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MERCHANT SHIPPING ACT, 2007

**MARINE ENVIRONMENT (OIL POLLUTION PREPAREDNESS,
RESPONSE AND CO-OPERATION CONVENTION) REGULATIONS, 2012**



ARRANGEMENT OF REGULATIONS

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SCHEDULES

MERCHANT SHIPPING ACT, 2007
MERCHANT SHIPPING (OIL POLLUTION PREPAREDNESS,
RESPONSE AND CO-OPERATION CONVENTION) REGULATIONS,
2012

	[1 st day of June. 2012]	Cornence- ment.
	In exercise of the powers conferred on me by sections 335 (1) and (3) of section 434 of the Merchant Shipping Act, 2007 (“Act”) and all other powers enabling me in that behalf, I, SENATOR IDRIS UMAR, Honourable Minister of Transport, hereby make the following Regulations-	
1.	These Regulations are to give effect to the International Convention on Oil Pollution Preparedness, Response and Cooperation and to- <ul style="list-style-type: none"> (a) provide a framework for response to marine pollution; (b) set out guidelines for reporting pollution incidents; (c) empower the Agency to coordinate the response efforts for marine pollution; (d) provide for collaboration with Convention countries in the response efforts; and (e) ensure adherence with the Polluter Pay Principle. 	Objective.
2.-(1)	These Regulations apply to- <ul style="list-style-type: none"> (a) oil terminals offering berths alongside on buoys or at anchor, to ships; (b) shipyards, dockyards, cargo terminals and jetties offering berths alongside on buoys or at anchor, to ships of over 400 GT or oil tankers of over 150 GT; (c) ships and storage units including FPSOs and FSUs storing oil or carrying out oil transfers from ship to ship or oil transfers within a ship anywhere on Nigerian waters or at anchor; (d) any other port, harbour, terminal, jetty or oil handling facility in respect of which the Minister has served the port authority or operator (as the case may be) with a notice stating that he is of the opinion that maritime activities are undertaken at that harbour or facility which involve a significant risk of discharge of over 10 tonnes of oil; and (e) any other harbour or oil handling facility in respect of which the Minister has served the harbour authority or operator, a notice stating that he is of the opinion that it is located in an area of significant environmental sensitivity or in an area where a discharge of oil or other substances could cause significant economic damage. 	Scope of application.
(2)	These Regulations apply to every off shore installation in Nigerian waters.	
(3)	These regulations shall not apply to- <ul style="list-style-type: none"> (a) any warship or naval auxiliary; or (b) other ship owned or operated by the government of a State or unit thereof used for the time being only on government non-commercial service, provided that such ships act in a manner consistent, so far as is reasonable and practicable, with the provisions of these Regulations. 	
(4)	The reference to 'State' in sub-regulation 3 of this regulation include Nigeria	
3.-(1)	Every ship to which these Regulations apply shall have on board at all times, a shipboard oil pollution emergency plan in accordance with the guidelines for the development of ship board oil emergency plans as set out in Part VID of the Merchant Shipping (Prevention of Pollution by Oil) Regulations 2012.	Oil pollution emergency plans.
(2)	Every operator of a- <ul style="list-style-type: none"> (a) port, terminal, jetty, an oil handling facility or offshore installation to which these Regulations apply; and (b) pipeline that runs in the Nigerian marine waters from the high water mark and connects to or terminates at an offshore terminal, loading, discharge buoy or gathering centre, shall have an Oil Pollution Emergency Plan as required by this regulation. 	
(3)	There shall be a separate plan for each port, harbour, terminal, jetty, oil handling facility, underwater pipeline and offshore installation except that there may be joint plans- <ul style="list-style-type: none"> (a) between ports, terminals, jetties and operators of oil handling facilities, within an area; and (b) in respect of offshore installations and oil handling facilities which have pipelines 	

<p>(4)</p> <p>(5)</p> <p>(6)</p> <p>(7)</p> <p>(8)</p> <p>(9)</p> <p>(10)</p> <p>(11)</p> <p>(12)</p>	<p>associated with that installation.</p> <p>(a) Subject to sub-regulations (5) and (8) of this regulation, within twelve months of the coming into force of these Regulations, every operator shall submit an Oil Pollution Emergency Plan relating to its facility or offshore installation, to the Agency for approval; and</p> <p>(b) in preparing an Oil Pollution Emergency Plan, an operator shall take into account any guidance and related manuals issued by the Agency.</p> <p>(a) Where, after the coming into force of these Regulations-</p> <p>(i) a port, terminal or jetty, an oil handling facility or pipeline is established, or</p> <p>(ii) in respect of an offshore installation, activities are commenced on the site of drilling for the production of oil, storage, loading or offloading of oil occurs; sub-regulation (4) of this regulation shall apply to require the submission of a plan at least two months before such port, terminal, jetty, pipeline or oil handling facility is established or in respect of an offshore installation activities are commenced on the site;</p> <p>(b) in relation to a port, terminal, jetty, pipeline or oil handling facility referred to in paragraph (a) of this sub-regulation, where there is no operator at that time, sub-regulation (4) of this regulation shall apply to require the submission of an Oil Pollution Emergency Plan by the promoter of the proposed port, terminal, jetty or oil handling facility pursuant to the provisions of these Regulations; and</p> <p>(c) in relation to paragraph (b) of this sub-regulation, as part of the submission of a plan by the promoter of the port, terminal, jetty, pipeline or oil handling facility, a seabed sensitivity study report up to 500 metres from the extremity of the port, terminal, jetty or oil handling facility and 50 metres either side of the underwater pipeline route, shall be produced and submitted to the Agency.</p> <p>Every port, terminal, jetty, oil handling facility or pipeline operator shall fully review its oil pollution emergency plan including its seabed sensitivity study not later than five years after submission of the plan in accordance with sub-regulations (3) or (4) of this regulation, as applicable and re-submit a plan within that period.</p> <p>Where any major change occurs which affects or may affect the validity or effectiveness of a plan to a material extent, the operator in question shall submit a new plan or amendments to the existing plan, within three months of such change becoming known to that authority or operator,</p> <p>Every port, terminal, jetty or oil handling facility operator shall undertake a table top management exercise of its oil pollution emergency plan annually and at least every two years, may undertake a full equipment deployment and mobilisation exercise of its oil pollution plan and in each case shall notify and invite the Agency to monitor the exercise.</p> <p>Further to sub-regulation (8) of this regulation, where any deficiencies are identified which affect or may affect the validity or effectiveness of a plan, the operator in question shall amend the existing plan, within three months of the exercise and re-submit the plan to the Agency within that period.</p> <p>Where the Agency considers that any plan or amend plan submitted under sub-regulations (4), (5) or (6) of this regulation is not-</p> <p>(a) compatible with the National Marine Oil Pollution Emergency Plan for the time being in force; or</p> <p>(b) appropriate for dealing with oil pollution incidents which may occur in the area in which the operator has jurisdiction or exercises responsibility.</p> <p>the Agency may, after consultation with the operator, direct that the plan should be altered and re-submitted accordingly.</p> <p>It shall be the duty of the operator to alter the plan in accordance with any directive issued pursuant to sub-regulation (10) of this regulation.</p> <p>It shall be the duty of every operator to implement its Oil Pollution Emergency Plan approved or altered under this regulation in the event of an oil pollution incident.</p>	
<p>4.-(1)</p> <p>(2)</p>	<p>The master of a Nigerian ship shall where he observes within or outside Nigerian waters or otherwise becomes aware of any event involving discharge of oil at sea from his ship, another ship or from an offshore installation, regardless of quantity, report the discharge without delay, where the discharge occur in Nigerian waters, to the Agency and where outside Nigerian waters, to the nearest coastal State.</p> <p>The master of a foreign ship in Nigerian waters, who observes or otherwise becomes aware of any</p>	<p>Reporting of incidents by ships and offshore installations.</p>

<p>(3)</p> <p>(4)</p>	<p>event involving discharge of oil at sea from his ship, another ship or from an offshore installation, regardless of quantity, shall report the discharge without delay to the Agency</p> <p>An individual having charge of an offshore installation or an oil handling facility including a pipeline, who observes or otherwise becomes aware of any event involving discharge of oil at sea from another installation or a ship, regardless of the quantity of oil involved, shall without delay report the discharge to the Agency.</p> <p>Any other person who becomes aware of any event involving discharge of oil into sea from a ship, offshore installation or oil handling facility, regardless of quantity of oil, shall without delay, report the discharge to the Agency.</p>	
<p>5.-(1)</p> <p>(2)</p>	<p>Any individual having charge of any oil handling facility, except for pipeline, who observes or is made aware of any event involving a discharge of or probable discharge of oil from whatever source, including the individual's oil handling facility or the presence of oil in the sea, shall without delay report the event or the presence of oil, regardless of quantity, to the Agency.</p> <p>A report made under this regulation shall, comply with the standard reporting requirements as set out in the "General Principles For Ship Reporting Systems and Ship Reporting Requirements, including Guidelines For Reporting Incidents Involving Dangerous Goods, Harmful Substances or Marine Pollutants", adopted by the International Maritime Organization by Resolution A.648 (16) as may be amended revised or replaced by another Resolution from time to time.</p>	<p>Reporting of incidents by oil handling facilities.</p>
<p>6.-(1)</p> <p>(2)</p> <p>(3)</p>	<p>Any report under regulation 4 or 5 of these Regulations shall include-</p> <p>(a) identity of the ships involved;</p> <p>(b) time, type and location of incident;</p> <p>(c) quantity of oil involved or estimate thereof; and</p> <p>(d) assistance and salvage measures.</p> <p>Any person who is obliged under the provisions of these Regulations to send a report shall so soon thereafter-</p> <p>(a) supplement the initial report, as necessary and provide information concerning further-developments ; and</p> <p>(b) comply as fully as possible with requests from the Agency or affected States for additional information.</p> <p>Reports shall be made by using the fastest telecommunications channels available with the highest possible priority.</p>	<p>Guide to making report.</p>
<p>7.-(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p>	<p>Whenever the Agency receives a report under this regulation, it shall-</p> <p>(a) assess the event to determine whether it is an oil pollution incident;</p> <p>(b) assess the nature, extent and possible consequences of the oil pollution incident; and</p> <p>(c) without delay, inform all States whose interests are affected or likely to be affected by such oil pollution incident, and-</p> <p>(i) provide details of its assessments and any action it has taken, or intends to take, to deal with the incident; and</p> <p>(ii) furnish any other or further information as considered appropriate.</p> <p>In the event of a severe incident of marine pollution of national significance, the Agency may provide the information derived from sub-regulation (I) (a) and (b) of this regulation, to the International Maritime Organisation and other States where necessary, for further action.</p> <p>Upon recognition of an incident that has the potential to become a marine oil pollution of national significance, the Agency may activate all or part of the National Marine Oil Pollution Emergency Plan as appropriate.</p> <p>Upon confirmation of an incident as being a marine oil pollution of national significance, the Agency shall-</p> <p>(a) activate all or part of the National Marine Oil Pollution Emergency Plan;</p> <p>(b) take steps to organise and coordinate the mitigation and prevention of any further pollution;</p> <p>(c) initiate and pursue clean-up strategies and activities;</p> <p>(d) monitor and evaluate the extent of the pollution and efforts by all parties in the clean-up and control;</p> <p>(e) ensure and encourage the deployment of stockpiles of equipment and dispersants; and</p> <p>(f) request for regional and international assistance.</p>	<p>Action on receiving oil pollution report.</p>
<p>8.-(1)</p>	<p>The operator of an oil handling facility or offshore installation shall at all times keep a stock of not less than 10,000 litres of readily usable dispersants which is appropriate for the type of oil the oil handling facility or offshore installation handles, and it shall comply with the specifications set out</p>	<p>Stockpile of dispersants.</p>

	<p>in the First Schedule to these Regulations which may change from time to time without prior notice.</p> <p>(2) The operator shall keep the dispersants at the facility or installation in such a manner as to be readily accessible to the operator and the Agency.</p> <p>(3) The operator shall, when so required by the Agency, submit samples of dispersants kept under this regulation for testing and certification or provide a valid Certificate of the date of testing the dispersant.</p> <p>(4) All costs incurred in connection with the testing and certification of dispersants shall be borne by the operator or owner of the facility or installation.</p> <p>(5) A person shall not use any dispersant which does not comply with the specifications set out in the First Schedule of these Regulations for the purpose of eliminating or reducing any oil pollution.</p> <p>(6) The Agency shall at all times keep a stock of not less than 10,000 litres of readily usable dispersants which comply with the specifications set out in the First Schedule of these Regulations at all its operational offices in a manner that they shall be readily accessible and deployable in the event of an oil pollution incident</p>	
<p>9.-(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p>	<p>The operator of a port, terminal, jetty, pipeline, oil handling facility or offshore installation shall at all times maintain at their operational offices, facility or installation, a minimum level of pre-positioned oil spill combating equipment, including the items specified in the Second Schedule to these Regulations, that is appropriate for the type and quantity of oil that the operator's oil pollution emergency plan may be utilized to effectively combat an oil spill from the port, terminal, jetty, pipeline, oil handling facility or offshore installation.</p> <p>(a) submit to the Agency an annual return of the inventory of the stockpiled equipment;</p> <p>(b) maintain an inventory of all equipment owned by the operator; and</p> <p>(c) certify that the equipment is maintained and exercised in a condition ready for immediate deployment at any time required.</p> <p>The Agency may from time to time-</p> <p>(a) visit the oil handling facility or offshore installation to audit the equipment stockpile and the maintenance records; and</p> <p>(b) request for a sample of equipment to be taken out of the stockpile to assess its working condition.</p> <p>The operator or owner of the oil handling facility or offshore installation shall comply with the request made under sub-regulation (3) of this regulation.</p>	<p>Stockpile and maintenance of equipment.</p>
<p>10.-(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(5)</p>	<p>The Agency shall develop guidelines and procedures for the accreditation of private oil spill response organisations and shall accredit such organisations with the ability to respond adequately in the event of an oil spill incident.</p> <p>The Agency shall alone or in co-operation with oil and shipping industries or through further bilateral and multilateral co-operation, establish-</p> <p>(a) a programme of exercises for oil pollution response organisations and training of relevant personnel;</p> <p>(b) detailed plans and communication capabilities for responding to an oil pollution incident, which plans shall be made readily available; and</p> <p>(c) a mechanism or arrangement to co-ordinate the response to a marine oil pollution incident with the capabilities to mobilize the necessary resources.</p> <p>Further to sub-regulation (2) of this regulation, the Agency shall initiate, follow-up and explore opportunities for regional co-operation in responding to oil pollution incidents and where necessary, shall request and provide assistance in combating specific incidents.</p> <p>For the purpose of financing assistance provided to or received from a State Party in respect of an oil pollution incident under these Regulations, the Agency shall-</p> <p>(a) where it provides assistance to a State Party, render such assistance on such terms as to reimbursement of the Agency to ensure restoration of any material or equipment used in the pollution combating exercise;</p> <p>(b) where it requests for and receives assistance from a State Party, commit to reimbursement of reasonable costs as shall put the assisting State Party in the same or similar position as it was before the incident; or</p> <p>(c) agree on reciprocal terms with the State Party to bear the costs of the assistance rendered.</p> <p>The Agency shall develop and maintain a channel for ensuring the training of personnel and</p>	<p>Arrangements by Agency.</p>

	<p><i>"oil"</i> means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;</p> <p><i>"oil handling facility"</i> means a facility which presents a risk of an oil pollution incident and includes, inter alia, oil terminals, pipelines, ports, cargo terminals, jetties and any other facility handling oil but does not include an offshore installation;</p> <p><i>"Oil Pollution Emergency Plan"</i> means a contingency plan setting out arrangements for responding to incidents which cause or may cause marine pollution by oil with a view to preventing such pollution or reducing or minimising its effect;</p> <p><i>"oil pollution incident"</i> means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment or to the coastline or related interests of Nigeria and which requires emergency action or other immediate response;</p> <p><i>"operator"</i> means, in relation to an oil handling facility a person having, for the time being, the management of such facility in Nigeria and in relation to an offshore installation, includes any person having the management of the installation;</p> <p><i>"Polluter Pay Principle"</i> is as described under regulation 12 of these Regulations;</p> <p><i>"standard reporting requirements"</i> means the requirements stated in-</p> <ul style="list-style-type: none"> (a) Part 2 (Standard Reporting Format and Procedures) ; and (b) Sections 3.1, 3.2 and 3.3 of Part 3(Guidelines for Detailed Reporting Requirements) of the Appendix to the Annex to Resolution A.648(16) adopted by the Assembly of the International Maritime Organization on 19th October 1968; <p><i>"the Agency"</i> means the Nigerian Maritime Administration and Safety Agency, an executive agency of the Federal Ministry of Transport.</p>	
17.	These Regulations may be cited as the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations, 2012.	Citation.

FIRST SCHEDULE

Regulation 8

SPECIFICATIONS OF DISPERSANTS

1. The flash point of the dispersant shall not be less than 65°C (150°F) and shall be in accordance with a defined testing standard approved by the Agency, the Department of Petroleum Resources or other relevant regulatory authorities.

2. The dispersion capacity of the dispersant shall not be more than 1 part of dispersant to 1 part of marine fuel oil of viscosity not less than 300 seconds (Redwood 1) at 50°C (122°F) and shall be in accordance with a defined testing standard approved by the Agency.

3. The biodegradability of the surface active agent shall not be less than 90% on the average of the results of the seventh and eighth day from the commencement of the test at 37°C (99°F) which shall be in accordance with a defined testing standard approved by the Agency.

4. The toxicity of the dispersant using glass fish (*Chanda gymocephalus*) as a standard test organism shall be as follows: The mixture of the dispersant and the standard marine fuel oil (MFO V1100/ 1200) in the ratio of 1:1 shall have a 96-hour LC 50 value of not less than 100mg per litre as measured by the method of the Agri-Food and Veterinary Authority.

5. The dispersant shall not contain aromatic hydrocarbons and chlorinated hydrocarbons in concentrations greater than-

- (a) total aromatic hydrocarbons 3%
- (b) total chlorinated hydrocarbons 0.05 mg per litre.

SECOND SCHEDULE

Regulation 9

EQUIPMENT AT FACILITY OR INSTALLATION

1. At least one marine craft specifically suited for day and night counter pollution operations, equipped with a complete set of dispersant spray booms as approved by the Agency, from which dispersants can be applied on to the sea surface with at least 2,000 litres of dispersants which shall comply with the specifications set out in the First Schedule to these Regulations, on board.

2. All boom is to have at least one ISO international boom connector per 300 metres of boom for connecting dissimilar booms, with a minimum of 300 meters of boom recognised as being appropriate in the oil pollution emergency plan for the oil at risk of being spilt.

3. At least 12 knapsack sprayers each of 20 litre capacity and at least 2 dispensing pumps, and suitable VHF radio telephone sets as approved by the Nigerian Communications Commission on a frequency to be specified by the Agency, for beach cleaning operations.

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

SENATOR IDRIS UMAR
Minister of Transport.
Federal Republic of Nigeria

EXPLANATORY NOTE

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

These Regulations give effect to the International Convention on Oil Pollution Preparedness, Response and Cooperation, provides guidelines for reporting incidents of pollution, prompt response to marine pollution, gives the Nigerian Maritime Authority the authority to coordinate response efforts while collaborating with other Convention countries in the response efforts and ensuring compliance with the Polluter Pay Principle.