

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 5886

21 February 2025

**NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT ACT,
2008 (ACT NO. 24 OF 2008)**

**CONSULTATION ON THE DRAFT REGULATIONS FOR THE ENVIRONMENTAL MANAGEMENT
OF OFFSHORE BUNKERING**

I, Dr Dion Travers George, Minister of Forestry, Fisheries and the Environment, hereby publish draft regulations for the environmental management of offshore bunkering for public comment in terms of section 83(1) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008). The draft regulations are set out in the schedule to this notice.

The draft regulations seek to create a regulatory framework to ensure that the actual impacts and potential impacts of offshore bunkering on the coastal environment are mitigated and avoided, or where avoidance is not possible, are minimised and remedied.

Members of the public are invited to submit written comments, within 30 days from the date of the publication of this notice in the *Government Gazette* or newspaper advert, whichever date is later, to any of the following addresses:

Department of Forestry, Fisheries and the Environment


Attention: Directorate: Coastal Pollution Management, Ms. Lona Nondaka

By hand: 2nd floor, East Pier Building 2, East Pier Road, V and A Waterfront, Cape Town

By email: bunkeringregs@dffe.gov.za

Telephone queries – Lona Nondaka - 021 493 7061

Comments or inputs received after the closing date may be disregarded. The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received from the public and the departmental responses to those comments are collated into a comments and response report which will be made available to the public as part of the consultation process. If a commenting party has any objection to their name, or the name of the represented company/ organisation, being made publicly available in the comments and responses report, that objection should be highlighted in bold as part of the comments submitted in response to this notice.



DR DION TRAVERS GEORGE
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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CHAPTER 1 DEFINITIONS AND SCOPE

1. Definitions

In these Regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and unless the context indicates otherwise—

“aquaculture development zone” means sea space set aside for dedicated aquaculture use in terms of—

- (a) an environmental authorisation; or
- (b) a designation by the Minister responsible for aquaculture;

“bunkering” means the supply of fuel to a vessel at sea, and includes STS transfer;

“bunker operator” means the holder of an approval granted by the South African Maritime Safety Authority to undertake bunkering;

“critical biodiversity area” means an area that needs to be conserved in a natural or near-natural state in order to protect species and ecosystems and maintain ecosystem functioning and include areas—

- (a) identified to meet national biodiversity targets; or
- (b) which are important locations for biodiversity features or rare species;

“environmental management plan” means a plan referred to in regulation 11;

“harbour” means a port or harbour proclaimed in terms of any law and managed by an organ of State;

“marine protected area” has the meaning assigned to it in terms of section 1 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“**National Oil Spill Contingency Plan**” is an oil spill response and removal plan prepared by the Department of Transport and updated periodically that addresses controlling, containing, and recovering oil in the event of an oil spill;

“**offshore bunkering**” means bunkering outside an operational harbour area that has been physically modified from its original natural state;

“**STS transfer**” means the transfer of a vessel’s cargo at sea, including the transfer of oil, petroleum products, liquified petroleum gas or liquified natural gas;

“**the Act**” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008); and

“**these Regulations**” means the Regulations for the environmental management of offshore bunkering.

2. Scope

These Regulations prescribe environmental management measures for offshore bunkering.

CHAPTER 2 GENERAL

3. Prohibitions

- (1) No person may undertake offshore bunkering within—
 - (a) a marine protected area;
 - (b) five nautical miles of the boundary of a marine protected area;
 - (c) a critical biodiversity area;
 - (d) five nautical miles of an aquaculture development zone; or
 - (e) five nautical miles of the high-water mark.

- (2) No person may undertake bunkering between the hours of sunset and sunrise.
- (3) No person involved in bunkering may release or discharge any substance from a vessel—
 - (a) when transiting through a marine protected area; or
 - (b) within a 20 kilometre radius of St Croix Island and Bird Island, Algoa Bay.
- (4) The master of a vessel waiting to bunker may not traverse between Bird Island, Algoa Bay and the mainland.
- (5) A maximum of 5 bunker operators may operate within Algoa Bay and each bunker operator may only operate one vessel within the bay.

4. Noise mitigation

- (1) A bunker operator must ensure that the vessel it uses for bunkering complies with the design adaptations in the International Maritime Organisation Guidelines for the Reduction of Underwater Noise from Commercial Shipping to effectively reduce underwater noise.
- (2) A bunker operator authorised at the time of commencement of these Regulations must comply with subregulation (1) within a period of two years of the commencement of these Regulations.
- (3) The master of a vessel which intends to undertake bunkering must—
 - (a) reduce the vessel's speed to 8 knots or below when that vessel is 10 nautical miles from the intended bunkering site; and
 - (b) reduce the vessel's speed further prior to dropping anchor.

5. Wildlife monitoring and mitigation

- (1) The master of a vessel who intends to undertake bunkering must appoint a person in writing, to keep a constant watch for marine mammals, penguins and turtles when that

- vessel is 10 nautical miles from the intended bunkering site and for the duration of the bunkering.
- (2) The bunker operator must appoint a person, in writing, to keep a constant watch for marine mammals, penguins and turtles for a period of thirty minutes prior to the intended commencement of bunkering and during bunkering.
 - (3) Where a marine mammal, penguin or turtle is in the path of a vessel, the master of that vessel must take the necessary steps to avoid contact with, or navigating the vessel over, the marine mammal, penguin or turtle.
 - (4) The master of a vessel must reduce the speed of the vessel when any turtle, penguin or marine mammal is present within a 1 kilometer distance of the vessel.
 - (5) The bunker operator must, in writing, report any sightings of a marine mammal, penguin and turtle to the Department on a weekly basis.
 - (6) A bunker operator must, prior to commencing bunkering operations, install a sonobuoy system which alerts vessels to the presence of marine mammals.
 - (7) A bunker operator may not commence with bunkering if a marine mammal, penguin or turtle is sighted within 500 meters of the intended bunkering site or detected through the sonobuoy system.
 - (8) A bunker operator and a master of the vessel who is undertaking bunkering must immediately report the following to the Department in writing:
 - (a) any collision with a marine mammal, turtle or seabird and the extent of any injury to the animal as well as whether the animal is dead or alive;
 - (b) any entangled, oiled, injured or disorientated marine mammal, turtle or seabird; and
 - (c) any ringed, banded or tagged seabird.

- (9) A bunker operator may not undertake bunkering unless an oil spill response vessel is present at the bunkering area and that vessel is equipped with gas detection equipment that is capable of sounding an alarm when the presence of flammable gas or vapour is detected.
- (10) A bunker operator must, at its expense—
- (a) collect and transport oiled seabirds to a facility which is authorised to accept the seabirds; or
 - (b) contact an authorised wildlife facility to collect and transport oiled seabirds, if instructed to do so by the Department.

6. Weather conditions

- (1) Bunkering may not commence unless a suitable weather window contemplated in subregulation (2) is available which covers the entire proposed bunkering operation including mooring and unmooring.
- (2) Bunkering may only be undertaken where—
- (a) the wind force is below 25 knots; and
 - (b) the average wave height is below 0.5 meters.
- (3) The bunker operator must immediately cease bunkering until the next suitable weather window where the conditions change so that the requirements of subregulation (2) are no longer met.

7. Requirements to avoid or mitigate oil spills

The bunker operator must—

- (a) deploy a static towing or a holdback tug to maintain heading control for the duration of bunkering;
- (b) use drip trays to collect any fuel or other run-off from equipment that is not contained within a banded area and direct the contents of those trays to a closed drainage system;
- (c) implement suitable leak detection and repair programmes;
- (d) only use low-toxicity biodegradable detergents for the cleaning of the deck and any spillages;
- (e) ensure that an inflatable curtain boom is deployed prior to each bunkering operation;
- (f) regularly monitor the inflatable curtain boom deployed in accordance with paragraph (e) throughout the duration of bunkering to ensure that the structural integrity of the boom has not been compromised; and
- (g) ensure that secondary booms are kept on standby to reinforce existing booms in the event of boom failure occurring.

8. Training requirements

A bunker operator must ensure that all crew members receive environmental awareness training prior to participating in bunkering, and at least every three years thereafter, which training must include training on the following issues:

- (a) marine wildlife awareness and avoidance;
- (b) understanding the significant actual or potential environmental impacts related to bunkering;

- (c) understanding the mitigation measures to be implemented during bunkering;
- (d) emergency preparedness and response procedures;
- (e) overview of the bunker operator's environmental management plan and each crew member's personal responsibility; and
- (f) overview and understanding of all roles and responsibilities in terms of the National Oil Spill Contingency Plan and any relevant local oil spill contingency plan.

9. Environmental Management Plan

- (1) A bunker operator may not undertake bunkering without an environmental management plan that has been—
 - (a) developed by an independent specialist; and
 - (b) approved by the Minister.
- (2) An environmental management plan must include the following:
 - (a) identification of all a site-specific environmental and ecological risks determined by an independent specialist;
 - (b) an operational ocean forecast which must be undertaken as part of the risk assessment mentioned in paragraph (a) to model any potential oil spill and inform the response to such an incident within the specific area of operation;
 - (c) environmental management and mitigation measures to avoid or minimise the identified risks;
 - (d) an outline of the key role-players responsible for the implementation of measures identified in paragraph (c) above;

- (e) incorporate a wildlife preparedness and response strategy based on the International Petroleum Industry Environmental Conservation Association's guidelines and a wildlife response program to be implemented by a reputable and experienced organisation;
- (f) a contingency plan that includes a wildlife contingency plan which includes—
 - (i) a risk assessment which determines the risk of a spill and the expected consequences;
 - (ii) a strategic plan defining roles and responsibilities and a summary of the spill response policies and techniques and priorities for response;
 - (iii) operational protocols which establish procedures to be followed when a spill occurs; and
 - (iv) an information directory collating supporting data, including contact details of relevant authorities, inventory of response equipment, list of priority areas for protection, and storage and disposal sites;
- (g) an underwater noise mitigation and management plan that includes the following:
 - (i) a range of noise reduction and mitigation options;
 - (ii) best practices for noise mitigation; and
 - (iii) operating procedures for both acute and chronic noise-generating activities including bunkering and commercial vessel transits;
- (h) details of the oil spill response vessels and role players on site;
- (i) emergency response procedure for the reporting and management of collisions with, and entanglements of, marine mammals, turtles or seabirds; and
- (j) a monitoring programme to—
 - (i) measure parameters including surface currents, oil spills and noise; and

- (ii) assess the impact of the operations on benthic and other fauna including oiled seabirds.
- (3) The Minister may—
 - (a) approve the environmental management plan;
 - (b) refer the environmental management plan back to the bunker operator for review which may contain proposed amendments; or
 - (c) reject the environmental management plan.
- (4) A bunker operator must submit any data, results and information obtained from implementing an environmental management plan approved in terms of subregulation (3) to the Department quarterly or as otherwise instructed by the Department.
- (5) Despite subregulation (1), a bunker operator authorised to undertake bunkering when these regulations commence must submit an environmental management plan contemplated in subregulation (1) within six months of the date of commencement of these Regulations.

CHAPTER 3 ENFORCEMENT

10. Offences and penalties

- (1) A person commits an offence if that person contravenes regulations 3, 4, 5, 6(1), 6(3), 7, 8, 9(1), 9(2), 9(4) or 9(5).
- (2) A person who is convicted of an offence referred to in subregulation (1) may be sentenced to a maximum fine of two million Rand or to imprisonment for a maximum period of 5 years or to both a fine and imprisonment.

11. Transitional arrangements

Despite the prohibitions in regulation 3(1)(b) and (d), a bunker operator that is authorised to undertake bunkering in Algoa Bay when these Regulations commence, may operate within anchorage areas 1 and 2 as detailed in Annexure 1 to these Regulations.

12. Short title and commencement

These Regulations are called the Regulations for the environmental management of offshore bunkering, 2025 and commence on the date of its publication in the *Gazette* for implementation.