

Detailed Rules on the Implementation of the Regime of Agreement for Ship Pollution Response

Article 1 These Rules are enacted in accordance with such relevant laws, regulations and rules as the Regulations the People's Republic of China on Administration of the Prevention and Control of Marine Environment Pollution Caused by Vessels and the Regulations of the People's Republic of China on Emergency Preparedness and Response on Marine Environment Pollution from Ships (hereinafter referred to as "Regulations") for the purpose of effectively implementing regime of agreement for ship pollution response.

Article 2 These Rules shall apply to qualification licensing for ship pollution response unit and the conclusion, fulfillment and administration of agreements for ship pollution response within the sea areas under the jurisdiction of the People's Republic of China.

Article 3 The Maritime Safety Administration of the People's Republic of China is the competent authority for the implementation of these Rules. All coastal maritime administration agencies shall, in accordance with their respective duties, be specifically responsible for the implementation of these Rules.

Article 4 The capability of pollution response of a ship pollution response unit shall be in compliance with the requirements of the standard as specified in the attachment of the Regulations.

A ship pollution response unit shall, in accordance with requirements of the Regulations, equip with sufficient emergency operation staffs and, emergency operation staffs shall pass through the trainings by maritime administration agencies. Trainings for senior command staffs and on-the-spot command staffs shall be organized by the competent authority, and trainings for emergency operation staffs

shall be organized by the maritime administration agencies directly under the P. R. China MSA.

Article 5 An unit applying for ship pollution response operation qualification shall apply to the local the maritime administration agencies directly under the P. R China MSA and submit the following materials:

- (1) Statement of Application;
- (2) Proof proving its status of a registered legal person;
- (3) relevant materials for capability of emergency response of the ship pollution response unit;
- (4) the contingency plan for the prevention and control of marine environment pollution caused by vessels and their relevant operations;
- (5) pollution response operation plan;
- (6) plan for handling pollutants;
- (7) Safe operation and pollution prevention and control management system.
- (8) Technical evaluation materials proving compliance with the conditions as provided for in Article 18 of the Regulations.

Technical evaluation shall be carried out pursuant to Guidelines for the Capacity Evaluations of Ship Pollution Response Units (attachment I).

Article 6 A maritime administration agency directly under the P. R China MSA shall, after receipt of an application, conduct an on-the-spot examination on whether the applying unit meets the requirements of the Regulations, and complete the on-the-spot examination report based on the situation of the on-the-spot examination.

Article 7 As for a ship pollution response unit applying for level-1 qualification, a maritime administration agency directly under the P. R China MSA shall, within 15 days from the date of receipt of the application, complete the on-the-spot examination,

and submits the on-the-spot examination report and relevant materials to the competent authority. The competent authority shall, within 30 days from the date of receipt of the application by the maritime administration agency directly under the P. R China MSA, make a decision on whether or not to approve the application. As for units applying for level-2, level-3 or level-4 qualification, a maritime administration agency directly under the P. R China MSA shall, within 30 days within from the date of receipt of the application, make a decision on whether or not to approve the application.

Article 8 A maritime administration agency directly under the P. R China MSA shall, report the names, levels, service areas and validity of the approved level-2, level-3 and level-4 ship pollution response units to the competent authority for the record.

Article 9 For an approved ship pollution response unit, the maritime administration agency shall issue the Ship Pollution Response Unit Qualification Certificate.

The Ship Pollution Response Unit Qualification Certificate shall be uniformly printed by the competent authority.

Article 10 A ship pollution response unit shall, within 30 days prior to the expiration date of the validity of the Ship Pollution Response Unit Qualification Certificate, apply to the original authority that accepted the application to handle the renewal formality of the certificate, and submits the following materials:

- (1) Statement of Application;
- (2) The original certificate; and
- (3) A summary of the situations involving in conclusion and performance of the agreements for ship pollution response within the effective period of the certificate.

After receipt of relevant materials, the original issuing maritime administration

agency shall examine on whether or not such ship pollution response unit meets the conditions as provided for in Article 18 of the Regulations, and make a decision on whether or not to approve renewal application.

Article 11 A ship pollution response unit shall strengthen the inspection and maintenance of the emergency ships, facilities, equipment and devices for cleaning up pollution, organize at least two times of ship pollution response emergency exercise each year, and maintain proper records.

The ship pollution response unit shall label the emergency response facilities and devices by ways such as affixing steel seals or spaying paints, and submit the list of emergency response ships, facilities and devices to the local maritime administration agency.

Article 12 A ship pollution response unit shall, before January 31 of each year, submit the materials for annual record to the original issuing authority, and the materials for annual record shall contain contents as required by Article 24 of the Regulations. A level-1 ship pollution response unit shall, in addition, submit the aforesaid materials to the local maritime administration agency directly under the P. R China MSA.

Article 13 A maritime administration agency shall, after receipt of the materials submitted by a ship pollution response unit for the purpose of annual record, conduct inspection on whether the ship pollution response unit meets the requirements of the Regulations.

Article 14 The operator of a vessel carrying oil cargo in bulk shall, before the vessel enters into a port or loads or discharges cargo outside a port or, conducts ship-to-ship transfer of cargo, conclude an agreement for ship pollution response with a corresponding ship pollution response unit in accordance with the following requirements:

- (1) A ship below 600 GT which only navigates or operates in the port waters shall conclude an agreement for ship pollution response with a ship pollution response unit of above level-4;
- (2) A ship above 600 GT but below 2000 GT which only navigates or operates in the port waters shall conclude an agreement for ship pollution response with a ship pollution response unit of above level-3;
- (3) A ship above 2000 GT but below 10,000 GT which only navigates or operates in the port waters and ships below 10,000 GT entering into or leaving from a port as well as other ships engaged in ship-to-ship transfer of cargo within 20 nautical miles off shore shall conclude agreements for ship pollution response with ship pollution response units of above level-2;
- (4) A ship above 10,000 GT entering into or leaving from a port and ships engaged in ship-to-ship transfer of cargo in waters beyond 20 nautical miles off shore but under the jurisdiction of China shall conclude agreements for ship pollution response with a ship pollution response units of level-1.

Ships only navigate or operate in the port waters shall, before commencement of operation, conclude agreements for ship pollution response with corresponding ship pollution response units in accordance with the requirements of the preceding paragraph.

Article 15 The operator of a vessel carrying bulk liquid cargo apt to cause pollution other than oil shall, before the vessel enters into a port or loads or discharges cargo outside a port or, conducts ship-to-ship transfer of cargo, conclude an agreement for ship pollution response with a corresponding ship pollution response unit in accordance with the following requirements:

- (1) A ship below 10,000 GT entering into or leaving from a port and ships engaged in loading or discharging cargo or ship-to-ship transfer of cargo in waters within 20 nautical miles off shore shall conclude agreements for ship pollution response with a ship pollution response units of above level-2;
- (2) A ship above 10,000 GT entering into or leaving from a port and ships engaged in loading or discharging cargo or ship-to-ship transfer of cargo in waters beyond 20 nautical miles off shore but under the jurisdiction of China shall conclude agreements for ship pollution response with ship pollution response units of level-1.

Article 16 The operator of a vessel above 10,000 GT carrying liquid cargo apt to cause pollution not in bulk shall, before the vessel enters into a port or loads or discharges cargo outside a port or, conducts ship-to-ship transfer of cargo, conclude an agreement for ship pollution response with a corresponding ship pollution response unit in accordance with the following requirements:

- (1) A ship below 20,000 GT entering into or leaving from a port shall conclude an agreement for ship pollution response with a ship pollution response of above level-4;
- (2) A ship above 20,000 GT but below 30,000 GT entering into or leaving from a port shall conclude an agreement for ship pollution response with a ship pollution response unit of above level-3;
- (3) Ships above 30,000 GT but below 50,000 GT entering into or leaving from a port and ships engaged in loading or discharging cargo or ship-to-ship transfer of cargo in waters within 20 nautical miles off shore shall conclude agreements for ship pollution response with ship pollution response units of above level-2;

(4) Ships above 50,000 GT entering into or leaving from a port and ships engaged in loading or discharging cargo or ship-to-ship transfer of cargo in waters beyond 20 nautical miles off shore but under the jurisdiction of China shall conclude agreements for ship pollution response with ship pollution response units of level-1.

Article 17 Where ships engaged in voyages in inland rivers, ships of less than 10,000 GT carrying liquefied gases, ships carrying gasoline and empty liquefied cargo carriers enter into or leave from coastal ports of China, or operate in coastal waters of China, such ships shall not be compulsorily required to conclude the agreement for ship pollution response.

Article 18 Operator of a ship as referred to in the Regulations means the owner, manager or actual operator of a ship.

The operator of a ship may entrust its branch company, office, agency, agent of the ship or the Master to conclude an agreement for ship pollution response with a ship pollution response unit, or it may do so itself.

Where the operator of a ship entrusts its branch company, office, agency, agent of the ship or the Master to conclude an agreement for ship pollution response with a ship pollution response unit, such branch company, office, agency or agent of the ship shall possess lawful operation qualification and an authorization document of the operator.

Article 19 A ship pollution response may conclude the agreement for ship pollution response with the operator of the ship through a chained organization.

A chained organization means an organization established by ship pollution response units through agreement, which has uniformed behavior criterion and service standard

for performing the agreement for ship pollution response, and through which members voluntarily undertake the obligation of emergency preparedness and response on ships for each other.

In respect of a congested area of a port, the operator of a ship is encouraged to conclude a long-term agreement for ship pollution response covering such congested area with a ship pollution response or a chained organization in such congested area.

Article 20 the competent authority shall timely publish the list of ship pollution response units and agents of ships as well as branch companies, offices, agencies authorized by operator of ships to conclude the agreement for ship pollution response and the chained organizations on the website of the Maritime Safety Administration of the People's Republic of China (<http://www.mas.gov.cn>) and the China Oil Spill Prevention Website (www.osp.cn).

Article 21 A ship and a ship pollution response unit shall conclude an agreement for ship pollution response in accordance with the sample agreement for ship pollution response (attachment II), specify rights and obligations between the two parties.

The operator of a vessel shall conclude the agreement for ship pollution response with a ship pollution response unit on a voyage basis or on a fixed term basis.

Article 22 A ship and a ship pollution response unit shall exercise their rights and fulfill their obligations in accordance with the agreement for ship pollution response. Where a pollution accident happens to the ship, both parties shall carry out pollution control and cleanup actions in accordance with agreement for ship pollution response in a timely manner.

Article 23 Where the ship and the pollution response unit terminate the agreement for ship pollution response or such agreement become invalid due to any party's breach

of this agreement, such circumstances shall be reported to the maritime administration agency immediately.

Where the operator of the ship has concluded the agreement for ship pollution response, and pollution accident occurs after the agreed ship enters into the service area of the ship pollution response unit, both parties may terminate or cancel the agreement upon consultation, provided that the following conditions shall concurrently be met:

- (1) the operator of the ship and the ship pollution response unit have arranged proper substituted measure in respect of emergency response for accident;
- (2) cancellation or termination of the agreement will not affect prompt and effective pollution response;
- (3) report to the local maritime administration agency for approval.

Article 24 After the completion of the pollution response operation, the ship pollution response unit shall conduct evaluation for the pollution response operation, and submit the evaluation report to the local maritime administration agency directly under the P. R China MSA. The evaluation report shall at least contain the following contents:

- (1) The profile of the accident and circumstances of emergency response;
- (2) The utilization of facilities, equipments, devices and staffs;
- (3) The type, quantity and handling of reclaimed pollutants;
- (4) The existing problems of and amendments to the pollution response operation plan, the pollutants handling plan and the contingency plan.

Article 25 A ship shall keep on board of a copy of the transcript of the concluded agreement for ship pollution response for inspection.

Article 26 A maritime administration agency shall strengthen the supervision on the

conclusion and perform of agreements for ship pollution response.