

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**NO. 5774****24 January 2025****MARINE LIVING RESOURCES ACT, 1998
(ACT NO. 18 OF 1998)****CONSULTATION ON THE PROPOSED REGULATIONS RELATING TO THE ENTRY OF FOREIGN
FISHING VESSELS INTO SOUTH AFRICAN WATERS**

I, Dr Dion Travers George, the Minister of Forestry, Fisheries and the Environment, hereby publish the draft Regulations relating to the entry of foreign fishing vessels into South African Waters (the Draft Regulations) for public comment. The proposed regulations will be made in terms of sections 77(1), 77(2)(g), (j), (k), (o) and 42(4) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), and are set out in the schedule to this notice.

The draft regulations seek to create a discreet notification and permitting procedure applicable to foreign fishing vessels that wish to traverse South African waters or enter into South African ports. The intention is—

- to provide certainty for those vessels as to the processes and procedures required prior to entering South African waters;
- to ensure that South Africa is aware of the presence of foreign fishing vessels in its waters at any given time;
- to ensure that if fishing gear is carried on board, it is properly stowed;
- to regulate transshipment at sea; and
- to minimise illegal, unreported and unregulated fishing.

The first draft of the regulations relating to the entry of foreign fishing vessels into South African waters was published on 19 January 2024. As a result of comments received during this process, it became necessary to revise the Draft Regulations. The changes made to the Draft Regulations include the following:

- Additional definitions have now specifically been included for clarity and to avoid the need to cross reference to the Marine Living Resources Act, 1998 (MLRA).
- A new definition of “associated activities” has been included to make it clear that storage and container vessels which support fishing are also covered.
- Although it is already stated in the MLRA General Regulations, for clarity it is now included in the Draft Regulations that transshipment at sea is prohibited unless a permit has been issued in terms of section 13 of the MLRA.
- The Minister’s power to refuse entry into South African waters based on a suspicion of IUU fishing (illegal, unreported or unregulated fishing) or an IUU listing has been removed in light of the UN Convention of the Law of the Sea which preserves the right of innocent passage through a country’s waters. While a vessel cannot be refused entry, restrictions can be placed on their passage through South African waters, which these draft regulations provide for. This includes notification of entry and stowage of all fishing gear on board while traversing South African waters.

- It has been made clear that a vessel that intends to enter port may enter South African waters on submission of its application but may not enter port unless or until the permit has been issued.
- The permit application procedure has been revised to also include criteria to be considered. It has been made clear that permits to enter port must be refused where there are reasonable grounds to believe the vessel has engaged in IUU fishing unless entry is required for purposes of inspection and enforcement. The Draft Regulations now also introduce an obligation to notify a flag state of that refusal.
- A requirement has been added prohibiting the deletion of tracking data for a specified period.

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 the newspaper, whichever is the later date, in the following manner:

Department of Forestry, Fisheries and the Environment

Attention: Aphiwe Nonkeneza
Private Bag X2
VLAEBERG
8018

By hand: 3rd Floor Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town

By email: ffvregs@dffe.gov.za

Telephone queries: 021 402 3026 / 066 4711 451

Comments or input 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 and responses thereto 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 government notice.



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