

Authorised Version

Environment Protection Amendment (Wind Turbine Noise) Regulations 2021

S.R. No. 92/2021

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Authorised Version

STATUTORY RULES 2021

S.R. No. 92/2021

Environment Protection Act 2017

Environment Protection Amendment (Wind Turbine Noise) Regulations 2021

The Governor in Council makes the following Regulations:

Dated: 27 July 2021

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

ALEXANDRA DEBELJAKOVIC

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 August 2021.

5 Definitions

In regulation 4 of the Principal Regulations—

(a) for the definition of ***noise limit substitute***—

noise limit means—

- (a) in Part 5.3 (other than Division 5), the maximum effective noise level allowed in a noise sensitive area, as determined in accordance with the Noise Protocol; and
- (b) in Division 5 of Part 5.3, the limits determined in accordance with the relevant noise standard or regulation 131B(2);".

(b) **insert** the following definitions—

alternative monitoring point means a location, other than a location determined in accordance with the relevant noise standard, for the assessment of wind turbine noise;

alternative monitoring point criteria means the criteria (expressed in decibels) that apply at an alternative monitoring point to assess compliance with the noise limits set out in the relevant noise standard;

authorising document means a planning permit or other document as amended from time to time that—

- (a) authorises the construction or operation of a wind energy facility; and
- (b) addresses wind turbine noise at the facility; and

(c) is issued by a responsible authority under the **Planning and Environment Act 1987**;

noise management plan means a plan prepared in accordance with regulation 131E;

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;

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

relevant landowner means a person who owns land with premises in the vicinity of a wind energy facility;

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

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

(a) owned or operated by the same person or entity; 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 that is used for extracting kinetic energy from the wind (other than for domestic or rural use of the land) and includes the—

- (a) components comprising the device, such as the blades, gearbox and generator; and
- (b) 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 or an alternative monitoring point;

wind turbine noise agreement has the meaning given in regulation 131A.";

- (c) in the definition of ***water corporation***, for "1989." substitute "1989;"

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 New Division 5 of Part 5.3 inserted

After regulation 131 of the Principal Regulations
insert—

"Division 5—Wind turbine noise

131A Wind turbine noise agreement

- (1) An owner or operator of a wind energy facility and a relevant landowner may enter into a written agreement regarding noise limits with which the wind turbine noise emitted by the facility must comply (*wind turbine noise agreement*).
- (2) A wind turbine noise agreement—
 - (a) must specify the wind energy facility and the premises of the relevant landowner (including any particular buildings) to which the agreement relates; and
 - (b) may modify the noise limits with which the wind energy facility must otherwise comply in relation to noise emissions to the premises of the relevant landowner specified in the agreement.
- (3) A wind turbine noise agreement cannot modify a noise limit with which the wind energy facility must comply in relation to noise emissions to premises other than the premises of the relevant landowner.

131B Relevant noise standard

- (1) Subject to subregulation (2), the relevant noise standard for a wind energy facility that is the subject of an authorising document described in column 2 of the Table is the standard set out in column 3 of that Table.

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Regulations 2021
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Table—Relevant noise standard for wind energy facilities

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Authorising document applying to the wind energy facility</i>	<i>Column 3</i> <i>Relevant noise standard</i>
1	An authorising document issued prior to 31 December 2010	NZS 6808:1998 (unless item 2(b) applies)
2	(a) An authorising document issued on or after 1 January 2011; or (b) Any authorising document that has been amended to require compliance with NZS 6808:2010	NZS 6808:2010
3	An authorising document that sets out conditions to modify or replace either NZS 6808:1998 or NZS 6808:2010 in relation to wind turbine noise	Either NZS 6808:1998 or NZS 6808:2010 as specified in items 1 and 2, as modified or replaced by the authorising document

- (2) If a wind energy facility is the subject of a wind turbine noise agreement made in accordance with regulation 131A, the relevant noise standard is to be read as if the noise limit set out in the relevant noise standard for the wind energy facility in relation to noise emissions to the premises of the relevant landowner were—
- (a) if the agreement was made before 1 August 2021, the noise limit (as determined in accordance with the relevant noise standard set out in the Table in subregulation (1)) specified in the agreement; or
 - (b) if the agreement was made on or after 1 August 2021, the noise limit (as determined in accordance with the

relevant noise standard set out in the Table in subregulation (1)) that is the greater of—

- (i) 45 dB; or
 - (ii) the background sound level plus 5 dB.
- (3) An owner or operator of a wind energy facility who is a party to a wind turbine noise agreement that is in force is taken to have complied with the relevant noise standard in relation to the noise emitted to the premises specified in the agreement if the wind turbine noise emitted to the premises complies with the noise limit set out in subregulation (2)(a) or (b), as applicable.

131C Duties on operators of wind energy facilities

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

Note

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

131D Post-construction noise assessment

- (1) An operator of a wind energy facility that commences operation on or after 1 August 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 acoustician; and
 - (b) demonstrate whether or not the facility complies with the noise limits set out in accordance with NZS 6808:2010.
- (3) The operator must—
 - (a) ensure that a report of the post-construction noise assessment is prepared; and
 - (b) engage an environmental auditor to prepare a report under regulation 164(ca)(i) in relation to the post-construction noise assessment.
- (4) The operator must give a copy of each report prepared under subregulation (3) to the Authority within 10 business days of their completion.

131E Noise management plan

- (1) This regulation applies on and from 1 January 2022.
- (2) An operator of a wind energy facility must engage an environmental auditor to prepare a report under regulation 164(ca)(ii) in relation to the noise management plan.

- (3) The operator must provide a copy of the report under subregulation (2) to the Authority on request.
- (4) The Authority may require the operator to make amendments to the noise management plan.
- (5) A noise management plan for a wind energy facility must include procedures for the following—
 - (a) the identification, assessment and control of risks of harm to human health and the environment from wind turbine noise;
 - (b) assessing compliance with—
 - (i) the noise limits set out in the relevant noise standard; or
 - (ii) the applicable alternative monitoring point criteria if the assessment of the wind turbine noise is conducted at an alternative monitoring point;
 - (c) reducing wind turbine noise in the event non-compliance with the noise limits set out in the relevant noise standard is detected;
 - (d) addressing any complaints about wind turbine noise received by the operator, including who will investigate the complaint and respond to the complainant.

131F Annual statement

- (1) This regulation applies on and from 1 July 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.
- (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) if applicable, evidence that the turbine operating modes complied with any relevant requirements contained in the facility's authorising document under the **Planning and Environment Act 1987**;
 - (c) details of any maintenance activities undertaken (including any unscheduled servicing events);
 - (d) details of any noise remediation actions undertaken.
- (4) A statement under this regulation must demonstrate whether or not the wind turbine noise complied with—
 - (a) the noise limits set out in the relevant noise standard; or
 - (b) the applicable alternative monitoring point criteria if the assessment of the wind turbine noise is conducted at an alternative monitoring point.

131G Wind turbine noise monitoring

- (1) This regulation applies on and from 1 January 2024.
- (2) Within 3 months of the fifth anniversary of the wind energy facility commencing operation, and every subsequent 5 years, the operator of the facility must—
 - (a) engage a suitably qualified and experienced acoustician to determine procedures and conduct monitoring to ensure that wind turbine noise from the facility complies with—
 - (i) the noise limits set out in the relevant noise standard; or
 - (ii) the applicable alternative monitoring point criteria if the assessment of the wind turbine noise is conducted at an alternative monitoring point; and
 - (b) ensure that a report of the matters set out in paragraph (a) is prepared; and
 - (c) engage an environmental auditor to undertake a review under regulation 164(ca)(ii) of the report referred to in paragraph (b); and
 - (d) give a copy of each report prepared under paragraph (b) and (c) to the Authority.

131H 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—

- (a) the noise limit set out in the relevant noise standard; or
- (b) the applicable alternative monitoring point criteria if the assessment of the wind turbine noise is conducted at an alternative monitoring point."

8 Functions of environmental auditors

- (1) In regulation 164 of the Principal Regulations **omit** the Example at the foot of paragraph 164(c).
 - (2) After regulation 164(c) of the Principal Regulations **insert**—
 - "(ca) for the purposes of Division 5 of Part 5.3—
 - (i) to independently verify whether or not any noise assessment conducted for a wind energy facility was conducted in accordance with the relevant noise standard; and
 - (ii) to review any noise management plan prepared for a wind energy facility and any periodic monitoring undertaken under regulation 131G for the facility."
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Endnotes

¹ Reg. 3: S.R. No. 47/2021.

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, definition of <i>NZS 6808:1998</i> and regulation 131B	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 regulations 131B and 131D	New Zealand Standard NZS 6808:2010, Acoustics—Wind farm noise, published by Standards New Zealand in 2010	The whole