

Chinalaw
Provided By Chinalaw Computer-Assisted Legal Research Center,
Peking University.

REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA
ON THE CONTROL OVER DUMPING WASTES INTO THE SEA WATERS

(Promulgated by the State Council of the People's
Republic of China on March 6, 1985)

CHINALAW No. 256

ISSUING-DEPT: STATE COUNCIL OF CHINA

ISSUE-DATE:
03/06/1985

IMPLEMENT-DATE:
04/01/1985

TEXT:

[Article 1] These Regulations are formulated for the purpose of implementing the Marine Environmental Protection Law of the People's Republic of China and strictly controlling the dumping of wastes at sea so as to prevent pollution damage to the marine environment, maintain ecological balance, preserve marine resources and promote the marine cause.

[Article 2] For the purposes of these Regulations, "dumping" means the disposal of wastes or other matter from vessels, aircraft, platforms or other vehicles at sea; the disposal of vessels, aircraft, platforms or other man-made structures at sea; the disposal at sea of wastes or other matter arising from, or related to the exploration and exploitation of sea-bed mineral resources and offshore processing related thereto.

"Dumping" does not include the discharge of wastes arising from the normal operation of vessels, aircraft, or other vehicles and facilities.

[Article 3] The present Regulations shall apply to:

(1) The dumping of wastes or other matter into the internal sea and the territorial sea, onto the continental shelf and into other sea areas under the jurisdiction of the People's Republic of China;

(2) The wastes of loading or other matter on land or in the harbours of the People's Republic of China for the purpose of dumping;

(3) The shipping of wastes or other matter in the internal sea, territorial sea and other sea areas under the jurisdiction of the People's Republic of China for the purpose of dumping;

(4) The incineration & disposal of wastes or other matter in the sea areas under the jurisdiction of the People's Republic of China.

In case of wastes arising from the offshore oil exploration and exploitation, the Regulations of the People's Republic of China Concerning Environmental Protection in Offshore Oil Exploration and Exploitation shall apply.

[Article 4] The competent authority in charge of the dumping of wastes at sea shall be the State Oceanic Administration of the People's Republic of China and its agencies (hereinafter referred to as the Competent Authority).

[Article 5] The dumping areas at sea shall be designated by the Competent Authority, in consultation with the departments concerned on basis of scientific, rational, safety and economical principles, subject to approval by the State Council.

[Article 6] An entity which intends to dump wastes at sea shall make an application to the Competent Authority by filling in an application form for dumping wastes as required and submitting this with a test paper on the characteristics and composition of the wastes.

The Competent Authority shall examine and act on the application within two months of the receipt of the application. Permits for the dumping of wastes shall be issued to those whose applications have been approved.

No entities, ships, aircraft, platforms or other vehicles shall be allowed to dump wastes at sea without the approval of the Competent Authority in accordance with law.

[Article 7] No wastes of foreign countries shall be allowed to be shipped to the sea areas under the jurisdiction of the People's Republic of China for the purpose of dumping, including the disposal of vessels, aircraft, platforms or other man-made structures at sea. The violators shall be ordered by the Competent Authority to remedy the pollution damage within a definite time, pay clean-up expenses incurred in eliminating the pollution, compensate for the losses and be liable to a fine.

The dumping of wastes which is carried out beyond the sea areas under the jurisdiction of the People's Republic of China, but which has resulted in pollution damage to the sea areas under the jurisdiction of the People's Republic of China, shall be dealt with pursuant to the provisions of Article 17 of the present Regulations.

[Article 8] Any vessels or other vehicles which ship wastes through the sea areas under the jurisdiction of the People's Republic of China for the purpose of dumping shall notify the Competent Authority fifteen days before their entry into the sea areas under the jurisdiction of the People's Republic of China and at the same time report the time of their entry and their routes, as well as the names, quantities and composition of the wastes.

[Article 9] Vessels and platforms of foreign nationality which intend to dump wastes or other matter arising from, or related to the exploration, exploitation and associated offshore processing of seabed mineral resources shall report to the Competent Authority for approval in accordance with the stipulated procedure.

[Article 10] The permit for dumping shall clearly indicate the waste-dumping entity, term of validity, quantities and categories of the wastes, and method of dumping.

The issuance of permits shall be strictly controlled in accordance with the relevant provisions of the present Regulations. The Competent Authority may change or revoke a permit in view of the variation of the marine ecological environment and the development of science and technology.

[Article 11] Wastes shall fall into three categories in accordance with factors such as toxicity, harmful substance content, impact upon the marine environment, etc. The criteria governing the classification of wastes shall be established by the Competent Authority. The Annexes to these Regulations may be amended

by the Competent Authority in the light of the variation of the marine ecological environment, the development of science and technology and the need for the preservation of marine environment.

(1) The dumping of wastes or other matter listed in Annex I shall be prohibited (See Annex I). In emergencies when their disposal on land may pose serious danger to human health, such wastes may be dumped in the designated area in a specified way after the dumping is approved by the State Oceanic Administration and an emergency permit is granted.

(2) The dumping of the wastes listed in Annex II requires a prior special permit (See Annex II).

(3) The dumping of the low-toxic and non-toxic wastes not included in Annex I and II requires a prior general permit.

[Article 12] The entities which have been permitted to dump wastes at sea shall notify the Competent Authority for verification at the time of loading such wastes.

Verification shall be carried out in accordance with the items recorded in the permit. If the Competent Authority finds the wastes actually loaded do not accord with the items specified in the permit, it shall order the shipping to be stopped. In serious cases, the permit shall be suspended or withdrawn.

If the dumping of wastes is conducted from vessels, the harbour superintendency administration of the port of departure or of a nearby harbour shall be notified for verification. If the harbour superintendency administration finds discrepancies between the wastes actually loaded and the contents specified in the permit, it shall not sign the exit visa, and give prompt notice to the Competent Authority.

[Article 13] The Competent Authority shall monitor and supervise the dumping of wastes at sea and, when necessary, send officials to go with the vessel. The dumping entity shall provide facilities for such officials.

[Article 14] The entities which have been permitted to dump wastes at sea shall conduct the dumping in a designated area within the time limit and according to the requirements as specified in the permit, fill in the form for recording details of the dumping in good faith and then submit it to the Competent Authority in accordance with the requirement specified in the permit. Waste-dumping vessels, aircraft, platforms or other vehicles shall have distinctive marks and signals, and the details of dumping shall be recorded in the Log Book.

[Article 15] Waste-dumping vessels, aircraft, platforms and other vehicles may be exempt from compensation liabilities under the circumstances specified in Article 43 of the Marine Environmental Protection Law of the People's Republic of China.

If the dumping is not carried out in the area and under the conditions specified by the permit due to urgent need to avert hazards or to save life, the dumping entity shall do its best to avoid or reduce the pollution damage arising from the dumping and report to the Competent Authority after the event as soon as possible. The dumping entity and those who benefit from the emergency aversion of hazards or life salvage shall make compensation for the pollution damage arising therefrom.

As for the pollution damage arising from the wrongful act by a third party, the dumping entity shall present conclusive evidence to the Competent Authority, which, having affirmed the evidence, shall order the third party to be liable for damages.

When the vessels, aircraft, platforms or other vehicles which sail and operate at sea have to be abandoned due to force majeure, the owners shall report to the Competent Authority and the nearby harbour superintendency administration, and shall conduct the salvage and clean-up work as soon as possible.

[Article 16] The Competent Authority shall monitor the ocean dumping areas regularly, strengthen management and avoid harmful impacts upon fishery resources and other activities at sea. When a dumping area is found to be no longer suitable for further dumping, the Competent Authority may decide to have it closed.

[Article 17] Those who have violated the present Regulations and thus caused pollution damage to the marine environment shall be ordered by the Competent Authority to remedy the pollution damage within a definite time, pay clean-up expenses incurred in eliminating the pollution and compensate the injured party for the losses arising therefrom, and shall be given a warning or be subject to a fine of no more than one hundred thousand yuan (RMB) in light of the seriousness of the case and the degree of the pollution damage arising therefrom.

[Article 18] Any entity or individual claiming damages shall submit to the Competent Authority a statement of claims for pollution damages. The statement shall include: the time, place and area of pollution damage, and objects affected, a detailed list of losses, technical appraisal and certification by a notary public, as well as relevant original documents and photos, etc.

[Article 19] Upon the completion of the operation, the entity entrusted with the task of cleaning up pollutants shall submit to the Competent Authority as soon as possible a statement of claims for clean-up expenses. The statement shall include: the time and place of the clean-up operation and the manpower, machines, tools, vessels committed, the quantities and unit prices of the materials used in the clean-up operation, the calculation methods employed, the administrative, transportation and other expenses involved in organizing such a clean-up operation, and the effects of and related information about the clean-up operation, as well as other relevant evidences and documents.

[Article 20] The criteria of punishment for offences are as follows:

(1) Those who commit one of the following offences shall be given a warning or liable to a fine of no more than two thousand yuan (RMB);

a) Forgery of the waste-testing certificate;

b) Failure to fill in the form for recording the wastes dumping as specified in Article 14 of the present Regulations;

c) Failure to report in time to the Competent Authority and the harbour superintendency administration under the circumstances provided for in Article 15 of the present Regulations.

(2) Where there are obvious discrepancies between the wastes actually loaded and the items indicated in the permit, the violator in serious cases may be levied a fine of no less than two thousand yuan (RMB) and no more than five thousand yuan (RMB) in addition to the suspension and withdrawal of the permit;

(3) Those who dump wastes without notifying the Competent Authority and the harbour superintendency administration for verification in accordance with the provisions of Article 12 of the present Regulations shall be liable to a fine of no less than five thousand yuan (RMB) and no more than twenty thousand yuan (RMB);

(4) Those who commit one of the following offences shall be liable to a fine of no less than twenty thousand yuan (RMB) and no more than one hundred thousand yuan (RMB):

(a) The dumping of wastes without approval;

(b) The dumping of wastes not in accordance with the requirements and in the area as stipulated in the approval, the circumstances specified in Article 15 of the present Regulations being excepted.

[Article 21] The persons directly responsible for the pollution damage or possible pollution damage to the marine environment in violation of the present Regulations shall be given a warning or liable to a fine, or both.

The persons directly responsible for heavy losses of property or causing casualties as a result of the pollution damage to the marine environment in violation of the present Regulations shall be prosecuted for their criminal responsibility by judicial organs according to law.

[Article 22] In case the party concerned objects to the penalty imposed by the Competent Authority, it may initiate proceedings in the People's Court within fifteen days of the receipt of the penalty notice.

If the party does not take the above action before the term expires, nor does it carry out the penalty decision, the Competent Authority shall ask the People's Court to take enforcement measures.

[Article 23] Any individual who, on his own initiative, has reported on, or exposed acts in violation of the present Regulations resulting in the pollution damage to the marine environment, or actively provided evidences for such happenings, or has taken effective measures to reduce the pollution damage shall be commended or rewarded.

[Article 24] These Regulations shall come into force on April 1, 1985.

Annex I

Substances the Dumping of Which is Prohibited

1. Wastes containing organohalogen compounds, mercury and mercury compounds, cadmium and cadmium compounds, except those which contain a mere trace of the matter listed above and can be rapidly rendered harmless in sea water;
2. High-level radioactive wastes or other high-level radioactive matter;
3. Crude oil and its wastes, refined petroleum products, petroleum distillage residues or any mixtures containing such matter;
4. Netting, ropes, plastics or other artificial synthetic materials, which may float or may remain in suspension in the sea so as to interfere seriously with navigation, fishing and other activities or endanger marine organisms;
5. Sewage sludges and dredged spoils containing matters referred to in paragraphs 1 and 2 of the present Annex.

Annex II

Substances Which Require a Special Permit for Dumping

1. Wastes containing significant amounts of matters listed below:
 - (1) Arsenic and its compounds;
 - (2) Lead and its compounds;
 - (3) Copper and its compounds;

- (4) Zinc and its compounds;
- (5) Organosilicon compounds;
- (6) Cyanides;
- (7) Fluorides;
- (8) Beryllium, chromium, nickel, vanadium and their compounds;
- (9) Pesticides and their by-products not covered in Annex I, with harmless substance or substances that may be rapidly rendered harmless in sea water being excepted.

2. Wastes containing low-level radioactive matter.

3. Containers, scrap metal or other bulky wastes which are likely to sink to the sea bottom and may present serious obstacles to fishing or navigation.

4. Sewage sludges and dredged spoils containing matters referred to in paragraphs 1 and 2 of the present Annex.