



Maritime discharges of oil and oily water during emergency and response situations

Discharges into the sea from a vessel of oil, oily water, decant water or water emanating from an oily water separator is [strictly regulated](#) under Australian maritime law. For more information about a summary of the Australian discharge standards, please MARPOL and local requirements webpage on the [AMSA website](#).

However, there are times when and circumstances where the normal tight restrictions of oil/oily water discharge quality can be relaxed, if:

It is necessary to secure the safety of a ship or save a life at sea; or

It occurs after non-intentional damage to the ship or its equipment, and all reasonable precautions were taken to prevent or minimize discharge; or

It is necessary during a spill response to discharge oil/oily water to minimize the overall damage from pollution, and is approved by the relevant government.

MARPOL

Internationally, [MARPOL Annex 1, Regulation 4.3 \(Exceptions\)](#) provides that the normal prohibitions on discharges shall not apply to:

“the discharge into the sea of substances containing oil, approved by the Administration, when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Government in whose jurisdiction it is contemplated the discharge will occur.”

Australian arrangements and law

Australia has implemented this MARPOL Regulation through the [Protection of the Sea \(Prevention of Pollution from Ships\) Act 1983](#), and does so through the application of Section 9, subsection (2) (e).

- Section 9 is entitled “Prohibition of discharge of oil or oily mixtures into sea”.
- Subsection 9 (1B) generally proscribes the discharge of oily water mixtures from a ship into the sea and creates an offence of strict liability, but is subject to Section 2, which sets out circumstances in which section (1B) does not apply.

- Subsection 9 (2) (e) provides for the circumstance where the oily mixture, if discharged for the purposes of combating specific pollution incidents in order to minimize the damage from pollution, and the action has been approved by a prescribed officer, is exempt from further action.
- Within AMSA, as the Government's administrator of the legislation, the "prescribed officers" able to give approval are: the AMSA Local Manager; the Manager Response Planning; the Executive Director, Response; and the Executive Director, Operations.

Note, that the Approval is specific to a particular and specified vessel, for its engagement in the particular spill response, and not as a general discharge approval.

There is no specific AMSA form for this application for this Approval as it is recognised the applicant may not always have access to standard forms. However, the applicant should provide a full explanation to assist the person assessing the Approval, and as a minimum, provide the following information about:

- who and why - the vessel, the incident and the applicant;
- what - the planned response operations that require the oily water discharge;
- how - the state and capability of the ship as a response platform; and
- result - the expected discharge volumes or rates.

The above applies to all Australian waters, including State/NT waters, except where the State/NT has passed its own legislation providing for the MARPOL Regulation, where approval is provided by its own "prescribed officers" or similar. If the State/NT legislation is silent on the issue, or in conflict with the MARPOL Regulation intent, then the Commonwealth legislation applies, as the means to implement the international obligation.

Discharge of oily water into the sea from land-based activities and facilities

This is an entirely different matter.

Discharge of oily water, decant water or water emanating from an oily-water separator, from a land-based storage facility (tank, IBC, drum, etc.) to the sea is subject to the specific water and/or land pollution laws of the local (Commonwealth, State or Territory) jurisdiction. These can vary from jurisdiction to jurisdiction. Responders and waste operators should be aware of the local requirements.

Whilst it is appealing to think that the water discharge may be less polluting than the oiled shoreline or coastal water from which it came, often temporary storage is not adjacent to the polluted area and such a discharge would create a secondary incident.

In general, once oil and water are recovered, their management until final disposal is one of logistics, infrastructure and cost. There are technologies that can be applied to separate the water from the oil to ensure each is disposed of appropriately. Even in remote areas where oily water storage and waste oil disposal may be problematic, this is largely a logistics and infrastructure issue, and one that should be anticipated and planned for. So each operator and jurisdiction should address this issue within their oil spill contingency plans.

There are oily water disposal methods that allow oily water to be discharged to land (e.g. land-farming) or to the sea. However, these are not risk or effects-free and need to be anticipated, planned, tested and given regulatory approval by the relevant jurisdiction, prior to implementation.