



Australian Government
Australian Maritime Safety Authority

Marine Order 44 (Safe containers) 2002

in effect under the *Navigation Act 2012*

This is a compilation of *Marine Order 44 (Safe containers) 2002*, prepared on 5 June 2013, taking into account amendments up to *Marine Orders Part 44 Amendment 2012 (No. 1)* and modifications made by *Marine Order 4 (Transitional modifications) 2013*.

Subsection 343(2) of the *Navigation Act 2012* provides that the Marine Orders may provide for specified orders that were in force under the *Navigation Act 1912* immediately before its repeal to have effect, for the *Navigation Act 2012*, with the modifications made for it in the Marine Orders.

Marine Order 4 (Transitional modifications) 2013 provides for this Order to have effect and makes modifications for it.

This compilation is not a compilation for the *Legislative Instruments Act 2003*, and so is not registered on the Federal Register of Legislative Instruments.

Prepared by the Office of Legislative Drafting, Australian Maritime Safety Authority.

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1A Name of Order

This Order is *Marine Order 44 (Safe containers) 2002*.

1 Purpose

This Order gives effect to the Container Convention.

1B Power

1B.1 Subsection 339(1) of the Navigation Act provides for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the Navigation Act.

1B.2 Paragraph 340(1)(f) of the Navigation Act provides for the regulations to give effect to the Container Convention.

1B.3 Subsection 342(1) of the Navigation Act provides for the making of orders for matters that can be made by the regulations.

2 Definitions

In this Order:

approved means approved by the Manager, Ship Inspection and Registration or an authorised organisation.

authorised organisation means an organisation authorised in writing by the Manager, Ship Inspection and Registration to give any approval and to undertake any testing or examination specified in this Order.

Note A recognised organisation may be an authorised organisation.

container cargo means any goods, wares, merchandise and articles of every kind whatsoever carried in a container.

container means an article of transport equipment:

- of a permanent character and accordingly strong enough to be suitable for repeated use;
- specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
- designed to be secured and/or readily handled, having corner fittings for these purposes,

and includes a container carried on a chassis, but does not include vehicles or packaging.

date means month and year only.

international sea transport means the transportation of a container by vessel between a port in Australia and a port in a country other than Australia.

inter-State sea transport means the transportation of a container by vessel between:

- a port in a State and a port in another State;
- a port in a State and a port in a Territory; or
- a port in a Territory and a port in another Territory.

loaded on to a vessel includes a reference to any handling incidental to the operation of loading on to a vessel.

maximum operating gross mass means the maximum allowable sum of the mass of a container and its container cargo.

maximum permissible payload (P) means the difference between the maximum operating gross mass and the tare mass of a container.

Note The letter 'P' is expressed in units of mass. When a value is based on the gravitational forces derived from P, that force, which is an inertial force, is indicated as 'Pg'.

owner means the person who owns a container or the lessee or bailee of a container where, by agreement between the parties, the exercise of the owner's responsibility for the maintenance and examination of the container has been transferred to a lessee or bailee.

tare means the mass of an empty container including permanently affixed ancillary equipment.

type of container means an approved design type.

unloaded from a vessel includes a reference to any handling incidental to the operation of unloading from a vessel.

unsafe container means a container having a defect that could place any person in danger.

Note 1 Some terms used in this Order are defined in *Marine Order 1(Administration) 2011*, including:

- Navigation Act
- Manager, Ship Inspection and Registration
- General Manager, Ship Safety Division.

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

- AMSA
- Container Convention
- dangerous goods
- inspector
- seafarer.

3 Interpretation

- 3.1 If testing or examination is to be undertaken or approval given by an authorised organisation, references to Manager, Ship Inspection and Registration and inspector are to be read as references to appropriate officers of that organisation.

4 Application

- 4.1 This Order applies to and in relation to containers used in international or inter-State sea transport, but does not apply to a container which remains for the entire voyage on a road or rail vehicle.
- 4.2 Section 8 applies to a container for which Australian approval is requested.
- 4.3 Section 9 applies to containers in the following circumstances:
- the owner is a natural person living in Australia or a corporation that has its head office in Australia;
 - the owner is a natural person living in, or a corporation that has its head office in, a country the government of which has not made arrangements for

prescribing or approving an examination scheme, and the owner has requested that the provisions apply in respect of the container.

4.4 Section 10 applies to a container that:

- is to be, or is being, loaded on to a vessel; or
- is on board a vessel;

at a port in Australia.

4.5 Nothing in this Order precludes the application of additional structural safety requirements or tests to:

- a container specially designed and constructed, or adapted, for the transport of dangerous goods; or
- a container designed and constructed, or adapted, for the carriage of bulk liquid.

6 Review of decisions

6.1 A person affected by a decision under this Order may apply to the General Manager, Ship Safety Division for a review of the decision in accordance with section 18 of *Marine Order 1 (Administration) 2011*.

7 Transitional — approvals

A container or type of container approved under a previous issue of this Order, and in service on 14 January 2012, is taken to be approved under this Order.

8 Approval of containers

8.1 Application for approval of a container must be made to an authorised organisation and be accompanied by such supporting data as is required by that organisation.

8.2 An authorised organisation may approve a container that complies with the Container Convention. If the area enclosed by the container's 4 outer bottom corners is less than 14 square metres, or less than 7 square metres if it is fitted with top corner fittings, an authorised organisation may approve it if it complies with standards equivalent to those contained in the Container Convention.

8.3 If an approved container is to be modified in a manner resulting in structural changes, the owner must apply to the approving authorised organisation for approval of the modification.

8.4 When a container has been approved by an authorised organisation, the owner of the container is entitled to affix a Safety Approval Plate to the container.

8.5 A Safety Approval Plate must:

- comply with Schedule 1;
- be permanently affixed
 - in a readily visible place;
 - adjacent to any other plate relating to an approval issued for official purposes; and
 - in a place where it will not be easily damaged.

Note A Safety Approval Plate affixed to a container does not remove the necessity to display any labels or other information that are otherwise required to be displayed on the container.

Section 9

- 8.6.1 If the Manager, Ship Inspection and Registration considers that an approved container does not comply with the provisions of this Order, that officer may, in addition to any other action considered appropriate, cancel the approval issued in respect of that container. Written notification of cancellation must be given to the owner of the container and to the approving authorised organisation.
- 8.6.2 If an authorised organisation considers that an approved container does not comply with the provisions of this Order, it may, in addition to any other action, withdraw the approval issued in respect of that container. Written notification of withdrawal must be given to the owner of the container and to the Manager, Ship Inspection and Registration.

9 Maintenance, examination & marking

9.1 Maintenance

The owner of a container is responsible for maintaining that container in a safe condition.

9.2 Examination

- 9.2.1 The owner must arrange for a container to be examined in accordance with the procedure and at the intervals or at the times set out in Schedule 2, for the purpose of determining whether the container has any defect that could place any person in danger.
Penalty: 50 penalty units.
- 9.2.1A An offence against subsection 9.2.1 is a strict liability offence.
- 9.2.1B A person is liable to a civil penalty if the person contravenes subsection 9.2.1.
Civil penalty: 50 penalty units.
- 9.2.2 The person who has examined a container for the purpose of subsection 9.2.1, being satisfied that the container is not an unsafe container, must make and sign a written report that:
- identifies the container;
 - states the date of the examination; and
 - states that, in his or her opinion, the container is not an unsafe container,
- and provide the report to the owner.
- 9.2.3 The owner must retain the report, in legible form, until receipt of a report in respect of a subsequent examination.
Penalty: 50 penalty units.
- 9.2.3A An offence against subsection 9.2.3 is a strict liability offence.
- 9.2.3B A person is liable to a civil penalty if the person contravenes subsection 9.2.3.
Civil penalty: 50 penalty units.
- ### 9.3 Marking
- 9.3.1 The owner must ensure that the date by which a container must undergo its initial examination is clearly marked on its Safety Approval Plate in accordance with subsection 9.3.3.
Penalty: 50 penalty units.
- 9.3.1A An offence against subsection 9.3.1 is a strict liability offence.

- 9.3.1B A person is liable to a civil penalty if the person contravenes subsection 9.3.1.
Civil penalty: 50 penalty units.
- 9.3.2 Except in the case of a container in respect of which there is an approved continuous examination programme, the owner must ensure that the date by which a container is to be next re-examined is clearly marked on its Safety Approval Plate, or on the container as near as practicable to the Safety Approval Plate, in accordance with subsection 9.3.3.
Penalty: 50 penalty units.
- 9.3.2A An offence against subsection 9.3.2 is a strict liability offence.
- 9.3.2B A person is liable to a civil penalty if the person contravenes subsection 9.3.2.
Civil penalty: 50 penalty units.
- 9.3.3 An examination or re-examination date must be marked permanently and legibly by stamping, embossing, engraving, applying a decal or other method acceptable to the approving recognised organisation.
- 9.3.4 The owner of a container must not permit a re-examination date to be marked on the container under subsection 9.3.2 unless a report of examination has been issued in respect of the container under subsection 9.2.2.
Penalty: 50 penalty units.
- 9.3.4A An offence against subsection 9.3.4 is a strict liability offence.
- 9.3.4B A person is liable to a civil penalty if the person contravenes subsection 9.3.4.
Civil penalty: 50 penalty units.
- 9.3.5 The owner of a container in respect of which there is an approved continuous examination programme must ensure that the container is marked permanently and legibly by stamping, embossing, engraving or other method acceptable to the approving recognised organisation, with the letters 'ACEP (AUS)'.
Penalty: 50 penalty units.
- 9.3.5A An offence against subsection 9.3.5 is a strict liability offence.
- 9.3.5B A person is liable to a civil penalty if the person contravenes subsection 9.3.5.
Civil penalty: 50 penalty units.
- 9.3.6 A decal referred to in subsection 9.3.3 must comply with the colour code specified in Table 1 and the relevant date must be shown in the English language or in Arabic figures on the decal or on the Safety Approval Plate.
Note Examination and re-examination dates are specified by month and year only — see the Container Convention.

Table 1

Colour	Year	Year	Year	Year	Colour	Year	Year	Year
Black	2002	2008	2014	2020	Blue	2005	2011	2017
Green	2003	2009	2015		Yellow	2006	2012	2018
Brown	2004	2010	2016		Red	2007	2013	2019

- 9.4 If the owner has an approved continuous examination program in place, the program must be:
- (a) reviewed at least once every 10 years to ensure its continued viability; and

(b) audited at least every 2.5 years by an authorised organisation.

10 Control

10.1 Validity of Safety Approval Plate

- 10.1.1 A Safety Approval Plate affixed to a container remains valid until the approval under which it was affixed is withdrawn.
- 10.1.2 A Safety Approval Plate affixed to a container by or under the authority of a government that is a party to the Container Convention has, for the purposes of this section, the same validity as if it were affixed in accordance with this Order.

10.2 Certain containers not to be loaded or unloaded

- 10.2.1 Subject to subsection 10.3, a person must not load a container on to, or unload a container from, a vessel if:
- (a) the person has reason to believe that the container is an unsafe container; or
 - (b) the container does not have a valid Safety Approval Plate affixed to it; or
 - (c) the date indicated on the Safety Approval Plate for the container to be re-examined has passed; or
 - (d) no date is indicated on the Safety Approval Plate for the container to be re-examined and the letters 'ACEP' and identification of the approving government are not marked on or near the Safety Approval Plate of the container; or
 - (e) the mass of the container (including its contents and any affixed ancillary equipment) exceeds the maximum operating gross mass of the container.

Penalty: 50 penalty units.

- 10.2.1A An offence against subsection 10.2.1 is a strict liability offence.
- 10.2.1B A person is liable to a civil penalty if the person contravenes subsection 10.2.1.
Civil penalty: 50 penalty units.

- 10.2.2 If an inspector has reason to believe that a container is to be, has been, or is being loaded on to or unloaded from a vessel in contravention of paragraph 10.2.1(e), the inspector may require the person who is directly in control of the persons engaged in the loading or unloading to have the mass of the container, including its contents and any affixed ancillary equipment, determined without any undue delay by a weighing instrument nominated by the inspector for the purpose.
- 10.2.3 In a prosecution for an offence against paragraph 10.2.1(e), a certificate issued by the person responsible for or operating the weighing instrument referred to in subsection 10.2.2, stating that a container, its contents and affixed ancillary equipment has, by that person, been weighed and found to be of the mass stated in the certificate, is to be evidence of the facts stated in the certificate.

10.3 Inspector may authorise loading or unloading

- 10.3.1 If an inspector considers that it is reasonable and proper in the circumstances of the case to allow a container referred to in subsection 10.2.1 to be loaded on to, or unloaded from, a vessel, the surveyor may authorise, subject to such conditions as the inspector specifies, the loading or unloading of that container.

- 10.3.2 A person must comply with any condition imposed by an inspector under subsection 10.3.1.
Penalty: 50 penalty units.
- 10.3.3 An offence against subsection 10.3.2 is a strict liability offence.
- 10.3.4 A person is liable to a civil penalty if the person contravenes subsection 10.3.2.
Civil penalty: 50 penalty units.

10.4 Unauthorised affixture of Safety Approval Plate

A person must not affix, or order to be affixed, a Safety Approval Plate to a container in Australia except in accordance with this Order or by or under the authority of a government that is a party to the Container Convention.

Penalty: 50 penalty units.

- 10.4A An offence against subsection 10.4 is a strict liability offence.
- 10.4B A person is liable to a civil penalty if the person contravenes subsection 10.4.
Civil penalty: 50 penalty units.

10.5 Removal of Safety Approval Plate when no longer valid

The owner of a container must remove the Safety Approval Plate on a container if:

- (a) the container has been modified in a manner which would void the original approval and the information found on the Safety Approval Plate; or
- (b) the container is removed from service and is not being maintained in accordance with this Order; or
- (c) approval has been withdrawn under subsection 8.6.1 or 8.6.2.

Penalty: 50 penalty units.

- 10.5A An offence against subsection 10.5 is a strict liability offence.
- 10.5B A person is liable to a civil penalty if the person contravenes subsection 10.5.
Civil penalty: 50 penalty units.

10.6 Unauthorised examination date

A person must not mark, or order to be marked, an examination date on a container or on a Safety Approval Plate affixed to a container except in accordance with this Order or under the authority of a government that is a party to the Container Convention.

Penalty: 50 penalty units.

- 10.6A An offence against subsection 10.6 is a strict liability offence.
- 10.6B A person is liable to a civil penalty if the person contravenes subsection 10.6.
Civil penalty: 50 penalty units.

10.7 Maximum gross mass markings

All maximum operating gross mass markings on a container must be consistent with the maximum operating gross mass indicated on the Safety Approval Plate.

10.8 Maximum mass to be placed on container

A container on a vessel must not have placed upon it a mass exceeding the allowable stacking mass for 1.8g indicated on the Safety Approval Plate affixed to the container.

Note If the container is approved for, and being used as, a one door off operation, the difference in allowable stacking mass will be mentioned on the Safety Approval Plate — see Schedule 1, cl 2.4.

Schedule 1 Safety Approval Plate

1 Definitions

For the purposes of this Schedule, the following definitions apply:

fireproof means capable of withstanding and remaining legible after not less than 5 minutes exposure to a temperature of 500°C, when mounted on the specified material of construction of the container;

g means the standard acceleration of gravity, and equals 9.8 m/s²;

non-corroding means capable of resisting the effects of the marine environment both at sea and ashore, so as to remain legible for the working life of the container;

P means maximum permissible payload; and

permanent means having a legible life expectancy equal to or greater than the life expectancy of the container to which the plate is affixed.

2 Requirements

- 2.1 A Safety Approval Plate must be a permanent, non-corroding, fireproof rectangular plate measuring not less than 200 mm by 100 mm. The letters and words 'CSC Safety Approval' must be of a minimum letter height of 8 mm. All other words and numbers must be of a minimum height of 5 mm. Words and numbers must be stamped into, embossed on or indicated on a surface of the plate in any other permanent and legible way.
- 2.2 An examination date may be indicated by use of a colour coded decal complying with subsection 9.3.6.
- 2.3 An ISO alpha numeric identification code may only be used if the owner of a container maintains a record correlating the code identification number with the manufacturer's serial number and such record is available, upon request, to the Manager, Ship Inspection and Registration or an authorised organisation.
- 2.4 A Safety Approval Plate must conform to the model reproduced in Figure 1 and must contain the following information in English or French:

Note If the information required for line 7, 8 or 9 is not required for a Safety Approval Plate, those lines may be used for marking examination dates.

- | | |
|---------|---|
| Line 1: | The name of the organisation issuing the approval, followed by the approval reference and year in which the approval was issued and preceded by the letters AUS. |
| Line 2: | The date of manufacture, being the month and year in which the container was manufactured. |
| Line 3: | The manufacturer's identification number of the container or, in the case of a container for which the owner wishes to use an ISO alpha numeric identification code, a number appropriate to that code. |
| Line 4: | The maximum operating gross mass of the container expressed in both kilograms and pounds. |

- Line 5A: If the container is approved for one door off operation, the allowable stacking load for 1.8g expressed in both kilograms and pounds for one door off.
- Line 5: The allowable stacking load for 1.8g expressed in both kilograms and pounds.
- Line 6: The transverse racking test force expressed in Newtons.
- Line 6A: If the container is approved for one door off operation, the allowable transverse racking test force expressed in Newtons for one door off.
- Line 7: The end wall strength value, but only if the end walls are designed to withstand a force of less or greater than 0.4 times the gravitational force by maximum permissible payload, i.e. 0.4Pg.

Example 'End wall strength 0.5P'

- Line 8: The side wall strength value, but only if the side walls are designed to withstand a force of less or greater than 0.6 times the gravitational force by maximum permissible payload, i.e. 0.6Pg.

Example 'Side wall strength 0.8P'

- Line 9: The first maintenance examination date (month and year) for new containers, and subsequent maintenance examination dates (month and year) if plate is used for this purpose.

Figure 1: Safety Approval Plate

	CSC SAFETY APPROVAL	
Line 1.....	(AUS—)	
Line 2.....	DATE MANUFACTURED	
Line 3.....	IDENTIFICATION No.	
Line 4.....	MAXIMUM OPERATING GROSS MASSkglb	
Line 5.....	ALLOWABLE STACKING LOAD FOR 1.8gkglb	
Line 5A....	ONE DOOR OFF ALLOWABLE STACKING LOAD FOR 1.8gkg lb	
Line 6.....	TRANSVERSE RACKING TEST FORCENewtons	
Line 6A....	ONE DOOR OFF TRANSVERSE RACKING TEST FORCE Newtons	
Line 7.....		
Line 8.....		
Line 9.....		

Note The letters 'CSC' are omitted if the area enclosed by the container's 4 outer bottom corners is less than 14 m², or less than 7 m² if it is fitted with top corner fittings.

Schedule 2 Examination of containers

- 1 Each examination of a container that is required by this Order must be performed by a person trained and experienced in the detection of container structural damage.
- 2 An examination of a container must take into account the particular characteristics of the type of container and the materials of its construction and must include a detailed visual inspection:
 - for defects that could place any person in danger; and
 - of all load-bearing components.
- 2A An examination of a container must take into account the examination criteria mentioned in Annex III to the Container Convention.
- 3 An examination of a container must take place only when:
 - sufficient time is available for a thorough examination;
 - the container is cleaned and prepared to the extent required by the person undertaking the examination;
 - means of lifting and supporting the container are provided to the extent required by the person undertaking the examination to ensure that the whole of the underside is accessible, and
 - there is provided safe means of access and egress, sufficient lighting and all other facilities necessary to allow the examination to be carried out safely and effectively.
- 4 A person undertaking an examination of a container may require the use of any appropriate test in accordance with the Container Convention or a method of non-destructive testing.
- 5 Subject to clause 6, a container must be examined:
 - initially, not later than 5 years after the date of manufacture and, subsequently, at intervals of not more than 30 months; or
 - in accordance with an approved continuous examination program.
- 6 A container must be examined:
 - after the repair of any defect in the container that could have placed any person in danger and before the container is loaded on to a vessel following that repair;
 - after any modification of the container and before the container is loaded on to a vessel following that modification;and in the case of a container in respect of which there is an approved continuous examination programme:
 - after refurbishment of the container and before the container is loaded on to a ship following that refurbishment; and
 - during an on-hire/off-hire interchange of the container and before the container is loaded on to a ship following that interchange.

- 7 A container that has been examined under clause 6 must be re-examined:
- not later than the date when, but for the circumstance giving rise to the examination under clause 6, the container would have been due for examination in accordance with clause 5; or
 - a date that is not more than 30 months after the date of the examination under clause 6.

Notes to *Marine Order 44 (Safe containers) 2002*

Note 1

Marine Order 44 (Safe containers) 2002 (in effect under subsection 343(2) of the *Navigation Act 2012*) as shown in this compilation comprises *Marine Order 44 (Safe containers) 2002* amended and modified as indicated in the following tables.

Table of Orders

Year and number	Registration date	FRLI number	Commencement date	Application, saving or transitional provisions
<i>Marine Order 44, issue 5</i> (MO 2002/4)	2 May 2006	F2006B00673	1 July 2002	
<i>Marine Orders Part 44 Amendment 2012 (No. 1)</i> (MO 2012/1)	9 January 2012	F2012L00021	15 January 2012	–
<i>Marine Order 4 (Transitional modifications)</i> (MO 2013/3)	30 May 2013	F2013L00871	1 July 2013	Section 3 and Schedules 1-42

Table of amendments

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

Provision affected	How affected
1A	ad. 2012/1; mod. 2013/3
1	mod. 2013/3
1B	mod. 2013/3
2	am. 2012/1; mod. 2013/3
3	am. 2012/1; mod. 2013/3
4	am. 2012/1; mod. 2013/3
5	rep. 2012/1
6	rs. 2012/1; mod. 2013/3
7	rs. 2012/1 2013/3
8	am. 2012/1; mod. 2013/3
9	am. 2012/1; mod. 2013/3
10.....	am. 2012/1; mod. 2013/3
Schedule 1	am. 2012/1; mod. 2013/3
Schedule 2.....	am. 2012/1; mod. 2013/3