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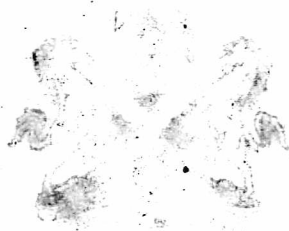
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<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
25	Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations, 2012	B 361-385

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MERCHANT SHIPPING ACT, 2007
MERCHANT SHIPPING (DANGEROUS OR NOXIOUS
LIQUID SUBSTANCES IN BULK) REGULATIONS, 2012



ARRANGEMENT OF REGULATIONS

Regulation :

PART I—OBJECTIVE AND APPLICATION

1. Objective
2. Application

PART II—CONSTRUCTION AND EQUIPMENT

3. Construction, equipment and operation

PART III—LOADING AND CARRIAGE

4. Loading and carriage in bulk of dangerous or noxious liquid substances

PART IV—DISCHARGE AND WASHING OF TANKS

5. Discharge of cargo tanks
6. Washing of Tanks

PART V—MANUALS AND RECORDS BOOK

7. Procedures and Arrangements Manual
8. Cargo Records Book

PART VI—MANAGEMENT OF NOXIOUS LIQUID SUBSTANCES

9. Shipboard Marine Pollution Emergency Plan
10. Survey requirements
11. Issue of appropriate Certificate
12. Responsibilities of Owner and Master of a ship
13. Use of equivalents and exemptions
14. Provision of reception facilities
15. Inspection and detention

PART VII—MISCELLANEOUS

16. Contraventions and Penalties
17. Restriction on Jurisdiction over offences committed outside Nigerian territorial limits
18. Defences
19. Suspension of proceedings at flag state request
20. Interpretation
21. Citation

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S. I. 25 of 2012

MERCHANT SHIPPING ACT, 2007

MERCHANT SHIPPING (DANGEROUS OR NOXIOUS LIQUID
SUBSTANCES IN BULK) REGULATIONS, 2012

{ 1st Day of June, 2012 }

Commence-
ment.

In exercise of the powers conferred on me by section 335 (1) and (3) and section 434 of the Merchant Shipping Act, 2007 and all other powers enabling me in that behalf, I, SENATOR IDRIS UMAR, Honourable Minister of Transport, hereby make the following Regulations :

PART I—OBJECTIVE AND APPLICATION

1. The objectives of these Regulations are to —

Objective.

(a) give effect in Nigeria to the MARPOL ANNEX II on the prevention of noxious liquid substances from chemical tankers and other relevant non-oil carrying vessels ;

(b) prohibit the loading and carriage in bulk of noxious liquid substances save in accordance with the provisions of these Regulations ; and

(c) set out detailed rules and operational guidelines for loading, discharge, tank washing, disposal of residues and ballasting of cargo tanks.

2.—(1) These Regulations shall apply to—

Application.

(a) all ships carrying in bulk noxious liquid substances or unassessed liquid substances ;

(b) Nigerian ships, wherever they may be ; and

(c) other ships, while they are within Nigerian waters.

(2) In the case of a ship registered in a State which is not a Party to the SOLAS or to the MARPOL Conventions, these Regulations (except for regulations 5, 13(3), 14 and 15) shall not apply by reason of being in Nigerian waters if it would not have been there but for stress of weather or any circumstances which could not have been prevented by the owner, the master or the charterer.

(3) Where a cargo subject to the provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations, 2012 is carried in a cargo space of an NLS tanker, the appropriate requirements of those Regulations shall also apply.

PART II—CONSTRUCTION AND EQUIPMENT

3.—(1) Every ship carrying in bulk noxious liquid substances or unassessed liquid substances shall comply with the provisions of Schedule 1 of these regulations.

Construction,
equipment
and
operation.

(2) Except as provided for in sub-regulation (3)(b) and (c) of this regulation, chemical tankers constructed before 1st July, 1986 shall be constructed, fitted, equipped, arranged and operated in accordance with relevant provisions of the BCH Code.

(3) Every ship specified in paragraphs (a), (b) or (c) below shall be constructed, equipped and operated in accordance with relevant provisions of the IBC Code—

(a) chemical tankers constructed on or after 1st July, 1986 ;

(b) ships converted to being chemical tankers on or after that date except oil tankers—

(i) which were built before that date ;

(ii) which are converted for the purpose of carrying pollution hazard substances only ;

(iii) the conversion of which consists only of modifications necessary for compliance with Chapter VA of the BCH Code; and

(c) (to the extent that the Agency considers reasonable and practicable) chemical tankers which were constructed before 1st July 1986, but have undergone repairs, alterations and modifications of a major character on or after, that date.

(4) Where a chemical tanker is constructed or adapted to carry substances listed in Chapter 19 of the IGC Code (whether or not such substances are listed in Chapter 17 of the IBC Code) then, to the extent that the requirements of the IBC and IGC Codes are inconsistent, the requirements of the IGC Code shall prevail.

PART III—LOADING AND CARRIAGE

Loading and carriage in bulk of dangerous or noxious liquid substances.

4. No ship shall load in bulk, or carry in bulk, any dangerous or noxious liquid substances or substances unless—

(a) there is in force in respect of that ship a valid INLS Certificate, a BCH Code Certificate, an IBC Code Certificate or an appropriate Certificate covering the substance in question; the loading and carriage of that substance is in accordance with the terms of that Certificate; or

(b) either the Agency or the government of a State Party to the SOLAS or MARPOL Conventions has given written permission for its carriage; and any conditions subject to which that permission was given are complied with; or

(c) where the substance is an oil-like substance—

(i) there is in force in respect of the ship a valid IOPP Certificate suitably endorsed for the substance in question ;

(ii) the loading and carriage of that substance is in accordance with the terms of that certificate ; and

(iii) it is handled and carried in accordance with Schedule 3 of these regulations.

PART IV—DISCHARGE AND WASHING OF TANKS

5. The discharge of any noxious liquid substance into the sea is prohibited, except where permitted by Schedule 2 to these Regulations.

Discharge of cargo tanks.

6. Tanks shall be washed, or prewashed, and the tank washings shall be dealt with, as prescribed in Schedule 2 to these Regulations.

Washing of Tanks.

PART V—MANUALS AND RECORDS BOOK

7.—(1) Every ship carrying noxious liquid substances shall be provided with the Procedures and Arrangements Manual which is in compliance with IMO Standards.

Procedures and Arrangements Manual.

(2) Such a manual shall be approved, in the case of a Nigerian ship, by the Agency, or in the case of a ship registered in a State Party to the MARPOL Convention by or on behalf of the government of that State.

(3) The Procedures and Arrangements Manual shall be kept on board the ship in such a place as to be readily available for inspection.

(4) The Procedures and Arrangements Manual shall, in the case of a Nigerian ship, be in English and, in the case of any other ship, be in, or include a translation into English or French.

8.—(1) Every ship carrying noxious liquid substances shall be provided with a Cargo Records Book in the form specified in Annex II of the Convention as shown in Schedule 3 to these Regulations.

Cargo Records Book.

(2) Whenever any of the following operations takes place in respect of any noxious liquid substance, a record of the operation shall be made in the Cargo Records Book in relation to each tank affected by the operation—

- (a) loading of cargo ;
- (b) internal transfer of cargo ;
- (c) unloading of cargo ;
- (d) cleaning of cargo tanks ;
- (e) ballasting of cargo tanks ;
- (f) discharge of ballast from cargo tanks ;
- (g) disposal of residues to reception facilities ;
- (h) discharge of residues into the sea in accordance with Schedule 2 to these Regulations ;
- (i) removal of residues by ventilation.

(3) In the event that any emergency discharge of the kind referred to in paragraph 13 of Schedule 2 of any noxious liquid substance or mixture containing such a substance is made or occurs, an entry shall be made without delay in the Cargo Records Book stating the circumstances and the reason for the discharge.

(4) The entries in the Cargo Records Book, in the case of a Nigerian ship shall be in English and, in the case of any other ship in the official language of the State in which the ship is registered and, where that language is neither English nor French, in English or French and each entry shall be signed by the officer or officers in charge of the operation and each page shall be signed by the master.

(5) The Cargo Records Book shall be kept in such a place as to be readily available for inspection and, except in the case of unmanned ships under tow, shall be kept on board the ship.

(6) The Cargo Records Book shall be retained on board the ship for a period of three years after the last entry in it has been made.

PART VI—MANAGEMENT OF NOXIOUS LIQUID SUBSTANCES

Shipboard
Marine
Pollution
Emergency
Plan.

9.—(1) Every ship of 150 gross tonnage and above certified to carry noxious liquid substances in bulk shall carry a shipboard marine pollution emergency plan for noxious liquid substances approved by the Agency.

(2) The plan referred to in sub-regulation (1) above shall be based on Guidelines as may be developed by the International Maritime Organisation from time to time and issued by the Agency or the flag state of the ship (as the case may be) and shall consist of—

(a) the procedure to be followed by the master or other persons having charge of the ship to report a noxious liquid substances pollution incident ;

(b) the list of authorities or persons to be contacted in the event of a noxious liquid substances pollution incident ;

(c) a detailed description of the action to be taken immediately by the persons on board to reduce or control the discharge of noxious liquid substances following the incident ; and

(d) procedures and point of contact on the ship for coordinating shipboard and shore action in the event of an incident.

Survey
requirements.

10.—(1) The structure, equipment, systems, fittings, arrangements and materials (other than items in respect of which a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Radiotelegraphy Certificate or a Cargo Ship Safety Radiotelephony Certificate is issued) of a ship to which these Regulations apply shall be subjected to the following surveys—

(a) an initial survey before the appropriate Certificate is issued for the first time, which shall include a complete examination of its structure, equipment, systems, fittings, arrangements and materials in so far as the ship is covered by the appropriate Regulation to ensure that the structure, equipment, systems, fittings, arrangements and materials comply with the applicable provisions of the appropriate Regulation ;

(b) a periodical survey at intervals not exceeding five years which shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and materials comply with the applicable provisions of the appropriate Regulation ;

(c) a minimum of one intermediate survey during the period of validity of the appropriate Certificate; in cases where only one such intermediate survey is carried out in any one certificate validity period, it shall be held not before six months prior to, nor later than six months after, the half-way date of the certificate's period of validity; intermediate surveys shall be such as to ensure that the equipment and associated pumps and piping systems comply with the applicable provisions of the appropriate Regulation and are in good working order; and shall be so endorsed by the surveyor on the appropriate Certificate;

(d) an annual survey within three months before or after the anniversary date of the appropriate Certificate which shall include a general examination to ensure that the structure, equipment, systems, fittings, arrangements and materials remain in all respects satisfactory for the service for which the ship is intended, and shall be so endorsed by the surveyor on the appropriate Certificate;

(e) an additional survey, either general or partial according to the circumstances, shall be made when it has been determined under regulation 12(1)(c) to be necessary, or whenever any important repairs or renewals are made so as to—

- (i) ensure that the necessary repairs or renewals are effectively made,
- (ii) the materials and workmanship of such repairs or renewals are satisfactory, and
- (iii) that the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment ;

provided that a record of such survey shall be endorsed by the surveyor on the appropriate Certificate, stating that on completion of the survey the ship complied with the relevant provisions of appropriate Regulation.

(2) Every such survey in the case of a Nigerian ship shall be carried out by a surveyor appointed by the Agency.

11.—(1) Upon satisfactory completion of an initial or periodical survey by a Surveyor appointed by the Agency, the Agency shall issue an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to a ship which complies with the relevant regulations and any such certificate shall be issued for a period not exceeding 5 years from the date of issue.

Issue of
Appropriate
Certificate.

(2) A Certificate shall cease to be valid—

(a) if any survey required by regulation 10(1)(c) or (d) is not completed within the period specified for that survey ; or

(b) if any survey required by regulation 10(1)(e) is not completed within such reasonable time as the surveyor may specify ; or

(c) upon transfer of the ship to a registry in another State.

(3) In either of the cases specified in sub-regulation (2)(a) or (b), the owner shall deliver up the certificate issued in relation to the ship to the Agency on demand.

(4) In the case of a ship which has transferred from a registry in another State Party to the Convention to the Nigerian registry and the Agency is satisfied that—

(a) the ship has been subjected to a satisfactory initial or periodical survey and to any intermediate, annual or additional surveys required ;

(b) the ship was issued by or on behalf of the government of that other State with an appropriate Certificate which would, but for the change of registry, have remained valid ;

(c) the condition of the ship and its equipment has been maintained in conformity with the provisions of these Regulations ; and

(d) since completion of the surveys referred to in paragraph (a), no change has been made in the structure, equipment, systems, fittings, arrangements and materials covered by those surveys without the sanction of the government of that other State except by direct replacement ;

the Agency may, subject to such requirement as to survey or otherwise as it may think fit and notwithstanding the provisions of regulation 9(2), of these Regulations issue to that ship an appropriate Certificate for a period to be determined by the Agency, but expiring not later than the expiry date of the Certificate referred to in paragraph (b).

(5) The appropriate Certificate shall be kept on board the ship and shall be available for inspection at all reasonable times.

Responsibilities of owner and master of a ship.

12.—(1) The owner and master of every ship to which these Regulations applies shall ensure that—

(a) the condition of the ship and its equipment shall be maintained so as to conform to the appropriate Regulations ;

(b) after any survey of the ship required by these Regulations has been completed, no material change shall be made to the structure, equipment, fittings, arrangements and materials which were subject to the survey, without the approval of the Agency except by direct replacement ;

(c) whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety or integrity of the ship, the safety of the crew or the efficiency or completeness of the equipment required by these Regulations—

(i) it shall be reported at the earliest opportunity to the Agency ; and

(ii) if a Nigerian ship in a port outside Nigeria, it shall be reported immediately to the appropriate authority of the country in which the port is situated.

(2) Whenever an accident or defect is reported to the Agency under sub-regulation (1) (c) of this regulation, the Agency shall cause investigations to be initiated to determine whether a survey by a surveyor is necessary and shall, as appropriate require such a survey to be carried out.

(3) This regulation applies to—

(i) Nigerian ships ; and

(ii) other ships which have been surveyed pursuant to these Regulations, except as regards the provisions of sub-regulation (1)(a) of this regulation.

13.—(1) Where a regulation requires that—

(a) a particular fitting, material, appliance, apparatus, item of equipment or type thereof should be fitted or carried in a ship.

(b) any particular provision should be made, or

(c) any procedure or arrangement should be complied with,

the Agency shall allow any other fitting, material, appliance, apparatus, item of equipment or type thereof to be fitted or carried, or any other provision, procedure or arrangement to be made in that ship, if it is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or that any particular provision, procedure or arrangement is at least as effective as that required by the appropriate Regulations.

(2) The results of tests and certificates relating to them, carried out by an inspection and control body or a laboratory which is officially recognised in another Convention State offering independent and professional technical guarantees which are suitable and satisfactory shall be considered equivalent.

(3) The Agency may exempt any ship or class or description of ship from any of the requirements of these Regulations, subject to such conditions as it may specify, and may alter or cancel any exemption so granted.

14.—The Agency shall as far as is practicable, ensure the provision of reception facilities to meet the needs of ships using Nigerian ports, terminals or repair yards as follows—

(a) ports and terminals involved in ships' cargo handling shall have adequate facilities for the reception of residues and mixtures containing such residues of noxious liquid substances resulting from compliance with these regulations, without undue delay for the ships involved ;

(b) ship repair yards undertaking repairs to ships to which these regulations apply shall provide facilities adequate for the reception of residues and mixtures containing noxious liquid substances for ships calling at that yard.

Use of
equivalents
and
exemptions.

Provision of
reception
facilities.

15.—(1) A ship to which these Regulations apply shall be subject, in any Nigerian port, to inspection by surveyors who have been appointed by the Agency.

(2) Any such inspection shall be limited to verifying that there is on board in relation to that ship a valid certificate referred to in regulation 11 of these Regulations or a valid INLS Certificate unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate.

(3) The inspector may investigate any operation regulated by these Regulations if there are clear grounds for believing that the master or crew are not familiar with essential ship board procedures for preventing pollution by a substance referred to in regulation 2(1), or that the condition of the ship does not correspond with the particulars of the certificate further to an inspection under sub-regulation (2) of this regulation.

(4) In an investigation referred to in sub-regulation (3) of this regulation, the inspector shall verify that operations in a ship to which these regulations apply have been carried out as stipulated, particularly in respect of—

(a) construction and equipment as required under Schedule 1 to these Regulations ;

(b) discharging and washings as required under Schedule 2 to these Regulations ;

(c) carriage of oil-like substances as required under Schedule 3 to these Regulations ;

and shall make entries as appropriate in the Cargo Records Book.

(5) In the event of any such inspection revealing deficiencies, the inspector shall take such steps as he may consider necessary to ensure that the ship will not sail until the situation has been brought to order.

(6) In any case where a ship does not comply with these Regulations, the ship shall be liable to be detained.

(7) Where the steps taken by an inspector under sub-regulation (2) of this regulation involve detention of the ship, or in the event of detention under sub-regulation (6) of this regulation, then section 414 of the Merchant Shipping Act, 2007 (which relates to the detention of a ship) shall have effect in relation to the ship,

(8) Where a ship other than a Nigerian ship is detained pursuant to sub-regulation (6) of this regulation, the Agency shall immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

PART VII—MISCELLANEOUS

16.—(1) Where there is any contravention of these Regulations, the owner and master of the ship commits an offence and each shall be liable on summary conviction to a fine of not less than ₦5,000,000.00.

Contraven-
tions and
penalties.

(2) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to ensure that the regulations in question were complied with

17.—(1) No proceedings for an offence of contravening regulation 5 of these Regulations by a ship which is not a Nigerian ship, which relates to a discharge in the internal waters, territorial waters or exclusive zone of another State shall be instituted unless—

Restriction
on
Jurisdiction
over
offences
committed
outside
Nigerian
territorial
limits.

(a) that State, the Flag State or a State affected by the damage or threatened by the discharge requests that proceedings be taken; or

(b) the discharge has caused or is likely to cause pollution in Nigerian waters.

(2) Where proceedings for an offence of contravening regulation 5 of these Regulations by a ship which is not a Nigerian ship which relates to a discharge in the internal waters, territorial sea or exclusive economic zone of another State have been instituted but not concluded, and that State requests suspension of the proceedings, then—

(a) the proceedings shall be suspended; and

(b) the Agency shall transmit all the evidence, court records and documents relating to the case to that State.

18. It shall be a defence to a charge of contravening regulation 5 for the defendant to show that—

Defences.

(a) the ship is not a Nigerian ship;

(b) the discharge took place outside Nigerian waters; and

(c) the ship was in a port in Nigeria at the time of institution of proceedings by reason only of stress of weather or other reason beyond the control of the master or charterer.

19.—(1) This regulation relates to an alleged offence of contravening regulation 5 by a ship which is not a Nigerian ship, in relation to a discharge beyond the Nigeria's waters.

Suspension
of
proceedings
at flag State
request.

(2) Any proceedings for such an offence shall be suspended if the Court is satisfied that the Flag State has instituted proceedings corresponding to the proceedings in Nigeria in respect of the discharge, within six months of the institution of proceedings in the Nigeria.

(3) Sub-regulation (2) of this regulation shall not apply—

(i) where the discharge resulted in major damage in Nigeria ; or

(ii) the Agency certifies that the Flag State has repeatedly disregarded its obligation to enforce effectively the requirements of the Convention in respect of its ships.

(4) Where proceedings instituted by the Flag State have been brought to a conclusion, the suspended proceedings shall be terminated.

Interpre- tation.

20.—(1) In these Regulations and the Schedules thereto—

“*Annex II*” means Annex II of the MARPOL Convention (which sets out regulations for the control of pollution by noxious liquid substances) ;

“*appropriate Certificate*” means the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk as the case may be ;

“*appropriate Regulation*” means the BCH Code or the IBC Code

“*BCH Code*” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the International Maritime Organization by resolution MEPC.20(22) ;

“*BCH Code Certificate*” means a certificate of compliance with the BCH Code ;

“*Cargo Ship Safety Construction Certificate*”, “*Cargo Ship Safety Equipment Certificate*”,

“*Cargo Ship Safety Radiotelegraphy Certificate*” and “*Cargo Ship Safety Radiotelephony Certificate*” means respectively the certificates so entitled issued in accordance with the SOLAS Convention ;

“*controlled waters*” means the territorial waters and exclusive economic zone of Nigeria as designated in the Territorial Waters Act and the Exclusive Economic Zone Act ;

“*Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk*” means, in relation to a Nigerian ship, a certificate issued pursuant to regulation 9 and, in relation to any other ship, a certificate issued in accordance with Chapter 1 of the BCH Code by or on behalf of the government of the State in which the ship is registered ;

“*chemical tanker*” means a self-propelled cargo ship constructed or adapted and used for the carriage in bulk of any liquid substance listed in Chapter 17 of the IBC Code but does not include an offshore support vessel or a dry cargo ship with deep tanks ;

“*constructed*” means the date when the keel of a ship is laid or the building is at a similar stage of construction; and “*similar stage of construction*” means the stage at which—

(a) construction identifiable with a specific ship begins ; and

(b) assembly of that ship has commenced, comprising at least 50 tonnes of 1 per cent. of the estimated mass of all structural material, whichever is the less ;

"dangerous substance" means a substance listed in Chapter 17 of the IBC Code having against it in column "d" an entry "S" ;

"IBC Code" means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the International Maritime Organization by resolution MEPC.19(22) ;

"IBC Code Certificate" means a certificate of compliance with the IBC Code ;

"IGC Code" means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, published by the International Maritime Organization ;

"in bulk" means directly and without intermediate form of containment in a tank forming an integral part of, or permanently located in or on, a ship ;

"International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk" means, in relation to a Nigerian ship, a certificate issued pursuant to regulation 9 and, in relation to any other ship, a certificate issued in accordance with Chapter 1 of the IBC Code by or on behalf of the government of the State in which the ship is registered ;

"INLS Certificate" means an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under Annex II and, in the case of a Nigerian ship, in accordance with regulation 9 in the form set out in Annex II ;

"IMO" means the International Maritime Organization ;

"IMO Standards" means the Standards for Procedures and Arrangements for the Discharge of Noxious Liquid Substances adopted by the Marine Environment Protection Committee of the International Maritime Organisation by Resolution MEPC 18(22) on 5th December 1985 ;

"IOPP Certificate" means an International Oil Pollution Prevention Certificate issued in accordance with Annex I of the MARPOL Convention ;

"Marine Notice" means a Notice described as such and issued by the Nigerian Maritime Administration and Safety Agency ;

"MEPC Circular" means a circular of that description issued by the Marine Environment Protection Committee of the International Maritime Organisation ;

"noxious liquid substance" means any substance indicated in the Pollution Category column of chapter 17 or 18 of the International Bulk Chemical Code ;

"oil-like substance" means a substance listed as such in MEPC Circular 2/ CIRC.1 or provisionally assessed as an oil-like substance ;

"oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier when it is carrying a cargo or part cargo of oil in bulk ;

"pollution hazard substance" means a substance listed in Chapter 17 of the IBC Code having against it in column "d" an entry "P" ;

"provisionally assessed" means, in relation to a substance of a particular category or a non-polluting substance or an oil-like substance, listed as such in MEPC Circular 2/CIRC.1 and there-in identified as a substance falling into that category or as a non-polluting substance or as an oil-like substance as the case may be ;

"residual mixture" means, in relation to any category of noxious liquid substances, ballast water, tank washings or other mixtures containing residues of a noxious liquid substance of such category, but excludes clean ballast ;

"ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, hovercraft, submersibles and floating craft and also fixed or floating platforms ;

"the Agency" means the Nigerian Maritime Administration and Safety Agency (NIMASA) ;

"the MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended ;

"the SOLAS Convention" means the International Convention for the Safety of Life at Sea, 1974, as amended ;

"tripartite agreement" means an agreement between Administrations for the carriage of unassessed liquid substances in accordance with MEPC Circular 265 ;

"unassessed liquid substance" means a liquid substance which is neither a noxious liquid substance nor a non-polluting substance and is not oil as defined in the Merchant Shipping (Prevention of Oil Pollution) Regulations 2012 ;

(2) Any reference in these Regulations to any of the following—

- (a) the BCH Code ;
- (b) the IBC Code ;
- (c) the IGC Code ;
- (d) an MEPC Circular ;
- (e) the MARPOL Convention ;
- (f) the SOLAS Convention; and
- (g) a Marine Notice ;

shall include a reference to any document amending it which is considered by the Agency to be relevant from time to time and is specified in a Marine Notice.

(3) In interpreting the IBC Code and the BCH Code—

(a) the provisions of the BCH Code and IBC Code having been made mandatory under regulation 4(2) and (3) of this regulation respectively the language thereof shall be construed accordingly ;

(b) references to the Administration shall, in relation to Nigerian ships, be references to the Nigerian Maritime Administration and Safety Agency; and references to the Port Administration shall in relation to all ships in Nigerian waters be references to the Nigerian Ports Authority ;

(c) any reference to the 1974 SOLAS Convention shall be a reference to the SOLAS Convention as defined in these Regulations.

21. These Regulations may be cited as the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations, 2012. Citation.

SCHEDULES

List of
Schedules.

- 1.—(a) Schedule 1 : Construction and Equipment
- (b) Schedule 2: Discharge and Washing of Tanks
- (c) Schedule 3: Oil-like Substances

Interpreta-
tion.

- 2.—(1) In these Schedules—

“*clean ballast*” means ballast carried in a tank which, since it was last used to carry a noxious liquid substance in bulk, has been thoroughly cleaned and the residues resulting therefrom have been discharged and the tank emptied in accordance with Schedule 2 ;

“*IOPP Certificate*” means an International Oil Pollution Prevention Certificate issued in accordance with Annex I of the MARPOL Convention and, in the case of a Nigerian ship pursuant to the Merchant Shipping (Prevention of Oil Pollution) Regulations 2012 ;

“*liquid substance*” means a substance having a vapour pressure not exceeding 2.8 bar at a temperature of 37.8 degrees C ;

“*Surveyor*” means a Surveyor appointed by the Agency or by or on behalf of the government of a State Party to the MARPOL Convention ;

“*nearest land*”, in relation to all land other than the part of Australia specified below,

“*from the nearest land*” means from the baseline from which the territorial sea of any territory is established in accordance with the United Nations Convention on the Law of the Sea, 1982 (b) ; and in relation to the part of the north-eastern coast of Australia which lies between the points 11° 00'S, 142° 08'E, and 24° 42'S, 153° 15'E ; “*from the nearest land*” means from the nearest of the straight lines joining consecutively the following points – 11°00'S, 142°08'E; 10°35'S, 141°55'E; 10°00'S, 142°00'E; 9°10'S, 143°52'E ; 9°00'S, 144°30'E; 13°00'S, 144°00'E ; 15°00'S, 146°00'E; 18°00'S, 147°00'E ; 21°00'S, 153°00'E and 24°42'S, 153°15'E ;

“*oil-like substance*” means a substance listed as such in MEPC Circular 2/ Circ.1 or provisionally listed as an oil-like substance;

“*pre-washed*” means washed in accordance with the relevant pre-wash procedures specified in the ship's Procedures and Arrangements Manual ;

“*Procedures and Arrangements Manual*” means a manual complying with the requirements of regulation 7(1) ;

“*reception facilities*” means a tank or similar facility provided at a port or place for the reception of residual mixtures or other liquid wastes containing noxious liquid substances ;

“*sea*” includes all waters navigable by sea-going ships ;

“*segregated ballast*” means ballast water introduced into a tank which is permanently allocated to the carriage of ballast or to the carriage of ballast or

cargoes other than oil or noxious liquid substances and which is completely separated from the cargo pumping and piping system and from the fuel oil pumping and piping system ;

"ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, hovercraft, submersibles and floating craft and also fixed or floating platforms except when they are actually engaged in exploration or exploitation of the sea-bed or associated offshore processing of sea-bed mineral resources ;

"Special Area" means the Baltic Sea area, the Black Sea area or the Antarctic Sea area, defined as follows—

(a) *"the Baltic Sea area"* means the Baltic Sea with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8'N ;

(b) *"the Black Sea area"* means the Black Sea with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41°N ; and

(c) *"Antarctic Sea area"* means the sea area south of latitude 60°S ;

(2) a reference to a numbered regulation is, unless otherwise stated, a reference to the regulation of that number in the Merchant Shipping (Dangerous or Noxious Liquid Substances) Regulations 2012 ;

(3) a reference to a numbered paragraph is, unless otherwise stated, a reference to that paragraph of that number in the Schedule ;

(4) a reference to a numbered Schedule, is unless otherwise stated a reference to the Schedule of that number in this Schedule.

SCHEDULE 1

(Regulation 3(1))

CONSTRUCTION AND EQUIPMENT

Pumping
arrangements.

1. In every ship constructed on or after 1st July 1986 the pumping and piping arrangements serving any tank designated for the carriage of a Category B substance or a Category C substance shall be such that, if the tank were filled with water and pumped out under favourable pumping conditions, the quantity of residue retained in the tank's associated piping and in the immediate vicinity of the tank's suction point would not exceed—

(a) in the case of a tank designated for the carriage of a Category Y substance, 0.1 cubic metres ; or

(b) in the case of a tank designated for the carriage of a Category Z substance, 0.3 cubic metres.

2. In every ship constructed before 1st July 1986 the pumping and piping arrangements serving any tank designated for the carriage of a Category Y substance or a Category Z substance shall be such that if the tank were filled with water and pumped out under favourable pumping conditions, the quantity of residue retained in the tank's associated piping and in the immediate vicinity of the tank's suction point would not exceed—

(a) in the case of a tank designated for the carriage of a Category Y substance, 0.3 cubic metres ; or

(b) in the case of a tank designated for the carriage of a Category Z substance, 0.9 cubic metres.

3. The Agency may exempt from any of the requirements of this Schedule any ship which is so constructed and operated that—

(a) ballasting of cargo tanks is not required ; and

(b) cargo tank washing is required only for the purposes of repair or dry docking ; subject to such conditions as he thinks fit.

4. An exemption granted in accordance with Regulation 5A(6) or (7) of Annex II to the MARPOL Convention by or on behalf of a State Party to the MARPOL Convention to a ship registered in that State shall be treated as equivalent to an exemption granted by the Agency.

Equipment
and
arrangements.

5. Every ship shall be provided with the equipment and arrangements identified in its Procedures and Arrangements Manual and, where such manual does not comply with regulation 7, with any other equipment and arrangements required to conform to the IMO Standards.

RULE 2

(Regulation (2) and (3))

DISCHARGE AND WASHING OF TANKS

1. In respect of the Antarctic area any discharge into the sea of any noxious liquid substances is prohibited.

Antarctic area.

2. The discharge into the sea of a Category X substance is prohibited.

Category X substances—discharge.

3.—(1) A tank from which a Category X substance has been unloaded shall be washed before the ship leaves the port of unloading.

Category X substances—tank washing in all areas.

(2) The resulting tank washings shall be discharged into a reception facility at that port and washing and discharge, shall, subject to paragraph (5), continue until the washings at the point of discharge into the reception facility are at or below the concentration prescribed for the substance in question—

(a) outside Special Areas, 0.1 per cent by weight and until the tank is empty, with the exception of phosphorous, yellow or white, for which the residual concentration shall be at 0.01 per cent by weight; or

(b) inside Special Areas, 0.05 per cent by weight and until the tank is empty, with the exception of phosphorous, yellow or white, for which the residual concentration will be at 0.005 per cent by weight.

(3) After the tank washings at the point of discharge into the reception facility reach a level of concentration at or below the prescribed concentration, discharge from the tank shall be continued until the tank is empty.

(4) The level of concentration of the Category X substance in the washings at the point of discharge shall be ascertained by analysis of samples taken at that point and verified by a duly appointed surveyor or, where there is no such surveyor at that port, by the master.

(5) Where a duly appointed surveyor at the port of unloading, or where there is no such surveyor at that port, the master is satisfied that it is not practicable to measure such level of concentration without undue delay to the ship at that port, the requirements of paragraph (2) shall be sufficiently complied with if—

(a) the tank is pre-washed in accordance with the procedures specified for that tank and substance in the Procedures and Arrangements Manual; and

(b) the MARPOL surveyor at the port of unloading or, where there is no MARPOL surveyor at that port, the master, records in the Cargo Record Book that—

(i) the tank and its pumps and piping systems have been emptied; and

(ii) the pre-wash has been carried out in accordance with the pre-wash procedure approved for that tank and that substance in the ship's Procedures and Arrangements Manual; and

(iii) the tank washings resulting from such pre-wash have been discharged to a reception facility and the tank is empty.

**Category X
residual
mixtures—
discharge.**

4. The discharge into the sea of a Category X residual mixture is prohibited except where all the following conditions are satisfied—

(a) the effluent consists solely of water added to the tank after it has been emptied in accordance with paragraph 3(3) or 3 (5) ;

(b) the ship is proceeding at a speed of at least 7 knots in the case of a self-propelled ship or at least 4 knots in the case of a ship which is not self-propelled ;

(c) the discharge is made below the water line ; and

(d) the discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

**Category Y
and Z
substances—
discharge.**

5. The discharge into the sea of a Category Y or Category Z substance is prohibited.

**Category Y
and Z -
unloading in
all areas.**

6. Whenever a Category Y substance or a Category Z substance is unloaded, unloading shall if possible be carried out in accordance with the relevant provisions of the ship's Procedures and Arrangements Manual.

**Category Y
and Z - tank
washing
outside
Special
Areas.**

7. Where a Category Y substance or a Category Z substance is unloaded, at a port which is not within a Special Area, then -

(a) if it is impossible for unloading to be carried out in accordance with paragraph 6 or to the satisfaction of a duly appointed surveyor; or

(b) in any case where the substance in question is a high residue substance ; every tank from which such substance has been unloaded shall be pre-washed and the resulting tank washings shall be discharged into a reception facility at the port of unloading.

**Category Y -
tank washing
in Special
Areas.**

8. Where a Category Y substance is unloaded at a port in a Special Area, every tank from which such substance has been unloaded shall be pre-washed and the resulting tank washings shall be discharged into a reception facility at the port of unloading unless—

(a) unloading was carried out as required by paragraph 6 or to the satisfaction of a duly appointed surveyor ;

(b) the substance is not a high residue substance ; and

(c) the residues are to be retained on board for discharge outside a Special Area.

**Category Z -
tank washing
in Special
Areas.**

9. Where a Category Z substance is unloaded at a port in a Special Area every tank from which such substance has been unloaded shall be pre-washed and the resulting tank washings shall be discharged to a reception facility at the port of unloading unless—

(a) unloading was carried out as required by paragraph 6 or to the satisfaction of a duly appointed surveyor ; and

(b) either—

(i) the substance is a Category Z substance identified in the ship's Procedures and Arrangements Manual as likely to result in a residue quantity from any one tank which does not exceed one cubic metre or 1/3,000th of the capacity of that tank, whichever is the greater; or

(ii) the substance is not a high residue substance and the residues are to be retained on board for discharge outside a Special Area.

10.—(1) The discharge into the sea of a Category Y residual mixture or a Category Z residual mixture is prohibited except where all the following conditions are complied with —

Category Y
and Z
residual
mixtures-
discharge.

(a) all relevant requirements of paragraphs 6, to 9 have been complied with ;

(b) the concentration of the substance in, and the rate of discharge of, the effluent is in accordance with the procedures and arrangements specified in respect of substances of the category in question in the ship's Procedures and Arrangements Manual ;

(c) the ship is proceeding at a speed of at least 7 knots in the case of a self-propelled ship or at least 4 knots in the case of a ship which is not self-propelled ;

(d) the discharge is made below the water line ;

(e) the discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres; and

(f)—(i) if the ship is in a Special Area and the substance in question is a Category Y substance, the tank from which the discharge is made has been pre-washed (whether or not such pre-wash was required by paragraph 8) in accordance with the procedure specified in the ship's Procedures and Arrangements Manual for the substance in question and the resulting tank washings have been discharged to a reception facility ; or

(ii) if the ship is in a Special Area and the substance is a Category Z substance the maximum quantity of the substance discharged from any one tank and its associated piping system does not exceed the maximum quantity approved in the ship's Procedures and Arrangements Manual for discharge of Category Z substances in a Special Area.

(2) Where a tank which contained a Category Y or Category Z residual mixture has been emptied by a discharge made in accordance with paragraph (1), water thereafter added to that tank may be discharged notwithstanding that the ship is not proceeding as required by subparagraph (1)(c), provided that all the other requirements of paragraph (1) are complied with.

Unassessed
liquid
substances –
discharge.

11. The discharge into the sea of any unassessed liquid substance carried in bulk, or of a residual mixture containing any such substance, is prohibited except where –

- (a) the Agency has given its written approval to its carriage; and
- (b) any conditions relating to its discharge are subject to which that approval was given are complied with.

Clean and
segregated
ballast and
non-
polluting
liquid
substances –
Discharge.

12. Nothing in this Schedule shall prohibit the discharge of clean ballast, segregated ballast or any non-polluting substance.

Emergency
discharges.

Paragraphs 1, 2, 4, 5 and 10 to 13 shall not apply to any discharge into the sea of a polluting liquid substance or unassessed liquid substance or mixture containing any such substance –

- (a) which is necessary for the purpose of securing the safety of a ship or its crew at sea; or
- (b) which results from damage to a ship or its equipment, provided that—
 - (i) all reasonable precautions were taken after the occurrence of the damage or discovery of the damage to prevent or minimise the discharge; and
 - (ii) neither the owner nor the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
- (c) where the substance or mixture in question is approved by the Agency for use in combating specific pollution incidents in order to minimise the damage from pollution and the discharge is made with the approval of the Agency or, if the discharge is to be made in waters within the jurisdiction of a state other than Nigeria, with the approval of the government of that state.

Pollution -
categories
X and Z.

14. Notwithstanding the provisions of regulation 4(2) and paragraphs 1 to 10 any tank from which a Category X or Category Y or Category Z substance has been unloaded shall not be required to be washed and the resulting washings discharged before the ship leaves the port of unloading as required by those paragraphs if a duly appointed surveyor at the port of unloading certifies that the ship from those paragraphs on one of the following grounds –

- (a) the tank is to be re-loaded with the same substance or a substance compatible with it and the tank will not be washed or cleaned before such reloading; or
- (b)—(i) the tank is neither to be washed nor ballasted at sea; and

(ii) the requirements for washing and discharge will be complied with in respect of that tank at another port ; and

(iii) it has been confirmed in writing to the satisfaction of the Agency, or if the port is not in Nigeria, to the satisfaction of the government or other proper authority of the state in which the port is situated, that an adequate reception facility will be available for the purpose at that other port ; or

(c) the substance is one for which cleaning by ventilation is stated to be appropriate and the ship's Procedures and Arrangements Manual or is approved by the Agency.

SCHEDULE 3

(Regulation 4)

OIL-LIKE SUBSTANCES

Notwithstanding the provisions of regulation 5 and paragraph 1 to 10 of Schedule 2 an oil-like substance may be carried on an oil tanker and discharged in accordance with the Merchant Shipping (Prevention of Oil Pollution) Regulations 2012 provided that—

(a) the ship complies with the requirements of those regulations applicable to product carriers as therein defined (oil tankers engaged in the trade of carrying oil other than crude oil); and

(b)—(i) where the substance in question is a Category Z substance and the ship was constructed on or after 1st July 1986, it complies with the damage stability requirements for a Type 3 ship specified in the IBC Code; or

(ii) where the substance in question is a Category Z substance and the ship is—

(aa) a ship for which the building contract was placed on or after 2nd November 1973 and which is engaged wholly or partly on voyages to ports or terminals under the jurisdiction of States parties to the MARPOL Convention other than the State in which the ship is registered; or

(bb) a Nigerian ship constructed on or after 1st July 1983 engaged solely on voyages between ports or terminals in Nigeria, it complies with the damage stability requirements for a Type 3 ship specified in the BCH Code; and

(c) the oil content meter in the ship's oil discharge and monitoring system required by the Merchant Shipping (Prevention of Oil Pollution) Regulations 2012 is approved by the Agency, or by or on behalf of the government of the State in which the ship is registered, for use in monitoring the concentration of the substance in question; and

(d) the ship carries an IOPP Certificate with the supplement thereto entitled "Record of Construction and Equipment for Oil Tankers"; and

(e) the IOPP Certificate is endorsed by the Agency, or by or on behalf of the government of the State in which the ship is registered, to indicate the oil-like substances which the ship is permitted to carry, and the substance in question is included in that endorsement.

MADE at Abuja this 1st day of June, 2012.

SENATOR IDRIS UMAR,
Honourable Minister of Transport.

EXPLANATORY NOTE

(This note does not form part of the these Regulations but is intended to explain their purport)

These Regulations give effect in Nigeria to the MARPOL ANNEX II with focus on harmful and noxious liquid substances emitted from chemical tankers and other relevant non-oil carrying vessels. It expressly prohibits the loading and carriage in bulk of noxious liquid substances outside the stipulations of these Regulations. Enforcement is through a robust inspection and detention regime.

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THIS WEEK'S CONTENTS
CONTENTS

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
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