Reprint
as at 1 June 2011

Resource Management (National Environmental Standards for Air Quality) Regulations 2004

(SR 2004/309)

Regulation name: amended, on 1 June 2011, by regulation 4(2) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 6th day of September 2004

Present:
Her Excellency the Governor-General in Council

Pursuant to section 43 of the Resource Management Act 1991, Her Excellency the Governor-General, acting on the advice and with the

Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry for the Environment.

consent of the Executive Council (given on the recommendation of the Minister for the Environment after consultation in accordance with section 44 of that Act), makes the following regulations.

Contents

Regulations

1 Title

These regulations are the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Regulation 1: amended, on 1 June 2011, by regulation 4(2) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

2 Commencement

(1) Regulation 11 comes into force on 1 October 2006.

(2) Regulations 13 to 24 come into force on 1 September 2005.

(3) The rest of these regulations come into force on 8 October 2004.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Resource Management Act 1991

airshed means—

(a) the region of a regional council excluding any area specified in a notice under paragraph (b):

(b) a part of the region of a regional council specified by the Minister by notice in the *Gazette* to be a separate airshed

ambient air quality standard means the standard prescribed by regulation 13(1)

average exceedances of PM_{10} per year has the meaning given by the calculation under regulation 16D

backup flare means a flare that is designed to burn only when the principal flare to which it relates is not operating

Basel Convention means the Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done at Basel on 22 March 1989

cleanfill—

(a) means a landfill that accepts only material that, when buried or placed, will not have an adverse effect on the environment; but

(b) does not include a landfill that contains 5% or more (by weight) putrescible matter

exceedance has the meaning given by regulation 13(3)

film—

(a) means a cinematograph film, and any other material record of visual moving images that is capable of being used for the subsequent display of those images; but

(b) excludes—

(i) anything that was not created primarily for showing at a cinema, broadcasting on television, or using for educational purposes; and

(ii) home movies

firefighter means a member of a fire brigade to which the Fire Service Act 1975 applies, including a member of a defence fire brigade or an industrial fire brigade, within the meaning of that Act

hazardous waste means waste that—

(a) belongs to 1 or more of the categories in Annex I of the Basel Convention; and

(b) has 1 or more of the characteristics in Annex III of that Convention

health care institution has the same meaning as in section 2(1) of the Health and Disability Commissioner Act 1994

high temperature hazardous waste incinerator means an incinerator that is designed and operated principally for burning hazardous waste at a temperature greater than 850°C as measured—

(a) near the inner wall of the incinerator; or

(b) at another point in the combustion chamber where the temperature is likely to represent the temperature in the incinerator

landfill means a site where waste is disposed of by burying it, or placing it upon land or other waste

meaningful PM_{10} data has the meaning given by regulation 16C

multifuel heater means a domestic heating appliance designed to burn more than 1 type of solid fuel

oil—

(a) means petroleum in any form other than gas; and

(b) includes crude oil, fuel oil sludge, oil refuse, and refined oil products (for example, diesel fuel, kerosene, and motor gasoline)

PM_{10} means particulate matter that is—

(a) less than 10 micrometres in aerodynamic diameter; and

(b) measured in accordance with the United States Code of Federal Regulations, Title 40—Protection of Environment, Volume 2, Part 50, Appendix J — Reference method for the determination of particulate matter as PM_{10} in the atmosphere

PM_{10} standard means the ambient air quality standard prescribed by regulation 13(1) for PM_{10}

solid fuel means a solid substance that releases useable energy when burnt (for example, wood and coal)

waste means substances or objects that are disposed of or intended to be disposed of

woodburner—

(a) means a domestic heating appliance that burns wood; but

(b) does not include—

(i) an open fire; or

(ii) a multifuel heater, a pellet heater, or a coal burning heater; or

(iii) a stove that is—

(A) designed and used for cooking; and

(B) heated by burning wood.

(2) A term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Regulation 3(1) **airshed**: substituted, on 25 August 2005, by regulation 3(1) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 3(1) **average exceedances of PM_{10} per year**: inserted, on 1 June 2011, by regulation 5(1) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 3(1) **Basel Convention**: amended, on 25 August 2005, by regulation 3(2) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 3(1) **exceedance**: inserted, on 1 June 2011, by regulation 5(1) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 3(1) **firefighter**: inserted, on 6 November 2008, by regulation 4 of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2008 (SR 2008/375).

Regulation 3(1) **hazardous waste**: substituted, on 25 August 2005, by regulation 3(3) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 3(1) **meaningful PM_{10} data**: inserted, on 1 June 2011, by regulation 5(1) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 3(1) **oil** paragraph (a): amended, on 13 January 2005, by regulation 3 of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2004 (SR 2004/433).

Regulation 3(1) **PM_{10}**: amended, on 1 June 2011, by regulation 5(2) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 3(1) **PM_{10} standard**: inserted, on 1 June 2011, by regulation 5(1) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Prohibitions and restrictions on discharges from certain activities

4 Prohibition on discharges from certain activities

A discharge of a contaminant to air from an activity specified in any of regulations 6 to 12 is prohibited, except to the extent that the regulation provides otherwise.

5 Prohibition on granting of resource consents for certain activities

(1) A resource consent may not be granted for a discharge of a contaminant to air from an activity specified in any of regulations 6 to 12, except to the extent that the regulation provides otherwise.

(2) If a resource consent is granted for an activity, the activity is a discretionary activity for the purposes of the Act.

6 Lighting of fires and burning of waste at landfill

(1) The lighting of fires and the burning of waste at a landfill are prohibited.

(2) Subclause (1) does not apply if—

(a) the lighting of a fire is to control gas formed at the landfill; and

(b) the landfill complies with the requirements of regulations 25 to 27.

7 Burning of tyres

(1) The burning of tyres is prohibited.

(2) Subclause (1) does not apply if the tyres are burnt at industrial and trade premises that have—

(a) a resource consent for the discharge produced; and

(b) emission control equipment that is designed and operated to minimise emissions of dioxins and other toxics from the process.

8 Burning of bitumen

The burning of bitumen on a road is prohibited.

9 Burning of coated wire

(1) The burning of wire coated with any material is prohibited.

(2) Subclause (1) does not apply if the wire is—

(a) burnt at industrial and trade premises that have—

(i) a resource consent for the discharge produced; and

(ii) emission control equipment that is designed and operated to minimise emissions of dioxins and other toxics from the process; or

(b) part of a building that is burnt for the purpose of training firefighters.

Regulation 9(2): substituted, on 6 November 2008, by regulation 5 of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2008 (SR 2008/375).

10 Burning of oil

(1) The burning of oil in the open air is prohibited.

(2) Subclause (1) does not apply if—

(a) the burning is for creating special smoke and fire effects for the purposes of producing films; or

(b) the burning is for the purpose of training firefighters; or

(c) *[Revoked]*

(d) the burning is—

(i) done by means of a flare; and

(ii) for the purpose of undertaking health and safety procedures in the petroleum exploration and production industry or the petrochemical industry; and

(iii) expressly allowed by a resource consent.

(3) For the avoidance of doubt, subclause (1) does not apply if a discharge from the burning of oil is directed to the open air by a stack, chimney, or exhaust pipe (for example, emissions from a motor vehicle).

Regulation 10(2)(b): substituted, on 6 November 2008, by regulation 6 of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2008 (SR 2008/375).

Regulation (2)(c): revoked, on 25 August 2005, by regulation 4(1) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation (2)(d): added, on 25 August 2005, by regulation 4(2) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 10(2)(d)(iii): amended, on 1 June 2011, by regulation 6 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

11 Incinerators at schools and healthcare institutions

The operation of an incinerator at a school or a healthcare institution is prohibited unless a resource consent has been granted for the discharge produced.

12 High-temperature hazardous waste incinerators

(1) The operation of a high-temperature hazardous waste incinerator is prohibited.

(2) Subclause (1) does not apply if the incinerator—

(a) is a crematorium; or

(b) is operating at the following places:

(i) 89 Paritutu Road, New Plymouth:

(ii) 816 Wairakei Road, Christchurch:

(iii) Hape Drive (perimeter road), Auckland International Airport, Auckland.

Ambient air quality standards for contaminants

13 Ambient air quality standards

(1) The ambient air quality standard for a contaminant specified in the first column of the table in Schedule 1 is that the contaminant must not exceed its threshold concentration in an airshed unless the exceedance is a permissible exceedance.

(2) The ambient air quality standard for a contaminant is breached if the contaminant exceeds its threshold concentration in an airshed and the exceedance is not a permissible exceedance.

(3) In these regulations,—

exceedance, for a contaminant, means an instance where the contaminant exceeds its threshold concentration in an airshed

permissible exceedance, for a contaminant, means 1 of the number of exceedances allowed for the contaminant in an airshed as specified in the third column of the table in Schedule 1

threshold concentration, for a contaminant, means the concentration of the contaminant specified in the second column of the table in Schedule 1 calculated as a mean for the time period specified in that column.

Regulation 13: substituted, on 1 June 2011, by regulation 7 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

14 Application of standards

(1) The ambient air quality standard for a contaminant applies at any place—

(a) that is in an airshed; and

(b) that is in the open air; and

(c) where people are likely to be exposed to the contaminant.

(2) However, if the discharge of a contaminant is expressly allowed by a resource consent, the ambient air quality standard

for the contaminant does not apply to the site on which the resource consent is exercised.

Regulation 14(1)(a): substituted, on 25 August 2005, by regulation 5(1) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 14(2): added, on 25 August 2005, by regulation 5(2) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 14(2): amended, on 1 June 2011, by regulation 8(a) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 14(2): amended, on 1 June 2011, by regulation 8(b) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

15 Regional council must monitor air quality if standard breached

If it is likely that the ambient air quality standard for a contaminant will be breached in an airshed, the regional council must—

(a) monitor the airshed in relation to that contaminant; and

(b) conduct the monitoring—

(i) in that part of the airshed where—

(A) there are one or more people; and

(B) the standard is breached by the greatest margin or the standard is breached the most frequently, whichever is the most likely; and

(ii) in accordance with the relevant method listed in Schedule 2.

16 Regional council must give public notice if standard breached

(1) A regional council must give public notice if the ambient air quality standard for a contaminant is breached in an airshed in its region.

(2) The notice must—

(a) be given periodically, at least once a month, until the standard is no longer being breached; and

(b) be given in accordance with the Act; and

(c) include—

(i) the name of the contaminant to which the notice relates; and

(ii) the time and place at which the standard was breached; and

(iii) the extent to which the standard was breached.

16A Exceptional circumstances causing breach of standard

(1) The Minister may, on written application by a regional council, decide that an exceedance of a contaminant in an airshed in the region of the council was caused by exceptional circumstances.

(2) The application must be received by the Minister no later than 3 months after the day of the exceedance.

(3) The Minister may decide that the exceedance was caused by exceptional circumstances only if he or she is satisfied that the exceedance was caused by exceptional circumstances beyond the reasonable control of the regional council.

(4) The Minister must give written notice to the regional council of his or her decision no later than 3 months after the day on which the application was received.

(5) If the decision in the notice is that the exceedance was caused by exceptional circumstances, the exceedance must be ignored in determining whether the ambient air quality standard for the relevant contaminant has been breached in the airshed.

(6) However, the exceedance must not be ignored in determining whether the standard has been breached for the purposes of regulation 16 (regional council must give public notice if standard breached).

Regulation 16A: inserted, on 1 June 2011, by regulation 9 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

16B Allowances for meeting PM_{10} standard

(1) The PM_{10} standard strictly applies to an airshed (so that 1 exceedance is allowed in a 12-month period), unless subclause (3) applies to the airshed and allows more exceedances.

(2) Subclause (3) applies to an airshed on and from the first day on or after 1 September 2011 on which the airshed has meaningful

PM_{10} data for at least a 12-month period in the immediately prior 5-year period (the **start date**).

(3) In an airshed with the average exceedances of PM_{10} per year specified in the first column of the table in this subclause, the PM_{10} standard is not breached, or is to be treated as if it were not breached, during the period specified in the second column despite the occurrence of the number of exceedances of PM_{10} specified in the third column.

Average exceedances per year (before start date)	Period in which exceedances allowed (on and from start date)	Number of exceedances allowed
1 or fewer	Always	1 or fewer in a 12-month period
More than 1, but fewer than 10	1 September 2011 to 31 August 2016	Unlimited
	1 September 2016 onwards	1 or fewer in a 12-month period
10 or more	1 September 2011 to 31 August 2016	Unlimited
	1 September 2016 to 31 August 2020	3 or fewer in a 12-month period
	1 September 2020 onwards	1 or fewer in a 12-month period

(4) The average exceedances of PM_{10} per year for an airshed under subclause (3) must be calculated under regulation 16D for the 5-year period ending immediately before the airshed's start date.

(5) Despite subclause (3), any breach of the PM_{10} standard is still a breach for the purposes of the following regulations:

(a) regulation 15 (regional council must monitor air quality if standard breached):

(b) regulation 16 (regional council must give public notice if standard breached):

(c) regulation 17(4)(b) (airshed stops being polluted airshed if PM_{10} standard not breached for 5 years):

(d) regulation 24A (discharge from certain open fires prohibited).

(6) If an airshed is established by notice in the *Gazette*, the data (if any) that best applies to the new airshed from the 1 or more

airsheds from which the new airshed derived must be treated as if it were the new airshed's data to determine,—

(a) under subclause (2), whether subclause (3) immediately applies or later applies to the airshed; and

(b) under subclauses (3) and (4), how the table in subclause (3) applies to the airshed (if subclause (3) applies).

(7) To avoid doubt,—

(a) subclause (3) does not affect the calculation under regulation 16D of an airshed's average exceedances of PM_{10} per year; and

(b) a reference in the third column of the table in subclause (3) to 1 or fewer exceedances being allowed in a 12-month period simply reflects the strict application of the PM_{10} standard.

(8) This regulation expires on 1 September 2020.

Example

On 1 September 2011, an airshed has meaningful PM_{10} data for four 12-month periods in the immediately prior 5-year period (ending on 31 August 2011). There were 42 exceedances of PM_{10} in the airshed in those four 12-month periods.

The airshed's average exceedances of PM_{10} per year is (for the purposes of subclause (3))—

$$10.5 = \frac{42}{4}$$

The airshed is therefore (for certain purposes)—

- allowed unlimited exceedances of PM_{10} from 1 September 2011 to 31 August 2016:
- allowed 3 exceedances of PM_{10} in a 12-month period from 1 September 2016 to 31 August 2020.

The PM_{10} standard strictly applies again on 1 September 2020 (allowing 1 exceedance of PM_{10} in a 12-month period).

Regulation 16B: inserted, on 1 June 2011, by regulation 9 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

16C Meaningful PM_{10} data for airshed

(1) This regulation specifies what is required for an airshed to have meaningful PM_{10} data under regulation 16B(2), 16D(2), or 17(4)(a)(i).

(2) An airshed has meaningful PM_{10} data for a 12-month period if,—

(a) when the concentration of PM_{10} in the airshed was measured during that period, it was measured in a way that allowed 24-hour mean concentrations to be calculated under Schedule 1; and

(b) the measurements captured data for at least 95% of the 12-month period, after deducting from the duration of the 12-month period any periods of time that were not covered by measurements because of maintenance or calibration; and

(c) at least 75% of the data captured was valid data.

Regulation 16C: inserted, on 1 June 2011, by regulation 9 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

16D Calculation of airshed's average exceedances of PM_{10} per year

(1) This regulation specifies how to calculate an airshed's average exceedances of PM_{10} per year in a 5-year period for regulation 16B(4) or 17(4)(a)(ii).

(2) The average exceedances of PM_{10} per year in an airshed is calculated as follows:

$$a = \frac{e}{y}$$

where—

a is the average per year

e is the number of exceedances of PM_{10} in the airshed in the 1 or more 12-month periods for which the airshed had meaningful PM_{10} data in the relevant 5-year period

y is the number of those 12-month periods.

(3) However, if an exceedance of PM_{10} (relating to exceptional circumstances) must be ignored under regulation 16A(5), the exceedance must be excluded from the calculation.

Regulation 16D: inserted, on 1 June 2011, by regulation 9 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Resource consents for discharges of PM_{10}

17 Certain applications must be declined unless other PM_{10} discharges reduced

(1) A consent authority must decline an application for a resource consent (the **proposed consent**) to discharge PM_{10} if the discharge to be expressly allowed by the consent would be likely, at any time, to increase the concentration of PM_{10} (calculated as a 24-hour mean under Schedule 1) by more than 2.5 micrograms per cubic metre in any part of a polluted airshed other than the site on which the consent would be exercised.

(2) However, subclause (1) does not apply if—

(a) the proposed consent is for the same activity on the same site as another resource consent (the **existing consent**) held by the applicant when the application was made; and

(b) the amount and rate of PM_{10} discharge to be expressly allowed by the proposed consent are the same as or less than under the existing consent; and

(c) discharges would occur under the proposed consent only when discharges no longer occur under the existing consent.

(3) Subclause (1) also does not apply if—

(a) the consent authority is satisfied that the applicant can reduce the PM_{10} discharged from another source or sources into each polluted airshed to which subclause (1) applies by the same or a greater amount than the amount likely to be discharged into the relevant airshed by the discharge to be expressly allowed by the proposed consent; and

(b) the consent authority, if it intends to grant the proposed consent, includes conditions in the consent that require the reduction or reductions to take effect within 12 months after the consent is granted and to then be effective for the remaining duration of the consent.

(4) For the purposes of this regulation,—

(a) an airshed becomes a polluted airshed on and from 1 September 2012 or any later day if, for the immediately prior 5-year period,—

(i) the airshed has meaningful PM_{10} data for at least a 12-month period; and

(ii) the airshed's average exceedances of PM_{10} (as calculated under regulation 16D) was more than 1 per year; and

(b) an airshed stops being a polluted airshed on and from any day if the PM_{10} standard was not breached in the airshed in the immediately prior 5-year period.

(5) If an airshed is established by notice in the *Gazette*, the data (if any) that best applies to the new airshed from the 1 or more airsheds from which the new airshed derived must be treated as if it were the new airshed's data to determine, under subclause (4),—

(a) whether the new airshed immediately becomes a polluted airshed; or

(b) whether the new airshed later becomes or stops being a polluted airshed.

(6) To avoid doubt,—

(a) a polluted airshed to which subclause (1) applies may or may not be an airshed in the region of the consent authority considering an application; and

(b) if an airshed stops being a polluted airshed under subclause (4)(b), it may later become a polluted airshed again under subclause (4)(a).

Example

An airshed's average exceedances of PM_{10} per year is 1.2 for the 5-year period from 1 September 2007 to 31 August 2012. The airshed therefore becomes a polluted airshed on 1 September 2012.

15 March 2020 is the first day after the end of a 5-year period in which the PM_{10} standard was not breached in the airshed. The airshed therefore stops being a polluted airshed on 15 March 2020.

Regulation 17: substituted, on 1 June 2011, by regulation 10 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

17A Application must be declined if discharges likely to cause concentration of PM_{10} in airshed to be above straight line path

[Revoked]

Regulation 17A: revoked, on 1 June 2011, by regulation 11 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

17B Application must be decided in accordance with regional plan if regional plan provides for curved line path

[Revoked]

Regulation 17B: revoked, on 1 June 2011, by regulation 11 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

17C Other applications must be declined unless discharges offset

[Revoked]

Regulation 17C: revoked, on 1 June 2011, by regulation 11 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

18 Resource consents for PM_{10} discharges before 1 September 2013 if concentration in airshed does not breach standard

[Revoked]

Regulation 18: revoked, on 1 June 2011, by regulation 11 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

19 Resource consents for PM_{10} discharges after 31 August 2013

[Revoked]

Regulation 19: revoked, on 1 June 2011, by regulation 11 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Resource consents for discharges of other contaminants

20 Resource consents for discharge of carbon monoxide, oxides of nitrogen, and volatile organic compounds

(1) A consent authority must decline an application for a resource consent to discharge carbon monoxide into air if the discharge to be expressly allowed by the resource consent—

(a) is likely, at any time, to cause the concentration of that gas in the airshed to breach its ambient air quality standard; and

(b) is likely to be a principal source of that gas in the airshed.

(2) A consent authority must decline an application for a resource consent to discharge oxides of nitrogen or volatile organic compounds into air if the discharge to be expressly allowed by the resource consent—

(a) is likely, at any time, to cause the concentration of nitrogen dioxide or ozone in the airshed to breach its ambient air quality standard; and

(b) is likely to be a principal source of oxides of nitrogen or volatile organic compounds in the airshed.

(3) In this regulation, **volatile organic compound**—

(a) means a hydrocarbon based compound with a vapour pressure greater than 2 millimetres of mercury (0.27 kilopascals) at a temperature of 25°C; but

(b) does not include methane.

Regulation 20 heading: amended, on 25 August 2005, by regulation 7(1) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 20(1): amended, on 1 June 2011, by regulation 12(1) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 20(1): amended, on 25 August 2005, by regulation 7(2) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 20(2): added, on 25 August 2005, by regulation 7(3) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

Regulation 20(2): amended, on 1 June 2011, by regulation 12(2) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Regulation 20(3): added, on 25 August 2005, by regulation 7(3) of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214).

21 Resource consents for discharge of sulphur dioxide

A consent authority must decline an application for a resource consent to discharge sulphur dioxide into air if the discharge to be expressly allowed by the resource consent is likely, at any time, to cause the concentration of sulphur dioxide in the airshed to breach its ambient air quality standard.

Regulation 21: amended, on 1 June 2011, by regulation 13 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Wood burners

22 Discharge from woodburners installed on certain properties after 1 September 2005 prohibited

(1) The discharge of particles to air from a woodburner installed after 1 September 2005 in a building on a property with an allotment size of less than 2 hectares is prohibited.

(2) Subclause (1) does not apply if the discharge from the woodburner complies with—

(a) the design standard in regulation 23; and

(b) the thermal efficiency standard in regulation 24.

23 Design standard

(1) The design standard for a woodburner is a discharge of less than 1.5 gram of particles for each kilogram of dry wood burnt.

(2) The discharge must be measured in accordance with—

(a) the method specified in Australian/New Zealand Standard AS/NZS 4013:1999, Domestic solid fuel burning appliances—Method for determination of flue gas emissions; or

(b) for a woodburner excluded from that method, another method that is functionally equivalent.

Regulation 23(2): substituted, on 1 June 2011, by regulation 14 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

24 Thermal efficiency standard

(1) The thermal efficiency standard for a woodburner—

(a) is the ratio of useable heat energy output to energy input (**thermal efficiency**); and

(b) must be not less than 65%.

(2) The thermal efficiency must be calculated in accordance with—

(a) the method specified in Australian/New Zealand Standard AS/NZS 4012:1999, Domestic solid fuel burning appliances—Method for determination of power output and efficiency; or

(b) for a woodburner excluded from that method, another method that is functionally equivalent.

Regulation 24(2): substituted, on 1 June 2011, by regulation 15 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Domestic solid-fuel burning open fires

Heading: inserted, on 1 June 2011, by regulation 16 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

24A Discharge from certain open fires prohibited

(1) A regional council must give public notice the first time that the PM_{10} standard is breached in an airshed in its region on or after 1 September 2011.

(2) The public notice must—

(a) state that subclauses (3) and (4) of this regulation will prohibit the discharge of particles from domestic solid-fuel burning open fires installed in the relevant area on or after a certain date (the **date of the ban**); and

(b) specify as the date of the ban the day that is 12 months after the day of the breach; and

(c) specify the airshed whose area the notice applies to; and

(d) be given at least 6 months before the date of the ban; and

(e) be given in accordance with the Act.

(3) Subclause (4) applies to a domestic solid-fuel burning open fire that is installed in the area of an airshed specified in a notice under subclause (2) on or after the date of the ban specified in the notice.

(4) The discharge of particles into any airshed from the open fire is prohibited.

(5) For the purposes of this regulation,—

(a) the area of an airshed is determined at the date of the related breach of the PM_{10} standard; and

(b) once subclauses (3) and (4) apply to an area they always apply to the area, despite the establishment of any new airshed by notice in the *Gazette*.

(6) In this regulation, **domestic solid-fuel burning open fire**—

(a) means an appliance or a structure inside a domestic building that can burn solid fuel but cannot effectively control the rate of air supply to the combustion zone; and

(b) to avoid doubt, includes a fireplace to which paragraph (a) applies that has a cover or doors that cannot effectively control the rate of air supply to the combustion zone.

Example

The PM_{10} standard is breached in a regional council's airshed on 18 April 2013. It was not breached from 1 September 2011 until then.

The council must give at least 6 months' public notice that regulation 24A(3) and (4) will prohibit the discharge of particles from domestic solid-fuel burning open fires installed in the area of the airshed on or after 18 April 2014. The prohibition takes effect accordingly.

Regulation 24A: inserted, on 1 June 2011, by regulation 16 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Control of greenhouse gas emissions at landfills

25 Application of regulations 26 and 27

(1) Regulations 26 and 27 apply to a landfill if—

(a) the landfill—
  (i) has a total capacity of not less than 1 million tonnes; and
  (ii) contains not less than 200 000 tonnes of waste; and
  (iii) is or is likely to be accepting waste; and
(b) the waste in or to be included in the landfill is likely to consist of 5% or more (by weight) of matter that is putrescible or biodegradable.

(2) However, regulations 26 and 27 do not apply to a landfill until 8 October 2007 if the landfill—
(a) has a total capacity of not less than 1 million tonnes of waste; and
(b) on 8 October 2004—
  (i) contains not less than 200 000 tonnes of waste; and
  (ii) is accepting waste; and
(c) does not operate a gas collection system.

(3) Regulations 26 and 27 do not apply to a cleanfill.

26 Control of gas

(1) No person may allow the discharge of gas to air from a landfill.

(2) Subclause (1) does not apply if the landfill has a system for the collection of gas from the landfill—
(a) that is designed and operated to ensure that any discharge of gas from the surface of the landfill does not exceed 5 000 parts of methane per million parts of air; and
(b) in which the gas is—
  (i) flared in accordance with regulation 27; or
  (ii) used as a fuel or for generating electricity.

27 Flaring of gas

(1) If gas collected at a landfill is destroyed by flaring,—
(a) the system for the principal flare or flares must—
  (i) comply with the requirements in subclause (2); or
  (ii) achieve at least the same effect as the system in subclause (2); and

(b) the system for the backup flare must—

(i) comply with the requirements in subclause (3); or

(ii) achieve at least the same effect as the system in subclause (3).

(2) The system for a principal flare must—

(a) have a flame arrestor; and

(b) have an automatic backflow prevention device, or an equivalent device, between the principal flare and the landfill; and

(c) have an automatic isolation system that ensures that, if the flame is lost, no significant discharge of unburnt gas from the flare occurs; and

(d) have a continuous automatic ignition system; and

(e) have a design that achieves a minimum flue gas retention time of 0.5 seconds; and

(f) be designed and operated so that gas is burned at a temperature of at least 750°C; and

(g) have a permanent temperature indicator; and

(h) have adequate sampling ports to enable emission testing to be undertaken; and

(i) provide for safe access to sampling ports while any emission tests are being undertaken.

(3) The system for a backup flare must have—

(a) a flame arrestor; and

(b) an automatic backflow prevention device, or an equivalent device, between the backup flare and the landfill; and

(c) an automatic isolation system that ensures that, if the flame is lost, no significant discharge of unburnt gas from the flare occurs; and

(d) a continuous automatic ignition system.

(4) A principal flare must be operated at all times unless it has malfunctioned or is shut down for maintenance.

(5) A backup flare must be operated if, and only if, a principal flare is not operating.

More stringent rule, resource consent, or bylaw prevails

Heading: added, on 1 June 2011, by regulation 17 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

28 More stringent rule, resource consent, or bylaw prevails

A rule, resource consent, or bylaw that is more stringent than these regulations prevails over the regulations.

Regulation 28: added, on 1 June 2011, by regulation 17 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Schedule 1

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Ambient air quality standards for contaminants

In the following table,—

1-hour mean—

(a) means a mean calculated every hour on the hour for the preceding hour; and

(b) in relation to a contaminant at a particular location for a particular hour, means the mean of not more than 10-minute means, collected not less than once every 10 seconds, for the contaminant at that location during that hour

24-hour mean—

(a) means a mean calculated every 24 hours at midnight for the preceding 24 hours; and

(b) in relation to a contaminant at a particular location for a particular 24-hour period, means—

(i) the mean level at which the contaminant is recorded in the air, by continuous sampling of the air at that location, throughout that 24-hour period; or

(ii) the mean of the 1-hour means for that contaminant at that location for the preceding 24 hours

running 8-hour mean—

(a) means a mean calculated every hour on the hour for that hour and the preceding 7 hours to give 1 running 8-hour mean per hour; and

(b) in relation to a contaminant at a particular location for a particular hour, means the mean of the 1-hour means for that contaminant at that location for that hour and the preceding 7 hours.

Contaminant	Threshold concentration	Number of exceedances allowed
Carbon monoxide	10 milligrams per cubic metre expressed as a running 8-hour mean	1 in a 12-month period
Nitrogen dioxide	200 micrograms per cubic metre expressed as a 1-hour mean	9 in a 12-month period
Ozone	150 micrograms per cubic metre expressed as a 1-hour mean	None
PM_{10}	50 micrograms per cubic metre expressed as a 24-hour mean	1 in a 12-month period
Sulphur dioxide	350 micrograms per cubic metre expressed as a 1-hour mean	9 in a 12-month period
	570 micrograms per cubic metre expressed as a 1-hour mean	None

Schedule 1: amended, on 1 June 2011, by regulation 18 of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Schedule 2

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Monitoring methods for ambient air quality standards

Contaminant	Monitoring method
Carbon monoxide	Australian Standard AS 3580.7.1:1992, Methods for sampling and analysis of ambient air—Determination of carbon monoxide—Direct-reading instrumental method
Nitrogen dioxide	Australian Standard AS 3580.5.1:1993, Methods for sampling and analysis of ambient air—Determination of oxides of nitrogen—Chemiluminescence method
Ozone	Australian Standard AS 3580.6.1:1990, Methods for sampling and analysis of ambient air—Determination of ozone—Direct-reading instrumental method
PM_{10}	United States Code of Federal Regulations, Title 40—Protection of Environment, Volume 2, Part 50, Appendix J—Reference method for the determination of particulate matter as PM_{10} in the atmosphere; or
	Australian/New Zealand Standard AS/NZS 3580.9.6:2003, Methods for sampling and analysis of ambient air—Determination of suspended particulate matter—PM_{10} high volume sampler with size-selective inlet—Gravimetric method; or
	Australian Standard AS 3580.9.8:2008, Methods for sampling and analysis of ambient air—Determination of suspended particulate matter—PM_{10} continuous direct mass method using a tapered element oscillating microbalance analyser; or
	Australian/New Zealand Standard AS/NZS 3580.9.11:2008, Methods for sampling and analysis of ambient air—Determination of suspended particulate matter—PM_{10} beta attenuation monitors
Sulphur dioxide	Australian Standard AS 3580.4.1:2008, Methods of sampling and analysis of ambient air—Determination of sulfur dioxide—Direct reading instrumental method

Schedule 2: amended, on 1 June 2011, by regulation 19(1) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Schedule 2: amended, on 1 June 2011, by regulation 19(2) of the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103).

Martin Bell,
Acting for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 9 September 2004.

Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011

(SR 2011/103)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 18th day of April 2011

Present:
His Excellency the Governor-General in Council

Pursuant to section 43 of the Resource Management Act 1991, His Excellency the Governor-General makes the following regulations—

(a) acting on the advice and with the consent of the Executive Council; and

(b) acting on the recommendation of the Minister for the Environment made in accordance with section 44 of that Act.

Regulations

1 Title

These regulations are the Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011.

2 Commencement

These regulations come into force on 1 June 2011.

20 Transitional provision about exceptional circumstances

A regional council's application under regulation 16A(1) must relate to an exceedance that occurred on or after the day on which these regulations commenced.

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 21 April 2011.

Contents

Notes

1 General

This is a reprint of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004. The reprint incorporates all the amendments to the regulations as at 1 June 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not

included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Resource Management (National Environmental Standards for Air Quality) Amendment Regulations 2011 (SR 2011/103)

Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2008 (SR 2008/375)

Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2005 (SR 2005/214)

Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Amendment Regulations 2004 (SR 2004/433)

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2011