

1 Introduction

The incident involving the grounding of the *Oceanic Grandeur* in the Torres Strait in 1970 led to the development of a national capability to ensure that Australia would be prepared to respond to ship-sourced pollution incidents. This document relates to the chemical spill component of The National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (National Plan).

1.1 Background

The National Plan has been in operation since 1973 and brings together the combined resources of the Commonwealth, State and Northern Territory (State/NT) Governments, and the oil, shipping and exploration industries, to provide a level of preparedness to the threat posed to the marine environment by oil and chemical spills.

The National Plan sets out a clear definition of the responsibilities of the major participants, the Commonwealth, States/NT and industry. This is provided in a set of Commonwealth/State/NT arrangements by way of an Inter-Governmental Agreement (IGA), which also details such matters as divisions of responsibilities, contingency planning, access to Commonwealth equipment, and the management and control of financial affairs (Appendix 1).

Based on these arrangements the prescribed role of the Commonwealth, through the Australian Maritime Safety Authority (AMSA), is one of coordination and provision of technical advice, logistic and maintenance support, materials and equipment, and training.

The national contingency plan hierarchy outlined in Figure 1 consists of national marine oil and marine chemical spill plans, the Marine Pollution Contingency Plan for the Great Barrier Reef (REEFPLAN), and State/NT, port and industry plans.

The National Marine Chemical Spill Contingency Plan (ChemPlan) outlines how the combined resources of the Commonwealth, State/NT Governments, the chemical, plastics, petroleum, and shipping industries may be activated to respond to the threat posed to Australia, its people and its marine environment, by spillages of bulk or packaged dangerous goods and chemical spills from vessels. It prescribes procedures and provides information required to implement the chemical spill response provisions of the National Plan and relevant State/NT contingency plans.

Under the terms of the IGA, AMSA is responsible for maintaining ChemPlan. The Plan follows the general procedures of the National Marine Oil Spill Contingency Plan taking account of the land-based chemical and hazardous materials response capabilities of fire services, industry and government authorities.

1.2 Threat

Worldwide, about 200 million tonnes of dangerous goods and hazardous materials are transported by sea each year. Most are carried in deep-sea and regional trade.

Coastal shipping carries only about 10%. A wide variety of dangerous goods and chemical and other noxious or hazardous substances are shipped to, from and around Australia in specialised chemical tankers, in bulk chemical tanks carried in other vessels, or in packaged form as container or loose cargo consignments. These chemicals can enter the marine environment as a result of accidental or deliberate releases. Accidental releases can occur as a result of natural disasters, human error or due to technical and mechanical faults in chemical transfer and storage equipment. Intentional releases could include the dumping of chemical wastes, acts of war, terrorism or sabotage. Incidents involving vessel groundings, collisions, fire, explosion, cargo reaction etc. could also cause chemical spills from vessels involved.

1.3 Aim of the Plan

The aim of ChemPlan is to outline the national arrangements for responding to chemical spills in the marine environment, with the aim of protecting public health and the marine environment from chemical pollution or, where this is not possible, to minimise its effects.

1.4 Scope of the Plan

ChemPlan coordinates the provision of national and international support for responding to marine chemical spills that have the potential to impact on any of Australia's interests, including those of a health, environmental, resource or economic nature. General responsibilities for the response to chemical spills are outlined in the IGA and given in more detail in part 2.1.

ChemPlan relates primarily to incidents involving the release and or spilling of chemicals from ship's bulk chemical cargoes, container chemical tanks or packaged chemicals, and as a result of the loss or potential loss of these or other dangerous goods overboard at sea. Responsibility for packaged substances that have been washed ashore or for spillages and releases from shore facilities generally resides with the relevant State/NT authority.

ChemPlan outlines combined government and industry arrangements designed to allow a rapid and cooperative response to a marine chemical spill occurring within the area defined by this Plan. This Plan complements other Government and industry contingency plans prepared at Commonwealth, State/NT, regional, port and facility levels. Matters of detail are contained in local, site-specific, contingency plans. ChemPlan coordinates the provision of national and international support.

1.5 Geographical Area

The geographical area covered by ChemPlan includes all Australian Territorial Seas, including those offshore islands and territories, Australia's Exclusive Economic Zone (EEZ), and the High Seas as detailed in Figure 2 where a chemical spill has the potential to impact on Australian interests. (Note: Includes Australian Antarctic Territory, not shown on map).

1.6 Oil Spill Incidents

Procedures for dealing with the responses to marine oil spills are outlined in the

National Marine Oil Spill Contingency Plan, which can be found at:
www.amsa.gov.au/Marine_Environment_Protection/National_Plan/Contingency_Plans_and_Management/Oil_Spill_Contingency_Plan.asp.

1.7 Legislation

1.7.1 International Conventions

Australia has been a member of the International Maritime Organization (IMO) since its inception in 1948, and was active in developing IMO Conventions that specifically address pollution from ships. These conventions are implemented in Australia by the “Protection of the Sea” package of legislation listed in part 1.7.3.

1.7.2 International Codes and Guidelines

As part of international environmental standards, all ships of 150 gross tonnage and above, certified to carry noxious liquid substances in bulk are required to carry a shipboard Marine Pollution Emergency Plan for Noxious Liquid Substances. These plans contain specific details of the vessel, evacuation details e.g. emergency response and fire-fighting equipment, floor plans, emergency/evacuation assembly etc. Details of the international codes relevant to chemical spill incidents are given in Appendix 2.

1.7.3 National Legislation

Act	Objectives	Complementary State/NT legislation
<i>Protection of the Sea (Civil Liability) Act 1981</i>	Implements International Convention on Civil Liability for Oil Pollution Damage 1992, requiring the owners of oil tankers to have insurance for pollution damage Cost recovery for AMSA National Plan activities	No Yes
<i>Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008</i>	Implements International Convention on Civil Liability for Bunker Oil Pollution Damage 2000	No
<i>Protection of the Sea (Harmful Anti-fouling Systems) Act 2006</i>	Implements International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001	No
<i>Protection of the Sea (Powers of Intervention) Act 1981</i>	Implements International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties and the 1973 Protocol to that Convention. Sets out intervention powers for territorial waters	Yes Yes
<i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i>	Implements International Convention for the Prevention of Pollution from Ships (MARPOL) setting operational and construction standards for ships to prevent pollution.	Yes
<i>Protection of the Sea (Shipping Levy) Act 1981 and Protection of the Sea (Shipping Levy Collection) Act 1981</i>	Imposes levy on shipping to fund Australia’s National Plan and sets out how the levy is collected.	No

<i>Protection of the Sea (Oil Pollution Compensation Fund) Act 1993,</i> <i>Protection of the Sea (Oil Pollution Compensation Fund - Customs) Act 1993,</i> <i>Protection of the Sea (Oil Pollution Compensation Fund - Excise) Act 1993,</i> <i>Protection of the Sea (Oil Pollution Compensation Fund - General) Act 1993</i>	Implements International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 providing compensation for oil spill damage above the limits available under the Civil Liability Convention, funded by levies on oil companies.	No
<i>Australian Maritime Safety Authority Act 1990</i>	Sets out functions of the Australian Maritime Safety Authority, including “the combating of pollution in the marine environment”	No
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	Provides for protection of the environment and the conservation of biodiversity, and for related purposes. Note: This Act only applies where response action is taken that is not in accordance with any contingency plan in place under National Plan arrangements.	No

1.7.4 Jurisdiction

An agreement between the Commonwealth and the States/NT, known as the Offshore Constitutional Settlement (OCS) effectively gives the States/NT jurisdiction over the Territorial Sea and the Commonwealth jurisdiction over the High Seas. One feature of the OCS was recognition by the States/NT that a mechanism was required to enable Australia to become a party to key international maritime conventions without the need for the legislation in every Australian jurisdiction to be in compliance at the time of ratification. The concept of the “savings clause” was introduced whereby Commonwealth law giving effect to the Conventions would apply in all jurisdictions, but would “step back” if and when a State/NT enacted the provisions itself.

With Australia’s accession to the United Nations Convention on the Law of the Sea (UNCLOS), the Commonwealth’s jurisdiction extends to the EEZ, and the Territorial Sea extends to twelve (12) nautical miles (nm) from the coastline (Figure 2). However, the States/NT jurisdiction does not extend beyond the previous Territorial Sea limits of three (3) nm.