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MARINE ENVIRONMENT PROTECTION LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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Chapter I General Provisions

Article 1 This Law is formulated in order to protect the marine environment and resources, prevent pollution damage, maintain ecological balance, safeguard human health and promote the development of marine programmes.

Article 2 This Law shall apply to the internal seas and territorial seas of the People's Republic of China and all other sea areas under the jurisdiction of the People's Republic of China.

All vessels, platforms, airborne vehicles and submersibles, as well as all enterprises, institutions and individuals engaged in navigation, exploration, exploitation, production, scientific research or other activities in the sea areas under the jurisdiction of the People's Republic of China shall comply with this Law.

This Law shall also apply to the discharge of harmful substances and the dumping of wastes done beyond the sea areas under the jurisdiction of the People's Republic of China that cause pollution damage to sea areas within the jurisdiction of the People's Republic of China.

Article 3 All units and individuals entering the sea areas under the jurisdiction of the People's Republic of China shall have the responsibility to protect the marine environment and shall have the obligation to watch for and report on actions causing pollution damage to the marine environment.

Article 4 The relevant departments under the State Council and the people's governments of the coastal provinces, autonomous regions, and municipalities directly under the Central Government may, as the need to protect the marine environment requires, establish special marine reserves, marine sanctuaries and seashore scenic and tourist areas and take corresponding measures to protect them.

The designation of special marine reserves and marine sanctuaries shall be subject to the State Council for approval.

Article 5 The environmental protection department under the State Council shall be in charge of the marine environmental protection of the whole country.

The state administrative department of marine affairs shall be responsible for organizing investigations and monitoring of and exercising surveillance over the marine environment and conducting scientific research therein; it shall also be in charge of environmental protection against marine pollution damage caused by offshore oil exploration and exploitation and by the dumping of wastes into the sea.

The Harbour Superintendency Administration of the People's Republic of China shall be responsible for supervising, investigating and dealing with the discharge of pollutants from vessels and for exercising surveillance over the waters of the port areas; it shall also be in charge of environmental protection against pollution damage caused by vessels.

The state fisheries administration and fishing harbour superintendency agencies shall be responsible for supervising the discharge of pollutants by vessels in the fishing harbours and for exercising surveillance over the waters thereof.

The environmental protection department of the armed forces shall be responsible for supervising the discharge of pollutants by military vessels and exercising surveillance over the waters of the naval ports.

The environmental protection departments of the coastal provinces, autonomous regions, and municipalities directly under the Central Government shall be responsible for organizing, coordinating, supervising and inspecting the marine environmental protection work in their respective administrative areas and shall be in charge of environmental protection against pollution damage caused by coastal construction projects and land-sourced pollutants.

Chapter II Prevention of Pollution Damage to the Marine Environment by Coastal Construction Projects

Article 6 Units in charge of coastal construction projects must, before drawing up and submitting their project plan descriptions, conduct scientific surveys of the marine environment, select suitable sites in the light of natural and social conditions and formulate and submit Environmental Impact Statements in accordance with relevant state regulations.

Article 7 Measures must be taken to protect the aquatic resources when building harbours and oil terminals, as well as water conservancy facilities and tidal power stations in estuaries. Dams to be built across fish and crab migration routes shall be provided with appropriate fish passage facilities.

Article 8 Facilities to receive and treat residual and waste oils, oil-polluted water and other wastes, along with the necessary anti-pollution equipment and monitoring and alarm devices, shall be installed at ports and oil terminals.

Article 9 The development and utilization of tideland shall be subject to comprehensive planning and strict administration. The reclamation of land from the sea, or other projects to enclose sea areas, and the excavation of sand and gravel shall be strictly controlled. For projects that are definitely necessary, Environmental Impact Statements based on investigative research and comparison of economic results must be prepared and submitted for approval to the environmental protection departments of the relevant provinces, autonomous regions, or municipalities directly under the Central Government. In the case of large-scale projects to enclose sea areas, the statements must also be submitted to the environmental protection department under the State Council for examination and approval.

It is forbidden to destroy seashore shelter belts, scenic woods, scenic rocks, mangroves and coral reefs.

Chapter III Prevention of Pollution Damage to the Marine Environment by Offshore Oil Exploration and Exploitation

Article 10 Enterprises engaged in offshore oil exploitation or their competent authorities shall, before drawing up and submitting their project plan descriptions, prepare Environmental Impact Statements, which shall include effective measures for the prevention of pollution damage to the marine environment; the statements shall be submitted to the environmental protection department under the State Council for examination and approval.

Article 11 When offshore oil exploration and other offshore activities involve explosive operations, effective measures shall be taken to protect fishery resources.

Article 12 Oils used in the course of exploration and exploitation shall be put under strict control so as to prevent accidents from oil leakage. Residual and waste oils shall be recovered and must not be discharged into the sea.

Article 13 Oil-polluted water and oil mixtures from offshore oil rigs, drilling platforms and oil extraction platforms may not be directly discharged into the sea. When they are discharged after recovery treatment, the oil content of the discharges may not exceed the standards set by the State.

Article 14 Offshore oil rigs, drilling platforms and oil extraction platforms may not dispose oil-polluted industrial wastes into the sea. The disposal of other industrial wastes may not cause pollution damage to fishing areas and shipping channels.

Article 15 When testing offshore wells, oils and oil mixtures may not be discharged into the sea, and the gas and oil shall be thoroughly flared so as to prevent pollution of the sea.

Article 16 Offshore oil pipelines and oil-storage installations shall always be kept in good condition, as required for the prevention of seepage, leakage and corrosion, so as to prevent oil leakage accidents.

Article 17 In exploring and exploiting offshore oil resources, appropriate anti-pollution facilities and equipment shall be made available, and effective technical measures shall be taken to prevent blowouts or accidents from oil leakage.

Once a blowout or oil leakage accident occurs, the unit concerned shall immediately report it to the state administrative department of marine affairs, take effective measures to control and eliminate oil pollution and accept the investigation and handling of the case by the department.

Chapter IV Prevention of Pollution Damage to the Marine Environment by Land-Sourced Pollutants

Article 18 The discharge of harmful substances into the sea by coastal units must be conducted in strict compliance with the standards for discharge and the relevant regulations promulgated by the State or the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

No additional outlet for discharging sewage shall be allowed within marine sanctuaries, aquacultural grounds and seashore scenic and tourist areas. Those outlets already in existence before the promulgation of this Law, where the discharge of pollutants is not in conformity with the state standards, shall be improved within a prescribed period of time.

Article 19 It is prohibited to discharge waste water containing high-level radioactive matter into the sea.

Any discharge of waste water containing low-level radioactive matter into the sea, when really necessary, shall be carried out in strict compliance with the state provisions and standards concerning radioactive protection.

Article 20 No medical sewage or industrial waste water carrying infectious pathogens may be discharged into the sea before it has been properly treated and strictly sterilized, with the pathogens therein exterminated.

Article 21 The discharge of industrial waste water and domestic sewage containing organic and nutrient matter into bays, semi-closed seas and other sea areas with low capacities of self-purification shall be controlled so as to prevent eutrophication of the sea water.

Article 22 When discharging heated waste water into the sea, measures shall be taken to ensure that the water temperature in the adjacent fishing areas is kept within state water quality standards in order to avoid damage to the aquatic resources by heat pollution.

Article 23 The use of chemical pesticides in coastal farmlands shall conform to the state provisions and standards for the safe use of pesticides.

Article 24 No unit may discard or pile up tailings, slags, cinders, garbage and other wastes along seashores and beaches without the approval of the environmental protection departments of the coastal provinces, autonomous regions, or municipalities directly under the Central Government. Those who have been approved by law to set up waste yards and treatment facilities along seashores and beaches shall build dikes to prevent the wastes from entering the sea.

Article 25 The environmental protection departments of the coastal provinces, autonomous regions, and municipalities directly under the Central Government and the river system administrative departments shall strengthen their control over rivers that empty into the sea to prevent them from being polluted and ensure the quality of the water in the estuaries.

Chapter V Prevention of Pollution Damage of the Marine Environment by Vessels

Article 26 No vessel may, in violation of the provisions of this Law, discharge oils, oil mixtures, wastes and other harmful substances into the sea areas under the jurisdiction of the People's Republic of China.

Article 27 Any oil tanker with a gross tonnage of 150 tons or more or any other vessel with a gross tonnage of 400 tons or more shall be fitted with appropriate antipollution equipment and facilities.

Any oil tanker with a gross tonnage of less than 150 tons and any other vessel with a gross tonnage of less than 400 tons shall be fitted with special containers for recovery of residual and waste oils.

Article 28 Any oil tanker with a gross tonnage of 150 tons or more or any other vessel with a gross tonnage of 400 tons or more shall carry on board an Oil Record Book.

Any vessels carrying more than 2,000 tons of oil in bulk as cargo shall hold a valid "insurance or other financial security certificate for civil liability against oil pollution damage", or a "credit certificate for civil liability against oil pollution damage", or furnish other financial credit guarantees.

Article 29 The discharge of oil-polluted water from an oil tanker with a gross tonnage of 150 tons or more or any other vessel with a gross tonnage of 400 tons or more must be conducted in compliance with the state standards and provisions for vessel sewage discharge and shall be truthfully recorded in the Oil Record Book.

Article 30 The discharge of hold-washings and other residues by vessels carrying noxious or corrosive goods must be conducted in compliance with the state provisions for vessel sewage discharge and shall be truthfully recorded in the Logbook.

Article 31 The discharge of radioactive substances from nuclearpowered vessels or vessels carrying such substances must be conducted in compliance with the provisions of Article 19 of this Law.

Article 32 Vessels, when bunkering or loading and unloading oil, must observe operating instructions and take effective measures to prevent oil spills.

Article 33 Shipbuilders and ship repairing, scrapping and salvaging units shall be provided with antipollution equipment and facilities. During operations, preventive measures shall be taken against pollution of the sea by oils, oil mixtures and other wastes.

Article 34 In case pollution has resulted from an abnormal discharge of oils, oil mixtures or other harmful substances, or from the spilling overboard of noxious or corrosive goods, the vessel concerned shall immediately take measures to control and eliminate such pollution and shall report the matter to the nearest harbour superintendency administration for investigation and settlement.

Article 35 If a vessel is involved in a marine accident which has caused, or is likely to cause, a serious pollution damage to the marine environment, the Harbour Superintendency Administration of the People's Republic of China shall have the power to compel action to avoid or minimize such a pollution damage.

Article 36 All vessels have the obligation to guard against pollution of the sea. Upon discovering violations of regulations or occurrences of pollution, they shall immediately report them to the nearest harbour superintendency administration; fishing boats may also report such occurrences to the nearest fisheries administration and fishing harbour superintendency agency.

Article 37 In the event of pollution caused by a vessel navigating, berthing or operating in a sea area under the jurisdiction of the People's Republic of China, officers from the Harbour Superintendency Administration of the People's Republic of China shall board the vessel in question to examine and handle the case. Officers from relevant government departments authorized by the Harbour Superintendency Administration may also board the vessel to conduct examinations and report the results thereof to the Administration for settlement.

Chapter VI Prevention of Pollution Damage to the Marine Environment by Dumping of Wastes

Article 38 No unit may dump any kind of waste into the sea areas under the jurisdiction of the People's Republic of China without the permission of the state administrative department of marine affairs.

Units that need to dump wastes must file an application with the state administrative department of marine affairs and the dumping may be carried out only after a permit has been granted by the department.

Article 39 Units that have obtained permits for dumping wastes shall dump wastes at the designated place, within the time limit and in accordance with the conditions specified in the permit. Wastes to be dumped shall be verified by the approving department after their loading. Wastes to be dumped by means of vessels shall be supervised and verified by the harbour superintendency administration at the port of departure.

Article 40 Units that have obtained permits for dumping wastes shall make a detailed record of such operations and present a written report to the approving department thereafter. Vessels that have

finished the said dumping must present a written report to the harbour superintendency administration at the port of departure.

Chapter VII Legal Liabilities

Article 41 In the case of a violation of this Law that has caused or is likely to cause pollution damage to the marine environment, the competent authorities prescribed in Article 5 of this Law may order the violator to remedy the pollution damage within a definite time, pay a pollutant discharge fee, pay the cost for eliminating the pollution and compensate for the losses sustained by the state; they may also give the violator a warning or impose a fine. An involved party contesting the decision may file a suit in a people's court within 15 days after it has received the written decision. If a suit has not been filed and the decision has not been carried out upon the expiration of that period, the competent authorities shall request the people's court to enforce the decision in accordance with law.

Article 42 Units or individuals who have suffered damage caused by marine environmental pollution shall be entitled to claim compensation from the party which caused the pollution damage. Disputes over the compensation liability and the amount of compensation may be settled by the competent authorities, and if a party contests the decision, the matter may be settled by resorting to the procedures specified in the Civil Procedure Law of the People's Republic of China (for Trial Implementation); the party concerned may also file a suit directly with the people's court.

Article 43 Compensation liability may be exempted if pollution damage to the marine environment cannot be avoided, despite prompt and reasonable measures taken, when the pollution damage is caused by any of the following circumstances:

- (1) acts of war;
- (2) irresistible natural calamities; or
- (3) negligence or other wrongful acts in the exercise of the functions of departments responsible for the maintenance of beacons or other navigational aids. In the case of pollution damage to the marine environment resulting entirely from the intentional or wrongful act of a third party, that party shall be liable for compensation.

Article 44 In cases where violations of this Law result in pollution damage to the marine environment and cause heavy losses to public or private property or deaths or injuries to persons, those who are directly responsible may be prosecuted for criminal responsibility by judicial organs in accordance with the law.

Chapter VIII Supplementary Provisions

Article 45 For the purpose of this Law, the definitions of the following terms are:

(1) "Pollution damage to the marine environment" means any direct or indirect introduction of substances or energy into the marine environment which results in deleterious effects such as harm to marine living resources, hazards to human health, hindrance to fishing and other legitimate activities at sea, impairment of the useful quality of sea water and degradation of environmental quality.

(2) "Fishing areas" means spawning grounds, feeding grounds, wintering grounds and migration channels of fish and shrimp as well as aquacultural grounds of fish, shrimp, shellfish and aquatic plants.

(3) "Oils" means any kind of oil and its refined products.

(4) "Oil mixtures" means any mixtures containing oil.

(5) "to discharge" means to drain pollutants into the sea, including pumping, spilling, releasing, gushing and pouring.

(6) "To dump" means to dispose of wastes or other harmful substances into the sea from vessels, airborne vehicles, platforms or other means of transport, including the abandonment of vessels, airborne vehicles, platforms and other floating apparatus.

Article 46 Where existing provisions concerning marine environmental protection contradict this Law, this Law shall prevail.

Article 47 The environmental protection department under the State Council may, in accordance with this Law, formulate rules for its implementation, which shall be put into effect after being submitted to and approved by the State Council.

The relevant departments under the State Council and the standing committees of the people's congresses and people's governments of the coastal provinces, autonomous regions, and municipalities directly under the Central Government may, in accordance with this Law, work out concrete measures for its implementation, taking into consideration the actual conditions prevailing at the departments or localities concerned.

Article 48 This Law shall come into force as of March 1, 1983.