SPECIAL ACT ON THE IMPROVEMENT OF AIR QUALITY IN PORT AREAS

Act No. 16308, Apr. 2, 2019

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to protect the health of residents in ports or similar areas and near-port communities and to create a pleasant living environment by implementing a comprehensive policy and managing port-related emission sources in a systematic manner in order to improve the air quality of the port areas.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term “port or similar area” means any of the following areas;

(a) Any harbor zone as defined in subparagraph 4 of Article 2 of the Harbor Act;

(b) Any fishery harbor district as defined in subparagraph 4 of Article 2 of the Fishing Villages and Fishery Harbors Act;

(c) Internal waters, territorial sea and contiguous zone prescribed by the Territorial Sea and Contiguous Zone Act;

2. The term “port air quality control zones” means areas prescribed by Presidential Decree among the following areas:

(a) A port or similar area wherein air pollution is determined to be serious;

(b) A port or similar area, if air pollutants emitted from the port or similar area are determined to have a significant negative impact on air pollution in such port or similar area;

3. The term “ship” means any ship as defined in subparagraph 16 of Article 2 of the Marine Environment Management Act;

4. The term “ loading and unloading equipment” means equipment prescribed by Presidential Decree (excluding ships and rafts), used for harbor loading and unloading business defined in subparagraph 1 of Article 3 of the Harbor Transport Business Act;

5. The term “motor vehicle” means any motor vehicle as defined in subparagraph 13 of Article 2 of the Clean Air Conservation Act;

6. The term “port-related emission source” means any article prescribed by Ordinance of Ministry of Oceans and Fisheries, such as ships, loading and unloading equipment and motor vehicles that emit air pollutants in port or similar area;

7. The term “port-based business operator” means any person engaging in business activities in port or similar area with a license or permit granted, or upon completion of registration, under the relevant statutes, such as the Harbor Act, the Marine Transportation Act and the Harbor Transport Business Act;

8. The term “port management authority” means any port management authority as defined in subparagraph 19 of Article 2 of the Marine Environment Management Act;

9. The term “environment-friendly ship” means any ship as defined in subparagraph 3 of Article 2 of the Act on Promotion of Development and Distribution of Environment-Friendly Ships.

Article 3 (Scope of Application)

(1) This Act shall apply with respect to the control of air quality in port or similar area and to port-related emission sources.

(2) This Act shall also apply with respect to any ship other than ships of the Republic of Korea, if the ship is navigating within or berths at port or similar area.

Article 4 (Responsibilities of the State and Local Governments)

(1) The State shall establish and implement a comprehensive polity for improving air quality in port or similar area.

(2) A local government having jurisdiction over a port air quality control zone (hereinafter referred to as “local government”) shall establish and implement a detailed policy for improving air quality in port or similar area, taking into account the social and environmental characteristics of the areas within its jurisdiction.

Article 5 (Responsibilities of Business Operators)

Any person engaging in business activities (which include operating a ship or using loading and unloading equipment he or she owns to engage in business activities) in any port air quality control zone shall establish measures necessary to prevent air pollution caused by such business activities, and actively cooperate with the State or a local government in implementing its policy for improving air quality in port or similar area.

Article 6 (Relationship to Other Statutes)

(1) This Act shall prevail over other with respect to the improvement of air quality in port or similar area: Provided, That the same shall not apply if other statutes provide for more stringent standards than the standards prescribed by this Act.

(2) Except as provided in this Act, the Special Act on the Improvement of Air Quality in Air Control Zones, the Clean Air Conservation Act and the Marine Environment Management Act shall apply with respect to the improvement of air quality in ports or similar areas.

CHAPTER II ESTABLISHMENT OF MASTER PLANS FOR IMPROVING AIR QUALITY IN PORT OR SIMILAR AREA

Article 7 (Establishment of Master Plans)

(1) In order to improve air quality in port areas, the Minister of Oceans and Fisheries shall, every five years, establish a master plan for improving air quality in port or similar area (hereinafter referred to as “master plan”), which aims at reducing the following air pollutants. In such cases, the Minister of Oceans and Fisheries shall consult with the Minister of Environment in advance:

1. Nitrogen oxides;

2. Sulfur oxides;

3. Volatile organic compounds;

4. Dust;

5. Fine dust defined in subparagraph 1 of Article 2 of the Special Act on the Reduction and Management of Fine Dust;

6. Ozone (O3).

(2) Master plans shall contain the following matters:

1. Basic objectives of, and direction-setting for, improving air quality in port or similar area;

2. Current and future emissions of air pollutants by port-related emission source;

3. A plan for reducing emissions of air pollutants by port-related emission source in port air quality control zones;

4. Surveys on air quality in port or similar area;

5. Designation of emission control areas;

6. Distribution of environment-friendly ships and environment-friendly loading and unloading equipment under Article 15 (1);

7. Support for local governments and business operators for their programs to improve air quality in port or similar area;

8. Scale of funds necessary to implement the master plans and a funding plan;

9. Other matters prescribed by Presidential Decree as the Minister of Oceans and Fisheries may deem necessary to improve air quality in port or similar area.

(3) In order to establish or modify a master plan, the Minister of Oceans and Fisheries shall consult with the head of the relevant central administrative agency in advance; hear the opinions of a Metropolitan City Mayor, Do Governor and Special Self-Governing Province Governor (hereinafter referred to as “Mayor/Do Governor”); and determine the master plan after deliberation by the Marine Fishery Development Committee established under Article 7 of the Framework Act on Marine Fishery Development: Provided, That the foregoing shall not apply to the modification of insignificant matters prescribed by Presidential Decree.

(4) The Minister of Oceans and Fisheries may hold a hearing to hear opinions of citizens and related experts, if necessary to establish or modify master plans.

(5) The Minister of Oceans and Fisheries may request the submission of necessary information from the head of the relevant central administrative agency or Mayor/Do Governor (hereinafter referred to as “the head of the relevant administrative agency”) to establish or modify master plans. In such cases, upon receipt of a request for submission, the head of the relevant administrative agency shall comply therewith in absence of special reasons not to do so.

(6) Upon establishing or modifying a master plan, the Minister of Oceans and Fisheries shall, without delay, submit the established or modify master plan to the competent standing committee of the National Assembly.

Article 8 (Implementation of Master Plans)

(1) Upon establishing or modifying a master plan under Article 7, the Minister of Oceans and Fisheries shall notify the head of the relevant administrative agency of the master plan.

(2) Upon receipt of such notification under paragraph (1), the head of the relevant administrative agency shall take measures necessary to implement the master plan.

Article 9 (Surveys)

(1) In order to survey the current state of, and changes in, air quality in port or similar areas the Minister of Oceans and Fisheries shall, jointly with the Minister of Environment, establish a network to monitor air quality in the port or similar area and monitor air quality in such port or similar area continuously.

(2) A Mayor/Do Governor may conduct a survey at port or similar area under his or her jurisdiction and shall report a survey plan and survey findings to the Minister of Oceans and Fisheries and the Minister of Environment.

(3) The Minister of Oceans and Fisheries and the Minister of Environment shall utilize the results of the air quality monitoring done under paragraph (1) and survey findings under paragraph (2) by uploading them to the network established under Article 3 (3) of the Clean Air Conservation Act and the integrated marine environment information network established under Article 21 of the Act on Conservation and Utilization of the Marine Environment.

(4) Matters concerning the establishment of the monitoring network and of monitoring air quality under paragraph (1), the conducting of surveys and reporting on survey findings under paragraph (2), and uploading and utilization of monitoring results and survey findings under paragraph (3) shall be prescribed by Presidential Decree.

CHAPTER III CONTROL OF EMISSION SOURCES AND BUILDING ENVIRONMENT-FRIENDLY PORTS

Article 10 (Designation of Emission Control Areas)

(1) To achieve the basic objectives of improving air quality in port or similar area under Article 7 (2) 1 (hereinafter referred to as “air quality improvement objectives”), the Minister of Oceans and Fisheries may designate an sulfur oxides emission control area (hereinafter referred to as “emission control area”) separately in any port air quality control zones and give public notice thereof, as prescribed by Ordinance of the Ministry of Oceans and Fisheries.

(2) No shipowner shall use any fuel oil that exceeds the sulfur content standards prescribed by Presidential Decree in any port air quality control area: Provided, That the foregoing shall not apply if a shipowner reduces sulfur oxides emissions below the sulfur oxides emission level prescribed by Ordinance of the Ministry of Oceans and Fisheries by installing an exhaust gas cleaning system that satisfies the requirements prescribed by Ordinance of the Ministry of Oceans and Fisheries.

(3) If a ship navigates any emission control area, its owner shall enter information prescribed by Ordinance of the Ministry of Oceans and Fisheries, such as change of fuel oil, in the engine room log book of the ship.

(4) Every shipowner shall keep the engine room log book referred to in paragraph (3) in his or her ship for the period prescribed by Presidential Decree from the time of supply of fuel oil.

(5) Every shipowner shall furnish his or her ship with a manual stating how to switch fuel oil before entering and leaving any emission control area, if his or her ship uses fuel oils of varying sulfur content, which are stored in separate tanks, in order to meet the sulfur content standard for fuel oil prescribed under paragraph (2).

Article 11 (Designation of Low Speed Navigation Zones)

(1) To achieve the air quality improvement objectives, the Minister of Oceans and Fisheries may designate a low speed navigation zone in any port air quality control zones and give public notice thereof, as prescribed by Ordinance of the Ministry of Oceans and Fisheries, and may recommend the owners of ships navigating such zone to navigate below the speed prescribed by Ordinance of the Ministry of Oceans and Fisheries.

(2) With respect to a ship that has accepted a recommendation under paragraph (1), the Minister of Oceans and Fisheries may provide its owner with support necessary to navigate at the reduced speed, as prescribed by Presidential Decree.

(3) Any shipowner who intends to obtain support under paragraph (2) shall submit a document supporting that he or she accepted a recommendation under paragraph (1) to the Minister of Oceans and Fisheries, as prescribed by Ordinance of the Ministry of Oceans and Fisheries.

Article 12 (Promoting Purchase of Environment-Friendly Ships)

The head of a State agency, local government, public institution under the Act on the Management of Public Institutions (hereinafter referred to as “public institution”) and local public enterprise under the Local Public Enterprises Act shall purchase an environment-friendly ship if he or she intends to purchase a new ship that will be used for purposes prescribed by Presidential Decree and will navigate port air quality control areas.

Article 13 (Control of Fugitive Dust)

(1) Every port-based business operator that transports any cargo prescribed by Ordinance of the Ministry of Oceans and Fisheries, such as coal and grain that generate fugitive dust, shall either install equipment or take necessary measures to control the generation of fugitive dust.

(2) If a port-based business operator fails to install equipment or take necessary measures to control the generation of fugitive dust required under paragraph (1), or the Minister of Oceans and Fisheries or Mayor/Do Governor finds that equipment or measures are inappropriate, the Minister of Oceans and Fisheries or Mayor/Do Governor may issue to the port-based business operator an order requiring it to install equipment, take necessary measures or make an improvement.

(3) Where a port-based business operator fails to obey an order requiring it to take necessary measures or make an improvement under paragraph (2), the port management authority may directly install equipment or take necessary measures to control the generation of fugitive dust. In this case, costs incurred in installing such equipment or taking such measures shall be borne by the port-based business operator.

(4) Articles 5 and 6 of the Administrative Vicarious Execution Act shall apply mutatis mutandis with respect to the collection of costs that port-based business operators are made to bear under paragraph (3).

Article 14 (Exhaust Gas Emission Standards for Loading and Unloading Equipment)

Every port-based business operator shall operate loading and unloading equipment in compliance with the exhaust gas emission standards for loading and unloading equipment prescribed by Presidential Decree.

Article 15 (Promoting Transition to Environment-Friendly Loading and Unloading Equipment)

(1) Port management authorities may recommend port-based business operators to preferentially use any of the following environment-friendly loading and unloading equipment (hereinafter referred to as “environment-friendly loading and unloading equipment”):

1. Any loading and unloading equipment that is designed by applying technologies reducing air pollution and that complies with the standards prescribed by Ordinance of the Ministry of Oceans and Fisheries;

2. Any loading and unloading equipment that uses liquefied natural gas or other environment-friendly energy prescribed by Ordinance of the Ministry of Oceans and Fisheries as its power source.

(2) The State and local governments may subsidize port-based business operators to cover expenses incurred in purchasing environment-friendly loading and unloading equipment or replacing existing equipment with environment-friendly loading and unloading equipment.

Article 16 (Motor Vehicle Access Restriction)

The Minister of Oceans and Fisheries may, in consultation with the Minister of Environment, may restrict access of a motor vehicle (excluding motor vehicles that comply with the standards prescribed by Ordinance of the Ministry of Oceans and Fisheries, such as engine displacement) to harbor facilities as defined in subparagraph 5 of Article 2 of the Harbor Act (hereinafter referred to as “harbor facilities”) or fishery harbor facilities as defined in subparagraph 5 of Article 2 of the Fishing Villages and Fishery Harbors Act, if the motor vehicle’s air pollutant emission class publicly notified under subparagraph 1 of Article 29 of the Special Act on the Improvement of Air Quality in Seoul Metropolitan Area is below the specified class.

Article 17 (Building Environment-Friendly Ports)

(1) Port management authorities and port-based business operators shall endeavor to reduce air pollutant emissions when using harbor facilities in order to maintain and manage ports pleasantly.

(2) The Minister of Oceans and Fisheries may recommend that port-based business operators install equipment necessary to prevent or reduce air pollutant emissions.

Article 18 (Alternative Maritime Power System)

(1) The Minister of Oceans and Fisheries or the owners of harbor facilities shall install a system that supplies power to a ship from the shore-based electricity grid (hereinafter referred to as “alternative maritime power system”) while at berth in port facilities prescribed by Presidential Decree and used by ships that emit the air pollutants referred to in the subparagraphs of Article 7 (1) in large quantities: Provided, That the foregoing shall not apply in any case prescribed by Presidential Decree, such as a lack of power facilities.

(2) The Minister of Oceans and Fisheries may recommend the owner of a ship that uses harbor facilities equipped with the alternative maritime power system under paragraph (1) to retrofit the ship with a unit to receive power (hereinafter referred to as “power receiving unit”) supplied from such alternative maritime power system.

(3) The State may render financial support for the installation of power-receiving units.

CHAPTER IV SUPPLEMENTARY PROVISIONS

Article 19 (Entry and Inspection)

(1) The Minister of Oceans and Fisheries or the Commissioner of the Korea Coast Guard may require public officials of the Ministry of Oceans and Fisheries or Korea Coast Guard to examine or inspect related documents, facilities, equipment, loading and unloading equipment and fuel oils by entering ships or the business places of port-based business operators.

(2) A public official who enters any property to conduct an inspection under paragraph (1) shall carry an identification indicating his or her authority, present it to related persons and inform them of the purpose of entry, his or her name and other related matters in detail.

(3) No related person, including a shipowner or a port-based business operator, shall refuse, interfere with or evade any inspection conducted by a public official entering his or her property under paragraph (1) unless good cause exists.

Article 20 (Stop, Search, Seize and Entry and Departure Bans)

(1) If a ship is suspected of having violated any provision of this Act, the Minister of Oceans and Fisheries, the Commissioner of the Korea Coast Guard or a Mayor/Do Governor may stop, search or seize the ship, ban the ship from entering or departing from a port, issue other necessary orders or take action.

(2) No related person, including a shipowner or captain, shall refuse, interfere with or evade stop, search or seizure of a ship, entry or departure ban, any order or action issued or taken by the Minister of Oceans and Fisheries, the Commissioner of the Korea Coast Guard or a Mayor/Do Governor under paragraph (1) unless good cause exists.

Article 21 (Delegation and Entrustment)

(1) Authority vested in the Minister of Environment, the Minister of Oceans and Fisheries or the Commissioner of the Korea Coast Guard under this Act may be delegated partially to the heads of agencies under his or her control and the heads of other administrative agencies or local governments, as prescribed by Presidential Decree.

(2) Authority vested in Mayors/Do Governors under this Act may be delegated partially to the heads of Sis/Guns/Gus (the head of a Gu means the head of an autonomous Gu), as prescribed by Presidential Decree.

(3) Duties vested in the Minister of Environment, the Minister of Oceans and Fisheries or Mayors/Do Governors under this Act may be entrusted partially to the heads of related specialized institutions or public institutions, as prescribed by Presidential Decree.

CHAPTER V PENALTY PROVISIONS

Article 22 (Penalty Provisions)

Any of the following persons shall be punished by imprisonmend with labor for not more than one year or by fine of not more than 10 million one:

1. A person who uses a fuel oil that exceed the sulfur content standards prescribed by Presidential Decree in violation of Article 10 (2);

2. A person who fails to obey an order to take necessary measures or make an improvement issued by the Minister of Oceans and Fisheries or Mayor/Do Governor in violation of Article 13 (2);

3. A person who refuses, interferes with or evades an inspection conducted by any public official under the control of the Minister of Oceans and Fisheries or the Commissioner of the Korea Coast Guard without good cause in violation of Article 19 (3);

4. A person who refuses, interferes with or evades the stop, search or seizure of a ship, an entry or departure ban, any order or action issued or taken by the Minister of Oceans and Fisheries, the Commissioner of the Korea Coast Guard or a Mayor/Do Governor without good cause in violation of Article 20 (2).

Article 23 (Joint Penalty Provisions)

Where the representative of a corporation or an agent or employee of, or any other person employed by, the corporation or an individual commits any violation prescribed in Article 22 in engaging in any business activity of the corporation or individual, the corporation or individual shall be fined as prescribed in that Article, in addition to punishing the violator accordingly: Provided, That the foregoing shall not apply if such corporation or individual has not been negligent in exercising reasonable care over and supervising the business activity to prevent such violation.

Article 24 (Administrative Fines)

Any of the following persons shall be punished by an administrative fine not exceeding one million won:

1. A person who fails to enter required information in an engine room log book in violation of Article 10 (3);

2. A person who fails to keep an engine room log book for the period prescribed by Presidential Decree in violation of Article 10 (4);

3. A person who fails to furnish a ship with a manual stating how to switch fuel oil in violation of Article 10 (5);

4. A person who fails to comply with the exhaust gas emission standards for loading and unloading equipment in violation of Article 14;

5. A person who fails to obey an access restriction in violation of Article 16.

Article 25 (Imposition and Collection of Administrative Fines)

Administrative fines under Article 24 shall be imposed and collected by the Minister of Oceans and Fisheries, as prescribed by Presidential Decree.

ADDENDUM

This Act shall enter into force on January 1, 2020: Provided, That Article 10 shall enter into force on the date prescribed by Presidential Decree during the period beginning on the date of enforcement of this Act and ending in 2023.

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