



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS

First Regular Session

409

INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

The marine waters in the country especially those in the jurisdiction of the local government units are prone to threats from various pollutants coming from marine vessels that are not compliant with existing international protocols and national policies.

Presidential Decree 979, otherwise entitled Marine Pollution Decree of 1976 can no longer addressed the escalating issues and complaints of dumping at our marine waters resulting sometimes to irreversible damage to our marine environment and contributing to health risks to our communities.

It is our intent to strictly implement the provision of the MARPOL 73/78, otherwise known as the International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978.

This bill seeks to establish guidelines for the identification of harmful substances including emission of oil, noxious liquid substances and other harmful substances. It also seeks to set emission standards for ships plying Philippine seas. A Marine Pollution Adjudication Board is hereby established with quasi-judicial powers and exclusive jurisdiction over all marine pollution cases.

The strong support of the Members of Congress for the early passage of this bill is earnestly sought.


XAVIER JESUS D. ROMUALDO

Republic of the Philippines
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HOUSE BILL NO. **409**

INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

AN ACT
TO PREVENT AND CONTROL POLLUTION FROM SHIPS, PROVIDE
PENALTIES THEREFOR AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER 1

General Provisions

Section 1. *Short Title.* - This Act shall be known as the "Prevention of Pollution from Ships Act".

Sec. 2. Declaration of Policy. - It is the policy of the State to ensure the protection of marine life and provide a sustainable ecological balance of our environment. With existing international agreements and national laws, it is further stressed the importance of the protection of our environment and territorial seas from pollutants coming from plying vessels to avoid dumping their wastes within our municipal and territorial waters to ensure the safety of our communities and the general public.

Sec 3. Definition of Terms. - As used in this Act:

- (a) *Atmospheric discharges or emission from ships* refer to any discharge or emission of nitrogen oxides, sulfur oxides, volatile organic compounds

1 and other ozone depleting substances when the discharges do not meet the
2 requirements of the Convention;
3

4 (b) *Chemical tanker* refers to a ship constructed or adapted for the carriage in
5 bulk of any liquid product listed in the International Bulk Chemical Code
6 or any noxious liquid substance;

7 (c) *Coastal state* refers to the relationship of the Philippines to a foreign-
8 flagged vessel traversing Philippine waters and its corollary right to
9 exercise jurisdiction and regulatory' control over the vessel;

10 (d) *Convention* refers to:

11 (1) The International Convention for the Prevention of Pollution from
12 Ships 1973, as amended by the Protocol of 1978 or MARPOL
13 73/78;

14 (2) Protocol I and II of MARPOL 73/78;

15 (3) Annexes I, II, III, IV, V and VI, their relevant appendices, any
16 technical code referred to, as well as any amendment to any of these
17 documents which may enter into force in accordance with the
18 procedure referred to in Article 16 of MARPOL 73/78;

19 (4) Any subsequent protocol of and amendment to the Convention
20 which the Philippine Government may ratify necessary to advance
21 the purposes of this Act; and

22 (5) Any mandatory' Code referred to in the Convention or any
23 subsequent protocol to the Convention which the Philippine
24 Government may ratify or any amendment which may enter into
25 force in accordance with Article 16 of the Convention;

26 (e) *Discharge* refers to any release, however caused, of harmful substances
27 from a ship, including any escape, disposal, spilling, leaking, pumping,
28 emitting or emptying of the substances, except:

29 (1) Release of harmful substances directly arising from the
30 exploration, exploitation and associated off-shore processing of
31 sea-bed mineral resources; or

32 (2) Release of harmful substances for purposes of legitimate scientific
33 research on pollution abatement or control;

34 (f) *Dirty ballast* refers to water carried in the cargo tank;

1 *Flag state* refers to the relationship of the Philippines to vessels registered under its flag
2 and corollary right to exercise jurisdiction and regulatory;

3 (g) control over these vessels;

4 (h) *Foreign-flagged ship* refers to any ship registered in another State or
5 authorized to fly its flag, whether or not it is a State party to MARPOL
6 73/78, when found in any of the ports, terminal facilities or waters
7 within the jurisdiction or sovereignty of the Philippines;

8 (i) *Garbage* refers to all kinds of victuals, domestic and operational
9 wastes, excluding fresh fish and parts thereof, generated during the
10 normal operation of the ship and liable to be disposed of continuously
11 or periodically;

12 (j) *Harmful substance in packaged form* refers to those substances which
13 are identified as marine pollutants in the International Maritime
14 Dangerous Goods (IMDG) Code and are held in forms of containment
15 specified for harmful substances in the IMDG Code. Other harmful
16 substances in package form shall include substances identified in
17 accordance with the following criteria as provided in the Convention:

18 (1) Those which are bio-accumulated to a significant extent and
19 known to produce a hazard to aquatic life or to human health; or

20 (2) Those which are bio-accumulated with attendant risk to aquatic
21 organisms or to human health with a short retention of the order
22 of one (1) week or less; or

23 (3) Those which are highly toxic to aquatic life;

24 (k) *Incident* refers to an event involving the actual or probable discharge
25 into the sea, or emission into the atmosphere, of a harmful substance or
26 effluents containing such a substance;

27 (l) *Marine casualty* refers to any accident or incident of navigation which
28 results in producing a harmful, deleterious or damaging effect upon the
29 marine environment;

30 (m) *Master* refers to any person having command or charge of any ship,
31 including a boat captain;

32 (n) *Noxious liquid substance* refers to any substance identified as such
33 under the relevant chapter of the International Bulk Chemical Code
34 and/or provisionally assessed as such by Annex II of the Convention;

- 1 (o) *Oil* refers to petroleum in any form including crude oil, fuel oil, sludge,
2 oil refuse and refined products, other than petrochemicals which are
3 classified as noxious liquid substances in accordance with Annex II of
4 the Convention, and including substances listed under Annex I of the
5 Convention;
- 6 (p) *Oily mixture* refers to a mixture with any oil content;
- 7 (q) *Oil tanker* refers to a ship constructed or adapted primarily to carry oil
8 in bulk in its cargo spaces and includes combination carriers or any
9 other tanker when it is carrying cargo or pan cargo of oil in bulk;
- 10 (r) *Other harmful substances* refers to any substance other than oil,
11 noxious liquid substances, harmful substances in package form,
12 garbage, and sewage, which, if introduced in the sea, is liable to create
13 hazards to human health, harm living resources and marine life,
14 damage amenities or to interfere with other legitimate uses of the sea,
15 and includes atmospheric discharges and other substances identified as
16 marine pollutants in the Convention, which may be subject to control
17 pursuant to the provisions of this Act and other relevant environmental
18 laws of the Philippines;
- 19 (s) *Owner* refers to the person registered as the owner of the ship or who
20 assumes the operation of the ship, or, in the absence of registration, the
21 person owning the ship or the bareboat charterer of the ship, and, in the
22 case of a ship owned by a State and operated by a company which in
23 that State is registered as the ship's operator, "owner" shall include
24 State;
- 25 (t) *Philippine ship* refers to any ship registered under the laws of the
26 Philippines and entitled to fly its flag wherever the ship may be;
- 27 (u) *Philippine waters* refers to the internal waters, archipelagic waters,
28 territorial seas, waters within the contiguous and exclusive economic
29 zones;
- 30 (v) *Port state* refers to the relationship of the Philippines to a foreign
31 flagged-flagged vessel which may be found in any of its ports, terminal
32 facilities or harbors and its corollary right to exercise jurisdiction and
33 regulatory control over the vessel;
- 34 (w) *Sewage* refers to:

- 1 (1) Drainage and other wastes from any form of toilets and urinals;
2 (2) Drainage from medical premises including dispensary and sick bay
3 through wash basins, wash tubs and scuppers located in the premises;
4 (3) Drainage from spaces containing living animals; or
5 (4) Other waste waters when mixed with the drainages defined above;
6 (x) *Ship* refers to a vessel of any type operating in the marine environment and
7 includes pleasure crafts, fishing vessels, hydrofoil boats, air- cushion
8 vehicles, submersibles, floating crafts, drilling rigs and fixed or floating
9 platforms; and
10 (y) *Undue delay* refers to a delay that is unreasonable and unnecessary' in
11 light of the particular conditions of the ship, the ship's cargo, destination
12 and schedule, and in light of the purpose and scope of the investigation,
13 inspection or other cause for detaining the ship.

14 CHAPTER 2

15 Scope and Application

16
17
18 Section 4. *Scope and Application of this Act.* - Unless otherwise specified herein,
19 this Act shall apply to:

- 20 (a) All Philippine ships, wherever they may be;
21 (b) All foreign-flagged ships in Philippine waters, whether or not they are
22 registered with State parties to the Convention; and
23 (c) All other ships operating within Philippine waters: *Provided*, That the
24 provisions of the Convention setting forth technical requirements that ships
25 must meet which are inapplicable or impractical in Philippine local setting
26 may be suspended or equivalents prescribed therefor upon determination by
27 the Department of Transportation (DOTr), subject to public consultation:
28 *Provided, further*. That nothing herein shall prevent the enactment of any law
29 providing for standards, requirements or regulations higher than those
30 provided for the by the Convention.

31
32 Section 5. *Exemptions.* - This Act shall not apply to warships, naval auxiliary
33 ships, and man-of-war vessels: *Provided*, That all government or non-commercial ships
34 shall be exempted from the coverage of this Act during emergency response cases:

1 *Provided, however,* That the DOTr, through the Maritime Industry Authority (MARINA),
2 the Philippine Coast Guard (PCG) the Philippine Ports Authority (PPA), and other
3 concerned agencies, shall adopt appropriate measures that will ensure that these ships
4 operate, so far as is reasonable and practicable, in a manner consistent with this Act:
5 *Provided, finally,* That the measure will not impair the operational capabilities of these
6 ships.

8 CHAPTER 3

9 Exercise of Jurisdiction Over Ships

10
11 Section 6. *Powers and Functions of the Department of Transportation (DOTr).* -
12 The DOTr shall be the principal government agency responsible for the overall
13 implementation and enforcement of this Act and any requirement of the Convention. For
14 this purpose, the Secretary of the DOTr shall exercise the following general powers and
15 functions:

- 16 (a) Oversee the implementation of this Act and coordinate the efforts of
17 concerned agencies;
- 18 (b) Formulate a comprehensive program to prevent or minimize marine
19 pollution from ships in coordination with the Department of
20 Environment and Natural Resources (DENR), the Department of
21 Agriculture (DA), the Department of Interior and Local Government
22 (DILG), the Department of Energy (DOE), port authorities and other
23 relevant agencies and stakeholders;
- 24 (c) Constitute the Marine Pollution Adjudication Board (MPAB);
- 25 (d) Reorganize or streamline the functions of its different line, staff, and
26 attached or bureaus, authorities, or agencies for purposes of the
27 effective and efficient implementation of the provisions of this Act;
28 and
- 29 (e) Exercise powers and perform other functions as may be necessary to
30 carry out its duties and responsibilities under this Act.

31
32 Section 7. *Powers and Functions of the Maritime Industry Authority (MARINA)* -
33 The MARINA shall have the sole and exclusively authority and responsibility to ensure
34 that environmental and pollution regulations and standards for the construction and

1 equipment of Philippine vessels, before they are allowed to fly the Philippine flag, and/or
2 as part of their registration, are complied with. For this purpose, the MARINA shall have
3 the following duties and functions:

4 (a) Ensure that all Philippine ships are constructed and equipped with any
5 fitting, material, appliance or apparatus deemed appropriate and
6 effective for the prevention of any discharge or emission of harmful
7 substances in consonance with the requirements of the Convention;

8 (b) Survey all Philippine ships for purposes of the provisions of the
9 immediately preceding paragraph, which function may be delegated
10 to MARINA-recognized organization through a deputation process to
11 be formulated pursuant to this Act: *Provided, That*, except for direct
12 replacement, no change in the ship's structure, equipment, fittings,
13 arrangement and materials shall be made without the approval of the
14 MARINA;

15 (c) Issue the required statutory certificates to all Philippine ships;

16 (d) Review and revise, whenever appropriate, the existing system of
17 certification, survey, inspection and monitoring of ships, with respect
18 to pollution prevention to ensure efficiency and transparency,
19 consistent with the overall management of the maritime sector and in
20 accordance with the requirements of the Convention;

21 (e) Conduct surveys and issue certificates of endorsements to foreign
22 ships registered with another State party, if so requested by a State
23 which is a party to the Convention;

24 (f) Require ships to keep and maintain relevant record books in accordance
25 with the Convention;

26 (g) Suspend, withdraw or revoke any certificate it may have issued to any
27 Philippine ship found not compliant with this Act and with rules and
28 regulations promulgated therefor;

29 (h) Accredite, appoint and authorize recognized organizations to act on its
30 behalf and, for this purpose, execute the requisite memorandum of
31 agreement defining the extent of powers that may be exercised by the
32 recognized organizations including the following:

33 (1) Perform and conduct statutory surveys on Philippine ships;

34 (2) Require repairs on a Philippine ship pursuant to finding resulting

1 from port state inspection;

2 (3) Carry out surveys requested by port state authorities; and

3 (4) Withdraw any statutory certificates if appropriate corrective
4 action is not taken by the Philippine ships;

5 (i) Provide the International Maritime Organization (IMO) with a list of
6 recognized organizations authorized to act on behalf of the
7 Philippines, together with the specific responsibilities they are
8 empowered to perform and the conditions of the authority delegated
9 to them;

10 (j) Impose, fix, collect and receive, in accordance with the duly
11 approved schedules, fees necessary for the survey and certification
12 of ships pursuant to this section. The fees shall be imposed and
13 collected in order to recover the cost for rendering the service and
14 shall not be used in order to impose a penalty: *Provided*, That
15 excessive fees, multiple fees and duplicative fees shall at all times be
16 avoided;

17 (k) Issue rules and regulations necessary to implement the provisions of
18 this section: *Provided*, that the rules shall be in consonance with the
19 Convention and shall not change or in any way amend or be contrary
20 to the intent and purposes of this Act;

21 (l) Provide its officers and personnel with adequate training and
22 continuing education to ensure an efficient and professional
23 pollution regulatory machinery;

24 (m) Impose and collect fees and charges in connection with the
25 performance of its functions under this section, which fees and
26 charges shall accrue to the Marine Environmental Management
27 Fund (MEMF) established under Section 42 of this Act: *Provided*,
28 That the fees shall be imposed and collected in order to recover the
29 cost for rendering the service and shall not be used in order to
30 impose a penalty: *Provided, further*, That excessive fees multiple
31 fees and duplicative fees shall at all times be avoided;

32 (n) Hear, adjudicate and impose such fines and penalties on Philippine
33 ships which shall fail to comply with the rules and regulations issued
34 pursuant to this section; and

- 1 (o) Exercise powers and perform other functions as may be necessary to
2 carry out its duties and responsibilities under this Act.
3

4 Section 8. *Powers and Functions of the Philippine Coast Guard.* - Unless
5 otherwise provided under Section 9 of this Act, the Philippine Coast Guard (PCG) shall
6 have the sole and exclusive authority and responsibility to enforce environmental and
7 pollution regulations and standards to all ships which may be operating within Philippine
8 waters, or in ports, terminal facilities or harbors. It shall include the authority to board and
9 inspect ships to ensure compliance with such regulations and standards.

10 For this purpose, the PCG shall have the following duties and functions:

- 11 (a) Ensure that all ships are operated and certificated in accordance with
12 the requirements of the Convention;
13 (b) Inspect the certificates and record books required of any ship pursuant
14 to Section 12 of this Act;
15 (c) Conduct a physical inspection of the ship if there should be clear
16 grounds for believing that the condition of the ship or its equipment
17 does not correspond substantially with what is stated in the ship's
18 certificates;
19 (d) Investigate any complaint involving the alleged violation of the
20 Convention committed by a ship regardless of source of the complaint
21 or the location of the violation and request the submission of evidence
22 which the complainant may have regarding the alleged violation;
23 (e) Request the assistance of any other State whose cooperation may be
24 useful to the investigation against a ship;
25 (f) Detain a ship pursuant to Section 16 of this Act;
26 (g) Require a ship to proceed to the nearest repair yard and ensure that the
27 ship does not leave until it can proceed to sea without posing an
28 unreasonable threat or harm to the marine environment;
29 (h) Initiate proceedings against any person for violation of this act when
30 sufficient evidence exists with respect to the alleged violation;
31 (i) Inform the complainant and the IMO of the results of the investigation
32 and any action taken against the ship operator of the Philippine ship in
33 respect of any alleged violation;
34 (j) Deny entry of a foreign-flagged ship to any Philippine port or terminal

1 facility if it fails to comply with the requirements of the Convention;

2 (k) Coordinate with, and inform, the diplomatic representative of the
3 State, or the flag state administration, of any violation of the foreign
4 ship and any action taken against the ship;

5 (l) Inspect, verify and investigate a ship if it has discharged any harmful
6 substance into the marine environment under any of the following
7 circumstances:

8 1. It has reasonable grounds to believe that a discharge has occurred
9 in Philippine waters;

10 2. It receives a report from another coastal State; or

11 3. It receives a request from the flag State.

12 (m) Forward the report of any violation committed by the ship, with
13 respect to any discharge of harmful substances into marine
14 environment, to the ship's flag state administration, together with any
15 evidence it may have;

16 (n) Immediately inform any affected coastal State of the discharge;

17 (o) Ensure that the ship is not unduly delayed or detained;

18 (p) Order into port any ship found in the territorial seas if there are clear
19 grounds to believe that the ship has discharged harmful substances
20 into the marine environment;

21 (q) Establish procedures for reporting incidents involving any actual or
22 probable discharge or emission which may be in violation of this act
23 and of the requirement of the Convention consistent with the reporting
24 requirements under this Act;

25 (r) Require all ships and aircrafts registered under the Philippine flag to
26 immediately report any marine casualty witnessed while navigating;

27 (s) Upon inquiry or investigation, cause or recommend regulatory or other
28 appropriate actions to be taken in connection with any violation of the
29 provisions of this Act;

30 (t) Cooperate with the government of other States which are members of
31 international organization on the prevention of pollution from ships
32 concerning the detection of violations and enforcement of this Act
33 using all appropriate and practicable measures of detection and
34 environmental monitoring, adequate procedures for reporting and

- 1 accumulation of evidence;
- 2 (u) Provide its officers and personnel with adequate training and
- 3 continuing education to ensure and efficient and professional pollution
- 4 regulator)' machinery;
- 5 (v) Adopt a continuing information campaign on marine resources
- 6 protection aimed at developing public awareness of the health hazards
- 7 and other adverse effects of ship pollution;
- 8 (w) Administer the MEMF;
- 9 (x) Issue such rules and regulations necessary to implement the provisions
- 10 of this Act: *Provided*, That the rules and regulations shall be in
- 11 consonance with the Convention and shall not change or in any way
- 12 amend or be contrary to the intent and purposes of this Act; and
- 13 (y) Exercise powers and perform other functions as any be necessary to
- 14 carry out its duties and responsibilities under this Act.
- 15

16 Section 9. *Role of the Department of Environment and Natural Resources*
17 (DENR) - for purposes of this Act, the DENR shall have the following powers and
18 functions:

- 19 (a) Provide technical assistance on pollution prevention to the concerned
- 20 government agencies in the implementation of this Act;
- 21 (b) Establish guidelines for the identification of harmful substances in packaged
- 22 form in accordance with the guidelines and listings provided by the IMDCJ
- 23 Code in coordination with the PCG, PPA and other port authorities;
- 24 (c) Set effluent and emission standards for ships in accordance with the
- 25 requirements of the Convention;
- 26 (d) The floating crafts, drilling rigs and fixed or floating platforms, and vessels
- 27 which primarily operate or undertake business, commercial, or industrial
- 28 activities while anchored, the DENR shall enforce, in coordination with the
- 29 PCG, the applicable provisions of Presidential Decree No. 1586, otherwise
- 30 known as the Environmental Impact
- 31 Statement System law; Republic Act No. 8749, otherwise known as the
- 32 Philippine Clean Air Act of 1999; and Republic Act No. 9275, otherwise
- 33 known as the Philippine Clean Water Act of 2004; and
- 34 (e) Monitor, in coordination with the PCG, hazardous and radioactive wastes

1 being transported by ships in the country, and prevent the disposal thereof
2 and/or the entry of ships carrying the same.

3 CHAPTER 4

4 Prevention of Pollution From Ships

5
6 Section 10. *Prohibition of Discharge or Emission of Harmful Substances.* - It shall
7 be unlawful for any person to discharge or emit the following substances from any
8 Philippine ship, or from any other ship while it is within Philippine waters:

- 9 (a) Oil, whether carried as cargo or as bunker;
10 (b) Oily mixture, whether generated from cargo operations or from machinery-
11 spaces;
12 (c) Noxious liquid substances carried in bulk;
13 (d) Harmful substances in packaged form;
14 (e) Sewage;
15 (f) Garbage; and
16 (g) Other harmful substances, whether generated during the operation of the ship
17 or not.

18 The provisions of this section shall not apply in the following cases:

- 19 (1) The discharge or emission is necessary for the purpose of securing the safety
20 of a ship and those on board or saving life at sea; or
21 (2) The discharge result from unintentional damage to the ship or its equipment,
22 and all reasonable precautions have been taken after the occurrence of the
23 damage or the discovery of the discharge, unless the master, owner or agent
24 of the ship acted either with intent to cause damage or recklessly and with
25 knowledge that damage would probably result; or
26 (3) The discharge is for the purpose of combating specific pollution incidents in
27 order to minimize the damage from pollution.

28 For this purpose, the DOTr shall promulgate rules and regulations to
29 implement the immediately preceding paragraph as regards its application in
30 general, or with respect to the following considerations in consonance with
31 the requirements of the consonance with the requirements of the Convention:

- 32 (i) Classes of ships;
33 (ii) Description of harmful substances;

- (iii) Disposal or discharge of these substances in prescribed circumstances; and
- (iv) Areas of the sea.

Section 11. *Immediate Report of Discharge of Harmful Substances.* - If any actual or probable discharge of any harmful substance occurs from any Philippine ship into any part of the sea or atmosphere the master shall immediately report the incident to the nearest affected coastal State and to the DOTr.

If any actual or probable discharge of any harmful substance occurs from any Philippine ship or foreign-flagged ship while it is operating in Philippine waters, the master of the ship shall immediately report the incident to the PCG. The PCC shall immediately inform the flag State of the ship.

If the master of the ship fails to report the incident, or the discharge occurs in circumstances where the ship, or the agent of the owner, charterer, manager and operator of the ship shall without delay, report the incident to the DOTr.

SEC. 12. *Record Books.* - Philippine ships and all ships within Philippine waters shall maintain on board record books in the English language, whether as part of their official logbook or special records. For this purpose:

- (a) Every oil tanker which is one hundred fifty (150) gross tonnage or more and every ship, other than an oil tanker which is four hundred (400) gross tonnage or more shall be provided with, and shall be required to maintain, an Oil Report Part 1 for Machinery Space Operations in accordance with the requirements of the Convention;
- (b) Every oil tanker which is one hundred fifty (150) gross tonnage or more shall be provided with, and shall be required to maintain, an Oil Record Book Part II for Cargo/Ballast Operations in accordance with the requirements of the Convention;
- (c) Every chemical tanker shall be provided with, and shall be required to maintain, a Cargo Record Book in accordance with the requirements of the Convention; and
- (d) Every ship which is four hundred (400) gross tonnage or more and every ship which is certified to carry fifteen (15) persons or more shall be provided with,

1 and shall be required to maintain a Shipboard Garbage Management Plan in
2 accordance with the requirements of the Convention.

3 *SEC. 13 Reception Facilities.* - Port authorities shall ensure that public and
4 private ports and terminal ports in the Philippines are appropriately and adequately
5 provided with facilities to meet the needs of ships for the reception of their oily residues,
6 oily mixtures, dirty ballast, tank washing water, noxious liquid substances, sewage,
7 garbage, ozone depleting substances, and equipment containing these substances, and for
8 cleaning of exhaust gases in consonance with this Act and the requirements on the
9 Convention.

10 For this purpose, port authorities shall : (a) determine and establish the most
11 effective and efficient means for meeting internationally -accepted requirements with
12 respect to reception facilities in public and private ports without causing such ships undue
13 delay; (b) formulate and implement an integrated waste management system for the use
14 and operation of reception and treatment facilities in coordination with the DENR and the
15 PCG; and (c) coordinate with the DENR and concerned local government units (LGUs)
16 on the proper handling and disposal of wastes collected at ports.

17 Port authorities may accredited or enter into agreements with private entities in
18 relation to the establishment and operation of reception and treatment facilities upon
19 verification of compliance with standards established for said facilities by the DENR and
20 PCG.

21 *SEC. 14. Use of Reception Facilities.* - All ships entering or availing the services
22 of ports, terminals and repair reports shall use reception facilities established pursuant to
23 the immediately preceding section, subject to the integrated waste management system to
24 be established by port authorities.

25
26 *SEC 15. Denial of Entry.* - Should there be a probability that a foreign- flagged
27 ship has violated or may violate the requirements of this Act, or the rules and regulations
28 promulgated therefor, the ship may be denied entry to any port in the Philippines.

29 *SEC. 16. Detention of Ships.* - Ships shall be detained in any of the following cases:

- 30 (a) The fine or fines imposed on ship, owner or operator of the ship pursuant to
31 Chapter 5 of this Act, except those imposed for violations of administrative

1 regulations under Sections 127, 28 and 29 of this Act, have not been paid;

2 (b) The condition of the ship does not substantially correspond with what is stated in
3 the ship's certificates;

4 (c) The ship does not hold valid ship certificates;

5 (d) There are reasonable or probable grounds to believe that:

6 (1) the ship incurred a pollution cost liability under Section 33 of this Act;

7 (2) the ship violated any of the requirements of this Act or rules and regulations
8 promulgated therefore; and

9 (3) the ship caused harm or damage or exhibited a reasonable environmental
10 threat to the marine environment.

11 A ship detained under paragraph (d) of this section may be released after the owner of
12 the ship posts with the Marine Pollution Adjudication Board (MPAB) established under
13 Section 35 of this Act, an adequate cash bond, insurance guaranty, or protection
14 indemnity guaranty or a combination thereof, as approved by the MPAB, to cover the
15 liability of the owner, master or agent of the ship under this Act.

16 CHAPTER 5

17 FINES, PENALTIES, AND LIABILITIES

18
19 *SEC. 17. Imposition of Finances, Penalties and Liabilities.*- Except for fines and
20 penalties for violations of administrative regulations under Section 27, 28 and 29 of this
21 Act, all fines and penalties imposed for violations of the provisions of this Chapter, or the
22 Philippine Clean Air Act and the Philippine Clean Water Act, whenever applicable, shall
23 be imposed by the MPAB established pursuant to Section 35 of this Act.

24 For this purpose, an appropriate fine rating system shall be established by the
25 MPAB, taking into consideration degree of willfulness, negligence or recalcitrance of the
26 master, owner or operator of the ship, their history of noncompliance and the gravity of
27 the damage caused by the ship to the environment.

28 *SEC. 18. Discharge of Emission of Harmful Substances.*- A ship which is found to
29 have discharged or emitted harmful substances under Section 10 of this Act shall be liable
30 to pay the following fines:

31
32 (a) In the case of a Philippine ship, unless the discharge or emission is

committed and appropriately fined in other States' jurisdiction:

- (1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of this Act not less than Two Hundred Thousand Pesos (Php 200,000.00) but not more than Ten Million Pesos (Php 10,000,000.00);
- (2) For noxious liquid substances or harmful substances in packaged form under paragraphs (c) and (d) of Section 10 of this Act - not less than Two Hundred Thousand Pesos (Php200,000.00) but not more than Ten Million Pesos (Php 10,000,000.00);
- (3) For sewage or garbage under paragraphs (e) and (f) Section 10 of this Act - not less than Fifty Thousand Pesos (Php50,000.00) but not more than Two Million Pesos (Php2,000,000.00); and
- (4) For other harmful substances as defined in this Act - not less than Two Hundred Thousand Pesos (Php200,000.00) but not more than Ten Million Pesos (Php10,000,000.00).

(b) In the case of a foreign-flagged ship:

- (1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of this Act not less than Fifty Thousand US dollars (US\$50,000) but not more than Five Million US dollars (US\$5,000,000), or its equivalent in Philippine pesos;
- (2) For noxious liquid substances or harmful substances in packaged form under paragraphs (c) and (d) of Section 10 of this Act - not less than Fifty Thousand US dollars (US\$50,000.00) but not more than Three Million US dollars (US\$3,000,000.00), or its equivalent in Philippine pesos;
- (3) For sewage or garbage under paragraphs (e) and (f) of this Act - not less than Ten Thousand US dollars (US\$ 10,000.00) but not more than One Million US dollars (US\$ 1,000,000.00), or its equivalent in Philippine pesos; and
- (4) For other harmful substances as defined in this Act not less than Fifty Thousand US dollars (US\$50,000.00) but not more than Five Million US dollars (US\$5,000,000.00), or its equivalent in Philippine pesos.

Any person directly or negligently responsible for the discharge or emission into Philippine waters or a atmosphere shall be liable for a fine of not less than Five Thousand Pesos (Php5,000.00) but not more than Five Million Pesos (Php5,000,000.00) and,

1 whenever appropriate, to the costs any measure reasonably taken in removing or
2 eliminating the discharged or emitted substances.

3 Unless the fines and penalties established under Environmental Impact Statement
4 System Law, the Philippine Clean Air Act and the Philippine Clean Water Act are higher,
5 the fines set in this Act shall be imposed for floating craft, drilling rigs and fixed or
6 floating platforms, and vessels which primarily operate or undertake business,
7 commercial or industrial activities while anchored.

8 *SEC. 19. Failure to Maintain Record Books.* - (a) A ship which operate without
9 record books required under Section 12 of this Act or fails to maintain said record books
10 on board shall be liable to pay a fine of Two Hundred Thousand Pesos (Php200,000.00);
11 (b) Any person who fails to comply with the provisions of Section 12 of this Act or the
12 rules and regulations promulgated therefor shall be liable to pay a fine not more than Five
13 Thousand Pesos (Php5,000.00) but not more than Five Hundred Thousand pesos
14 (Php500,000.00).

15 *SEC. 20. Refusal to Use Reception Facilities.* - A ship which unjustifiably refuses
16 to use reception facilities shall be liable to pay a fine of not less than Ten Thousand Pesos
17 (Php 10,000.00) but not more than Five Hundred Thousand Pesos (Php500,000.00):
18 *Provided,* That disposal of oil in reception facilities shall be required upon determination
19 by the PCG.

20 *SEC. 21. Absence of and Noncompliance with Shipboard Garbage Management.* -
21 If a ship operates without a shipboard garbage management plan as required under the
22 Convention or fails to operate in accordance with such plan, it shall be liable to pay a fine
23 of not less than Ten Thousand Pesos (Php 10,000.00) but not more than Two Hundred
24 Thousand Pesos (Php200,000.00).

25 *SEC. 22. Unauthorized Change in the Ship's Structure, Equipment, Fittings,*
26 *Arrangements and Materials.* - Unless authorized under this Act or the Convention, any
27 ship owner who made or caused any change in the structure, equipment, fittings,
28 arrangements and materials of the ship without the approval of the MARINA shall be
29 punished by a fine of not more than Ten Thousand Pesos (Php 10,000.00) but not more
30 than One Hundred Thousand Pesos (Php 100,000.00).

1 *SEC. 23. Operating Without the Required Certification.* - A ship which is
2 operated or is allowed to operate without the certification required under this Act or the
3 Convention shall be detained and shall be liable for a fine of not less than Ten Thousand
4 Pesos (Php 10,000.00) but not more than Five Hundred Thousand Pesos (Php500,000.00).

5 *SEC. 24. Violation of Detention Order.* - A ship which proceeds to sea in violation
6 of a detention order issued pursuant to Section 16 hereof shall be liable to the following
7 lines:

- 8 (a) Philippine ship - not less than Ten Thousand Pesos (Php 10,000.00)
9 but not more than One Million Pesos (Phpl,000,000.00); and
10 (b) Foreign-flagged ship - Not less than Five Million US dollars
11 (US\$5,000,000.00), or its equivalent in Philippine pesos.

12 *SEC. 25. Continuing Violation.* - A ship, which continuously discharges or emits
13 harmful substances in violation of Section 10 of this Act, shall be held liable for the fines
14 stipulated under Section 18. Likewise, it shall be made liable to pay an additional fine of
15 not less than Ten Thousand Pesos (Php 10,000.00) but not more than Two Hundred
16 Thousand Pesos (Php200,000.00) for every day or part thereof during which the violation
17 continues to be committed.

18 *SEC. 26. Obstruction of Investigation.* - Any person who shall, without justifiable
19 reason, obstruct or hamper the conduct of an investigation of a violation of this Act shall
20 be liable to pay a fine of not less than Ten Thousand Peso (Php 10,000.00) but nor more
21 than One Hundred Thousand Pesos (Php 100,000.00).

22 *SEC. 27. Neglect of Duty.* - Any government official or employee charged with
23 the responsibility of enforcing any provision of this Act, who is found guilty of gross
24 negligence of duty, shall be dismissed from the service. Neglect of duty shall be
25 prosecuted in accordance with existing laws.

26 *SEC. 28. Connivance in Violation of this Act.* - Any government official or
27 employee charged with the responsibility of enforcing and/or implementing any provision
28 of this Act who connives with the ship owner, master or operator of a ship or any person
29 to violate, or permits the commission of, any violation of this Act shall be dismissed from
30 the service and shall be jointly and severally liable with any person found to be liable for

1 the fine imposed pursuant to this Act.

2 *SEC. 29. Violations of Administrative Regulations.* - Any person who commits or
3 omits acts in violation of rules and regulations issued by concerned agencies pursuant to
4 this Act, unless the violations are otherwise covered under Section 19 to 28 hereof, shall
5 be liable to the following fines:

6 (a) First violation - a fine of not less than One Thousand Pesos
7 (Php 1,000.00) but not more than One Hundred thousand Pesos
8 (Php 100,000.00);

9 (b) Second violation - a fine more than One Hundred Thousand Pesos
10 (Php100,000.00) but not more than Two Hundred Thousand Pesos
11 (Php200,000.00); and

12 (c) Third violation - a fine more than Two Hundred Thousand Pesos
13 (Php200,000.00) but not more than One Million Pesos
14 (Php 1,000,000.00) and the suspension of vessel safety certificate for
15 six (6) months to one (1) year.

16 The concerned agency shall promulgate rules and regulations for the summary
17 imposition of administrative sanctions, subject to due process, for failure to comply with
18 any order, decision, rules and regulations of the Department issued pursuant to this Act
19 shall accrue to the MEMF.

20 *SEC 30. Intentional Violation* - In case the discharge or emission of harmful
21 substances or toxic pollutants identified pursuant to Republic Act No. 6969, otherwise
22 known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of
23 1990", is in toxic amounts or is deliberate and willful, in violation of Section 10 of this
24 Act, the offender, without prejudice to the civil liability that may be imposed, shall be
25 accordingly liable for a fine or imprisonment or not less than six (6) years, but not more
26 than twelve (12) years, or both, at the discretion of the court:

27 (a) Philippine ship - not less than Fifty thousand pesos
28 (Php50,000.00) but not more than Twenty million pesos
29 (Php20,000,000.00); and

30 (b) Foreign-flagged ship - not less than Fifty thousand US dollars
31 (US\$50,000.00) but not more than Eight Million US dollars

(US\$8,000,000.00), or its equivalent in Philippine Pesos.

SEC. 31. Automatic Adjustment of Penalties and Fines. - The fines prescribed in this Act shall be automatically be increased by ten percent (10%) every three (3) years from the effectivity of this Act.

SEC. 32. Clean-up Operations. - In the event harmful substances, under Section 10 of this Act are discharged or emitted from any ship into Philippine waters or into any part of the sea or waters outside Philippine waters but such substances subsequently flowed or drifted into Philippine waters, or into the Philippine atmosphere, the PCG, in coordination with other agencies concerned, shall be responsible for the cleanup and containment of discharged substances, and the prevention or mitigation of the resulting damage to the environment , human health, tourist and fishing industries, public and private properties: *Provided,* The necessary initial cleanup and containment shall be made by the owner of the ship which discharged or cause the discharge of such harmful substances.

SEC 33. Cost Liability for the Discharge or Emission of Harmful Substances. - The owner of the ship liable for the discharge of harmful substances under Section 32 hereof shall be primarily responsible for the following pollution costs:

- (a) Reasonable expenses that the PCG and other agencies concerned may reasonably undertake or has undertaken pursuant to the immediately preceding section; and
- (b) Environmental damages and/or other reasonable measures taken for environmental rehabilitation.

In ease the responsibility for the above pollution cost liability falls on two (2) or more ships, and the liability of each of the owners thereof cannot be reasonably distinguished from that of the other, each of the owners shall be jointly and severally liable for the whole amount of the cost.

Republic Act. No. 9483, otherwise known as the Oil Pollution Compensation Act of 2007, shall govern the civil liability for the discharge of oil, including the oily mixture, discharged as part of the incident under the said Act.

Reimbursement of the cost incurred shall be made to the MEMF or to such other funds where disbursements were sourced.

SEC. 34. Informer's Reward to Persons Instrumental in the Discovery of Violations of this Act. - Any person with the exception of the officials or employees of the DOTr, the DENR, the LGUs, the MARINA, the PCG or port authority or their relatives with the sixth degree of consanguinity, who voluntarily gives definite and sworn information, not yet in the possession of the MARINA or the PCG, leading to the discovery of the violation of this Act and resulting in the imposition of fines or fees, or conviction of the guilty party of any of the fines or penalties, shall be rewarded a sum equivalent to ten percent (10%) of the fines or fees paid or recovered.

CHAPTER 6

Marine Pollution Adjudication Board

SEC. 35. Marine Pollution Adjudication Board.- There is hereby constituted a Marine Pollution Adjudication Board (MPAB) vested with quasi-judicial powers under the Office of the Secretary of the Department of Transportation (DOTr). The Board shall have sole and exclusive jurisdiction over all marine pollution cases as provided for in Section 17 of this Act. It shall be composed of the following members:

- (a) Secretary of the DOTr, or his duly authorized representative; as Chairperson
- (b) Secretary of the DENR, or his duly authorized representative;
- (c) Secretary of the DILG, or his duly authorized representative;
- (d) Administrator of the MARINA, or his duly authorized representative;
- (e) Commandant of the PCG, or his duly authorized representative;
- (f) General Manager of the PPA, or his duly authorized representative;
- (g) A permanent representative endorsed by the Association of Masters and Mates;
- (h) A permanent representative endorsed by the Marine Engineers Association; and

1 (i) A member of the Sea Transport Association.

2
3 The grant of honoraria to members of the MPAB shall be subject to existing
4 laws, accounting and auditing rules and regulations.

5 *SEC 36. Powers and Functions.*- The MPAB shall have the following powers and
6 functions:

- 7 (a) To hear and decide cases falling under their jurisdiction pursuant to Section
8 17 of this Act;
- 9 (b) To conduct hearings on all matters within its jurisdiction, proceed to hear
10 and determine the disputes in the absence of any party thereto who has been
11 summoned or served with notice to appear, conduct its proceedings or any
12 pan thereof in public or in private, adjourn its hearings at any time and
13 palace, refer technical matters or accounts to an expert and to accept the
14 experts' reports thereon as evidence after hearing of the parties upon due
15 notice, direct parties to be joined in or excluded from the proceedings,
16 correct amend or waive any error, defect or irregularity, whether in
17 substance or in form, give all such directions as it may deem necessary or
18 expedient in the determination of the dispute before it and dismiss the
19 dispute as part thereof, where it is trivial or where further proceedings by
20 the Commission are not necessary or desirable;
- 21 (c) To promulgate and adopt its own rules of procedure. It shall not be strictly
22 bound by the Rules of Court but shall proceed to hear and decide all cases,
23 disputes or controversies in a most expeditious manner, employing all
24 reasonable means to ascertain the facts of every case in accordance with
25 justice and equity and the merits of the case;
- 26 (d) To summon witnesses, administer oaths, take testimony, require submission
27 of reports, compel the production of books and documents and answers to
28 interrogatories and issue *subpoena duces tecum* and to enforce its writs
29 through sheriffs or other duly deputized officers;
- 30 (e) To punish direct contempt in the same manner and subject to the same
31 penalties as provided in the Rules of Court;
- 32 (1) To enjoin any or all acts involving or arising from any case depending
33 before it which if not restrained forthwith, may cause grave or irreparable

1 damage to any of the parties to the case or seriously affect social or
2 economic stability;

3 (g) To issue orders and decisions to compel compliance with the provisions of
4 this Act and the Convention and issuances or decisions of the MPAB;

5 (h) To deputize in writing or request assistance to appropriate government
6 agencies or instrumentalities for the purpose of enforcing its decisions; and

7 (i) To issue an *ex parte* order directing the discontinuance of the discharge of
8 substances the cause marine pollution, or the temporary suspension or
9 cessation of operation of operation of the equipment , project or activity and
10 other acts causing environmental degradation, generating pollutants or
11 wastes, without the necessity of a previous public hearing: *Provided*, That
12 the *ex parte* order shall be issued only in case of immediate threat to life or
13 property, public health, safety or welfare or to animal or plant life, or
14 exceeds the allowable environmental standards. The *ex parte* order shall be
15 immediately executory and shall remain in force and effect until this is
16 modified or lifted by the MPAB.

17
18 *SEC. 37. Finality of Determination.* - Any case or controversy before the MPAB
19 shall be decided by majority of all its members within thirty (30) days after it is submitted
20 for resolution. Only one (1) motion for reconsideration shall be allowed. Unless as appeal
21 is perfected and a cash bond equivalent to the fine imposed is deposited, any order,
22 decision or ruling issued by the MPAB shall be final and executory.

23 *SEC 38. Appeal.* - Any decision, order or judgment of the MPAB may be appealed
24 to the Court of Appeals by *certiorari* within fifteen (15) days from receipt of a copy
25 thereof: *Provided*. That cease and desist orders shall be immediately executory.

26 CHAPTER 7

27 Miscellaneous Provisions

28 *SEC. 39. Ship Pollution Prevention Program.* - The DOTr, in coordination with
29 concerned agencies and stakeholders, shall establish a Prevention of Ship Pollution
30 Program to enhance government implementation of this Act particularly on: (a)
31 awareness building and capacity building; (b) data banking; (c) development of reception
32 facilities; (d) marine environment protection; and (e) research.

1 *SEC 40. Implementing Rules and Regulations.* - The Department and the concerned
2 agencies shall promulgate the implementing rules and regulations for this Act within one
3 (1) year after the enactment of this Act. The proposed implementing rules and regulations
4 shall be subjected to public consultations with affected sectors. The DOTr shall ensure
5 that functions of the implementing agencies and rules and regulations promulgated prior
6 to and after the effectivity of this Act are devoid of any duplication or inconsistency.

7
8 The rules and regulations issued by other government agencies and
9 instrumentalities for the prevention of marine pollution not inconsistent with and
10 appropriate to the implementation of this Act shall supplement the rules and
11 regulations issued by the Department pursuant to this Act.

12
13 *SEC 41. Joint Congressional Oversight Committee (JCOC).* - The Joint
14 Congressional Oversight Committee created under Section 33 of Republic Act. No. 9275
15 or the Philippine Clean Water Act of 2004 shall also monitor the implementation of this
16 Act and review the implementing rules and regulations promulgated by the DOTr.

17
18 The JCOC shall have seven (7) members each from the House of Representatives
19 and from the Senate of the Philippines. The Speaker of the House of Representatives shall
20 appoint the members to the JCOC from the members of the Committee on Transportation
21 and Committee on Environment with the respective Chairperson as automatic members
22 thereof. The Senate President shall appoint their members to the JCOC from the
23 Committee on Transportation and Committee on Environment with their respective
24 Chairpersons as automatic members thereof.

25
26 The Secretariat of the Congressional Oversight Committee shall come from the
27 secretariat personnel of the Committees of the Senate and the House of Representatives
28 comprising the JCOC.

29 *SEC. 42. Marine Environmental Management Fund (MEMF).* - There is hereby
30 established a Marine Environmental Management Fund (MEMF) to be administered by
31 the MPAB. The Oil Pollution Management Fund (OPMF) created under Section 22 of
32 Republic Act No. 9483, otherwise known as the Oil Pollution Compensation Act of 2007,
33 is hereby abolished. All balances, including the liabilities incurred by the OPMF, shall be

transferred to the MEMF. The MEMF shall be sourced from the following:

(a) Within one (1) year following the effectivity of the Act contributions of owners and operators of tankers and barges hauling oil and for petroleum products in Philippine waterways and coast wise shipping routes consisting of five centavos (5c) per liter for every transshipment of oil made by a tanker barge or tanker hauler based on the volume it loaded for the purpose of transshipment regardless of its origin or destination; thereafter, reasonable amount of contribution shall be jointly determined by MARINA, other concerned government agencies, and representatives from the owners of tankers barges, tankers haulers, and ship hauling oil and/or petroleum products. In determining the amount of contribution, the purposes for which the fund was set up shall always be considered;

(b) Fees, charges and fines imposed pursuant to this Act and Republic Act. No 9483;

(c) Donations, endowments, grants and contributions; and

(d) Amounts specifically appropriated for the MEMF under the annual General Appropriations Act.

The MEMF shall be utilized for the following activities:

(1) Containment, removal and clean-up operations of the PCG in all oil pollution cases; and

(2) Enforcement and monitoring activities of the MARINA, the PCG and port authorities of the Department and other relevant agencies: *Provided*, That ninety percent (90%) of the funds shall be maintained annually for the containment, removal and clean-up operations of the PCG in all cases of pollution from ships: *Provided, further*. That in no case shall the MEMF be used to fund personal services expenditures except for the compensation of those involved in clean-up operations.

SEC. 43. Appropriations. - The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriations of the concerned agencies. Thereafter, such sums as may be necessary for the operation and maintenance of this Act shall be included in the General Appropriations Act.

SEC. 44. Separability Clause. - In the event that any provision of this Act is declared unconstitutional, the validity of the remainder shall not be affected thereby.

1 *SEC. 45. Repealing Clause.* - The fifth paragraph of Section 28 of the Philippine
2 Clean Water Act and Section 22 of the Oil Pollution Compensation Act are hereby
3 repealed. The Toxic Substances and Hazardous and Nuclear Wastes Control Act, the
4 Marine Pollution Control Decree of 1974 and 1976 are hereby amended and modified
5 accordingly. All laws, decrees, rules and regulations and executive orders contrary to or
6 inconsistent with this Act are hereby repealed or modified accordingly.

7 *SEC. 46. Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
8 publication in the Official Gazette or in a newspaper of general circulation.

9
10 Approved,