

Exposure Draft

**Environment Protection Amendment
Regulations 2021**

Exposure Draft

S.R. No. XX/2021

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
1 Objective	1
2 Authorising provision	1
3 Principal Regulations	1
4 Commencement	1
5 Definitions	1
6 Prediction, measurement, assessment and analysis of noise must be in accordance with Noise Protocol	4
7 Functions of environmental auditors	4
8 New Division 5 inserted	4
	11
Endnotes	12

Exposure Draft

STATUTORY RULES 2021

S.R. No. XX/2021

Exposure Draft

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 2021¹ are called the Principal Regulations.

4 Commencement

These Regulations come into operation on 1 July 2021.

5 Definitions

Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

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 200m² that is used

Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

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

Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

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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

Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

- (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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Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

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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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Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

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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.

Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

- (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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Environment Protection Amendment Regulations 2021

Exposure Draft
S.R. No. XX/2021

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.”.

Environment Protection Amendment Regulations 2021
S.R. No. XX/2021

Endnotes

Endnotes

¹ 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