

DRAFT

**BALLAST WATER SEDIMENT
(RECEPTION FACILITIES)
REGULATIONS, 2010**

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BALLAST WATER SEDIMENT (RECEPTION FACILITIES) REGULATIONS, 2010

In exercise of the powers conferred upon me by Section 36 of the Ballast Water Management Act, 2010 and all other powers enabling me in that behalf, I, **ALHAJI Yusuf Suleiman**, the Honourable Minister of Transport hereby make the following Regulations:

[commencement]

PART 1

General

Section 1

Citation

These Regulations may be cited as the (Ballast Water Sediment) (Reception Facilities) Regulations 2010.

Application

1. These Regulations apply, as appropriate, to any port or terminal within a port in Nigeria or the territorial waters or exclusive economic zone thereof where cleaning or repair of ballast tanks occurs, designated by the Administration, and to any Nigerian ship or other ship while within those areas.

PART 2

BALLAST WATER SEDIMENT RECEPTION FACILITIES

Requirement to provide adequate Port Sediment Reception facilities

2. (1) Every port authority in respect of a port or terminal operator in respect of a terminal to which these Regulations apply shall provide adequate facilities for the reception of Sediments from ships using the port or terminal.
- (2) In assessing the adequacy of the Sediment reception facilities provided in its port or terminal the relevant port authority or terminal operator shall have regard to -
 - (a) the IMO Guidelines and the IMO Manual ; and
 - (b) any Sediment management plan approved in relation to a port or terminal pursuant to Regulation 7 or prepared by the Administration pursuant to Regulation 9.

Powers of Port Authorities and Terminal Authorities

3. For the purposes of Regulation 2 the powers of a port authority or terminal operator to provide Sediment reception facilities shall include power to join with any other person in providing them, and references in these Regulations to the provision of such reception facilities by a port authority or terminal operator shall be construed accordingly; and any such power shall also include power to arrange for the provision of such reception facilities by any other person.

Direction to provide adequate Port Sediment Reception facilities

4. Where in respect of any port or terminal it appears to the Administration, after consultation with the relevant port authority or terminal operator, that
-
- (a) the port or terminal has no Sediment reception facilities for the reception of Sediments from ships; or
 - (b) where the port or terminal has such Sediment reception facilities, those facilities are not adequate,

the Administration may direct the port authority or terminal operator to provide, or arrange for the provision of, such Sediment reception facilities as may be specified in the direction.

Use of Port Sediment Reception facilities

5. (1) A port authority providing reception facilities or a person providing such facilities by arrangement with a port authority, or a terminal operator providing reception facilities may make reasonable charges for the use of those facilities, and may impose reasonable conditions in respect of the use thereof.
- (2) Any reception facilities provided by, or by arrangement with, a port authority or by a terminal operator shall be open to all ships which in the opinion of the port authority or terminal operator, as appropriate, are using the port or terminal for a primary purpose other than utilising the reception facilities, on payment of any charges, and subject to compliance with any conditions imposed in accordance with Subregulation 5(1) above.

- (3) The master of the ship shall, prior to any discharge, inform in writing the person providing the reception facilities of the quantity and content of any substances to be discharged.

PART 3

Sediment Management Plans

Requirement on a Port Authority to prepare a Sediment Management Plan

6. Without prejudice to Regulation 2(1), every port authority in respect of a port to which these Regulations apply shall prepare a Sediment management plan with respect to the provision and use of facilities for the reception of Sediments from ships using the port in accordance with the IMO Guidelines.

Direction to a terminal operator to prepare a Sediment Management Plan

7. The Administration may direct that a terminal operator shall prepare a Sediment management plan with respect to the provision and use of facilities for the reception of Sediments from ships using any terminal operated by the terminal operator which is within a port to which these Regulations apply and is specified in the direction.

Sediment Management Plans to be submitted to the Administration for approval

8. (1) Any Sediment management plan prepared pursuant to either Regulation 6 or a direction made under Regulation 7 shall be submitted to the Administration for approval.

- (2) The Administration may either -
 - (a) reject the plan submitted; or
 - (b) approve the plan with or without modifications.
- (3) A plan which has been approved by the Administration pursuant to Subregulation (2) above or prepared by the Administration pursuant to Regulation 9 shall be implemented by the port authority or the terminal operator for the port or terminal to which the plan relates.

Power of Administration to prepare a Sediment Management Plan

9. Where the Administration is satisfied that a person who is required to prepare a Sediment management plan is not taking any steps necessary in connection with the preparation of the plan, the Administration may prepare such a plan.

Direction to implement a Sediment Management Plan

10. The Administration may direct any port authority or terminal operator to take such steps as are specified for the purposes of securing the implementation of an approved Sediment management plan in respect of the relevant port or terminal.

PART 4

Reporting inadequate facilities

11. (1) A Master of Nigerian ships who in the course of any voyage is of the opinion that the Sediment reception facilities in any port, designated pursuant to the Convention, whether in Nigeria or elsewhere, are

inadequate shall report the matter to the Administration using the form specified in the Schedule hereto.

- (2) If a Master makes a report of such matters to the authorities in another State concerning the facilities in a port in that State the form in the Schedule shall be used by the Master.

PART 5
Offences and Penalties

12. (1) Any port authority or terminal operator which fails to comply with -
- (a) any requirement of these Regulations in relation to the provision and use of Sediment reception facilities;
 - (b) the requirements of Regulation 8; or
 - (c) any direction given pursuant to these Regulations in relation to the provision of Sediment reception facilities or the preparation or implementation of a Sediment management plan,

shall be guilty of an offence and liable on summary conviction to a fine of not less than [~~£~~.....].

- (2) Any master who, pursuant to Regulation 5, provides information as to the quantity or content of substances which he knows to be false in a material particular or recklessly provides such information which is false in a material particular, shall be guilty of an offence punishable on summary conviction to a fine of not less than [~~£~~.....].

- (3) Any port authority or terminal operator who provides information required under Regulation 8 which he knows to be false in a material particular or recklessly provides such information which is false in a material particular, shall be guilty of an offence punishable on summary conviction to a fine of not less than [Nf.....].

Interpretation

13. (1) In these Regulations -

“**Administration**” has the same meaning as in the Act;

“**Ballast water**” and “**Sediment**” have the meaning given by the Act;

“**Convention**” means the International Convention for the Control and Management of Ships’ Ballast Water and Sediment, 2004;

“**Court**” has the same meaning as in the Act.

“**IMO**” means the International Maritime Organization;

“**IMO Guidelines**” means the Guidelines for Sediment Reception Facilities adopted by IMO by Resolution MEPC _____ and any amendments thereto or replacements thereof;

“**IMO Manual**” means the Comprehensive Manual on Port Reception Facilities published by IMO, 1999 edition, and any amendments thereto or replacements thereof;

“**Port Authority**” means any person in charge of or managing a port;

“Terminal” means a terminal, jetty, pier or mono-buoy within a port;

“Terminal operator” means a person having the management of a terminal in Nigeria;

Made at Abuja this day of 2010

Alhaji Yusuf Suleiman
Hon. Minister of Transport

SCHEDULE

FORMAT FOR REPORTING

ALLEGED INADEQUACY OF PORT RECEPTION FACILITIES*

The master of a ship having encountered difficulties in discharging Sediment to reception facilities should forward the information below, together with any supporting documentation, to the Administration of the flag State and, preferably, to the competent authorities in the port State.

1. SHIP'S PARTICULARS

Name of ship: -----

Owner or operator: -----

Distinctive number or letters: -----

IMO No: -----

Gross tonnage: -----

Port of registry: -----

Type of ship: oil tanker chemical tanker ferry cruise ship cargo ship

bulk carrier

other (specify) -----

2. PORT PARTICULARS

Country: -----

Name of port or area: -----

Location/Terminal name: -----

(e.g. berth / terminal / jetty)

Name of company operating reception facility (if applicable):

Unloading port Loading port Shipyard

Date of arrival: -----

Date of occurrence: -----

Date of departure: -----

3. TYPE AND AMOUNT* OF SEDIMENT FOR DISCHARGE TO FACILITY

Nature of Sediment

Were facilities available? Yes No

Costs involved -----

4. WAS ANY SEDIMENT NOT ACCEPTED BY THE FACILITY?

5. INADEQUACY OF FACILITIES

5.1 Remarks on inadequacies

5.2 Location of facilities (close to the ship, inconvenient location or ship had to shift berth involving delay)

5.3 If you experienced a problem, with whom did you discuss this problem or report it to?

5.4 Did you give prior notification (in accordance with relevant port requirements) about the ship's requirements for reception facilities? Yes No

5.5 Did you receive confirmation on the availability of reception facilities on arrival? Yes No

6. ANY ADDITIONAL REMARKS/COMMENTS

7. Master's signature ----- Date -----