



**MINISTER
WATER AND ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA**

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MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

NATIONAL ASSEMBLY: QUESTION 3105 FOR WRITTEN REPLY

A draft reply to the above mentioned question asked by Mr G R Morgan (DA) is attached for your consideration.

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DRAFT REPLY APPROVED/AMENDED


**MRS B E E MOLEWA, MP
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

DATE: 2011/11/22

NATIONAL ASSEMBLY

FOR WRITTEN REPLY

QUESTION NO 3105

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 14 OCTOBER 2011
(INTERNAL QUESTION PAPER NO. 31)

3105. Mr G R Morgan (DA) to ask the Minister of Water and Environmental Affairs:

- (1) What is the state of compliance by the Sapref refinery in Durban including its storage facilities at Island View with the relevant (a) water, (b) waste and (c) air quality legislation as at the latest specified date for which information is available;
- (2) (a) what are the dates of all inspections by compliance officers of the Department of (i) Environmental Affairs and (ii) Water Affairs to the refinery since 1 January 2008 and (b) in each case, what are the (i) names and (ii) designations of the officers who conducted the inspections;
- (3) whether any (a) directives or (b) notices of intention have been issued against the refinery for any transgressions since 1 January 2008 in terms of the (i) National Environmental Management Act, Act 107 of 1998, (ii) National Environmental Management: Waste Act, Act 59 of 2008, (iii) National Environmental Management: Air Quality Act, Act 39 of 2004 and (iv) National Water Act, Act 36 of 1998; if not, why not; if so, what are the relevant details;
- (4) What was the response of the refinery in the case of each (a) directive and (b) notice of intention to issue a directive?
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REPLY:

- (1)(a) With regard to compliance with the water legislation, the Sapref Refinery and their Island View storage facility discharge water containing waste via the eThekweni Municipal sewer system under a Schedule Trade Effluent Permit which is regarded as a Schedule one water use. The water containing waste is treated by the Ethekeeni Municipality at the Southern Wastewater Treatment Works (WWTW) before disposal via a sea outfall pipeline. The Ethekeeni Municipality scored 90.6% for the pervious Green Drop assessment period with the Southern WWTW earning a prestigious green drop with a score of 92.3%.

The Sapref Refinery forms part of a number of other companies that are collectively responsible for groundwater remediation of the Island View Complex. The companies working within the Island View Complex are tenants of the Transnet National Ports Authority and they are currently involved in the remediation of the entire Island View Complex. The work to date includes extensive groundwater monitoring, risk assessment and status quo investigations. The Sapref Refinery (Island View site), together with officials from the Department of Water Affairs, are part of the Groundwater sub-committee group which meets every two months.

- (1)(b) & (c) Firstly, with regard to air quality, since 1 April 2010, the eThekweni Metropolitan Municipality has been the responsible Air Quality Licensing Authority and they have not reported any significant, Sapref-related, compliance concerns to the national department since taking over this responsibility.

Notwithstanding the above, with regard to waste and air quality legislation, a comprehensive compliance inspection took place on 5-6 August 2008 at the Sapref refinery, as well as the Island View storage facility. Since then, various authorisations have been replaced and / or the facility has been issued with new authorisations. In order to ensure compliance, the Department facilitates continuous supervision through regular engagements with Sapref. The Department is also aware that monthly meetings are held between eThekweni Health as the current licensing authority for National Environmental Management: Air Quality Act, 2004 (NEM:AQA), to discuss and provide feedback in terms of the facility's performance in relation to, amongst others, its Atmospheric Emission License and its Scheduled Trade Permit (STP).

The engagement occurs on a quarterly basis where officials from the following authorities are represented:

- Kwa-Zulu Natal Department of Agriculture, Environment and Rural Development;
- eThekweni Health;
- Department of Water Affairs

In preparation of these quarterly meetings, a "*Quarterly Environmental Compliance and Performance Report*" is compiled by the facility representatives and submitted to all attendees for review. The report is a comprehensive summary detailing the environmental performance of the facility during the past quarter, with particular focus on the following:

- Number, nature, as well as the action taken in response to complaints received during the quarter;
- Non-compliances related to applicable legislation as well as authorisations and / or permits;
- Enforcement action taken by authorities in respect of the non-compliances detected (b-above)
- Emergency incidents, if any;
- Process upsets, if any;
- Media reports, if any;
- Status updates on all authorisations applied for and/ or required;
- Environmental improvements implemented in the quarter;
- Environmental improvements planned for the next quarter;
- Engagement with authorities, apart from this meeting; and
- Data in the form of quarterly monitoring results and graphs (i.e. air, waste and water).

Items discussed at these meetings include the following:

- Report on action items from previous meetings;
- Feedback from Sapref on the "*Quarterly Environmental Compliance and Performance Report*";
- Sapref Progress Report on Environmental Improvement Programmes;
- Discussion and questions on the "*Quarterly Environmental Compliance and Performance Report*"; and
- Action items to be completed prior to the next quarterly meeting.

The last quarterly compliance meeting was held on the 8 August 2011, where the following issues were addressed:

a) **Water:**

According to Sapref's effluent quality report, there were a number of occasions where the Phenols & Sulphide concentrations were higher than required. During these occasions, the effluent was diverted from the Southern Works discharge to Sapref's internal buffer systems until the effluent was once again within the required limit.

b) **Waste:**

Sapref has been issued with two waste management licences recently and although compliance to these were not assessed at this engagement, Sapref did report on the volumes generated and disposed of at both the refinery and Island view.

c) **Air:**

There was a process upset at the Sulphur Recovery Unit 14 on 23 April 2011. This caused Sulphur Dioxide (SO₂) exceedences which led to various complaints from the surrounding community during this period. This matter has been reported to the eThekweni municipality which is dealing with the issue.

(2)(a) & (b) As noted above, a comprehensive strategic environmental compliance inspection was conducted on 6 August 2008; this inspection was conducted by the following individuals from the following government institutions:

Department of Environmental Affairs:

- Sthembiso Hinani - Assistant Director (ASD): Air Quality Management
- Wiseman Rikhotso - ASD: Compliance Monitoring
- Makgomo Mushwana - ASD: Air Quality Management
- Mazwi Lushaba - Director: Air Quality Management
- Anben Pillay - Deputy Director (DD): Compliance Monitoring
- Vanessa Chetty - ASD: Compliance Monitoring
- Prince Mkhonto - ASD: Air Quality Management
- Nolu Matebese - ASD: Enforcement

Kwa-Zulu Natal Department of Agriculture and Environmental Affairs:

- Xolani Makhanya - Senior Environmental Officer (SEO): Compliance, Monitoring & Enforcement
- Sengalela Mgaga - SEO: Compliance Monitoring & Enforcement
- Brenden Perumal - SEO: Compliance Monitoring & Enforcement
- Dan Mkhwanazi - DD: Uthukela District
- Stewart Green - ASD: Compliance Monitoring and Enforcement
- Sidwell Ngcamu - SEO: Compliance Monitoring and Enforcement
- Khethiwe Dlamini - ASD: Pollution & Waste Management
- Jomo Mbatha - DD: Zululand
- Nathi Mqadi - SEO: Compliance Monitoring & Enforcement
- Nasreen Mansoor - SEO: Compliance Monitoring & Enforcement
- Mischelle Govender - ASD: Compliance Monitoring and Enforcement
- Phumelele Msimang - SEO: Compliance Monitoring & Enforcement
- Senzo Radebe - SEO: Compliance Monitoring & Enforcement
- Mpho Sebole - SEO: Pollution and Waste Management
- Shireen Mahabeer - SEO: Compliance Monitoring & Enforcement
- Ntokozo Nkosi - ASD: Compliance Monitoring & Enforcement
- Glorius Mhlanga - SEO: Compliance Monitoring and Enforcement

eThekweni Municipality

- Jason Reddy - Pollution Control Officer: eThekweni Health
- Ronnie Chetty - Pollution Control Officer: eThekweni Health

An environmental compliance inspection was also conducted on 25 January 2011. This inspection was conducted by the following officials from the following government institutions:

Department of Environmental Affairs:

- Stewart Green - DD: Section 30
- Armstrong Simelane - ASD: Compliance Monitoring
- Brenden Perumal - ASD: Administrative Enforcement
- Phila Dlamini - ASD: Section 30

Kwa-Zulu Natal Department of Agriculture, Environment and Rural Development:

- Nasreen Mansoor - SEO: Compliance Monitoring & Enforcement
- Rishal Sooklal - SEO: Pollution and Waste Management

eThekweni Municipality

- Peter Roberts - Pollution Control Officer: eThekweni Health

(2)(a)(ii) & (b) (ii) An inspection by compliance officers of the Department of Water Affairs was done on 5 August 2008 and it was conducted by Ms Renelle Pillay: Assistant Director, Water Quality Management.

(3)(a)(i) (ii) & (iii) In relation to the comprehensive strategic environmental compliance inspection conducted on 5-6 August 2008, the following administrative enforcement intervention have occurred:

- The Compliance Inspection Report was finalised and issued to Sapref during October 2009, affording the facility until November 2009 to make representations to the findings enclosed in the report.
- Sapref's representations were received in November 2009 and reviewed by officials from this Department.
- An Enforcement strategy was drafted, in order to address concerns relating to air quality, waste management as well as water quality.
- The Department has also engaged Sapref in an APPA registration certificate review process and eThekweni Municipality is now processing the Atmospheric Emission License application.
- Subsequent to the drafting of the Enforcement strategy, the Department issued Sapref with a letter dated 7 June 2010, requesting additional information to guide its decision as to whether or not to proceed with enforcement action against the facility. The requested information was provided by Sapref on 21 June 2010, and the Department decided not to pursue enforcement action as all of the concerns raised were adequately addressed.
- In relation to the environmental compliance inspection conducted for the TEL project at Sapref on 25 January 2011, the Department is in the process of addressing the findings of this inspection through an administrative enforcement process. Sapref has been afforded an opportunity to make representations in line with the requirements of the Promotion of Administrative Justice Act ("PAJA"), and at the time of responding to your query, no final decision has been taken in that regard.

(3)(a) & (b) (iv) In relation to the Department of Water Affairs, no directives or notices of intention have been issued since 1 January 2008 in terms of the National Water Act, 1998 (Act No. 36 of 1998) as the company has undertaken the required remedial work and no further contraventions have been brought to the attention of the Department.

(4) Falls away

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