

EXPLANATORY STATEMENT

Variation to the National Environment Protection (Ambient Air Quality) Measure 2015

Issued by the National Environment Protection Council

National Environment Protection Council Act 1994

National Environment Protection (Ambient Air Quality) Measure 1998

The *National Environment Protection Council Act 1994* (the NEPC Act) and complementary state and territory legislation establishes the National Environment Protection Council (NEPC). One of the functions of NEPC is to make national environment protection measures (NEPMs).

Section 14(1)(a) of the NEPC Act provides, in part, that NEPC may, by instrument in writing, make a measure, to be known as a national environment protection measure that relates to ambient air quality.

The *National Environment Protection (Ambient Air Quality) Measure 1998* (AAQ NEPM) provides a national framework for ambient air quality management in Australia. Ambient or outdoor air quality is influenced by regulated and non-regulated human activities and factors such as the physical geography, climatic conditions and natural events.

The AAQ NEPM requires participating jurisdictions to undertake nationally consistent monitoring and reporting activities that support the formulation of air quality management policies. AAQ NEPM monitoring protocols provide guidance to jurisdictions on monitoring population exposure to air pollution.

AAQ NEPM standards are health based. The standards in the AAQ NEPM are not intended to be applied as an environmental standard by jurisdictional environmental regulators without consideration of regulatory impacts. Section 7 of the NEPC Acts allow jurisdictions to implement the AAQ NEPM by such laws and other arrangements as are necessary. The implementation of the AAQ NEPM does not preclude jurisdictions from adopting tighter or complementary standards or goals for their own policy or regulatory purposes. In doing this, jurisdictions may utilise a risk-based approach in determining environmental standards appropriate for their own circumstances or conditions, along with improvement strategies for regulated and non-regulated sources and exposure reduction strategies.

Section 20(1) of the NEPC Act provides that NEPC may vary or revoke a national environment protection measure.

In accordance with sections 18 and 20 of the NEPC Act, a notice, together with the draft variation and an impact statement were published on the Department of the Environment's website seeking public comments on 31 July 2014. The public consultation period was 10 weeks closing on 10 October 2014. It was supported by a series of national stakeholder meetings. 142 written submissions were received. All non-confidential submissions were published on the NEPC website in December 2014. Over 420 letters have also been received by national environment Ministers urging the strengthening of particle standards.

Public consultation shows a very substantial level of community interest in air quality; expectations of continued improvement in air quality; and expectations of national and state based actions to reduce emissions and reduce exposure to air pollution.

A Summary of Submissions received has been prepared to enable NEPC to make a statutory decision to vary the AAQ NEPM particle standards. In making a statutory decision to vary the AAQ NEPM NEPC must consider the Impact Statement, submissions received (Summary of Submissions) and any advice from the National Environment Protection Council Committee or from a committee established under section 33 of the Act before making the variation.

The impact statement, public submissions and the response to submissions can be obtained from the NEPC website.

On 13 May 2014 the NEPC gave notice of the intent to make a variation to the AAQ NEPM in relation to the standards for particles – specifically, PM_{2.5} and PM₁₀. These are defined in the AAQ NEPM as particulate matter with an equivalent aerodynamic diameter of 2.5 micrometres or less and particulate matter with an equivalent aerodynamic diameter of 10 micrometres or less respectively. The purpose of the proposed variation is to update the AAQ NEPM to ensure that it reflects the latest scientific understanding and will allow for an adequate level of health protection against the impacts of particle air pollution for the Australian community. It does this by:

1. **Amending** the status of the annual average and 1 day average PM_{2.5} **'advisory reporting standards'** to **'standards'**.
2. **Including** an annual average PM₁₀ standard of 25µg/m³.
3. **Including** long-term (10-year) goals – or long-term targets – for annual average PM_{2.5} of 7µg/m³ and for 1 day average PM_{2.5} of 20µg/m³. These are not standards but are ambitious 10-year goals to achieve continued and further reductions in maximum concentrations.
4. **Initiating** a nationally consistent approach to reporting population exposure to PM_{2.5}.
5. **Replacing** the '5-exceedance day' form of the PM₁₀ 1 day average standards with an 'exceptional event' rule (defined as certain types of fire or dust occurrences) and introducing the 'exceptional event rule' for the PM_{2.5} 1 day average standard.

Routine updates to the references to the current Australian Standards methods for pollutant monitoring and siting of monitoring equipment have also been included in subsection 13(1) of and Schedule 3 to the NEPM.

The variation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The variation will commence on the day after the date it is registered on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

This Legislative Instrument updates the principal instrument, the National Environment Protection (Ambient Air Quality) Measure, following a statutory review of the principal instrument by the National Environment Protection Council (NEPC).

Human rights implications

This Legislative Instrument does not engage any human rights recognised in the seven core human rights treaties as determined by assessment of the instrument against the 'policy triggers' set out in the assessment tool flowchart developed by the Attorney-General's Department.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

National Environment Protection Council