



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

From

**Contact Energy Limited**

## Introduction

Contact welcomes the opportunity to provide feedback on this consultation paper. A general commentary and responses to some of the questions raised in the discussion document follow.

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## Summary

Contact Energy Limited ("Contact") is pleased to be able to respond on the proposed amendments to the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins and other Toxics) Regulations 2004, otherwise known as the National Environmental Standards for Air Quality ("AQNES").

Contact supports the key proposals of the discussion document which seek to address the equity and stringency issues in the current AQNES. Contact believes that option 4(b) (as identified by the Ministry for the Environment ("MfE")) is most suitable in remedying these issues, while maintaining appropriate signals for air quality management.

## Contact and air quality management

### Contact specific activities

Contact is supportive of the government's efforts to create a robust policy framework for the management of air quality and acknowledges the links between air quality (specifically fine particles) and health. Contact's review of the proposed amendments to the AQNES has focussed on whether the appropriate balance has been struck between addressing potential health impacts via controls on activities that impact on air quality, and ensuring that any resulting obligations are appropriately targeted.

Contact's main interests in air quality issues relate to the operation of thermal open cycle and combined cycle power stations. These generally operate using natural gas fuel and as such have relatively low emissions of PM10.

## Concerns with existing air quality standards

Contact supports the problem identification contained in the discussion document with regard to the stringency of the PM10 standard, and in particular the issues around the inequity of the current regulations.

### Inappropriate allocation of risk

The AQNES, in Regulations 17A, 17B, 17C and 18, has requirements on consent authorities to decline any application that might result in exceedances of airshed limits. As identified in

the discussion document, these regulations are poorly targeted and don't align with various parties' impact on emissions, with the majority of emissions being created from motor vehicles and domestic fires. As noted in the section 4.1.5.2 of the Appeals version of the Proposed Auckland Regional Plan: Air, Land and Water:

*"Motor vehicles and domestic fires are the two largest regional sources of air pollution in the Auckland Region. Although both sources have the potential to cause adverse effects such as smoke and odour on the local environment, their largest impact is the cumulative adverse effects they have on air quality and public health. In 2004 motor vehicles accounted for 47% of total ambient PM10 levels in Auckland with domestic fires accounting for 39% annually and 64% in winter."*

As they stand, the regulations are likely to distort resource allocation and could reduce overall economic welfare by preventing efficient activities from occurring, whilst insulating key contributors to emissions. The impacts will also be disproportionate on smaller enterprises. This is supported by the Technical Advisory Group ("TAG") on National Air Standards<sup>1</sup> who noted:

*"...we agree the approach is poorly designed policy as it doesn't link the solution with the major cause of the problem."*

For example, Contact's thermal power stations provide a major contribution to the Auckland economy and to the provision of security of supply for electricity, but only a small quantity of fine particles relative to the main contributors.

This is compounded when considering the risks around PM10 measurement. Estimation of PM10 particle emissions (and smaller) typically result in conservatively high estimated emission quantities, especially when high temperature emissions are concerned. Because the concentrations of PM10 emitted from good combustion systems are low these are very sensitive to the measurement process, and to outside influences such as salt spray and dust. These factors often mean power station manufacturers tend to be conservative in their specification of the particulate emissions, especially if guarantees are applicable. Consequently, any estimates of particulate emissions from proposed power station projects will be on the conservative side. While the 'must decline' requirements are in place, this may detract from efficient generation projects being consented, simply due to measurement issues.

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<sup>1</sup> Report of the Technical Advisory Group on National Air Standards, "Air Quality – Getting the right balance", 10 November 2009.

## **Timeframe for meeting airshed limits**

The AQNES requires airsheds to be below the limit in the standard by 01 September 2013. Given the relatively short timeframe, this doesn't incentivise regional councils to address the main contributors to the problem. Many airsheds do not show any sign of being able to meet the 01 September 2013 date. In the case that they do not, it is not equitable to penalise industry for the failure of regional councils to control the main contributors to the problem.

## **Allowable exceedances & exceptional events**

The number of allowable exceedances is currently only one per airshed per year. This is at odds with international precedent, and is unlikely to be realistic in the timeframes provided for.

## **Exceptional events**

Currently any exceptional events resulting in PM10 exceedances, such as forest fires or (as noted in the discussion document) dust storms in Australia are recognised as being exceedances. This is inappropriate and further highlights some of the major inequities of the current regulations.

## **Amendment proposals**

### **Preferred option 4(b)**

The useful work provided by the TAG, and the proposals identified in the discussion document reflect in general a far better allocation of risk than is contained in the current regulations.

Contact believes option 4(b) is most suitable in addressing these issues, while maintaining appropriate signals for air quality management. Option 4(b) provides for increased monitoring and reporting, while eliminating the inappropriate burden on industrials created by the consent restrictions.

The proposal also addresses the issues relating to timeframe and permitted exceedances, providing for more appropriate and realistic signals. These and the exclusion of exceptional events from being counted as exceedances should create better enduring policy conditions for a more sustainable strategy to address air quality standards.

## **Mandatory offsets in option 4(a)**

While option 4(a) also addresses most of the issues contained in the current regulations, it seeks to introduce requirements for mandatory offsets for new industry consents in breaching airsheds after 2018.

Contact believes that while the objective of introducing offsets is reasonable, no clear case has yet been made for their introduction. The TAG also did not believe that mandatory offsets could be justified at this stage. The predominant causers of air quality standards issues are still likely to be motor vehicle and domestic fires at the time mandatory offsets would be required (2018 as proposed), hence such an obligation could reintroduce some of the inequities created under the current regulations by not targeting measures at their cause.

If MfE still sees value in investigating mandatory offsets, Contact proposes that their introduction be reviewed at a set date closer to 2018. This would mean that an updated evaluation of key drivers of emissions could be undertaken, to reduce the risk of inappropriately burdening new industry.

## **Issue for clarification**

Contact notes that the Discussion Document, in 2.1.2, states that "if the air quality objectives in a regional plan are more stringent than the national environmental standards for air quality, then the regional plan takes precedence". First, s.43B(1) of the Resource Management Act states that "A rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it." Nowhere does the AQNES expressly say that a rule or consent may be more stringent than the AQNES. Second, even if the AQNES did expressly provide for a rule being more stringent than it, the air quality objectives of the plan are not affected by the AQNES but rather it is the rules in the plan that are affected.

Contact suggests that this point should be clarified in any further document.

## Specific answers to selected questions

### Problem definition

	Question	Response
4.	Do air quality standards materially influence industry investment decisions and regional location decisions?	Where the standards result in a 'must decline' requirement for a regional council's decision on an application for an air discharge consent, even though that might insignificantly contribute to an airshed's PM <sub>10</sub> inventory, then the standards do materially influence industry investment decisions.

### What are the options?

	Question	Response
7.	What preferred option do you think should be considered?	Option 4(b)
9.	What current opportunities do you know of that could help reduce your emissions (e.g. updating current equipment)? Do you see these opportunities as effective in reducing total emissions within an airshed? What are the costs of these alternative opportunities? What is stopping these opportunities from being introduced now?	<p>The PM<sub>10</sub> emissions from Contact's electricity generators are low and there are few practical opportunities to improve current equipment.</p> <p>Even if these emissions are reduced to zero they would not materially affect the ambient concentration of PM<sub>10</sub> in the airshed.</p>
10.	What costs do stakeholders face when complying with resource consent restrictions required by air quality standards?	The principal costs Contact would face would be those of having to locate generating plant away from the Auckland load centre. These are largely location factor costs.
11.	Is it practical to require mandatory offsets in over-allocated airsheds?	No. The predominant causes of air quality standards issues are still likely to be motor vehicle and domestic fires at the time mandatory offsets would be required (2018 as proposed), hence such an obligation could reintroduce some of the inequities created under the current regulations by not targeting measures at their cause.
13.	Will mandatory offsets for new industries in breaching airsheds encourage industries to adopt cleaner technologies?	Generally, for new power station investment, industry purchases the best available technology in any case. Requiring mandatory offsets will not require the electricity industry to adopt cleaner technologies; rather those will be installed in any case but the offset will result in those causing the problem to be subsidised to also adopt cleaner technologies.

## Preferred options

### Option 4a

#### Proposed amendments

- Increase the permitted number of exceedance of the PM<sub>10</sub> standard from one to three exceedances per year.
- Exclude exceptional events from counting as exceedances of the PM<sub>10</sub> standard.
- Extend the timeline for compliance to 2018.
- Require mandatory offsets for new industry consents in breaching airsheds after 2018 (ie, do no harm).
- Introduce mandatory reporting of PM<sub>10</sub> monitoring data.
- Use existing ministerial powers under the Resource Management Act 1991 (section 27).
- Establish an air quality compliance strategy.

Are you in favour of these amendments?

Yes  No

### Option 4b

#### Proposed amendments

- Increase the permitted number of exceedance of the PM<sub>10</sub> standard from one to three exceedances per year.
- Exclude exceptional events from counting as exceedances of the PM<sub>10</sub> standard.
- Extend the timeline for compliance to 2018.
- Remove all industry consent restrictions.
- Introduce mandatory reporting of PM<sub>10</sub> monitoring data.
- Use existing ministerial powers under the Resource Management Act 1991 (section 27).
- Establish an air quality compliance strategy.

Are you in favour of these amendments?

Yes  No

Reason/s

Are there any changes you would like made to these proposed amendments?

Yes  No