

【Title】 Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by Marine Engineering Construction Projects[现行有效]
【法规标题】 防治海洋工程建设项目污染损害海洋环境管理条例 [Effective]

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国务院令
(第 475 号)

The Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by Marine Engineering Construction Projects, which has been adopted at the 148th executive meeting of the State Council on August 30, 2006, is hereby promulgated and shall come into force as of November 1, 2006.

Premier Wen Jiabao
September 19, 2006

Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by Marine Engineering Construction Projects

(相关资料: [部门规章 6 篇](#) [地方法规 4 篇](#) [相关论文 1 篇](#))

《防治海洋工程建设项目污染损害海洋环境管理条例》已经 2006 年 8 月 30 日国务院第 148 次常务会议通过，现予公布，自 2006 年 11 月 1 日起施行。

总 理 温家宝
二〇〇六年九月十九日

防治海洋工程建设项目污染损害海洋环境管理条例

Chapter I General Provisions

第一章 总则

Article 1 This Regulation is formulated according to [the Marine Environment Protection Law of the People's Republic of China](#) for the purpose of preventing, treating and reducing the pollution and damage to the marine environment by marine engineering construction projects (hereinafter referred to as marine projects), keeping marine ecological balance, and preserving marine resources.

第一条 为了防治和减轻海洋工程建设项目（以下简称海洋工程）污染损害海洋环境，维护海洋生态平衡，保护海洋资源，根据 [《中华人民共和国海洋环境保护法》](#)，制定本条例。

Article 2 This Regulation shall be applicable to the prevention of pollution and damage to the marine environment by marine projects within the marine jurisdiction of the People's Republic of China.

第二条 在中华人民共和国管辖海域内从事海洋工程污染损害海洋环境防治活动，适用本条例。

Article 3 The “marine projects” as mentioned in this Regulation refers to the newly built, restructured or expanded projects that are constructed for the exploitation, utilization, protection and restoration of marine resources, and whose main parts are situated along the coastline to the side of the sea, and that specifically include:

第三条 本条例所称海洋工程，是指以开发、利用、保护、恢复海洋资源为目的，并且工程主体位于海岸线向海一侧的新建、改建、扩建工程。具体包括：

(1) Projects of enclosing or filling in the sea, and marine dike projects;

(一) 围填海、海上堤坝工程；
(二) 人工岛、海上和海底物资储藏设

- (2) Projects of artificial islands, sea and seabed material storage facilities, cross-sea bridges, and seabed tunnels;
- (3) Projects of seabed pipes and seabed electric (optical) cables;
- (4) Projects of marine mineral resources exploration and exploitation, and ancillary works;
- (5) Projects of maritime tidal power stations, wave power stations, stations based on temperature difference, and other marine energy exploitation and utilization projects;
- (6) Projects of large seawater farms, and artificial fish-reefs;
- (7) Such seawater utilization projects as the desalination of salt pans and seawater;
- (8) Maritime entertainment, sports and landscape exploitation projects; and
- (9) Other marine projects as prescribed by the state marine administrative department together with the environmental protection administrative department of the State Council.

Article 4 The state marine administrative department shall be responsible for the supervision over and administration of the environmental protection work on the marine projects across the country, and accept the guidance, coordination and supervision of the environmental protection administrative department of the State Council. The marine administrative department of the people's government at or above the level of coastal county shall be responsible for the supervision over and administration of the environmental protection work on marine projects in the sea areas adjacent to its own administrative area.

Article 5 The site selection and construction of marine projects shall be conducted in line with the zoning of marine functions, planning for the marine environmental protection and national environmental protection standards, and shall not affect the environmental quality of marine functional zones or damage the functions of adjacent sea areas.

Article 6 The state marine administrative department shall distribute the pollutant discharge control volume for the marine projects in key sea areas in light of the total pollutant discharge control indicator for the marine projects in national key sea areas.

Article 7 Any entity or individual shall be entitled to tip off the pollution to the marine environment or the damage to the marine ecology by marine projects to the marine administrative department. The marine administrative department that has received the said tip-off shall carry out the investigation, and keep secrets for the tip-off.

Chapter II Environmental Impact Assessment

施、跨海桥梁、海底隧道工程;

(三) 海底管道、海底电(光)缆工程;

(四) 海洋矿产资源勘探开发及其附属工程;

(五) 海上潮汐电站、波浪电站、温差电站等海洋能源开发利用工程;

(六) 大型海水养殖场、人工鱼礁工程;

(七) 盐田、海水淡化等海水综合利用工程;

(八) 海上娱乐及运动、景观开发工程;

(九) 国家海洋主管部门会同国务院环境保护主管部门规定的其他海洋工程。

第四条 国家海洋主管部门负责全国海洋工程环境保护工作的监督管理,并接受国务院环境保护主管部门的指导、协调和监督。沿海县级以上地方人民政府海洋主管部门负责本行政区域毗邻海域海洋工程环境保护工作的监督管理。

第五条 海洋工程的选址和建设应当符合海洋功能区划、海洋环境保护规划和国家有关环境保护标准,不得影响海洋功能区的环境质量或者损害相邻海域的功能。

第六条 国家海洋主管部门根据国家重点海域污染物排海总量控制指标,分配重点海域海洋工程污染物排海控制数量。

第七条 任何单位和个人对海洋工程污染损害海洋环境、破坏海洋生态等违法行为,都有权向海洋主管部门进行举报。接到举报的海洋主管部门应当依法进行调查处理,并为举报人保密。

第二章 环境影响评价

Article 8 The State implements the environmental impact assessment system to marine projects.

The environmental impact assessment of a marine project shall mainly include the comprehensive analysis, forecast and assessment of the effects of the project to the marine environment and marine resources, corresponding ecological protection measures, as well as the forecast, control or reduction of the effects and damage of the project to the marine environment and marine resources.

An environmental impact report on a marine project shall be formulated according to the technical standards for the environment impact assessment of marine projects and other relevant environmental protection standards. The survey and monitor materials as required by the state marine administrative department shall be used for the formulation of environment impact reports.

Article 9 An environmental impact report on a marine project shall include:

- (1) General information about the project;
- (2) Environmental situation of the sea area where the project is located, and the conditions about the exploitation and utilization of adjacent sea areas;
- (3) Analysis, forecast and assessment of possible impacts of the project to the marine environment and marine resources;
- (4) Analysis and forecast of the impacts of the project to the functions of adjacent sea areas and other exploitation and utilization activities;
- (5) Analysis of the economic profits and losses and environmental risks of the project to the marine environment;
- (6) Environmental protection measures to be adopted, and the economic and technical demonstration thereof;
- (7) Conditions on public participation; and
- (8) Environment impact assessment conclusion. In case a marine project may damage the seashore ecological environment, the environment impact assessment report shall also include the analysis and assessment of the impacts of the project to the natural reserves alongshore and other land ecological systems.

Article 10 The construction entity for a newly-built, restructured or expanded marine project shall entrust an institution with corresponding environment impact assessment qualification to formulate an environment impact report, and shall report it to the marine administrative department that has the examination and approval power for approval.

The marine administrative department shall, before approving an environmental impact report on a marine project, solicit the opinions from the administrative departments of marine affairs and fishery, and the environmental protection department in the army; and may hold a hearing when necessary. For a project of enclosing or filling in the sea, a hearing shall be held.

第八条 国家实行海洋工程环境影响评价制度。

海洋工程的环境影响评价，应当以工程对海洋环境和海洋资源的影响为重点进行综合分析、预测和评估，并提出相应的生态保护措施，预防、控制或者减轻工程对海洋环境和海洋资源造成的影响和破坏。

海洋工程环境影响报告书应当依据海洋工程环境影响评价技术标准及其他相关环境保护标准编制。编制环境影响报告书应当使用符合国家海洋主管部门要求的调查、监测资料。

第九条 海洋工程环境影响报告书应当包括下列内容：

- （一）工程概况；
- （二）工程所在海域环境现状和相邻海域开发利用情况；
- （三）工程对海洋环境和海洋资源可能造成影响的分析、预测和评估；
- （四）工程对相邻海域功能和其他开发利用活动影响的分析及预测；
- （五）工程对海洋环境影响的经济损益分析和环境风险分析；
- （六）拟采取的环境保护措施及其经济、技术论证；
- （七）公众参与情况；
- （八）环境影响评价结论。海洋工程可能对海岸生态环境产生破坏的，其环境影响报告书中应当增加工程对近岸自然保护区等陆地生态系统影响的分析和评价。

第十条 新建、改建、扩建海洋工程的建设单位，应当委托具有相应环境影响评价资质的单位编制环境影响报告书，报有核准权的海洋主管部门核准。

海洋主管部门在核准海洋工程环境影响报告书前，应当征求海事、渔业主管部门和军队环境保护部门的意见；必要时，可以举行听证会。其中，围填海工程必须举行听证会。

海洋主管部门在核准海洋工程环境影响报告书后，应当将核准后的环境影响报

The marine administrative department shall, after approving an environmental impact report on a marine project, submit the environment impact report as approved to the environmental protection administrative department at the same level for archival filing, and be subject to the supervision of the environmental protection administrative department. When the marine project construction entity goes through the formalities for examination, approval and archival filing of the project, it shall submit an environmental impact report on the marine project as approved by the marine administrative department.

Article 11 The environment impact reports on the following marine projects shall be subject to the examination and approval of the state marine administrative department:

- (1) Projects involving state marine rights and interests or national defense security, etc.
- (2) Projects of marine mineral resources exploration and exploitation, and ancillary works;
- (3) Projects of filling in the sea with an area of 50 or more hectares, and projects of enclosing the sea with an area of 100 or more hectares;
- (4) Projects of maritime tidal power stations, wave power stations, stations based on temperature difference, and other marine energy development and utilization projects; and
- (5) Marine projects as examined and approved by the State Council or the relevant departments of the State Council.

Other environment impact reports on marine projects than those as mentioned in the preceding Paragraph shall be subject to the examination and approval of the marine administrative department of the people's government at or above the level of coastal county in light of the limit of power as prescribed by the people's government of the province, autonomous region or municipality directly under the Central Government. In case a marine project may affect the environment of two or more regions and the relevant marine administrative departments have dispute over the environment impact assessment conclusion, the environment impact report on the said project shall be subject to the examination and approval of their common marine administrative department at the next higher level.

Article 12 The marine administrative department shall, within 60 working days upon receipt of an environment impact report on a marine project, make a decision on whether or not to approve it, and notify the construction entity of the decision in written form.

Where the materials need to be supplemented, the marine administrative department shall notify the construction entity in a timely manner, and the term of approval shall be re-calculated as of the day when all the materials are supplemented.

报告书报同级环境保护主管部门备案，接受环境保护主管部门的监督。

海洋工程建设单位在办理项目审批、核准、备案手续时，应当提交经海洋主管部门核准的海洋工程环境影响报告书。

第十一条 下列海洋工程的环境影响报告书，由国家海洋主管部门核准：

（一）涉及国家海洋权益、国防安全等特殊性质的工程；

（二）海洋矿产资源勘探开发及其附属工程；

（三）50 公顷以上的填海工程，100 公顷以上的围海工程；

（四）潮汐电站、波浪电站、温差电站等海洋能源开发利用工程；

（五）由国务院或者国务院有关部门审批的海洋工程。

前款规定以外的海洋工程的环境影响报告书，由沿海县级以上地方人民政府海洋主管部门根据沿海省、自治区、直辖市人民政府规定的权限核准。

海洋工程可能造成跨区域环境影响并且有关海洋主管部门对环境影响评价结论有争议的，该工程的环境影响报告书由其共同的上一级海洋主管部门核准。

（相关资料：[地方法规 1 篇](#)）

第十二条 海洋主管部门应当自收到海洋工程环境影响报告书之日起 60 个工作日内，作出是否核准的决定，书面通知建设单位。

需要补充材料的，应当及时通知建设单位，核准期限从材料补齐之日起重新计算。

Article 13 Where, after an environment impact report on a marine project is approved, any major change occurs to the nature, scale, site, production technique of the project or to the environmental protection measures to be adopted, the construction entity shall entrust an institution with corresponding environment impact assessment qualification to formulate a new environment impact report, and report it to the marine administrative department that has originally examined and approved the environment impact report on the said project for approval. Where the construction of a marine project is started after five years from the date when the environment impact report on the project has been examined and approved, the environment impact report on the said project shall, before the construction, be reported to the marine administrative department that has originally examined and approved the environment impact report on the said project for a new approval. The marine administrative department shall, after re-approving the environment impact report on a marine project, submit the environment impact report as re-approved to the environmental protection administrative department at the same level for archival filing.

Article 14 A construction entity may determine an environment impact assessment institution for a marine project by way of bid invitation. No entity or individual may designate any environment impact assessment institution for the marine project.

Article 15 Any institution and its technicians for environment impact assessment of marine projects shall obtain corresponding quality certificate and qualification certificates according to the relevant provisions of the environment protection administrative department of the State Council.

Before the environment protection administrative department of the State Council issues qualification certificates to the environment impact assessment institutions for marine projects, it shall solicit the opinions from the marine administrative department of the State Council.

Chapter III Prevention and Treatment of the Pollution Caused by Marine Projects

Article 16 The environmental protection facilities for a marine project shall be designed, constructed and put into use simultaneously with the main part of the marine project.

Article 17 In the preliminary design of a marine project, an environmental protection chapter shall be formulated, environmental protection measures shall be implemented and the investment for environmental protection shall be generally calculated according to the criteria for environmental protection design and the environment impact report as

第十三条 海洋工程环境影响报告书核准后，工程的性质、规模、地点、生产工艺或者拟采取的环境保护措施等发生重大改变的，建设单位应当委托具有相应环境影响评价资质的单位重新编制环境影响报告书，报原核准该工程环境影响报告书的海洋主管部门核准；海洋工程自环境影响报告书核准之日起超过 5 年方开工建设的，应当在工程开工建设前，将该工程的环境影响报告书报原核准该工程环境影响报告书的海洋主管部门重新核准。

海洋主管部门在重新核准海洋工程环境影响报告书后，应当将重新核准后的环境影响报告书报同级环境保护主管部门备案。

第十四条 建设单位可以采取招标方式确定海洋工程的环境影响评价单位。其他任何单位和个人不得为海洋工程指定环境影响评价单位。

第十五条 从事海洋工程环境影响评价的单位和有关技术人员，应当按照国务院环境保护主管部门的规定，取得相应的资质证书和资格证书。

国务院环境保护主管部门在颁发海洋工程环境影响评价单位的资质证书前，应当征求国家海洋主管部门的意见。

第三章 海洋工程的污染防治

第十六条 海洋工程的环境保护设施应当与主体工程同时设计、同时施工、同时投产使用。

第十七条 海洋工程的初步设计，应当按照环境保护设计规范和经核准的环境影响报告书的要求，编制环境保护篇章，落实环境保护措施和环境保护投资概算。

approved.

Article 18 A construction entity shall, within 30 working days before the marine project is put into operation, apply for the check and acceptance of environmental protection facilities to the marine administrative department that has originally approved the environment impact report on the said project; and in case a marine project is put into trial operation, the construction entity shall, within 60 working days before the marine project is put into trial operation, apply for the check and acceptance of environmental protection facilities to the marine administrative department that has originally approved the environment impact report on the said project.

In case a marine project is constructed and put into operation by stages, the corresponding environmental protection facilities shall be checked and accepted by stages.

Article 19 The marine administrative department shall, within 30 working days upon receipt of an application for the check and acceptance of environmental protection facilities, complete the check and acceptance; and if the facilities are found to be unqualified upon check and acceptance, the marine administrative department shall order the rectification within the prescribed time limit.

Where the supporting environmental protection facilities necessary for a marine project have not been checked and accepted by the marine administrative department or are found to be unqualified upon check and acceptance, the said project shall not be put into operation.

No construction entity may illegally dismantle or leave unused the environmental protection facilities for a marine project.

Article 20 Where a marine project became inconsistent with the environment impact report as approved during the course of construction or operation, the construction entity shall, within 20 working days after the said circumstance appears, organize a follow-up environment impact assessment, and take measures for improvement according to the follow-up assessment conclusion, and submit the follow-up assessment conclusion and the measures for improvement as adopted to the marine administrative department that has originally approved the environment impact report on the said project for archival filing; and the marine administrative department that has originally approved the environment impact report on the said project may also order the construction entity to conduct a follow-up assessment conclusion and take the measures for improvement.

Article 21 Any project of enclosing or filling in the sea shall be rigorously controlled. It is prohibited to enclose or fill in the sea at the natural spawning, breeding and feeding grounds of economic organism or bird

第十八条 建设单位应当在海洋工程投入运行之日 30 个工作日内, 向原核准该工程环境影响报告书的海洋主管部门申请环境保护设施的验收; 海洋工程投入试运行的, 应当自该工程投入试运行之日起 60 个工作日内, 向原核准该工程环境影响报告书的海洋主管部门申请环境保护设施的验收。

分期建设、分期投入运行的海洋工程, 其相应的环境保护设施应当分期验收。

第十九条 海洋主管部门应当自收到环境保护设施验收申请之日起 30 个工作日内完成验收; 验收不合格的, 应当限期整改。

海洋工程需要配套建设的环境保护设施未经海洋主管部门验收或者经验收不合格的, 该工程不得投入运行。

建设单位不得擅自拆除或者闲置海洋工程的环境保护设施。

第二十条 海洋工程在建设、运行过程中产生不符合经核准的环境影响报告书的情形的, 建设单位应当自该情形出现之日起 20 个工作日内组织环境影响的后评价, 根据后评价结论采取改进措施, 并将后评价结论和采取的改进措施报原核准该工程环境影响报告书的海洋主管部门备案; 原核准该工程环境影响报告书的海洋主管部门也可以责成建设单位进行环境影响的后评价, 采取改进措施。

第二十一条 严格控制围填海工程。禁止在经济生物的自然产卵场、繁殖场、索饵场和鸟类栖息地进行围填海活动。

habitats.

The fillings for a project of enclosing or filling in the sea shall conform to the relevant environmental protection standards.

Article 22 The construction of a marine project shall not cause the erosion, sludging or damage to the territorial sea base points and their surroundings, or endanger the stability of territorial sea base points. In the case of the construction of a project of sea dam, cross-sea bridge, marine entertainment, sports and landscape development, effective measures shall be adopted to prevent the erosion or sludging of sea coast.

Article 23 The set-up of pollutant outlets for an offshore sewage disposal project shall conform to the division of marine functions and the plans for marine environmental protection, and shall not damage the functions of adjacent sea areas.

The offshore sewage discharge shall not exceed the discharge standards as prescribed by the Central or local government, and shall not exceed the total pollutant discharge control indicator in the case of a sea area for which the total pollutant discharge control is implemented.

Article 24 A culturist engaged in mariculture shall adopt scientific cultivation method to reduce the pollution to marine environment by baits. Where the marine area is polluted or the marine landscape is seriously damaged due to the mariculture, the culturist shall make restitution and put things in order.

Article 25 A construction entity shall, in the process of constructing or operating a marine solid mineral resources exploration and exploitation project, take effective measures to prevent pollutants from large-scale spread and destruction of marine environment.

Article 26 The marine oil and gas mineral resources exploration and exploitation shall be equipped with water separation facilities, oily wastewater treatment equipment, monitoring devices for oil emission, residual oil and used oil recycling facilities, and waste grinding equipment. Fixed platforms, mobile platforms, floating oil storage devices, pipelines and other supporting facilities used in the marine oil and gas mineral resources exploration and exploitation shall conform to the impermeable, leak-proof and anti-corrosion requirements. An operating entity shall conduct regular inspections so as to prevent oil spills.

The "fixed platforms" and "mobile platforms" as mentioned in the preceding Paragraph refers to the drilling vessels, drilling platforms, oil production platforms and other platforms used in the marine oil and gas mineral resources exploration and exploitation.

围填海工程使用的填充材料应当符合有关环境保护标准。

第二十二条 建设海洋工程，不得造成领海基点及其周围环境的侵蚀、淤积和损害，危及领海基点的稳定。

进行海上堤坝、跨海桥梁、海上娱乐及运动、景观开发工程建设的，应当采取有效措施防止对海岸的侵蚀或者淤积。

第二十三条 污水离岸排放工程排污口的设置应符合海洋功能区划和海洋环境保护规划，不得损害相邻海域的功能。污水离岸排放不得超过国家或者地方规定的排放标准。在实行污染物排海总量控制的海域，不得超过污染物排海总量控制指标。

第二十四条 从事海水养殖的养殖者，应当采取科学的养殖方式，减少养殖饵料对海洋环境的污染。因养殖污染海域或者严重破坏海洋景观的，养殖者应当予以恢复和整治。

第二十五条 建设单位在海洋固体矿产资源勘探开发工程的建设、运行过程中，应当采取有效措施，防止污染物大范围悬浮扩散，破坏海洋环境。

第二十六条 海洋油气矿产资源勘探开发作业中应当配备油水分离设施、含油污水处理设备、排油监控装置、残油和废油回收设施、垃圾粉碎设备。

海洋油气矿产资源勘探开发作业中所使用的固定式平台、移动式平台、浮式储油装置、输油管线及其他辅助设施，应当符合防渗、防漏、防腐蚀的要求；作业单位应当经常检查，防止发生漏油事故。

前款所称固定式平台和移动式平台，是指海洋油气矿产资源勘探开发作业中所使用的钻井船、钻井平台、采油平台和其他平台。

Article 27 An entity of marine oil and gas mineral resources exploration and exploitation shall purchase the relevant pollution and damage liability insurance.

Article 28 In case blasting operations at sea are necessary for the construction of a marine project, the construction entity shall report it to the marine administrative department before the blasting operations, and the marine administrative department shall timely report it to the administrative departments of marine affairs and fisheries.

Obvious signs and signals shall be set up and effective measures for marine resources protection shall be adopted for the blasting operations at sea. Blasting operations in major fishing waters or other operations that may cause damage to the fishery resources shall not be conducted within the spawning season of major economic fish and shrimps.

Article 29 In case a marine project needs to be demolished or used for other purposes, it shall be reported to the marine administrative department that has originally approved the environment impact report on the said project for approval. In case the demolition or change of uses may significantly affect the environment, an environmental impact assessment shall be carried out.

In case a marine project needs to be abandoned at sea, the part that may cause pollution and damage to the marine environment or affect the exploitation and utilization of marine resources shall be demolished according to the relevant provisions on marine dumping wastes.

When a marine project is demolished, the construction entity shall formulate an environmental protection scheme for demolition, adopt necessary measures, and prevent pollution and damage to the marine environment.

Chapter IV Pollutant Discharge Administration

Article 30 The disposal of pollutants occurred in the marine oil and gas mineral resources exploration and exploitation shall be governed by the following provisions:

- (1) The oily sewage shall not be discharged into the sea directly or upon dilution, it shall be treated in line with the relevant state discharge standards and then be emitted; and
- (2) Plastic products, residual oil, waste oil, oil-based mud, oily garbage and other toxic and harmful residues shall not be discharged directly into the sea or be thrown into the sea, they shall be collectively stored in special containers and be shipped to the land for disposal.

Article 31 It is strictly controlled to add oil into the water-based slurry.

第二十七条 海洋油气矿产资源勘探开发单位应当办理有关污染损害民事责任保险。

第二十八条 海洋工程建设过程中需要进行海上爆破作业的，建设单位应当在爆破作业前报告海洋主管部门，海洋主管部门应当及时通报海事、渔业等有关部门。

进行海上爆破作业，应当设置明显的标志、信号，并采取有效措施保护海洋资源。在重要渔业水域进行炸药爆破作业或者进行其他可能对渔业资源造成损害的作业活动的，应当避开主要经济类鱼虾的产卵期。

第二十九条 海洋工程需要拆除或者改作他用的，应当报原核准该工程环境影响报告书的海洋主管部门批准。拆除或者改变用途后可能产生重大环境影响的，应当进行环境影响评价。

海洋工程需要在海上弃置的，应当拆除可能造成海洋环境污染损害或者影响海洋资源开发利用的部分，并按照有关海洋倾倒废弃物管理的规定进行。

海洋工程拆除时，施工单位应当编制拆除的环境保护方案，采取必要的措施，防止对海洋环境造成污染和损害。

（相关资料: [部门规章 1 篇](#)）

第四章 污染物排放管理

第三十条 海洋油气矿产资源勘探开发作业中产生的污染物的处置，应当遵守下列规定：

（一）含油污水不得直接或者经稀释排放入海，应当经处理符合国家有关排放标准后再排放；

（二）塑料制品、残油、废油、油基泥浆、含油垃圾和其他有毒有害残液残渣，不得直接排放或者弃置入海，应当集中储存在专门容器中，运回陆地处理。

第三十一条 严格控制向水基泥浆中添加

Where it is necessary to add oil, it shall be faithfully recorded down, and the types and quantity of the oil to be added shall be reported to the marine administrative department that has originally approved the environment impact report on the said project. It is prohibited to discharge water-based mud or cuttings whose oil contents are in excess of the standards prescribed by the State.

Article 32 The construction entity shall, after the marine project is put into trial operation or is put into formal operation, accurately record down the conditions about the functioning of pollutant discharge facilities and processing equipment, as well as the discharge and treatment of pollutants, and regularly report them to the marine administrative department that has originally approved the environment impact report on the said project according to the provisions of the state marine administrative department.

Article 33 The marine administrative department of the people's government at or above the county level shall, according to its own power, verify the types and quantity of pollutants discharged by marine projects, and determine the amount of charges for disposing pollutants that should be paid by pollutant dischargers according to the charging rates as determined by the administrative departments of price and finance of the State Council.

A pollutant discharger shall pay the charges for disposing pollutants at a designated commercial bank.

Article 34 In the marine oil and gas mineral resources exploration and exploitation, the automatic pollutants flow monitoring equipment shall be installed to measure the discharge of production sewage, engine emissions and domestic sewage.

Article 35 It is prohibited to discharge oily, acid, lye or toxic sewage or middle or high-level radioactive sewage into the sea, and it is strictly restricted to discharge low-level radioactive sewage. Where the discharge is required, it shall be governed by the State standards for the prevention and treatment of radioactive pollution.

It is strictly restricted to emit the gases containing toxic substances into the atmosphere. Where the emission is required, the said gas should be emitted after purification within the emission standards prescribed by the Central or local government; and the emission of the gases containing toxic substances into the atmosphere shall be governed by the State standards for the prevention and treatment of radioactive pollution. It is strictly restricted to discharge the sewage containing organics and heavy metals that are not easy to be degraded into the sea; and the discharge of other pollutants shall comply with national or local standards.

油类，确需添加的，应当如实记录并向原核准该工程环境影响报告书的海洋主管部门报告添加油的种类和数量。禁止向海域排放含油量超过国家规定标准的水基泥浆和钻屑。

第三十二条 建设单位在海洋工程试运行或者正式投入运行后，应当如实记录污染物排放设施、处理设备的运转情况及其污染物的排放、处置情况，并按照国家海洋主管部门的规定，定期向原核准该工程环境影响报告书的海洋主管部门报告。

第三十三条 县级以上人民政府海洋主管部门，应当按照各自的权限核定海洋工程排放污染物的种类、数量，根据国务院价格主管部门和财政部门制定的收费标准确定排污者应当缴纳的排污费数额。

排污者应当到指定的商业银行缴纳排污费。

第三十四条 海洋油气矿产资源勘探开发作业中应当安装污染物流量自动监控仪器，对生产污水、机舱污水和生活污水的排放进行计量。

第三十五条 禁止向海域排放油类、酸液、碱液、剧毒废液和高、中水平放射性废水；严格限制向海域排放低水平放射性废水，确需排放的，应当符合国家放射性污染防治标准。

严格限制向大气排放含有毒物质的气体，确需排放的，应当经过净化处理，并不得超过国家或者地方规定的排放标准；向大气排放含放射性物质的气体，应当符合国家放射性污染防治标准。严格控制向海域排放含有不易降解的有机物和重金属的废水；其他污染物的排放应当符合国家或者地方标准。

Article 36 The charges for disposing sewage paid by marine projects shall be fully incorporated into the budget of treasury, and shall be subject to the separate management of expenditures and incomes, and be all earmarked for the prevention and treatment of pollution to the marine environment. The specific measures therefor shall be formulated by the administrative department of finance together with the state marine administrative department.

Chapter V Prevention and Treatment of Pollution Accidents

Article 37 A construction entity shall, before a marine project is put into formal use, formulate an advanced emergency handling scheme on the prevention and treatment of pollution and damage caused by the marine project, and report it to the marine administrative department that has originally approved the environment impact report on the said project for archival filing.

Article 38 An advanced emergency handling scheme on the prevention and treatment of pollution and damage caused by the marine project shall include:

- (1) Conditions about the project and the environment and resources of adjacent sea areas;
- (2) Analysis of pollution accident risks;
- (3) Emergency handling facilities; and
- (4) Scheme for dealing with pollution accidents.

Article 39 In case any accident or any other emergency occurred during the construction or operation of a marine project causes or may cause any pollution accident to the marine environment, the construction entity shall immediately report it to the marine administrative department of the people's government at or above the level of coastal county or any other competent administrative department, and take effective measures to reduce or eliminate the pollution, and simultaneously circulate a notice to the entities and individuals that may be endangered.

The marine administrative department of the people's government at or above the level of coastal county or any other competent administrative department shall, upon receipt of the report, timely report it to the people's government at or above the county level and the relevant competent department at the higher level according to the provisions on classification of pollution accidents. The people's government at or above the county level and the relevant competent department shall, in accordance with their respective responsibilities, immediately assign persons to rush to the scene, take effective measures to reduce or eliminate the pollution, and carry out investigation and treatment of pollution accidents.

Article 40 The construction of marine projects within marine natural

第三十六条 海洋工程排污费全额纳入财政预算，实行“收支两条线”管理，并全部专项用于海洋污染防治。具体办法由国务院财政部门会同国家海洋主管部门制定。

第五章 污染事故的预防和处理

第三十七条 建设单位应当在海洋工程正式投入运行前制定防治海洋工程污染损害海洋环境的应急预案，报原核准该工程环境影响报告书的海洋主管部门和有关主管部门备案。

第三十八条 防治海洋工程污染损害海洋环境的应急预案应当包括以下内容：

- （一）工程及其相邻海域的环境、资源状况；
- （二）污染事故风险分析；
- （三）应急设施的配备；
- （四）污染事故的处理方案。

第三十九条 海洋工程在建设、运行期间，由于发生事故或者其他突发性事件，造成或者可能造成海洋环境污染事故时，建设单位应当立即向可能受到污染的沿海县级以上地方人民政府海洋主管部门或者其他有关主管部门报告，并采取有效措施，减轻或者消除污染，同时通报可能受到危害的单位和个人。沿海县级以上地方人民政府海洋主管部门或者其他有关主管部门接到报告后，应当按照污染事故分级规定及时向县级以上人民政府和上级有关主管部门报告。县级以上人民政府和有关主管部门应当按照各自的职责，立即派人赶赴现场，采取有效措施，消除或者减轻危害，对污染事故进行调查处理。

第四十条 在海洋自然保护区内进行海洋

reserves shall be governed by the State provisions on marine natural reserves.

Chapter VI Supervision and Check

Article 41 The marine administrative department of the people's government at or above the county level shall be responsible for supervision over and check of the prevention and treatment of pollution and damage to the marine environment caused by marine projects, investigate the acts in violation of the laws or regulations on prevention and treatment of marine pollution, and impose punishments. The personnel for supervision and check of the marine administrative department of the people's government at or above the county level shall carry out supervision and check in strict accordance with the procedures and limit of power as prescribed in the laws or regulations.

Article 42 When the marine administrative department of the people's government at or above the county level checks a marine project on the spot, it shall have the power to adopt the following measures:

- (1) Requiring the entity or individual under check to provide documents, certificates, data and technical materials relating to the environmental protection for consultation or copying;
- (2) Requiring the person in-charge or any other relevant person of the entity under check to explain relevant issues;
- (3) Entering into the work site of the entity under check for monitoring, survey, sampling inspection, photography, and videoing;
- (4) Checking the installation and operation of all kinds of facilities, installations and equipment for environmental protection;
- (5) Ordering offenders to stop illegal activities and to accept investigation and punishments; and
- (6) Requiring offenders to adopt effective measures to prevent aggravation of pollution accidents.

Article 43 The personnel for supervision and check of the marine administrative department of the people's government at or above the county level shall show the law enforcement certificates as prescribed when carrying out law enforcement inspections on the spot. Official aircraft, ships and vehicles for cruise surveillance in the law enforcement inspections shall be clearly marked.

Article 44 Any entity or individual under check shall faithfully provide materials, and shall not refuse or hamper the personnel for supervision and check from legally implementing public duties. Relevant entities or individuals shall give coordination to the supervision and check of the marine administrative department.

工程建设活动，应当按照国家有关海洋自然保护区的规定执行。

第六章 监督检查

第四十一条 县级以上人民政府海洋主管部门负责海洋工程污染损害海洋环境防治的监督检查，对违反海洋污染防治法律、法规的行为进行查处。

县级以上人民政府海洋主管部门的监督检查人员应当严格按照法律、法规规定的程序和权限进行监督检查。

第四十二条 县级以上人民政府海洋主管部门依法对海洋工程进行现场检查时，有权采取下列措施：

- （一）要求被检查单位或者个人提供与环境保护有关的文件、证件、数据以及技术资料等，进行查阅或者复制；
- （二）要求被检查单位负责人或者相关人员就有关问题作出说明；
- （三）进入被检查单位的工作现场进行监测、勘查、取样检验、拍照、摄像；
- （四）检查各项环境保护设施、设备和器材的安装、运行情况；
- （五）责令违法者停止违法活动，接受调查处理；
- （六）要求违法者采取有效措施，防止污染事态扩大。

第四十三条 县级以上人民政府海洋主管部门的监督检查人员进行现场执法检查时，应当出示规定的执法证件。用于执法检查、巡航监视的公务飞机、船舶和车辆应当有明显的执法标志。

第四十四条 被检查单位和个人应当如实提供材料，不得拒绝或者阻碍监督检查人员依法执行公务。有关单位和个人对海洋主管部门的监督检查工作应当予以配合。

Article 45 The marine administrative department of the people's government at or above the county level shall make administrative punishment decisions on the acts in violation of the laws or regulations on the prevention and treatment of marine pollution; and in case the relevant marine administrative department fails to make administrative punishment decisions according to law, the marine administrative department at the higher level shall order it to make administrative punishment decisions or shall directly make administrative punishment decisions.

Chapter VII Legal Liabilities

Article 46 In case the construction entity of a marine project violates this Regulation by committing either of the following acts, the marine administrative department responsible for examination and approval of the environment impact report on the said project shall order it to stop the construction and operation and to make up formalities within the time limit, and shall impose a fine of 50,000 yuan up to 200,000 yuan on it:

- (1) Illegally constructing the marine project before the environment impact report is approved; or
- (2) Putting the environmental protection facilities for the marine project into use when no application for check and acceptance of such facilities has been filed or such facilities are found to be unqualified upon check and acceptance.

Article 47 In case the construction entity of a marine project violates this Regulation by committing any of the following acts, the marine administrative department responsible for examination and approval of the environment impact report on the said project shall order it to stop the construction and operation and to make up formalities within the time limit, and shall impose a fine of 50,000 yuan up to 200,000 yuan on it:

- (1) The construction entity fails to formulate a new environment impact report and submit it to the marine administrative department that has originally approved the environment impact report on the said project for approval where any major change occurs to the nature, scale, site, production technique of the project or to the environmental protection measures to be adopted;
- (2) The construction entity fails to submit an environment impact report to the marine administrative department that has originally approved the environment impact report on the said project for a new approval where the construction of the project is started after five years from the date when the environment impact report has been examined and approved; or
- (3) The construction entity fails to make a report to the marine administrative department that has originally approved the environment impact report on the said project for approval or carry out an environmental impact assessment as required where a marine project needs to be demolished or used for other purposes.

第四十五条 县级以上人民政府海洋主管部门对违反海洋污染防治法律、法规的行为，应当依法作出行政处理决定；有关海洋主管部门不依法作出行政处理决定的，上级海洋主管部门有权责令其依法作出行政处理决定或者直接作出行政处理决定。

第七章 法律责任

第四十六条 建设单位违反本条例规定，有下列行为之一的，由负责核准该工程环境影响报告书的海洋主管部门责令停止建设、运行，限期补办手续，并处 5 万元以上 20 万元以下的罚款：

- （一）环境影响报告书未经核准，擅自开工建设的；
- （二）海洋工程环境保护设施未申请验收或者经验收不合格即投入运行的。

第四十七条 建设单位违反本条例规定，有下列行为之一的，由原核准该工程环境影响报告书的海洋主管部门责令停止建设、运行，限期补办手续，并处 5 万元以上 20 万元以下的罚款：

- （一）海洋工程的性质、规模、地点、生产工艺或者拟采取的环境保护措施发生重大改变，未重新编制环境影响报告书报原核准该工程环境影响报告书的海洋主管部门核准的；
- （二）自环境影响报告书核准之日起超过 5 年，海洋工程方开工建设，其环境影响报告书未重新报原核准该工程环境影响报告书的海洋主管部门核准的；
- （三）海洋工程需要拆除或者改作他用时，未报原核准该工程环境影响报告书的海洋主管部门批准或者未按要求进行环境影响评价的。

Article 48 In case the construction entity of a marine project violates this Regulation by committing either of the following acts, the marine administrative department that has originally approved the environment impact report on the said project shall order it to make correction within the time limit; if it fails to do so, it shall be ordered to stop the operation and be imposed on a fine of 10,000 yuan up to 100,000 yuan:

- (1) Illegally demolishing or leaving unused the environmental protection facilities; or
- (2) Failing to organize a follow-up environment impact assessment within the prescribed time limit, or failing to take correction measures as required.

Article 49 In case the construction entity of a marine project violates this Regulation by committing either of the following acts, the marine administrative department of the people's government at or above the county level shall order it to stop the construction and operation, and to make restitution; if the construction entity fails to make restitution within the time limit, the marine administrative department may designate an entity with corresponding qualification for restitution, the construction entity shall assume the fees incurred therefrom, as well as a fine of one up to two times of the fees for restitution:

- (1) Causing the erosion, sludging or damage to the territorial sea base points and their surroundings; or
- (2) Carrying out the construction of marine projects within marine natural reserves.

Article 50 In case a construction entity violates this Regulation by using the fillings for a project of enclosing or filling in the sea that do not conform to the relevant environmental protection standards, the marine administrative department of the people's government at or above the county level shall order it to make correction within the time limit; if it fails to do so, it shall be ordered to stop the construction and operation, and be imposed on a fine of 50,000 yuan up to 200,000 yuan; where a marine environment pollution accident is caused, and a crime is constituted, the person in-charge and others held directly responsible shall be subject to criminal liabilities.

Article 51 In case the construction entity of a marine project violates this Regulation by committing any of the following acts, the marine administrative department that has originally approved the environment impact report on the said project shall order it to make correction within the time limit; if it fails to do so, it shall be imposed on a fine of 10,000 yuan up to 50,000 yuan:

- (1) Failing to report the conditions about the functioning of pollutant discharge facilities and processing equipment or the discharge and treatment of pollutants as required;

第四十八条 建设单位违反本条例规定，有下列行为之一的，由原核准该工程环境影响报告书的海洋主管部门责令限期改正；逾期不改正的，责令停止运行，并处 1 万元以上 10 万元以下的罚款：

- （一）擅自拆除或者闲置环境保护设施的；
- （二）未在规定时间内进行环境影响后评价或者未按要求采取整改措施的。

第四十九条 建设单位违反本条例规定，有下列行为之一的，由县级以上人民政府海洋主管部门责令停止建设、运行，限期恢复原状；逾期未恢复原状的，海洋主管部门可以指定具有相应资质的单位代为恢复原状，所需费用由建设单位承担，并处恢复原状所需费用 1 倍以上 2 倍以下的罚款：

- （一）造成领海基点及其周围环境被侵蚀、淤积或者损害的；
- （二）违反规定在海洋自然保护区内进行海洋工程建设活动的。

第五十条 建设单位违反本条例规定，在围填海工程中使用的填充材料不符合有关环境保护标准的，由县级以上人民政府海洋主管部门责令限期改正；逾期不改正的，责令停止建设、运行，并处 5 万元以上 20 万元以下的罚款；造成海洋环境污染事故，直接负责的主管人员和其他直接责任人员构成犯罪的，依法追究刑事责任。

第五十一条 建设单位违反本条例规定，有下列行为之一的，由原核准该工程环境影响报告书的海洋主管部门责令限期改正；逾期不改正的，处 1 万元以上 5 万元以下的罚款：

- （一）未按规定报告污染物排放设施、处理设备的运转情况或者污染物的排放、处置情况的；
- （二）未按规定报告其向水基泥浆中添

- (2) Failing to report the types and quantity of the oil to be added into the water-based slurry as required;
- (3) Failing to report the advanced emergency handling scheme on the prevention and treatment of pollution and damage to the marine environment by the marine project as required;
- (4) Failing to make a report to the marine administrative department before carrying out blasting operations at sea; or
- (5) Failing to set up eye-catching marks and singles as required when carrying out blasting operations at sea.

Article 52 In case a construction entity violates this Regulation by failing to take effective measures to protect marine resources when carrying out blasting operations at sea, the marine administrative department of the people's government at or above the county level shall order it to make correction within the time limit; if it fails to do so, it shall be imposed on a fine of 10,000 yuan up to 100,000 yuan.

In case a construction entity violates this Regulation by carrying out blasting operations in major fishing waters or other operations that may cause damage to the fishery resources within the spawning season of major economic fish and shrimps, the marine administrative department of the people's government at or above the county level shall give it a warning and order it to stop the operation, and impose a fine of 50,000 yuan up to 200,000 yuan on it.

Article 53 In case an entity of marine oil and gas mineral resources exploration and exploitation violates this Regulation by discharging oily sewage into the sea or directly discharging or throwing plastic products, residual oil, waste oil, oil-based mud, oily garbage or other toxic and harmful residues into the sea, the state marine administrative department or its detached office shall order it to make restitution within the time limit, and impose a fine of 20,000 yuan up to 200,000 yuan on it; if the entity fails to do so within the time limit, the state marine administrative department or its detached office may designate an entity with corresponding qualification for restitution, and the entity of marine oil and gas mineral resources exploration and exploitation shall assume the fees incurred therefrom; and where a marine environment pollution accident is caused, and if a crime is constituted, the person in-charge and others held directly responsible shall be subject to criminal liabilities.

Article 54 In case a culturist engaged in mariculture fails to adopt scientific cultivation methods and causes pollution to the marine environment or seriously damages the marine landscape, the marine administrative department of the people's government at or above the county level shall order it/him to make correction within the time limit; if the culturist fails to do so within the time limit, it/he shall be ordered to stop the cultivation, and be imposed on a fine of one up to two times of the fees for clearing

加油的种类和数量的;

(三) 未按规定将防治海洋工程污染损害海洋环境的应急预案备案的;

(四) 在海上爆破作业前未按规定报告海洋主管部门的;

(五) 进行海上爆破作业时, 未按规定设置明显标志、信号的。

第五十二条 建设单位违反本条例规定, 进行海上爆破作业时未采取有效措施保护海洋资源的, 由县级以上人民政府海洋主管部门责令限期改正; 逾期未改正的, 处 1 万元以上 10 万元以下的罚款。建设单位违反本条例规定, 在重要渔业水域进行炸药爆破或者进行其他可能对渔业资源造成损害的作业, 未避开主要经济类鱼虾产卵期的, 由县级以上人民政府海洋主管部门予以警告、责令停止作业, 并处 5 万元以上 20 万元以下的罚款。

第五十三条 海洋油气矿产资源勘探开发单位违反本条例规定向海洋排放含油污水, 或者将塑料制品、残油、废油、油基泥浆、含油垃圾和其他有毒有害残液残渣直接排放或者弃置入海的, 由国家海洋主管部门或者其派出机构责令限期清理, 并处 2 万元以上 20 万元以下的罚款; 逾期未清理的, 国家海洋主管部门或者其派出机构可以指定有相应资质的单位代为清理, 所需费用由海洋油气矿产资源勘探开发单位承担; 造成海洋环境污染事故, 直接负责的主管人员和其他直接责任人员构成犯罪的, 依法追究刑事责任。

第五十四条 海水养殖者未按规定采取科学的养殖方式, 对海洋环境造成污染或者严重影响海洋景观的, 由县级以上人民政府海洋主管部门责令限期改正; 逾期不改正的, 责令停止养殖活动, 并处清理污染或者恢复海洋景观所需费用 1 倍以上 2 倍以下的罚款。

the pollution or restoring the marine landscape.

Article 55 In case a construction entity fails to pay the charge for disposing pollutants according to this Regulation, the marine administrative department of the people's government at or above the county level shall order it to make payments within the time limit; if it fails to do so, it shall be imposed on a fine of two up to three times of the charge for disposing pollutants.

Article 56 In case anyone violates this Regulation by causing pollution and damage to the marine environment, the person liable shall remove the danger and compensate for losses. In case the pollution and damage to the marine environment is caused completely due to the intent or negligence of a third person, the third person shall remove the danger and compensate for losses.

In case any entity violates this Regulation and causes a pollution accident to the marine environment, and if a crime is constituted, the person in-charge and others held directly responsible shall be subject to criminal liabilities.

Article 57 In case any functionary of the marine administrative department violates this Regulation and is under any of the following circumstances, he shall be given an administrative sanction; and if a crime is constituted, he shall be subject to criminal liabilities:

- (1) Failing to examine the environment impact reports on marine projects as prescribed;
- (2) Failing to check and accept environmental protection facilities as required;
- (3) Failing to report, investigate or deal with marine environment pollution accidents as required;
- (4) Failing to collect the charge for disposing pollutants as required; or
- (5) Failing to carry out supervision and check.

Chapter VIII Supplementary Provisions

Article 58 The prevention and treatment of pollution by ships shall be governed by the laws or administrative regulations of the State.

Article 59 This Regulation shall come into force as of November 1, 2006.

第五十五条 建设单位未按本条例规定缴纳排污费的，由县级以上人民政府海洋主管部门责令限期缴纳；逾期拒不缴纳的，处应缴纳排污费数额 2 倍以上 3 倍以下的罚款。

第五十六条 违反本条例规定，造成海洋环境污染损害的，责任者应当排除危害，赔偿损失。完全由于第三者的故意或者过失造成海洋环境污染损害的，由第三者排除危害，承担赔偿责任。违反本条例规定，造成海洋环境污染事故，直接负责的主管人员和其他直接责任人员构成犯罪的，依法追究刑事责任。

第五十七条 海洋主管部门的工作人员违反本条例规定，有下列情形之一的，依法给予行政处分；构成犯罪的，依法追究刑事责任：

- （一）未按规定核准海洋工程环境影响报告书的；
- （二）未按规定验收环境保护设施的；
- （三）未按规定对海洋环境污染事故进行报告和调查处理的；
- （四）未按规定征收排污费的；
- （五）未按规定进行监督检查的。

第八章 附则

第五十八条 船舶污染的防治按照国家有关法律、行政法规的规定执行。

第五十九条 本条例自 2006 年 11 月 1 日起施行。