

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
1st Regular Session

House Bill No. 1099

Introduced by: Hon. Augusto H. Baculio

AN ACT
TO PREVENT AND CONTROL MARINE POLLUTION FROM SHIPS AND FIXED AND FLOATING DRILLING RIGS AND OTHER FLATFORMS, PROVIDE PENALTIES THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Presidential Decree No. 976, a law on which the prevention and control of marine pollution completely rely, was promulgated in 1976 when the problem on discharges of polluted effluents and wastes from ships were not yet ostensibly pervasive. Such law, otherwise known as the Marine Pollution Decree of 1976, were intended to be all-embracing but too general that promulgation of its implementing regulation or standard paramountly depends on the primary agency responsible therefor.

Taking the above into consideration, this bill is filed to address the shortcomings of the 1976 law and to respond to the in-time prevalent beckons of the Philippine marine environment.

This measure significantly seeks to implement the provision of the MARPOL 73/78, which is the International Convention for the Prevention Pollution from Ships, as modified by Protocol of 1978 and other protocols and annexes related thereto.

Among the countries worldwide, 106 countries have ratified the MARPOL, representing 93-.88% of world tonnage. For the East Asian region, on the Philippines and Thailand have not yet ratified the MARPOL, to think that the Philippines is among the top 15 countries in terms of tonnage.

Notwithstanding, it is the desire fothis representation to take an active stance while the concerned sector is, at the same time, making its move towards the early ratification of the MARPOL. The rampant degradation of the marine environment intensifies the need for the immediate passage of this measure, despite the ratification of the MARPOL.

To address the immediate and comprehensive rehabilitation of marine environment damage as brought about by ship operations, it is the vision of this measure that a mechanism for environmental guarantee be institutionalized to finance the needs for emergency response, clean-up or rehabilitation of areas that may be damaged.

For these reasons, approval of this bill is earnestly sought.

AUGUSTO H. BACULIO
Representative, 1st Dist. Misamis Oriental

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
1st Regular Session

House Bill No. 1099

Introduced by: Hon. Augusto H. Baculio

AN ACT
TO PREVENT AND CONTROL MARINE POLLUTION FROM SHIPS AND FIXED AND FLOATING DRILLING RIGS AND OTHER FLATFORMS, PROVIDE PENALTIES THEREFOR, AND FOR OTHER PURPOSES

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

CHAPTER 1.- GENERAL PROVISIONS

SECTION 1. *Short Title*. This Act shall be known as the Ship Pollution Prevention Act of 1998.

SECTION 2. *Declaration of Policy*. It is hereby declared the policy of the State to prevent and control pollution of the seas resulting from the operation of ships and fixed and floating drilling rigs and other flatforms.

SECTION 3. *Roles and Responsibilities of the Department*. The Department shall be the primary government agency responsible for the implementation and enforcement of this Act, unless otherwise provided in this Act. As such, the Department shall:

(a) Oversee the implementation of this Act and coordinate efforts of different government agencies in preventing marine pollution from the operation of ships;

(b) To effectively implement the provisions and intents of this act, formulate a comprehensive marine environment protection program for ships in view of the holistic and sustainable management of Philippine seas and the development of a world-class maritime industry;

(c) Review the system of certification, inspection and monitoring of ships and the enforcement of this Act with respect to pollution prevention to ensure efficiency and transparency, consistent with the overall management of the maritime sector and in accordance with this Act and internationally accepted system;

(d) Establish procedures for reporting incidents involving any actual or probable discharge which may be in violation of this Act consistent with the reporting requirements under this Act;

(e) Cause regulatory action or legal proceedings to be taken or sanctions imposed in respect of any violation under this Act within 30 days after it is informed of such a violation and is satisfied that sufficient evidence is available for such action or proceedings to be taken or such action to be imposed. *Provided*, that every effort to avoid undue delay to ships shall be exerted;

(f) Formulate a framework plan for an efficient data and information collection and dissemination system on ships that includes the development of basic criteria, methods and standards for data collection and research activities undertaken by various public and private entities;

(g) Conduct a continuing information campaign on marine resources protection aimed at developing public awareness of the health hazards and other adverse effects of ship pollution;

(h) Conduct investigations of any marine casualty occurring to any Philippine ship or other ships within Philippine territory or exclusive economic zone to which this Act applies;

(i) Establish a system for inquiry of incidents, investigation, adjudication and prosecution of violations of this Act;

(j) Cooperate with government of other states which are members of international organizations on marine pollution in relation with the detection of violations and enforcement of this Act, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence;

(k) Establish a national database for ship operations and activities, including pollution prevention activities, in the country;

(n) Reorganize or streamline the functions of its different line, staff and attached authorities, agencies or bureaus to effectively and efficiently implement the provisions of the Act;

(o) Ensure an efficient and professional pollution regulatory machinery by providing its officers and personnel with adequate training and continuing education;

(p) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SECTION 4. *Exercise of Police Power*. Whenever a marine disaster within the territorial sea or the exclusive economic zone poses a substantial threat to public health or welfare of the country including but not limited to aquatic life and the public and private beaches because of a discharge, or an imminent discharge, of large quantities of oil, noxious liquid substance or other harmful substances from ships, the Department may (a) coordinate and direct all efforts towards the removal or elimination of such a threat and (b) summarily remove by whatever means available, such ship or facility which causes the threat.

Other than the circumstances stated in the first paragraph, officers designated by the Secretary shall be authorized to board, inspect and survey any ship to which this Act applies including ships within the exclusive economic zone of the Philippines, enter port facilities in the Philippines, demand the production of documents, records and other evidence, and take testimony of witnesses under oath, for the purpose of verifying compliance with this Act

SECTION. 5. *Institutional Linkages.* In implementing this Act, the Department shall coordinate and consult with other agencies having authority over marine and coastal resources regulation such as the Department of Environment and Natural Resources, the Department of National Defense, Department of Foreign Affairs, Department of Energy, Department of Agriculture, Department of Trade and Industry, Department of Tourism and the Department of the Interior and Local Government.

SECTION 6. *Role of Local Government Units.* All local government units shall, pursuant to the pertinent provisions of the Local Government Code, and subject to the general supervision of the Department, assist in implementing and enforcing this Act.

CHAPTER 2. - DEFINITION OF TERMS

SECTION 7. Definition of Terms. As used in this Act:

(a) "Chemical tanker" means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an "oil tanker" as defined in this law when carrying a cargo or part cargo of noxious liquid substances in bulk.

(b) "Clean ballast" means the ballast in tank which since oil or noxious liquid substances were last carried therein, has been so cleaned that effluent therefrom if it were discharged from a ship which is stationary into clean calm water on a clear day would produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system in compliance with this law and rules and regulations issued therefor.

(c) "Crude oil tanker" means an oil tanker engaged in the trade of carrying crude oil.

(d) "Department" means the Department of Transportation and Communications.

(e) "Discharge" means, in relation to harmful substances or effluents containing such substances, any release, however caused, from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying.

(f) "*En route*" is taken to mean that the ship is under way at sea on a course, or courses, which so far as practicable for navigational purposes will cause any discharge to be spread over as great an area of the sea as is reasonably practicable.

(g) "Exclusive Economic Zone" means such areas as defined in the United Nations Convention on the Law of the Sea 1982 that extends beyond and adjacent to the territorial sea of the Philippines as that definition may be affected by other regional or international treaties to which the Philippines is a party.

(h) "Existing ships" means a ship not covered by the preceding paragraph.

(i) "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, as may be declared harmful or hazardous to human and marine life under the laws of the Philippines, and includes any substance subject to control under this Act;

(j) "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance;

(k) "Marine Casualty" means any accident at sea involving a ship which could result in an incident;

(l) "Navigable waters" means the waters of the Philippines, including the territorial sea and inland waters which are presently, or be in the future susceptible for use by watercraft.

(m) "Nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law.

(n) "New ships" means a ship (1) for which the building contract is place after 31 December 1975, or (2) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 30 June 1976, or (3) the delivery of which is after 31 December 1979, or (4) which has undergone a major conversion (i) for which the contract is place after 31 December 1975, or (ii) in the absence of a contract, the construction work of which is begun after 30 June 1976, or (iii) which is completed after 31 December 1979.

(o) "Oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and any "chemical tanker" as defined hereunder when it is carrying a cargo or part cargo of oil in bulk.

(p) "Particularly Sensitive Sea Area" means a sea area defined by the Organization which needs special protection through action by the Organization, because of its significance for recognized ecological or socio-economic or scientific reasons and which may be vulnerable to envi-

ronmental damage by maritime activities. A particularly sensitive area is a qualification and a basis on which protective measures may be taken through measures developed by the Organization;

(q) "Philippine Ship" means a ship registered under the laws of the Republic of the Philippines and entitled to fly the flag of the Philippines;

(r) "Product carrier" means an oil tanker engaged in the trade of carrying oil other than crude oil.

(s) "Reception facility" means any facility used for the reception of oil, noxious liquid substances, sewage or garbage from ships at a port or terminal;

(t) "Secretary" means the Secretary of the Department of Transportation and Communications;

(u) "Segregated ballast" means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined by this law.

(v) "Ship" means a vessel of any type operating in the marine environment and includes, without limitation, pleasure craft, fishing vessels, hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

(w) "Slop tank" means a tank specifically designated for the collection of tank drainings, washings and other oily mixtures.

(x) "Special Area" means a sea area defined by the Organization where, for recognized technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic, the adoption of special mandatory methods for the prevention of sea pollution is required;

(y) "Tank" means an enclosed space which is formed by the permanent structure of a ship and which is designed for the carriage of liquid in bulk.

(z) "Territorial Sea" means in respect of the Republic of the Philippines has the same meaning as in the Philippine Constitution; and in respect of any other State means the territorial sea of that State as recognized in international law;

(aa)"Undue delay" means a delay that is unreasonable and unnecessary in light of the particular conditions of the ship, the ship's cargo, destination and schedule, and in light of the purpose and scope of the investigation, inspection or other cause for detaining the ship.

(bb) "Vessel" means every description of watercraft, or other artificial contrivance used, or capable of being used, as a means of transportation on water.

CHAPTER 3. - SCOPE AND APPLICATION

SECTION 8. *Scope and Application of the Act.* (a) Unless otherwise specified, this Act shall apply to:

(1) All Philippine Ships;

(2) All ships operating within the territorial sea or Exclusive Economic Zone of the Philippines; and

(3) Fixed and floating drilling rigs and other flatforms.

(b) With respect to the application of this Act to ships of States which are not MARPOL 73/78 member States, no more favorable treatment shall be given to such ships than is provided for under this Act.

SECTION 9. *Exemptions.* Subject to the provisions of Sec. 6 below, this Act shall not apply to warships, naval auxiliary and other ships used for the time being only on government non-commercial service and ships of the Government of the Philippines, Provided, however, that the Government of the Philippines shall ensure by the adoption of appropriate measures not impairing the operational capabilities of its ships that they operate in a manner consistent, so far as is reasonable and practicable, with this Act.

CHAPTER 4. - PREVENTION OF POLLUTION FROM VESSELS

Article One. - General Provisions

SECTION 10. *General Guidelines.* - The Department shall require any fitting , material, appliance or apparatus deemed appropriate and effective for the prevention of any discharge of pollutant to be fitted in a ship.

SECTION 11. *Reception Facilities.* - The Department shall ensure the provision of adequate port reception facilities, and in so doing, (a) determine and establish the most effective and efficient means for meeting the internationally accepted requirements with respect to reception facilities in public and private ports, and terminals used for ship building, repair, ship breaking and related activities, (b) consider integrated waste management systems, and (c) coordinate with DENR and concerned LGUs on the proper handling and disposal of wastes collected at ports.

Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay. All oil companies and oil transport contractors operating in the country shall share the obligation of putting up said facilities in their respective oil refineries, loading, receiving or docking ports. The collection from the vessels and the disposal to port recep-

tacles of said residues or refuse shall be the joint duty and responsibility of the recipient-company and ship captain.

SECTION 12. *Shipboard Garbage Management System.* - All vessels shall adopt and implement their shipboard garbage management system ensuring that oil residues and sewage and solid wastes are properly disposed of. All vessels shall put up and maintain appropriate on-board containers, holding tanks or receptacles for oil residues and sewage and solid wastes.

SECTION 13. *Mandatory Disposal of Wastes at Reception Facilities.* - All vessels shall mandatorily dispose of their oil residues or oily mixture, sewage wastes and garbage at the reception facilities provided by the Department and/or its duly accredited private contractor, or at such private facilities recognized by the former, unless the same is disposed of during voyage pursuant to this Act.

SECTION 14. *Oily-Water Separating Equipment and Oil Discharge Monitoring and Control System.* - All vessels of 400 gross tons and above shall be equipped with efficient oily-water separating equipment. *Provided*, that vessels of 10,000 gross tons and above shall be fitted with oil discharge monitoring and control system and oil filtering equipment, in addition to oily-water separating equipment. *Provided, further*, that vessels of less than 400 tons gross tonnage are equipped with storage to retain on board oil or oily mixtures or discharge for proper disposal to reception facilities or into the sea pursuant to this Act.

SECTION 15. *Retention of Oil on Board.* - Oil tankers of 150 gross tonnage and above shall be provided with appropriate arrangements for the retention of oil on board, which includes, but not limited to, adequate means necessary for cleaning cargo tanks and transferring dirty ballast residue and tank washings from the cargo tanks into a slop tanks. Oil Discharge Monitoring System shall likewise be fitted. In the case of existing tankers, the requirements for oil discharge monitoring and control systems and slop tank arrangements shall apply three years after the effectivity of this law.

SECTION 16. *Segregation of Oil and Water Ballast and Carriage of Oil in Forepeak Tanks.* - Except where abnormal conditions or the need to carry large quantities of oil fuel render it necessary to carry unclean ballast water in any oil fuel tank, every new ship of 4,000 tons gross tonnage and above, other than oil tankers, and every new oil tanker of 150 tons gross tonnage and above, shall not carry such ballast water in any oil fuel tank.

Such ballast water shall be discharged to reception facilities or onto the sea in compliance with this Act, and an entry thereof shall be made in the Oil Record Book to this effect.

In a ship of 400 tons gross tonnage and above, for which the building contract is placed after 1 January 1982 or in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 1 July 1982, oil shall not be carried in a forepeak tank or a tank forward of the collision bulkhead.

All other ships shall be encouraged to comply with the requirement of this section as far is reasonable and practical.

SECTION 17. *Shipboard Oil Pollution Emergency Plan.* - Every oil tanker of 150 gross tonnage and above and every ship 400 tons gross tonnage and above shall carry on board a ship-board oil pollution emergency plan approved by the Department.

SECTION 18. *Retention of Oil Residues or Sludge.* - Every ship of 400 tons gross tonnage and above shall be provided with a tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oil residues or sludge such as those resulting from the purification of fuel and lubricating oils and oil leakage in the machinery spaces.

SECTION 19. *Oil Record Book.* - All oil tankers and other passenger-cargo vessels above 400 gross tons shall be provided on board with an Oil Record Book which shall be maintained and up-dated every after any reception or transfer operation of oil on board.

SECTION 20. *Pumping, piping and discharge or unloading arrangements.* - Every ship shall be provided with pumping and piping arrangements for the discharge and/or unloading of dirty ballast water or oil contaminated water from oil tankers, and of residues containing noxious liquid substances to ensure that each tank designated for the carriage of substances of certain category does not retain a quantity of residue in excess of an environmentally acceptable quantity in the tank's associated piping and in the immediate vicinity of that tank's suction point.

SECTION 21. *National Marine Pollution Prevention Certificate.* - The MARINA shall survey or inspect vessels, and shall issue a National Marine Pollution Prevention Certificate (NMPPC) thereto after compliance with this Act and the rules and regulations promulgated there-for by the Department . Said certificate shall be renewed every three years after proper inspection and due endorsement of the Department.

Such certificate shall cease to be valid if violations of this law and rules and regulations issued therefor were committed, or if significant alterations have taken place in the construction, equipment, systems, fittings, arrangements or materials required by this law and rules and regulations therefor.

SECTION 22. *Registration and Re-registration of Vessels.* - The NMPPC under the pre-ceding section shall be considered as a pre-requisites to the issuance of the appropriate vessel's

certificate of registration. Accordingly, vessels registered prior to the enactment of this law are called upon to comply with the immediately preceding section within 30 days following the effectivity of the same. Lack of the aforementioned certificate shall be a ground for cancellation of said vessel's registration. Accordingly, MARINA shall effect or adopt necessary amendments to vessels registration's procedures or requirements, and shall issue rules and regulations therefor.

SECTION 23. *Immediate Report of an Accident.* - Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by the rules and regulations of the PCG, the master or owner of the ship shall report at the earliest opportunity to the PCG.

SECTION 24. *Obligations of the shipowner, bareboat charterer, operator of ships or the agent of the shipowner, bareboat charterer or operator of ships.* - The shipowner, bareboat charterer or operator of ships or the agent of the shipowner, bareboat charterer or operator shall:

(a) install appropriate devices or facilities on board ships for the storage or processing of waste, such as oil, noxious liquid substances, garbage and sewage, as may be required by regulations issued by the Department pursuant to this Act;

(b) comply with requirements as to the carriage of harmful substances in packaged form as may be required by regulations issued by the Department pursuant to this Act;

(c) obtain appropriate certificates required by the Department pursuant to this Act;

(d) follow procedures or take action for the prevention of pollution from ships as may be required by regulations issued by the Department pursuant to this Act;

(e) notify the Department or any lawful authority of any incident involving its ship or other ships in accordance with regulations issued by the Department pursuant to this Act.

Article Two. - Pollution by Oil, Oily Mixture, Oil Residues

SECTION 25. *Discharge of Oil, Oily Mixture.* - It shall be unlawful for any person, including those serving on board ships covered by Sec. 5, to discharge, or suffer, permit the discharge of oil or oily mixture from or out of any ship, vessel, barge, or any other floating craft, or other man-made structures at sea, by any method, means or manner, into the waters within the national territory or Exclusive Economic Zone of the Philippines, except:

(a) when the discharge is necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

(b) if the discharge into the sea of oil or oily mixture results from damage to ship or its equipment, provided that all reasonable precautions have been taken after the occurrence of the

damage or the discovery of the discharge for the purpose of preventing or minimizing the discharge; and except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) if the discharge is for the purpose of combating specific pollution incidents in order to minimize the damage from pollution.

An oil tanker shall be so allowed when all the following conditions are satisfied:

(a) the tanker is more than 50 nautical miles from the nearest land;

(b) the tanker is proceeding *en route;*

(c) the instantaneous rate of discharge of oil content does not exceed 60 liters per nautical mile;

(d) the total quantity of oil discharged into the sea does not exceed for existing tankers 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and for new tankers 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and

(e) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by this law and its rules and regulations.

It shall, likewise, be so allowed to a ship of 400 tons gross tonnage and above other than an oil tanker and from machinery space bilge excluding cargo pump-room bilge of an oil tanker unless mixed with oil cargo residue, in addition to pars. (a) and (b) of the immediately preceding paragraph of this section, when the following requirements are complied with:

(a) the oil content of the effluent is less than 100 parts per million; and

(b) the ship has in operation an oil discharge monitoring and control system, oily-water separating equipment, oil filtering equipment or other installation as required by this law and its rules and regulations.

SECTION 26. *Discharge of Clean or Segregated Ballast or Unprocessed/Processed Oily Mixtures.* - Prohibition provided for in the preceding section shall not apply to the discharge of clean or segregated ballast or unprocessed oily mixtures which without dilution have oil content not exceeding 15 parts per million and which do not originate from cargo pump-room bilge and are not mixed with oil cargo residues. Last paragraph of the preceding section shall not also apply to the discharge of the processed oily mixture, provided that the ship, in addition to requirements for unprocessed oily mixture mentioned in this section, has in operation adequate oil filtering equipment as determined by the rules and regulation of the PCG of this provided by this law as.

SECTION 27. *On-board Retaining and Discharge to Reception Facility of Oil Residues.* - Oil residues prohibited to be discharged under the two immediately preceding sections and those which are produced by ships of less than 400 tons gross tonnage, other than an oil tanker, within the water territory of the Philippines, shall be retained on board and/or discharged to reception facilities in accordance with this Act.

SECTION 28. *Segregated Ballast Tanks, Dedicated Clean Ballast Tanks and Crude Oil Washing.* - Oil tankers shall comply with the following requirements:

(a) Every new crude oil tanker of 20,000 gross tons deadweight and above and every new product carrier of 30,000 tons deadweight and above shall be provided with segregated ballast tanks.

(b) The capacity of the segregated ballast tanks shall be so determined that the ship may operate safely on ballast voyages without recourse to the use of cargo tanks for water ballast except in cases provided in the succeeding paragraphs.

(c) In no cases shall ballast water be carried in cargo tanks, except:

(1) on those rare voyages when weather conditions are so severe that, in the opinion of the master, it is necessary to carry additional ballast water in cargo tanks for the safety of the ship; and

(2) in exceptional cases where the particular character of the operation of an oil tanker renders it necessary to carry ballast water in excess of the quantity required under paragraph (b) of this section, provided that such operation of the oil tanker falls under the category of exceptional cases provided by this Act.

Such additional ballast water shall be processed and discharged in compliance with Sec. 25 and in accordance with Sec. 15 and an entry shall be made in the Oil Record Book referred to in Sec. 19.

(d) In the case of new crude oil tankers, the additional ballast permitted in par. (c) shall be carried in cargo tanks only if such tanks have been properly crude oil washed before departure from an oil unloading port or terminal.

(f) Every new crude oil tanker of 20,000 tons deadweight and above shall be fitted with a cargo tank cleaning system using proper crude oil washing unless such tanker carries crude oil which is not suitable for crude oil washing.

(g) Every existing crude oil tanker of 40,000 tons deadweight and above shall be provided with segregated ballast tanks in compliance with the requirements of pars. (a) and (b) of this section. It may, in lieu of being provided with segregated ballast tanks, operate with cargo tank clean-

ing procedure using crude oil washing, unless the crude oil tanker is intended to carry crude oil which is not suitable for crude oil washing. In lieu of the above requirements, it may operate with dedicated clean ballast tanks in accordance with the rules and regulations made therefor.

(h) Every existing product carrier of 40,000 tons deadweight and above shall be provided with segregated ballast tanks or, alternatively, operate with dedicated clean ballast tanks as provided in this section.

(i) Any oil tanker which is not required to be provided with segregated ballast tanks may, however, be qualified as a segregated ballast tanker, provided it complies with the requirements of pars. (b) and (c), or par. (e), as appropriate, of this section.

SECTION 29 . *Floating Storage Facility.* - All vessels intended to serve as floating storage facility for oil or other substances shall obtain a permit from the Department upon survey of the latter onto the compliance of requirements issued for its operation.

Article Three. - Pollution by Noxious and Liquid Substances in Bulk

SECTION 30. *Categorization of Noxious Liquid Substances.* - For the purposes of this article, noxious and liquid substances shall be divided into four categories as follows:

(a) *Category A*: Noxious liquid substances which if discharge into the sea from tank cleaning or deballasting operations would present a major hazard to either marine resources or human health or cause harm to amenities or other uses of the sea and therefore justify the application of stringent anti-pollution measures.

(b) *Category B*: Those that present a hazard which therefore justify the application of special anti-pollution measures.

(c) *Category C*: Those that present a minor hazard which therefore require special operational conditions.

(d) *Category D*: Those that present a recognizable hazard which therefore require some attention in operational conditions.

The Department shall set the internationally accepted guidelines for the categorization of noxious liquid substances under this section, and shall promulgate the list of noxious substances carried in bulk which shall be charted according to their category and environmentally accepted residual concentration.

SECTION 31. *Discharge of Noxious or Liquid Substances.* - Except in cases provided for under first paragraph of Sec. 25, and subject to the following conditions provided under this sec-

tion, no person shall discharge noxious liquid substances into territorial or on the bank of territorial water whether or not the same shall float or be washed into such water:

(a) Discharge of substances in Category A as defined under par (a) of the preceding section or of those provisionally assessed as such or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited. If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent to such facility is at or below the reasonable residual concentration for that substance and until the tank is empty. Any water subsequently added to the tank may be discharged into the sea when all the following conditions are satisfied:

(1) the ship is proceeding *en route* at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(2) the discharge is made below the waterline, taking into account the location of the seawater intakes; and

(3) the discharge is made at a distance of not less than 12 nautical miles from the nearest land in a depth of water of not less than 25 meters.

(b) Discharge of substances in Category B as defined under par (b) of the preceding section or of those provisionally assessed as such or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied, in addition to those provided under par. (a) of this Section:

(1) the procedures and arrangements for the discharge are approved by the Department. Such procedures and arrangements shall be based upon internationally accepted standards, and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million; and

(2) the maximum quantity of cargo discharged form each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in subparagraph (ii) of par. (a) of this section, which shall in no case exceed the greater of 1 cubic meter or 1/3,000 of the tank capacity in cubic meters.

(c) Discharge of substances in Category C as defined under par (a) of the preceding section or of those provisionally assessed as such or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied, in addition to subpars. (i), (2) and (3) of par. (a) of this section:

(1) the procedures and arrangements for the discharge are approved by the Department. Such procedures and arrangements shall be based upon internationally accepted standards, and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 10 parts per million; and

(2) the maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in subparagraph (ii) of par. (a) of this section, which shall in no case exceed the greater of 3 cubic meters or 1/1,000 of the tank capacity in cubic meters.

(d) Discharge of substances in Category D as defined under par (a) of the preceding section or of those provisionally assessed as such or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied, in addition to subpar. (i) of par. (a) of this section:

(1) such mixtures are of a concentration not greater than one part of the substance in ten parts of water; and

(2) the discharge is made at a distance of not less than 12 nautical miles from the nearest land.

The Department shall, after five years following the effectivity of this law, and in every three years thereafter, and when it is deemed necessary to protect the marine environment and public health, upgrade the concentration and rate of the effluent and the maximum quantity of referred to under subpars. (1) and (2) of pars. (b) and (c) of this section.

SECTION 32. *Cargo Record Book.* - Every ship under this article shall be provided with a Cargo Record Book, whether as part of the ship's official log-book or otherwise, in the form to be specified by the Department . Said book shall be completed, on a tank-to-tank basis, whenever relevant operations with respect to a noxious liquid substance take place in the ship.

Article Four. - Carriage of Harmful Substances in Packaged Form

SECTION 33. *Discharge of Harmful Substances in Packaged Form.* Except in cases provided for under the first paragraph of Section 25, it shall be unlawful for any person, including those serving on board ships covered by Sec. 5, to discharge by jettisoning harmful substances carried in packaged forms, freight containers, portable tanks, or road and rail tank wagons into territorial, or on the bank of territorial water whether or not the same shall float or be washed into such water.

SECTION 34. *Carriage of Harmful Substances in Packaged Form.* - Except in accordance with this law, it shall be unlawful for any ship to carry harmful substances in packaged forms, or in freight containers, portable tanks or road and rail tank wagons.

For the purposes of this article, "harmful substances" are those substances which are identified as marine pollutants by the Department in consonance with the international standards.

SECTION 35. *Guidelines for the identification of harmful substances.* The guidelines for the identification of harmful substances in packaged form shall consider the following criteria:

(a) bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health;

(b) bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less;

(c) liable to produce tainting of seafood; and

(d) highly toxic to aquatic life, defined by a LC50/96 hour less than 1 ppm.

SECTION 36. *Packing, marking, labeling, documentation, stowage, quantity limitations and exceptions.* - The Department of Trade and Industry shall issue detailed requirements on packing, marking, labeling, documentation, stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances.

SECTION 37. *Washing of Leakage Overboard.* - Based on the physical, chemical and biological properties of harmful substances, the Department shall adopt appropriate measures to regulate the washing of leakage overboard, provided, that the compliance with such measure would not impair the safety of the ship and persons on board.

Article Five. - Pollution by Sewage and Garbage from Ships

SECTION 38. *Discharge of Sewage.* - The discharge of sewage into territorial, or on the bank of territorial water, whether or not the same shall be washed into such navigable water, is prohibited, except in the following cases, in addition to exceptions provided for in the first paragraph of Sec. 25:

(a) the sewage escaped from the ship in consequence of unintentional damage to the ship or its equipment, and all reasonable precautions are taken before and after the occurrence of the damage for the purpose of preventing or minimizing the discharge

(b) the ship is discharging comminuted and disinfected sewage using a system provided for in this article at a distance of more than four nautical miles from the nearest land, or sewage which is not comminuted or disinfected at a distance of more than 12 nautical miles from the nearest land, provided, that in any case, the sewage that has been stored in holding tanks shall not

be discharged instantaneously at a moderate rate when the ship is *en route* and proceeding at not less than 4 knots; the proper rate of discharge shall be approved on by the Department based on international standards; and

(c) the ship has in operation an approved sewage treatment plant to meet the operational requirements of the PCG, provided, that the effluent shall not produce visible floating solids in, nor cause discoloration of , the surrounding water.

When the sewage is mixed with wastes or waste water having different discharge requirements, the more stringent requirements shall apply.

SECTION 39. *Marine Sewerage Sanitation Devices.* All vessels certified to carry more than 50 persons and other vessels of 200 gross tonnage and above shall be provided with marine sewage sanitation devices and sewage treatment plant system in accordance with the rules and regulations or guidelines issued therefor. Provided, that all other vessels shall utilize and maintain storage tanks for sewage.

SECTION 40. *Disposal of Garbage.* - Except in cases provided for under the first paragraph of Sec. 27 and par. (a) of Sec. 41, and subject to the provision of this section, the disposal into territorial, or tributary, or on the bank of territorial and tributary of any navigable water, whether or not the same shall float or be washed into such navigable water, of garbage is prohibited. Provided, that disposal of food wastes shall be made as far as practicable from the land, but in any case not less than 12 nautical miles from the nearest land.

SECTION 41. *Garbage Comminuter and Grinder.* - The disposal into the sea of garbage may be permitted when it has passed through a comminuter or grinder, whenever possible, and made, as far as practicable, from the nearest land but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles. Such comminuted or ground garbage shall be capable of passing through a screen with openings no greater than 25 millimeters.

CHAPTER 5. - PREVENTION OF POLLUTION FROM FIXED AND FLOATING DRILLING RIGS AND OTHER PLATFORMS

SECTION 42. *Applicable Requirements for Offshore Platform.* - Fixed and floating drillings rigs when engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources and other platforms shall comply with the requirements of this law applicable to ships of 400 gross tonnage and above other than oil tankers, except that:

(a) they shall be equipped as far as practicable with the installations required in Secs. 14 and 18;

(b) they shall keep a record of all measures all operations involving oil or oily mixture discharges, in a form approved by the PCG;

(c) if more than 12 nautical miles from the nearest land and subject to the provision of the first paragraph of Sec. 25, the discharge from such drilling rigs and platforms when stationary into the sea of oil or oily mixtures shall be prohibited except when the oil content of the discharges without dilution does not exceed 100 parts per million.

SECTION 43. *Offshore Platform Discharges of Garbage.* - The disposal of any material provided for under Art. 5 of Chapter 4 of this law is prohibited from platforms referred by the immediately preceding section, and from all other ships when along or within 500 meters of such platforms, is prohibited. Provided, that the disposal into navigable water of food wastes may be permitted when they have been passed through a comminuter or grinder from such platforms located more than 12 nautical miles from the land and all other ships when along or within 500 meters of such platforms in accordance with the rules and regulations issued therefor.

CHAPTER 6. - PROHIBITED ACTS

SECTION 44. *Prohibited Acts.* Unless otherwise allowed by this act, it shall be unlawful for any person, including those serving on board ships covered by Sec. 5 above, to:

(a) discharge, or permit the discharge, of oil, noxious liquid substances and other harmful substances from or out of any ship by any method, means or manner, into the waters within the national territory or Exclusive Economic Zone of the Philippines,

(c) discharge, throw or dump, or permit the discharge, throwing or dumping of garbage or sewage, as, from or out of any ship by any method, means or manner into the waters within the national territory or Exclusive Economic Zone of the Philippine, fail to maintain the installed devices and facilities, follow procedures, take action, or otherwise comply with all requirements of THIS ACT OR RULES AND regulations issued PURSUANT THERETO;

(d) Willfully make false or fraudulent declarations or entries in books, reports, surveys or any other form, or remove such books, reports, surveys or any other form, which are required by the Department relating to compliance with MARPOL 73/78, this Act or its implementing rules and regulations.

CHAPTER 6. - FINES AND PENALTIES

SECTION 45. *Penalties.* (a) Any person found violating or failing to comply with Sec. 6 shall pay a fine not exceeding ten million pesos (P10,000,000) or imprisonment from six (6) months to six (6) years, or both.

(b) Where an offense under this Act is a continuing one, every person who commits that offence, in addition to any other liability, is liable to a fine or fifty thousand pesos (P50,000) for every day or part thereof during which the offence continues.

(c) Any person who shall, without justifiable reason, obstruct or hamper the conduct of investigation of a violation of Sec. 6 of this Act, shall be liable to pay a fine not exceeding one hundred thousand pesos (P100,000) or imprisonment not exceeding one (1) month, or both.

(d) Any government official or employee charged with the responsibility of endorsing this act, who is found guilty of gross negligence of duty or connives with or permits the commission of any violation of this act, shall be dismissed from the service with prejudice to his reinstatement

SECTION 46. *Administrative Sanctions*. (a) Any person found violating Sec. 7 of this Act or failing to comply with any order, decision or regulation of the Department under this Act, issued in accordance with this Act, MARPOL 73/78 or other international conventions or agreements for the control or abatement of marine pollution shall be liable to the following fines:

(1) First violation - a fine not to exceed one hundred thousand pesos (P100,000);

(2) Second violation - a fine more than one hundred thousand pesos (P100,000) but not to exceed two hundred thousand pesos (P200,000);

(3) Third violation - a fine more than two hundred thousand pesos (P200,000) but not to exceed one million pesos (P1,000,000) and suspension of vessel registration for six (6) months to one (1) year;

(b) Any person who shall refuse, obstruct, or hamper the entry of the duly authorized representatives of the Department or any person authorized under this Act aboard any ship or establishment pursuant to this Act shall be liable to pay a fine not exceeding ten thousand pesos (P10,000);

(c) Any ship apprehended for violation of this Act may be subjected to detention.

(d) The Department may order the cancellation or revocation of the license or seaman's book of any ship captain or crew who has committed more than three violations under this Act.

(e) The Department shall promulgate rules and regulations for the summary imposition of administrative sanctions for failure to comply with any order, decision, rules or regulations of the Department issued pursuant to this Act.

(f) The Department may reduce the sanctions herein provided where the person which violated the Act reports such violation to the Department and takes reasonable and appropriate measures to minimize the damage.

SECTION 47. *Recovery of Damages*. Any person found to have discharged oil, noxious liquid substances or harmful substances from or out of any ship, whether he is traveling intentionally or otherwise, shall be liable for damages caused to the marine environment, as well as for the cost of any measure reasonably taken by the Department or other agencies or instrumentalities of the Government of the Philippines or any person for the purpose of preventing or reducing any damage cause to Philippine waters by such discharge and for the cost of any measure reasonably taken by the Department or such agency or instrumentality of the Government of the Philippines or any person for the removal of such oil or substances discharged from ships, subject to relevant international conventions and other special laws on liability and compensation for pollution damage. The cost or damages to be recovered under this Section shall include the cost of rehabilitating the waters and shores affected by the discharge.

SECTION 48. *Liability*. (a) The shipowner, bareboat charterer, managing owner, operator, master and agent of the ship, or if the shipowner is a juridical person, the manager and president of the shipowner, shall each be held liable for any violation of Sec. 6 ad Sec. 7 . An agent includes any representative of the shipowner, not being the managing owner, but vested with a specific authority by the shipowner. A master shall include every person having command of a ship, other than a pilot.

(b) In any case of discharge punishable under this Act, the shipowner, bareboat charterer, managing owner, operator, master and agent of the ship shall be presumed liable except in cases of force majeure.

SECTION 49. *Automatic Adjustment of Penalties and Fines*. The penalties and fines prescribed in Secs. 12 and 13 shall be automatically increased by ten per cent (10%) very three (3) years from the effectivity of this Act.

CHAPTER 7. - MISCELLANEOUS PROVISIONS

SECTION 50. *Financial Liability for Environmental Rehabilitation*. As a guarantee against possible marine environment degradation, the Department shall require shipowner, bareboat charterer, operator of ships or the agent of the shipowner, bareboat charterer, operator of ships to put up financial guarantee mechanisms to finance the needs for emergency response, clean-up or rehabilitation of areas that may be damaged during the operation of ships.

Financial liability instruments may be in the form of a trust fund, environmental insurance, surety bonds, letters of credit, as well as self-insurance or combinations thereof. Shipowner, bareboat charterer, operator of ships or the agent of the shipowner, bareboat charterer, operator of

ships required to put up guarantee instruments shall furnish the Department with evidence of availment of such instruments.

SECTION 51. *Marine Management Fund.* - To complement the intents of Sec 8, there is hereby established a Marine Management Fund to be administered by the Department as a special account in the national treasury to support research, enforcement and monitoring activities and capabilities of the Department. The fund shall be sourced from the fees, charges, fines imposed herein, donations, endowments, administrative fees, and grants in the form of contributions.

SECTION 52. *Marine Environment Protection Program.* The Department shall establish a marine environment protection program to enhance government implementation of this Act particularly on (a) awareness building and capacity building; (b) databanking; (c) development of reception facilities; (d) marine environment protection; (e) research; (f) waste containment, removal and clean-up operations; and (g) rehabilitation. Appropriation for these projects shall come from the fines, fees and revenues collected by the Department under Secs. 12 and 13.

SECTION 53. *Implementing Rules and Regulations.* The Department shall, in coordination with the Department of Environment and Natural Resources and other relevant government and non-government agencies, promulgate the implementing rules and regulations for the administration of this Act consistent with MARPOL 73/78 and other relevant instruments, including:

(a) adoption and implementation of the Annexes to MARPOL 73/78 and amendments thereto;

(b) a system of reporting incidents involving discharge of oil and other harmful substances based on guidelines developed by the Organization;

(c) prosecution of violations of this Act;

(d) the maintenance at designated offices or libraries of copies of MARPOL 73/78, other related instruments having application in the Philippines, regulations and issuances issued under this Act, for the purpose of making them available to the general public;

(e) updating existing regulations to changes made by the Organization relating to MARPOL 73/78 and other related Conventions;

(f) designation of special areas and particularly sensitive sea areas; and

(g) prescribing appropriate measures in order to give full effect to the provisions of this Act and to MARPOL 73/78.

The rules and regulations issued by other government agencies and instrumentalities for the prevention of marine pollution not inconsistent with this Act shall supplement the rules and regulations issued by the Department pursuant to this Act.

SECTION 54. *Appropriations*. The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriation to the Department of Transportation and Communications. Thereafter, such sums as may be necessary for the operation and maintenance of this Act shall be included in the General Appropriations Act.

SECTION 55. *Transitory Provisions*. Subject to Sec. 5, this Act shall apply to all ships which ply international routes immediately upon the effectivity of this Act.

The Department shall formulate a transitory implementation plan for the phasing-in of its operations under this Act including a schedule for the application and enforcement of this Act and of the regulations issued pursuant to this Act, on domestic ships or ships which do not ply international shipping routes.

SECTION 56. *Separability Clause*. In the event that any provision of this Act is declared unconstitutional, the validity of the remainder shall not be affected thereby.

SECTION 57. *Repealing Clause*. All laws, decrees, rules and regulations, and executive orders contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

SECTION. 58. *Effectivity Clause*. This Act shall take effect upon approval and publication once a week for two consecutive weeks in at least two (2) national newspapers of general circulation.

Approved.