

SAPIA GUIDELINE ON DEALING WITH THIRD PARTY HYDROCARBON CONTAMINATION

DOCUMENT CONTROL

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INTENT

This guideline is intended to guide SAPIA members on dealing with 3rd party hydrocarbon contamination that directly or indirectly impacts SAPIA member facilities or environmental receptors jointly. The source of the contamination may or may not be known.

It is vital that a streamlined process be followed in order to facilitate the following:

- minimise the risk to human health and the environment through effective emergency response;
- minimise the delay in initiating investigations to address the source(s);
- initiate and follow through on remediation actions to address the contamination.

SCOPE

This guideline is intended for SAPIA members in South Africa. This guideline does not replace any legislative requirements, operator standard operating procedures or Health, Safety or Environmental Management System requirements. This guideline also addresses cases where SAPIA members have not signed the “Sapia Oil Industry Hydrocarbon Management Agreement” and could be a potential hydrocarbon source in an incident investigation.

EXCLUSIONS

This guideline is not a legally binding document. It serves to share best practice to ensure that risks to people, environment, assets and reputation are eliminated and/or minimised. This guideline is also not exhaustive. Risk assessments at facilities may determine unique risks peculiar to specific sites which need to be considered in the actions implemented.

DEALING WITH THIRD (3rd) PARTY HYDROCARBON CONTAMINATION

1. Potential or Actual Sources are All SAPIA Members

In the event where two or more potential/actual sources of groundwater contamination are identified, SAPIA Oil Industry members are committed to respond and coordinate activities as per South African legislative requirements. In addition, members that have signed the “Sapia Oil Industry Hydrocarbon Management Agreement” will work together to manage the contamination as per the principles set out in the agreement.

2. Potential or Actual Sources that include SAPIA and Non-SAPIA Operators

Investigations and relevant actions will be coordinated by SAPIA when there are SAPIA members identified as potential/actual sources. In instances where non-SAPIA 3rd party operator/s are included within an identified radius of the impact, the potential 3rd party operator/s will be approached to participate in the investigations. In cases, where there is a lack of co-operation, the Department of Forestry, Fisheries and Environment (DFFE) and any other Authority/ies (TNPA, Local Authority, etc.) will be engaged to coordinate all activities related to investigations at all potential sources, emergency response activities and subsequent remediation. SAPIA member activities will still be co-ordinated via SAPIA. All parties will be required to comply with all legislative reporting and other legal compliance requirements.

Please refer to the process flow chart on page 6.

3. Additional Information and Guidance on Dealing Non-SAPIA Operators

Based on recent incidents and incident learnings shared, there is an increase in the lack of co-operation from 3rd party operators in dealing with contamination matters.

Challenges include:

1. Environmental impacts are not managed expeditiously causing further and widespread harm.
2. Requests for co-operation from 3rd parties are disregarded.
3. Lack of transparency in sharing of any information from 3rd parties.
4. 3rd parties are unwilling to undertake any investigation unless mandated by the Authorities.

5. Authority section 36.6 notice process is required if you want the Authority to act.
6. Upon receipt of the 36.6 notice, the DFFE will proceed to issue notices. Failure to comply with notices will result in the matter being transferred to the DFFE Compliance Enforcement Division resulting in long delays. Once the 3rd party decides to co-operate, the matter is referred back the DFFE remediation division. The 3rd party is then given more time to investigate and produce a report before any further action is taken. This process can take years.

Options:

1. DFFE improvements in processes to address contamination matters expeditiously.
2. Members have very little option other than legal recourse once all reasonable measures have been exhausted.

4. Non – SAPIA Operator Contamination related Complaints

SAPIA is a non-profit Association. SAPIA is not an Authority charged with any duties in terms of any environmental legislation. SAPIA does not deal with contamination matters that relate to non-SAPIA operators and does not carry any responsibility associated with any contamination related to any party. Contamination related complaints from the public will be directed to the DFFE.

