



# Centre for Environmental Rights

Advancing Environmental Rights in South Africa

**Honourable Ms Barbara Creecy**

Minister of Environment, Forestry and Fisheries

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18 June 2020

Dear Minister Creecy

**FINAL DEADLINE EXTENSION - REQUEST FOR REASONS FOR THE AMENDMENT OF SUBCATEGORY 1.1: SOLID FUEL COMBUSTION INSTALLATIONS IN THE LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS**

1. We address you on behalf of our clients, groundWork and Earthlife Africa.
2. We refer to our previous correspondence, dated 3 April 2020 and 12 May 2020, respectively, in which we requested written reasons for your decision to amend the Listed Activities<sup>1</sup> published under Government Notice No. 421, Gazette No. 43174, on 27 March 2020, which weakens the new plant minimum emission standard (MES) for sulphur dioxide (SO<sub>2</sub>) for existing solid-fuel combustion installations. We also refer to the virtual meeting held between you and various “Climate Change Stakeholders” on 1 June 2020.
3. Following the expiration of the initial deadline for your response of 4 May 2020, we extended the deadline to provide written reasons for this decision – in terms of section 5(1) of the Promotion of Administrative Justice Act

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<sup>1</sup> The list of activities which result in atmospheric emissions, which have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, published under Government Notice No. 893, GG No. 37054 on 22 November 2013, and amended by Government Notice No. 551 published in GG No. 38863 of 12 June 2015, Government Notice No. 1207, published in GG No. 42013 of 31 October 2018 and Government Notice No. 687, published in GG No. 42472 of 22 May 2019.

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3 of 2000 (PAJA) – to 31 May 2020. We did not receive written reasons by this extended deadline, and to date, these remain outstanding; now **more than two months** since the publication of this decision to double the 2020 SO<sub>2</sub> MES limit for existing sub-category 1.1 facilities.

4. We are aware that Greenpeace Africa, on the back of its own evidence-based objections to this regressive amendment to the Listed Activities, also addressed a letter to your office, dated 6 May 2020, requesting written reasons for this decision. During the Climate Change Stakeholder meeting on 1 June 2020, we noted your response to Greenpeace Africa's Mr Happy Khambule in this regard – that the Department of Environment, Forestry and Fisheries ("Department") was in the process of preparing a "response", to be issued in due course.
5. We presume that this response will be substantively the same for all parties that have submitted requests for reasons for this decision. Despite this undertaking, another two weeks have since passed and a response to our request for written reasons is, respectfully, well overdue.
6. Although we stated in our 12 May 2020 letter that in "*the event that we do not receive your written response by this extended deadline, our clients will presume that the content of the Department's media statement is the full extent of your reasoning for the amendment to the Listed Activities*", your above response in the 1 June meeting would seem to indicate that the media statement is not the full extent of your reasoning.
7. Our clients require this response and reasons in order to assess the lawfulness of this decision to double the 2020 SO<sub>2</sub> MES limit for existing sub-category 1.1 facilities, and the potential recourse available to them; including the right to institute review proceedings in the High Court. Our clients maintain that, given the crucial purpose and Constitutional import of the MES, this decision to weaken the SO<sub>2</sub> MES limit cannot be reasonably justified.
8. We reiterate our request that the response prepared by the Department includes a complete list of solid fuel combustion installations that would be impacted by this amendment, as well as the specific references in the media statement, identified in our 3 April 2020 letter.
9. We also request that this response be provided as soon as possible, and by no later than **25 June 2020**.
10. Our clients' rights remain fully reserved.

Yours sincerely

**CENTRE FOR ENVIRONMENTAL RIGHTS**

per:



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**Attorney**

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