



Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2022

Cindy Kiro, Governor-General

Order in Council

At Wellington this 19th day of April 2022

Present:

Her Excellency the Governor-General 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 2022.

2 Commencement

These regulations come into force on 1 May 2022.

3 Principal regulations

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

4 Regulation 2 amended (Commencement)

In regulation 2(2)(c), replace “1 May 2022” with “1 November 2022”.

5 Regulation 3 amended (Interpretation)

(1) In regulation 3, replace the definition of **annual forage crop** with:

annual forage crop means a crop that is grazed in the place where it is grown, but does not include—

- (a) pasture; or
- (b) a crop that is grown for arable land use or horticultural land use (as those terms are defined in section 217B of the Act)

(2) In regulation 3, replace the definition of **drain** with:

drain—

- (a) has the meaning given by the National Planning Standards 2019; but
- (b) in regulation 26, excludes any subsurface drain

(3) In regulation 3, replace the definition of **intensive winter grazing** with:

intensive winter grazing—

- (a) means the grazing of livestock on an annual forage crop at any time in the period that begins on 1 May and ends with the close of 30 September of the same year; and
- (b) for the purpose of determining whether and how section 20A(2) of the Act applies to any requirement to obtain a resource consent under sub-part 3 of Part 2 of these regulations, includes activities on a farm that support intensive winter grazing and may occur year-round, such as the preparation and sowing of land for grazing and the cultivation of annual forage crops

(4) In regulation 3, insert in its appropriate alphabetical order:

critical source area means a landscape feature such as a gully, swale, or depression that—

- (a) accumulates runoff from adjacent land; and
- (b) delivers, or has the potential to deliver, 1 or more contaminants to 1 or more rivers, lakes, wetlands, or drains, or their beds (regardless of whether there is any water in them at the time)

6 Regulation 26 amended (Permitted activities)

- (1) Replace regulation 26(4)(b) with:

(b) the slope of any land under an annual forage crop that is used for intensive winter grazing must be 10 degrees or less, determined by measuring the slope over any 20 m distance of the land; and

- (2) Revoke regulation 26(4)(c).

- (3) Replace regulation 26(4)(e) with:

(e) on and from 1 May to 30 September of any year, in relation to any critical source area that is within, or adjacent to, any area of land that is used for intensive winter grazing on a farm,—

- (i) the critical source area must not be grazed; and
- (ii) vegetation must be maintained as ground cover over all of the critical source area; and
- (iii) maintaining that vegetation must not include any cultivation or harvesting of annual forage crops.

- (4) In regulation 26(6), replace “the condition in subclause (4)(a), (d), or (e)” with “this regulation”.

- (5) Revoke regulation 26(7) and (8) and the heading above regulation 26(7).

7 New regulations 26A and 26B inserted

After regulation 26, insert:

26A Pugging standard

- (1) A person using land on a farm for intensive winter grazing in accordance with regulation 26 must take all reasonably practicable steps to minimise adverse effects on freshwater of any pugging that occurs on that land.
- (2) A person using land under this regulation must provide any information reasonably required by a regional council enforcement officer for the purpose of monitoring compliance with this regulation.

26B Ground cover standard

- (1) A person using land on a farm for intensive winter grazing in accordance with regulation 26 must ensure that vegetation is established as ground cover over

the whole area of that land as soon as practicable after livestock have finished grazing the land.

- (2) A person using land under this regulation must provide any information reasonably required by a regional council enforcement officer for the purpose of monitoring compliance with this regulation.

8 Regulation 29 amended (Permitted activities and restricted discretionary activities: temporary further conditions)

In regulation 29(7), replace “1 May 2022” with “1 November 2022”.

Rachel Hayward,
acting for 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, which come into force on 1 May 2022, amend the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the **principal regulations**).

The amendments made by these regulations include the following:

- changing the date on which regulations 26 and 27 of the principal regulations, which relate to general standards for intensive winter grazing, come into force from 1 May 2022 to 1 November 2022;
- making the same change of date in regulation 29(7) of the principal regulations so that the way that regulation 29 applies until regulations 26 and 27 come into force (set out in regulation 29(6) and (7)) continues to apply until the new date on which those regulations come into force. Regulation 29 provides temporary conditions, in addition to those in regulations 26 and 27, that activities must comply with to be a permitted activity or a restricted discretionary activity, respectively;
- changing the condition in regulation 26(4)(b) of the principal regulations that relates to the slope of land used for intensive winter grazing so that the use may be a permitted activity if the slope is 10 degrees or less, determined by measuring the slope over any 20 m distance of the land;
- providing requirements in regulation 26 of the principal regulations that apply on and from 1 May to 30 September to critical source areas in relation to land that is used for intensive winter grazing;
- revoking regulation 26(7) and (8) of the principal regulations, which provides a temporary extension for replanting on farms in Otago and Southland to be done by 1 November, instead of 1 October, since the time frame for replanting in

current regulation 26(4)(e) of the principal regulations is replaced by the requirement in *new regulation 26B* for vegetation to be established as ground cover as soon as practicable after livestock have finished grazing the land:

- replacing the pugging and ground cover requirements in regulation 26 of the principal regulations with a pugging standard and a ground cover standard in *new regulations 26A and 26B*, and requiring persons to provide information that is reasonably required about compliance with those regulations to a regional council enforcement officer;
- expanding the scope of the requirements in regulation 26(6) of the principal regulations to provide information that is reasonably required about compliance with any aspect of regulation 26;
- amending, replacing, or inserting new definitions to support the amendments made by these regulations.

Regulatory impact statement

The Ministry for the Environment and the Ministry for Primary Industries produced a regulatory impact statement on 31 March 2022 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/intensive-winter-grazing/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 21 April 2022.

These regulations are administered by the Ministry for the Environment.