



Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 24th day of August 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 43 of the Resource Management Act 1991—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 44 of that Act.

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Regulations

1 Title

These regulations are the Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2020.

2 Commencement

These regulations come into force on 28 August 2020.

3 Principal regulations

These regulations amend the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

Replace the definition of **pugging** with:

pugging means the penetration of soil to a depth of 5 cm or more by the hooves of grazing livestock

5 Regulation 15 amended (Application of this subpart)

Replace regulation 15(2) with:

- (2) This subpart does not apply to a farm or other landholding if the relevant regional council has publicly notified the amendments required by section 55(2B) of the Act to give effect to the National Policy Statement for Freshwater Management.
- (3) In subclause (2), **publicly notified the amendments** means that the proposed policy statement or plan containing the amendments has been publicly notified in accordance with clause 5 of Schedule 1 of the Act.

6 Regulation 26 amended (Permitted activities)

Replace regulation 26(4)(c)(i) with:

- (i) pugging at any one point must not be deeper than 20 cm, other than in an area that is within 10 m of an entrance gate or a fixed water trough; and

7 Regulation 28 replaced (When regulations 29 and 30 do not apply)

Replace regulation 28 with:

28 When regulations 29 and 30 do not apply

- (1) Regulations 29 and 30 do not apply if the relevant regional council has publicly notified the amendments required by section 55(2B) of the Act to give effect to the National Policy Statement for Freshwater Management.

- (2) In subclause (1), **publicly notified the amendments** means that the proposed policy statement or plan containing the amendments has been publicly notified in accordance with clause 5 of Schedule 1 of the Act.

8 Regulation 39 amended (Restricted discretionary activities)

Replace regulation 39(3) with:

- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is for the purpose of natural wetland restoration; and
 - (b) does not comply with the condition in regulation 38(4)(a).

9 Regulation 40 amended (Permitted activities)

In regulation 40(3), replace “a restricted discretionary activity” with “a permitted activity”.

10 Regulation 41 amended (Restricted discretionary activities)

Replace regulation 41(3)(b) with:

- (b) does not comply with any of the conditions in regulation 40(4), but does comply with the conditions in subclause (4) of this regulation.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the **principal regulations**). These regulations come into force on 28 August 2020. As a result, the principal regulations will be amended before they come into force, which will occur mainly on 3 September 2020.

These regulations make technical amendments to the principal regulations in order to correct errors and make clarifications and minor changes. The amendments are as follows:

- the definition of **pugging** in regulation 1 of the principal regulations is amended to clarify the depth of penetration of the ground by animal hooves that amounts to pugging for the purposes of these regulations;
- regulation 15 of the principal regulations is amended to ensure that subpart 2 of Part 2 (which sets out temporary standards for agricultural intensification) will continue to apply until the National Policy Statement for Freshwater Manage-

ment is fully implemented in the relevant region (or until that subpart is revoked):

- regulation 26(4)(c)(i) of the principal regulations is amended to exclude the 20 cm limit on pugging from applying to the areas around entrance gates or fixed water troughs, structures that create concentrations of animals and a greater potential for deeper pugging:
- regulation 28 of the principal regulations is replaced to ensure that regulations 29 and 30 (which relate to temporary standards for intensive winter grazing) will continue to apply until the National Policy Statement for Freshwater Management is fully implemented in the relevant region (or until those regulations are revoked):
- regulation 39 of the principal regulations is amended to clarify that the activity described in regulation 39(3) is a restricted discretionary activity only if it does not comply with the permitted activity condition in regulation 38(4)(a):
- regulation 40 of the principal regulations is amended to replace a reference to a restricted discretionary activity with a reference to a permitted activity:
- regulation 41 of the principal regulations is amended to clarify that the activity described in regulation 41(3) is a restricted discretionary activity only if it does not comply with the conditions in regulation 40(4) (and does comply with the conditions in regulation 41(4)).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 27 August 2020.

These regulations are administered by the Ministry for the Environment.