

*Extraordinary*



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**MERCHANT SHIPPING ACT, 2007**

**MARINE ENVIRONMENT (SEA DUMPING) REGULATIONS, 2012**



**ARRANGEMENT OF REGULATIONS**

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**SCHEDULE**

**MERCHANT SHIPPING ACT, 2007**  
**MERCHANT SHIPPING (SEA DUMPING) REGULATIONS, 2012**

	[ 1 <sup>st</sup> day of June. 2012]	Cornence- ment.
	<b>In exercise of the powers conferred on me by sections 335 (1) and (3) of 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-</b>	
	PART I-OBJECTIVE AND APPLICATION	
1.	The objectives of these Regulations are to: (a) give effect in Nigeria to the 1996 Protocol on the Convention on Prevention of Marine Pollution by Dumping of Wastes and other matters; and (b) set out detailed rules and operational guidelines for issuance of dumping permits and hierarchy of waste management options, with inspection regime and penalties clearly defined.	Objectives.
2.	These Regulations shall apply to- Application. (a) all Nigerian registered ships and aircraft; (b) all ships and aircraft loading in Nigeria, the wastes and other matter which are to be dumped or incinerated at sea; and (c) ships, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in Nigerian territorial waters and exclusive economic zone.	Application.
	PART II- PROHIBITION OF DUMPING OF WASTES	
3.	Save as is otherwise mentioned in these Regulations, the following are prohibited- (a) the dumping of wastes or other matters with the exception of those listed in the Schedule to these Regulations; (b) the dumping of wastes or other matters listed in the Schedule to these Regulations without a permit issued under these Regulations; (c) the incineration at sea of wastes or other matters; and (d) the export of wastes or other matters to other countries for dumping or incineration at sea.	Prohibitions.
4.-(1)	Notwithstanding the provisions of regulation 3 of these Regulations, the dumping or incineration of wastes or other matters shall be permitted- (a) where it is necessary or expedient to secure the safety of human life or . vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather; (b) in any case which constitutes danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea; (c) dumping or incineration appears to be the only way of averting threat of danger to human life, vessels, aircraft, platform or other man-made structures; or (d) there is every probability that the damage consequent upon such dumping will be less than would otherwise have occurred.	Exceptions.
(2)	The onus of proving the exception contemplated in sub-regulation (1) of this regulation shall be upon the master or owner of the ship.	
(3)	The Agency may issue a permit as an exception to regulation 3 of these Regulations in emergencies as contemplated under sub-regulation 1 of this regulation, and regulation 5(1), provided it has, before doing so, consulted with the International Maritime Organization and any other country or countries that are likely to be affected, and in doing so, may follow any recommendations as may be made by the Organisation as far as is practicable.	
	PART III- ISSUANCE OF PERMITS	
5.-(1)	The Agency may on application and payment of prescribed fee and after taking into account those factors that the Agency consider as being applicable in consideration of granting a permit to dump wastes, grant-	Application and Issuance of

	<p>(a) a special permit authorizing the-</p> <p>(i) dumping of waste; and</p> <p>(ii) disposal at sea ; on such conditions as the Agency may deem appropriate.</p> <p>(b) a general permit authorizing the dumping, on such conditions as the Agency may deem appropriate.</p> <p>(2) The Agency shall issue permits in accordance with sub-regulation (1) of this regulation in respect of wastes or other matter intended for dumping or, incineration at sea-</p> <p>(a) loaded within Nigeria; and</p> <p>(b) loaded onto a vessel or aircraft registered in Nigeria when the loading occurs in the territory of a State not a <i>Contracting Party</i> to the Protocol.</p> <p>(3) Where dumping has taken place in pursuance of any exception, exemption or qualification contemplated in regulation 4(1) of these regulations, the master of the vessel or the pilot of the aircraft or the person in charge of the platform or other man-made structure in question shall forthwith report such dumping to the Agency setting out the full details of such dumping.</p> <p>(4) The Agency may refuse or limit a permit to dump wastes or other matter if the Agency determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs.</p> <p>(5) Applications to dump wastes or other matters shall demonstrate to the Agency that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:</p> <p>(a) re-use;</p> <p>(b) off-site recycling;</p> <p>(c) destruction of hazardous constituents;</p> <p>(d) treatment to reduce or remove the hazardous constituents;</p> <p>(e) disposal on land, into air and in water;</p> <p>(f) the selection and justification (including an environmental impact assessment) of the proposed dump site; and</p> <p>(g) the means and rate of dumping at the proposed dump site</p>	Permits.
6.-(1)	<p>The holder of a permit commits an offence against this section where-</p> <p>(a) the holder does an act that constitutes a contravention of a condition imposed in respect of the permit; and</p> <p>(b) at the time of that act, the holder knows of the existence of that condition, or is reckless as to the existence of that condition.</p> <p>(2) An offence under this regulation is punishable, on conviction, by imprisonment for a term of not more than 2 years or a fine of not less than N10,000,000.00, or both.</p> <p>(3) In this section, "act" includes "omission".</p>	Compliance with conditions of permit.
PART IV-FEES		
7.-(1)	<p>The Agency shall prescribe application fees for a Permit to dump wastes in consideration of-</p> <p>(a) the type, composition, properties, toxicity and persistence of the material to be dumped ; and</p> <p>(b) the quantity, the rate of expected dumping and the period over which the dumping is to take place.</p> <p>(2) A fee for permit to dump waste may be charged by the Agency for a fixed term, or to permit the one-off dumping of materials such as the dumping from initial dredging project in consideration of-</p> <p>(a) the type, composition, properties, toxicity and persistence of the material to be dumped ; and</p> <p>(b) the quantity, and the rate of expected dumping;</p> <p>(3) The fee payable under sub-regulation (1) of this regulation shall be-</p> <p>(a) non-refundable, irrespective of whether a permit is granted or not;</p> <p>(b) paid prior to the application being considered by the Agency.</p> <p>(4) Dumping of waste shall not take place until the fee has been paid, and the fee payable under sub-regulation (2) of this regulation shall be-</p> <p>(a) paid upon being granted the permit to dump;</p> <p>(b) valid for a set period of time as specified on the permit to dump; and</p> <p>(c) non-refundable, irrespective of whether the dumping takes place or not.</p> <p>(5) An annual fee for the dumping of waste permit shall be charged which shall valid for 12 months to permit the dumping of materials up to a specified amount, such as the dumping of maintenance</p>	Fees.

	<p>dredging from a port or channel, in consideration of the type, composition, properties, toxicity and persistence of the material to be dumped, the quantity and the rate of expected dumping in the 12 months period.</p> <p>(6) The fee referred to in sub-regulation (5) of this regulation shall be-</p> <p>(a) payable upon being granted the permit to dump provided that no dumping shall take place until the fee has been paid;</p> <p>(b) non-refundable, irrespective of whether the total amount of permitted dumping takes place or not.</p> <p>(7) Without prejudice to the provisions of sub-regulation (5) of this regulation, all dumping must cease once the annual permitted amount for dumping has been attained.</p> <p>(8) The Agency shall by notice published in the gazette arrange for the scale and schedule of fees and the basis on which they have been calculated, to be published in such a manner as will bring them to the notice of persons likely to be affected.</p>	
	<b>PART V- PENALTIES AND SETTLEMENT OF DISPUTES</b>	
8.-(1)	<p>A person who in or in connection with, an application for a permit-</p> <p>(a) makes a statement that, to his knowledge, is false or misleading in a material particular; or</p> <p>(b) furnishes to an officer or other person on duty in relation to these Regulations a document that, to the knowledge of the first mentioned person, contains information that is false or misleading in a material particular;</p> <p>commits an offence and shall be liable on conviction for a term of imprisonment not exceeding 2 years or a fine of not less than N10,000,000.00 or both.</p>	False Statements.
(2)	<p>A person who:</p> <p>(a) makes to an inspector on duty in relation to these Regulations a statement that, to the knowledge of the person, is false or misleading in a material particular; or</p> <p>(b) furnishes to an inspector on duty in relation to these Regulations, a document that, to the knowledge of the person, contains information that is false or misleading in a material particular;</p> <p>is guilty of an offence and punishable on conviction for a term of imprisonment not exceeding 2 years or a fine not less than N10,000,000.00 or both.</p>	
9.-(1)	<p>Without prejudice to the provisions of regulation 8 of these Regulations, any person convicted of an offence under these Regulations shall on conviction be liable to imprisonment for a term of not less than six months or to a fine of not less than N10,000,000.00 or both.</p>	Penalties.
(2)	<p>In addition to the provisions of sub-regulation (1) of this regulation, where the offence was committed over a period of more than one day, the person shall also be liable on conviction to a fine not less than N500,000.00 or to imprisonment for a period not exceeding one month in respect of every day during which the offence continued.</p>	
10.-(1)	<p>The Federal High Court shall have jurisdiction over any charges brought against any person alleged to have contravened the provisions of these regulations within Nigerian waters.</p>	Jurisdiction and Settlement of Disputes.
(2)	<p>Where a dispute arises between Nigeria and any other State with respect to the interpretation or application of these Regulations or any provision of the 1996 Protocol to the convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter 1972, all efforts shall be made to resolve such disputes through mediation, conciliation or other peaceful means.</p>	
(3)	<p>Where there is no settlement within twelve months of the declaration of the dispute, the Agency may request the settlement of the dispute by means of the Arbitral Procedure as set out in Annex 3 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters, 1972.</p>	
	<b>PART VI- MISCELLANEOUS</b>	
11.-(1)	<p>Within 30 days after the end of each calendar year, the Agency shall furnish with a report regarding the number of permits granted the Minister, under these Regulations showing the-</p> <p>(a) nature and quantities of all substances or articles-</p> <p>(i) authorized by such permits to be dumped or disposed off at sea;</p> <p>(ii) the dumping of which was reported in accordance with these Regulations;</p> <p>(iii) dumped or disposed off at sea in contravention of the provisions of these Regulations; and</p> <p>(b) location, time and method of the dumping or disposal in question.</p>	Report to the Minister
(2)	<p>Where any person to whom any such permit has been granted is convicted of an offence under these Regulations, the Agency may cancel such permit or amend it by restricting the dumping or</p>	

	disposal authorized by it.	
12.-(1)	<p>A person duly authorised by the Agency may-</p> <p>(a) enter upon or board any place, premises, vessel or aircraft on or in which he suspects any substance which may afford evidence of a contravention of these Regulations is kept or loaded, inspect any such substance found on or in such place, premises, vessel or aircraft so entered upon or boarded and open or cause to be opened any article in which he suspects any such substance to be; and</p> <p>(b) examine all books and documents on or in any such place, premises, vessel or aircraft which he has reason to believe relate to such substance, make copies of or extracts from such books and documents and demand from the owner or custodian of any such book or document an explanation of any record or entry therein.</p> <p>(2) Where reasonable suspicion exists that an offence under these Regulations has been committed or attempted or is about to be committed from or in respect of any vessel or aircraft, the inspector may pending any investigation for the purposes of these Regulations-</p> <p>(a) require the master or pilot or owner of such vessel or aircraft to move or fly or cause to be moved or flown the vessel or aircraft to any specified harbour or airfield ; or</p> <p>(b) subject to such conditions as may be prescribed by regulation, detain such vessel or aircraft.</p> <p>(3) The holder of any office designated under sub-regulation (1) of this regulation who acts under that subsection, shall at the request of any person affected thereby, produce such proof of his identity as may be prescribed by regulation.</p> <p>(4) A person authorized to grant clearance to any vessel or aircraft shall not grant clearance to any vessel or aircraft while detained in pursuant to the provisions of this regulation.</p> <p>(5) Any person who-</p> <p>(a) hinders, obstructs or assaults an inspector or law enforcement agent referred to in sub-regulation (1) ; or</p> <p>(b) wilfully fails to comply with any lawful demand made by such person or official in the performance of his duties or the exercise of his powers;</p> <p>commits an offence under these Regulations and liable on conviction as prescribed in regulation 9 of these Regulations.</p>	Powers of Inspection.
13.	<p>In these Regulations, unless the context otherwise indicates-</p> <p>"Agency" means the Nigerian Maritime Administration and Safety Agency;</p> <p>"Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended;</p> <p>"Organization" means the International Maritime Organization;</p> <p>"dumping" means-</p> <p>(a) any deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;</p> <p>(b) any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea;</p> <p>(c) any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; and</p> <p>(d) any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal;</p> <p>"dumping" does not include-</p> <p>(a) the disposal into the sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or other man-made structures;</p> <p>(b) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of the Protocol referred to in the Schedule to these Regulations; and</p> <p>(c) abandonment in the sea of matter (e.g. cables, pipelines and marine research devices) placed for a purpose other than the mere disposal thereof;</p> <p>"incineration at sea" means the combustion on board a vessel, platform or other man-made structure at sea of wastes or other matter for the purpose of their deliberate disposal by thermal</p>	Interpretation.

	<p>destruction;</p> <p><i>"incineration at sea"</i> does not include the incineration of wastes or other matter on board a vessel, platform, or other man-made structure at sea if such wastes or other matter were generated during the normal operation of that vessel, platform or other man-made structure at sea;</p> <p><i>"Minister"</i> means the Federal Minister for the time being charge with responsibility for matters relating to maritime transport;</p> <p><i>"permit"</i> means permission granted in advance and in accordance with relevant measures adopted pursuant to these regulations;</p> <p><i>"pollution"</i> means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;</p> <p><i>"sea"</i> means all marine waters other than the internal waters of States, as well as the seabed and the subsoil thereof; it does not include sub-seabed repositories accessed only from land;</p> <p><i>"vessels and aircraft"</i> means waterborne or airborne craft of any type whatsoever and this expression includes air-cushioned craft and floating craft, whether self-propelled or not; and</p> <p><i>"wastes or other matter"</i> means material and substance of any kind, form or description that has been used and is no longer required or wanted.</p>	
14.	These Regulations may be cited as the Merchant Shipping (Sea Dumping) Regulations, 2012.	Citation.

## SCHEDULE

### (ANNEX 1 OF THE 1996 PROTOCOL TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTERS)

#### WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING

1. The following wastes or other matter are those that may be considered for dumping being mindful of the Objectives and General Obligations of this Protocol set out in articles 2 and 3:
  - (1) dredged material;
  - (2) sewage sludge;
  - (3) fish waste or material resulting from industrial fish processing operations;
  - (4) vessels and platforms or other man-made structures at sea;
  - (5) inert, inorganic geological material;
  - (6) organic material of natural origin;
  - (7) bulky items primarily comprising iron, steel, concrete and similarly un harmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping ; and
  - (8) Carbon dioxide streams from carbon dioxide capture processes for sequestration.
2. The wastes or other matter listed in paragraphs 1.4 and 1.7 may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.
3. Notwithstanding the above, materials listed in paragraphs 1.1 to 1.8 containing levels of radioactivity greater than *de minimis* (exempt) concentrations as defined by the IAEA and adopted by Contracting Parties, shall not be considered eligible for dumping; provided further that within 25 years of 20 February 1994, and at each 25 year interval thereafter, Contracting Parties shall complete a scientific study relating to all radioactive wastes and other radioactive matter other than high level wastes or matter, taking into account such other factors as Contracting Parties consider appropriate and shall review the prohibition on dumping of such substances in accordance with the procedures set forth in article 22.
4. Carbon dioxide streams referred to in paragraph 1.8 may only be considered for dumping, if-
  - (i) disposal is into a sub-seabed geological formation; and
  - (ii) they consist overwhelmingly of carbon dioxide. They may contain incidental associated substances derived from the source material and the capture and sequestration processes used; and
  - (iii) no wastes or other matter are added for the purpose of disposing of those wastes or other matter.

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

SENATOR IDRIS UMAR  
*Honourable Minister of Transport*

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

These Regulations gives effect in Nigeria to the 1996 Protocol on the Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matters and set out detailed rules and operational guidelines for issuance of dumping permits and hierarchy of waste management options, with inspection regime and penalties clearly defined.