



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

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Ref: EDMS 227744 /Gledhow Sugar/Kwa Zulu-Natal Province

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To: Gledhow Sugar Company
Mr Dhanesh Matabadal
Acting Safety, Health, Environmental and Quality (SHEQ) Manager

Email: dmatabadal@gledhow.co.za

Dear Sir

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

INTRODUCTION:

1. Reference is made to the site inspection conducted by Environmental Management Inspectors ("EMI's") from this Department, as well as from the KwaZulu Natal Department of Economic Development, Tourism and Environmental Affairs ("KZNEDTEA") and the iLembe District Municipality ("IDM") on the 26th of October 2022 at Gledhow Sugar Company (herein referred to as "the facility") in Kwa Zulu-Natal Province.
2. I, Frances Craigie, in my capacity as a Grade 1 EMI, having considered this matter am of the view that Gledhow Sugar Company, has failed to adhere to the provisions of the environmental law in respect of the activities taking place on site.



Batho pele- putting people first

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NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

3. Accordingly, I hereby give you written notice of my intention to issue you with a Compliance Notice in terms of Section 31L of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA").

RATIONALE FOR THE INTENDED-COMPLIANCE NOTICE:

4. The compliance notice I intend to issue relates to the following:
- 4.1 Commencement of activities without a Waste Management License in terms of the National Environmental Management Waste Act ("NEM:WA");
 - 4.2 Non-compliance to conditions in your AEL dated 07 April 2022 (KNIL_001072);
 - 4.3 Non-compliance to the conditions contained within the Directive issued in terms of Section 30A (1) and 3 of the National Environmental Management Act, 1998 (Act No of 107 of 1998) dated 27 April 2022 (Reference Number DC29/S30A/0002/2022)
 - 4.4 Managing waste in a manner which may cause harm to the environment which is considered to be prohibited under the NEM: WA;
 - 4.5 Non-compliance to the Regulations in terms of the Classification and Management of Waste GN No. R.634 published on 23 August 2013 in terms of sections 69(1)) of the NEM:WA; and
 - 4.6 Non-compliance to the Standards established under section 24(1) of the National Environment Management: Air Quality Act ("NEMA:AQA)
5. After considering the information made available to this Department, I have reasonable grounds to believe that you have contravened the law as set out below.



6. Non-compliance to the National Environmental Management Waste Act (Act 59 of 2008):

6.1 Table 1: Findings

On-site activity	Activity triggered	Legislation Contravened
<p>The team observed that the facility has constructed Ash Settling Ponds on the right side of the Ash Dam.</p> <p>According to Mr Du Plessis, the Settling Ponds were constructed in April 2022 for drying of the ash that has been taken out from the Ash dam. He further stated that these Ash Settling Ponds were constructed on top of the Old Ash Dam that was decommissioned 40 years ago. The Waste Assessment and Classification Report for the solid boiler ash compiled by Talbot dated 24 October 2021 states that the solid boiler ash has been classified as Type 1 waste which is supposed to be disposed of at Class A Landfill. The report further indicates the waste is chemically assessed as a Type 1 waste due to the high leachable Lead concentration (LC > LCT2).</p> <p>There is no valid Waste Management Licence in respect of these Settling Ponds</p>	<p>Construction of settling ponds to store the ash to settle constitutes a listed activity in terms of GN 921 of 29 November 2013 of National Environmental Management Waste Act (Act 59 of 2008), Category B section 1 which states that:</p> <p><i>"Storage of hazardous waste in lagoons excluding storage of effluent, wastewater or sewage"</i></p>	<p>Section 19</p>



7. Non-compliance to conditions of the AEL dated 07 April 2022 (KNIL 001072).

7.1 Table 2: Findings

Condition	Application to the facts
<p>Condition 4.2 (Paragraph 1) on page 3 requires that the holder of the licence must, when undertaking the listed activity, adhere to the duty of care obligations as set out in section 28 of the NEMA.</p>	<p>1. Exceedances of the Emission Limit Values at Boilers 1 to 5 Stacks</p> <p>The facility was issued with a postponement from complying with the minimum emission standards on 04 November 2019. In response to the postponement, the facility submitted the road map on what needs to be done to minimize or contain the atmospheric emissions. According to the timeframes indicated in the Roadmap submitted as part of the motivation for postponement to comply with the MES, the facility committed to have already implemented the following activities:</p> <ul style="list-style-type: none"> • Replaced the flue gas ducting on boiler 1 • Replaced spreaders on boiler 1 fuel feeders; Boiler 1 acid clean; Boiler 1 grate refurbishment • Replaced ducting on Boiler 1 • Replacement of boiler 2 and 3 spreaders trajectory plate • Fit4Future Boiler Efficiency Improvement Program with AB Sugar support and Boiler Station Efficiency Audit. <p>The team observed pneumatic coal spreader at boiler 1. Mr Francois informed the team that the other improvements are not visible and will provide records of the work done. However, records were not provided to the team in this regard.</p> <p>Upon review of the Source Emission Testing Reports (Isokinetic Testing Results) dated 22 October 2021, 18 January 2021 and 05 November 2019 compiled by Zanoluhle Environmental Services, there were consistent exceedances of the Emission Limit Values for the Particulate Matter and Sulphur Dioxide at Boilers 1 to 5 Stacks stipulated in the Postponement Decision dated 4 November 2019. The tables below show details regarding exceedances of the Emission Limit Values:</p>

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Source Emission Testing Report dated 22 October 2021

Pollutant Measured	Measured (mg/Nm ³)	Concentration	Emission (mg/Nm ³)	Limit	Value
Boiler 1					
Sulphur Dioxide	587.76		500		
Boiler 2					
Particulate Matter	1390.61		250		
Boiler 3					
Particulate Matter	1830.68		250		

Source Emission Testing Report dated 18 January 2021

Pollutant measured	Measured (mg/Nm ³)	Concentration	Emission (mg/Nm ³)	Limit	Value
Boiler 1					
Sulphur Dioxide	532.35		500		
Boiler 2					
Particulate Matter	2716.72		250		
Boiler 3					
Particulate Matter	2729.09		250		
Boiler 4 and 5 (combined)					
Particulate Matter	584.80		250		

Source Emission Testing Report dated 05 November 2019

Pollutant measured	Measured (mg/Nm ³)	Concentration	Emission (mg/Nm ³)	Limit	Value
Boiler 2					
Particulate Matter	1478.92		250		

Boiler 3	
Particulate Matter	2490.23
	250
Boiler 4	
Particulate Matter	577.18
	250

2. Exceedances of the residential and non-residential limits of the National Dust Control Regulations at GLD 01 (Main Gate), GLD 02 (Admin Office), GLD 04 (Pump Station), GLD 05 (Southgate Security Gate), GLD 08 (Primary School) and GLD 12 (Gledhow Pre-School):

The reports titled Monthly Reporting Requirements Air Emissions Licence and dated September 2022, July 2022, June 2022, November 2021, September 2021, August 2021, July 2021, June 2021, and April 2021 show the exceedances of the residential threshold as follows:

Location	Dust fall rate (mg/m ² /day)	Sampling month
GLD 08	2080	September 2022
	1911	July 2022
	919	June 2022
	1909	November 2021
	4359	September 2021
	4176	August 2021
	4093	July 2021
	3534	June 2021
	3203	April 2021
	717	April 2021
	852	September 2022
	1298	July 2022
GLD 12	1203	August 2021
	1125	July 2021
	2038	June 2021



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Gledhow Sugar Company Dust Fallout Monitoring Reports for August and September 2022, dated 13 October 2022 and compiled by Zankuhle Environmental Services shows the exceedances of the non-residential threshold (600 <math>D < 1200</math>) as follows:

Location	Dust fall rate (mg/m ² /day)	Sampling Date
GLD 01 (Main Gate)	4209	August 2022
	4128	September 2022
GLD 02 (Admin Office)	2586	August 2022
	2542	September 2022
GLD 04 (Pump Station)	1995	August 2022
	1831	September 2022
GLD 05 (Southgate Security Gate)	2212	August 2022
	2658	September 2022

This situation has the potential to cause a significant detrimental effect on the environment and health problems as GLD08 and GLD12 are located at schools. The team observed various sources of dust which may be contributing to exceedances, including Boiler Ash, Coal Stockyard and from the Limestone waste adjacent to the Coal Stockyard. Exceedances of the National Dust Control Regulations Thresholds was also recorded during the previous inspection conducted from 17 to 18 August 2022. In a responding letter dated 14 October 2022, Gledhow Sugar Company committed to investigate sources of dust leading to the exceedances and review the Dust Management Plan. The review was supposed to have been reviewed monthly with submission of the dust monitoring results as per the AEL dated April 2022.

	<p>3. <u>Dust at the Pith Storage Area</u></p> <p>The team observed dust coming out of the Pith Storage Area. This can contribute to fugitive emission sources which can cause a significant harm to the environment. Although the Pith Storage Area belongs to SAPPI, the area is located within the facility premises and the pith is generated by Gledhow.</p> <p>Section 28(2) requires the owner of land or premises to take reasonable measures to prevent such pollution or degradation from occurring, continuing, or recurring, or, in so far as such harm to the environment is authorized by law or cannot reasonably be avoided or stopped, to minimize and rectify such pollution or degradation of the environment. The above information demonstrates that the facility is not adhering to the duty of care obligations as set out in section 28 of the NEMA.</p>
<p>Condition 4.3 (Paragraph 1) on page 3 requires that measurement, calculation and/or sampling and analysis shall be carried out in accordance with any nationally or internationally acceptable standard. A different method may be acceptable to the licensing authority as long as it has been consulted and agreed to the satisfactory documentation necessary in confirming the equivalent test reliability, quality and equivalence of analyses.</p>	<p>Upon request, the facility could not provide proof that measurements, calculation and or sampling analysis are carried out in accordance with any nationally or internationally and acceptable standard. The team reviewed Source Emission Testing Reports dated 22 October 2021, 18 January 2021 and 05 November 2019 compiled by Zanokuhle Environmental Services. These reports predate the renewal of the AEL dated 07 April 2022. It was found that the accreditation certificate for the laboratory used is not signed.</p>
<p>Condition 4.3 (Paragraph 2) on page 3 stipulates that the licence holder is responsible for quality assurance of methods and performance. Where the holder of the licence uses external laboratories for sampling or analysis, accredited laboratories must be used.</p>	<p>The licence requires the facility to submit isokinetic reports quarterly and the first report was due on the 30th of July 2022. Copy of such report was not submitted to the team. Therefore, the facility could not demonstrate that there is quality assurance of methods and performance.</p> <p>The Coal Analysis Reports dated 08 July 2022, 01 August 2022, 04 August 2022, 11 August 2022, 15 September 2022, 28 September 2022, 31 August 2022, 19 October 2022, 05 October 2022, and 14 October 2022 do not include details and/or proof of accreditation of the used laboratories.</p> <p>Furthermore, upon review of the Source Emission Testing Reports dated 22 October 2021, 18 January 2021 and 05 November 2019 compiled by Zanokuhle Environmental Services, it was observed that these reports predate the renewal of the AEL dated 07 April 2022 and the accreditation certificate for the laboratory used</p>

<p>Condition 4.4 (Paragraph 5) on page 3 stipulates the following special conditions:</p> <ul style="list-style-type: none"> • Quarterly progress reports on the implementation of your compliance road map and commitments to your postponement sought on Boiler 1 Emissions of PM and SO2 are to be made to the Licencing authority and the National Authority Officer from the receipt of this air emission Licence. • An isokinetic test on Boiler 1 Stack is to be performed within 3 months of receiving this air emission licence. • Provide specific abatement technology updates to be installed as part of the roadmap to aim at achieving compliance with Minimum Emission Standards (MES). • Conduct an assessment of the facility's current emissions impact on human health and receiving environment with clearly defined sensitive receptors and vulnerable groups. • Provide an emissions inventory that complies with the requirements as prescribed in the Air Dispersion Modelling Code of Practice, Gazette Number 37084. • Provide an Impact Report that complies with the requirements of an Atmospheric 	<p>is not signed.</p> <p><u>Details of non-compliances:</u></p> <ul style="list-style-type: none"> • The licence is dated 07 April 2022, and the first quarterly progress report was due on the 08 July 2022. The facility could not provide Quarterly Progress Reports and associated proof of submission. • The licence is dated 07 April 2022, and the Isokinetic Test on Boiler 1 Stack was due on the 08 July 2022. The facility could not provide the Isokinetic Test Results for Boiler 1 Stack. • The facility could not provide updates of specific abatement technology to be installed as part of the roadmap to achieve compliance with Minimum Emission Standards (MES). Mr Francois explained that boilers 4 and 5 are fitted with wet scrubbers whereas boilers 1 to 3 are fitted with cyclones. • The facility could not provide proof that assessment of the facility's current emissions impact on human health and receiving environment was conducted. However, the team was provided with reports titled Ambient Monitoring from March 2022 to July 2022 compiled by Zanokuhle Environmental Services. According to these reports, emission measurements of Hydrogen Sulphide (H2S) was carried out around sensitive areas points. These reports shows that the World Health Organisation (WHO) limit for H2S was exceeded at the Gledhow Dam in April 2022. These reports could not be regarded as an overall indication of emissions from the facility and impacts thereof because other parameters were not measured. For example, the level of H2S may be within the WHO standards at a particular sensitive receptor point whereas levels of PM be higher at the very same point. • Records that emissions inventory was provided could not be provided to the team upon request. • Proof that Impact Report was provided could not be provided to the team upon request. • The facility could not provide the Air Quality Improvement Plan to the team upon request. • The facility could not submit proof of providing a progress report on implementation of offset projects. • The facility could not provide proof of review of the present dust monitoring plan made with monthly reporting of the dust monitoring results to the Licencing authority. When responding to the findings of the inspection conducted from 17 to 18 August 2022 relating to dust fall out exceedances, the facility, in their letter dated 14 October 2022, committed to investigate sources of dust leading to the exceedances and review the Dust Management Plan. This shows that there has not been any review plan as required.
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<p>Impact Report (AIR) format as set out in Gazette No. 36904.</p> <ul style="list-style-type: none"> An air quality improvement plan for achieving minimum emission standard limits over time must be developed in achieving the current emission limits of the Act. You are also required to provide a progress report on implementation of offset projects where applicable. A review of the present dust monitoring plan of your facility is to be made with monthly reporting of the dust monitoring results to the Licencing authority. 	<p>The facility could not provide annual consumption records or any other records demonstrating that there were no exceedances of the maximum permitted consumption rate of the regulated raw materials.</p>								
<p>Condition 6.1 on page 8 stipulates the Regulated Raw Materials (Refer to license for full condition)</p>	<p>The facility could not provide annual production records or any other records demonstrating that there were no exceedances of the maximum permitted production capacity.</p>								
<p>Condition 6.2 on page 8 stipulates the Production and By Product Rates (Refer to license for full condition)</p> <p>Condition 6.3 on page 9 stipulates the materials used in energy sources (Refer to license for full condition)</p>	<p>Mr Francois informed the team that analysis of coal is conducted by a third party offsite. Copies of coal analysis results dated 08 July 2022, 01 August 2022, 04 August 2022, 11 August 2022, 15 September 2022, 28 September 2022, 31 August 2022, 19 October 2022, 05 October 2022, and 14 October 2022 were provided to the team. The ash content was found to be higher than the stipulated 12.63% as follows:</p> <table border="1" data-bbox="1133 425 1356 1344"> <tr> <td>08 July 2022</td> <td>15.7%</td> </tr> <tr> <td>01 August 2022</td> <td>14.1%</td> </tr> <tr> <td>04 August 2022</td> <td>17.4%</td> </tr> <tr> <td>11 August 2022</td> <td>15%</td> </tr> </table>	08 July 2022	15.7%	01 August 2022	14.1%	04 August 2022	17.4%	11 August 2022	15%
08 July 2022	15.7%								
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	<table border="1"> <tr> <td>15 September 2022</td> <td>24.3</td> </tr> <tr> <td>28 September 2022</td> <td>17.6</td> </tr> <tr> <td>31 August 2022</td> <td>17.1</td> </tr> <tr> <td>19 October 2022</td> <td>14.2</td> </tr> <tr> <td>05 October 2022</td> <td>24.1</td> </tr> <tr> <td>14 October 2022</td> <td>12.8</td> </tr> </table> <p>Sulphur content was higher than the stipulated 0.76% as follows:</p> <table border="1"> <tr> <td>15 September 2022</td> <td>0.92%</td> </tr> <tr> <td>31 August 2022</td> <td>1.28%</td> </tr> <tr> <td>05 October 2022</td> <td>0.77</td> </tr> <tr> <td>19 October 2022</td> <td>0.84%</td> </tr> </table>	15 September 2022	24.3	28 September 2022	17.6	31 August 2022	17.1	19 October 2022	14.2	05 October 2022	24.1	14 October 2022	12.8	15 September 2022	0.92%	31 August 2022	1.28%	05 October 2022	0.77	19 October 2022	0.84%
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<p>Condition 7.1 on page 10 stipulates control devices (Refer to license for full condition)</p> <p>Condition 7.2 on page 11 stipulates the maximum emission rates under normal working conditions (Refer to license for full condition)</p> <p>Condition 7.5 on page 12 specifies Reporting Group /Emission Unit (Area and/ or line source) – management and mitigation measures (Refer to license for full condition). As of the above and further to the present application for postponement of compliance</p>	<p>Mr Francois explained that boilers 4 and 5 are fitted with wet scrubbers whereas boilers 1 to 3 are fitted with cyclones. Use of cyclones is in breach of the licence, which requires scrubbers to be fitted in boilers.</p> <p>The licence requires the facility to submit isokinetic reports quarterly and the first report was due on the 30th of July 2022. Copy of such report was not submitted. Therefore, the facility could not demonstrate compliance to the Minimum Emission Standards.</p> <p>Mr Francois indicated that some of the improvements carried out may not be visible. Upon request, records of work done in relation to the improvements that have been implemented were not provided to the team. He further confirmed that boilers 1 to 3 are fitted with cyclones and the scrubbers have not been installed.</p> <p>In addition, according to the roadmap the facility was supposed to have implemented the following activities so far: Replace flue gas ducting on boiler 1; replace spreaders on boiler 1 fuel feeders; Boiler 1 acid clean;</p>																				



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<p>time frames as per Reference: KZN/GSM - IDM / 20190503 dated 04 November 2019 from the National Air Quality Officer (NAQO) you are required to provide the Licensing Authority and the NAQO with Quarterly reports on the implementation of your compliance map and commitments in support of your compliance. Failure to do this will render your license to be refused.</p>	<p>Boiler 1 grate refurbishment; replace ducting on Boiler 1; replacement of boiler 2 and 3 spreaders trajectory plate; Fit4Future Boiler Efficiency Improvement Program with AB Sugar support and Boiler Station Efficiency Audit. The team observed numatic coal spreader at boiler 1. Mr Francois informed the team that the other improvements are not visible and will provide records of the work done. However, records were not provided to the team.</p>
<p>Condition 7.6 on page 14 requires that the licence holder must maintain complaints register at its premises, and such register must be made available for inspections. The complaints register must include the following information on the complainant namely, the name, physical address, telephone number, date and the time when the complaint was registered. The register should also provide space for noise, dust and offensive odours complaints.</p> <p>Furthermore, the licence holder is to investigate and, monthly, report to the licencing authority in a summarised format on the total number of complaints logged. The complaints must be reported in the following format with each component indicated as may be necessary:</p> <ul style="list-style-type: none"> (a) Source code / name; (b) Root cause analysis; (c) Calculation of impacts / emissions 	<p>The provided Community Complaints Register shows that 17 complaints were received between 30 March 2019 to 15 August 2022, of which 17 were attended to. These complaints relate to Dust (14), Black Smoke (1) and Offensive Odour (2). However, the Community Complaints Register does not include the root causes analysis and measures implemented to prevent reoccurrence as required in the AEL.</p> <p>Incomplete complaints register was also noted during the previous inspection conducted on 17 and 18 August 2022. In a responding letter dated 14 October 2022, Gledhow Sugar Company committed that the complaints register will be updated to include investigation of the root cause analysis and measures implemented.</p>



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<p>associated with incidents and dispersion modelling of pollutants, where applicable;</p> <p>(d) Measures implemented or to be implemented to prevent recurrence; and</p> <p>(e) Date by which measure will be implemented.</p> <p>The licensing authority must also be provided with a copy of the complaints register. The record of a complaint must be kept for at least 5 (five) years after the complaint was made.</p> <p>Condition 7.7 on page 14 states that the following investigations are required:</p>							
<table border="1"> <thead> <tr> <th data-bbox="687 1541 783 1883">Investigation</th> <th data-bbox="687 1099 783 1541">Purpose</th> <th data-bbox="687 241 783 1099">Completion Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="783 1541 1356 1883">Investigation into joint monitoring of the PM10 continuous monitor between Sappi Stanger Mill and Gledhow Sugar Mill</td> <td data-bbox="783 1099 1356 1541">To seek management controls on the joint responsibility of the continuous PM10 monitor and to report quarterly results to the licensing authority</td> <td data-bbox="783 241 1356 1099">31 June 2022 and quarterly thereof</td> </tr> </tbody> </table>	Investigation	Purpose	Completion Date	Investigation into joint monitoring of the PM10 continuous monitor between Sappi Stanger Mill and Gledhow Sugar Mill	To seek management controls on the joint responsibility of the continuous PM10 monitor and to report quarterly results to the licensing authority	31 June 2022 and quarterly thereof	<p>Mr Matabadal explained that there is joint monitoring of the PM10 continuous monitor between Sappi Stanger Mill and Gledhow Sugar Mill. He however stated that there is data gap as system malfunctions due to power surges on both the Particulate Matter analyser and wind sensor.</p> <p>According to Mr Matabadal. Provided PM10 results shows the data gap from 01 March 2022 to 10 March 2022, 11 April 2022 to 21 April 2022 and 04 July 2022 to 13 October 2022. The facility could not provide proof of reporting results to the licensing authority on quarterly basis.</p>
Investigation	Purpose	Completion Date					
Investigation into joint monitoring of the PM10 continuous monitor between Sappi Stanger Mill and Gledhow Sugar Mill	To seek management controls on the joint responsibility of the continuous PM10 monitor and to report quarterly results to the licensing authority	31 June 2022 and quarterly thereof					

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<p>Condition 8 on page 14 requires that the disposal of any waste and effluent arising from the abatement equipment control technology must comply with the relevant legislation and requirements of the relevant authorities.</p>	<p>Mr Francois explained that ash is transported to the Ash Handling Area via conveyer belt, where it is further transported off site by trucks to different companies for beneficial use. According to the Waste Assessment and Classification Report for Waste Mixture: Solid Boiler Ash dated 24 October 2021; Boiler Ash is classified as Type 1 Waste which should be disposed of at Class A Landfill (H:H/H:h). Sending ash to different companies for beneficial use is not according to relevant legislation as classification shows that boiler ash should be disposed of at the Class A Landfill (H:H/H:h).</p>
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8. Possible non-compliance in relation to the Directive in terms of Section 30A (1) and 3 of the National Environmental Management Act, 1998

(Act No of 107 of 1998) dated 27 April 2022 (Reference Number DC29/S30A/0002/2022).:

8.1 Table 3: Findings:

NEMA	
8.1.1 Non-compliance with conditions stipulated in the S30A Directive dated 27 April 2022 (Reference Number DC29/S30A/0002/2022)	Application to the facts
<p>Condition 10.4 on page 3 of the Directive requires that the material excavated from the ash dam must be removed off site and taken to a licensed waste disposal facility. Proof of safe disposal must be kept on site.</p>	<p>The team observed stockpiles of ash sediments at the decommissioned old Ash Dam Area. According to Mr Du Plessis, the ash sediments were removed from the main Ash Dam to avoid overflow. He further explained that the sediments were caused by the floods that occurred in April 2022. The ash sediments stockpiled at the Ash Dam area are given to the farmers to be used as fertilisers.</p> <p>Furthermore, the Waste Assessment and Classification Report provided to the team, the solid boiler ash has been classified as Type 1 waste which is supposed to be disposed of at Class A Landfill . The report further indicates the waste is chemically assessed as a Type 1 waste due to the high leachable Lead concentration (LC > LCT2). The facility could not provide the team with proof of safe disposal upon request.</p> <p>This was also a finding during an inspection that took place on the 17 August 2022 undertaken by KwaZulu Natal Department of Economic Development, Tourism and Environmental Affairs and had not been addressed during this inspection.</p>



9. Non-compliances in terms of the NEM:WA

9.1 Table 4: Findings:

On-site activity	Application to the facts	Legislation Contravened
<p>1. Storage of burnt limestone waste in unlined area adjacent to the coal stockyard</p>	<p>The team observed burnt limestone waste stored in unlined area adjacent to the Coal Stockyard. There was also no defined stormwater management system around the Coal Stockyard as rainwater can easily flow to the adjacent land parcels. According to Mr Francois, the facility disposes of burnt limestone waste at DCLM Landfill Site. However, according to Mr Matabadal, the disposal of limestone waste at Dolphin Coast Landfill Management ("DCLM") has stopped due to excessive cost associated with disposal. During the inspection, the facility was storing burnt limestone waste as they were busy exploring other cost-effective options. According to the Waste Assessment and Classification Report for Waste Mixture: Solid Burnt Limestone dated 25 October 2021; Burnt Limestone is classified as Type 3 Waste. However, the waste was noted to have a pH of > 12, of which disposal to landfill is prohibited. Storage of hazardous waste in unlined area has the potential to cause soil and groundwater contamination due to possible seepage of contaminated stormwater in unlined areas.</p>	<p>S16(1)(d) S16(1)(c) S21(b)</p>
<p>2. Ash spillages in unlined area around ash bins adjacent to Boilers Area</p>	<p>The team observed coarse ash spillages in unlined area around ash bins, adjacent to Boilers Area. According to the Waste Assessment and Classification Report for Waste Mixture: Solid Boiler Ash dated 24 October 2021; Boiler Ash is classified as Type 1 Waste which should be disposed of at Class A Landfill (H:H/H:h). Mr Francois stated that coarse ash is transported to the Ash Handling Area via conveyor belt, where it is further transported off site by trucks to different</p>	<p>S16(1)(f) S16(1)(d)</p>

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"); GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

	companies for beneficial use. This situation has the potential to cause soil and groundwater contamination due to possible seepage of contaminated stormwater in unlined areas.	
3. Storage of ash in unlined Settling Ash Ponds.	The team observed a pipe that brings the slurry ash from the Ash Dam to the Settling Ponds for drying. Furthermore, the Waste Assessment and Classification Report compiled by Talbot dated 24 October 2021 states that the solid boiler ash has been classified as Type 1 waste which is supposed to be disposed of at Class A Landfill. The report further indicates the waste is chemically assessed as a Type 1 waste due to the high leachable Lead concentration (LC > LCT2). Lead can potentially enter surface waters because of the erosion of lead containing soil particles. The situation has the potential to cause cumulative soil, surface and groundwater pollution.	S16(1)(c)
4. Providing filter cake to the farmers to use as fertilisers	The facility is also producing filter cake as part of their waste. According to Mr Du Plessis, the filter cake is given to the farmers to use it as a fertilizer. This was also a finding during an inspection that took place on the 17 August 2022 undertaken by KwaZulu Natal Department of Economic Development, Tourism and Environmental Affairs. According to Mr du Plessis, the facility applied for approval to exclude the filter cake from the definition of waste as per the Regulations, however said application is still pending. According to the Waste Assessment and Classification Report provided to the team, the sludge filter cake has been classified as Type 3 waste which is supposed to be disposed of at Class C Landfill. However, the report further indicates that the waste was noted to have a moisture content >40% and a pH value < 6 both which are prohibited for disposal. Furthermore, the facility could not provide the team with proof that the use of filter cake as a fertiliser has been authorised.	S16(1)(f)
5. Providing ash to the farmers to use as fertilisers	The facility provided the team with Section 30(A) Directive which gives the facility a permission to remove the sediments from the ash dam and dispose	S16(1)(f)

	<p>them in a responsible manner. Mr Du Plessis explain to the team that both the ashes from the Ash Storage Area within the plant and the ash sediments stockpiled at the Ash Dam area are given to the farmers to be used as fertilisers. This was also a finding during an inspection that took place on the 17 August 2022 undertaken by KwaZulu Natal Department of Economic Development, Tourism and Environmental Affairs.</p> <p>The facility could not provide proof that the ash has been excluded from the definition of waste as per the Regulations.</p> <p>Furthermore, the Waste Assessment and Classification Report provided to the team, the solid boiler ash has been classified as Type 1 waste which is supposed to be disposed of at Class A Landfill. The report further indicates the waste is chemically assessed as a Type 1 waste due to the high leachable Lead concentration (LC > LCT2). This implies that the farmers are applying ash that contains high leachable Lead concentration on their fields as fertiliser. Lead can potentially enter surface waters as a result of the erosion of lead containing soil particles.</p>	
<p>6. Uncovered waste skips containing waste.</p>	<p>The team observed scrap metals, wires, rubber plastics, wood, cardboards and a white bag containing waste that appears to be asbestos roof sheets. Some of these wastes were stored in uncovered bin and on a surface that is unlined. Waste stored in uncovered skips have the potential to be blown away and this can potentially cause harm/ nuisance to the environment. Furthermore, this area does not have measures in place to prevent possible flow of contaminated run-off water or seepage as there it is not lined.</p>	<p>S16(d)</p>

10. Waste Classification and Management Regulations GN No. R.634 published on 23 August 2013 in terms of sections 69(1) of the NEM:WA

10.1 Table 5: Findings:

NEM: WA		
10.1.1 Non-compliance to Waste Classification and Management Regulations		
	Regulation	Application to the facts
Failure to provide proof showing that waste containing lead acetate is assessed and classified.	Regulation 8(1)(a) of the Waste Classification and Management Regulations requires that waste generators must ensure that their waste is assessed in accordance with the Norms and Standards for Assessment of Waste for Landfill Disposal set in terms of section 7(1) of the Act prior to the disposal of the waste to landfill. Regulation 8(1)(c) of the Waste Classification and Management Regulations requires that waste managers disposing waste to landfill must only do so in accordance with the Norms and Standards for Disposal of Waste to Landfill set in terms of section 7(1) of the Act.	The team observed enclosed steel drums containing lead acetate waste, locked in an area that is banded. Proof of safe disposal certificates were provided which confirms that they are being disposed of at DCLM. However, proof showing that the waste containing lead acetate is assessed and classified as per the Regulations was not provided.
Failure to keep waste manifests and waste	Sub-Regulation 10(1) of the Waste Classification and Management Regulations requires that waste	The facility did not provide records indicating the quantity of waste (burnt limestone) generated in tons or cubic meters per month and the quantities of each waste that has either been re-used, recycled and recovered.

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"); GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

inventories	<p>generators must keep accurate and up to date records of the management of the waste they generate, which records must reflect-</p> <ul style="list-style-type: none"> a) the classification of the wastes; b) the quantity of each waste generated, expressed in tons or cubic meters per month; c) the quantities of each waste that has either been re-used, recycled, recovered, treated or disposed of; and by whom the waste was managed. 	<p>The team observed scrap metals, wires, rubber plastics, wood, cardboards and a white bag containing waste that appears to be asbestos roof sheets. According to your Mr Du Plessis, the waste in this area is taken to Reclam for final disposal. However, the facility did not provide copies of the waste disposal certificates.</p> <p>The facility provided the team with the records of the farmers that are taking filter cake. Furthermore, Waste records for the filter cake being given to the farmers were provided however do not reflect the quantity of each waste generated, expressed in tons or cubic metres per month and the quantities of each waste that has either been re-use, recycled, recovered, treated and disposed of.</p> <p>Records of the farmers that takes the ash were not provided.</p>
	<p>Regulation 11(1) of the Regulations stipulates that every holder of waste that has been classified as hazardous in terms of Regulation 4(2) or a waste that is listed in terms of (2)(b) of Annexure 1 to these Regulations, must be in possession of a waste manifest document containing the relevant information specified in Annexure 2 to these Regulations.</p>	<p>The facility did not provide the team with waste manifests of the waste indicated on the waste records.</p>

11. Standards established under section 24(1) under the NEM:AQA:

11.1 Table 6: Findings:

NEM: AQA																																																													
11.1.1 Non-compliance to Standards established under section 24(1) under the NEM:AQA																																																													
Regulation	Application to the facts																																																												
<p>Sub-Regulation 6 requires that an existing small boiler must comply with the existing small boiler emission standards as contained in Part 3 within 5 years from the date of publication of this notice in the gazette.</p>	<p>Review of the Source Emission Testing Reports (Isokinetic Testing Results) dated 22 October 2021, 18 January 2021 and 05 November 2019 shows that there were consistent exceedances of the Emission Limit Value for the Particulate Matter and Sulphur Dioxide at Boilers 2 to 5 Stacks as shown below:</p> <p>Source Emission Testing Report dated 22 October 2021</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Pollutant Measured</th> <th style="text-align: center;">Measured (mg/Nm³)</th> <th style="text-align: center;">Concentration</th> <th style="text-align: center;">Emission (mg/Nm³)</th> <th style="text-align: center;">Limit</th> <th style="text-align: center;">Value</th> </tr> </thead> <tbody> <tr> <td>Boiler 2</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Particulate Matter</td> <td style="color: red;">1390.61</td> <td></td> <td style="text-align: center;">250</td> <td></td> <td></td> </tr> <tr> <td>Boiler 3</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Particulate Matter</td> <td style="color: red;">1830.68</td> <td></td> <td style="text-align: center;">250</td> <td></td> <td></td> </tr> </tbody> </table> <p>Source Emission Testing Report dated 18 January 2021</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Pollutant measured</th> <th style="text-align: center;">Measured (mg/Nm³)</th> <th style="text-align: center;">Concentration</th> <th style="text-align: center;">Emission (mg/Nm³)</th> <th style="text-align: center;">Limit</th> <th style="text-align: center;">Value</th> </tr> </thead> <tbody> <tr> <td>Boiler 2</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Particulate Matter</td> <td style="color: red;">2716.72</td> <td></td> <td style="text-align: center;">250</td> <td></td> <td></td> </tr> <tr> <td>Boiler 3</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Particulate Matter</td> <td style="color: red;">2729.09</td> <td></td> <td style="text-align: center;">250</td> <td></td> <td></td> </tr> </tbody> </table>	Pollutant Measured	Measured (mg/Nm ³)	Concentration	Emission (mg/Nm ³)	Limit	Value	Boiler 2						Particulate Matter	1390.61		250			Boiler 3						Particulate Matter	1830.68		250			Pollutant measured	Measured (mg/Nm ³)	Concentration	Emission (mg/Nm ³)	Limit	Value	Boiler 2						Particulate Matter	2716.72		250			Boiler 3						Particulate Matter	2729.09		250		
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NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"); GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

Boiler 4 and 5 (combined)	
Particulate Matter	584.80
	250

Source Emission Testing Report dated 05 November 2019

Pollutant measured	Measured (mg/Nm ³)	Concentration	Emission (mg/Nm ³)	Limit	Value
Boiler 2					
Particulate Matter	1478.92		250		
Boiler 3					
Particulate Matter	2490.23		250		
Boiler 4					
Particulate Matter	577.18		250		



NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

INTENDED INSTRUCTIONS:

12. In light of the above, you are hereby provided with an opportunity to provide this Department with written reasons, within thirty (30) calendar days from date of receipt of this notice, as to why this Department should not exercise its discretion in terms of Section 31L of the NEMA and issue you with a Compliance Notice, which will direct you to do the following:

12.1 Within twenty-four (24) hours upon receipt of the final Compliance Notice, cease with further storage of ash until such time that you obtain a waste management license from the relevant Licensing Authority.

12.2 Within ninety (90) days upon receipt of the final Compliance Notice, ensure that all ash is disposed of at a Class A Landfill Site. Proof of disposal (by means of disposal certificates) must be provided to the Department within two (2) calendar days of completion.

12.3 With regards to the non-compliances to your AEL, you are required to do the following:

a) Within thirty (30) calendar days upon receipt of the final Compliance Notice, submit to this Department proof that all activities outlined in the Roadmap as part of your postponement application have been implemented.

b) Should the commitments above not have been adhered to, provide this Department with an Action Plan (with timeframes) within which these items will be implemented within thirty (30) calendar days upon receipt of the final Compliance Notice.

c) In relation to the Boilers, submit to the Department within thirty (30) calendar days of receipt of the final Compliance Notice, a Plan of Action compiled by a suitably qualified independent specialist outlining the measures that will be implemented (together with timeframes) to ensure that these units operate within the requirements of the Atmospheric Emissions Licence.

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

- d) Within thirty (30) days upon receipt of the final Compliance Notice, appoint a suitably qualified specialist to investigate the sources of dust leading to exceedances.
- e) Within sixty (60) calendar days upon receipt of the final Compliance Notice, submit a report that identifies the sources of dust together with an Action Plan (with timeframes) for approval to this Department.
- f) Within seven (7) calendar days upon receipt of the final Compliance Notice, submit to this Department proof that the laboratory is accredited and meets nationally/ internationally acceptable standards.
- g) With specific regard to condition 4.4 of your AEL, provide the following:
- All quarterly reports from July 2022 to date;
 - Isokinetic results for Boiler Stack 1;
 - List of specific abatement technology installed to achieve MES and proof thereof;
 - Copy of the assessment of the facilities current emissions impact on human health and the receiving environment;
 - Provide an emissions inventory that complies with the requirements as prescribed in the Air Dispersion Modelling Code of Practice, Gazette Number 37084.
 - Provide an Impact Report that complies with the requirements of an Atmospheric Impact Report (AIR) format as set out in Gazette No. 36904.
 - Copy of your air quality improvement plan for achieving minimum emission standard limits to achieving the current emission limits
 - Provide a progress report on implementation of offset projects where applicable.
 - Proof that your present dust monitoring plan of your facility has been reviewed and proof that monthly dust monitoring results reports were submitted to the Licencing authority.



NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

- h) Within thirty (30) calendar days upon receipt of the final Compliance Notice, provide this Department with a copy of your annual consumption records (April 2022 to April 2023).
 - i) Within thirty (30) calendar days upon receipt of the final Compliance Notice, provide this Department with a copy of your annual production records (April 2022 to April 2023).
 - j) Within thirty (30) calendar days upon receipt of the final Compliance Notice, provide this Department with reasons as to why cyclones were fitted in Boilers 1 and 3 instead of wet scrubbers as required. Provide proof that the licensing authority granted permission to do so.
 - k) Within thirty (30) calendar days upon receipt of the final Compliance Notice, provide this Department with the quarterly reports on the implementation of your compliance map and commitments in support of compliance as required by condition 7.5.
 - l) Within thirty (30) calendar days upon receipt of the final Compliance Notice, include the root cause analysis and measures implemented to prevent re-occurrence as required by condition 7.6.
 - m) Within thirty (30) calendar days upon receipt of the final Compliance Notice, provide this Department with proof that an investigation was done into the joint monitoring of PM10 between SAPPI and Gledhow as required by condition 7.7.
- 12.4 Within seven (7) calendar days upon receipt of the final Compliance Notice, cease with the disposal of burnt limestone waste at DCLM.
- 12.5 Within thirty (30) calendar days upon receipt of the final Compliance Notice, provide this Department with an alternative method of dealing with the limestone waste, considering that it cannot be disposed off at a landfill. Said alternative must include timeframes for approval by

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

this Department. Should this alternative require a Waste Management License (i.e treatment or re-use) in terms of the NEM:WA, an application must be submitted.

12.6 Within twenty-four (24) hours upon receipt of the final Compliance Notice, cease with providing ash and filter cake to the farmers for use as fertilizer until such time you obtain approval for the declassification of your waste.

12.7 Within seven (7) calendar days upon receipt of the Compliance Notice, appoint a registered Asbestos removal company to remove all existing asbestos waste on site.

12.8 Proof of disposal must be submitted to this Department's Directorate: Environment, Impact and Pollution within two (2) days of removal.

12.9 Within twenty-four (24) hours upon receipt of the final Compliance Notice, cease with the disposal of your lead acetate waste to DCLM until such time that you can prove that lead acetate waste has been assessed and classified as per Regulation 8(1)(a) of the Waste Classification and Management Regulations.

12.10 Within thirty (30) calendar days upon receipt of the final Compliance Notice, appoint an independent consultant, who is required to do the following with regards to potential soil, surface and groundwater pollution:

a) Investigate, evaluate and assess the impacts of the hazardous waste and materials on the premises where you store/discharge hazardous waste, in relation to soil, surface and groundwater quality at the following sites;

- i) Coal Stockyard;
- ii) Ash Dam;
- iii) Waste storage areas;
- iv) Lime Kiln Plant;
- v) Ash Ponds

b) Within sixty (60) calendar days upon receipt of the final Compliance Notice, provide this Department, with a detailed report (including timeframes) which includes the following:

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

- i) A map clearly indicating the location of the features listed in paragraph 12.10(a) above, as well as all locations where soil samples were taken;
 - ii) Monitoring results (raw data) for soil samples taken in strategic locations both in and around the sites mentioned in intended instruction 12.10(a) above;
 - iii) An interpretation of said results (raw data), which must include, but should not be limited to, the following investigations:
 - All environmental impacts associated with the hazardous waste being disposed/ stored/ discharged at the sites mentioned in paragraph 12.10(a) above;
 - The integrity of all the sites mentioned in paragraph 12.10(a) above;
 - All short-comings / defects detected on the different sites mentioned in paragraph 12.10(a) above, with specific reference to soil, surface and groundwater contamination;
 - The potential rehabilitation of the soil, surface and groundwater in the areas affected by the waste management activities and the proposed timeframes within which such rehabilitation will be implemented.
 - Measures to be taken for further contamination should the lining of the Dams not be an option.
- c) The report mentioned in paragraph 12.10(b) above, is subject to approval by this Department.

CONCLUSION:

13. If you should be unclear about any aspect of this communication, kindly contact the person indicated for enquiries as soon as possible

Yours sincerely



**MS. FRANCES CRAIGIE
GRADE 1 ENVIRONMENTAL MANAGEMENT INSPECTOR
CHIEF DIRECTOR: ENFORCEMENT**

DATE: 3/4/2023

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

Acknowledgement of Receipt:

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

Received by

Mr/Ms.....

On behalf of

.....

on thisday of..... 2022,

at.....

.....

Signature



NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

Annexure A: Offences and Penalties

NEM:WA

Section	Provision
S67(1)(a)	<i>A person commits an offence if that person contravenes or fails to comply with a provision of section 16(1)(b)(c)(d)(f), 20.</i>
S67(1)(b)	<i>A person commits an offence if that person contravenes or fails to comply with a provision of section 21.</i>
S68(1)	<i>A person convicted of an offence referred to in section 67(1)(a), (b) is liable to a fine not exceeding R10 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment, in addition to any other penalty or award that may be imposed or made in terms of the National Environmental Management Act.</i>

NWA

Section	Provision
Section 151(1)(a)	<i>No person may use water otherwise than as permitted under this Act</i>
Section 151(2)	<i>Any person who contravenes any provision of subsection (1) is guilty of an offence and liable, on the first conviction, to a fine or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment and, in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding ten years or to both a fine and such imprisonment.</i>

NEM:AQA

Section	Provision
Section 51(1)(e)	<i>A person is guilty of an offence if that person contravenes or fails to comply with a condition or requirement of an atmospheric emission license.</i>
Section 51(2)	<i>A person operating a controlled emitter is guilty of an offence if the emissions from that controlled emitter do not comply with the standards established under Section 24(1).</i>
Section 51	<i>A person convicted of an offence referred to in section 51 is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years and in</i>

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"): GLEDHOW SUGAR COMPANY, KWA ZULU-NATAL PROVINCE.

the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.