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Dumping at Sea Regulations

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I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby publish the Dumping at Sea Regulations in terms of sections 83(1)(g), (h), (k) and (r) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008) as set out in the Schedule hereto.

(Signed)

BOMO EDITH EDNA MOLEWA
Minister of Environmental Affairs

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1 Definitions

In these Regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these Regulations, and in addition-

'**Act**' means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

'**airworthiness authorisation**' means any permission granted in terms of the Civil Aviation Act, 2009 (Act 13 of 2009) authorising an aircraft to fly;

'**National Action List**' means the national action list for the screening of dredged material proposed for marine disposal in terms of section 73 of the Act published in Government Notice 635 in *Government Gazette* 35602 of 24 August 2012;

'**dumping permit**' means a permit issued in terms of section 71(1) of the Act; and

'**emergency dumping permit**' means a permit issued in terms of section 71(1) read with section 72(1) of the Act.

2 Application for dumping permit

(1) An application for a dumping permit in terms of section 71(1) of the Act must-

- (a) be made to the Minister in writing on the application form obtainable from the Department;
- (b) be accompanied by proof of payment of the application fee, if prescribed;
- (c) be accompanied by all supporting documents required to assess the application including those required by the application form and those required in terms of these Regulations; and
- (d) be lodged-
 - (i) in duplicate; or
 - (ii) electronically, if required; and
 - (iii) with the original or certified documentation in support of the application, if required.

(2) An application for a dumping permit must be submitted by no later than 90 calendar days prior to the date on which dumping is intended to take place.

(3) If an applicant fails to-

- (a) fully complete all required parts of, and provide all information required by, the application form;
- (b) comply with the requirements listed in subregulation (1); or
- (c) submit an application 90 calendar days prior to the intended date for the dumping,

the application will be rendered incomplete and the application will not be considered.

(4) The Minister must, within 10 working days, acknowledge receipt of the application in writing.

3 Minimum information for assessment of applications

(1) An applicant must, in an application for a dumping permit, provide all the information required by the application form, including the following-

- (a) the type of waste or other material intended for dumping;

- (b) a detailed description and characterisation of the waste or other material intended for dumping;
- (c) where applicable, the chemical, physical and biological composition and properties of the waste or other material intended for dumping;
- (d) full details of the identity of the applicant;
- (e) the volume or mass of the waste or other material intended for dumping;
- (f) the location of the intended disposal site;
- (g) a report on the assessment of the availability of alternatives to disposing of the waste or other material in the sea and a demonstration in the report that the dumping at sea is, in light of that assessment, the best environmentally, socially and economically viable option for disposal;
- (h) if the dumping is from a vessel or a platform-
 - (i) the name of the vessel or platform, the name of the master of the vessel or the person in charge of the platform and the name and address of its owner;
 - (ii) the flag state and official registration number of the vessel, if any; and
 - (iii) overall length, extreme breadth, overall height and deadweight tonnage of the vessel or the platform;
- (i) if the dumping is from an aircraft-
 - (i) the name of the pilot-in-command and the name and address of the aircraft's owner;
 - (ii) the type, model, serial number, nationality and registration marks of the aircraft and its maximum certificated take-off weight specified by the airworthiness authorisation; and
- (j) in the case of the dumping of a vessel-
 - (i) a report on the structural integrity of the vessel; and
 - (ii) a description of the risk posed by the degradation of the vessel to the environment, human safety and surrounding infrastructure.

(2) In addition to subregulation (1), an applicant must demonstrate how the following waste management options cannot be utilised to minimise the waste for dumping:

- (a) re-use;
- (b) off-site recycling;
- (c) destruction of hazardous constituents;
- (d) treatment to reduce or remove any hazardous constituents; and
- (e) disposal on land.

(3) In the case of an application for the dumping of dredged material, the applicant must submit, as part of its application, sediment test results that are not older than two years determined from the date that the application is submitted.

4 Emergency dumping at sea

(1) The Minister may, on application, authorise the emergency dumping at sea of waste or other material in terms of section 71 read with section 72 of the Act in two instances:

- (a) immediate emergency dumping where the Minister may verbally authorise emergency dumping where, in addition to the criteria in section 72(1) of the Act, there is no time for the submission of a written application; or
- (b) ordinary emergency dumping in circumstances other than those contemplated in subregulation (1)(a), where the Minister may authorise in writing, emergency dumping if the requirements in section 72 of the Act and regulation 7 are satisfied.

5 Request for verbal authorisation

(1) A person intending to undertake immediate emergency dumping in terms of regulation 4(1)(a) must request and obtain prior verbal authorisation by telephonically contacting the Director responsible for marine pollution at the Department.

(2) An applicant must, in the telephonic request contemplated in subregulation (1), provide the Director with the following information:

- (a) location of the vessel, platform or aircraft;
- (b) the waste or other material intended for dumping;
- (c) full details of the identity of the applicant;
- (d) the volume or mass of the waste or other material intended for dumping;
- (e) the location of the intended disposal site;
- (f) a motivation explaining the nature of the urgency and why the emergency is of such a nature that there is no time for the submission of a written application in terms of regulation 4(1)(b);
- (g) when the emergency dumping is intended to take place; and
- (h) any other information requested by the Director.

6 Immediate emergency dumping

(1) The recipient of a verbal authorisation to conduct immediate emergency dumping in terms of regulation 4(1)(a) must submit a written request, by application, to the Minister, on a form obtainable from the Department, within 5 calendar days of being granted verbal authorisation to allow the Minister to consider and if appropriate, confirm the verbal authorisation in writing by issuing an emergency dumping permit in terms of regulation 4(1)(a).

(2) The recipient of a verbal authorisation in terms of regulation 4(1)(a) who has left coastal waters after the dumping has occurred, must comply with subregulation (1).

(3) The Minister must, within 2 working days after receipt of the application in subregulation (1), acknowledge receipt of the application in writing.

(4) An application in terms of subregulation (1) must contain the following information:

- (a) a fully completed application form obtainable from the Department;
- (b) proof of payment of the application fee, if prescribed;
- (c) details about the circumstances which led to the emergency;
- (d) a report demonstrating why the dumping was the only available option in the circumstances;
- (e) the last point of departure and the immediate destination of the vessel, platform or aircraft at the time at which the disposal occurred;
- (f) the latitude and longitude of the disposal site and the depth of the sea at that location;
- (g) an extract of all portions of the log-book and manifests of the vessel, platform or aircraft related to the emergency;

- (h) a detailed description of the circumstances under which the waste or other material was disposed of and the date and time of the disposal;
- (i) a detailed description of the actions taken to minimise danger to human life and to the receiving environment, including marine biodiversity;
- (j) a description of the waste or other material disposed of, including information on the composition and nature of the waste or other material that is sufficient to allow for the identification of the waste or other material;
- (k) material safety data sheets of the waste or other material so dumped, where applicable;
- (l) the quantity that was disposed of;
- (m) the form of the waste or other material, namely, whether solid, liquid or gas, and the methods used to package and contain the waste or other material, if any;
- (n) the trade name of the waste or other material, if any;
- (o) in the case of an aircraft, a letter from the South African Civil Aviation Authority confirming that the dumping met the criteria in regulation 4(1)(a);
- (p) an estimate of the time required for the waste or other material to disappear below the surface of the water; and
- (q) where the application is made on behalf of another person, proof that the applicant is authorised to act on behalf of the person on whose behalf the application is being made.

7 Ordinary emergency dumping

(1) An application for an emergency dumping permit in terms of regulation 4(1)(b) must be submitted to the Minister in writing and must contain the following:

- (a) a fully completed application form obtainable from the Department;
- (b) proof of payment of the application fee, if prescribed;
- (c) a comprehensive motivation as to why-
 - (i) the proposed dumping is necessary to avert an emergency that poses an unacceptable risk to the environment or to human health or safety; and
 - (ii) there are no other alternative disposal options available;
- (d) a report, with the necessary changes, containing the information required in terms of regulation 6(4);
- (e) in respect of a vessel disposal, a letter from the South African Maritime Safety Authority supporting the proposed emergency dumping; and
- (f) where the application is made on behalf of another person, proof that the applicant is authorised to act on behalf of the person on whose behalf the application is being made.

(2) The Minister must, within 5 working days, acknowledge receipt of the application in writing.

8 Assessment of applications

(1) In assessing an application for a dumping permit and an emergency dumping permit, the Minister may, in addition to those factors detailed in sections 71(2), (3) and (4) of the Act, also have regard to the following:

- (a) whether or not the applicant has been convicted of contravening the Act, the National Environmental Management Act or any other specific environmental management Act;
- (b) whether or not the applicant has contravened conditions of prior or existing permits or authorisations granted to the applicant in terms of the Act, the National Environmental Management Act or any other specific environmental management Act, including these Regulations;
- (c) the National Action List; and
- (d) any other relevant factor.

(2) The Minister may, after receiving an application submitted in terms of these Regulations-

- (a) request the applicant to provide additional specific information by a specified date;
- (b) request the applicant to carry out further investigations and to provide that information within a specified time-frame; and
- (c) request the applicant to consult with specific organisations, authorities, persons or interested parties and submit the reports of the required consultations within a specified time-frame.

(3) A failure to comply with any request made in terms of subregulation (2) renders the application incomplete and it will not be considered.

9 Decision on applications

(1) The Minister may, in relation to an application for a permit in terms of these Regulations-

- (a) issue a dumping permit or an emergency dumping permit; or
- (b) refuse the application.

(2) A permit may only be issued in terms of subregulation (1) after payment of the dumping fee, if prescribed.

(3) The Minister may issue a dumping permit or emergency dumping permit subject to conditions.

(4) A permit in terms of these Regulations must be issued in writing and must include the following details:

- (a) the identity and contact details of the permit-holder;
- (b) the geographic location of the dumping site;
- (c) the validity period of the permit; and
- (d) the conditions to the permit.

(5) Any permit issued in terms of these Regulations is not transferable.

(6) A decision to refuse a dumping permit or an emergency dumping permit must include-

- (a) the reasons for the decision; and
- (b) the date of the decision.

10 Reporting

Where dumping has occurred-

- (a) without obtaining verbal authorisation;
- (b) without a dumping permit; or
- (c) in contravention of any condition of a dumping permit,

the responsible person contemplated in section 58(2)(b) of the Act, or the permit-holder in the case of paragraph (c), must immediately inform

the Minister in writing thereof and immediately provide the Minister with a detailed written report which describe the circumstances which lead to the dumping.

11 Offences and penalties

(1) In addition to any offence contained in section 79 of the Act, any person who contravenes or fails to comply with regulations 5(1), 6(1) and 10 is guilty of an offence and is liable on conviction to-

- (a) imprisonment for a period not exceeding five years;
- (b) a fine not exceeding R2 million; or
- (c) both such fine and imprisonment.

12 Conflict and repeal

(1) These Regulations will prevail if there is any conflict between any of the provisions of these Regulations and any other regulations, by-laws or other subordinate legislation relating to dumping at sea.

(2) The regulations published in terms of the Dumping at Sea Control Act, in Government Notice R1135 in *Government Gazette* 11348 of 17 June 1988, as amended by Government Notice R956 in *Government Gazette* 16498 of 30 June 1995 are hereby repealed.

13 Transitional arrangements

(1) Any permit, exemption or authorisation issued in terms of regulations repealed by these Regulations shall be deemed to be a permit issued in terms of these Regulations and shall remain valid until that permit, exemption or authorisation is revoked, cancelled, amended or expires.

(2) An application for a permit or other authorisation in terms of regulations published in terms of the Dumping at Sea Control Act, in Government Notice R1135 in *Government Gazette* 11348 of 17 June 1988, as amended by Government Notice R956 in *Government Gazette* 16498 of 30 June 1995, which is pending when these Regulations take effect, must despite the repeal of those regulations, be dispensed with in terms of those regulations as if those regulations were not repealed and a decision taken in terms of those regulations must be deemed to be a decision taken in terms of these Regulations.

14 Short title and commencement

These Regulations are called the Dumping at Sea Regulations and commences on the date of publication in the *Gazette*.
