

# **The Regulation Governing the Handling of Investigation Procedures for Marine Occurrence**

## **Chapter 1 General Principles**

### Article 1

The Regulation is prescribed pursuant to Article 38 of the Transportation Occurrence Investigation Act (hereinafter referred to as the “Act.”) and shall apply to the investigations of major marine occurrences.

### Article 2

The terms applied in the Regulation are defined as follows:

1. Major Marine occurrences: refer to the major marine occurrences specified in the scope of the Major Transportation Occurrences prescribed in the second paragraph of Article 2 of the Act.
2. Ship: A powered vehicle on the surface of the water or in the water for loading personnel or cargo. This includes passenger ships, cargo ships, fishing ships, special purpose ships, yachts, and boats but excludes the following:
  - (1) Military ships,
  - (2) Public boats for fire-fighting and disaster relief on land, and
  - (3) Powered boats with propulsion of less than 12 kW.
3. Death: Personnel death during the occurrence of the ship or within 30 days of the occurrence of the ship that is not attributable to natural causes, their behavior, actions of ship intruders, or stowing away in non-passenger or non-crew compartments.
4. Injury: Personnel experiencing limited mobility for more than 72 hours within 7 days of the occurrence of the ship not because of natural causes, their behavior, actions of ship intruders, or stowing away in non-passenger or non-crew compartments.
5. Substantial damage: Total loss of the marine infrastructure and ships or damage that causes the following:
  - (1) Significantly affects the structural integrity, performance, or operational characteristics of marine infrastructure or a ship; and, or
  - (2) Damage that requires major repair or replacement of a major component.

6. Missing: Fail to recover the wreckage of the ship or personnel at the conclusion of the search efforts as determined by the Taiwan Transportation Safety Board (hereinafter referred to as the TTSB).
7. Substantially interested state: A state in which a ship involved in a major marine occurrence is registered, a coastal state, a state that is under considerable environmental impact by the occurrence, the state in which dead or injured personnel have citizenship, a state with key information related to the occurrence investigation, and a state with a stake in the occurrence.
8. Accredited representative: After a marine occurrence arises, the individual who is officially appointed by a substantially interested state and is authorized to lead one or several advisors from the same state to assist the investigation of the occurrence conducted by the State of Occurrence or the state to which the investigation is delegated.
9. Duty officers: Refers to the person who alternately serves by the investigators of the TTSB, who are on duty 24 hours a day, and are responsible for handling notification of major marine occurrences
10. On-scene Investigator: A marine safety investigator who, after the TTSB learns of a major marine occurrence or an alleged major marine occurrence, is appointed by the TTSB to take charge of directing the go-team to carry out on-scene identification of the major marine occurrence and investigation-related operations, and whose mission shall terminate upon appointment of an Investigator-In-Charge.
11. On-Scene team: A temporary task force formed by investigators of the TTSB to carry out the identification of a major marine occurrence, on-scene inspection, and collection of occurrence-related information
12. Investigator-In-Charge: A marine safety investigator who, after a major marine occurrence arises, is designated by the TTSB pursuant to the Act to take charge of the investigation of the marine occurrence.
13. Investigation Task Force: An investigation team established by the Investigator-In-Charge pursuant to the Act, which shall, during the investigation, submit to the direction of the Investigator-In-Charge in conducting relevant operations.
14. Command Post of Investigation”: A place set up for the purposes of direction, control, communication, and logistic support for the implementation of on-scene investigation and conducting of such relevant operations as meetings and mission briefings for the investigation task force.
15. Voyage data recorder: Refers to the device that records the ship system, performance, and environmental parameters in the voyage recorder.

### Article 3

When a major marine occurrence mentioned in Paragraph 3, Article 6 of the Act arises outside the territory of Taiwan, upon receipt of invitation by the investigation authority of the State of Occurrence, the TTSB shall immediately designate an accredited representative and may invite the ship owner, operator, designer, and manufacturer and personnel at the ship classification society to which the ship is registered or at the Maritime and Port Bureau (MPB) of the Ministry of Transportation and Communications to form a team for investigation purposes.

## **Chapter 2 Notification of major marine occurrences**

### Article 4

According to Article 6 of the Act, after a major marine occurrence or an alleged major marine occurrence arises, the ship owner or their agent, operator, or captain; boat driver; the local government of the place of the occurrence; the management authority of the place of occurrence; the port management agency; the MPB; the Coast Guard Administration (CGA) of the Ocean Affairs Council; the Ministry of Science and Technology; the Ministry of Education; or the Council of Agriculture (COA) of the Executive Yuan shall, within the time limit specified in Article 9 of the Act, promptly notify the TTSB duty officers by telephone on present situations of the occurrence, fill out the major marine occurrence report form, and send the form to the TTSB by fax or email.

## **Chapter 3 Identification of major marine occurrences**

### Article 5

Upon receipt of any notification, the TTSB may, if it deems necessary, designate an on-scene investigator to lead an on-scene team to the scene of the occurrence and take any necessary actions for the identification of the occurrence. The ship owner, ship operator, the local government of the occurrence site, management authority of the occurrence site, port management agency, MPB, or CGA shall assist the onsite investigator in the investigation.

### Article 6

The TTSB shall base on the contents of the notification and the information gathered by the on-scene team, identify whether the subject event of the notification is a major

marine occurrence, and, if and when necessary, may form a review board to review the disputes arising out of the identification.

#### Article 7

The TTSB may, after deliberating upon the necessity of the investigation, terminate the investigation while the investigation is in process.

### **Chapter 4 On-scene Handling of major marine occurrences**

#### Article 8

An investigation identification card issued by the TTSB is required for the personnel of the on-scene team and the investigation task force to enter the occurrence site, shipwreck search area, storage area, reconstruction area, the command post of the investigation, port area, and other restricted areas related to the occurrence.

#### Article 9

After a major marine occurrence arises, the ship owner, ship operator, the local government of the place of occurrence, management authority of the place of occurrence, port management agency, MPB, CGA, Ministry of the Interior, Ministry of National Defense, Ministry of Science and Technology, Ministry of Education, and COA shall assist the investigation task force in their investigation and operations and in the following matters in accordance with their respective authorities:

1. Collect information regarding casualties,
2. Collect information regarding the damage to the ship,
3. Collect information regarding the site of the occurrence,
4. Conducting alcohol and drug tests on the ship crew,
5. Searching for the voyage data recorder and position of other ship recording devices,
6. Keep contact information of the ship crew and on-site witnesses and take down their statements,
7. Transporting evidence items and performing aerial reconnaissance, and
8. Collect other information that may facilitate the investigation.

#### Article 10

After a major marine occurrence arises, the local government, management authority, or port operator of the area where the event occurred, MPB or CGA shall, without

neglecting their statutory duties, provide spaces for the operations of the command post of the investigation, temporarily wreckage storage, as well as communications and office equipment.

The TTSB may request port management agencies and police departments to enforce necessary security maintenance and precautionary measures in the area where the occurrence occurred to prevent hazards to the safety of the general public caused by the wreckage of the ship or the dangerous goods on board as well as to avoid man-made destruction of the scene.

#### Article 11

Pursuant to the second paragraph of Article 12 of the Act, the ship operator or captain shall download the data from the voyage data recorder as soon as possible to ensure data integrity following the major marine occurrence or an alleged major marine occurrence.

#### Article 12

In the course of the investigation, the Ministry of the Interior, Ministry of National Defense, and Ministry of Transportation and Communications, coast guard authorities, local governments, or any other civilian enterprises deemed appropriate and entrusted by the TTSB may, as requested by the investigation task force, take such measures as aerial surveillance or photography, and notify the TTSB promptly of any information so collected.

#### Article 13

After a major marine occurrence arises, the investigation task force may request the Ministry of Economic Affairs, Ministry of Transportation and Communications, and Ministry of National Defense to furnish the layouts of public gas and fuel lines, diagrams of power transmission lines, markings information, and any other necessary data and charts to prevent derivative hazards.

#### Article 14

If any of the following situations are likely to occur, the management authority of the occurrence scene and TTSB may consent to necessary clearance of the scene of the major marine occurrence pursuant to Article 13 of the Act:

1. Derivative damage of the wreckage,

2. Derivative hazards,
3. Injury to the general public,
4. Environmental pollution, or
5. The malfunctioning of the port area or waterway.

## **Chapter 5 Investigation of major marine occurrences**

### Article 15

When a major marine occurrence mentioned in the first paragraph of Article 6 arises, the TTSB shall inform the substantially interested state as soon as possible.

### Article 16

The Investigator-In-Charge in implementing Article 11 of the Act, shall invite an investigation team composed of representatives and experts from the following authorities (organizations) to join the investigation task force if he or she deems it necessary:

1. The MPB,
2. The relevant authorities (organizations) of the occurrence,
3. The ship owner or operator,
4. The marine occurrence investigation agencies of the substantially interested state,  
and
5. Any other professional organization related to marine safety

Neither lawyers nor representatives from insurance companies may participate in the investigation task force.

### Article 17

If any person participating in the investigation referred to in the preceding article fails to obey any direction given by the Investigator-In-Charge or violates any matter contained in the commitment to confidentiality, the Investigator-In-Charge may suspend his or her participation in the operations of the investigation task force.

### Article 18

According to Article 20 of the Act, the accredited representatives from the marine occurrence investigation agencies of the substantially interested state may, upon

making a written confidentiality commitment and obtaining consent from the investigator-in-charge, engage in the following tasks:

Pursuant to Article 20 of the Act, the accredited representatives from the marine occurrence investigation agencies of the substantially interested state may, upon making a written confidentiality commitment and obtaining consent from the Investigator-In-Charge, may engage in the following tasks:

1. Visit the scene of the occurrence;
2. Examine the wreckage;
3. Interview the witnesses and get testimonies;
4. Examine the relevant evidence;
5. Receive copies of all pertinent documents;
6. Participate in readouts of the voyage data recorders;
7. Participating in off-scene investigative activities, such as; components examinations, technical briefings, tests, and simulations;
8. Participate in progress meetings including deliberations to analysis, findings, causes, and safety recommendations; and
9. Making recommendations as to the various investigation processes.

#### Article 19

Pursuant to Article 14 of the Act, the TTSB holds the priority in taking custody of any relevant evidence. In the course of the investigation, it may return to the authorities (organizations) concerned such evidence as is no longer required in the investigation.

After the Final Report is released, the TTSB shall promptly return the relevant evidence to the authorities (organizations) concerned such as the ship, wreckage, documents, and manuals.

In case of any involvement of death or injury of any person in a major marine occurrence, the TTSB may not return relevant evidence to the authorities (organizations) concerned until the prosecutorial authority gives its consent.

### **Chapter 6 Personnel Interviews**

#### Article 20

Prior to an interview, an interviewee may request a person to accompany him or her to the place where the interview is conducted. No supervisor, employer, lawyer, or insurance agent may so accompany the interviewee unless the TTSB gives its consent.

The person accompanying the interviewee may not enter the place where the interview is conducted unless he or she undertakes not to disclose the contents of the interview and not to interfere with the interview.

During the interview, the interviewee shall answer truthfully to any question presented to him or her by the TTSB's investigation task force. The accompanying person may not make any statement or interfere with or interrupt the interview, however, the interviewee may discuss the question with the accompanying person.

Prior to the interview, the supervisor or employer of the interviewee may not in any way affect the interviewee as to his or her statements concerning the facts, nor interfere with the interview.

No person may enter the place where the interview is conducted except those permitted by the investigation task force

After the interview, the interviewee may not disclose the contents of the interview.

#### Article 21

The public disclosure of recordings or records of the interview and any restricted documents with respect to any situation described in Articles 21 and 22 of the Act and the subparagraphs of the first paragraph of Article 18 of the Freedom of Government Information Law, shall be limited.

### **Chapter 7** Draft Final Report Review and Safety Recommendations

#### Article 22

The authorities (organizations) concerned, domestic or abroad, as well as any unit subjected to investigation, may file a written application for presenting their dissent at the Board meeting of the TTSB within fifteen (15) days after receipt of a Draft Final Report pursuant to the second paragraph of Article 24 of the Act.

#### Article 23

When a major marine occurrence of a ship registered in the ROC arises outside the territory of the ROC and the investigation is conducted by the State of Occurrence, the



authority (organization) concerned shall inform the TTSB in ninety (90) days after receipt of the safety recommendation issued by the State of Occurrence transmitted by the TTSB, of the preventive action taken or under consideration, if impracticable, detailed reasons shall also be stated.

To improve marine safety, the TTSB may refer to the final report issued by the State of Occurrence as mentioned in the preceding paragraph, and issue marine safety recommendations to government authorities.

### **Chapter 8 Supplementary provision**

#### Article 24

The Regulation shall become effective as of the date of promulgation.