

Marine Pollution Control Act

Promulgated by presidential order on November 1, 2000

Chapter 1 General Principles

Article 1

This Act is formulated to control marine pollution, protect the marine environment, maintain the marine ecology, safeguard public health and sustainably use marine resources. The regulations of other laws shall apply to those matters not regulated by this Act.

Article 2

This Act shall apply to the intertidal zones, internal waters, territorial seas, contiguous zones, exclusive economic zones and waters superjacent to the continental shelf under the jurisdiction of the Republic of China.

This Act shall also apply to those circumstances in which the discharge of hazardous substances in marine areas outside of the areas designated in the foregoing paragraph causes pollution within the areas designated in the foregoing paragraph.

Article 3

Terms used in this Act are defined as follows.

1. "Hazardous substance" means a substance designated in accordance with the International Maritime Dangerous Goods Code determined by the United Nations International Maritime Organization.
2. "Marine environment quality standards" means target values determined for the purpose of protecting the nation's marine environment in its entirety.
3. "Marine environment control standards" means zone and stage target values determined for the purpose of achieving marine environment quality standards.
4. "Marine project" means engagement in natural resource exploration, mining, conveyance, construction, laying roads, lines or other infrastructure, repairing, dredging, channel dredging, salvaging, burying, land reclamation, power generation or other projects within the areas designated in Paragraph 1 of the foregoing article.
5. "Oil" means crude oil, heavy fuel oil, lubricating oil, light fuel oil, kerosene, naphtha or other oils or mixtures containing oil that have been officially announced by the central competent authority.
6. "Emission" means the discharge, spillage or leakage of wastewater or sewage, oil, waste, hazardous substances or other substances that have been officially announced by the central

competent authority.

7. "Marine dumping" means the dumping of marine experiments or the use of ships, aircraft, marine facilities or other facilities to transport substances for dumping, emission or disposal at sea.
8. "Marine facility" means stationary manmade structures installed by marine projects.
9. "Marine incineration" means the use of a ship or marine facility to incinerate oil or other substances.
10. "Polluting act" means an act that, through the direct or indirect introduction of substances or energy into the marine environment, causes or is capable of causing harm to humans, property, natural resources or the ecology.
11. "Polluter" means a natural person or the statutory responsible person, manager or representative of a public or private premises that causes a polluting act; when on a ship or aircraft, this means the owner, lessee, agent or operator.

Article 4

The competent authority referred to in this Act means the Environmental Protection Administration, Executive Yuan, at the central government level, the municipal government in special municipalities and the county or city government in counties or cities.

The scope of jurisdiction for a special municipality, county or city competent authority shall be its administrative jurisdiction within the territorial seas; the central competent authority in conjunction with the Ministry of the Interior shall complete the delineation of marine administrative jurisdictions that have not been delineated within one year of the promulgation of this Act.

Article 5

The coast guard authority shall perform interdiction, collection of evidence or enforcement referral tasks implemented pursuant to this Act.

The competent authority and coast guard authority may request the assistance of the military, customs or other government agency in the performance of tasks designated in the foregoing paragraph.

Article 6

Competent authorities, enforcement authorities and assisting enforcement authorities at all levels may dispatch personnel bearing identification documents to enter ports and other premises and to board ships and marine facilities in order to inspect or appraise marine pollution matters and order the provision of relevant information.

Competent authorities, enforcement authorities and assisting enforcement authorities at all levels shall, for those circumstances that involve military secrets, issue orders in conjunction with the local military authority when issuing orders for the provision of information pursuant to the foregoing paragraph.

Inspections, appraisals or orders in the foregoing two paragraphs may not be evaded, obstructed or refused.

The central competent authority in conjunction with the Ministry of Defense shall determine regulations for inspections and appraisals involving military affairs.

Article 7

Competent authorities and enforcement authorities at all levels may designate or commission relevant agencies, organizations or groups to perform tasks related to marine pollution control, marine pollution monitoring, marine pollution disposal, marine environment protection and related research and training.

Chapter 2 Basic Measures

Article 8

The central competent authority shall consider marine conditions in the determination of marine environment categories and marine environment quality standards.

In order to protect the marine environment or meet the needs of the industry competent authority for special marine environments, the central competent authority may, in accordance with marine environment categories, marine environment quality standards and the characteristics of the marine environment, delineate marine control zones and determine marine environment control standards, and issue official announcements and perform implementation after the determination of zone implementation plans and pollution control measures based on these zones and standards.

The pollution control measures in the foregoing paragraph shall cover the discharge of pollution, the use of toxicants or chemicals to catch or kill aquatic organisms and other acts that cause marine pollution that the central competent authority has officially announced and prohibited.

Article 9

Competent authorities at all levels shall, in accordance with marine environment categories, install marine environment monitoring stations or facilities in their respective marine jurisdictions, officially publish monitoring results at regular intervals and adopt appropriate control measures; when necessary, each industry competent authority may restrict the use of a marine area.

The interference with or damaging of monitoring stations or facilities installed by competent authorities at all levels pursuant to the foregoing paragraph shall be prohibited.

The central competent authority shall determine marine environment monitoring regulations, environment monitoring station installation standards and sampling and analysis methods for the marine environment monitoring in Paragraph 1.

Article 10

The Executive Yuan may establish a major marine pollution incident handling task force in order to handle major marine pollution incidents; the central competent authority may establish a marine pollution incident handling work group in order to handle general marine pollution incidents.

The central competent authority shall draft marine oil pollution emergency response plans in order to handle major marine oil pollution emergencies and shall submit these plans to the Executive Yuan for approval.

The emergency response plans in the foregoing paragraph shall provide for a division of tasks, a notification system, a monitoring system, training, facilities, handling measures and other related matters.

Article 11

All categories of port management authorities shall adopt measures in accordance with this Act and other related regulations in order to prevent, eliminate and mitigate pollution in the port zones under their jurisdiction.

All categories of port industry competent authorities shall provide guidance for pollution abatement in the port zones under their jurisdiction.

Article 12

Marine dumping fees, to be based on the category and quantity of the substance to be dumped, shall be collected from those that receive central competent authority approval to use the sea as a final disposal site; these fees shall be placed in a special central competent authority fund for management and use and shall be provided for use in the control of marine pollution, the monitoring of marine pollution, the disposal of marine pollution, the restoration of the marine ecology and other marine environment protection tasks and research and training related to these tasks.

For marine dumping fees, the central competent authority in consultation with the relevant authorities shall determine collection, calculation and payment methods, payment deadlines, and other binding fee collection regulation matters.

Article 13

Those public or private premises designated by the central competent authority that engage in oil conveyance, marine projects, marine dumping, marine incineration or other activities for which there is a concern of pollution shall first submit an emergency response plan sufficient to prevent and handle marine pollution and a letter of financial guarantee or liability insurance policy for the compensation of pollution damages and may only engage in such activities after receiving central competent authority approval.

The central competent authority shall determine the content and format of the emergency response plan in the foregoing paragraph.

The central competent authority in consultation with the Ministry of Finance shall determine the amount of the letter of financial guarantee or the maximum compensation liability of the liability insurance policy in Paragraph 1.

Competent authorities at all levels may demand that the public or private premises in Paragraph 1 or other marine-related enterprises provide pollution handling equipment and professional technical personnel to assist with handling when an emergency pollution incident occurs on the sea; the marine polluter shall bear responsibility for all necessary expenses; when necessary, the fund in Paragraph 1 of the foregoing article may be used to pay expenses first and then compensation subsequently sought from the marine polluter.

Article 14

Those that cause the production of pollution due to one of the circumstances in one of the following subparagraphs shall not be punished.

1. Fleeing disaster or insuring the safety of a ship, aircraft, seawall or other major structure
2. Acts involving national defense, natural disasters, war or other acts performed in accordance with regulations or orders
3. Acts performed with the permission of the central competent authority in order to prevent, eliminate or mitigate pollution, protect the environment or for special research needs

The marine polluter shall bear responsibility for the cleanup of marine environment pollution. The industry competent authority or competent authority may first adopt emergency measures and, when necessary, may perform cleanup and disposal work on behalf of the polluter; the polluter shall bear responsibility for all expenses generated by emergency measures or cleanup and disposal work.

The central competent authority shall determine regulations for the cleanup and disposal work in the foregoing paragraph.

Chapter 3 The Prevention of Pollution from Pollution Sources on Land

Article 15

Public or private premises that fail to receive the permission of the central competent authority may not discharge wastewater or sewage into the sea or the following areas adjacent to the sea.

1. Nature reserves or ecological conservation areas
2. Ecological protection areas, significant scenic areas or recreation areas of national parks
3. Wildlife preserves
4. Aquaculture resource conservation areas

5. Other areas the central competent authority has officially announced as in need of special protection

The central competent authority in consultation with the relevant industry competent authorities shall determine permission regulations for the application, conditions, review procedures, cancellation and other binding matters for the discharge of wastewater or sewage in the foregoing paragraph.

Article 16

Public or private premises shall promptly adopt measures to prevent, eliminate or mitigate pollution and shall promptly notify competent authorities at all levels and industry competent authorities when serious marine pollution occurs, or when there is concern of serious pollution occurring, due to marine discharge pipes, marine discharge points, or waste piling or disposal sites.

In the circumstance in the foregoing paragraph, the local competent authority shall first adopt necessary response measures and, when necessary, the central competent authority may directly adopt handling measures; the public or private premises at issue shall bear responsibility for all expenses generated by response and handling measures.

Chapter 4 The Prevention of Pollution from Marine Projects

Article 17

Those public or private premises that use marine facilities to engage in the exploration or extraction of oil, the conveyance of oil or chemical substances, or the discharge of wastewater or sewage shall first submit marine pollution control plans that state specifically the contents of marine pollution control tasks, marine monitoring and emergency response measures, and other matters designated by the central competent authority and receive central competent authority approval before they may engage in such activities.

The public or private premises in the foregoing paragraph shall continuously perform marine monitoring and regularly report monitoring records to the competent authority.

Those public or private premises that use marine facilities to engage in the exploration or extraction of oil or the conveyance of oil shall maintain records of exploration, extraction or conveyance.

Article 18

Public or private premises may not discharge, spill, leak or dump wastewater or sewage, oil, waste, hazardous substances or other polluting substances that have been designated and officially announced by the central competent authority into the sea. However, those that receive central competent authority permission may discharge oil, wastewater or sewage into the sea; records of discharges shall be maintained.

The records in Paragraph 3 of the foregoing article and in the foregoing paragraph shall be maintained, reported and preserved for at least ten years pursuant to central competent authority regulations.

The central competent authority in consultation with the industry competent authority shall determine permission regulations for the application, conditions, review procedures, cancellation and other binding matters for the discharge of oil, wastewater or sewage into the sea in the proviso in the first paragraph of this article.

Article 19

Public or private premises that engage in marine projects that cause serious marine pollution or concern of serious pollution shall promptly adopt measures to prevent, eliminate or mitigate pollution and shall promptly notify competent authorities and industry competent authorities.

In the circumstance in the foregoing paragraph, the competent authority may order the adoption of necessary response measures and, when necessary, the competent authority may directly adopt handling measures; the public or private premises at issue shall bear responsibility for all expenses generated by response and handling measures.

Chapter 5 The Prevention of Pollution from the Disposal of Waste at Sea

Article 20

Those public or private premises that use ships, aircraft, marine facilities or other methods to engage in marine dumping or marine incineration shall apply for permission from the central competent authority.

The central competent authority in consultation with the industry competent authority shall determine management regulations for the application, review procedures, cancellation, the performance of marine dumping, marine incineration working procedures and other binding matters for the permission in the foregoing paragraph.

Article 21

Marine dumping and marine incineration shall be performed in zones designated by the central competent authority.

The central competent authority shall delineate and officially announce the marine dumping and marine incineration zones in the foregoing paragraph based on marine environment categories, marine environment quality standards and marine water quality conditions.

Article 22

The central competent authority shall announce categories A, B and C for the dumping of substances in the sea based on the impact on the marine environment.

Category A substances may not be dumped in the sea; permission shall be obtained from the central competent authority each time Category B substances are to be dumped; Category C substances may be dumped only during the time period and within the total quantity limits permitted by the central competent authority.

Article 23

The managers of ships, aircraft or marine facilities that engage in marine dumping or marine incineration shall maintain marine dumping or marine incineration records and regularly report records to the central competent authority and accept checking.

Article 24

Public or private premises that cause serious marine pollution or concern of serious pollution due to engagement in marine dumping or marine incineration shall promptly adopt measures to prevent, eliminate or mitigate pollution and shall promptly notify competent authorities and industry competent authorities.

In the circumstance in the foregoing paragraph, the competent authority may order the adoption of necessary response measures and, when necessary, the competent authority may directly adopt handling measures; the public or private premises at issue shall bear responsibility for all expenses generated by response and handling measures.

Article 25

This Chapter shall apply, where appropriate, to the dumping in the sea of ships, aircraft, marine facilities and other manmade structures.

Artificial fishing reefs or other fisheries facilities may be constructed for the needs of the fishing industry; the central competent authority in conjunction with the central fisheries and conservation competent authorities and central navigation and aviation competent authority shall determine permission regulations for the application, construction, review, cancellation and other binding matters for the construction of artificial fishing reefs or other fisheries facilities.

Chapter 6 The Prevention of the Pollution of the Sea by Ships

Article 26

Ships shall be equipped with pollution prevention equipment and may not pollute the sea.

Article 27

The port management authority may prohibit from sailing or setting sail those ships for which there is concern of the ship causing pollution of the marine environment

Article 28

When necessary, the port management authority or enforcement authority may, in conjunction with the central competent authority, examine the marine pollution prevention certificates or verification documents, operating manuals, oil, cargo records and other designated documents of domestic and foreign ships.

Article 29

The wastewater or sewage, oil, waste and other polluting substances of a ship shall remain on board or be emitted into on-shore reception facilities with the exception of those circumstances in which it may in accordance with the law be emitted into the sea.

All categories of port management authorities shall install reception facilities for the pollutants in the foregoing paragraph and may collect necessary handling expenses.

Port management authorities shall draft collection standards for the handling expenses in the foregoing paragraph and submit them to the industry competent authority for approval.

Article 30

Ships loading, unloading or transporting oil, chemical goods or other cargo that might cause pollution of the sea shall adopt appropriate emissions prevention measures.

Article 31

For those circumstances in which the construction, repair, demolition, salvage, or tank or cargo hold cleaning of a ship causes marine pollution or the concern of pollution, the following measures shall be adopted and polluting substances cleaned up.

1. Set up appropriate equipment for the containment or removal of floating oil on the surface of the waters surrounding work areas.
2. Provide appropriate reception facilities in work areas for waste oils, wastewater or sewage, waste and other hazardous substances.
3. Prevent the emission into the sea of oils, waste oils, wastewater or sewage, waste, residue and hazardous substances.
4. Adopt other measures designated by the central competent authority.

Article 32

When a ship suffers a maritime disaster or other accident that causes marine pollution or concern of pollution, the shipmaster and shipowner shall promptly adopt measures to prevent, eliminate or mitigate pollution and shall promptly notify the local navigation and aviation competent authority, port management authority and local competent authority.

For the circumstance in the foregoing paragraph, the competent authority may order the adoption of necessary response measures and, when necessary, the competent authority may directly adopt handling measures; the owner of the ship at issue shall bear responsibility for all expenses generated by response and handling measures.

Chapter 7 Liability for Damage Compensation

Article 33

The shipowner shall bear liability for compensation for the damage caused by the pollution of the sea by a ship.

The shipowner of a ship with gross tonnage of over 400 tons or of an oil tanker or chemical tanker with gross tonnage of over 150 tons shall purchase liability insurance or provide a guarantee based on the gross tonnage of the ship and may neither suspend nor terminate the insurance or guarantee.

The central competent authority in consultation with the Ministry of Finance shall determine the amount of the liability insurance coverage or guarantee in the foregoing paragraph.

The shipowner designated in the foregoing article and Paragraph 1 of this article includes the owner, lessee, agent and operator of a ship.

Article 34

Claimants for compensation for pollution damage may seek compensation directly from the liability insurer or seek to secure the guarantee as compensation.

Article 35

Prior to the fulfillment of liability obligations for the damage compensation liability incurred by a foreign ship due to the violation of this Act, or for those circumstances in which there is concern of failure to fulfill such liability obligations, the port management authority may restrict the ship and related crew from leaving the country. However, those that provide a guarantee shall not be subject to this restriction.

Chapter 8 Penal Provisions

Article 36

Those that cause serious pollution of the sea by dumping Category A substances that have been officially announced pursuant to Article 22, Paragraph 1 shall be punished by a maximum of 10 years imprisonment and may be fined NT\$20 million to NT\$100 million.

The attempt to commit the crime in the foregoing paragraph shall be punishable hereunder.

Article 37

For those circumstances in which a public or private premises violates Article 15, Paragraph 1, the statutory responsible person shall be punished by a maximum of three years imprisonment, detention and/or a fine of NT\$300,000 to NT\$1.5 million.

Article 38

Those that have reporting obligations pursuant to this Act that knowingly report false information or keep false records of their operations shall be punished by a maximum of three years imprisonment, detention and/or a fine of NT\$300,000 to NT\$1.5million.

Article 39

For those in one of the following circumstances, the statutory responsible person of the public or private premises shall be punished by a maximum of three years imprisonment, detention and/or a fine of NT\$300,000 to NT\$1.5million.

1. The violation of Article 17, Paragraph 1
2. The violation of Article 20, Paragraph 1
3. The violation of the management regulations of Article 20, Paragraph 2 that causes the serious pollution to the sea

Article 40

For those that fail to comply with an order to suspend work issued by the competent authority pursuant to this Act, the statutory responsible person, the perpetrator and the shipowner shall be punished by a maximum of one year of imprisonment, detention and/or a fine of NT\$ 200,000 to NT\$ 1 million.

Article 41

Those that refuse, evade or obstruct an inspection, appraisal, order, check or examination performed or issued pursuant to Article 6, Paragraphs 1 and 2, Article 23 or Article 28 shall be fined NT\$200,000 to NT\$1 million and may be issued consecutive daily fines and be subject to the compulsory enforcement of the inspection, appraisal, check or examination.

Article 42

Those that violate pollution control measures determined by the central competent authority pursuant to Article 8, Paragraph 2 or violate Article 18, Paragraph 1 shall be fined NT\$200,000 to NT\$1 million and may be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline may be issued consecutive daily fines.

Article 43

Those that violate a restriction on the use of a marine area imposed pursuant to Article 9, Paragraph 1 and those that violate Article 9, Paragraph 2 by interfering with or damaging a monitoring station or facility shall be fined NT\$200,000 to NT\$1 million and may be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline may be issued consecutive daily fines

Article 44

Those that fail to pay fees within the limited time period pursuant to the fee collection

regulations of Article 12, Paragraph 2 shall pay, in addition to said fees, interest that shall accrue daily based on the fixed annual interest rate for a one-year time deposit with the Directorate General of the Postal Remittances and Savings Bank on the day of the payment deadline; those that have still failed to make payments 90 days after the payment deadline shall, in addition to being referred to the courts for compulsory enforcement, be fined NT\$1,500 to NT\$60,000.

Article 45

Those that violate Article 13, Paragraph 1 shall be fined NT\$300,000 to NT\$1.5 million.

Those that fail to assist in the handling of an emergency pollution incident pursuant to Article 13, Paragraph 4 shall be fined NT\$100,000 to NT\$500,000; in those severe circumstances, violators may be fined consecutively per violation.

Article 46

Those that fail to clean up pollution pursuant to Article 14, Paragraph 2 shall be fined NT\$300,000 to NT\$1.5 million.

Article 47

Those in one of the following circumstances shall be fined NT\$100,000 to NT\$500,000 and shall be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline shall be issued consecutive daily fines; in those severe circumstances, orders may be issued for the suspension of work.

1. The violation of the regulations determined pursuant to Article 14, Paragraph 3
2. The violation of the regulations determined pursuant to Article 15, Paragraph 2
3. The violation of the regulations determined pursuant to Article 18, Paragraph 3
4. The violation of the regulations determined pursuant to Article 25, Paragraph 2

Article 48

Those that fail to issue notifications pursuant to Article 16, Paragraph 1, Article 19, Paragraph 1, Article 24, Paragraph 1, or Article 32, Paragraph 3 shall be fined NT\$300,000 to NT\$1.5 million.

Article 49

Those that fail to adopt measures to prevent, eliminate or mitigate pollution pursuant to Article 16, Paragraph 1, Article 19, Article 24 or Article 32 or fail to comply with an order of the competent authority to adopt measures shall be fined NT\$300,000 to NT\$1.5 million and may be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline may be issued consecutive daily fines; in those severe circumstances, orders may be issued for the suspension of work.

Article 50

Those in one of the following circumstances shall be fined NT\$200,000 to NT\$1 million and may be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline may be issued consecutive daily fines.

1. The failure to monitor or report pursuant to Article 17, Paragraph 2
2. The failure to maintain or report records pursuant to Article 17, Paragraph 3 or Article 18, Paragraph 2
3. The failure to maintain or report records pursuant to Article 23

Article 51

Those that violate the management regulations determined pursuant to Article 20, Paragraph 2 shall be fined NT\$300,000 to NT\$1.5 million.

Article 52

Those that violate Article 21, Paragraph 1 or Article 33, Paragraph 2 shall be fined NT\$600,000 to NT\$3 million.

Article 53

Those that violate Article 29, Paragraph 1 shall be fined NT\$300,000 to NT\$1.5 million and may be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline may be issued consecutive daily fines.

Article 54

Those that violate Article 30 or Article 31 shall be fined NT\$300,000 and NT\$1.5 million and may be ordered to make improvements within a limited time period; those that fail to make improvements by the deadline may be issued consecutive daily fines; in those severe circumstances, orders may be issued for the suspension of work.

Article 55

Unless other regulations apply, the penalties determined pursuant to this Act shall be assessed by the Environmental Protection Administration, Executive Yuan, at the central government level, the municipal government in special municipalities and the county or city government in counties and cities.

Article 56

For fines issued pursuant to this Act, those that have been notified to make payments within a limited time period and that fail to make payments by the deadline shall be referred to the courts for compulsory enforcement.

Chapter 9 Supplementary Provisions

Article 57

Competent authorities shall collect such official fees as review fees and certificate fees for the review of, permitting for and issuance of permits for all applications accepted pursuant to this Act; the central competent authority in consultation with the relevant authorities shall determine fee collection regulations for fees.

Article 58

Prior to the implementation of this Act, those public or private premises that are already engaged in marine discharge, coastal discharge, waste piling or disposal, marine projects, marine dumping or marine incineration, and those ships that are already en route, and that fail to comply with this Act shall apply for the approval of an improvement deadline within six months of the implementation of this Act; public or private premises and ships shall be exempt from penalties prior to the improvement deadline. However, public or private premises and ships shall still bear responsibility for compensation for pollution damages they cause.

Improvement periods approved pursuant to the foregoing paragraph may not exceed one year.

Article 59

When a public or private premises violates this Act or related orders determined pursuant to the authorization of this Act and the competent authority is negligent in enforcement, victims or public interest groups may notify the competent authority in writing of the details of the negligent enforcement. For those competent authorities that have still failed to carry out enforcement in accordance with the law within sixty days after receipt of the written notification, the victims or public interest groups may name the competent authority at issue as a defendant and directly file a lawsuit with an administrative court based on the negligent behavior of the competent authority in the execution of its duties in order to seek a ruling ordering the competent authority to execute its duties.

When issuing a verdict on the lawsuit in the foregoing paragraph, the administrative court pursuant to its authority may order the defendant agency to pay the appropriate lawyer fees, detection and appraisal fees and other litigation costs to plaintiffs that have made specific contributions to the prevention of marine pollution.

The central competent authority shall determine the format of the written notification in Paragraph 1.

Article 60

The central competent authority shall determine the enforcement rules of this Act.

Article 61

This Act shall take effect on the date of promulgation.