

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 5108

Introduced by Representatives
DIOSDADO MACAPAGAL ARROYO and GLORIA MACAPAGAL ARROYO

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

EXPLANATORY NOTE

Our country's coastal and marine ecosystems cannot be taken for granted especially in an archipelagic country like the Philippines. Naturally endowed with rich and vast marine resources, its management and protection cannot be undermined especially with a marine area measuring about seven times its land area. The country has a total territorial water area of about 2,200,200 sq. km., shelf area of about 184,600 sq. km. coral reef area of about 27,000 sq. km. and coastline of about 17,460. The coastal and marine ecosystems provide food, raw materials, and ecological balance. We also have the richest marine biodiversity in the world with around 2,500 fish species. A square kilometer of coral reefs translate into 210,000 tons of fish and other marine products a year. From a hectare of mangroves, 12.5 cubic of fuel wood and 800 kilograms of fish, shrimps, crabs and mollusks can directly be harvested. These figures from the Bureau of Fisheries and Aquatic Resources (BFAR) only prove that wanton disregard for our coastal and marine ecosystems will be costly.

Unfortunately, the above-mentioned marine resources suffer many threats as the quality of our coastal water continuously deteriorates over time. One major cause of such degradation comes from shipping operations which account for 12% of total sources of marine pollution according to Greenpeace International.

Accordingly, this proposal seeks to prevent and control pollution sourced from ships by enacting a national legislation that would implement the International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 relating thereto, otherwise known as MARPOL 73/78, to which the Philippines is a signatory.

This bill covers the different types of ship-generated pollution such as oil pollution, pollution from chemicals carried in bulk, pollution from packaged goods, pollutions sewage, pollution from garbage and air pollution from ships. It intends to achieve elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization and control of accidental discharge of such substances.

We therefore enjoin our colleagues to ensure the immediate enactment of this measure.



DIOSDADO MACAPAGAL ARROYO
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*Be it enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:*

CHAPTER I
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Ship Pollution Prevention and Control Act of 2011.”

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to prevent and control pollution resulting from the operations of ships, which create hazards to human health, harm and destroy living resources and marine life, damage amenities, or interfere with the legitimate uses of the territorial waters and the exclusive economic zone of the Philippines.

CHAPTER II
DEFINITION OF TERMS

SECTION 3. *Definition of Terms.* – As used in this Act:

(a) "Department" means the Department of Transportation and Communications (DOTC);

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

(c) "*En route*" means 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;

(d) "Exclusive Economic Zone" means such areas as defined in the United Nations Convention on the Law of the Sea of 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.

(e) "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;

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

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

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

(i) "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;

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

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

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

(m) "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 defined in this Act.

(n) "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, drilling rigs, and fixed or floating platforms.

(o) "Special Area" means a sea area designated as such pursuant to this Act 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:

(p) "Ship owner" means the registered owner of the ship or any person who has assumed the operations of the ship;

(q) "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.

(r) "Territorial Waters" 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;

(s) "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

CHAPTER III SCOPE AND APPLICATION

SECTION 4. *Scope and Application of the Act.* - (a) Unless otherwise specified, this Act shall apply to:

(1) All Philippine registered ships;

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

(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 5. *Exemptions.* - This Act shall not apply to warships and naval auxiliary ships; *Provided*, that, government ships shall be exempted from the coverage of this Act during emergency response cases; *Provided, further*, that the Maritime Industry Authority (MARINA), Philippine Coast Guard (PCG), Philippine Ports Authority (PPA) and other concerned agencies shall ensure that appropriate measures shall be adopted, not impairing the operational capabilities of such ships, that such ship operates in a manner consistent, so far as is reasonable and practicable, with this Act.

CHAPTER IV INSTITUTIONAL ARRANGEMENTS

SECTION 6. *Roles and Responsibilities of the Department.* - Unless otherwise provided in this Act, the Department, through its attached agencies, shall be the primary government agency responsible for the implementation and enforcement of this Act. Specifically, the Department shall have the following roles and responsibilities:

(a) Oversee the implementation of this Act and coordinate the efforts of concerned agencies;

(b) In coordination with the Department of Environment and Natural Resources (DENR), the Department of Agriculture (DA), Department of Interior and Local Government (DILG) and other relevant agencies and stakeholders, formulate a comprehensive program to prevent or minimize marine pollution from ships;

(c) Constitute the Marine Pollution Adjudication Board (MPAB) to handle marine pollution incidents and casualties covered by this Act subject to Section 60 hereof;

(d) Hear and decide administrative violations of this Act and impose appropriate sanctions;

(e) Reorganize or streamline the functions of its different line, staff and attached authorities, agencies or bureaus for purposes of the effective and efficient implementation of the provisions of this Act; and,

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

SECTION 7. *Maritime Industry Authority (MARINA)*. - For purposes of this Act, the MARINA shall perform the following duties and functions:

a) Formulate guidelines for approval of ships' plans for installation of any fitting, material, appliance or apparatus deemed appropriate and effective for the prevention of any discharge of pollutant to be fitted in a ship in consonance with MARPOL 73/78.

b) Review and revise, where appropriate, the existing system of certification, survey, inspection and monitoring of ships, including registration of fixed, floating and drilling rigs and other platforms, 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;

c) Survey the ship's structure, equipment, fittings, arrangements and materials in compliance with the requirements and guidelines for purposes of preventing pollution from ships;

d) Issue the required certification upon survey of the ship's structure, equipment, fittings, arrangements and materials;

e) Modify, suspend or revoke at any time, upon notice and hearing, any certificate, it may have issued to any ship owner;

f) Recommend detention of ships in accordance with Section 56 hereof;

g) Hear and adjudicate any violation of rules and regulations of the MARINA issued for the implementation of functions of MARINA pursuant to this Act;

h) Impose such fines and penalties on, including the revocation of certifications of ships which shall fail to comply with requirements under this Act and its implementing rules

i) Impose, fix, collect and receive, in accordance with the schedules approved by its Board, such fees necessary for the survey and certification of ships pursuant to this Act. Such fees shall be imposed and collected in order to recover the cost for rendering the service and shall not be used in order to impose a penalty. Excessive fees, multiple fees and duplicative fees shall at all times be avoided.

j) Issue such rules and regulations necessary to implement the provisions of this Act: Provided, That such rules and regulations shall be in consonance with the MARPOL 73/78 and shall not change or in any way amend or be contrary to the intent and purposes of this

k) Provide its officers and personnel with adequate training and continuing education to ensure an efficient and professional pollution regulatory machinery; and

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

SECTION 8. *Philippine Coast Guard (PCG)*. – For purposes of this Act, the PCG shall perform the following duties and functions:

a) Establish a system of inquiry and investigation on incidents for the purpose of preliminary determination of violation of this Act;

b) Detain ships in accordance with Section 56 hereof;

c) 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;

d) Survey the ship's structure, equipment, fittings, arrangements and materials in compliance with the requirements and guidelines for purposes of issuance of International Oil Pollution Prevention Certificate (IOPPC) and Oil Pollution Prevention Certificate (OPPC);

e) Evaluate and approve shipboard oil pollution emergency plan;

f) Issue and inspect oil record book;

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

h) Cooperate with government of other states which are members of international organizations on the prevention of pollution from ships

concerning 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;

i) Provide its officers and personnel with adequate training and continuing education to ensure an efficient and professional pollution regulatory machinery;

j) Based on the physical, chemical and biological properties of harmful substances, PCG 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.

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

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

SECTION 9. *Authority to Board and Inspect Ships.* – In cases of marine disaster within the territorial waters, or any substantial threat to public health and the marine environment, including but not limited to coastal and aquatic resources due to a discharge, or an imminent discharge, of large quantities of oil, noxious liquid substance or other harmful substances from ships, the PCG 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 which causes the threat.

Other than the circumstances stated in the first paragraph, the PCG is authorized to board, inspect and survey any ship within the territorial sea and the exclusive economic zone (EEZ) 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 10. *Philippine Ports Authority (PPA) and other port authorities.* – For purposes of this Act, the PPA and other port authorities shall perform the following duties and functions:

a) Provide adequate reception facilities for oil, oily wastes, oil residues, noxious and liquid substances, harmful substances, sewage and garbage from ships;

b) Recommend detention of ships in accordance with Sec. 56;

- c) 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 from ships;
- d) 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;
- e) Formulate and implement integrated waste management systems in ports;
- f) Coordinate with DENR and concerned local government units (LGU) on the proper handling and disposal of wastes collected at ports; and
- g) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SECTION 11. *Department of Environment and Natural Resources (DENR).* – For purposes of this Act, the DENR shall have the following powers and functions:

- a) Constitute and lead the interagency committee concerning the designation of special areas in accordance with Section 59 hereof;
- b) Issue guidelines for the identification of harmful substances in packaged form. For the purposes of this item, "harmful substances" are those substances which are identified as marine pollutants by the DENR in consonance with international standards; and
- c) Set emission standards for ships.

SECTION 12. *Role of Local Government Units.* – All local government units shall, pursuant to the pertinent provisions of the Local Government Code, assist in implementing and enforcing this Act within their territorial jurisdictions.

CHAPTER V PREVENTION OF POLLUTION FROM SHIPS

Article 1. - General Provisions

SECTION 13. *General Guidelines.* – The MARINA shall formulate guidelines concerning the utilization of any fitting, material, appliance or

apparatus deemed appropriate and effective for the prevention of any discharge of pollutant to be fitted in a ship in consonance with the MARPOL 73/78.

SECTION 14. *Reception Facilities.* – Port authorities shall ensure the provision of adequate port reception facilities for wastes from ships, 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; (b) formulate and implement 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.

SECTION 15. *Shipboard Garbage Management System.* – All ships shall adopt and implement their shipboard garbage management system ensuring that oil residues, sewage and solid wastes are properly disposed of in compliance with National Safety Management Code, or for ships trading internationally, in compliance with International Safety Management Code. All ships shall put up and maintain appropriate on-board containers, holding tanks or receptacles for oil residues, sewage and solid wastes.

SECTION 16. *Mandatory Disposal of Wastes at Reception Facilities.* – Upon docking, it is mandatory for all ships to dispose of their oil residues or oily mixture, sewage wastes and garbage at the authorized reception facilities subject to the integrated waste management system to be established by port authorities.

SECTION 17. *Survey* – MARINA, in coordination with relevant agencies, shall survey all ships to ensure compliance with its regulations and requirements on the structure, equipment, fittings, arrangements and materials for purposes of preventing pollution by oil, oily mixture, oil residues, noxious and liquid substances harmful substance, sewage and garbage from ships. For this purpose, MARINA shall establish a system in conducting the survey of ships in consonance with the MARPOL 73/78.

Except for direct replacement, no change in the ship's structure, equipment, fittings, arrangements and materials shall be made without the approval of MARINA.

SECTION 18. *Certification for Compliance.* – MARINA shall issue the necessary certification for compliance of ships with the regulations and requirements on the structure, equipment, fittings, arrangements and materials for purposes of preventing pollution by oil, oily mixture, oil residues, noxious and liquid substances harmful substance, sewage and garbage from ships.

SECTION 19. *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 the ship owner shall report such incident immediately to the PCG.

SECTION 20. *Obligations of the ship owner.* – The ship owner is required to:

- (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 concerned agencies 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 concerned agencies pursuant to this Act;
- (c) Obtain appropriate certificates required by the concerned agencies 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 concerned agencies pursuant to this Act;
- (e) Notify the PCG of any incident involving its ship or other ships in accordance with regulations issued pursuant to this Act;
- (f) Undergo immediate cleaning operations in the event of oil spill within the country's territorial sea pursuant to applicable laws.

Article 2. - Pollution by Oil, Oily Mixture, Oil Residues

SECTION 21. *Discharge of Oil, Oily Mixture, and Oil Residues.* – Any discharge into territorial waters or Exclusive Economic Zone of the Philippines 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, is prohibited, except in the following instances:

- (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.

The MARINA shall issue guidelines on allowable discharge of oil, oily mixture and oil residues and requirements relating to the prevention of pollution by oil from ships including, but not limited to, retention of oil, oily wastes and oil residues or sludge, shipboard oil pollution emergency plan, unloading arrangements, consistent with the provisions of this Act and in consonance with the MARPOL 73/78.

SECTION 22. *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 within the allowable standards under applicable laws and which do not originate from cargo pump-room bilge and are not mixed with oil cargo residues. The prohibition shall not also apply when the ship has in operation adequate oil filtering equipment required under this Act.

SECTION 23. *On-board Retaining and Discharge to Reception Facility of Oil Residues.* – Oil residues prohibited to be discharged from ships under the two immediately preceding sections shall be retained on board and discharged to reception facilities in accordance with this Act.

SECTION 24. *Oily- Water Separating Equipment and Oil Discharge Monitoring and Control System.* – For existing ships and ships of less than 400 tons gross tonnage, alternative equipment or system approved by MARINA may be provided in lieu of the oily-water separating equipment or unit. All new ships of 400 gross tons and above shall be equipped with efficient oily-water separating equipment or unit. *Provided,* that ships 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.

SECTION 25. *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.

Article 3. - Pollution by Noxious and Liquid Substances in Bulk

SECTION 26. *Discharge of Noxious or Liquid Substances.* – Any discharge of noxious liquid substances into territorial sea or on the bank of

territorial sea whether or not the same shall float or be washed into such water is prohibited except in cases provided for under first paragraph of Section 21, and subject to the conditions provided under this section and the rules and regulations issued by MARINA pursuant to this Act.

The rules and regulations on allowable discharge of noxious or liquid substances to be issued by MARINA, in coordination with relevant agencies, shall take into account the MARPOL Convention and shall be subject to public hearing and consultation. Such rules and regulations shall be reviewed five (5) years following the effectivity of this Act, and every three (3) years thereafter or whenever it is deemed necessary to protect the marine environment and public health.

SECTION 27. *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 MARINA.

Article 4. - Carriage of Harmful Substances in Packaged Form

SECTION 28. *Discharge of Harmful Substances in Packaged Form.* – Any discharge by jettisoning of harmful substances carried in packaged forms, freight containers, portable tanks, or road and rail tank wagons into territorial sea, or on the bank of territorial sea, whether or not the same shall float or be washed into such water is prohibited except in cases provided for under the first paragraph of Section 21.

SECTION 29. *Carriage of Harmful Substances in Packaged Form.* – The carriage of harmful substances in packaged forms, or in freight containers, portable tanks or road and rail tank wagons is prohibited except in accordance with Republic Act No. 6969 and other applicable laws, rules and regulations.

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

SECTION 30. *Guidelines for the identification of harmful substances.* – For purposes of this Act, the DENR shall issue guidelines for the identification of harmful substances in packaged form taking into account the following criteria:

- (a) bio-accumulated to a significant extent and known to produce a hazard to aquatic life or to human health;
- (b) bio-accumulated 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 31. *Packing, marking, labeling, documentation, stowage, quantity limitations and exceptions.* – The PPA shall issue detailed requirements on packing, marking, labeling, documentation, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances from ships. Such packing, marking, labeling, documentation, quantity limitations and exceptions of harmful substances shall be undertaken by the shipper in coordination with the shipping company. The PCG shall issue detailed requirements on stowage of harmful substances.

SECTION 32. *Washing of Leakage Overboard.* – Based on the physical, chemical and biological properties of harmful substances, PCG 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 5. - Pollution by Sewage and Garbage from Ships

SECTION 33. *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 Section 21:

- (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 at a distance of more than four (4) nautical miles from the nearest land, or sewage which is not comminuted or disinfected at a distance of more than twelve (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 MARINA based on international standards; and
- (c) the ship has in operation an approved sewage treatment plant or alternative arrangements to meet the operational requirements of the PCG and other concerned agencies issued pursuant to this Act and other applicable laws

SECTION 34. *Marine Sewerage Sanitation Devices.* – All new ships certified to carry more than 50 persons or new ships 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 by the DENR. For existing ships of 200gross tonnage and above and carrying more than 50 persons, they may utilize and maintain holding tanks unless otherwise disallowed under this Act and subject to such rules and regulations as may be prescribed by the DENR.

SECTION 35. *Disposal of Garbage.* – Except in cases provided under this Act, the disposal into territorial water, 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. All garbage from ships shall be disposed of to port reception facilities.

SECTION 36. *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 subject to rules and regulations issued by the PCG pursuant to this Act and in consonance with the MARPOL Convention.

Article 6. - Air Pollution from Ships

SECTION 37. *Ozone Depleting Substances.* – Any deliberate emission of ozone depleting substances (ODS) shall be prohibited. Deliberate emissions include emissions occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment, except minimal releases associated with the recapture or recycling of an ODS; *Provided*, that emissions resulting from leaks are likewise prohibited. For purposes of regulating emission of ODS from ships, the DENR, in coordination with relevant agencies, shall issue appropriate guidelines in consonance with the MARPOL 73/78; *Provided*, that port authorities shall ensure that port reception facilities and equipment shall be adequate to receive and manage ODS and equipments containing ODS, when removed from ships.

SECTION 38. *Setting allowable standards.* – The DENR shall formulate and issue allowable emission standards for ships in consonance with the MARPOL 73/78 and subject to public consultation.

CHAPTER VI PREVENTION OF POLLUTION FROM FIXED AND FLOATING DRILLING RIGS AND OTHER PLATFORMS

SECTION 39. *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, subject to the requirements and guidelines issued by the concerned agencies pursuant to this Act and in consonance with MARPOL 73/78.

SECTION 40. *Offshore Platform Discharges of Garbage.* – The disposal of sewage and garbage from fixed and floating drillings rigs 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 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 VII PROHIBITED ACTS AND ADMINISTRATIVE SANCTIONS

SECTION 41. *Discharge of Oil, Noxious or Liquid Substances and Other Harmful Substances.* – Unless otherwise allowed under this Act, no person shall discharge, or cause the discharge of oil, noxious or liquid substances and other harmful substances, as defined in this Act, from or out of any ship by any method, means or manner, into the Philippine waters or EEZ. The Secretary shall impose a fine of not exceeding Ten Million pesos (Php10,000,000.00) without prejudice to the filing of the appropriate criminal cases under applicable laws.

SECTION 42. *Dumping of Garbage or Sewage.* – Unless otherwise allowed under this Act, no person shall discharge, throw or dump, or permit the discharge, throwing or dumping of garbage or sewage, from or out of any ship by any method, means or manner into the into Philippines waters or EEZ. The Secretary shall impose a fine of not exceeding Ten Million pesos (Php10,000,000.00) without prejudice to the filing of the appropriate criminal cases under applicable laws.

SECTION 43. *Carriage of Harmful Substances in Packaged Form.* – Any ship which carries harmful substances in packaged forms, or in freight containers, portable tanks or road and rail tank wagons in violation of this Act shall be punished by a fine of not exceeding Ten Million pesos (Php10,000,000.00) to be imposed by the Secretary on either or both the ship owner and shipper.

SECTION 44. *Absence of Shipboard Garbage Management System.* – Any ship without a shipboard garbage management system shall be liable for a

fine of not exceeding One Hundred Thousand pesos (Php100,000.00) to be imposed by the Secretary.

SECTION 45. *Refusal to Dispose Wastes at Reception Facilities.* – Unless allowed under this Act, any ship which refuses to dispose of oil residues or oily mixture, sewage wastes and garbage at the authorized reception facilities shall be liable for a fine not exceeding One Million pesos (Php1,000,000.00) to be imposed by the port authority.

SECTION 46. *Unauthorized change in the ship's structure, equipment, fittings, arrangements and materials.* – Unless authorized under this law, any ship owner who made, or cause the making of changes in the structure, equipment, fittings, arrangements and materials of the ship without the approval of MARINA shall be punished by a fine of not exceeding One Hundred Thousand pesos (Php100,000.00) to be imposed by the Administrator of MARINA.

SECTION 47. *Operating without the required certification.* – Any ship owner who shall allow the ship to operate without the required certification pursuant to this Act shall be liable for a fine of not exceeding One million pesos (Php1,000,000.00) to be imposed by the Administrator of MARINA.

SECTION 48. *Failure to Report an Accident.* – Any ship owner who fails to report an accident that occurs to a ship or a defect that is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment to the PCG within twenty four (24) hours shall be punished by a fine of not exceeding One million pesos (Php1,000,000.00) to be imposed by the PCG Commandant.

SECTION 49. *Absence of Oily-Water Separating Equipment and Oil Discharge Monitoring System.* – Any ship without an oily-water separating equipment or unit, or Oil Discharge Monitoring system, when required under this Act, shall be liable for a fine not exceeding Ten Million pesos (Php10,000,000.00) to be imposed by the Administrator of MARINA.

SECTION 50. *Failure to Maintain an Oil Record Book.* – Any oil tanker or passenger-cargo vessels above 400 gross tons which does not maintain an updated Oil Record Book on board shall be penalized with a fine not exceeding One Hundred Thousand pesos (Php100,000.00) to be imposed by the Commandant of PCG.

SECTION 51. *Failure to Maintain Cargo Record Book.* – Any ship which does not maintain an Cargo Record Book on board shall be penalized with a fine not exceeding One Hundred Thousand pesos (Php100,000.00) to be imposed by the Commandant of PCG.

SECTION 52. *Absence of Marine Sewage Sanitation Device or Sewage Treatment Plant System.* – Unless allowed under this Act, any ship without a marine sewage sanitation device or sewage treatment plant system shall be liable for a fine of not exceeding One million pesos (Php1,000,000.00) to be imposed by the Administrator of MARINA.

SECTION 53. *Deliberate Emission of Ozone Depleting Substances.* – Any person who causes the deliberate emission of ozone depleting substances (ODS) shall be penalized by a fine not exceeding Ten Million pesos (Php10,000,000.00) to be imposed by the Secretary.

SECTION 54. *Continuing Violation.* – Where an offense under this Act is a continuing one, every person who commits that offense, in addition to any other liability, is liable to a fine of Fifty Thousand pesos (Php50,000.00) for every day or part thereof during which the offence continues.

SECTION 55. *Obstruction of Investigation.* – Any person who shall, without justifiable reason, obstruct or hamper the conduct of investigation of a violation of this Act, shall be liable to pay a fine not exceeding One Hundred Thousand pesos (P100,000.00).

SECTION 56. *Neglect of Duty.* – Any government official or employee charged with the responsibility of implementing the provisions of 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 without possibility of reinstatement and without prejudice to the filing of the appropriate criminal and/or administrative cases in court.

SECTION 57. *Arrest and Detention of Foreign Ships.* – Any ship apprehended for violation of this Act may be subjected to arrest and detention to be undertaken by the PCG in coordination with MARINA.

SECTION 58. *Violations of Administration Regulations.* – Any person found in violation of rules and regulations issued by concerned agencies pursuant to this Act shall be liable to the following fines:

- (1) First violation - a fine not to exceed One Hundred Thousand pesos (Php100,000.00);
- (2) Second violation - a fine more than One Hundred Thousand pesos (Php100,000.00) but not to exceed Two Hundred Thousand pesos (Php200,000.00);
- (3) Third violation - a fine of at least Two Hundred Thousand pesos (P200,000.00) but not to exceed One Million pesos (Php1,000,000.00) and suspension of vessel registration for six (6) months to one (1) year;

MARINA 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.

The concerned agency 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.

SECTION 59. *Automatic Adjustment of Penalties and Fines.* – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

CHAPTER VIII MISCELLANEOUS PROVISIONS

SECTION 60. *Designation of Special Areas.* – A committee is hereby created for purposes of designating special areas defined under this Act in territorial waters and EEZ. The committee shall be composed of the following:

- a) The Secretary of the DENR or its duly authorized representative, as Chairperson;
- b) The Secretary of the DOTC or its duly authorized representative, as Co-chairperson;
- c) The Secretary of the Department of Agriculture or its duly authorized representative;
- d) The Secretary of the Department of Foreign Affairs or its duly authorized representative;
- e) The Commandant of the PCG;
- f) The Administrator of MARINA;
- g) Representative of the shipping industry; and
- h) President of the League of Municipalities of the Philippines.

The special area shall be designated consistent with the requirements of MARPOL 73/78 and taking into account the area's oceanographic and ecological condition and the particular character of its traffic. The committee shall adopt

special mandatory methods for the prevention of pollution from ships in the designated areas.

SECTION 61. *Marine Pollution Adjudication Board.* – There is hereby constituted a Marine Pollution Adjudication Board under the Office of the Secretary. The Board shall be composed of the Secretary as Chairman, two (2) Undersecretaries as may be designated by the Secretary; the Administrator of MARINA, and the Commandant of the PCG. The Board shall handle adjudication of marine pollution incidents and casualties falling under Sections 41, 42, 43 and 44 hereof.

SECTION 62. *Marine Management Fund.* – There is hereby established a Marine Management Fund to be administered by the Department as a revolving fund to support research, enforcement and monitoring activities and capabilities of the Department and its attached agencies in the implementation of this Act. The fund shall be sourced from the fees, charges, fines imposed herein, donations, endowments, administrative fees, and grants in the form of contributions; *Provided*, that the fund shall likewise be utilized for the containment, removal, and clean-up operations of PCG in all oil pollution cases, including those covered under the Oil Pollution Compensation Act. For this purpose, the Oil Pollution Management Fund created under the Oil Pollution Act shall form part of the Marine Management Fund, subject to the following conditions:

1. All fines imposed pursuant to the Oil Pollution Compensation Act shall accrue to the Marine Management Fund;
2. All grants, donations, endowment from various sources and amounts specifically appropriated for the Oil Pollution Management Fund under the General Appropriations shall form part of the Marine Management Fund.
3. The Marine Management Fund shall also finance research, enforcement and monitoring activities concerning oil pollution prevention and control of relevant agencies such as the PCG, MARINA and PPA and other ports authority of the Department of Transportation and Communications, Environmental Management Bureau of the Department of Environment and Natural Resources, and the Department of Energy.
4. Ninety percent (90%) of the funds collected or received in connection with the Oil Pollution Compensation Act shall be maintained annually for the containment, removal, and clean-up operations of PCG in all oil pollution cases. *Provided, further*, that the amounts specifically appropriated for Oil Pollution Management Fund under the General Appropriations Act shall be used exclusively for the activities authorized under the Oil Pollution Compensation Act;

SECTION 63. *Ship Pollution Prevention Program.* – The Department, in coordination with concerned agencies and stakeholders, shall establish a Ship Pollution Prevention 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; and (e) research;

SECTION 64. *Implementing Rules and Regulations.* – The Department and the concerned agencies, in coordination with the Committees on Environment and Ecology of the Senate and the House of Representatives, respectively, shall promulgate the implementing rules and regulations for this Act, within one (1) year after the enactment of this Act consistent with MARPOL 73/78 and other relevant instruments. The draft of the implementing rules and regulations shall be the subject of public consultations with affected sectors.

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 65. *Appropriations.* – The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriation 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.

SECTION 66. *Joint Congressional Oversight Committee.* – There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of this Act. The Committee shall be composed of five (5) Senators and five (5) members of the House of Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall be co-chaired by the Chairpersons of the Committee on Environment of the Senate and the Committee on Ecology of the House of Representatives.

SECTION 67. *Transitory Provisions.* – This Act shall apply to all ships which navigate international routes immediately upon the effectivity of this Act.

The Department through its attached agencies 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 navigate international shipping routes.

SECTION 68. *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 69. *Repealing Clause.* – Republic Act No. 6969, Presidential Decree Nos. 999 and 601, Republic Act No. 9483 (Oil Pollution Compensation Act) are hereby amended and modified accordingly. All laws, decrees, rules and regulations, and executive orders contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 70. *Effectivity Clause.* - This Act shall take effect immediately upon its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,