



**MINISTER  
FORESTRY, FISHERIES AND THE ENVIRONMENT  
REPUBLIC OF SOUTH AFRICA**

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**Reference:** Eskom/Postponement  
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Nicole Loser  
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**Email:** [nloser@cer.org.za](mailto:nloser@cer.org.za)

Dear Nicole Loser

**APPEALS LODGED AGAINST THE DECISIONS OF THE NATIONAL AIR QUALITY OFFICER IN  
RESPECT OF ESKOM'S APPLICATIONS FOR POSTPONEMENT AND/OR SUSPENSION OF  
COMPLIANCE WITH THE MINIMUM EMISSION STANDARDS**

1. I refer to your appeal instituted on 09 February 2022, against the decision of the National Air Quality Officer (NAQO) within the Department of Forestry, Fisheries and the Environment (the Department), taken on 30 October 2021, to grant Eskom a postponement and/or suspension to comply with the Minimum Emission Standards (MES) for its nine (09) coal-fired power stations, namely Camden, Hendrina, Arnot, Komati, Grootvlei, Kriel, Majuba, Kendal and Tutuka. This decision was made in terms of section 41(1) of the National Environmental Management: Air Quality Act (Act No. 39 of 2004) (NEMAQA).
2. Your appeal was purportedly lodged in terms of section 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA).

3. Please be advised that there have been several appeals instituted by interested and affected parties (IAPs/ appellants) against the various decisions of NAQO; some of which seek to appeal against the NAQOs decisions to grant an applicant's request for suspension/ postponement of compliance with the MES and/or to the issue a provisional atmospheric emission licences (PAEL); and those which seek to appeal against the NAQO's decisions to refuse an applicant's request for suspension/ postponement of compliance with the MES and to refuse an application for the issuing of a PAEL.
4. As a result of the appellants' differing attitudes to the NAQO's decisions, the various appeals raise differing points of view and conflicting grounds of appeals to the issue pertaining to the granting and/or refusal of postponement/ suspension of compliance with the MES.
5. Due to the conflicting nature of the issues raised in the various appeals, I find that there is a need for consultative process for all appellants, stakeholders and IAPs to participate in. In this regard, section 3A of the NEMA empowers me, as the Minister responsible for environmental affairs, to establish any forum or advisory committee; determine its composition and functions; and determine, in consultation with the Minister of Finance, the basis and extent of the remuneration and payment of expenses of any member of such forum or committee.
6. I have thus decided to invoke the provisions of section 3A of NEMA to establish a consultative forum to deal with the various issues arising from the appeals lodged against the decisions of NAQO.
7. The purpose of the consultative forum is to deal with the various issues arising from the above appeals and also allow the appellants, stakeholders and other IAPs an opportunity to make representations and comments on issues pertaining to compliance and/or non-compliance with MES and the decisions of the NAQO with regard thereto.
8. You are accordingly informed of my decision to institute a consultative forum in terms of section 3A of NEMA. This process will be separate and distinct from the appeal process. You will be allowed to participate in the process and make representations in respect of issues arising from the above appeals and the possible outcome of the consultative process.
9. The appeal process will be held in abeyance pending the outcome of the consultative process.

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10. You will be notified of the consultative process in due course.

Yours sincerely,



**MS B D CREECY, MP**

**MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

**DATE:** 18/3/2022