



Local Government New Zealand
te pūtahi matakōkiri

**Submission to the Ministry for the Environment on
Proposed Amendments to the
National Environmental Standards for Air Quality**

From *Local Government New Zealand*

9 July 2010

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Introduction

1. *Local Government New Zealand* thanks the Ministry for the Environment (MfE) for the opportunity to comment on the Proposed Amendments to the National Environmental Standards for Air Quality, hereafter referred to as “the proposed amendments to the NES”. This submission outlines a general local government view on the proposed NES.
2. *Local Government New Zealand* makes this submission on behalf of local authorities of New Zealand. It is the only organisation that can speak on behalf of councils in New Zealand. The submission was prepared following consultation with regional councils as responsibility for managing discharges to air rests with regional councils under section 30 of the Resource Management Act (RMA).
3. Where possible their various comments and views have been synthesised into this submission. In addition, many councils will choose to make individual submissions. The *Local Government New Zealand* submission in no way derogates from those individual submissions. The individual submissions will provide details, including costs which this submission does not.
4. The final submission was endorsed under delegated authority by:
 - Lawrence Yule as President of National Council
 - Stephen Cairns, as the Local Government Environment portfolio holder of the National Council.

Overview

5. *Local Government New Zealand* supports the proposed amendments to the NES. The amendments are in line with the amendments local government had previously sought to the NES.
6. On 7 August 2009, *Local Government New Zealand* advised the Technical Advisory Group (TAG) that local authorities sought:
 - an increase to the number of exceedances to five because in many airsheds the number of permitted exceedances has been difficult to achieve due to natural causes (dust/sea salt) outside of the control of a regional air plan
 - the timeline should be extended to 2016
 - penalties on industrial emissions should be removed.
7. We consider the questions have been defined accurately. Regional councils have actively sought changes to the NES and options for amendments have been based on council input. The priority issues have been correctly identified. Because regional councils do not have the tools to target transport emissions and multi-fuel and coal burning stoves, we agree that it is necessary to reconsider the focus on industrial discharges.
8. The feedback we have received on the proposed amendments to the NES is varied and opinions vary between the councils, largely dependant on the investment a council has made towards achieving compliance with the current regulation and the progress made towards achieving compliance. There is concern from some councils that by extending the timeline, as proposed, the

wrong signals will be given and the efforts of councils and the community will be undermined. There is general support, however, for:

- increasing the number of exceedances to three
- excluding exceptional events from counting as exceedances
- requiring mandatory offsets for new industry within breaching air sheds after the target date
- extending the target date to 2016
- establishing an air quality compliance strategy.

9. Many regional councils have made substantial investment in improving air quality. These measures include:

- air quality monitoring programmes
- development and implementation of financial incentives and assistance eg “Clean Heat Projects”
- development of a planning framework to manage air quality
- environmental education work
- compliance actions.

10. A number of areas have been identified as requiring national guidance to be provided. These are stated below at paragraph 41.

Emission Sources

11. The TAG report has identified that although domestic fires are the dominant source of PM₁₀ air pollution for most urban areas in New Zealand, emissions from transport account for over 50% of emissions in the Auckland region. The TAG report proposes a number of options for addressing emissions from transport:

- a combination of emission screening with a limited number of tests on light-duty gross emitters (Auckland)
- emission testing of heavy-duty vehicles to improve maintenance and encourage retrofitting of diesel exhaust treatment (Auckland)
- an incentive scheme to increase the rate of change to better engines with fewer pollutants and greater fuel efficiency (all New Zealand).

12. We note that these options have been discussed with the Minister of Transport and we seek that further work be done in this area to tackle transport emissions.

13. We also encourage continued financial support from Government for the existing programmes which are proactive in reducing air emissions such as *Warm Up New Zealand* from the domestic sector.

Increase in Number of Permitted Exceedances

14. *Local Government New Zealand* considers that the number of exceedances should be increased to provide for greater flexibility. We note that councils are able to adopt a stricter standard in their air quality plan than this. Some councils are likely to do so as they have been making good progress toward achieving the targets and have made significant investment in improving air quality.
15. Some councils support the number of exceedances remaining at 1 per annum because of the conflict with the policy objective concerning public health. Other councils, with good air quality, do not support increasing the number of permitted exceedances. *Local Government New Zealand*, however, considers that the number of exceedances should be increased as proposed, in order to provide more flexibility. Regions with good air quality can apply a stricter standard.

Exceptional circumstances

16. Councils support the exclusion of “exceptional circumstances”. The events included in the discussion document are natural events such as bushfires, dust storms from Australia and volcanic eruptions. There is little that can be done locally in relation to such “exceptional events” and therefore to apply penalties would be inequitable.
17. The regulation or accompanying guidance will need to clearly state what falls into the category of “exceptional events” and how natural or non-combustion sources are treated (eg salt spray) and how unnatural non-combustion sources (eg dust from gravel roads) are treated. PM₁₀ monitoring in New Plymouth, over four months shows that, for example, when correlated with wind and rainfall data, PM₁₀ spikes significantly when on-shore rain is experienced.
18. “Exceptional circumstances” and/or the number of allowed exceedances need to take into account the reality of occurrences of “natural” high PM₁₀ levels. The “exceptional circumstances” or “natural” high PM₁₀ levels may need to be region specific and clarity/guidance is needed around “exceptional events” vs “natural events”.

2013 target timeline

19. We recognise that the PM₁₀ air quality standard has been set in order to provide for an appropriate level of health protection for our communities. However, *Local Government New Zealand* considers that a reasonable timeframe is necessary in order for communities to achieve this standard given the varying scenarios and costs for communities to do so. As each airshed is different, the costs/benefits of achieving the standard vary and it is difficult to nominate a date that is reasonable in all cases.
20. There is a range of views about an appropriate deadline - from a call to retain the status quo to a call to extend the deadline by a considerable amount. While it is clear that the 2013 deadline will not be met in all cases, we note that many councils and individuals have already made significant regulatory and financial decisions based on driving towards a 2013 deadline and there is concern that this could be undermined by a shift in the deadline. Conversely, we acknowledge that even with an extended deadline, there will be some communities that cannot achieve it.
21. A significant shift in the target timeframe has the potential to erode the public’s confidence that councils are successfully managing air quality; penalise and undermine the proactive air quality management initiatives that councils have

developed and begun implementing; penalise proactive householders who have converted their domestic heating systems; render as unnecessary much of the investment already spent on upgrading domestic fires and insulation; and penalise proactive industry initiatives which have taken the concept of “offsets” and implemented them in resource consent applications and decisions.

22. While an Air Quality Plan can be stricter than a NES, current plans are supported by the NES. Significant changes have the potential to undermine a council’s current position as there is unlikely to be community support for this if the NES is relaxed.
23. On balance, *Local Government New Zealand* supports a small extension of this timeline, alongside increased support by central government to work with local authorities and their communities on action plans to actively achieve the standard in the most cost effective way. This should include targeted financial support from central government. Where there are particular local circumstances and an agreed action plan in place, this may mean that the standard is achieved earlier than the agreed target date. *Local Government New Zealand* does not consider the timeframe should be extended beyond 2018 and it may be more appropriate to extend it only to 2016, as submitted to the TAG.
24. *Local Government New Zealand* seeks a provision in the NES which would allow regions to have control over an appropriate target date. The provision would allow the general target date to be changed with Ministerial approval if there are particular regional circumstances which warrant it. This would enable regional councils to work with government to develop an appropriate target for their particular region. Where councils are on track to achieving the current target timeline of 2013 for a given air shed, consideration should be given to not extending the timeline beyond 2013. Conversely, where a region is unlikely to meet the timeline for a given air shed because additional time is required, the provision as described would provide the necessary flexibility to consider whether an extension should be given.

Mandatory Offsets

25. *Local Government New Zealand* recommends the use of offsets for new industrial discharges. Some local authorities are using offsets now, as discussed in MfE’s discussion paper. The proposal to use offsets is a method of allowing industry to continue to operate whilst still protecting air quality. *Local Government New Zealand* considers that offsets are an improvement on the current regime but they do not address equity issues.
26. The use of offsets (and restrictions in general) for industry is not equitable when domestic heating is the primary source of air pollution. A number of local authorities are concerned that the preferred option 4a would continue to unfairly penalise new industries because of PM₁₀ emissions from the domestic sector. New industries would continue to incur costly offsets while homeowners could continue to install solid fuel burning appliances with no NES imposed penalty.
27. The proposal for consents for new activities in the airshed is also inequitable as it does not affect existing industry activities.
28. An approach worth consideration (and further work) would be to require offsets from both the domestic sector and from industry in non-complying air sheds after the target date. By requiring mandatory offsets associated with new industry consents, the inequity remains. However, the mechanism of allowing for

mandatory offsets for industry in non-complying air sheds is an improvement on the current regime and therefore *Local Government New Zealand* can support it.

29. The definition of what an offset is and how it would be applied needs to be worked through. Further consultation on this technical matter is recommended as most regional councils have not considered it and provided comment.
30. We note that the use of the term “significant” in the regulations is problematic. The term needs to either be defined in the amended regulation or offsets should be required for all new consented industries in non-complying air sheds.
31. While the MfE intends to provide guidance on what is “significant”, subsequent to the promulgation of the amendments, this is problematic in that it does not provide certainty, either for industry or regional councils in determining what industries should be off-setting their emissions in non-complying air-sheds from the target date onwards. Where the predominant source of PM₁₀ is not industrial discharge, it is difficult for regional councils to argue that industry is a “significant” source of emissions. Accordingly, *Local Government New Zealand* agrees with Auckland Regional Council (ARC), that either “significant” be defined or that it be removed from the NES.
32. Repealing all existing consent restrictions would not meet the original policy objective of providing support for the protection of public health and the environment. Further, if all industry consent restrictions are removed (option 4b), and as regional councils do not have the tools to deal with air quality affected by vehicle and domestic emissions, it is unclear how councils would comply with the NES and what the outcome would be if the NES is not complied with.

Increased Ministerial Oversight

33. Option 4a provides for increased ministerial oversight via:
 - an increased role in monitoring airshed performance
 - the Ministry taking steps to address “gross non-compliance” of the standards by establishing an air quality compliance strategy
 - using the existing Ministerial powers available under the RMA (sections 24, 25 and 27).
34. The air quality implementation strategy is part of the increased Ministerial oversight proposed and the discussion document anticipates that it would include options the Minister may take when councils fail to take action to address non-compliance and airsheds continue to breach the standard. The MfE anticipates that it could include actions involving the linking/removing of funding and exploring other funding options (eg voluntary targeted rates). While we see merit in this providing certainty to councils regarding what possible sanctions their non-compliance might incur, we strongly oppose any financial penalties on local authorities for non-achievement in a regulatory area that is complex and costly for home owners. Non-achievement should be worked on collaboratively by central government, local authorities and communities.
35. We support the mandatory provision of information by councils (section 27) and seek that very clear guidance is provided on what is required. We also seek that the MfE obtains a clear statement of the costs of providing this information by explicitly asking councils for this information i.e. will equipment need to be

upgraded, what will the data collection and reporting framework be? This information needs to be included in the s 32 analysis.

36. While increased Ministerial oversight would achieve the objective of not penalising those councils who have made good progress toward achieving the required air quality by 2013, *Local Government New Zealand* is concerned at the implications for other councils.

Mandatory Reporting

37. *Local Government New Zealand* supports mandatory reporting as it will increase transparency and make the public aware of air quality within the region.

38. Clarity is required about the reporting framework.

Costs of Implementation

39. Councils will provide detailed information on the costs associated with the packages they offer including:

- “Clean Heat Schemes” partial subsidies and interest free loans (cost to a council and to a home owner)
- building consent fees (TA costs and home owner costs associated with processing, inspections and administration)
- development of plan changes (investigations, research and policy inputs).

40. Councils will also be able to provide advice on the costs of monitoring equipment and the associated costs of any upgrades. Councils cannot accurately advise on additional costs imposed by mandatory reporting without knowing exactly what the reporting requirements will be.

Clarity / Guidance Required

41. Clear national guidance is required for regional councils around quality control of air quality monitoring equipment.

42. Clarity is required regarding which events will be classed as “exceptional” and which will be counted as “exceedances”.

43. The impact of natural sources of PM₁₀ (eg from sea spray) should be clearly provided for in the NES. Hawke’s Bay Regional Council is currently undertaking source apportionment monitoring in order to determine precise contributions of natural sources to PM₁₀ exceedances. Without some sort of exclusion, some airsheds will be unlikely to ever comply with the NES.

44. The proposed amendments do not address diffuse sources of PM₁₀. Therefore, diffuse sources of PM₁₀ are still included in the measurement, monitoring, and reporting requirements of the NES. Examples of diffuse sources are airborne pulverised gravel dust associated with unsealed yards. Similar concerns would be associated with unsealed roads.

45. The NES should be amended to state that a rule may be more stringent than the NES air quality.

Additional Matters

46. *Local Government New Zealand* recommends that consideration be given to the development of a national code of compliance for wood fuel quality which is applied to all firewood sold through wood merchants and consideration of the wood burner standards (refer to ARC submission). In addition, Government actions need to be coordinated so that a consistent message is given on maximising the reduction of discharges.
47. *Local Government New Zealand* considers that in order to tackle the real sources of air pollution and to remove the inequity, investigation should be undertaken to extend the NES to all solid fuel domestic heating appliances (not just wood burners).
48. Some regional councils seek that the New Zealand Ambient Air Quality guidelines be updated to include PM_{2.5}. We seek discussion and consultation on this matter.

Decisions Sought

Local Government New Zealand supports:

49. Increasing the number of exceedances to three.
50. Excluding “exceptional events”.
51. Specifying how “natural events” or non-combustion sources (eg salt spray) are treated within the NES.
52. Requiring mandatory offsets for new industry within breaching air sheds after the target date.
53. Extending the target date to 2016.
54. A provision in the NES which would allow the general target date to be changed with Ministerial approval if there are particular regional circumstances which warrant it. The general target date could be either brought forward or extended.
55. Including a provision within the NES that a provision within an Air Plan can be stricter than the NES.
56. Requiring mandatory reporting.
57. Defining the term “significant” or remove it from the NES.

Local Government New Zealand opposes:

58. Any financial penalties on local authorities for non-achievement.

Local Government New Zealand also seeks:

59. Investment by Government to reduce transport emissions.
60. Continued financial support from government for the existing programmes which are proactive in reducing air emissions.
61. Consideration of the development of a national code of compliance for wood fuel quality.

62. Consideration of how all solid fuel domestic heating appliances can be incorporated into the NES.