



## environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

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Dear Ms. Loser

### **REQUEST FOR ACCESS TO INFORMATION RELATING TO REGULATIONS 5(1) OF THE NATIONAL POLLUTION PREVENTION PLAN REGULATIONS, IN TERMS OF PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000) ("PAIA")**

1. I refer to your request for access to records in terms of the Promotion of Access to Information Act, 2000 (Act No.2 of 2000) ("PAIA") dated 11 February 2019, for which payment was made on 11 February 2019.

2. In your request the following records were requested:

*“(2.1) The database or list of data providers registered in terms of Regulation 5 of the National Greenhouse Gas Emission Reporting Regulations;*

*(2.2) The latest reports submitted in terms of Regulation 7(1) of the greenhouse gas reporting regulations by the following entities:*

- *Eskom Holdings SOC Ltd*
- *Sasol Ltd*
- *ArcelorMittal South Africa Ltd*
- *Exxaro Resources Ltd*
- *Glencore*
- *African rainbow minerals ltd*
- *Anglo American Plc*
- *Anglo Operations Ltd*
- *South 32 Ltd*
- *Seriti Resources Holdings Pty Ltd*
- *Petmin Ltd*
- *Mbuyelo Coal Pty Ltd*
- *Kuyasa Mining Pty Ltd*
- *Sappi Ltd*
- *PPC Ltd*

- *Gold Fields Ltd.*

(2.3) *The database of or list of persons that have submitted pollution prevention plans under regulation 4(1) of the national pollution prevention plan regulations, GN 712 of 2017 ("PPP Regulations);*

(2.4) *The pollution prevention plans submitted for the period up to 31 December 2020 in terms of regulations 3(2) of the PPP Regulations, the following companies:*

- *Eskom Holdings SOC Ltd*
- *Sasol Ltd*
- *ArcelorMittal South Africa Ltd*
- *Exxaro Resources Ltd*
- *Glencore*
- *African rainbow minerals ltd*
- *Anglo American Plc*
- *Anglo Operations Ltd*
- *South 32 Ltd*
- *Seriti Resources Holdings Pty Ltd*
- *Petmin Ltd*
- *Mbuyelo Coal Pty Ltd*
- *Kuyasa Mining Pty Ltd*
- *Sappi Ltd*
- *PPC Ltd*
- *Gold Fields Ltd;*

(2.5) *The latest annual progress reports submitted by the entities listed in paragraph 3 in terms of regulation 5(1) of the PPP Regulations."*

3. The outcome of your PAIA application in relation to paragraph 2.1, 2.2, 2.3 and 2.4 *supra* was communicated to you on 5 April 2019 and relevant records were provided to the CER on 17 May 2019.
4. The Department initially indicated that the request in relation to annual progress reports submitted to the Department in terms of the National Pollution Prevention Plan Regulations (see paragraph 2.5 *supra*) would be deferred for a period of 90 (ninety) days in terms of section 24 of PAIA, as the Department only received certain of the records at the end of March 2019. This too was communicated to you on 05 April 2019.
5. Subsequent to receiving the annual progress reports submitted in terms of the National Pollution Prevention Plan Regulations and after having had the opportunity to scrutinise the annual progress reports, it became apparent that the annual progress reports might be considered as records contemplated within the ambit of section 47 of PAIA. The Department therefore cannot release such reports in terms of section 24(1) (b) of PAIA, as indicated on 5 April 2019.
6. Section 47 of PAIA states:
 

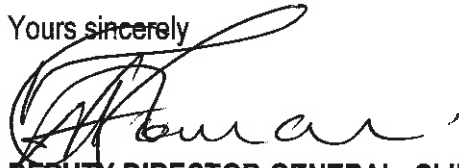
*"(1) The information officer of a public body considering a request for access to a record that might be a record contemplated in section 34 (1),35 (1),36 (1),37 (1) or 43 (1) must take all reasonable steps to inform a third party to whom or which the record relates of the request.*

- (2) The information officer must inform a third party in terms of subsection (1)-
- (a) as soon as reasonably possible, but in any event, within 21 days after that request is received or transferred; and
  - (b) by the fastest means reasonably possible.
- (3) When informing a third party in terms of subsection (1), the information officer must-
- (a) state that he or she is considering a request for access to a record that might be a record contemplated in section 34 (1), 36 (1), 37 (1) or 43 (1), as the case may be, and describe the content of the record;
  - (b) furnish the name of the requester;
  - (c) describe the provisions of section 34 (1), 36 (1), 37 (1) or 43 (1), as the case may be;
  - (d) in any case where the information officer believes that the provisions of section 46 might apply, describe those provisions, specify which of the circumstances referred to in section 46 (a) in the opinion of the information officer might apply and state the reasons why he or she is of the opinion that section 46 might apply; and
  - (e) state that the third party may, within 21 days after the third party is informed-
    - (i) make written or oral representations to the information officer why the request for access should be refused; or
    - (ii) give written consent for the disclosure of the record to the requester.
- (4) If a third party is not informed orally of a request for access in terms of subsection (1), the information officer must give a written notice stating the matters referred to in subsection (3) to the third party."

7. The information requested in regards to the annual progress reports submitted to the Department in terms of the National Pollution Prevention Plan Regulations might contain information that fall within the ambit of section 36(1), 37(1), and 43(1) of PAIA and therefore the Department has informed all companies listed *ad* paragraph 2 *supra* (the Third Parties) of your application in terms of section 47 of PAIA. The Third Parties have 21 (twenty-one) days within which to make their representations in terms of section 48 of PAIA.

8. The outcome of your application, in relation to the annual progress reports submitted to the Department in terms of the National Pollution Prevention Plan Regulations, will be communicated to you in due course.

Yours sincerely



**DEPUTY DIRECTOR-GENERAL: CLIMATE CHANGE, AIR QUALITY & SUSTAINABLE  
DEVELOPMENT  
PRIVATE BAG X 447  
PRETORIA**

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**DATE:** 02 August 2019