



Great Barrier Reef Marine Park – Recent Offences Update

There are a plethora of regulations in place to try to minimise the effects of shipping on the Great Barrier Reef Marine Park eco-system. Failure to adhere to these regulations can, and often does, result in costly fines and delays. More often than not breaches of these regulations are caused through easily preventable errors.

Navigation

The officer on watch of a bulk carrier was recently fined a record A\$85,000 for travelling inside a prohibited shipping area within the Great Barrier Reef Marine Park. The master was also fined A\$40,000 bringing the total fine for the breach to A\$125,000. The vessel was also detained for failing to carry relevant nautical charts and failing to prepare a voyage plan taking into account the designated shipping area of the Great Barrier Reef Marine Park.

This incident, and the associated delays and record fines, could easily have been avoided. The fines imposed were significantly greater than previously imposed for similar breaches and reflects heightened community concern about navigation in the Great Barrier Reef region.

Garbage Disposal

A number of vessels have also been caught out by garbage disposal offences recently. These offences typically arise inadvertently due to a lack of knowledge of regulations and incomplete garbage management plans and signage onboard. A breach of garbage disposal regulations can result in fines of up to a maximum A\$425,000 for vessel owners

and A\$85,000 for the master being imposed, with authorities routinely detaining vessels where there is evidence of an infringement until security for the maximum combined fine (A\$510,000) is received.

Contrary to the usual regulations under MARPOL for the disposal of garbage at sea, disposal of all garbage, including comminuted/ground food waste, is prohibited throughout the Great Barrier Reef region. Unfortunately, the MARPOL provision which establishes this absolute prohibition does so in a way that is easy to overlook, and so the prohibition is often not mentioned in standard form garbage management plans and vessel signage.

Generally, ships may dispose of certain limited forms of garbage at sea whilst en route and at particular distances out 'from the nearest land'. In certain 'special areas' greater restrictions apply. The Great Barrier Reef region is not listed as a 'special area'. Instead, buried in the definition of 'from the nearest land' is a provision which means that for the purposes of MARPOL, 'the nearest land' is effectively the outer edge of the Great Barrier Reef. This means that a ship can be a substantial distance from the Australian mainland but – if inside the Reef – not be an appropriate distance from 'the nearest land' for garbage disposal purposes.

Transiting the Great Barrier Reef Marine Park need not result in costly fines and lengthy delays. Vessel operators should ensure their vessels carry appropriate paperwork for proper navigation, including up to date navigation charts and carefully plotted voyage plans, together with garbage management plans and signage which identify the prohibition against all garbage disposal within the Great Barrier Reef region.

MARPOL - In More Detail

Regulations 3 and 4 of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL) stipulates the usual provisions for the disposal of garbage as follows:

- Disposal of comminuted/ground food wastes may be made whilst en route and as far as practicable from the nearest land but in any event at least 3 nautical miles out;
- Disposal of non-comminuted/ground food wastes may be made whilst en route and as far as practicable from the nearest land but in any event at least 12 nautical miles out;
- Disposal of cargo residues that cannot be recovered using commonly available unloading methods and that do not contain any substances classified as harmful to the marine environment may be made as far as practicable from the nearest land but in any event at least 12 nautical miles out;
- Disposal of animal carcasses may be made as far as practicable from the nearest land;
- Disposal of cleaning agents or additives contained in cargo hold, deck and external surfaces wash water that are not harmful to the marine environment may be made as far as practicable from the nearest land; and
- Disposal into the sea of all other garbage including plastics, cooking oil, synthetic ropes, fishing gear, plastic garbage bags, incinerator ashes, clinkers, floating dunnage, lining and packing materials, paper, rags, glass, metal, bottles, crockery and similar refuse is prohibited.

However, these usual provisions do not apply in certain 'special areas' as listed in Regulation 1 of Annex V. These special areas are the Mediterranean Sea area, the Baltic Sea area, the Red Sea area, the Gulfs area, the North Sea area, the Antarctic area and the Wider Caribbean Region, which have all been identified as requiring special mandatory methods for the prevention of sea pollution by garbage due

to their oceanographical and ecological condition and the particular character of their traffic. In these areas all garbage disposal is prohibited with the exception of comminuted/ground food wastes and, in certain circumstances, cargo residues, cleaning agents or additives in cargo hold wash water which may be disposed of whilst en route and as far as practicable from the nearest land or ice shelf but at least 12 nautical miles out. Cleaning agents or additives in deck and external surfaces wash water may also be disposed of provided the substances are not harmful to the marine environment. Additionally, introduced avian products (including poultry) can only be disposed of in the Antarctic area if they have been sterilised.

The Great Barrier Reef is only (somewhat obscurely) referenced in Regulation 1 of Annex V which defines 'from the nearest land' as meaning from the baseline from which the territorial sea of the territory in question is established in accordance with international law; but then goes on to say that, for the purpose of MARPOL, 'from the nearest land' off the north eastern coast of Australia shall mean from a line drawn as follows:

- from a point on the coast of Australia in latitude 11°00' South, longitude 142°08' East, to a point in latitude 10°35' South, longitude 141°55' East,
- thence to a point latitude 10°00' South, longitude 142°00' East,
- thence to a point latitude 9°10' South, longitude 143°52' East,
- thence to a point latitude 9°00' South, longitude 144°30' East,
- thence to a point latitude 10°41' South, longitude 145°00' East,
- thence to a point latitude 13°00' South, longitude 145°00' East,
- thence to a point latitude 15°00' South, longitude 146°00' East,
- thence to a point latitude 17°30' South, longitude 147°00' East,

- thence to a point latitude 21°00' South, longitude 152°55' East,
- thence to a point latitude 24°30' South, longitude 154°00' East,
- thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East.

This provision effectively establishes an artificial baseline at the outer edge of the Great Barrier Reef. Vessels transiting in or near the Reef should have reference to this artificial baseline instead of the usual land baseline in determining how far away the vessel is 'from the nearest land' if considering disposal of garbage.



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