

Exposure Draft

**Environment Protection Amendment  
Regulations 2021**

Exposure Draft

S.R. No. XX/2021

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STATUTORY RULES 2021

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*Environment Protection Act 2017*

**Environment Protection Amendment Regulations 2021**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

CLAIRE CHISHOLM  
Clerk of the Executive Council

**1 Objective**

The objective of these Regulations is to amend the Environment Protection Regulations 2021 to specify matters in relation to wind turbine noise from wind energy facilities.

**2 Authorising provision**

These Regulations are made under section 465 of the **Environment Protection Act 2017**.

**3 Principal Regulations**

In these Regulations, the Environment Protection Regulations 2021<sup>1</sup> are called the Principal Regulations.

**4 Commencement**

These Regulations come into operation on 1 July 2021.

**5 Definitions**

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In regulation 4 of the Principal Regulations, **insert** the following definitions—

**“noise management plan** means a plan prepared in accordance with regulation 131D;

**post-construction noise assessment** means an assessment conducted in accordance with regulation 131C;

**NZS 6808:1998** means the *New Zealand Standard 6808:1998, Acoustics—The Assessment and Measurement of Sound from Wind Turbine Generators*, published by Standards New Zealand in 1998;

**NZS 6808:2010** means the *New Zealand Standard 6808:2010, Acoustics—Wind farm noise*, published by Standards New Zealand in 2010;

**relevant noise standard**, for the purposes of Division 5 of Part 5.3 (Noise), means the noise standard that applies to the wind turbine noise from a wind energy facility, determined in accordance with regulation 131A;

**wind energy facility** means one or more wind turbines that are—

- (a) owned or operated by the same person or body; and
- (b) installed in close proximity to each other (whether or not located on the same premises); and
- (c) electrically connected to a common grid;

**wind turbine** means a device with a swept rotor area of at least 200m<sup>2</sup> that is used

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for extracting kinetic energy from the wind, and includes—

- (a) the components comprising the device, such as the blades, gearbox and generator; and
- (b) the associated equipment in the immediate vicinity of the device, such as the transformer at its base;

*wind turbine noise* means the noise produced by the wind turbines at a wind energy facility, as measured at a noise sensitive area;”.

**6 Prediction, measurement, assessment and analysis of noise must be in accordance with Noise Protocol**

In regulation 113 of the Principal Regulations, after “Regulations,” **insert** “other than Division 5 of this Part;”.

**7 Functions of environmental auditors**

After regulation 164(c) of the Principal Regulations **insert**—

- “(ca) to independently verify whether or not a noise assessment under Division 5 of Part 5.3 has been conducted in accordance with the relevant noise standard.”.

**8 New Division 5 inserted**

After regulation 131 of the Principal Regulations, **insert**—

**“Division 5—Wind turbine noise**

**131A Relevant noise standard**

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- (1) The relevant noise standard for a wind energy facility that commenced operation before 1 July 2021 is—
- (a) NZS 6808:1998, if the planning permit or other authorising document under the **Planning and Environment Act 1987** for the facility—
    - (i) requires compliance with that standard; or
    - (ii) does not specify a noise standard; or
  - (b) NZS 6808:2010, if the planning permit or other authorising document under the **Planning and Environment Act 1987** for the facility requires compliance with that standard; or
  - (c) the conditions or standards other than those referred to in paragraph (a) or (b) that are specified in the planning permit or other authorising document under the **Planning and Environment Act 1987** for the facility, if any.
- (2) The relevant noise standard for a wind energy facility that commences operation on or after 1 July 2021 is—
- (a) NZS 6808:2010; or
  - (b) the conditions or standards other than those referred to in paragraph (a) that are specified in the planning permit or other authorising document under the **Planning and Environment Act 1987** for the facility, if any.

**131B Duties on operators of wind energy facilities**

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- (1) An operator of a wind energy facility must ensure that wind turbine noise emissions comply with the requirements of the relevant noise standard.
  - (2) The operator must take all applicable actions set out in this Division to manage and review the emission of wind turbine noise by the facility.

**Note**

Act compliance—section 25(1) (see regulation 6).

**131C Post-construction noise assessment**

- (1) An operator of a wind energy facility that commences operation on or after 1 July 2021 must ensure that a post-construction noise assessment for the facility is conducted—
  - (a) within 12 months of the commencement of operation of the facility; or
  - (b) in the case of a facility that commences operation in stages as set out in the planning permit or other authorising document under the **Planning and Environment Act 1987**, within 12 months of each stage being completed.
- (2) A post-construction noise assessment must—
  - (a) be conducted in accordance with NZS 6808:2010 by a suitably qualified and experienced acoustical engineer; and
  - (b) demonstrate whether or not the facility complies with the noise limits determined in accordance with NZS 6808:2010; and

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- (c) for the purposes of paragraph (b), use the pre-construction background sound level determined in accordance with the relevant noise standard.
- (3) The operator must—
    - (a) arrange for an environmental auditor to prepare a report verifying that the noise assessment has been conducted in accordance with NZS 6808:2010; and
    - (b) ensure that a report of the post-construction noise assessment is prepared.
  - (4) The operator must give a copy of each report prepared under subregulation (3) to the Authority within 10 business days of the report being completed. —

**131D Noise management plan**

- (1) This regulation applies on and from 1 January 2022.
  - (2) A noise management plan for a wind energy facility must include procedures for—
    - (a) the identification, assessment and control of risks of harm to human health and the environment from wind turbine noise at the wind energy facility; and
    - (b) assessing compliance with the noise limits determined in accordance with the relevant noise standard for the wind energy facility; and
    - (c) addressing any complaints about wind turbine noise received by the
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- operator, including who will investigate the complaint and respond to the complainant; and
- (d) reducing wind turbine noise in the event non-compliance with the noise limits determined in accordance with the relevant noise standard is detected at the facility.
- (3) An operator of a wind energy facility must prepare a noise management plan for the facility in accordance with this regulation.
- (4) The operator must give a copy of the noise management plan to the Authority for review, on request by the Authority.
- (5) The Authority may require the operator to make any amendments to the noise management plan.
- (5) The operator must make any amendments required by the Authority under subregulation (5).
- (6) The operator must implement the noise management plan.

**Note**

If the operator does not comply with this regulation, the Authority may issue a notice under Chapter 10 of the Act.

**131E Annual statement**

- (1) This regulation applies on and from 30 June 2022.
- (2) The operator of a wind energy facility must provide a statement in accordance with this regulation to the Authority within 4 months of the end of each financial year.



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- (3) A statement under this regulation must include the following information for the previous financial year—
- (a) details of any complaints concerning wind turbine noise received by the operator and how the complaints (if any) were addressed;
  - (b) evidence that the turbine operating modes complied with any requirements contained in facility's planning permit or other authorising document under the **Planning and Environment Act 1987**;
  - (c) details of maintenance activities undertaken (including any unscheduled servicing events);
  - (d) details of any noise remediation actions undertaken;
  - (e) evidence demonstrating the wind energy facility has not contravened the relevant noise standard.

**131F Wind turbine noise assessments**

- (1) An operator of a wind energy facility that has not undergone a noise assessment in accordance with subregulation (2) in the period between 1 July 2016 and 1 July 2021 must ensure that a noise assessment for the facility is conducted—
    - (a) before 1 January 2024 ; and
    - (b) within 3 months of every fifth anniversary of the day on which the test under paragraph (a) is conducted.
  - (2) An operator of a wind energy facility other than a facility described in subregulation (1) must ensure that a noise assessment for the
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facility is conducted within 3 months of the fifth anniversary of the facility, or each of the stages of the facility, commencing operation and every subsequent 5 years. .

- (3) A noise assessment under this regulation must—
- (a) be conducted in accordance with the relevant noise standard by suitably qualified and experienced acoustical engineer; and
  - (b) demonstrate whether or not the facility complies with the noise limits determined in accordance with the relevant noise standard.
- (4) The operator must—
- (a) arrange for an environmental auditor to prepare a report verifying that the noise assessment has been conducted in accordance with the relevant noise standard; and
  - (b) prepare a report of the noise assessment.
- (5) The operator must give a copy of each report prepared under subregulation (4) to the Authority on request.

**131G Unreasonable noise**

For the purposes of paragraph (b) of the definition of *unreasonable noise* in section 3(1) of the Act, wind turbine noise is unreasonable noise if it exceeds the noise limits determined in accordance with the relevant noise standard.”.

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Endnotes

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## Endnotes

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<sup>1</sup> Reg. 3: S.R. No. XX/2021.

### Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5, definitions of <i>NZS 6808:1998</i> and <i>relevant noise standard</i>	New Zealand Standard NZS 6808:1998, Acoustics—The Assessment and Measurement of Sound from Wind Turbine Generators, published by Standards New Zealand in 1998.	The whole
Regulation 5, definition of <i>NZS 6808:2010</i> and <i>relevant noise standard</i> and regulation 131B	New Zealand Standard NZS 6808:2010, Acoustics—Wind farm noise, published by Standards New Zealand in 2010.	The whole