

# **1 Submission on National Environment Standard 1 for air quality**

Standard 1: *Ambient air quality standards for the following priority contaminants: particles (PM10), carbon monoxide, nitrogen dioxide, sulphur dioxide and ozone.*

**The Greater Wellington Regional Council supports the concept of an air quality standard, but opposes the current proposal for the reasons given in this submission. The decisions requested by Greater Wellington are given after each reason.**

## **1.1 Re-notify Standard 1 as a full draft standard for comment.**

### **Reason for submission**

Greater Wellington's submission is based on a notice by the Minister for the Environment of the intention to develop air quality standards. A report called "Proposed National Environmental Standards for Air Quality: Air Quality Report 46" was distributed with the notice. Air Quality Report 46 describes what is intended in the standards but does not contain actual draft wording.

Air Quality Report 46 contains information on matters that are relevant to the standard, such as monitoring, enforcement, and other methods, but there is no certainty about what will be included in the standard and what will be left out. Regional councils will have a key role in implementing the standard, and it is therefore important for us to have the opportunity to comment on the full draft standard rather than the Ministry's intentions. This will help avoid future conflict and difficulties with implementation.

There are significant technical and practical (implementation) issues relating to the standard, which are referred to in sections 1.2 and 1.3 of this submission. If the standard is to be effective, it is important that these issues are resolved before it is finalised.

The Ministry for the Environment should follow good process, promote best practice and be an example to the local authorities it works with. The Resource Management Act 1991 does not allow regional councils, when preparing regional plans, to follow the same process that the Ministry is using to develop these standards. Nor would we choose to follow such a process even if it was possible. In our experience, which includes the preparation of 5 operative regional plans, good outcomes are achieved by consultation that includes giving people the opportunity to comment on draft and proposed provisions.

We are very concerned that the shortcuts the Ministry is taking will result in standards that do not work. Providing regional councils with draft regulations for comment was the approach taken by the Ministry for the Environment when it prepared regulations for "marine pollution" in the coastal marine area. A similar process for the development of national environmental standards would enable more useful standards to be developed.

## **Decision Requested**

Re-notify a full draft standard once the technical and practical (implementation) issues identified in sections 1.2 and 1.3 of this submission have been resolved.

### **1.2 There are significant technical issues that need to be resolved before the standards can be implemented.**

#### **Reason for submission**

- 1.2.1 Air Quality Report 46 states that compliance with the standards must be determined by examining the maximum concentrations within an airshed. However, the report does not define an airshed. This will become particularly important in areas where there are multiple discharges, for example, urban and industrial areas.

#### **Decision requested**

Provide a methodology in the standard for defining an airshed.

#### **Reason for submission**

- 1.2.2 The proposed standard only attempts to control emissions of PM<sub>10</sub>. However, the World Health Organisation acknowledges that there are no observable health effects for the coarse size fraction (greater than PM<sub>2.5</sub>). Air Quality Report No. 46 also states that this size fraction will have no discernible effect on human health. We suggest that consideration should be given to a smaller size fraction for the particulate standard, as this fraction is largely responsible for wintertime exceedances (particulates from combustion processes) in the Wellington Region.

Ministry officers have stated that the next set of standards (in 5 years time) may use the small size fraction (less than PM<sub>2.5</sub>) for particulates.

#### **Decision requested**

Use PM<sub>2.5</sub> as the concentration limit for particulates.

#### **Reason for submission**

- 1.2.3 It is not clear which of the values used in the standard relate to health effects and which do not. For example, is there a health basis for triggering enforcement when PM<sub>10</sub> is over 120µgm<sup>-3</sup> or when PM<sub>10</sub> exceeds 50µgm<sup>-3</sup>? These appear to be based on historical monitoring values rather than a health based approach.

#### **Decision requested**

Provide justification for the maximum limits for all the key air pollutants or remove them.

### **Reason for submission**

- 1.2.4 Air Quality Report 46 suggests that breaches of the standard will be allowed a specified number of times - the 'number of allowable exceedances' per year. For example, the one day average for PM<sub>10</sub> can only be exceeded a maximum of five times per year for the standard to be breached. There is no justification for the number of exceedances that will be used in the standard. The number of exceedances should be based on some logical criteria relevant to New Zealand conditions.

### **Decision requested**

Provide justification in support of the 'number of allowable exceedances'.

### **Reason for submission**

- 1.2.5 Consideration should be given to both the annual and 24 hour averages for PM<sub>10</sub>. The chronic health effects of PM<sub>10</sub> are measured from annual averages, not 24 hour averages. Averaging periods for other gases (NO<sub>2</sub>) also need to be justified.

### **Decision requested**

Retain averaging periods that are described in the Ministry for the Environment Ambient Air Quality Guidelines 2002.

### **Reason for submission**

- 1.2.6 The number of exceedances recorded will depend on the monitoring method used. The monitoring method can have a considerable influence on the number of exceedances recorded over a monitoring period. The Ministry for the Environment's *Good Practice Guide to Air Quality Data Management 2000* provide monitoring methods.

### **Decision requested**

Include information in the standard on the monitoring method to be used to measure compliance with the standard.

### **Reason for submission**

- 1.2.7 Not all contaminants have been assigned a contaminant limit. Those without a limit are carbon monoxide, and ozone. There is no explanation provided in Air Quality Report 46 for this.

### **Decision requested**

Assign a contaminant limit to carbon monoxide and ozone or provide reasons for not doing so.

### **1.3 There are significant implementation issues that need to be resolved before the standards can be finalised.**

#### **Reason for submission**

- 1.3.1 Air Quality Report 46 states that “*an offence occurs when a point source discharge is the main source of pollution causing an exceedance ...*”. It is unclear how the standard will be enforced for a consented discharge. Unless there is special provision in the standard, an offence would only occur if the discharger exceeds their resource consent under the Resource Management Act 1991.

There are other questions which the proposed standard raise that will need to be clarified. What happens when there are a number of equally large discharges in the catchment? What if non-consented activities, such as domestic fires or motor vehicle use, make up the largest cumulative discharge?

While the proposed standard gives very little information, it seems likely that the main way of enforcing the standard would be to hold a regional council responsible for allowing the standard to be breached. Any person could then take enforcement action against that council.

If enforcement against regional councils, not consent holders, is the main way of enforcing the standard, then it will require us to be particularly careful that consented discharges cannot cumulatively cause the standard to be breached. Additional costs may be incurred by resource consent applicants. Greater use of dispersion modelling by applicants may be needed as regional councils seek to ensure that they will not be subject to enforcement action because ambient air quality standards might be breached.

#### **Decision requested**

Clarify how enforcement of the standard will occur.

#### **Reason for submission**

- 1.3.2 Air Quality Report 46 states that compliance with the standard need only apply where discharges affect where people live or gather, outside the site from where the discharge originates. This wording is very vague. It is clear that the location of monitoring will be crucial for establishing whether or not standards are being exceeded. The Ministry for the Environment has a guideline *Good Practice Guide to Air Quality Monitoring and Data Management 2000*, but it will not help decide the location of sites to monitor compliance with the standard.

#### **Decision requested**

Update the Ministry for the Environment’s *Good Practice Guide to Air Quality Monitoring and Data Management 2000* so that it can be used to locate sites to monitor compliance with the standard.

### **Reason for submission**

- 1.3.3 Air Quality Report 46 says that a new discharge may occur in an airshed that already exceeds the standard if the new emitter only contributes an “*insignificant amount of emissions*” to the airshed. The Report does not refer to exactly what is meant by ‘insignificant’ amount of emission.

Case law has been established around the terminology “less than minor adverse effects”. Any new terminology will create confusion about what is intended by the standard.

Allowing “insignificant” effects will be contrary to the intentions of the standard in some circumstances. For example, the cumulative effects of many domestic fires may result in the standard being exceeded. However, the effect of a single domestic fire is insignificant and would have to be allowed even though it contributes to further reduction of air quality in the airshed.

### **Decision requested**

In the standard:

- include a definition of what ‘insignificant’ means in relation to new emissions into an airshed that exceed the standard; and
- give regional councils the ability to not allow a new discharge because of cumulative adverse effects even though the individual adverse effect may be “insignificant”.

### **Reason for submission**

- 1.3.4 Air Quality Report No. 46 says that point source emitters will work with each other to reduce emissions in an airshed. I note that “methods” can be included in the standard. Further clarification is needed about what methods will be included in the standard to get emitters working together in the way described.

### **Decision requested**

Clarify what method will be included in the standard to promote consent holders working together to reduce emissions.

### **Reason for submission**

- 1.3.5 It may be appropriate for regional councils to be able to review resource consents once national standards are promulgated to ensure that they can be met. If resource consents cannot be reviewed, it may not be possible to meet the standards in the 4 year time frames anticipated. The standard should be drafted in such a way as to ensure that regional councils can review resource consents if necessary.

### **Decision requested**

Include in the standard an ability for Regional Councils to review resource consents in airsheds where standards are breached.

### **Reason for submission**

- 1.3.6 A review of existing consents could alter the cumulative effect of discharges within an airshed. In a fully “allocated” airshed, new and existing discharges could be competing for air to discharge their contaminants into. Guidelines will need to be developed on how pollution could be allocated within airsheds. Consideration will need to be given to which discharges should have priority in some situations.

### **Decision requested**

In consultation with regional councils, prepare guidelines on how decisions will be made on which discharges have priority when renewing resource consents or processing new resource consents in an airshed that is already fully “allocated”.

### **Reason for Submission**

- 1.3.7 Air Quality Report 46 says that one of the most likely exceedances of the standard will be from motor vehicle emissions. In practice, regional councils have very limited ability to control vehicle emissions. The only practical way that vehicle emissions could be controlled under the Resource Management Act 1991 is through land use controls, such as motorway designations. For example, a new motorway could lead to air quality standards being exceeded. Such land use controls are functions of territorial authority’s not regional councils. It is unclear whether land use controls can be used to ensure air quality standards are not exceeded, or whether such use of land use controls is appropriate.

### **Decision Requested**

Clarify whether land use controls can be used to ensure air quality standards are not exceeded.

## **2 Submission on National Environment Standard 2 for air quality**

*Standard 2: Ban the following activities: deliberate burning of refuse at landfills, burning of tyres in the open, burning of coated wire in the open, burning of bitumen for road maintenance purposes, burning of oil in the open, and new high temperature hazardous waste incinerators*

**The Greater Wellington Regional Council supports the concept of an air quality standard, but opposes the current proposal for the reasons given in this submission. The decision sought by Greater Wellington is given after each reason.**

### **2.1 Re-notify Standard 2 as a full draft standard for comment**

#### **Reason for submission**

Greater Wellington's submission is based on a notice by the Minister for the Environment of the intention to develop air quality standards. A report called "Proposed National Environmental Standards for Air Quality: Air Quality Report 46" was distributed with the notice. Air Quality Report 46 describes what is intended in the standards but does not contain actual draft wording.

Air Quality Report 46 contains information on matters that are relevant to the standard, such as monitoring, enforcement, and other methods, but there is no certainty about what will be included in the standards and what will be left out. Regional councils will have a key role in implementing the standard, and it is therefore important for us to have the opportunity to comment on the full draft standard rather than the Ministry's intentions.. This will help avoid future conflict and difficulties with implementation.

There is uncertainty about the wording of parts of the standard and there is a lack of analysis and criteria for some activities in the standard that are referred to in sections 2.2, 2.3 and 2.4 of this submission. If the standard is to be effective, it is important that these issues are resolved before it is finalised.

The Ministry for the Environment should follow good process, promote best practice and be an example to the local authorities it works with. The Resource Management Act 1991 does not allow regional councils to follow the same process that the Ministry is using to develop these standards. Nor would we choose to follow such a process. In our experience, which includes the preparation of 5 operative regional plans, good outcomes are achieved by consultation that includes giving people the opportunity to comment on draft and proposed provisions.

We are very concerned that the shortcuts you are taking will result in standards that do not work. Providing regional councils with draft regulations for comment was the approach taken by the Ministry for the Environment when it prepared regulations for dumping in the coastal marine area. A similar process for the development of national environmental standards would enable more useful standards to be developed.

## **Decision Requested**

Re-notify a full draft standard once issues have been resolved that relate to wording, analysis, and criteria. These issues are identified in sections 2.2, 2.3 and 2.4 of this submission.

## **2.2 Wording in the proposed standard is unclear**

### **Reason for submission**

- 2.2.1 The references to “new” activities and “existing” activities in the proposed standards for waste incineration in schools and hospitals and for high temperature hazardous waste incineration create uncertainty about how the standard will be interpreted.

It appears that a new incinerator can get a resource consent but an existing incinerator is prohibited even though it may have the same discharge quality as a new incinerator. A school or hospital may have to get rid of an existing incinerator and replace it with a new incinerator for no environmental gain.

It is uncertain what the status of existing high temperature hazardous waste incineration facilities will be because the suggested standard only refers to new facilities.

Such uncertainties could result in significant litigation when regional councils try to implement the standard.

### **Decision Requested**

Clarify how the standard will apply to new and existing activities.

### **Reason for submission**

- 2.2.2 The proposed standard for landfill fires in Air Quality Report 46 refers to “the known burning of material on or near a landfill ...”. It is uncertain what “known fires” and “near a landfill” might mean.

### **Decision requested**

Provide certainty about the meaning of “known fires” and “near” a landfill”.

## **2.3 New high temperature hazardous waste incinerators should not be banned without proper analysis**

### **Reason for submission**

- 2.3.1 High temperature hazardous waste incineration may be the most practical method of destroying some intractable hazardous wastes. To remove this form of waste disposal without proper analysis, effectively eliminates one possible future option for hazardous waste disposal in New Zealand. Thought could be given to possible synergies with the governments work on energy.



### **Decision requested**

Carry out a thorough analysis of current technology for pollution control, cost benefit, and risk assessment for high temperature hazardous waste incineration in New Zealand before considering whether it warrants banning in a national standard.

## **2.4 Apply consistent criteria to the banning of air toxics**

### **Reason for submission**

- 2.4.1 Air Quality Report 46 identifies that the approach used to ban air toxics is to “prohibit activities where the emissions are unacceptable”. The air toxics banned seem to be selected at random without any criteria.

Within the proposed standard, the burning of CCA treated timbers, car bodies, other automotive parts and machinery are not prohibited. The burning of these substances can emit harmful dioxins, and there is no reason for banning only some harmful dioxin substances (plastic coated wire) and not of others. The lack of rational criteria for selecting air toxics for prohibition creates inequalities for industries and fails to provide a level playing field, which one of the stated objectives in Air Quality Report 46.

### **Decision requested**

Establish criteria for identifying air toxics that will be banned and use the criteria to list activities that are banned in the standard.

### **Reason for submission**

- 2.4.2 Similar to the concern in 2.4.1, the requirement for hospitals and schools to apply for resource consent by 2008 for the use of low temperature incinerators singles out these users when other known users of low temperature incineration are exempt from the standard. For example, low temperature incineration is still commonly used on farms, commercial properties, and some residential areas. There is no justification why these users are different from others in the community that use this form of incineration. This situation fails to create a ‘level playing field’ which is a primary objective stated in Air Quality Report 46.

### **Decision requested**

Establish criteria for identifying air toxics that require resource consents and use the criteria to list activities in the standard that need a resource consent.

### **3 Submission on National Environment Standard 3 for air quality**

*Standard 3: Emission design standard for wood and coal burning appliances in houses in urban areas.*

**The Greater Wellington Regional Council supports the concept of an air quality standard, but opposes the current proposal for the reasons given in this submission. The decision sought by Greater Wellington is given after each reason.**

#### **3.1 Re-notify Standard 3 as a full draft standard for public submission**

##### **Reason for submission**

Greater Wellington's submission is based on a notice by the Minister for the Environment of the intention to develop air quality standards. A report called "Proposed National Environmental Standards for Air Quality: Air Quality Report 46" was distributed with the notice. Air Quality Report 46 provides information on what is intended to be included in the standards but the report does not contain actual draft wording.

Air Quality Report 46 contains information on matters that are relevant to the standard, such as monitoring, enforcement, and other methods, but there is no certainty about what will be included in the standards and what will be left out. Regional councils will have a key role in implementing the standard, and it is therefore important for us to have the opportunity to comment on the full draft standard rather than the Ministry's intentions.. This will help avoid future conflict and difficulties with implementation, and is consistent with section 1.1 and 2.1 of our submission.

##### **Decision Requested**

Re-notify a full draft standard.

#### **3.2 New open fire places in urban areas should be banned in the standard**

##### **Reason for submission**

- 3.2.1 Air Quality Report 46 (page 23) indicates that the proposed standard will exclude open fireplaces, central heating appliances, cooking appliances, and appliances used for water heating. These should be specifically exempt from the standard with the exception of new open fireplaces. New open fireplaces have greater adverse effects on air quality effects than wood burners that might not meet the standard. If the standard does not ban new open fires, it will may be promoting their use.

##### **Decision requested**

Make provision in the standard for the specific exclusion of central heating appliances, cooking appliances, and appliances used for water heating. Ensure that new open fireplaces in urban areas are banned in the standard.

## **4 Submission on National Environment Standard 4 for air quality**

*Standard 4: Requirement for the collection and destruction of landfill gas, unless surface methane emissions levels are below a specified emission rate.*

**The Greater Wellington Regional Council supports the concept of an air quality standard, but opposes the current proposal for the reasons given in this submission. The decision sought by Greater Wellington is given after each reason.**

### **4.1 Re-notify Standard 4 as a full draft standard for public submission**

#### **Reason for submission**

Greater Wellington's submission is based on a notice by the Minister for the Environment of the intention to develop air quality standards. A report called "Proposed National Environmental Standards for Air Quality: Air Quality Report 46" was distributed with the notice. Air Quality Report 46 provides information on what is intended to be included in the standards but the report does not contain actual draft wording.

Air Quality Report 46 contains information on matters that are relevant to the standard but it is unclear what will be included in the standard and what will be left out. It will be up to regional councils to implement these standards. Giving regional councils the opportunity to comment on the draft wording of the full standards would help avoid difficulties with implementation and is consistent with sections 1.1 and 2.1 of our submission.

#### **Decision Requested**

Re-notify a full draft standard.