

DEPARTMENT OF TRANSPORT

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DEPARTMENT OF TRANSPORT

SCHEDULE

**MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION) ACT, 2025
(Act No. 8 of 2025)**

**MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION)
REGULATIONS, 2026**

**NOTE: FULL COPY OF THESE DRAFT REGULATIONS IS ACCESSIBLE ON THE SAMS A
WEBSITE AT <https://www.samsa.org.za/>**

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DEPARTMENT OF TRANSPORT

**No.
2026**

**MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION) ACT,
2025**

**MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION)
REGULATIONS, 2026**

I, Barbara Creecy, Minister of Transport hereby, in terms of Section 31 of the Marine Oil Pollution (Preparedness, Response and Cooperation) Act, 2025 make the Regulations set out in the Schedule hereunder.

Ms. B Creecy, MP
Minister of Transport
Date:

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PART 1
Interpretation, Assessments and Plans

Interpretation and Definitions

1 (1) In these Regulations, any other word or expression to which a meaning has been assigned in the Act shall have that meaning assigned to it in the Act, and unless the context requires otherwise –

“Act” means the Marine Oil Pollution (Preparedness, Response and Cooperation) Act, 2025;

“Incident Management Organisation” or “IMOrg” has the same meaning as defined in the Act;

“Incident Management System” or “IMS” has the same meaning as defined in the Act;

“Incident Response Team” means the member referred to in Section 11(7) of the Act;

“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);

“National Oil Spill Contingency Plan” or “NOSCP” has the meaning assigned to it in Section 1 of the Act;

“oil sampling fingerprinting” means the critical process in environmental and forensic science, involving the analysis of hydrocarbon mixtures to determine their source, age, and weathering patterns.

“risk assessment” means a marine oil pollution risk assessment contemplated in the Act;

“Tier 1 incident” means a minor spill, including incipient spills that are quickly controlled, contained and cleaned up using local oil spill response resources.

“Tier 2 incident” means a moderate spill, controlled or uncontrolled, requiring activation of significant national or regional oil spill response resources.

“Tier 3 incident” means a major spill, controlled or uncontrolled, requiring activation of large quantities and multiple types of response resources including those from out of the region, and possibly international sources.

Application of Regulations

- 2 (1) Subject to sub-regulation (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
 - (c) the Republic and to the Prince Edward Islands as referred to in Section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), including 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 sub-regulations (1) and (2), these Regulations apply to an oil spill casualty occurring at a South African Naval Base.

Purpose of Regulations

- 3 (1) The purpose of these Regulations is to prescribe measures related to marine oil pollution risk assessment, contingency planning, response and other ancillary, incidental, administrative and procedural matters.

Risk Assessments

- 4 (1) (a) The Director-General, in accordance with Section 5(4) of the Act shall within 30 days —
- (i) publish the proposed risk assessment for public comments in the Government Gazette; and
 - (ii) upon finalisation, publish the final risk assessment as a public report in the Government Gazette.
- (b) The risk assessment undertaken in terms of Sections 5(5), (6) and (7) of the Act shall —
- (i) be prepared in accordance with the minimum requirements prescribed in Appendix 1 to these Regulations
 - (ii) be submitted together with Form A - Notification of Completion of Risk Assessment prescribed in Appendix 3 to the Authority;
 - (iii) the form specified in sub-paragraph (1)(b)(i) shall be completed in full, signed by an authorised person, and submitted to the authority.
 - (iv) comply with the minimum requirement in Section 5(9) of the Act;
 - (v) contain additional information or requirements as determined by the Authority on a case-by-case basis;
 - (vi) after assessment by the Authority, be presented with recommendations to the Director-General for approval; and
 - (vii) upon approval by the Director-General, be made available and accessible as a public report on the IMOrg website.
- (c) The owner and operator, upon review of the approved marine oil pollution risk assessment as required in Section 5(7) of the Act shall lodge the results with the Authority—
- (i) at least 90 days before the expiry of five years from the date of the assessment conducted in terms of Section 5(5) of the Act;
 - (ii) at least 90 days before the commencement of a new development that may alter the risk of marine oil pollution incidents from such facilities or installation, whichever comes first; or
 - (iii) within 30 days of a request by the Authority.

National Oil Spill Contingency Plan

- 5 (1) The NOSCP shall as a minimum contain—
- (a) institutional arrangements and roles;

- (b) tiered response structure (Tier 1, 2, and 3);
- (c) Incident Management System procedures;
- (d) interfacing with other plans;
- (e) inventory of resources;
- (f) maintenance and review of the NOSCP;
- (g) communication and reporting protocols; and
- (h) any other matters the committee in sub-regulation (2) deems appropriate.

(2) The IMOrg shall establish a committee for the development, maintenance and review of the NOSCP.

(3) The Director-General shall —

- (a) publish the draft NOSCP developed by the committee in sub-regulation (2) 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.

(4) The Director-General shall, within 30 days of approval, publish the final approved NOSCP in the Government Gazette.

Cooperation

6 (1) The Department will facilitate the conclusion of bilateral or multilateral cooperation at regional or international level and promote cooperation nationally, to fulfil its obligations.

(2) In furtherance of the role of the Incident Management Organisation provided for in sub-section 11(6) of the Act, the Director General may secure funding from international donors.

(3) The Incident command of the IMOrg shall consider the Guidelines on “International Offers of Assistance in Response to a Marine Oil Pollution Incident” when there is a major incident which requires augmentation of national response capacity for large, complex or significant oil spill incidents

Site-specific oil pollution contingency plan

7 (1) A site-specific oil pollution contingency plan contemplated in Section 7(1) of the Act, must be prepared in accordance with the minimum requirements prescribed in Appendix 2 to these Regulations and must include credible spill scenarios commensurate with the nature and scale of the operations conducted at the facility or installation;

(2) The Chief Executive Officer may refer a site-specific oil pollution contingency plan to the IMOrg for technical evaluation and advice. The IMOrg must provide its advice to the Authority within 30 days of the date of referral.

(3) An approved site-specific oil pollution contingency plan must—
(a) be implemented by the owner or operator concerned; and
(b) be reviewed and updated at intervals not exceeding five years, or whenever a material change occurs in the operations, risks, infrastructure or response arrangements to which the plan relates.

Marine oil pollution response equipment inventory

8 (1) For matters contemplated in Section 8 of the Act, the Authority shall by notice publish the standards or specifications adopted by the IMOrg for oil spill containment and recovery equipment.

(2) The Authority shall by notice publish a list of oil spill dispersants for use in South African waters that is approved by the Department responsible for environmental affairs.

(3) The Director-General shall ensure access to accredited research institutions or laboratories for the purpose of conducting oil sample fingerprinting tests.

(4) The IMOrg will adopt an Incident Management System (IMS) Handbook to provide guidance on the management of marine pollution incidents and responses to oil spills as contemplated in Section 11(9) of the Act.

PART 2

Place of Refuge, Commercial Coordination, Compensation and Procedures

Interpretation and Definitions

9 (1) For purposes of this Part, unless the context indicates otherwise—

“Port Authority” means the Transnet National Ports Authority as defined in National Ports Act, 2005 (Act 12 of 2005); and

“vessel in distress” means a vessel involved in an incident which may give rise to loss of life, pollution, navigational hazards, fire, explosion, structural failure, cargo instability or any other circumstances requiring emergency intervention.

Authority to Direct a Vessel

- 10 (1) The Incident Commander—
- (a) may direct a vessel to proceed to a place of refuge which may include any port operated by the Port Authority, taking into account the provisions of paragraph (b);
 - (b) must in the exercise of powers to direct a vessel, as far as reasonably practicable, consider—
 - (i) safety of life;
 - (ii) maritime safety;
 - (iii) environmental protection;
 - (iv) reduce navigational risk
 - (v) possible damage to infrastructure or property;
 - (vi) continuity of port operations;
 - (vii) national socio-economic interests; and
 - (viii) legitimate commercial interests of the Port Authority and terminal operators.

Place of refuge

11 (1) The Authority, in consultation with the Port Authority, terminal operators, environmental authorities and relevant organs of state, must develop and maintain a predetermined list of places of refuge for use.

- (2) The List contemplated in sub-regulation (1) must—
- (a) identify ports, terminals, anchorages and facilities capable of receiving vessels in distress;
 - (b) specify the operational limitations and capabilities of each place of refuge;
 - (c) include categories of incidents for which each place of refuge may be suitable;

- (d) identify environmental, navigational and commercial sensitivities;
- (e) provide indicative maximum vessel dimensions and cargo limitations; and
- (f) be reviewed at intervals not exceeding five years.

(3) Inclusion of a port or facility on the List does not create an absolute obligation to receive a vessel but constitutes prior acknowledgement that the port may be considered for use as a place of refuge subject to risk assessment and operational feasibility.

Identifying a place of refuge

12 (1) The Incident Commander in terms of Section 15(3) of the Act, may request the Incident Response Team including any relevant technical specialists to identify a suitable place of refuge from the list contemplated in regulation 11(1) taking into consideration items listed in sub-regulation (2).

(2) In identifying a place of refuge, the Incident Response Team referred to in subregulation (1) shall consider—

- (a) vessels particulars;
- (b) the nature of the incident and assistance required;
- (c) cargo information;
- (d) bunker quantities;
- (e) other dangerous goods or harmful marine pollutants;
- (f) pollution or safety risks;
- (g) availability of salvors and salvage arrangements.
- (h) environmental impact and consequences;
- (i) port safety and infrastructure;
- (j) availability of emergency response capability;
- (k) weather and navigational conditions; and
- (l) alternative place of refuge options.

(3) A decision on identifying a place of refuge must be made as soon as reasonably practicable.

Management of place of refuge

13 (1) Before directing a vessel to a place of refuge, the Incident Commander must, where time permits, consult the Port Authority and affected terminal operators regarding—

- (a) berth availability;
 - (b) operational impacts;
 - (c) traffic management measures;
 - (d) safety exclusion zones; and
 - (e) mitigation measures to minimise commercial disruption.
- (2) The Incident Commander may impose operational conditions including—
- (a) restricted movement areas;
 - (b) mandatory tug assistance;
 - (c) pollution response requirements;
 - (d) cargo transfer arrangements;
 - (e) security measures; and
 - (f) time limitations for occupation of a berth or anchorage.
- (3) The Port Authority shall facilitate implementation of a lawful direction issued under this regulation.

Compensation

- 14 (1) Where the use of a place of refuge results in demonstrable loss of earnings, operational disruption or extraordinary costs suffered by the Port Authority or an affected terminal operator, reasonable compensation may be claimed from—
- (a) the vessel owner;
 - (b) the vessel's insurer or Protection and Indemnity Club;
 - (c) the salvor where applicable; and
 - (d) any international compensation fund or other financial security mechanism available under applicable law.
- (2) Compensation contemplated in sub-regulation (1) may include—
- (a) loss of berth revenue;
 - (b) additional operational expenses;
 - (c) emergency response costs;
 - (d) infrastructure rehabilitation costs; and
 - (e) reasonable costs associated with traffic diversion and delays.
- (3) Compensation may not include indirect or speculative losses not reasonably attributable to the refuge operation.

(4) Prior to entry into a place of refuge, the Incident Commander may require proof of financial security sufficient to cover reasonably anticipated costs and liabilities, unless immediate entry is necessary to prevent imminent loss of life or major environmental harm.

(5) Nothing in this regulation limits any right of recovery available under applicable maritime, environmental or civil liability laws.

Termination of place of refuge status

15 (1) The Incident Commander may terminate the designation of a place of refuge when—

- (a) the emergency has been stabilised;
- (b) the vessel no longer requires refuge;
- (c) the continued occupation presents no unreasonable risk;
- (d) the operational conditions have been materially breached; or
- (e) an alternative safer arrangement becomes available.

(2) Before termination, the Incident Commander must, where practicable—

- (a) consult the Port Authority and relevant authorities; and
- (b) provide reasonable notice to the vessel master or operator.

(3) Upon termination, the vessel must comply with all lawful directions relating to departure, relocation, pollution prevention and recovery of costs.

Tier 3 Response

16 When the Incident Commander designates an incident as a Tier 3 response or in the course of managing the incident decides to raise the incident level to a Tier 3 response as contemplated in Section 14(3) of the Act, the Incident Commander shall without undue delay consult the Minister to request for international support of a Tier 3 response.

Recordkeeping and Review

17 (1) The Incident Commander must maintain a written record of—

- (a) decisions relating to place of refuge;
- (b) all assessments conducted;

- (c) any consultations undertaken;
- (d) other decisions made; and
- (e) any conditions imposed.

(2) Oil samples taken and test results thereof must be retained by the Authority.

(3) All members of IMS shall cooperate in the retention of information relating to an incident and such information must be stored according to the National Archives and Record Service of South Africa Act, 1996 (Act No. 43 of 1996).

(4) Following conclusion of the incident, the Authority must conduct a post-incident review addressing—

- (a) operational effectiveness;
- (b) environmental outcomes;
- (c) commercial impacts; and
- (d) lessons learnt for future place of refuge determinations.

PART 3

Administration, Compliance and Enforcement

Determination of Responsibility for Follow-up Actions

18 (1) As contemplated in Section 17(3) of the Act, the Incident Commander shall determine responsibility for follow-up actions arising from the incident as follows—

- (a) The Incident Commander must, determine—
 - (i) the relevant organ of state; or
 - (ii) any non-state actor, responsible for post-incident activities.
- (b) Follow-up activities must include—
 - (i) environmental monitoring;
 - (ii) impact assessment;
 - (iii) reporting obligations; and
 - (iv) remediation, rehabilitation and recovery measures
 - (v) any other activity that the Incident Commander deems necessary.

(2) Post-incident activities will be conducted outside the responsibility of the Incident Commander and led by the organ of state or any non-state actor as determined in sub-regulation 18(1)(a).

Compliance and Enforcement

- 19 (1) The Authority may—
- (a) conduct inspections and audits of any risk assessment, contingency plan or response capability;
 - (b) require the submission of additional information or revisions to the contingency plan; and
 - (c) issue non-compliance notice where deficiencies are identified.
- (2) A non-compliance notice must—
- (a) specify the nature of the non-compliance;
 - (b) require corrective action within a specified period; and
 - (c) indicate measures to be taken in the event of continued non-compliance.
- (3) The Authority may suspend or withdraw approval of a contingency plan where—
- (a) it no longer meets prescribed standards; or
 - (b) the holder fails to comply with a compliance notice.
- (4) The Authority may issue a directive for compliance with these Regulations.

Offences and Penalties

- 21 (1) Any person who—
- (a) fails to submit a required risk assessment or contingency plan;
 - (b) submits false, misleading or incomplete information;
 - (c) fails to comply with an approved contingency plan; or
 - (d) fails to comply with a compliance notice,
- commits an offence.
- (2) A person convicted of an offence in terms of these Regulations is liable to—
- (a) a fine of not exceeding R35 million
 - (b) imprisonment for a period not exceeding 10 years; or
 - (c) both a fine and such imprisonment.

Detention

22 The Authority has powers to detain a vessel for unpaid penalty.

Incident Reporting and Information Management

23 (1) Any person responsible for an oil spill must immediately report the incident to the Authority.

(2) The report referred to in sub-regulation (1) shall include information published in a notice by the Authority.

(3) The Authority must maintain a centralised information system for—

- (a) incident reporting;
- (b) risk assessments; and
- (c) contingency plans.

Short Title and Commencement

24 These Regulations are called the Marine Oil Pollution (Preparedness, Response and Cooperation) Regulations, 2026 and come into operation on a date determined by the Minister by notice in the Gazette.

Schedule

Draft 1

Appendix 1

Minimum Requirements for Marine Oil Pollution Risk Assessments

A risk assessment must include—

- 1 Description of the Area;
- 2 Geographic scope;
- 3 Shipping density and routes;
- 4 Sensitive environmental areas;
- 5 Hazard Identification;
- 6 Potential spill sources (vessels, ports, offshore installations);
- 7 Types of oil and hazardous substances;
- 8 Risk Analysis;
- 9 Probability of occurrence;
- 10 Spill trajectory modelling;
- 11 Worst-case discharge scenarios;
- 12 Impact Assessment;
- 13 Environmental impacts;
- 14 Socio-economic impacts (fishing, tourism, coastal communities);
- 15 Risk Evaluation;
- 16 Risk ranking and prioritisation;
- 17 Risk Mitigation Measures;
- 18 Preventative measures; and
- 19 Preparedness capacity.

Appendix 2

Minimum Requirements for Contingency Plans

A contingency plan must include—

- 1 Organisational Structure;
- 2 Roles and responsibilities;
- 3 Incident Command System alignment;
- 4 Notification Procedures;
- 5 Reporting lines;
- 6 Communication protocols;
- 7 Response Strategies;
- 8 Containment and recovery;
- 9 Use of dispersants (where applicable);
- 10 Shoreline protection;
- 11 Resource Inventory;
- 12 Equipment and personnel;
- 13 Availability and mobilisation procedures;
- 14 Training and Exercises;
- 15 Frequency and type of drills;
- 16 Environmental Protection Measures;
- 17 Identification of sensitive areas;
- 18 Protection priorities;
- 19 Waste Management; and
- 20 Collection, storage and disposal of recovered oil and waste.

Appendix 3

FORM A

Notification of Completion of Risk Assessment

1. Applicant and Operator Details: _____
- 1.1 Applicant / Operator Name: _____
- 1.2 Registration Number: _____
- 1.3 Physical Address: _____
- 1.4 Postal Address: _____
- 1.5 Telephone Number: _____
- 1.6 Email Address: _____
- 1.7 Responsible Person: _____

Name	Designation	Contact Number	Email Address

2. Description of the Activity: _____
- 2.1 Nature and Scope of the Activity: _____
- 2.2 Location of the Activity: _____
- 2.3 Geographic Coordinates (where applicable):

Latitude	Longitude

- 2.4 Duration of the Activity:
From: _____ To: _____
- 2.5 Applicable Permit or Licence Reference Number(s): _____

3. Purpose of Notification: _____

I/We hereby confirm that a risk assessment has been completed in accordance with the applicable Regulations.

Additional Comments (if any): _____

4. Scope of the Risk

Assessment: _____

4.1 Description of the Operations

Assessed: _____

4.2 Geographic and Environmental Scope:

4.3 Key Assumptions and Limitations:

5. Methodology

5.1 Risk Assessment Approach Adopted:

5.2 Techniques and Tools Used (e.g. HAZID, HAZOP):

5.3 Applicable Standards Applied:

6. Summary of Risks Identified

Hazard Identified	Likelihood Rating		Consequence Rating	Initial Risk Classification

Additional Information:

7. Mitigation and Control Measures

7.1 Preventative Measures

Implemented: _____

7.2 Response and Contingency Measures:

7.3 Alignment with National Response Frameworks, including Tiered Response Arrangements:

8. Residual Risk Assessment

Residual Risk Description	Residual Risk Level	High / Unacceptable Risk Identified (Yes/No)	Justification for Acceptance

9. Stakeholder Consultation

9.1 Stakeholders Consulted:

Stakeholder / Institution	Contact Person	Date Consulted	Summary of Input

9.2 Summary of Consultation Outcomes:

10. Compliance Declaration

I/We hereby declare that:

- the risk assessment complies with applicable legal and regulatory requirements;
- the information submitted is true and correct; and
- appropriate mitigation measures have been identified.

11. Recommendations

11.1 Monitoring and Review Requirements:

11.2 Conditions Necessary for Safe Operation:

12. Approval by the Authority

Name of Responsible Person	Designation	Signature	Date

13. Independent Review (where applicable)

Name of Independent Reviewer	Organisation	Signature	Date

Name of Independent Reviewer	Organisation	Signature	Date

Comments of Independent Reviewer (if applicable):

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