

DEPARTMENT OF TRANSPORT

No. R5497

GG 51486

01 November 2024

MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION) BILL, 2022

DRAFT MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION) ADMINISTRATION REGULATIONS, 2024

The Minister of Transport intends, in anticipation of the promulgation into an Act of Parliament of the Marine Oil Pollution (Preparedness, Response and Cooperation) Bill, Bill 10 of 2022 as introduced in the National Assembly (proposed section 76); explanatory summary of Bill and prior notice of its introduction published in Government Gazette No. 45983 of 28 February 2022, to introduce and promulgate the Draft Marine Oil Pollution (Preparedness, Response and Cooperation) Administration Regulations, 2024, as set out in the Schedule published in the South African Maritime Safety Authority website at [Draft Regulations \(samsa.org.za\)](https://www.samsa.org.za).

To facilitate stakeholder engagement on the Draft Marine Oil Pollution (Preparedness, Response and Cooperation) Administration Regulations, 2024, SAMSA will conduct various workshops around the country, including the following:

DATE	REGION	VENUE
13 November 2024	Western Region (Cape Town)	Southern Sun Cape Sun Strand Street, Cape Town
19 November 2024	Southern Region (Gqeberha)	Town Lodge Port Elizabeth Cnr Beach Road & Lodge Road Summerstrand, Gqeberha
27 November 2024	Eastern Region (Durban)	Garden Court Marine Parade 167 OR Tambo Parade, Durban

Electronic copies of the Draft Regulations are accessible on the SAMSA website at <https://www.samsa.org.za/Pages/SAMSADraftRegulation.aspx> and may also be requested from Bulelani Ncanywa at bncanywa@samsa.org.za

Interested persons are hereby invited to submit written comments on these draft regulations on or before the **20 December 2024** to the Chief Executive Officer: SAMSA, for the attention of:

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DEPARTMENT OF TRANSPORT

No. R. 5497

GG 51486

01 November 2024

MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION) BILL

**MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION) BILL
ADMINISTRATION REGULATIONS, 2024**

I, Barbara Creecy, Minister of Transport hereby, in terms of section 31 of the Marine Oil Pollution (Preparedness, Response and Cooperation) Bill, 2022 (Bill No. 10 of 2022), make the Regulations set out in the Schedule hereunder. The proposed regulations anticipate the promulgation of the Bill into law.

Ms. B Creecy, MP

Minister of Transport

Date:

SCHEDULE

Arrangement of regulations

- 1 Definitions
- 2 Application of Regulations
- 3 Risk assessments
- 4 South African National Oil Spill Contingency Plan
- 5 Site-specific pollution contingency plan
- 6 Offences and penalties
- 7 Short title and commencement

Interpretation and Definitions

1. (1) In these Regulations, any word or expression given a meaning in the Act has that meaning and, unless the context indicates otherwise and—

‘Authority’ means the South African Maritime Safety Authority established in terms of section 2 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 2008);

‘Director-General’ means the Director-General of the National Department of Transport in the Republic;

‘Maritime Pollution Preparedness and Response Fund’ means the Maritime Pollution Preparedness and Response Fund established in terms of section 38 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);

‘mining’ has the meaning assigned to “mine” in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 OF 2002);

‘Minister’ means the Cabinet Minister responsible for Transport in the Republic;

‘NOSPCP’ has the meaning assigned to it in section 1 of the Act;

‘offshore installation’ means any of the following, situated within the internal waters,

territorial waters or the Exclusive Economic Zone, or on, or above, the continental shelf:

- (a) Any installation, or mechanism, including a subsea pipeline or vessel, which is used for the transfer of any substance to or from—
 - (i) a ship;
 - (ii) a research, exploration or production platform; or
 - (iii) the coast of the Republic;
- (b) Any exploration or production platform used in prospecting for, or the mining of, any substance; or
- (c) Any exploration or production vessel used in prospecting for, or the mining of, any substance;

‘Offshore unit’ means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil;

‘oil and gas infrastructure’ means oil and gas fields, individual wells and rigs, pipelines, transshipment centres and refineries;

‘Sea ports and oil handling facilities’ means facilities that present a risk of an oil pollution incident and include sea ports, oil terminals, pipelines and other oil handling facilities;

‘Unified Command Incident Management Structure’ means a unified command model is used to manage marine oil spills; and

‘the Act’ means the Marine Oil Pollution (Preparedness, Response and Cooperation) Bill, 2022 (Bill No. 10 of 2022);

Application of Regulations

2. (1) Subject to subregulation (3), these Regulations apply to —
- (a) the State and all organs of State;
 - (b) all spills or possible spills of oil, from any or all sources that may pollute or threaten to pollute South African waters, coastal aquatic resources or coastline; and
 - (b) any privately owned ship, offshore installations, port facilities, oil-handling facilities or any offshore installation or any port facility or any oil-handling

facility owned or partly owned or chartered or otherwise operated by an organ of state.

- (2) These Regulations do not apply to —
- (a) any ship or offshore installation of the South African National Defence Force in times of war, conflict or emergency; and
 - (b) warships or naval auxiliary vessels of another State.

(3) Notwithstanding subregulations (1) and (2), these Regulations apply to an oil spill casualty occurring at a South African Naval Base.

Risk assessments

3. (1) (a) The owner and operator of any port facility, oil-handling facility or offshore installation, shall submit the marine oil pollution risk assessment undertaken in terms of section 5(5) of the Act for approval must be submitted to the Director-General for approval in the form determined by the Department.

(b) The risk assessment undertaken in terms of section 5 subsections (5), (6) and (7) of the Act shall —

- (i) comply with the minimum requirement in section 9 of the Act;
- (ii) contain any information or requirements, determined by the Authority; and
- (ii) within 30 days of approval by the Director-General, be lodged with the Authority in the form and manner determined by the Authority.

(c) The owner and operator, upon review of the approved marine oil pollution risk assessment for consideration by the Director-General as required in section 5(7) shall lodge the results of the risk assessment contemplated in section 5(7) with the Director-General Within 30 days of completion of the assessment for approval.

(2) The Director-General shall, upon approval of the risk assessment required in section 5(7), retain a copy of the risk assessment, available and accessible as a public report in the manner the Director-General deems appropriate.

(3) The Director-General, prior to finalising the risk assessment contemplated in section 5 of the Act shall —

- (a) publish the risk assessment for public comments in the Government Gazette;
- (b) finalise the risk assessment, taking into consideration the comments received from the public; and
- (c) publish the final risk assessment as a public report in the Government Gazette.

- (4) The Authority shall —
 - (a) publish the approved risk assessments in this regulation in the Government Gazette; and
 - (b) retain a copy of each risk assessment, available and accessible as a public report in the manner the Authority deems appropriate.

South African National Oil Spill Contingency Plan

4. (1) The Director-General shall, in consultation with the Authority and the Incident Management Organisation, establish a committee for the development and maintenance of a NOSCP.

(2) The committee in subregulation (1) shall comprise representatives from the Department, the Authority, the Incident Management Organisation other national departments and state organs as the Director-General may determined.

(3) The secretariate to the committee in subregulation (1) shall be the Authority.

(4) The funds in the Maritime Pollution Preparedness and Response Fund shall be invoked for any expenditure incurred in the development of the NOSCP, except for administrative expenses of the committee or its members.

- (5) The committee shall —
- (a) publish the draft NOSCP for public comments in the Government Gazette;
 - (b) finalise the NOSCP, taking into consideration the comments received from the public; and
 - (c) submit the final draft NOSCP to the Minister for approval.

(6) The Minister shall, within 30 days of approval, publish the final approved NOSCP in the Government Gazette.

Site-specific pollution contingency plan

5. (1) The owners or operators of existing port facilities, oil-handling facilities or offshore installations, designated marine protected areas and marine bird and mammal colonies shall in the form and manner determined by the Authority, submit the site-specific pollution contingency plans within 30 days of completion, to the Authority for approval.

(2) The Authority shall determine the criteria to be considered in the approval of the plan in subregulation (1).

Offences and Penalties

6. (1)(a) Any person who contravenes any provision of regulation 3(1) and 5(1) or who fails to comply with any provision of these Regulations with which it is the person's duty to comply, shall be guilty of an offence.
- (b) Any person convicted of an offence under subsection (1) shall be liable to a fine not exceeding 35 million rand or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

(2) It is a good defence for a person charged under these Regulations to show that the person took all reasonable steps to ensure compliance with the Regulations.

Short title and commencement

7. These Regulations are called the Draft Marine Oil Pollution (Preparedness, Response and Cooperation) Administration Regulations, 2024 and are published for public comments.