



Action for Healthy Waterways

Summary of policies, regulations, and timeline
August 2020



<p>Government process</p> 	<p>National Environmental Standards (NES)</p> 	<p>Resource Management Act Amendment</p> 	<p>National Policy Statement for Freshwater Management (NPSFM)</p> 	<p>Section 360 Regulations</p> 
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	Name	Policy decision and specific details	Key dates
	<p>New National Policy Statement for Freshwater Management, to include changes from current NPS</p>	<p>Clarification of what “limits” are, how they will be expressed in plans etc.</p> <p>Six principles of Te Mana o te Wai have been established as well as a hierarchy of obligations to be prioritized. Policy 1 of the NPSFM requires that freshwater be managed in a way that gives effect to Te Mana o te Wai.</p> <p>Councils required to actively involve tangata whenua in processes for policy and plan development and decision-making.</p> <p>The compulsory value of ecosystem health has been given fuller definition, with five components: water quality, water quantity, habitat, aquatic life, and ecological processes. Water quantity limits must now be linked to ecosystem health outcomes.</p> <p>Territorial authorities required to manage effects of urban land development on freshwater bodies, ecosystems, and receiving environments.</p> <p>A new compulsory value for mahinga kai for regional policies and plans.</p> <p>The allowance for a departure from national bottom lines now specifically applies only to the following hydro-electricity schemes: Waikato, Tongariro, Waitaki, Manapouri, and Clutha.</p>	<p>NPSFM into force on 3 September 2020, regional councils must then implement through planning instruments as soon as reasonably practicable, to be notified by 31 December 2024.</p>

		<p>A range of new attributes have been added to the NPSFM. Some of these have a national bottom line:</p> <ul style="list-style-type: none"> - Macroinvertebrates - Submerged plants in lakes - Dissolved oxygen - Suspended sediment - Deposited sediment - E. coli at swimming sites during bathing season <p>The other new values have no national bottom line:</p> <ul style="list-style-type: none"> - Fish species - Ecosystem metabolism - Dissolved reactive phosphorous 																
	<p>New attribute limits for nitrate and ammonia toxicity</p>	<p>Existing national bottom lines for nitrate and ammonia toxicity attributes have been strengthened to protect 95% of species from toxic effects (expressed in milligrams per litre):</p> <table border="1" data-bbox="510 730 1498 912"> <thead> <tr> <th></th> <th>Previous annual median</th> <th>New annual median</th> <th>Previous annual maximum</th> <th>New annual maximum</th> </tr> </thead> <tbody> <tr> <td>Nitrate</td> <td>6.9</td> <td>2.40</td> <td>9.8</td> <td>3.50</td> </tr> <tr> <td>Ammonia</td> <td>1.30</td> <td>0.24</td> <td>2.20</td> <td>0.40</td> </tr> </tbody> </table> <p>Exceptions to this will be allowed in specific vegetable-growing areas of the Pukekohe and Lake Horowhenua catchments, due to contribution to national food security (vegetable production).</p>		Previous annual median	New annual median	Previous annual maximum	New annual maximum	Nitrate	6.9	2.40	9.8	3.50	Ammonia	1.30	0.24	2.20	0.40	
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Nitrate	6.9	2.40	9.8	3.50														
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<p>Water allocation</p>	<p>Regional councils must include criteria within regional plans for:</p> <ul style="list-style-type: none"> - Deciding applications to approve transfers of water take permits - Deciding how to improve and maximise the efficient allocation of water 																	

	<p>Stopping further loss of natural wetlands and rivers</p>	<p>Regional councils must include specific policies within regional plans to protect rivers and natural inland wetlands (including mapping and monitoring) but allowing for a consenting pathway for some exceptions.</p>	<p>NPSFM comes into force on 3 September 2020, regional councils must then implement through their planning instruments as soon as reasonably practicable</p>
		<p>Different actions affecting wetlands will have various activity statuses. Many activities which were previously allowed either with or without a resource consent depending on the region, will now all have the same status across the country.</p>	<p>From date regulations come into force – 3 September 2020</p>
 	<p>Preserving connectivity of fish habitat (fish passage)</p>	<p>Information must be provided to regional councils on the placement, alteration, extension, or reconstruction of any culverts, weirs, flap gates (passive or non-passive), dams, fords when these are in, on, or under the bed of a river or connected area. This part of the Regulations does not apply to existing structures that were in rivers or connected areas on or before 2 September 2020.</p>	<p>From date regulations come into force – 3 September 2020</p>
	<p>Restrictions on intensification</p>	<p>New restrictions on intensification now apply unless a regional council has implemented the new NPSFM. The cutting date for increases in land-use activities is 2 September 2020. Discretionary activity resource consents required for:</p> <ul style="list-style-type: none"> - land-use change of more than 10 ha to dairy - land-use change of more than 10 ha from plantation forestry to pastoral land-use - increases in irrigated pasture for dairy farming above 10 ha - increase in winter forage cropping area above annual highest 2014/15 – 2018/19 <p>increase in dairy support activities above highest annual 2014/15 – 2018/19</p>	<p>Restrictions apply until 31 December 2024</p> <p>Applicable resource consents cannot extend beyond 31 December 2030.</p>
	<p>Cap on fertiliser application</p>	<p>National maximum of <i>synthetic</i> nitrogen fertiliser application of 190kg N/ha/yr to pastoral land (land used for the grazing of livestock) in a contiguous landholding, averaged over that land and to each hectare of that land that is not used to grow annual forage crops.</p>	<p>1 July 2021</p>
	<p>Feedlots and stock holding areas</p>	<p>All cattle feedlots to require resource consents, except for calves. Permeability standards, effluent controls, and siting rules for feedlots and stock-holding areas.</p>	<p>1 July 2021</p>

	<p>Restrictions on intensification and dairy support</p>	<p>New restrictions on intensification now apply unless a regional council has implemented the new NPSFM. The cutting date for increases in land-use activities is 2 September 2020.</p> <p>Discretionary activity resource consents required for:</p> <ul style="list-style-type: none"> - land-use change of more than 10 ha to dairy - land-use change of more than 10 ha from plantation forestry to pastoral land-use - increases in irrigated pasture for dairy farming above 10 ha from maximum area irrigated in 12 months prior to 2 September 2020 - increases in dairy support land that hasn't been used as dairy support land <p>increases in dairy support land greater than maximum area of farm used for dairy support from 1 July 2014 to 30 June 2019</p>	<p>From date regulations come into force – 3 September 2020</p> <p>Restrictions apply until 31 December 2024</p> <p>Applicable resource consents cannot extend beyond 31 December 2030.</p>
	<p>Restrictions on intensive winter grazing (IWG)</p>	<p>New restrictions on winter grazing now apply unless a regional council has implemented the new NPSFM.</p> <p>Discretionary activity resource consents required for winter grazing unless:</p> <ul style="list-style-type: none"> - area of farm used for IWG no greater than 50ha or 10% of farm (whichever is greater); and - mean slope of paddock used for IWG ≤ 10 degrees; and - no pugging deeper than 20cm; and - pugging of any depth not greater than 50% of paddock; and - livestock must be kept at least 5m away from bed of any river, lake, wetland, or drain (even if dry/empty); and - land must be replanted as soon as practicable after grazing (no later than 1 November for Otago and Southland or 1 October everywhere else). <p>OR no certified freshwater farm plan that applies to IWG and effects no greater than the above</p>	<p>From date regulations come into force – 3 September 2020</p> <p>Restrictions apply until 31 December 2024</p> <p>Applicable resource consents cannot extend beyond 31 December 2030.</p>
	<p>Mandatory and enforceable freshwater farm plans</p>	<p>These will be required for the following land-uses:</p> <ul style="list-style-type: none"> - pastoral farming totalling 20ha or more - arable farming totalling 20ha or more - horticulture totalling 5ha or more - an agricultural purpose prescribed in the regulations (not yet determined) <p>any combination of the above uses totalling 20 ha or more.</p> <p>Farm plans will have to be certified and audited (certifiers and auditors will be appointed by councils).</p>	<p>To be rolled out to progressively to specific regions, districts, or areas (places and dates yet to be determined). Further regulations will be released specifying audit requirements, etc.</p>

	Real-time measuring and reporting of data on water use	<p>Amendments to water-metering regulations to require telemetry of data.</p> <ul style="list-style-type: none"> - Permit holders previously required to keep records of cubic metres of water taken each day – but that is now required to be recorded in each 15-minute period. Exception allowed – volume recorded can be “in each week”, but specific approval must be granted by regional council for this. - These 15-minute records must be provided electronically to councils daily (i.e. by the end of the next day). - Records for a water year are now required to be provided to councils electronically as the default unless council requests they be provided in writing. 	<p>Regulations come into force on 3 September 2020, but compliance dates as follows:</p> <ul style="list-style-type: none"> - 3 September 2022 for water permits ≥ 20 l/s - 3 September 2024 for water permits ≥ 10 l/s - 3 September 2026 for water permits ≥ 5 l/s
	Stock exclusion	<p>News regulations apply to stock exclusion from lakes and rivers more than one metre wide and natural wetlands:</p> <ul style="list-style-type: none"> - Dairy cattle on any terrain - Pigs on any terrain - Dairy support cattle on any terrain - Beef cattle intensively grazed on any terrain - Deer intensively grazing on any terrain - Beef cattle on low slope land - Deer on low slope land <p>Exceptions are provided for certain stock crossings – see regulations for more details.</p>	<p>Dates vary depending on farm system, from 3 September 2020; 1 July 2023; and 1 July 2025. See regulations for details.</p>
	National bottom line for dissolved inorganic nitrogen (DIN)	<p>Review as to whether there should be a national bottom line for DIN.</p>	<p>July 2021</p>
	Nitrogen attributes of NPSFM	<p>Review of nitrogen management systems. If no reduction in synthetic nitrogen fertiliser use across the country, further input controls will be considered. Order in Council can be made create regulations around the sale and collection of information on fertilizer purchases.</p>	<p>2023</p>
	Regional authority planning – new	<p>New freshwater planning process for regional councils’ policy statements and plans. Freshwater hearings panels replace traditional regional council-appointed hearings panels for freshwater planning instrument hearings. Freshwater hearings panels are not limited in their recommendations to regional councils to only matters raised in submissions.</p>	<p>By 31 December 2024 to implement new NPSFM</p>

	freshwater processes		
	Regional planning appeal rights	<p>A submitter may appeal a council’s decision on a freshwater planning instrument as follows:</p> <ul style="list-style-type: none"> - If a recommendation of a freshwater hearing panel was rejected by a council, the submitter may appeal to the Environment Court - If a recommendation of a freshwater hearing panel was accepted by a council, the submitter may appeal to the High Court on points of law only. 	
	Water allocation	New allocation framework and Māori rights and interests addressed.	Unknown

What does all this mean for regional plans already in place?

The new NPSFM requires all regional authorities to implement it “as soon as reasonably practicable.” That means that all regional councils must amend, update, or implement new planning documents (such as Regional Policy Statements and Regional Plans) to implement the new NPSFM and these must be notified by 31 December 2024.

However, Councils may determine that their current Policy Statements and Plans already implement the new NPSFM. If there is a “dispute” about this (for instance, a person or group could initiate judicial review proceedings against a council if that person thinks that the NPSFM has not been implemented by the region), the onus is on the council to prove that their instruments do implement the NPSFM, rather than the other party having to prove that the NPSFM hasn’t been implemented.

Local authorities are not required to make changes to wording or terminology within in their planning instruments simply to match the wording of the NPSFM – changes are required where they are substantive to implementing the NPSFM. If they do wish to make minor (non-substantive) changes to wording or terminology, a local authority does not have to go through the standard plan change process to do so.

The new regulations and national environmental standards, such as stock exclusion, may come into force prior to new regional rules and policies being introduced.