

Press Release

Amidst the COVID-19 pandemic, government locks SA into deadly air pollution

Pietermaritzburg, Johannesburg and Cape Town – 31st March 2020: With South Africa under a 3 week coronavirus lockdown, the Minister of Environment, Forestry and Fisheries has gazetted sulphur dioxide (SO₂) air pollution standards (called minimum emission standards, or MES) that are twice as weak as the previous standards.

Instead of Eskom, Sasol, and other facilities with coal boilers, having to meet the original SO₂ standard of 500 mg/Nm³, they will now only be required to comply with MES doubly as weak (1000 mg/Nm³). The new limit will apply either by tomorrow - 1 April 2020, or by the delayed dates that these companies have already been given by the National Air Quality Officer.

Research presented by the Life After Coal Campaign to the Minister and the Department has shown that 3,300 premature deaths would be caused by doubling the SO₂ standard just for Eskom's coal-fired power stations, as a result of increased risk of lower respiratory infections, increased risk of stroke, and increased risk of death from diabetes.

The weakening of the standard makes South Africa's 2020 SO₂ standard – which exists to protect people's health and human rights – about **28 times** more lax than in China, and **10 times** weaker than India's.

The sequence of events

For more than six years, the Life After Coal Campaign has been opposing efforts by industry – in particular the two biggest polluters, Eskom and Sasol – to delay and evade meeting more stringent air pollution standards. When the MES were first promulgated in 2010, despite their active participation in the multi-year process to set them, both Eskom and Sasol sought to be completely exempt from the MES. Subsequent to that failed attempt, and instead of making the investments required to meet the standards, both companies have brought multiple applications to the National Air Quality Officer in the Department of Environment, Forestry and Fisheries – the majority of which have succeeded – to delay compliance with the MES. In 2014, Sasol brought a court application seeking to set aside the majority of the MES in their entirety - which it withdrew when it was allowed by the National Air Quality Officer to postpone MES compliance.

In October 2018, then acting Environment Minister Derek Hanekom published the doubled SO₂ MES limit without inviting public comment, as the Air Quality Act requires. In April 2019, after numerous calls for the standards to be withdrawn, environmental justice group groundWork was forced to go to court to set aside the unlawful notice. In May 2019, Minister Mokonyane withdrew the notice and gave the public 30 days to comment on the same proposal to weaken the SO₂ standard.

In July 2019, the Life After Coal Campaign, along with four community-based organisations, submitted evidence-based objections to the proposed doubling of the standard:

- Research demonstrates that an estimated **3,300 premature deaths** would be caused – just from Eskom’s pollution - by doubling the SO₂ standard, as a result of increased risk of lower respiratory infections, increased risk of stroke, and increased risk of death from diabetes – with approximately 1,000 of these premature deaths estimated in Gauteng.
- The studies also show profound health impacts on children, the elderly, pregnant women, and those already suffering from asthma, heart, and lung disease [2].

Almost 9 months since comment was invited on the proposal, and on the eve of the standards coming into effect, Minister Creecy has now made a decision to publish **substantially more lenient** MES for implementation.

Comment

In a media statement on 27 March 2020, the Department contends that Eskom and Sasol – the “major emitters of sulphur dioxide” - are not in the financial position to make the necessary investments required to ensure compliance. The Department states that industry had argued that their facilities should be “grandfathered”, i.e. allowed to operate without taking amendments to laws and their mandatory Constitutional obligations into account.

The Life After Coal Campaign disputes that it is even lawful for the MES to be further weakened. The previous standards were first published on 31 March 2010 after a lengthy participative process involving both Sasol and Eskom. Robyn Hugo, attorney and head of the Centre for Environmental Rights Pollution & Climate Change Programme says that: “Industry, including Eskom and Sasol, has had **an entire decade** to prepare for legal compliance with standards already weaker than several other developing countries. In these circumstances, and despite the fact that the new standard is three-and-a-half times stricter than the current SO₂ MES, it is hard to defend the Minister’s argument that weakening the standard promotes progressive realisation of the Constitutional right to an environment not harmful to human health or wellbeing.”

The Life After Coal Campaign has provided evidence to the Minister and the Department that [industry has significantly inflated the costs and technical challenges](#) of achieving MES compliance, and downplayed the benefits for human health and wellbeing.

“Air pollution from coal mining and power already kills thousands of people every year. Instead of enforcing compliance with our already-weak standards, government has effectively legalised these deaths”, says Bobby Peek, Director of groundWork. “The Department says that it did not want to undermine the viability of key industries. The question is how viable these industries can be when this amendment means that their pollution will be responsible for the premature deaths of thousands of people?”

The President, the Environment Minister, the National Air Quality Officer, and the Mpumalanga and Gauteng MECs already face a court challenge from groundWork and eMalahleni-based community group the Vukani Environmental Movement, in relation to their collective failure to improve the toxic air quality on the Mpumalanga Highveld. “This failure of government to respect and protect the Constitutional right to a healthy environment is why groundWork and the Vukani

Environmental Movement launched the [Deadly Air litigation: to force government to comply with its Constitutional obligations to protect our people](#),” says Peek.

If the Minister fails to provide satisfactory reasons for her decision to weaken the MES under the Promotion of Administrative Justice Act, 2000, the partners in the Life After Coal Campaign will have no option but to approach the High Court to set aside the Minister’s decision.

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Notes to editor

[1] The Life After Coal Campaign is a joint campaign by [Earthlife Africa Johannesburg](#), [groundWork](#), and the [Centre for Environmental Rights](#). We aim to: discourage the development of new coal-fired power stations and mines; reduce emissions from existing coal infrastructure and encourage a coal phase-out; and enable a just transition to sustainable energy systems for the people.

[2] SO₂ is a notorious pollutant that causes significant harm to human health and the environment. It can affect the respiratory system and the functions of the lungs, and causes irritation of the eyes. Inflammation of the respiratory tract causes coughing, mucus secretion, aggravation of asthma and chronic bronchitis, and makes people more prone to infections of the respiratory tract. Studies have linked SO₂ to low birth weight in infants and an increased risk for gestational diabetes mellitus, stillbirths, and pre-term births. Hospital admissions for cardiac disease and mortality increase on days with higher SO₂ levels. When SO₂ combines with water, it forms sulphuric acid, which is the main component of acid rain.