



Consultation Feedback Report

Marine Order 47 (Offshore industry units) 2019

The Australian Maritime Safety Authority (AMSA) has repealed *Marine order 47 (Mobile offshore drilling units)* and *Marine order 60 (Floating offshore facilities)*, replacing them with one new document – ***Marine order 47 (Offshore industry units)***.

The reissued *Marine order 47 (Offshore industry units) 2019* has now been made and is available on the AMSA website. The commencement date of the amendment order is 1 November 2019.

The new marine order addresses the following:

- technological and international developments in the offshore sector, including provisions for permanently moored offshore units not contemplated by the *Navigation Act 1912*
- a modern new order under the *Navigation Act 2012*, considering the design and operational synergies between floating offshore facilities and Mobile Offshore Drilling Units (MODUs)
- providing for the approval of alternative survey and inspection programs equivalent to the *International Code on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, 2011* (ESP Code) and providing conditions for acceptance of in-water bottom surveys in lieu of dry docking for offshore industry units.

Consultation feedback

A copy of the draft order was placed on the AMSA website for public comment for four weeks commencing 4 June 2019 and closing on 1 July 2019. It was also emailed to over 160 stakeholders including offshore petroleum and gas proponents, ship operators, seafarer representative organisations, classification societies, shipping industry peak bodies and interested government departments and agencies.

Comments were received from six industry stakeholders addressing the scope or application of the changes being made.

Marine Order 47 - General

<p>Comment</p>	<p>The subtleties in the differences in operation between Marine and Offshore have not been made clear to AMSA over the years. This has actually increased confusion over matters such as non ESP, 'CSH', 'SS/ITSS' schemes that have been running on FPSOs since at least 1998.</p> <p>The NEW MO-47 makes a reference to the 'CSH' scheme and vaguely states that it would be accepted as an alternative to the PBI. This provided a case can be made for equivalence or if not then any associated risks/shortfalls (should be mitigated against by a GAP analysis and RA-Both of which are implied but not specified).</p> <p>The other scheme applicable to fixed and disconnectable FPSOs is the 5 year (non ESP) SS/ITSS scheme as per classification society rules. There are subtle differences here too when comparing with the ship rules. For e.g. when tanker vessels reach the 12.5 year (not sure maybe 15 year mark as per ESP) all subsequent ITSS surveys is equivalent to the previous SS.</p> <p>The new MO-47 does not make clear the ability to run with the older schemes as per classification society rules. We need more clarity from AMSA here about the avenues that exist that allow us to carry on with the existing rules.</p> <p>If on the other hand it appears AMSA are making the point that the current and future requirements will only be based on PBI. Then they must allow a transition time for the existing arrangements/survey schemes in place? The lack of clarity here is confusing owner/operators.</p> <p>One party has taken the position that ESP is applicable to all their FPSOs whether fixed or disconnectable and this position they took back in 2000 or so.</p>
<p>AMSA's comments</p>	<p>Thank you for your comments.</p> <p>The draft Marine Order referred to CSH as an alternative survey arrangement for MODUs, in accordance with the 2009 MODU Code. This section has been amended for clarity.</p> <p>For vessels other than MODUs, an equivalent survey arrangement may be a performance-based inspection regime (PBI), an existing hull survey programme approved by AMSA, an inspection regime incorporating elements of PBI, continuous hull survey (CSH), ESP, or any combination thereof, taking into account the operational nature of the unit. AMSA must be satisfied that any equivalent arrangement satisfies the statutory bottom inspection provisions of SOLAS and the ESP Code, where applicable.</p> <p>In addition, AMSA has no objection to Classification Society Rules being applied to maintain class, in parallel with arrangements to meet statutory obligations.</p> <p>Further details will be available in the supporting guidance material developed for the new Marine Order.</p>
<p>Comment</p>	<p>AMSA should allow for a grandfather clause, for up to five years, for operators with existing arrangements and survey schemes in place to make the required changes to avoid immediate non-compliance.</p>

AMSA's response	The new Marine Order does not impose any additional burden, or amend any existing arrangements with AMSA, therefore AMSA considers that neither a transitional period nor grandfathering arrangements are necessary. If operators are fearful that they will be non-compliant when the Order comes into effect, AMSA invites those concerned about their status to engage with our Operations team.
Comment	AMSA should allow for a one year transition period be provided to aid the transition to the new Marine Order 47 and minimise the risk of operators becoming non-compliant from the current implementation date for the Order of 1st of October 2019.
AMSA's response	The new Marine Order does not impose any additional burden, or amend any existing arrangements with AMSA, therefore AMSA considers that neither a transitional period nor grandfathering arrangements are necessary. If operators are fearful that they will be non-compliant when the Order comes into effect, AMSA invites those concerned about their status to engage with our Operations team.
Comment	The submitter requests that AMSA develop, in consultation with the petroleum industry, guidance on the provisions within Marine Order 47 that apply to non-disconnectable units.
AMSA's response	Guidance material will be available with the new Order to expand upon its intent.
Comment	A more co-ordinated and holistic approach between DIIS and AMSA to consultation, specifically as it relates to the application of the Navigation Act to offshore petroleum activities is strongly recommended by industry.
AMSA's response	AMSA has reviewed and reinstated its Memorandum of Understanding with NOPSEMA, and participates in the Department of Industry's Safety Stakeholder Group, currently addressing amendments to the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations</i> . AMSA has also engaged with the DIIS regarding the new Marine Order.
Comment	Operators should have the ability to choose the optimal integrity management schemes (i.e. PBI, ESP, CSH, SS/ITSS, RBI, etc.) for the operation of FPSOs, FSOs, FSU, fixed or disconnectable, providing that the selected scheme meets the intent of the regulatory requirements as far as possible.
AMSA's response	AMSA acknowledges that operators desire a degree of flexibility in selecting the appropriate management scheme for their facilities. The Marine Order implements that flexibility, through giving effect to IMO guidelines that allow AMSA to consider alternative survey and inspection arrangements. AMSA has no objection to Classification Society Rules being applied to maintain class, in parallel with arrangements to meet statutory obligations. In this regard, AMSA's preference is for performance-based inspection programmes. These may be an existing hull survey programme approved by AMSA, an inspection programme incorporating elements of PBI, CSH, ESP or any combination thereof, taking into account the operational nature of the unit. Any such equivalent arrangement is developed by the owner, in conjunction with the RO, but must satisfy AMSA that the survey provisions of SOLAS and the ESP Code, where applicable, are met.

Comment	AMSA should consider foreign flagged FPSOs, FSOs and FSUs may not be classed as oil tankers, hence ESP notation may not apply.
AMSA's response	In relation to ship types on safety certificates, please refer to the Annex to MEPC.139(53). A SOLAS Safety Certificate issued to a disconnectable FPSO is for an oil tanker. Regulation 6 of MEPC.139(53) clearly states that surveys of FPSOs and FSUs should be conducted to the standard specified for <i>oil tankers</i> . Further, in order for a SOLAS Safety Construction Certificate to be endorsed, the surveyor must attest to the survey having shown that the ship complied with the relevant requirements. In that regard, the SAFCON Certificate can only be endorsed as 'oil tanker'. 'Cargo ship other than any of the above' is only valid for an IOPP Certificate, as per Regulation 9 of MEPC.139(53).
Comment	What is intended to be an Offshore Industry Unit for the purposes of the Marine Order? With reference to section 6 of the Marine Order, could AMSA please confirm that the Marine Order will not apply to Offshore Industry Units at the times they are considered to be 'OPGGSA facilities'?
AMSA's response	With regard to which vessels are considered Offshore Industry Units, AMSA has referenced the <i>Offshore Petroleum and Greenhouse Gas Storage Act</i> and specifically, subclause 4(1) and 4(5A) to Schedule 3. The <i>Note</i> at section 6 – Application - has been amended to clarify that MO47 does not apply whilst vessels are 'facilities'.
Comment	The submitter suggests that AMSA considers whether examples of Offshore Industry Units are inserted in the Marine Order for further clarity (e.g. disconnectable FPSOs, permanently moored FPSOs, MODUs, etc.) and when the Marine Order will apply to them (e.g. in respect of a permanently moored FPSO, the Marine Order will only apply when the vessel is under a planned tow to and from the field for decommissioning or major upgrades).
AMSA's response	In the interest of avoiding lengthy Marine Orders and duplication of legislation, examples within the body of the Order are kept to a minimum. Notes have been expanded upon and further detail provided in supporting guidance material to the Order.
Comment	What types of vessels are intended to be covered by SOLAS certificates and which are intended to be covered by non-SOLAS certificates? Does AMSA intend that there be flexibility under the Marine Order as to which certification approach is taken for certain vessels?
AMSA's response	Self-propelled vessels are SOLAS vessels when they are disconnected. Non self-propelled vessels are non-SOLAS vessels when they are disconnected. AMSA has built a degree of flexibility into the Order, to the extent that SOLAS allows for this. AMSA will not approve any arrangements that contravene SOLAS.
Comment	The submitter suggests that AMSA considers whether examples of vessels that will be covered by the SOLAS and non-SOLAS certificate process are inserted in the Marine Order for further clarity, including in respect of disconnectable FPSOs and permanently moored FPSOs. As an example, is it AMSA's intent that disconnectable FPSOs not be treated as ship type 'oil tankers;' and therefore their certification is to reflect ship type 'cargo ship other'?

AMSA's response	In relation to ship types on safety certificates, the Annex to resolution MEPC.139(53) refers. A SOLAS Safety Certificate issued to a disconnectable FPSO is for an oil tanker. Regulation 6 of MEPC.139(53) clearly states that surveys of FPSOs and FSUs should be conducted to the standard specified for <i>oil tankers</i> . Further, in order for a SOLAS Safety Construction Certificate to be endorsed, the surveyor must attest to the survey having shown that the ship complied with the relevant requirements. In that regard, the SAFCON Certificate can only be endorsed as 'oil tanker'. 'Cargo ship other than any of the above' is only valid for an IOPP Certificate, as per Regulation 9 of MEPC.139(53).
Comment	Is it AMSA's intent that the safety certificates contemplated by the Marine Order are only to be held by owners/operators of Offshore Industry Units at times they are not an OPGGSA facility?
AMSA's response	Typically, safety certificates issued under the Navigation Act are converted to documents of compliance by a vessel's recognised organisation when they transition to facilities. It is AMSA's intent that this process remain the same, bearing in mind that should a vessel have to disconnect, it shall be in a fit state, such that safety certificates can be reissued for the voyage.
Comment	Is it AMSA's intent that the other requirements of the Marine Order (e.g. Division 4 notification and reporting and Division 5 in-water inspection) also only apply to Offshore Industry Units at times they are not an OPGGSA facility?
AMSA's response	With regard to reporting requirements, for fixed Australian facilities, AMSA expects its appointed RO's to monitor and report compliance with MARPOL under the POTS Act, which is not disapplied by the OPGGS Act. For detachable assets, likewise, the RO agreement applies for Australian vessels. Foreign-flagged vessels are expected to comply with the statutory certificates issued by their Administration. In the event of a foreign-flagged vessel detaching, AMSA could use its direction powers under the Navigation Act to impose a Port State Control inspection.
Comment	Does AMSA intend that there be any differences in application of the Marine Order to disconnectable as opposed to permanently moored vessels?
AMSA's response	The Marine Order applies to disconnectable and permanently moored vessels when they are not facilities. Whether they are self-propelled or non-self-propelled will determine their treatment under the Order when disconnected.
Comment	<ol style="list-style-type: none"> 1. Ship Type used Safety Certificates for FPSOs (permanently moored or disconnectable) - to be clearly articulated that FPSOs are categorized under Ship Type as Cargo Ship Other. This will be applicable to both SOLAS and non-SOLAs certification. 2. Lifeboat Launching compliance (SOLAS requirement versus NOPSEMA requirements) - this will be addressed basis non-SOLAS vessel, therefore getting exemptions specific to permanently moored and disconnectable FPSOs? 3. PAGA Alarms in compliance with offshore oil and gas requirements and SOLAS can cause confusion (safety risk). Will this be clarified under non-SOLAS certification where exemptions may be issued to disconnectable FPSOs?

	<ol style="list-style-type: none"> 4. MLC (Maritime Labour Convention) compliance for FPSOs will only be applicable for a SOLAS vessel and hence not applicable for a disconnectable FPSO under the non-SOLAS certification. 5. All personnel on FPSOs treated as Seafarers, Flag State medicals, STCW watch keeping and Work/rest hours - this will not be applicable basis for permanently moored FPSO and/or disconnectable FPSO is issued non-SOLAS certification. 6. Minimum trained lifeboat crewmen will no longer be a requirement for permanently moored/disconnectable FPSOs, basis of them being categorized under non-SOLAS certification. 7. Medical as per STCW for all FPSO personnel, will not be applicable for permanently moored FPSO if certified as non-SOLAS vessel. 8. STCW training for FPSO personnel with respect to safety and emergency response, will not be applicable for permanently moored FPSO if certified as non-SOLAS vessel. 9. Carriage of Special Personnel (Contractors) will not be applicable for permanently moored FPSOs if certified as non-SOLAS vessel. 10. Bridge Visibility/Position of Compass Repeaters, will not be applicable for permanently moored FPSO if certified as non-SOLAS vessel.
AMSA's response	<ol style="list-style-type: none"> 1. A SOLAS Safety Certificate issued to a disconnectable FPSO is for an oil tanker. Regulation 6 of MEPC.139(53) clearly states that surveys of FPSOs and FSUs should be conducted to the standard specified for <i>oil tankers</i>. 'Cargo ship other than any of the above' is only valid for an IOPP Certificate, as per Regulation 9 of MEPC.139(53). 2. There is some flexibility in AMSA's approach to this topic. It may be possible to use MODU Code stipulations in lieu of cargo ship requirements. 3. PAGA alarms will be considered on a case-by-case basis. 4. The MLC is not only applicable to SOLAS vessels. For MLC definition of 'ship' – <i>a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply</i>. Further - <i>'Except as expressly provided otherwise, the Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or similar pursuits and ships of traditional build such as dhows and junks.'</i> 5. Self-propelled disconnectable vessels require full SOLAS and STCW. 6. Disconnectable requires trained lifeboat personnel. For such a safety critical task, AMSA suggests it would be prudent to also have trained personnel for permanently moored facilities as a requirement of your safety case. 7. For permanently moored facilities, requirements are as per the safety case. 8. For towed voyages, maritime personnel will be fully STCW trained and certificated. There shall be a bridging document linking the SMS of the towing contractor to that of the operator. Operating personnel must be inducted to the vessel and trained for safety and emergency response in accordance with the safety management system/safety case.

	<p>9. For permanently moored facilities, requirements are as per the safety case. Arrangements as above for personnel on board during towed voyages.</p> <p>10. Only if the FPSO is a barge and non-navigable.</p>
<p>Comment</p>	<p>The Marine Order concerns changes to the safety regulation of Floating Production and Storage and Offloading (FPSO) vessels and Floating Storage and Offloading (FSO) vessels, which have the capacity to store billions of barrels of crude oil off the coast of some of Australia’s most pristine coastlines. It also concerns safety regulation for Mobile Offshore Drilling Units (MODUs), which drill for oil beneath the seafloor. Australia’s worst oil spill to date involved a Mobile Offshore Drilling Unit, the West Atlas, which was involved in the drilling of the Montara oil field. Oil spills involved in drilling oil are particularly catastrophic as they open a direct passage from subsea oil fields to the sea, and are very difficult to stop.</p> <p>The Australian oil and gas industry is substantial. They report that they paid \$4 billion in taxes in 2016-17 and made \$40 billion in exports in 2017-18, according to the industry peak body the Australian Petroleum Production & Exploration Association (APPEA).¹ The combination of high risk and high revenue means that the industry should be held to the highest standards of safety.</p> <p>In this context, the submitter has serious concerns with the draft Marine Order 47 (Offshore Industry Units) 2019. AMSA has taken two Marine Orders (47- Mobile Offshore Drilling Units and 60 -Floating Offshore facilities) which provide for matters relating to the certification, safe operation, and safe navigation of such facilities, and is proposing to replace them with one document which is solely focused on the certification and administration of Offshore Industry Units. We are concerned that:</p> <ul style="list-style-type: none"> • The Marine Order has been stripped of operational safety standards to requirements that are only administrative in nature. • The Marine Order has been stripped of any penalty for operators. • There is no requirement for AMSA to inspect international flag offshore units operating in Australian waters. • There are no transparent requirements for units to have the necessary marine crew on board to ensure safe operation of vessels when they are disconnected from the seafloor. <p>The proposed Marine Order does allow for in-water surveys of the hulls of oil storage facilities to be carried out instead of drydocking, which will be a considerable cost saving for operators. However, there is no accompanying risk assessment to justify this change, or explanation of why it is necessary. The consequences of poor hull maintenance for FPSOs is considerable, as they store very large quantities of oil (Table 1).</p> <p>MO47 should not come into effect until a full risk assessment and rationale of the need to remove the requirement to inspect the hulls of FPSOs and FSOs in drydock is published and subject to public scrutiny.</p>

AMSA's response	<p>The acceptance of risk-based or performance-based inspection regimes for floating offshore facilities is widely accepted internationally. These inspection and survey programmes are subject to rigorous scrutiny by regulators and classification societies, and in Australia's case, will not be approved by AMSA unless we are satisfied that they meet, as a minimum, the requirements of the Enhanced Survey Programme (ESP Code) for bulk carriers and oil tankers – the highest industry standard available. A PBI may actually impose more stringent requirements on the operator, as any adverse outcome resulting from an inspection triggers not only increased inspection activity and proof of rectification measures, but a Condition of Class to be noted against the vessel under Classification Society Rules as well. There are strict conditions attached to any approved alternative inspection programme, including clear guidance that the approval will be revoked, and full survey requirements imposed, for non-compliance.</p>
Comment	<p>Removal of operational requirements</p> <p>The following sections on operational safety are proposed to be removed from the current Marine Orders, with no equivalent in the proposed MO47 (2019). They are specific safety requirements for these specific types of vessel:</p> <ul style="list-style-type: none"> • Section 13, Personnel, and associated Schedule 1 from MO47, and associated penalty • Section 9, Safe Manning from MO60 • Section 15, Storage of gas cylinders from MO47, and associated penalty • Section 10, Operational Matters, from MO60 and Section 21, Transfer of material, appliances or persons, from MO47, and associated penalties • Section 17, Muster List, from MO 47, and associated penalties • Section 18, Emergency Drills, from MO 47, and associated penalties • Section 19, Emergency training, from MO47, and associated penalties • Section 22 Helicopter arrivals and departures, from MO47, and associated penalty <p>AMSA officials have told us that operational requirements must be removed from Marine Orders as the provision to make regulations about the 'safe navigation and operation' of ships, which was included in the Navigation Act 1912 (s.425 (1)db), no longer exists in the Navigation Act 2012 (s.339) powers with regards to Marine Orders (the relevant sections are in Appendix 1).</p> <p>It is absurd that this provision has been removed, and the Navigation Act should be amended to have it reinstated. We sincerely hope that AMSA is recommending such an amendment to government. Without this provision in the Navigation Act, AMSA is effectively hamstrung in carrying out the objectives of both the Australian Maritime Safety Authority Act 1990 and the Navigation Act 2012, which are to promote maritime safety and the protection of the marine environment.</p> <p>Despite the removal of the provision to make regulations about the 'safe navigation and operation' of ships being removed, many other regulatory powers remain in s.339. AMSA seems to be taking a very narrow view of the powers available to it. AMSA does have the power to make regulations regarding the operation of machinery and equipment, manning, seafarer</p>

	<p>certification, training and drills, yet it seems to be deliberately ignoring these powers, and instead is seeking to remove every requirement that is not administrative in nature.</p> <p>Marine Order 47 and Marine Order 60 list specific penalties for contravention of a requirement in the Order. The draft MO47 (2019) does not include a single penalty. This has a substantial impact on the ability of the regulator to enforce these measures, and the crew to insist that specific measures are taken to ensure safety, with direct penalties for noncompliance. It also sends a strong message to operators about the consequences of noncompliance.</p> <p>Marine Order 47 (2019) should not come into effect until the safety and operational requirements from the current marine orders are included in the new draft.</p> <p>AMSA must recommend to the government that the Navigation Act 2012 regulation making powers that govern Marine Orders (s.339) should be urgently amended to restore the provision to make regulations about the 'safe navigation and operation' of ships, which was included in the equivalent section of the Navigation Act 1912 (s.425 (1)db).</p>
<p>AMSA's response</p>	<p>Section 425(1)(db) of the <i>Navigation Act 1912</i> was inserted by the <i>Transport and Communications Legislation Amendment Act (No.2) 1989</i>. The Explanatory Memorandum for the amending Act explains that the regulation making power was added to facilitate new arrangements for the Marine Council. The Marine Council was the old disciplinary and approval body.</p> <p>However, the Marine Council no longer exists and the <i>Navigation Act 2012</i> makes no reference to any equivalent body. Further, the <i>Navigation Act 2012</i> has provisions that themselves deal with, or support the making of regulations dealing with, "the safe navigation and operation of ships". We therefore assume that, during the drafting of the <i>Navigation Act 2012</i>, a decision was taken that a separate and specific regulation-making power in the same terms as section 425(1)(db) was no longer required. This assumption is supported by the fact that, throughout the drafting process, there was a holding note to ensure that the powers in old sections 425(1)(a-g) were reflected in the sections of the new Act that dealt with those matters. By version 63 of the draft legislation, the note had been removed.</p> <p>Safe operations are now regulated through the ISM Code and <i>Marine Order 58</i>, mandating the requirement for safety management systems (and in the case of offshore industry units, a safety case). <i>Marine Order 58</i> is supported by a number of regulation-making powers, including section 340(1)(a) of the <i>Navigation Act 2012</i> which provides that regulations may be made to give effect to SOLAS. Chapter IX of SOLAS requires compliance with the ISM Code. Therefore, AMSA does retain the ability to enforce safe operations through these mechanisms. If operational experience and feedback from stakeholders identifies a gap in power or the Marine Orders, AMSA is happy to work with industry in considering alternative means of addressing the problem.</p> <p>With reference to penalty provisions, for <i>Marine Order 47</i> AMSA will rely on its powers to revoke certificates under section 102 of the Navigation Act until such a time as we build any history of non-compliance with the Order. If that is the trend we can amend the Order to criminalise any contravention by introducing penalties. In the meantime, offences against the other Marine</p>

	<p>Orders that apply remain prosecutable to the extent defined in those Orders. To avoid duplication in legislation, we have not reproduced the penalty provisions within those Orders in <i>Marine Order 47</i>.</p>
Comment	<p>Minimum Safe Manning</p> <p>FPSOs, FSOs and MODUs operate in remote locations and are not subject to inspection by AMSA unless they go into ports, which they rarely do. Thus it is critical that the requirements for marine crew are robust and transparent for all crew working on the vessel. The nature of the vessel's operations means that the Navigation Act will come into force when the unit detaches from the seabed and comes into the Navigation Act jurisdiction, while at sea and likely far off the coast. Therefore, a Minimum Safe Manning Document MUST be issued for the vessel, be available in a public place on board the vessel, and be in force at all times when the Navigation Act and Marine Order 47 applies to the vessel.</p> <p>In addition to the requirement for a MSMD, the Marine Order should be amended to ensure that both Marine crew and special personnel are appropriately trained and qualified, as follows:</p> <p>“Offshore Industry Units are to be manned at all times in accordance with the guidelines and principles in Resolution A. 1047(27) ‘Principles of minimum safe manning’, and Resolution A.1079(28) ‘Recommendations for the Training and Certification of Personnel on Mobile Offshore Units (MOUs)’.”</p> <p>Minimum Safe Manning Documents must be issued for Offshore Industry Units, be available in a public place on board the vessel, and be in force at all times when the Navigation Act and Marine Order 47 applies to the vessel. The Marine Order must require that Offshore Industry Units are to be manned at all times in accordance with the guidelines and principles in Resolution A. 1047(27) ‘Principles of minimum safe manning’, and Resolution A.1079(28) ‘Recommendations for the Training and Certification of Personnel on Mobile Offshore Units (MOUs)’.</p>
AMSA's response	<p>We acknowledge your concerns regarding safe manning of offshore units. The manning requirements within <i>Marine Order 21</i> apply to offshore units during voyages, as with all other vessels subject to the <i>Navigation Act 2012</i>. This has been clarified in the supporting material that will accompany MO47 on release, which references the IMO guidelines that you have quoted.</p>
Comment	<p>Inspection of Offshore Industry Units</p> <p>This Marine Order applies to Australian-flag Offshore Industry Units, as well as international-flag units operating in the Australian EEZ.</p> <p>However, the submitter is concerned that AMSA does not carry out inspections of international-flag offshore industry units unless they visit an Australian port, which they are unlikely to do. While Australian flag units are covered by AMSA's flag state responsibilities and standards, AMSA should be making more effort to carry out its Port State Control responsibilities. This is of particular concern for international flag units travelling to work in Australian waters, who may never be inspected by AMSA.</p> <p>It is extraordinary that an industry with the level of revenue and taxation of the offshore oil and gas industry can operate large international flag maritime production units in Australian waters without being inspected by AMSA.</p>

	All international flag Offshore Industry Units operating in Australian waters should be required to be inspected by AMSA on arrival and at least every five years after.
AMSA's response	The authority to conduct inspections on foreign vessels is provided by section 257 of the <i>Navigation Act 2012</i> , section 27(1) of the <i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i> and <i>MARPOL 73/78</i> Article 6. The <i>Navigation Act 2012</i> , however, does not permit Port State Control inspections of foreign vessels beyond the territorial sea. AMSA retains the power to board a foreign vessel out to the EEZ under the POTS Act, should there be a POTS-related complaint or a risk of pollution. However, should the inspector notice a SOLAS-related issue whilst on board, they are restricted to notifying the vessel's flag State for action. In the case of a disconnectable facility leaving the riser within the EEZ, AMSA may use its direction powers to direct that vessel into port for a Port State Control inspection where pollution concerns are warranted. AMSA has renewed the Memorandum of Understanding with NOPSEMA and although the joint inspections provision has been removed, the information-sharing agreements have been bolstered. NOPSEMA does confer with AMSA on these matters.
Comment	<p>Consultation</p> <p>In preparing the draft Marine Order 47, AMSA has mainly consulted with operators and employers, who have a substantial interest in influencing AMSA to reduce their costs. These aims seem to have been achieved, with significant savings potential in the removal of the requirement for out of water surveys, and removal of the ability of the regulator to issue penalties for contravention of the Marine Order.</p> <p>We understand that AMSA has consulted the oil and gas industry employer bodies Safer Together and Marine Safe at meetings some time ago, perhaps in 2018. We note that Safer Together Marine Working Group includes a permanent AMSA liaison. In contrast, representatives of workers on Offshore Industry Units were not consulted until the proposed Marine Order was fully drafted and sent out for public consultation in early June 2019.</p> <p>AMSA should develop better structures for consulting with the maritime workforce.</p>
AMSA's response	AMSA engages with a wide variety of stakeholders and is constantly seeking better and more effective ways of reaching out to key players. As part of this engagement, AMSA attends a number of peak body meetings and fora. Often by invitation, these meetings are a means of keeping industry informed of AMSA's activities and broader initiatives at the IMO. One example of that liaison is attendance at the Safer Together forums. In August 2018, the Safety Together forum was advised that the long-awaited review of Marine Order 47 and 60 would commence. AMSA did not receive any instructions, advice or requests in regard to the content or format of the Order from industry representatives and they played no part in its drafting. All stakeholders were exposed to the initial draft of the Marine Order at the commencement of the external consultation period.

Comment	<p>Safety Case</p> <p>When Offshore Industry Units are attached to the seafloor they move from the jurisdiction of the Navigation Act to the Offshore Petroleum and Greenhouse Gas Storage Act. Under the OPGGS Act, units are required to have a comprehensive Safety Case, which are briefly referenced in the current MO 60.</p> <p>For many of the vessels covered by this Marine Order, the safety case is the main document outlining safety procedures. Although it exists under the OPGGS Act, it covers many processes relevant to the marine operation of the vessel. It should be referred to in the Marine Order.</p>
AMSA's response	<p>We acknowledge your comments in relation to the lack of a reference to the safety case in the draft Marine Order. As AMSA's jurisdiction of offshore industry units only covers the transit to location and any subsequent voyages, the safety case definition is no longer required. We have, however, made reference to the safety case in the supporting guidance material.</p>
Comment	<p>Notification of Planned Tows</p> <p>We note that the draft Marine Order 31 (SOLAS and vessel safety certification) 2019 also has a section on Notification of Planned tows. We request that the sections be amended to more closely reflect each other so that the intent that the owner or master must "implement arrangements for a safe towage operation" is unmistakable.</p>
AMSA's response	<p>Your recommendation that this section be amended to reflect the requirements within Marine Order 31 has been actioned.</p>
Comment	<p>Lifeboats</p> <p>One positive change in the Marine Order that may lead to improved safety, is perversely, removing the requirement for lifeboats and rescue boats to be launched and manoeuvred on the water. These craft are notoriously dangerous and have led to many fatalities worldwide. However, AMSA already has the power to exempt vessels from this requirement and to facilitate alternative arrangements for maintenance and testing if it is deemed to be unsafe.</p>
AMSA's response	<p>AMSA will continue to work with operators and maritime regulators globally to achieve greater safety outcomes in the use and maintenance of lifeboats.</p>

Section 4 – Definitions

Comment	<p>A definition of Risk Based Inspections (RBI) regimes that include continuous hull survey programs in place on a unit should be included.</p>
AMSA's response	<p>Additional information has been included at the existing note under section 7, and further detail provided in supporting guidance material.</p>
Comment	<p>Offshore Industry Unit should include examples of FPSOs, FSOs and FLNG vessels and be looked at as a "Facility" as they would come under a safety case regime when on location.</p>

AMSA's response	With a view to avoiding lengthy Marine Orders and duplication, examples within the body of the Order have been avoided. Further details have been included in supporting guidance material.
Comment	Section (b) of the definition is confusing as it would assume this is for an "in class vessel" under the ESP Code. Should also provide guidance for these units which have "Other vessels or Tanker" on their class certification when they are utilised as a fixed floating asset.
AMSA's response	Your comments have been noted and this section amended. Information pertaining to ship type for certification purposes is included in supporting guidance material.
Comment	The submitter suggests that AMSA provide guidance with regards to the application of the ESP Code as to whether the Marine Order 47 applies to FPSOs or otherwise.
AMSA's Response	Further detail regarding the requirement for disconnectable FPSOs and FSUs to comply with the survey requirements of the ESP Code have been provided in supporting guidance material.
Comment	What type of vessels does the ESP Code apply to, for which the submitter understands the proposed Marine Order will not apply? The submitter understands that the ESP Code applies to ship type 'oil tankers' and therefore disconnectable FPSOs would need to be certified as ship type 'cargo ship other' for the Marine Order to apply to them (given the definition of Offshore Industry Unit' excludes vessels to which the ESP Code applies).
AMSA's response	The definition of <i>offshore industry unit</i> has been amended for clarity. The ESP Code applies to bulk carriers and oil tankers. In accordance with IMO guidelines MEPC.139(53), disconnectable FPSOs and FSUs are to comply with the survey standards for oil tankers when disconnected and shall be certified as oil tankers. Ship type 'cargo ship other' is only applicable to IOPP certificates.
Comment	In respect of the Survey Guidelines under the Harmonised System of Survey and Certification, the Note 1 refers to passenger vessels. Could AMSA please explain its applicability to passenger vessels and the reasons for this?
AMSA's response	Accommodation vessels are treated as passenger vessels. Self-propelled accommodation vessels require a SOLAS Passenger Ship Safety Certificate. Non-self-propelled vessels require a Certificate of survey for a Passenger Ship, Class 1A.

Section 5 – Interpretation

Comment	Section 5(1)(a) has a repetition of the line and should read " <i>MODU Code that applies to SOLAS; and</i> "
AMSA's Response	Your comment has been noted and this section amended.

Section 6 - Application

Comment	At section 6 a clear statement is requested for when a vessel which is deemed a facility under a Safety Case would be exempt from this Marine Order.
AMSA's Response	This section has been amended to clarify that the Order does not apply once a vessel becomes a facility.

Section 7 - Equivalentents

Comment	At section 7, in reference to part (3) for a vessel other than a MODU there should be a third example indicating if a program in place to verify and validate structural integrity as below would be acceptable: i) a RBI protocol if not in Class as allowance for complying with a NOPSEMA safety case; ii) existing hull survey programs; iii) an inspection regime which is acceptable to AMSA based on the operational nature of the offshore facility.
AMSA's Response	Your suggestion has been addressed in the expanded notes to this section and supporting guidance material.
Comment	At section 7(1) <i>The owner of a regulated Australian vessel may apply to AMSA for approval of the use of an equivalent in accordance with Marine Order 1.</i> The submitter requests clarification and explanation on how the above section of the Marine Order is to be managed for a foreign vessel.
AMSA's response	Any equivalent arrangements available to foreign vessels are a matter for their flag State.

Division 2 – Certificates issued under the Navigation Act

Comment	At section 2, not sure why are there references to Passenger Ship Safety Certificate as I understood this MO to be covering only Offshore Industry Units. Where do MOUs (non-drilling) fit in? Are they considered as MODU's or Offshore Industry Unit?
AMSA's Response	For the purposes of <i>Marine Order 47</i> and the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> , accommodation vessels (floatels) are considered offshore industry units. Self-propelled accommodation vessels will require a SOLAS Passenger Ship Safety Certificate. Non-self-propelled accommodation vessels will require a Certificate of Survey for a Passenger Vessel Class 1A. Non-drilling MODUs (mobile offshore units) will be assessed on a case-by-case basis, depending on hull form. For example, for ship-shaped hulls and derivatives AMSA considers that conventional structural design rules for ships would apply. For semi-submersible type layouts, for structural design, stability, etc. it might be appropriate to apply MODU criteria on an equivalence basis to some areas and appropriate aspects of SOLAS as necessary. Such a vessel could have SOLAS or MODU (without the drilling aspects) safety certificates. Non-self-propelled MOUs would be considered non-SOLAS vessels, with a similar approach taken re. ship-shaped versus semi-submersible, but taking into account the missing main propulsion installation.

Section 8 – Certificates required

Comment	At section 8(1) I am not very clear which bucket covers non self-propelled FPIs since SOLAS will not be technically applicable in such cases.
AMSA's Response	Non self-propelled vessels are considered as non-SOLAS vessels.
Comment	At section 8, the submitter queries whether the intent of the Marine Order is that: 1. A permanently moored FPSO can be categorized as a non-SOLAS vessel, thus in compliance with the Marine Order, which includes certification being valid for the tow/relocation of the FPSO? 2. A disconnectable FPSO can either be a SOLAS vessel or a non-SOLAS vessel, thus in compliance with the Marine Order, with the option being available to the owner/operator of the vessel?
AMSA's response	1. A permanently moored FPSO that is not self-propelled can be categorised as a non-SOLAS vessel. 2. A disconnectable FPSO that is self-propelled is a SOLAS vessel when disconnected. A non-self-propelled FPSO is a non-SOLAS vessel when disconnected.

Section 10 - Criteria for issue of MODU safety certificates

Comment	Sections 10(b), 15(b) and 21(c) - With reference to the criteria for safety certificates in sections 10(b), 15(b) and 21(c) of the Marine Order, could AMSA please clarify whether these criteria must be met each time a certificate is applied for (i.e. are mandatory criteria) or are they intended to only be applicable 'if the vessel has an arrangement with a classification society for survey'?
AMSA's Response	AMSA confirms that yes, the criteria must be met each time. Otherwise, AMSA cannot issue the certificate.

Section 11 – Conditions on MODU certificates

Comment	Section 11(b) refers to 'certificate endorsement following the completion of inspection of the outside of the bottom. However, it should be noted that this provision does not exist for 1979 and 1989 Code Certificates.
AMSA's Response	Your comment has been noted and we will consider an amendment to this clause.
Comment	Section 11(d) mandates that 'the vessel complies with Chapter 14 of the 2009 MODU Code whether or not that Code applies to the vessel'. Not sure what is the intent of this. Does this apply retroactively to units currently holding 1979 and 1989 Code Certificates? We will also have an issue with customizing the MODU Code survey checklist for units complying with 1979 or 1989 Codes.
AMSA's response	Chapter 14 of the 2009 MODU Code refers to MODU operations. Much of the original MO47 replicated text directly from Chapter 14 of the MODU Code and to avoid this duplication, has been removed from the new Order. Chapter 14 is common to the 1979, 1989 and 2009 versions of the Code.

Comment	Section 11(e) appears to require any change to the structure, equipment, fittings, arrangements or material other than the direct replacement of equipment or fittings, to be approved by AMSA. Does this mean that all modification drawings are to be additionally approved by AMSA? If so, the details of this need to be worked out – who (RO or owner) submits to AMSA and at what stage (after RO review is completed or concurrently with RO review).
AMSA's response	The text in this section of the Order has been amended to clarify that changes approved by a recognised organisation do not need to be approved again by AMSA. In other words, the same system as currently applies, still applies.

Section 17 – Endorsements of SOLAS certificates

Comment	At section 17, the submitter suggested an extra note is needed to show "that fixed floating assets which comply with a Safety Case Regime under the OPGGS Act would meet the intent of SOLAS whilst on location" for safety equipment utilized on board.
AMSA's Response	AMSA has no visibility of safety cases so there is no way for AMSA to determine that SOLAS requirements are being met whilst facilities are on location. In addition, permanently moored vessels have no obligation to apply SOLAS.

Section 21 – Criteria for non-SOLAS certificates

Comment	At section 21(d) <i>'if the vessel has fitted a fixed diving system constructed after 23 November 1995 - the vessel has a diving safety certificate issued by a recognised organisation in accordance with the Code of Safety for Diving Systems'</i> The submitter seeks clarification and guidance from AMSA on the above section, and whether it is a part of the Marine Order 50, including the reason for providing a reference to diving systems.
AMSA's response	Diving systems are included for those facilities that have fixed diving systems fitted.
Comment	In sections 21-26, the MO has references to non-SOLAS certificates. Not sure which type of units fall in this category.
AMSA's response	Non self-propelled vessels are considered as non-SOLAS vessels.

Section 24 – Duration of non-SOLAS certificates

Comment	At section 24(e) - the submitter requests clarification on what AMSA considers to be a 'Passenger Vessel' and examples.
AMSA's response	Accommodation vessels are considered passenger vessels.

Section 27 – Foreign vessels

Comment	At section 27, the submitter suggested an extra note is needed to show "that fixed floating assets which comply with a Safety Case Regime under the OPGSS Act would meet the intent of SOLAS whilst on location" for safety equipment utilized on board."
AMSA's Response	AMSA has no visibility of safety cases so there is no way for AMSA to determine that SOLAS requirements are being met whilst facilities are on location. In addition, permanently moored vessels have no obligation to apply SOLAS.

Section 30 – Reporting of defects on a regulation Australian vessel

Comment	At section 30, could AMSA please provide some guidance as to what will be considered a 'defect' for the purposes of section 30 of the Marine Order?
AMSA's Response	The Marine Order points to Regulation 11(c) of Chapter I of SOLAS, where a defect is something that affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment.

Section 31 – Approval of in-water inspections

Comment	Section 31(a) requires owner to apply for UWILD. Currently RO approaches AMSA for the UWILD authorization along with Class Recommendations. Please confirm that Owners will now be required to apply for UWILD directly to AMSA.
AMSA's Response	A note has been added to this section to clarify that an application should be developed by the owner in conjunction with the issuing body.
Comment	At section 31, add point 5 for Offshore Industry Unit which is a facility conducting in-water inspections in lieu of drydocking and with a valid Safety Case would meet the intent of SOLAS.
AMSA's response	AMSA has no visibility of safety cases so there is no way for AMSA to determine that SOLAS requirements are being met whilst facilities are on location. In addition, permanently moored vessels have no obligation to apply SOLAS.