

Regulations of the People's Republic of China on the Emergency Prevention and Handling of Marine Pollution Caused by Ships

Chapter One General Principles

Article 1 In order to improve the emergency handling capacity of vessel-caused pollution accidents, control, reduce or eliminate the marine pollution damage caused by vessel-caused pollution accidents, in accordance with the Regulations of the People's Republic of China on Administration of the Prevention and Control of Marine Pollution Caused by Ships, other relevant laws, administrative regulations and relevant international treaties that China has concluded or acceded to, this Regulations is enacted.

Article 2 This Regulations shall apply to emergency prevention and emergency handling on the prevention and control of marine pollution caused by ships and their relevant operations within sea areas under the jurisdiction of the People's Republic of China.

This Regulations shall also be applicable to emergency prevention and emergency handling of pollution accidents incurred by ships beyond sea areas under the jurisdiction of the People's Republic of China which have caused or likely to cause pollution to the sea areas under the jurisdiction of the People's Republic of China.

“Emergency handling” as referred to in this Regulations means the response actions conducted with the purpose to control, reduce or eliminate marine pollution damage caused by vessels when vessel-caused pollution accident has occurred or is likely to occurred; “emergency prevention” as referred to in this Regulations means the emergency preparation work pre-conducted for effectively carrying out the emergency handling.

Article 3 The Ministry of Transport shall be in charge of the national emergency prevention and emergency handling of prevention and control of marine pollution caused by vessels and their relevant operations.

The state maritime administration agency shall be responsible for the emergency prevention and emergency handling of marine pollution caused by vessels their relevant operations.

Coastal maritime administration agencies at various levels shall pursuant to their respective duties be responsible for specific management of emergency prevention and emergency handling of prevention and control of marine pollution caused by vessels their relevant operations.

Article 4 The emergency prevention and emergency handling of marine pollution caused by vessels their relevant operations shall comply with the principles of unified leadership, comprehensive coordination, duty bearing at various levels, territorial management and sharing responsibility.

Chapter Two Emergency Prevention

Article 5 The national capacity building plan for dealing with emergencies in the prevention and control of marine environment pollution caused by vessels and their relevant operations (commentary: “capacity building plan for dealing with emergencies in the prevention and control of marine environment pollution caused by vessels and their relevant operations” hereinafter referred to as the “capacity building plan”) shall, pursuant to the necessity of national prevention and control of marine pollution caused by vessels and their relevant operations, be organized and constituted by the Ministry of Transport (commentary: “Ministry of Transport” hereinafter referred to as the “MOT”), and be promulgated and implemented after the approval of

the State Council.

The capacity building plan of the coastal provincial level shall, pursuant to the national capacity building plan as well as the local situations, be organized and constituted as well as promulgated and implemented by the coastal governments of provinces, autonomous regions and municipalities directly under the Central Government.

The capacity building plan of coastal city level shall, pursuant to the capacity building plan of the provincial level of the place where the city is located and in combination of the local situations, be organized and constituted as well as promulgated and implemented by the governments of the coastal cities divided into districts.

The capacity building plan shall be constituted based on the evaluations of the risk of pollution and the necessity of emergency prevention; the construction arrangement of emergency forces shall be reasonably planned.

The coastal maritime administration agencies of various levels shall actively assist and/or cooperate with relevant local governments to complete the constitution of the capacity building plan.

Article 6 The MOT and the local coastal governments at and above the level of cities divided into districts shall, in accordance with the corresponding capacity building plans, establish and improve the emergency prevention and response mechanism for vessel-caused pollution accidents, establish specialized emergency regiment, construct the facilities, equipments and devices repository for purpose of ship pollution emergency.

Article 7 The coastal maritime administration agencies of various levels shall, pursuant to the needs of prevention and control of marine pollution caused by vessels

and their relevant operations, in conjunction with the competent oceanic administration department, strengthen the aforesaid monitor and surveillance, establish and improve the mechanism of monitor and surveillance over marine pollution vessels and their relevant operations.

Ports, docks, loading and unloading spots, and other units engaged in ship building and repairing, shall equip with pollution monitoring facilities and pollutant collecting facilities corresponding to the cargo types they loaded and unloaded as well as their handling capacity or the ship building and repairing capacity, and keep the said facilities in good condition.

Article 8 Any port, dock, loading and unloading spot or unit engaged in repairing, building, salvaging or dismembering of vessels shall, in accordance with requirements of the MOT, formulate management rules on safe operation and the prevention and control of pollution and, in accordance with the rules and standards of the State on the prevention and control of marine environment pollution caused by vessels and their relevant operations, equip itself with necessary equipment and devices for the prevention and control of pollution, ensure that they meet the requirements for the prevention and control of marine environment pollution caused by vessels and their relevant operations.

Article 9 Any port, dock, loading and unloading spot or unit engaged in repairing, building, salvaging or dismembering of vessels shall compile report to evaluate on whether or not the capability it possesses for prevention and control of pollution caused by vessels commensurate with the types of goods loaded or unloaded, its handling capacity, the ability of pollution-monitoring and surveillance, the ability of collecting and handling vessel pollutants as well as the ability of vessel-caused pollution accident emergency handling, necessary for building, repairing or dismembering vessels,

Competent transport department shall examine the evaluation report when conducting inspection and acceptance for port, dock, loading and unloading spot in accordance with law, so as to confirm it possess ability for prevention and control of pollution caused by vessels commensurate with the operation it engages in.

Article 10 The MOT shall, pursuant to the national general contingency plan for unexpected public events, make the specialized national contingency plan for the prevention and control of marine pollution caused by vessels and their relevant operations (commentary: “contingency plan for the prevention and control of marine pollution caused by vessels and their relevant operations” hereinafter referred to as the “contingency plan”).

The coastal people’s governments of provinces, autonomous regions and municipalities directly under the Central Government shall, in accordance with the above specialized national contingency plan, make the provincial contingency plans.

The coastal people’s governments of the cities divided into districts shall, pursuant to the provincial contingency plan of the place where the city is located, make the contingency plan of city level.

The MOT and the local coastal people’s governments above level of the cities divided into districts shall periodically organize drills of the contingency plans.

Article 11 The owners, operators and managers of Chinese ships shall pursuant to the planning guideline of contingency plan made by the state maritime administration agency, formulate or revise their own contingency plans for prevention and control of marine pollution caused by vessels and their relevant operations and file with the maritime administration agency for approval.

The operators of the ports, docks, loading and unloading spots shall formulate their

own contingency plans for prevention and control of marine pollution caused by vessels and their relevant operations and file with the maritime administration agency and competent environment protection department.

Ships and relevant operation units shall periodically organize emergency drills as per the constituted contingency plan, evaluate the contingency plan according to the drills, timely revise the contingency plan according to actual needs and situation changes, and truthfully record the drills, evaluation and revision of the contingency plan.

Article 12 Pollution emergency facilities, equipments and devices of a Chinese ship shall be in compliance with the state's relevant standards and pass the inspections of model and behavior in service in accordance with the state's relevant requirements; their producers and suppliers shall file with the state maritime administration agency for the varieties and inspection certificates of the facilities, equipments and devices they produced and/or sold.

The state maritime administration agency shall publish to the public in a timely manner about those ship pollution emergency facilities, equipments and devices as well as their producers that are consistent with the state's relevant standards.

Chapter Three Cleanup Units of Ship Pollution

Article 13 The ship pollution cleanup units (commentary: "ship pollution cleanup units" hereinafter referred to as the "cleanup units") mean units that possess corresponding capability for pollution cleanup and offer pollution accident emergency prevention and handling services to ships.

In accordance with the different service areas and different pollution cleanup capacities, the capacity level of the cleanup units are graded as four levels from high to low, among which:

- 1) Units of level-1 can engage in offering emergency service to ships in case of oil spill or pollution accidents from leakage of other bulk liquid pollution hazardous goods within sea areas under the jurisdiction of China;
- 2) Units of level-2 can engage in offering emergency service to ships in case of oil spill or pollution accidents from leakage of other bulk liquid pollution hazardous goods within the sea areas of 20 nautical miles off shore under the jurisdiction of China;
- 3) Units of level-3 can engage in offering emergency service to ships in case of oil spill within the port waters;
- 4) Units of level-4 can engage in offering emergency service to ships in case of oil spill in one operation zone and/or waters in the vicinity of an independent dock within the port waters.

Article 14 Units engaged in ship pollution cleanup shall possess the following qualifications and be supervised and inspected by the maritime administration agency:

- 1) The capacity of emergency pollution cleanup shall comply with the regulations of the Capacity Requirements of Emergency Prevention of the Ship Pollution Cleanup Units (attachment);
- 2) The constituted pollution cleanup operation plan shall meet the requirements of the prevention and control of marine pollution caused by vessels and their relevant operations;
- 3) The pollutant handling plan shall comply with the State's relevant regulations about prevention and control of pollution.

Article 15 A ship pollution cleanup unit shall publish the following situations to the society and report the same to the maritime administration agency of the place where it offers services:

- (1) Report that its pollution cleanup capability conform to corresponding capability level and service area of Requirements on Capability of Emergency Prevention of the Ship Pollution Cleanup Units;
- (2) The pollution cleanup operation plan;
- (3) The pollutant disposal plan;
- (4) Circumstances of facilities, equipments, devices and staffs for ship pollution cleanup;
- (5) The circumstances of conclusion and performance of ship pollution cleanup agreements as well as the circumstances of participating in emergency prevention and handling of ship pollution.

Any change to the pollution cleanup capability and the service area of the ship pollution cleanup unit shall be published timely to the society and reported to the maritime administration agency of the place where it offers services.

Chapter Four Conclusion of Ship Pollution Cleanup Agreement

Article 16 The operators of ships carrying oil cargo in bulk shall, before the said ships entering a port or conducting loading and unloading and/or lightering operation outside the port, conclude ship pollution cleanup agreements (hereinafter referred to as the “cleanup agreements”) with corresponding qualified cleanup units in accordance with the following requirements:

- 1) For ships below 600 GT which only navigate or operate in the port waters, they shall conclude the cleanup agreements with cleanup units of above level-4;

2) For ships above 600 GT but below 2000 GT which only navigate or operate in the port waters, they shall conclude the cleanup agreements with cleanup units of above level-3;

3) For ships above 2000 GT which only navigate or operate in the port waters and ships entering into or leaving form a port as well as ships engaged in lightering operation, they shall conclude the cleanup agreements with cleanup units of above level-2;

Article 17 Operators of ships carrying other poisonous hazardous liquid in bulk other than oil shall, before the said ships entering a port or conducting loading and unloading and/or lightering operation outside the ports, conclude cleanup agreements with corresponding qualified cleanup units in accordance with the following requirements:

1) For ships entering into or leaving form a port and ships which navigate or operate within 20 nautical miles off shore, they shall conclude the cleanup agreements with cleanup units of above level-2;

2) For ships carrying poisonous hazardous liquid in bulk which engaged in lightering operations in sea areas under the jurisdiction of China of more than 20 nautical miles off the shore, they shall conclude the cleanup agreements with cleanup units of above level-1.

Article 18 As for ships above 10,000 GT carrying poisonous hazardous liquid not in bulk, the operators of the said ships shall, before the said ships entering a port or conducting loading and unloading and/or lightering operation outside the port, conclude ship pollution cleanup agreements with corresponding qualified cleanup units in accordance with the following requirements:

1) Ships below 20,000 GT entering into or leaving from a port shall conclude the cleanup agreements with cleanup units of above level-4;

2) Ships above 20,000 GT but below 30,000 GT entering into or leaving from a port shall conclude the cleanup agreements with cleanup units of above level-3;

3) Ships above 30,000 GT entering into or leaving from a port and ships engaged in lightering operations in sea areas under the jurisdiction of China shall conclude the cleanup agreements with cleanup units of above level-2;

Article 19 The criteria for classification of ships that shall conclude the cleanup agreements with cleanup units of level-1 or level-2 shall be determined by the State maritime administration.

Article 20 The State maritime administration agency shall draw up and announce the cleanup agreement sample, make clear the rights and obligations between two parties.

Ships and cleanup units shall conclude the cleanup agreements in accordance with the sample announced by the State maritime administration agency.

Article 21 The ships shall keep the concluded cleanup agreements onboard for inspection, and show the said cleanup agreements to the maritime administration agency when the ships are handling the entry and departure procedures or operation application.

If the cleanup units are found by the ships to have violated this Regulations or have not performed the cleanup agreements, the ships shall report to the direct maritime administration agency at the place where the said units are located.

Chapter Five Emergency Disposal

Article 22 In case there are vessel-caused pollution accidents or there is marine pollution threat, the ships and relevant operation units shall immediately set in motion corresponding contingency plan, report to the nearby maritime administration agency as per relevant stipulated requirements, advise the cleanup units that have concluded the cleanup agreements, and take measures to prevent, control and eliminate the pollution as per the contingency plan.

The ship shall report to the maritime administration agency before terminating the pollution cleanup action, and it shall not terminate the emergency handling measures until getting the permission of the maritime administration agency.

Article 23 After receiving the notice, the cleanup units shall in time conduct the operations to control and clear the pollution, and report to the maritime administration agency about the progress of the control and elimination of pollution in time.

Article 24 After receiving the report that ships have caused or may cause marine pollution, the maritime administration agency shall immediately check relevant situations, and strengthen motoring and surveillance.

If ships have caused marine pollution, the maritime administration agency shall immediately organize the evaluation upon the level of the vessel-caused pollution accidents, and make report and bulletin in accordance with the requirements of the contingency plan.

Article 25 After occurrence of vessel-caused pollution accidents, in accordance with the Regulations of the PRC on the Prevention and Control of Marine Pollution from Ships, the emergency commanding organization shall be established. The said emergency commanding organization shall pursuant to the levels and characteristics

of the vessel-caused pollution accidents, set in motion corresponding contingency plan; relevant departments and units shall, under the unified organization and commanding of the said emergency commanding organization, conduct corresponding emergency handling work in accordance with the division of labor of the contingency plan.

Article 26 In case there are vessel-caused pollution accidents or vessel sunk, which may cause pollution to the sea areas under the jurisdiction of the PRC, relevant local coastal governments above city level and the maritime administration agency may, pursuant to the requirements of emergency handling, expropriate the ships, facilities, equipments and devices of pollution prevention and control and other materials owned by relevant units and private persons. Relevant units and private persons shall cooperate with such order.

Ships, facilities, equipments and devices of pollution prevention and control provided by relevant units and individuals shall be in well available order and condition, and the quality of related materials shall meet with requirements of relevant national technical standards and/or regulations

After the completion of use or emergency handling, the expropriated ships and facilities, equipment and device of pollution prevention and control, and other materials shall be returned in time. In case the ships and facilities, equipments and devices of pollution prevention and control, and other materials are expropriated or damaged and lost after expropriation, compensation shall be made.

Article 27 In case there are vessel-caused pollution accidents, the maritime administration agency may organize and adopt such necessary measures as traffic control at sea, clearing, wreck removal, towage, pilotage, escort, lightering, underwater pumping and underwater blasting, etc. The relevant costs arising from adoption of the above-mentioned measures shall be borne by the ships and related

operation units that have caused the marine pollution.

As to the ships that shall bear the relevant costs as provided by the above paragraph, they shall, before commencing the next voyage, pay the costs or provide relevant financial guarantee.

The financial guarantee as regulated in this Article shall be issued by the banks within the Chinese territory or commercial insurance companies within the Chinese territory.

Article 28 When ship accidents happen and there is danger of sinking, before leaving the ship, the crew shall pursuant to regulations take measures to prevent oil spill, close all the valves of the cargo holds (containers) and oil tank (conservator) lines, stuff the vent holes of the cargo holds (containers) and oil tanks (conservators).

In case that the ship sinks because of the accidents, the owners, operators or managers of the ship shall immediately report to the maritime administration agency about the nature, quantity, type and the location of the bunker, pollution hazardous cargo and other pollutants, and shall entrust qualified cleanup units to take such measures as pollution motoring and control, such measure as extraction and wreck removal may be taken when necessary.

Article 29 After the completion of the pollution cleanup operations, the ships shall conduct evaluation of the pollution cleanup actions, and submit the evaluation report to the local direct maritime administration agency. The evaluation report shall at least include the following contents:

- 1) The profile of the accident and circumstances of emergency handling;
- 2) The usage of facilities, equipments, devices and staff;

- 3) The type, quantity and handling of the reclaimed pollutants;
- 4) The pollution damages;
- 5) The existing problems and amendment of the contingency plan of ship pollution.

The emergency commanding organization shall, after the completion of pollution cleanup operations, organize to conduct the evaluation of the overall effect of pollution cleanup operations and the damage caused by pollution, as well as amending the corresponding contingency plan in accordance with the evaluation result.

Chapter Six Legal Liabilities

Article 30 The maritime administration agency shall establish and improve the supervision and inspection systems on the emergency prevention and handling of vessel-caused pollution accidents, conduct supervision and inspection upon the capacity of ship pollution prevention and control of ships and relevant units engaged in pollution cleanup operations, and record the said supervision and inspection.

When the maritime administration agency conducting supervision and inspection, relevant units and persons shall assist and cooperate, and can not refuse, impede or block the aforesaid supervision and inspection.

Article 31 If the ships and their related operation units or private persons violate this Regulations, the maritime administration agency shall order to rectify; if rectification is resisted, the maritime administration agency can order the ship to stop the ships' operation, to order to compel the ship to discharge, to forbid the ship from entry/departure of the port, or forbid the ship to stay for transit, or order the ship to stop navigating, to change the route, to navigate to the designated place.

Article 32 For the violation of this Regulations that the ships and related operation units fail to make their own contingency plans, or fail to file the contingency plans with maritime administration agency, the maritime administration agency can impose a fine of no more than RMB20,000; operators of ports, docks, loading and unloading spots fail to make their own contingency plans, the maritime administration agency shall impose a warning or order the said operators to rectify within prescribed period.

Article 33 For the violation of this Regulations that the ships and related operation units have not equipped with anti-pollution facilities, equipments and devices, or the equipped anti-pollution facilities, equipments and devices are not in compliance with the state's relevant regulations and standards, the maritime administration agency shall impose a warning or a fine of no less than RMB20,000 and no more than RMB100,000.

Article 34 For the violations of this Regulations which has one of the following situations, the maritime administration agency shall impose a fine of no less than RMB10,000 and no more than RMB50,000:

- 1) For ships carrying poisonous hazardous liquid in bulk or other ships above 10,000 GT, the operators of the ships have not concluded pollution cleanup operation agreements as per this Regulations;
- 2) A ship pollution cleanup unit concludes pollution cleanup operation agreement and engages in pollution cleanup operation beyond its level of capability and outside its service area;
- 3) A ship pollution cleanup unit fails to perform its emergency attendance duty as required.

Article 35 For the violations of this Regulations which has the one of the following situations, the maritime administration agency can impose a fine of no less than

RMB20,000 and no more than RMB100,000:

- 1) After the ship sinks, the owners and/or operators of the ship do not immediately reported to the maritime administration agency about the nature, quantity, type and the location of the bunker, pollution hazardous cargo and other pollutants;
- 2) After the ship sinks, the owners and/or operators of the ship do not immediately take measures clean up the bunker, pollution hazardous cargo and other pollutants.

Article 36 As to the violation of this Regulations, in case of occurrence of vessel-caused pollution accident, the ships and relevant operation units delay or fail to report the accident, the maritime administration agency shall impose a fine of no less than RMB50,000 and no more than RMB250,000 on the ships and relevant operation units; for the person in charge directly responsible and other persons directly responsible, the maritime administration agency shall impose a fine of no less than RMB10,000 and no more than RMB50,000; if the aforesaid persons are crewmembers, the maritime administration agency shall impose a punishment of temporarily withholding competency certificates or other relevant certificates for no less than 3 months and no more than 6 months. In case the ship or relevant operation units conceal or make false report about the accident, the maritime administration agency shall impose a fine of no less than RMB250,000 and no more than RMB500,000 on the ships and relevant operation units; for the person in charge directly responsible and other persons directly responsible, the maritime administration agency shall impose a fine of no less than RMB50,000 and no more than RMB100,000; if the aforesaid persons are crewmembers, the maritime administration agency shall simultaneously impose a punishment of revoking competency certificates or other relevant certificates.

Article 37 As to the violation of this Regulations that the ships and relevant operation units fail to timely set in motion the contingency plan when there are vessel-caused

pollution accidents, the maritime administration agency shall impose a fine of no less than RMB20,000 and no more than RMB100,000 on the ship and relevant operation units; for the person in charge directly responsible and other persons directly responsible, the maritime administration agency shall impose a fine of no less than RMB10,000 and no more than RMB20,000; if the aforesaid persons are crewmembers, the maritime administration agency shall impose a punishment of temporarily withholding competency certificates or other relevant certificates for no less than 1 month and no more than 3 months.

Chapter Seven Supplementary Provisions

Article 38 “No less than” and/or “within” and/or “above” as referred to in this Regulations include the number mentioned, “no more than” and/or “below” and/or “more than” as referred to in this Regulations shall not include the number mentioned.

Article 39 This Regulations shall come into force as of June 1, 2011.