# MARPOL compliance and distances ‘from the nearest land’

MARPOL permits unprocessed food waste to be discharged into the sea from vessels proceeding at a distance not less than 12 nautical miles from the nearest land. Sounds straightforward? Unfortunately, it is not - all coastal states do not define their ‘nearest land boundary’ in the same way.

INSIGHT

23 OCT 2018

A Gard Member’s vessel was recently detained in an Australian port for illegally discharging food waste into Australian waters. The alleged incident took place when the vessel was proceeding at 13 nautical miles (nm) from shore, or more precisely, from an island off the north-east coast of mainland Australia. A few months earlier, another Gard Member’s vessel was penalised in China for the same reasons, that is, for illegally discharging food waste into Chinese waters. According to this vessel’s log book, it had been approaching Ningbo Port at the time of the alleged incident and the crew had taken all necessary precautions to ensure that the vessel was at least 12 nm from the Chinese shore before discharging any food waste. So why were the two vessels penalised?

**MARPOL Annex V at a glance**

The MARPOL Convention prohibits discharge into the sea of nearly all forms of garbage, including plastic. It does, however, contain a specific exemption for food waste. Under MARPOL Annex V, discharge into the sea of food waste is permitted while the vessel is en route and as far as practicable from the nearest land, but in any case, not less than 3 nm from the nearest land if the discharged food waste has been comminuted or ground, and not less than 12 nm for unprocessed food waste. A simplified overview of all MARPOL Annex V discharge provisions can downloaded from [IMO’s Website](http://www.imo.org/en/OurWork/Environment/PollutionPrevention/Garbage/Pages/Default.aspx).

Stricter discharge standards do apply in the so-called ‘Special Areas’, however, neither Australia nor China have designated any Special Areas for the purposes of MARPOL Annex V.

**Nearest land under MARPOL**

When discharge standards under MARPOL require you to be a specified distance from the nearest land, the term ‘from nearest land’ generally means from a country’s territorial sea baseline. There is, however, one exception to this general definition. On the north eastern coast of Australia, Australia’s nearest land boundary extends around the outer edge of the Great Barrier Reef (GBR) region and discharges permitted under MARPOL must be measured seaward of this boundary. The IMO has designated the GBR region as a particularly sensitive sea area (PSSA) and additional protection measures, such as ship routeing systems and restricted discharges, therefore apply to vessels that transit the region. The Australian Maritime Safety Authority’s (AMSA) website “[Navigation through the Great Barrier Reef and Torres Strait](https://www.amsa.gov.au/safety-navigation/navigating-coastal-waters/navigation-through-great-barrier-reef-and-torres-strait)” contains an overview of all key requirements.

Also note that not all countries define their baselines in the same way. For many countries, the baseline for establishing the territorial sea is drawn at the low-water line, as stated in official charts. Perhaps the easiest way to think of a normal baseline is as an “outline” of a country’s coast. However, a number of countries have established baselines as straight lines between prominent coastal features and others claim “archipelagic status” with baselines joining outlying islands. Such countries’ baselines can therefore lie many nautical miles off their coasts.

So - getting back to why the two vessels were penalised for illegally discharging food waste into the sea:

* In the Australian case, the crew had discharged food waste at a position well beyond the 12 nm limit measured from Australia’s territorial baseline but failed to recognise that the vessel was operating within the GBR region. The exact coordinates for the GBR region is included in MARPOL’s definition of ‘nearest land’ and a [visual map](https://www.amsa.gov.au/marine-environment/marine-pollution/nearest-land-under-marpol) can be downloaded from AMSA’s website.
* In the Chinese case, the crew was not aware that [China has declared straight baselines](http://www.gard.no/Content/26411325/China_Declaration%20on%20the%20baseline%20of%20the%20territorial%20sea_15%20May%201996.pdf) along parts of its coast. In accordance with China’s Declaration of 15 May 1996, the baseline off Ningbo Port is drawn between points situated on two fairly remote islands and basically pushes the territorial sea limit further seaward. Hence, the crew had discharged food waste at a position well beyond the 12 nm limit as measured from China’s shoreline but failed to recognise that the vessel was still operating within Chinese waters. A visual map of China’s declared baselines is available [here](https://www.loc.gov/item/2005629220/).

In both cases the crews had acted in good faith at all times and there was no attempt to deliberately circumvent the requirements of MARPOL.

**Considerations and recommendations**

In the two cases described above, discharges were related to MARPOL Annex V and garbage. However, other discharges from vessels controlled by the MARPOL Convention also have a minimum distance from the nearest land requirement that must be met.

Masters must make sure that environmental issues are considered in voyage and passage planning. Areas where specific marine environmental measures apply should be noted in the detailed passage plan. IMO’s circular [MEPC.1/Circ.778/Rev.3](http://www.gard.no/Content/26411326/IMO%20MEPC1-Circ778-Rev3_Special%20Areas%2C%20ECAs%20and%20PSSAs%20under%20MARPOL.pdf) provides an overview of all Special Areas defined under MARPOL Annexes I, II and V and Emission Control Areas (ECAs) defined under MARPOL Annex VI. The circular also lists all IMO designated PSSAs and their associated protective measures.

Operators must ensure that vessel procedures, such as the Garbage Management Plan, and nautical charts contain all relevant information and are up to date. According to AMSA, vessels that do not carry adequate and up-to-date nautical charts may be detained and refers to this [media release](https://www.amsa.gov.au/news-community/news-and-media-releases/appeals-tribunal-upholds-amsa-ship-detention-decision) as an example of such a detention. Relying on unofficial charts demonstrates inadequate voyage planning under a vessel's safety management system. It may also indicate that a vessel may be in an unfit state for the voyage or poses a threat to the environment.

Vessel crews must be reminded that ’nearest land’ in MARPOL does not necessarily mean the ‘nearest shoreline’. In Australia, the nearest land boundary extends around the outer edge of the GBR region. Other countries have established baselines which lie off their coasts and it is from these baselines that the minimum distance requirements apply.

Consult your local agents if there is any doubt surrounding the baselines and any designated areas adopted locally. And remember, while discharge of food waste may be permitted, the food must not be contained in a plastic garbage bag since [plastic cannot be discharged into the sea](http://www.gard.no/web/updates/content/23504095/marpol-annex-v-the-international-convention-banning-the-discharge-of-plastic-and-garbage-from-ships) under any circumstances.

**China – Domestic Emission Control Areas (DECA)**

The Ministry of Transportation of China (MOT) has announced a new decree for the re-adjustment of Domestic Emission Control Areas (DECA) in China **which will be effective from 1 January 2019**.

The main points of the re-adjustment are:

1. The scope of DECAs will be extended to **12 nautical miles from the coastline**, covering the Chinese mainland territorial coastal areas, as well as the Hainan Island territorial coastal waters from 1 January 2019.
2. With effect from 1 January 2019, all ships navigating within the Chinese mainland territorial coastal DECAs and at berths will be required to use marine fuel with a maximum 0.5% m/m sulphur content of ships’ fuel oil.
3. With effect from 1 January 2020, all ships navigating within the Chinese mainland territorial coastal DECAs should use marine fuel with a maximum 0.5% m/m sulphur content and when at berth a maximum 0.1% m/m sulphur content. The only exception is when ships are navigating within the Hainan territorial coastal DECA area and at berths in Hainan where they are required to use marine fuel with a maximum 0.1% m/m sulphur content.
4. As per the new regulation, ships can also use alternative methods such as an Exhaust Gas Scrubber, LNG or other clean fuel that reduces the SOx to the same level or lower than the maximum required limits of sulphur when using fossil fuel in the DECA areas or when at berth.
5. From 1 July 2019 ships engaged on international voyages, (except tankers), that are equipped to connect to shore power should use shore power if they berth for more than 3 hours in berths with shore power supply capacity in the coastal control areas (for inland river control area, berth for more than 2 hours);
6. From 1 January 2021, cruise ships should use shore power when berthing for more than 3 hours in a berth with onshore power supply capacity in the emission control area when at berth where suitable shore power is available.
7. From 1 July 2020 there are also new requirements for Chinese national flagged newbuildings. Ships with a main engine capacity over 37KW and in-service ships with capacity over 500kw are required to meet Tier II NOx. Also, when at berth they are required to use shore power when it is available.
8. Any fuel change-over operation must be completed prior to the entry into or commenced after exit from any of the designated domestic ECAs.

FLAG SIZE REQUIREMENT IN CHINA

Pls kindly refer to regulations as flw:

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The national flag of the People's Republic of China is the symbol and symbol of the People's Republic of China.

According to the national flag law of the People's Republic of China, the national flag is divided into five sizes (unit: cm) : a (288×192), b (240×160), c (192×128), d (144×96) and e (96×64).

According to the administrative measures on the display of the national flag by ships:

Article 6: vessels of foreign nationality entering inland waters, ports and anchorage of the People's Republic of China shall fly the Chinese national flag every day.

Article 7 the vessel shall fly the Chinese national flag in the following dimensions according to its length:

(1) vessels of 150 meters or more shall be hoisted with the national flag of China of class a, class b or class c;

(2) vessels of 50 meters or above and less than 150 meters shall be hoisted with the flag of c or d species of China;

(3) vessels of 20 meters or more and less than 50 meters shall be hoisted with the fourth or fifth species of Chinese national flag;

(4) vessels less than 20 meters shall be flown with the Chinese national flag.

The standard of the Chinese flag of a ship of foreign nationality shall generally not be less than the standard of the flag of the state in which the ship is flying.

Article 8 the Chinese national flag shall be hoisted in the morning and lowered in the evening. But in case of bad weather, the Chinese flag may not be displayed.

Article 9 the national flag of the People's Republic of China displayed on vessels shall be clean and tidy, shall not be damaged, soiled, faded or substandard, and shall not be hung upside down.

Article 10 vessels of Chinese nationality shall hang the Chinese national flag on the poop staff. If there is no flag pole in the stern, it should be hung on the top of bridge signal pole or right cross girder.

The Chinese national flag shall be hoisted on the top of the foremast or bridge signal pole or on the right crossbar of the vessel of foreign nationality.

When the Chinese national flag and other flags are hung at the same time on the right crossbar of the bridge signal bar, the Chinese national flag shall be hung on the outermost side.

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As per confirmation, the ship will uses class a/b/c type flag is ok，but bigger than ship nationality flag size.

Pls kindly be noted.

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| **Seawage Water in Chinese Ports (Updated 19th Nov’19)** | | | | |
| Port | Water areas within 3nm away from the nearest ashore | Water areas 3nm < distance from the nearest ashore <= 12nm | Water areas distance from the nearest shore >12nm | Remarks |
| Dalian | No | No | No | Only allowable to discharge seawage in OPL |
| Jingtang | No | No | No | Only allowable to discharge seawage in OPL |
| Caofeidian | No | No | No | Only allowable to discharge seawage in OPL |
| Tianjin | No | No | No | Only allowable to discharge seawage in OPL |
| **Qingdao** | **No** | **No** | **No** | **Only allowable to discharge seawage in OPL** |
| Rizhao | No | No | No | Only allowable to discharge seawage in OPL |
| Lanshan | No | No | No | Only allowable to discharge seawage in OPL |
| Lianyungang | allowable as per GB3552-2018 requirements; only when vessel in manuvuering; prohibitted while at berth | allowable as per GB3552-2018 requirements | allowable as per GB3552-2018 requirements | Local officer may come onboard to check whether the Seawage treatment plan and relevant records onboard are in compliance |
| Shanghai | allowable as per GB3552-2018 requirements; only when vessel in manuvuering; prohibitted while at berth | allowable as per GB3552-2018 requirements | allowable as per GB3552-2018 requirements | Local officer may come onboard to check whether the Seawage treatment plan and relevant records onboard are in compliance |
| Taicang | N/A | N/A | N/A | Belongs to Yangtze River where discharging of seawage water prohibitted |
| Zhoushan | allowable as per GB3552-2018 requirements; only when vessel in manuvuering; prohibitted while at berth | allowable as per GB3552-2018 requirements | allowable as per GB3552-2018 requirements | Local officer may come onboard to check whether the Seawage treatment plan and relevant records onboard are in compliance |
| Beilun | allowable as per GB3552-2018 requirements; only when vessel in manuvuering; prohibitted while at berth | allowable as per GB3552-2018 requirements, prohibitted at anchorage | allowable as per GB3552-2018 requirements, prohibitted at anchorage | Please make sure ship has the class approved certificate for disposal of Seawage/Grey disposal, in the meantime, the treatment plant should also class approved. |
| **Remarks: "Ashore" means the Baselines of the Chinese territorial sea** | | | | |