

**Ntombi Maphosa**

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**Subject:** FW: Eskom Appeal of the National Air Quality Officer's 2021 decisions

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**Subject:** RE: Eskom Appeal of the National Air Quality Officer's 2021 decisions

Dear Ntombi,

The colleagues (Mokete and Farhana) handling the formal appeal process will respond to your query.

Mr Makhubele is handling the postponement application and he will respond to Eskom's "Updated Minimum Emission Standards Application".

Kind Regards

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**Subject:** Eskom Appeal of the National Air Quality Officer's 2021 decisions

Dear Sir

After several requests to the Department and Eskom, we have finally received the documents relating to Eskom's appeal of the National Air Quality Officer's (NAQO) decisions.

According to the National NEMA Appeal Regulations, 2014 (Appeal Regulations), Interested and Affected Parties (I&APs) have a right to be notified of appeals. We note that this provision has not been complied with by Eskom and we still have not received any notice of the appeal from Eskom or the Department. Regulation 5 of the Appeal

Regulations also states that an I&AP may respond to an appeal within 20 days from the date of receipt of the appeal submission. We and our clients intend to exercise our right of reply.

We note that the Minister's notice of 12 May 2022 places Eskom's appeal in abeyance, and we presume that this extends to the timeframes under Regulation 5 as well. We further note that Eskom has now submitted an "Updated Minimum Emission Standards Application". We are not yet clear on the effect of this application on Eskom's appeals and the 2021 NAQO decisions, nor have we been formally notified of this application or provided with an opportunity to comment as per section 12 of the MES notice which refers to the public participation process set out in terms of the NEMA and Regulations 41 to 44 of the Environmental Impact Assessment Regulations, noting of course that the timeframes for the lawful submission of postponement and suspension applications has now passed and our clients' rights in this regard are reserved.

We request that you provide clarity on the following:

1. Please confirm when the timeframe to reply to Eskom's appeal begins to run – in light of the appeal being held in abeyance? We will, in any event, seek to reply as soon as possible, given the relevance of our clients' reply for the current MES forum process; and
2. Please advise on the process and timeframes going forward for Eskom's current and latest updated MES application.

Kind regards,

Ntombi Maphosa  
Attorney

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Report violations of environmental rights to the 24-hour Environmental Crimes & Incidents Hotline on **0800 205 005**. More reports of environmental violations assist in justifying more investment in more inspectors, and more enforcement of environmental laws.

Numbers matter! Take the time to report violations, even if you have done so elsewhere. For more information about this CER campaign, visit <http://cer.org.za/news/numbers-matter-join-us-in-reporting-violations-of-environmental-rights>.