



**MINISTER  
FORESTRY, FISHERIES AND THE ENVIRONMENT  
REPUBLIC OF SOUTH AFRICA**

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Ref: EDMS MCE254170

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Dear Ms Braude

**LEGAL INTERVENTIONS TO PREVENT FURTHER DECLINE IN AFRICAN PENGUIN NUMBERS IN ALGOA BAY IN LIGHT OF RECOMMENCEMENT OF OFFSHORE BUNKERING AND SHIP-TO-SHIP TRANSFER**

I refer to your letter of 14 November 2024.

In the correspondence, the Centre inquires, amongst others, as to what further engagements the Department of Forestry, Fisheries and the Environment (DFFE) has had with Transnet National Ports Authority (TNPA) and the South African Maritime Safety Authority (SAMSA) regarding offshore bunkering and ship-to-ship cargo transfers (collectively STS Bunkering), the reasons for addressing environmental impacts of STS Bunkering by means of regulations under the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (ICM Act) and what progress has been made towards developing the regulations. The Centre also wants to know if the DFFE is still considering listing STS Bunkering as an activity requiring an environmental authorisation in terms of Environmental Impact Assessment (EIA) Regulations and conducting a strategic environmental assessment (SEA) for the purposes of STS Bunkering site selection.

In terms of engagements, on 21 February 2024, SAMSA convened an Offshore Regulators Meeting which officials of the DFFE attended to discuss the different mandates of each entity relating to STS Bunkering. Following the meeting, the DFFE commenced the process of developing a set of draft regulations in terms of the ICM Act. These draft regulations are intended to be applicable both to offshore STS Bunkering activities which have already commenced in Algoa Bay as well as to any further offshore bunkering activities which may in the future be approved by SAMSA.



The processing of personal information by the Department of Forestry, Fisheries and the Environment is done lawfully and not excessive to the purpose of processing in compliance with the POPI Act, any codes of conduct issued by the Information Regulator in terms of the POPI Act and/or relevant legislation providing appropriate security safeguards for the processing of personal information of others.

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These regulations would address the environmental impacts of offshore STS Bunkering and be implemented and enforced by the DFFE. The draft regulations draw from, amongst others, the mitigation measures contained in the environmental risk assessment commissioned by TNPA and the environmental aspects that were previously included in SAMSA's Codes of Good Practice.

These draft regulations were shared with SAMSA, TNPA and other government stakeholders for initial comments and once finalised will be published for public comment.

The approach to address the environmental impacts of STS Bunkering by means of regulations under the ICM Act was considered more appropriate than listing the activity in terms of the EIA regime given, amongst others, that bunkering has already commenced in Algoa Bay. Listing an activity under NEMA means that such activity requires an environmental authorisation before it begins. Since Algoa Bay already hosts ongoing bunkering activities, applying a listing approach would not adequately address these existing operations, as it would only apply to future activities. In contrast, regulations can apply to both existing and future operations, ensuring that all operators meet the required standards.

In addition to the draft regulations, the DFFE is still considering whether to embark on a strategic environmental assessment in the other areas which have been proposed for bunkering. In terms of section 24(2) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), I have the discretion to identify geographical areas based on environmental attributes, and as specified in an environmental management instrument (such as an SEA) in which specified activities may be excluded from the requirement to obtain an environmental authorisation from the competent authority. Depending on the outcome of the SEA, offshore STS Bunkering may then need to be listed as an activity which requires environmental authorisation save for in areas identified as suitable by the SEA. This would strike an appropriate regulatory balance and the draft regulations being prepared under the ICM Act would continue to apply to current and new bunkering activities.

In terms of noise mitigation, it should be noted that these considerations have been incorporated into the draft regulations. In addition, the DFFE is a representative for the GloNoise Partnership Project National Task Force for South Africa. The GloNoise Partnership Project forms part of the initiative by the International Maritime Organisation (IMO) in collaboration with the United Nations Development Programme (UNDP) and the Global Environment Facility (GEF). This project addresses the impacts of underwater radiated noise on marine life. This initiative seeks to raise awareness, enhance capacity, and gather information to support policy development around the mitigation of underwater radiated noise for developing countries such as South Africa.

Given that the DFFE is in the process of preparing regulations to manage the environmental impacts of offshore bunkering, it is not necessary, at this time, either to issue a coastal protection notice or to otherwise prohibit the activity in terms of section 57(2) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA).

In respect of releasing the Environmental Risk Assessment (ERA) publicly, given that this was a study commissioned independently of the DFFE, it is not appropriate for the DFFE to publish it publicly. However, it must be noted that, at the DFFE's request, the final ERA was circulated to the members of the Offshore Environmental Working Group (OEWG), including members of the public, on 08 October 2024. The ERA is, therefore, in the public domain.

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I look forward to your inputs on the draft regulations once published for public comment.

Should you wish to correspond further on this matter, please quote reference: EDMS MCE254170. Enquiries may be directed to Advocate Radia Razack via email: [RRazack@dfre.gov.za](mailto:RRazack@dfre.gov.za) or cell: 084 513 1643.

Yours sincerely



**DR D T GEORGE, MP  
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

DATE: 11/1/2025