

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

REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA
CONCERNING ENVIRONMENTAL PROTECTION IN OFFSHORE
OIL EXPLORATION AND EXPLOITATION

(Promulgated by the State Council of the People's
Republic of China on December 29, 1983)

CHINALAW No. 179

ISSUING-DEPT: STATE COUNCIL OF CHINA

ISSUE-DATE:
12/29/1983

IMPLEMENT-DATE:
12/29/1983

[Article 1] These Regulations are formulated for the purpose of implementing the Marine Environmental Protection Law of the People's Republic of China so as to prevent pollution damage to the marine environment by offshore oil exploration and exploitation.

[Article 2] These Regulations shall apply to all enterprises, institutions, operators and individuals engaged in offshore oil exploration and exploitation in the sea areas under the jurisdiction of the People's Republic of China, as well as the fixed and mobile platforms and other related installations they use.

[Article 3] The competent authority in charge of the environmental protection in offshore oil exploration and exploitation shall be the National Bureau of Oceanography of the People's Republic of China, including its agencies, which is hereinafter referred to as "the Competent Authority".

[Article 4] While drawing up an overall development program for an oil (gas) field, an enterprise or operator shall draw up a Marine Environmental Impact Statement and submit it to the Ministry of Urban and Rural Construction and Environmental Protection of the People's Republic of China. The said Ministry shall, in conjunction with the National Bureau of Oceanography and the Ministry of Petroleum Industry, organize an examination of the Statement and take a decision on it in accordance with the provisions concerning environmental protection in state capital construction projects.

[Article 5] A Marine Environmental Impact Statement shall consist of the following items:

- (1) The name, geographical location and size of the oil field;
- (2) The natural environment and condition of marine resources in the sea area where the oil field is located;
- (3) The types, composition, quantities and methods of disposal of the wastes that need to be discharged in the course of exploiting the oil field;

(4) An assessment of marine environmental impacts: the possible effects of offshore oil exploitation on the natural environment and marine resources in the surrounding sea area; their possible effects on marine fisheries, shipping and other offshore activities; and the environmental protection measures proposed to be taken to avoid and mitigate various adverse effects;

(5) The ultimately unavoidable effects and the extent and causes thereof; and

(6) Measures to prevent major oil-pollution accidents, including, among others, the preventional organization, personnel, technical equipment, and communication and liaison.

[Article 6] An enterprise, institution or operator shall have the ability to meet emergencies with regard to the prevention and control of oil pollution accidents, work out emergency plans, and be provided with oil-recovery facilities as well as oil enclosure and elimination equipment and materials commensurate with the scale of offshore oil exploration and exploitation in which it is engaged.

When chemical dispersant is provided, its trademark and composition shall be reported to Competent Authority for approval.

[Article 7] The antipollution equipment for fixed and mobile platforms shall conform to the following requirements:

(1) There shall be oil-water separators;

(2) The production platforms shall have equipment for treatment of oily water, and the oil content of the discharged water after treatment through such equipment shall conform to the national discharge standards;

(3) There shall be monitoring devices for oil discharge;

(4) There shall be recovery facilities for residual and waste oils;

(5) There shall be garbage-shredding equipment; and

(6) The above-mentioned equipment & facilities shall be inspected by the vessels inspection agency of the People's Republic of China, proved to be up to standard, and then granted a certificate of their effectiveness.

[Article 8] If the antipollution equipment of a fixed or mobile platform already employed in offshore oil exploration and exploitation in the sea areas under the jurisdiction of the People's Republic of China before March 1, 1983 fails to meet the prescribed requirements, effective measures shall be taken to prevent pollution and to ensure that such equipment meets the prescribed requirements within three years after the promulgation of these Regulations.

[Article 9] Each enterprise, institution or operator shall carry insurance or other financial guarantees in respect of civil liabilities for pollution damage.

[Article 10] A fixed or mobile platform shall have an Antipollution Record Book printed in a form approved by the Competent Authority.

[Article 11] Oily water shall not be discharged, either directly or in diluted form, from any fixed or mobile platform. When the water is discharged after treatment, its oil content must comply with the state standards concerning oily water discharge.

[Article 12] Requirements for the control of other wastes are as follows:

(1) Residual oil, waste oil, oil-based mud, oily garbage, and other noxious liquid or residues shall be recovered and forbidden to be discharged or dumped into the sea;

(2) The disposal of industrial garbage in large quantities shall be controlled according to provisions concerning marine dumping, and scattered industrial garbage may not be dumped into fishing areas and navigation channels; and

(3) When it is necessary to dump domestic refuse within 12 nautical miles from the nearest land, it must be smashed into grains with diameters less than 25 mm.

[Article 13] When offshore oil exploration and exploitation necessitates dynamite explosion or other operations harmful to fishery resources in important fishing grounds, effective measures shall be taken to keep away from the spawning, breeding and fishing seasons for those fishes and shrimps of major economic value. Such operations shall be reported in advance to the Competent Authority and distinct signs and signals shall be given while operations are carried out.

Upon receiving such a report, the Competent Authority shall promptly inform the relevant units of the location and time of the operations.

[Article 14] Offshore oil-storage installations and oil pipelines shall meet the requirements against seepage, leakage and corrosion and be kept in good conditions through regular inspection so as to prevent oil leakage accidents.

[Article 15] In the event of offshore-well testing, the oil and gas shall be thoroughly burned through a burner. Effective measures shall be taken to dispose of the oils and oily mixtures fallen into the sea during the testing and a truthful record be made of such a disposal.

[Article 16] In case pollution accidents such as oil spill or leakage occur during operations, the enterprise, institution or operator involved shall take prompt measures to enclose and recover the oil so as to control, mitigate, and eliminate the pollution.

Major oil-pollution accidents involving massive oil spill, oil leakage and/or blowout shall immediately be reported to the Competent Authority while effective measures are taken to control and eliminate the oil pollution, and the accidents shall be subject to investigation and disposition by the Competent Authority.

[Article 17] The use of chemical dispersant shall be controlled in such manners as follows:

(1) When an oil-pollution accident occurs, a small amount of chemical dispersant may be applied to a limited amount of oil which is indeed unrecoverable, provided that recovery measures have been taken;

(2) The amount of chemical dispersant (including its solvent) used once for all shall be separately prescribed by the Competent Authority in accordance with different sea areas and other conditions. The operator shall submit a report to the Competent Authority in pursuance of relevant provisions and may use the chemical dispersant only after permission is granted;

(3) In such an emergency in which the oil spills unlikely to be recovered may cause a fire or present serious threat to the safety of human life and properties whereas, by using chemical dispersant, pollution can be mitigated and the consequences of the accident prevented from expanding, the amount of such dispersant to be used and the relevant procedures for report may be exempt from the restrictions under paragraph (2) of this Article. However, the facts of such an accident and the use of chemical dispersant shall be reported in detail to the Competent Authority after the accident has been dealt with; and

(4) Only the chemical dispersant approved by the Competent Authority may be used.

[Article 18] The operator shall make a truthful and detailed account of the following circumstances in the platform's Antipollution Record Book:

- (1) The operation of the antipollution equipment and installation;
- (2) The treatment and discharge of oily water;
- (3) The disposal, discharge and dumping of other wastes;
- (4) Oil-pollution accidents involving oil spill, oil leakage, belowout, etc. and their disposition;
- (5) The conducting of explosive operations;
- (6) The use of chemical dispersant; and
- (7) Other matters as may be stipulated by the Competent Authority.

[Article 19] Enterprises and operators shall, within the 15 days after each quarter of the calendar year, submit a comprehensive report to the Competent Authority on the antipollution situation and pollution accident of that quarter in a form approved by the latter.

The location of the fixed or mobile platforms shall be notified to the Competent Authority without delay.

[Article 20] Functionaries of, and persons designated by, the Competent Authority have the right to board any fixed or mobile platform and any other relevant installation for the purposes of monitoring and inspection, including:

- (1) Collecting various kinds of samples;
- (2) Inspecting the provision, operation and use of the antipollution equipment, installations and materials;
- (3) Checking relevant documents and certificates;
- (4) Inspecting the Antipollution Record Book and relevant operation records and, when necessary, making duplications and extractions thereof and asking the person in charge of the platform to certify that these duplications and extractions are authenticated copies of the originals;
- (5) Inquiring of the concerned persons about pollution accidents; and
- (6) Handling other relevant matters.

[Article 21] The public-duty ships of the Competent Authority shall be distinctly marked. In exercising their duties, the functionaries and designated persons shall be dressed in official uniforms and carry identity cards.

The inspected party shall furnish convenience to such public-duty ships, functionaries and designated persons, provide accurate information and state the facts.

[Article 22] Entities and individuals claiming compensation on account of pollution damage resulting from offshore oil exploration and exploitation may, pursuant to the provisions of Article 32 of the Environmental Protection Law of the People's Republic of China and Article 42 of the Marine Environmental Protection Law of the People's Republic of China, apply to the Competent Authority to deal with the claim for compensation from the party causing the pollution damage. The injured party shall submit a statement claiming compensation for pollution damages, which shall consist of the following items:

(1) The time, place and area of and objects affected by, the pollution damage caused by oil exploration and exploitation;

(2) A list of losses attributable to the pollution damage, including articles, their quantities, unit prices, and the methods of calculation as well as information concerning aquicultural and natural conditions;

(3) The document of appraisal by relevant scientific institutions or certification by a notary body with regard to the damage; and

(4) The original document and evidence of the pollution damage, relevant photographs, and other documentary evidence and materials relative to the claim for compensation, which shall be provided as far as possible.

[Article 23] When an entity or individual (except those with commercial contracts) considers it necessary to put up a claim for clean-up expenses incurred in the elimination of pollutants resulting from offshore oil exploration and exploitation and applies to the Competent Authority to deal with the claim, it shall submit to the Authority a statement of claims for such clean-up expenses. The statement shall consist of the following items:

(1) The time and place of, and objects involved in, each clean-up operation;

(2) The manpower, machines, tools, vessels and materials used in each clean-up operation, and the quantities, unit prices and their methods of calculation;

(3) The administrative expenses, transportation expenses, and other expenses involved in organizing such a clean-up operation;

(4) The effects of, and related information about, the clean-up operation; and

(5) Other relevant evidences and documents.

[Article 24] When an enterprise, institution or operator involved in a pollution damage accident due to force majeure asks to be exempt from compensation liabilities, it shall submit a report to the Competent Authority. Such a report shall verify that the pollution damage has really resulted from one of the causes specified in Article 42 of the Marine Environmental Protection Law of the People's Republic of China and thus failed to be avoided in spite of the prompt and reasonable measures taken.

[Article 25] When dealing with a dispute over the compensation liabilities or the sum to be paid for pollution damage from offshore oil exploration and exploitation, the Competent Authority may settle the case through conciliation on the basis of investigation.

In case a party rejects conciliation or contests the conciliation proposals by the Competent Authority, the matter may be dealt with in pursuance of Article 42 of the Marine Environmental Protection Law of the People's Republic of China.

[Article 26] An enterprise, institution or operator who has violated the Marine Environmental Protection Law of the People's Republic of China and the present Regulations shall be ordered by the Competent Authority to remedy the pollution damage within a definite time, pay the clean-up expenses incurred in eliminating the pollution, and compensate for the losses sustained by the state, and those who have discharged pollutants in excess of the set standards may be ordered to pay discharge fees.

[Article 27] The Competent Authority may, in light of circumstances, give a warning to or impose a fine on any enterprise, institution, operator or individual who have violated the Marine Environmental Protection Law of the People's Republic of China or the present Regulations.

Fines shall be divided into the following categories:

(1) A fine of no more than Renminbi one-hundred thousand yuan imposed on an enterprise, institution or operator for causing marine environmental pollution.

(2) A fine of no more than Renminbi five thousand yuan imposed on an enterprise, institution or operator for one of the following unlawful acts:

(a) Failure to report to the Competent authority on a major oil pollution accident in accordance with relevant rules; and

(b) Failure to observe the relevant rules in employing chemical dispersant.

(3) A fine of no more than Renminbi one-thousand yuan imposed on an enterprise, institution or operator for one of the following wrongful acts:

(a) Failure to provide an Antipollution Record Book as required;

(b) Making irregular or counterfeit entries in the Antipollution Record Book;

(c) Failure to report or provide information on relevant matters as required; and

(d) Obstructing the above-mentioned functionaries or designated persons in the exercise of their duties.

(4) An appropriate fine imposed on an individual directly liable according to the seriousness of his case.

[Article 28] In case a party refuses to accept the sanction decided by the Competent Authority, the matter shall be dealt with in accordance with the provisions of Article 41 of the Marine Environmental Protection Law of the People's Republic of China.

[Article 29] The Competent Authority shall commend and reward entities and individuals who, on their own initiative, have reported on, or accused the concealment of pollution damage accidents occurring in oil exploration and exploitation by an enterprise, institution or operator, or have provided evidence in that respect, or have taken measures to mitigate such pollution damage.

[Article 30] For the purposes of these Regulations:

(1) "Fixed and mobile platforms" refers to the drilling vessels, drilling platforms and production platforms, as well as other platforms mentioned in the Marine Environmental Protection Law of the People's Republic of China;

(2) "Offshore oil exploration and exploitation" refers to such operations as offshore oil exploration, exploitation, production, storage and transportation through pipelines; and

(3) "Operator" refers to an entity engaged in operations of offshore oil exploration and exploitation.

[Article 31] These Regulations shall come into force from the day of promulgation.