is replaced by the following:

10.1 Form of certificate For the purposes of section 41 of the Act, the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk appearing in Appendix V of Annex II is the prescribed form.

(n) The matter "section 267S or section 267U of the Navigation Act" is omitted from clause 10.2 and replaced by the matter "section 42 of the Act".

(o) Clause 11 is omitted.

Schedule 4 Standard for treated sewage from vessels

(Clause 22D)

1 Faecal coliform standard

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.

2 Suspended solids standards

- (1) 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.
- (2) 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.

3 Biochemical Oxygen Demand

In addition to the requirements of clauses 1 and 2, 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.

Schedule 5 Holding tanks--capacity and specification requirements

(Clause 22H)

A Class 1 commercial vessel or Class 4 commercial vessel must have 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 $\tilde{\text{A}}$ — 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 $\tilde{\text{A}}$ — 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.

The capacity required for the holding tank of a vessel fitted with an efficient flushing system, being a system that uses less than 1.5 litres per flush, is half of the capacity specified in the previous provisions of this Schedule.

Schedule 6 Holding tanks--further requirements

(Clause 22H)

1 Materials

- (1) Materials in contact with sewage must be 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 poly vinyl chloride without a metal shell.

- (2) The materials of which the holding tank is constructed must be chemically and galvanically compatible.

2 Design and construction

The holding tank must be 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.

3 Tank inlet

The toilet pan must be located as close as practicable to the top of the tank and an inlet connection to the tank must terminate not less than 75 mm inside the tank.

4 Tank outlet

The outlet pipe from the tank must have a minimum nominal bore of 40 mm and be fitted so that not more than 40 mm depth of waste remains in the tank after discharge of the tank contents. The upper end of the outlet pipe must be rigidly attached to the vessel and must be exposed on, or accessible from, the deck of the vessel. The upper end of the outlet pipe must be fitted with the female side of an approved quick coupling device of 40 mm nominal bore. A removable gas-tight cover that is capable of protecting the seal must be positioned over this coupling.

5 Venting

A vent pipe of 38 mm nominal bore must be fitted to the top of the tank and must extend to a point outside the vessel, being a point not less than 300 mm above the level of the toilet seat pan.

6 Flushing water inlet

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

7 Inspection opening

Except where a toilet with a mechanical seal is mounted directly on top of the tank, an accessible inspection opening of 100 mm diameter must be located in the top of the tank and must be fitted with a removable gas-tight cover.

8 Gas tightness

When all removable gas-tight covers are secured in position, the tank and its fittings (except for the vent pipe) must be thoroughly gas-tight under normal operating conditions.

9 Tests

- (1) The holding tank and the connecting piping or tubing (including all fittings) must be 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 holding tank and the connecting piping or tubing (including all fittings) must withstand the following pump-out test:

The tank is to be emptied with a 170 litre per minute positive displacement pump

