

Annexure 8



environment, forestry & fisheries

**Department: Environment, Forestry
and Fisheries
REPUBLIC OF SOUTH AFRICA**

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Ref: GP/AMVW-SDM/20190417

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Dear Ms Koyama

ARCELORMITTAL SA VANDERBIJLPARK STEEL WORK ("AMSA") MINIMUM EMISSION STANDARDS (MES) DECISION: REQUEST FOR INFORMATION AND REASONS

I refer to your letter of 21 July 2020 regarding the subject matter.

I have noted the content of the above mentioned letter, and the issues raised therein. Herewith please find attached my response to each of the issues raised.

1. Availability of postponement decision to Interested and Affected Parties (I&AP)

Please note that a postponement decision is not the same as an Atmospheric Emission Licence (AEL) and as such certain provisions that are applicable to the requirements that an AEL application and decisions ought to be subjected to, may not be applicable to postponement application. Provisions pertaining to postponement applications provide specification relating to how postponement applications should be dealt with, including the role of the I&AP in the process. Notwithstanding the above, it is noteworthy however that once a postponement decision has been granted, such a decision needs to be incorporated into the AEL through the variation of the AEL. It is at this stage that AEL application processes, including making the AEL decision available to I&AP maybe of force and effect. Nonetheless, records at my disposal shows (Figure 1) that the

postponement decision has been made available to I&AP by the applicant/applicant's representative



Figure 1: Distribution of Postponement Decision to I&AP

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2. Reasons for the postponement decision

The Postponement application was assessed in accordance with the requirements of the Air Quality Act, particularly the criteria stipulated in the National Framework for Air Quality Management in the Republic of South Africa and the Section 21 Notices issued in terms of the Air Quality Act. As required in the postponement provisions, AMSA's application included, amongst others, the following:

- An air pollution impact assessment compiled in accordance with the regulations prescribing the format of an Atmospheric Impact Report (as contemplated in Section 30 of the AQA);
- A detailed justifications and reasons for the application;
- A concluded public participation process undertaken as specified in the NEMA Environmental Impact Assessment Regulations
- The application was submitted to the National Air Quality Officer before the closing date of 31 March 2019.

Records at my disposal indicated that above mentioned information and documents have been made available to I&APs during the public participation process. Therefore, it will not be necessary to re-send such documentation. Nonetheless, should there be any specific documentation that you may require pertaining to this application, please follow the PAIA process (Promotion of Access to Information Act, 2000).

2.1 Detailed justification and reasons for the application

Amongst the criteria used in the assessment processes, the application was interrogated in relation to the following questions:

- Why is the facility not able to comply with the MES while they were promulgated in 2010?
- Will the postponement eventually lead to compliance?
- What precautionary measures will the facility implement during the postponement to minimize its impact on the environment? Business as usual can't be accepted?

The motivation put forward as justification and reasons for the application included, amongst others the following:

"The first aspect of the postponement application is required for the special arrangement stipulated under Sub-category 3.1: Combustion Installations, which prescribes the recovery of sulphur-containing compounds from gases to be used for combustion with a recovery efficiency of not less than 90%, measured as hydrogen sulphide. Although a project has already been initiated to, amongst others, revive sulphur recovery from the coke oven gas, the deadline of 1 April 2020 will not be achievable owing to the complexity of the intended upgrades to the gas cleaning facilities. Despite numerous attempts to ensure operations of the current sulphur recovery facilities, the long-term operation of this failing equipment was no longer feasible. Hence the decision to invest in the installation of new, state-of-the-art equipment (at a cost of approximately R800m) for the cleaning and recirculation of by-product coke oven gas for utilisation as a fuel source on site. The primary use of the Coke Oven gas is to provide additional heat input for the heating of the batteries (5%) – increasing the energy efficiency of the facility. The onsite boilers also utilise the Coke Oven gas for the production of steam and subsequent generation of electricity. The remainder of the gas is utilised at downstream facilities, such as reheating furnaces. The excess coke oven gas, which currently cannot be utilised, is flared."

"The second aspect of the postponement application is required for the Direct Reduction kilns (3 in operation) to achieve the new plant emission standard for SO₂ of 500 mg/Nm³ (*Sub-category 4.12: Pre-Reduction and Direct Reduction*). It is not economically feasible to achieve this standard for the direct reduction kilns at Vanderbijlpark Works as the SO₂ emissions from the kilns are dependent on the sulphur content in the coal which is utilised as the reducing agent in the kilns on site. For this reason, an application for an alternative emission standard of 1 700 mg/Nm³, aligned with the existing plant standard, is proposed. From a BPEO test perspective (as referenced in the 2017 National Framework for Air Quality Management), it is not practicable to install abatement technology to reduce SO₂ emissions to below the prescribed new plant emission standard. A flow rate in excess of 400 000 m³/hr (i.e. from the kilns) will need to be accommodated, which exceeds the capacity of any known gas cleaning technology."

"The third aspect of the postponement application is required for the Lurgi Plants (3 units) (*Sub-category 7.2: Production of Acids*) for the regeneration of Hydrochloric Acid at the Works. This postponement is anticipated as the planned upgrades to the scrubbing facilities at the Lurgi Plant, to reduce and sustain the HCl emissions from these stacks below the new plant standard of 30 mg/Nm³, may not be completed or fully efficient by 1 April 2020. Pending the outcome of the upgrade trials scheduled for April 2019, a postponement of compliance timeframes to achieve the new plant standard may be necessary, should the standard not be achievable with the upgraded plant. A final decision on this matter can only be made subsequent to the trials, however is included out of precaution."

"Prior to the implementation of compliance timeframes to achieving existing plant emission standards in 2015, AMSAVW was still optimistic that operational challenges experienced with the Elemental Sulphur Plant could be resolved. Had the issues been resolved, the anticipated H₂S stack emission reduction would have been achieved with resultant H₂S stack emissions achieved, below the required specification of 10 mg/Nm³. Consequently, a postponement application to achieve this particular standard was never envisaged and therefore never submitted prior to the coming into effect of the existing plant emission standards. Upon further investigation, it was revealed that the H₂S content in the coke oven gas, which is used as a fuel source in the combustion chambers of the Batteries, has no significant bearing on the H₂S results obtained from stack emission monitoring, as the majority of H₂S in the fuel gas is converted to SO₂ in the combustion process".

In addition to the above, the applicant provided a compliance roadmap that provided detailed information on how the planned activities would be conducted and the timeframe during which the task for each planned activity would be undertaken. After having assessed the motivation and reasons put forward as grounds for applying for postponement, the National Air Quality was satisfied that this was justifiable and worth considering

2.2 Atmospheric Impact Report

An Atmospheric Impact Report developed in accordance with the Regulations Prescribing the Format of the Atmospheric Impact Report, Government Gazette No. 36904 (Section 5.2), was

submitted to the National Air Quality Officer, including impact assessment that was conducted using the modelled concentration at the identified area/s of impact. The source-pathway-receptor (exposure pathways), which entail the route by which the receptor can be exposed, were also assessed. This exercise is significant as it identified the relevant receptors, which are the valuable features of the environment that are at risk or are likely to be impacted such as plants, water bodies, buildings etc. This helped to set the boundaries of the risk assessment by providing the scope of the problem and clarifying the environmental components at risk. The environmental impact assessment was therefore be conducted by determining the effects of the facility's emissions contribution on the relevant receptors. This was informed by available scientific and technical evidence.

2.3 Public Participation Process

The postponement application process was subjected to a public participation process, as prescribed in section 38 of the Air Quality Act and section 41 of the EIA Regulations, 2014, amongst others. When processing this application, a detailed comments and response document addressing the issues raised during the public participation process was submitted as part of the application. The objections lodged were considered and in DEFF's view were adequately addressed by the applicant during the public participation process.

2.3.1 Identification of key Interested and Affected parties

In line with the above requirement, the applicant provided evidence that Interested and Affected Parties were identified and consulted through a stakeholder engagement process and notified of what the project entailed through a Background Information Document. Records provided to the Department, as contacted in the I&AP showed that the following I&Ps were consulted:

- Local, provincial and national government;
- Affected and neighbouring landowners;
- Environmental Non-Governmental Organisations; and
- Community Based Organisations.

Royal HaskoningDHV		Project related			
I&AP					
M/Nr	Last Name		Initial Notification	Book AIR Notification	Minutes of Public Meeting Notification
00.	Shanny Letsame	BOTEGWEIA	00/02/2019	20/02/2019 20/02/2019	13/03/2019
00.	Mabudzi Tshabalala	VEJA	08/02/2019	20/02/2019 20/02/2019	19/03/2019
Mr	Eonani Muzi	VEJA	08/02/2019	20/02/2019 20/02/2019	13/03/2019
00	Bobby Foot	groundWork		20/02/2019 20/02/2019	13/03/2019
Mr	Rico Eungidou	groundWork		20/02/2019 20/02/2019	13/03/2019
Mr	Robby Makwata	groundWork		20/02/2019 20/02/2019	13/03/2019
Mr	Tatenda Mupfema	Centre for Environmental Rights		20/02/2019 20/02/2019	13/03/2019
Mr	Ramin Fauri	Earth Justice		20/02/2019 20/02/2019	13/03/2019
00.	Floyd Robela	BOTEGWEIA	00/02/2019	20/02/2019 20/02/2019	13/03/2019
00.	Thabo Lelake	LACROPA/NFO	08/02/2019	20/02/2019 20/02/2019	13/03/2019
Mr	Sizwe Sengane	LACROPA	06/02/2019	20/02/2019 20/02/2019	13/03/2019

Figure 1: Extract of Database of I&AP that have been notified of the project

Royal HaskoningDHV		Public Participation	
Issues	Raised by	Response	
You are required to provide all stakeholders with a complete and valid air pollution impact assessment report which is compiled in accordance with the regulations preceding the format of an Atmospheric Impact Report as contemplated in Section 30 of the National Environmental Management: Air Quality Act, 2004 (NEMA), for consideration and comment. Further, a period of at least 30 days (excluding public holidays), is required for public participation.	Michelle Koyama Centre for Environmental Rights Written Submission received 22/02/2019	An AIR was compiled according to the requirements of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (as amended in 2018). The AIR has been prepared according to Appendix C of the AIR, which has been adapted from the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (as amended in 2018). The commenting period has been calculated as 30 days as stipulated in the EMA Regulations 2014 (as amended) which exclude the public holiday on the 21st March 2019.	
Provide the Public participation notification as well as the minutes of the meeting held on 19 February 2019	Michelle Koyama Centre for Environmental Rights Written Submission received 22/02/2019	The proof of public participation notification has been forwarded via email (20/02/2019), the minutes of the public meeting was forwarded once finalised together with the presentation to all stakeholders on our database.	
There should be an adequate public participation process, consultation should be within the affected communities, the chosen venue is not deemed to be adequate as people who are affected can't access it. Documents should be in appropriate language such as Zulu or Sotho. Consultations are being held reasons by poor air quality	Samson Mokoena VEJA Public Meeting 19/02/2019	The public meeting venue was chosen as a suitable location owing to its highly central location in the Vast Triangle Airshed Priority Area, i.e. the area which will be impacted by the proposed applications. In a recent public meeting which was held at a venue located within ArcelorMittal Vanderlipport Works, in fulfilment of the public participation requirements for another authorisation process, Mr. Mokoena objected to the meeting being held at the Works on the grounds that the venue is allegedly inaccessible. This despite the majority of the workforce at ArcelorMittal commuting to work via taxi or by foot on a daily basis. This particular venue was identified as an opportune venue owing to its core location within the neighbouring communities of Boipatong (to the east), Sophiatown (to the west), Sebokeng (to the north) and Vanderlipport (to the south).	

Figure 2: Extract of Responses on issues raised by I&AP

2.3.2 Placement of notices and site notices

As part of the public participation process, site notices were placed on the fence of the site where the project activity to which the application relates would take place. The purpose of

which was to notify the public of the project and to invite them to register as I&APs. The notices were also placed at the Vanderbijlpark Library. In compliance with the EIA Regulations notification of the commencement of the Public Participation process for the project was also advertised in a local newspaper, the VanderbijlPark Ster on the 05 February 2019 in English in which I&APs were requested to register their interest in the project and become involved in the process. I&APs were also notified of the availability of the draft AIR. Figures 3, show evidence of two of these notices.



Figure 3: Site Notice at the Vanderbijlpark Public Library

3. Submission of the application

The PAEL application was submitted in the manner specified in Section 37 of the Act and was accompanied by such information that was necessary for decision making. Such information included amongst others, the following:

- Monitoring, Management and Mitigation
- Air quality dispersion modelling results conducted in terms of in terms of Regulations Regarding Air Dispersion Modelling, 2014. This was done to estimate ambient air concentration of pollutants from the facility and provide an understanding of their potential impacts on the receiving environment.

After consideration of all the information submitted as part of the application, including the proposed mitigation measures, it was determined that the potential negative impacts of the facility in the receiving environment would be minimal and manageable, hence the PAEL was issued.

3.1 Setting of emission limits during the postponement period

The final step taken in making a postponement decision, after having considered all the other matters pertaining to the assessment process, is making a determination of emission limits that the facility is permitted to operate under during postponement period. This determination is based on the current or latest emission results from the facility. Your assertion that the postponement emission limits ought not to be weaker than the existing plant MES due to paragraph 11D of the Section 21 Notice of 31 October 2018 seems to be unfounded. 11D, which says, no postponement of compliance timeframes or suspension of compliance timeframes shall be granted for compliance with minimum emission standards for existing plant, has to do with prohibiting postponement or suspension applications and the granting of postponement or suspension decision for existing plant MES. Furthermore, compliance with MES for existing plant during postponement period is only applicable to facilities/applications subjected to a once-off suspension of compliance timeframes in terms of 11B. Please note that AMSA's postponement application and decision thereof was for new plant MES and not for existing plant MES and was not an application for a once-off suspension of compliance timeframe.

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You are welcome to contact the Department, using the contacts details provided above, should you wish to engage further on this matter.

Yours sincerely



Mr Ishaam Abader

Director-General (Acting)

Department of Environment, Forestry and Fisheries

Letter signed by: Dr. Thuli Khumalo

Designation: National Air Quality Officer

Date: 26/8/2020