



Resource Management (Freshwater Farm Plans) Regulations 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 6th day of June 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 217M 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 after consulting the Minister of Agriculture.

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Regulations

1 Title

These regulations are the Resource Management (Freshwater Farm Plans) Regulations 2023.

2 Commencement

These regulations come into force on 1 August 2023.

Part 1
Preliminary provisions

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Resource Management Act 1991

action, in relation to an action plan,—

- (a) means the way in which a farm operator avoids, remedies, or mitigates 1 or more adverse effects on freshwater and freshwater ecosystems; and
- (b) includes (without limitation)—
 - (i) a physical work (for example, fencing or planting):
 - (ii) a practice (for example, how an activity is undertaken):
 - (iii) a process or procedure (for example, training staff in how to undertake an activity)

action plan means the plan set out in a freshwater farm plan under regulation 10

catchment actions—

- (a) means actions that address risks to freshwater and freshwater ecosystems that directly relate to the catchment context, challenges, and values; but
- (b) excludes regulated actions

catchment context, challenges, and values has the meaning given in regulation 4

certification requirements means the requirements in section 217F of the Act

competencies for auditors means the competencies for auditors set out in clause 2 of Schedule 2

competencies for certifiers means the competencies for certifiers set out in clause 1 of Schedule 2

critical source area has the meaning given in regulation 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020

inherent vulnerabilities means risks to freshwater and freshwater ecosystems from the biophysical features of land, including from irrigation and drainage

intensive winter grazing has the meaning given in regulation 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020

land unit means an area of contiguous or non-contiguous land with similar biophysical features

National Policy Statement for Freshwater Management means the National Policy Statement for Freshwater Management whose approval under section 52 of the Act was notified in August 2020 (as amended or replaced from time to time)

regulated actions means actions that—

- (a) address risks to freshwater and freshwater ecosystems; and
- (b) relate to a relevant requirement under a specified instrument

stockholding area has the meaning given in regulation 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020

supplementary actions—

- (a) means actions that address risks to freshwater and freshwater ecosystems; but
- (b) excludes catchment actions and regulated actions

Te Mana o Te Wai has the meaning set out in the National Policy Statement for Freshwater Management.

4 **Meaning of catchment context, challenges, and values**

In these regulations, unless the context otherwise requires, **catchment context, challenges, and values** includes the following information (without limitation) in relation to a local area:

- (a) existing information on landforms, soil data, climate data, freshwater data, freshwater bodies, contaminants, sites that are significant to the community, and significant species or ecosystems:
- (b) identified cultural matters of importance to tangata whenua, including—
 - (i) the cultural significance of the local area; and
 - (ii) the traditional names of freshwater bodies in the local area; and

- (3) When identifying actions and setting time frames, the farm operator must consider—
 - (a) the significance of the risk to freshwater or freshwater ecosystems; and
 - (b) whether a time frame for a particular action is required under a specified instrument.

9 Farm operator must have regard to catchment context, challenges, and values

If information relating to the catchment context, challenges, and values is available from the relevant regional council, a farm operator must have regard to the following when identifying and assessing the risks and actions under regulation 8:

- (a) the catchment context, challenges, and values for the local area in which the farm is situated; and
- (b) the impacts that farming has on the receiving environment.

10 Action plan

- (1) A farm operator must set out an action plan in the freshwater farm plan.
- (2) The action plan must, for each action identified under regulation 8,—
 - (a) state whether it is an existing action that is already being carried out on the farm or a new action that the operator intends to take during the next 5 years; and
 - (b) describe how each action relates to the identified risk that the action is intended to address; and
 - (c) describe the land units in which each action is to occur; and
 - (d) categorise each action in accordance with subclause (3); and
 - (e) state the time frame within which each action must be implemented.
- (3) The operator must categorise each action in the action plan as belonging to one of the following categories:
 - (a) catchment actions:
 - (b) regulated actions:
 - (c) supplementary actions.

11 Maps to be provided in freshwater farm plan

Features related to inherent vulnerabilities

- (1) To support the risk assessment under regulation 8(1)(a) and (b)(i) and the identification of actions under regulation 8(2), a freshwater farm plan must contain maps that show—
 - (a) farm boundaries, noting on the map any land that is leased or licensed:
 - (b) areas of land use, if the farm is split into distinctly different land uses:

- (c) location of land units:
- (d) surface freshwater bodies:
- (e) artificial freshwater bodies:
- (f) soils:
- (g) landforms, including slope:
- (h) potential areas of intensive winter grazing and critical source areas within areas of intensive winter grazing:
- (i) critical source areas that are not within areas of intensive winter grazing:
- (j) drainage systems and areas:
- (k) irrigation and frost protection.

Features related to farming

- (2) To support the risk assessment under regulation 8(1)(b)(ii) and the identification of actions under regulation 8(2), a freshwater farm plan must contain maps that show—
 - (a) fencing to exclude stock from freshwater bodies:
 - (b) planted riparian areas:
 - (c) soil erosion control plantings or works:
 - (d) effluent systems and application areas:
 - (e) water-take bores and surface water abstraction points or intakes, including fish screens:
 - (f) freshwater crossings, including formed crossings, such as bridges, culverts, and fords, and unformed crossings:
 - (g) stock-holding areas, including feedpads, winter pads, stand-off pads, and loafing pads:
 - (h) other stock-related infrastructure, including milking sheds, wintering barns and shelters, and stock yards:
 - (i) farm accessways (for example, formed roads, tracks, races, and underpasses):
 - (j) point source discharges, including—
 - (i) rubbish dumps, offal pits, and silage pits; and
 - (ii) feed storage bunkers or sheds; and
 - (iii) agrichemical, fertiliser, and fuel storage sites; and
 - (iv) agrichemical washdown areas:
 - (k) private drinking water supply points.

Features related to catchment context, challenges, and values

- (3) To support the risk assessment and the identification of actions under regulation 8, a freshwater farm plan must contain maps that show information

referred to in regulation 4(a) and (b) that relates to the catchment context, challenges, and values, if the information is available from the relevant regional council and relevant to the farm.

New physical works

- (4) A freshwater farm plan must contain maps that show new physical works (if any) to be undertaken on the farm as set out in the action plan. Examples of physical works are set out in subclause (2).

12 Factors that farm operator does not need to consider in risk assessment

When developing a freshwater farm plan, a farm operator does not need to consider the risks of adverse effects of the following on freshwater and freshwater ecosystems:

- (a) areas of exotic or indigenous forestry:
- (b) processing facilities or packhouses:
- (c) residential or commercial premises:
- (d) visitor accommodation.

13 Administrative information in freshwater farm plan

A freshwater farm plan must contain the following information:

- (a) the name, contact details, and New Zealand Business Number (if any) of the farm operator:
- (b) the names and contact details of any other persons who are the owners, leaseholders, or licence-holders of land on the farm:
- (c) the name of the individual who has prepared the plan:
- (d) the physical address of the farm:
- (e) legal land titles and parcels of the farm:
- (f) the total farm area in hectares:
- (g) the leased or licensed area (if any) in hectares:
- (h) any current resource consents held in respect of the farm that are relevant to the preparation of the freshwater farm plan:
- (i) land use.

14 Reliance on certified freshwater farm plan to meet other regulatory requirements

If a specified instrument enables compliance with a regulatory requirement by way of a certified freshwater farm plan and a farm operator intends to use their plan to comply with the regulatory requirement, the operator must refer to the regulatory requirement in their plan. (*See, for example, regulation 13(3) of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.*)

15 Certification and audit details in freshwater farm plan

A freshwater farm plan must contain the following information as received from the certifier or auditor:

- (a) each date of certification and audit:
- (b) the name of the certifier or auditor on each occasion the plan is certified or the farm is audited:
- (c) the identification number of each certifier and auditor:
- (d) a conflict of interest declaration of each certifier and auditor:
- (e) the date by which the farm operator must arrange for the next audit of the farm:
- (f) the date by which the plan must be submitted for recertification.

16 Further audit information in certified freshwater farm plan

A certified freshwater farm plan must contain the following information as received from an auditor:

- (a) individual actions in the action plan that have been implemented within the time frames required under the action plan:
- (b) individual actions in the action plan that have not been implemented within the required time frames and the reason for not implementing them:
- (c) the audit grade.

Part 3
Certification of freshwater farm plans

Initial certification

17 When freshwater farm plan must be submitted to certifier

For the purposes of section 217G(1) of the Act, a farm operator must submit a freshwater farm plan for a farm to a certifier within 18 months after the later of—

- (a) the date specified in an order made under section 217C of the Act on which Part 9A of the Act applies to the district, region, or part of New Zealand in which the farm is situated; and
- (b) the date on which the farm meets the land use threshold under section 217D of the Act.

18 Choosing and paying certifier

- (1) A farm operator must choose a certifier appointed by the regional council for the region in which the farm is situated.

- (2) The operator must engage and pay for the services of the certifier directly according to the terms agreed between the operator and the certifier.

19 Certifier's assessment

- (1) To certify a freshwater farm plan, a certifier must complete an assessment report detailing the reasons why the plan meets or does not meet the certification requirements.
- (2) The certifier must undertake the assessment on the farm unless it is a recertification of a certified freshwater farm plan that, through its amended action plan, does not propose to implement any new regulated action.
- (3) A certifier may request further information from the farm operator to determine whether the certification requirements have been met.
- (4) The certifier may consider additional matters as required in a specified instrument if the farm operator intends to rely on the certified freshwater farm plan to meet a regulatory requirement in the instrument (*see* regulation 14).

20 Certifier provides draft decision and assessment report to farm operator

- (1) The certifier must provide their draft decision and assessment report to the farm operator within 30 working days after the farm operator has submitted their plan to the certifier for certification.
- (2) The certifier's draft decision must indicate whether—
 - (a) the certification requirements have been met and the freshwater farm plan can be certified; or
 - (b) the certification requirements have not been met and the freshwater farm plan needs to be amended in order to achieve certification.
- (3) The regional council may, in its discretion, extend the time frame under subclause (1).

21 If farm operator disagrees with certifier's draft decision or assessment report

- (1) If the farm operator disagrees with any aspect of the draft decision or assessment report, or both, the operator must provide comments in writing to the certifier within 10 working days after receiving the draft decision and assessment report.
- (2) The certifier must, within 5 working days after receiving the comments,—
 - (a) consider the operator's comments; and
 - (b) provide to the operator a preliminary decision and assessment report.
- (3) The certifier's preliminary decision must indicate that—
 - (a) the certification requirements have been met and the freshwater farm plan can be certified; or

- 22 If farm operator does not disagree with certifier's draft decision or assessment report or preliminary decision or assessment report**

- ## 23 Farm operator may engage second certifier

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- (5) The operator may seek a second certification only once in relation to each preliminary decision and assessment report.

24 First certifier must notify regional council if second certifier engaged

If the first certifier is notified that a second certifier has been engaged under regulation 23, the first certifier must notify the regional council within 5 working days that they are no longer the certifier of the operator’s freshwater farm plan.

25 Second certifier’s draft decision and assessment report

- (1) The second certifier must provide their draft decision and assessment report to the farm operator within 30 working days after being engaged by the farm operator.
- (2) The second certifier’s draft decision must indicate whether—
 - (a) the certification requirements have been met and the freshwater farm plan can be certified; or
 - (b) the certification requirements have not been met and the freshwater farm plan needs to be amended in order to achieve certification.
- (3) The regional council may, in its discretion, extend the time frame under sub-clause (1).

26 Second certifier’s final decision and assessment report

- (1) If the farm operator disagrees with any aspect of the second certifier’s draft decision or assessment report, or both, the operator must provide comments in writing to the second certifier within 10 working days after receiving the draft decision and assessment report.
- (2) If the operator provides comments in writing, the second certifier must, within 5 working days after receiving the comments,—
 - (a) consider the comments; and
 - (b) produce a final assessment report; and
 - (c) make a final decision.
- (3) If the operator does not provide comments in writing, the draft decision and assessment report become the final decision and assessment report.
- (4) The second certifier must, as soon as practicable, notify the operator and regional council of the second certifier’s final decision that—
 - (a) the certification requirements have been met and the freshwater farm plan is certified; or
 - (b) the certification requirements have not been met and the freshwater farm plan needs to be amended in order to achieve certification.
- (5) The second certifier must indicate in their decision that it was made by the second certifier.

*Recertification***27 Recertification***Five-yearly requirement*

- (1) A farm operator must amend their certified freshwater farm plan and submit it to a certifier for recertification not later than 5 years after the plan was last certified.

Twelve-month requirement following specified events

- (2) However, a farm operator must amend and submit their certified freshwater farm plan, or part of their plan, to a certifier for recertification not later than 12 months after any of the following events occur:
- (a) the farm has new significant inherent vulnerabilities:
 - (b) the farm acquires additional land to which different catchment context, challenges, and values apply:
 - (c) the farm operator undertakes significant changes in farming activities:
 - (d) the farm changes farm operator and the new operator does not adopt the existing certified freshwater farm plan.

Flexibility to submit plan at any other time

- (3) In addition to the requirements under subclauses (1) and (2), a farm operator may amend and submit their certified freshwater farm plan, or part of their plan, to a certifier for recertification at any other time.

Submission of part of freshwater farm plan under subclause (2) or (3)

- (4) For the purposes of subclause (2) or (3), a farm operator may only submit the relevant part of the certified freshwater farm plan that has been amended if the recertification under subclause (2) or (3) relates to—
- (a) a part of the farm area; or
 - (b) a part of a farming activity.
- (5) If an operator submits only a part of a plan under subclause (2) or (3), the operator must continue to comply with—
- (a) the time frame that was set out in the most recent certification of the entire freshwater farm plan for submitting the entire freshwater farm plan for recertification under subclause (1); and
 - (b) the time frame that was set out in the most recent audit of the farm for arranging the next audit of the farm.

Circumstances in which subclause (2) does not apply

- (6) A farm operator is not required to seek recertification under subclause (2) if—
- (a) an event under subclause (2)(a), (b), or (c) occurs; but
 - (b) the farm operator adopts all of an existing certified freshwater farm plan that addresses the event.

*Appointment of certifiers***28 When first certifier must be appointed**

A regional council must appoint at least 1 certifier under section 217K of the Act within 3 months after Part 9A of the Act first applies to its region or part of its region.

29 Certifier competencies, appointment process, and criteria

- (1) The competencies of certifiers are set out in clause 1 of Part 1 of Schedule 2.
- (2) The appointment process and criteria for certifiers are set out in Part 2 of Schedule 2.

Part 4**Audit of certified freshwater farm plan***Responsibilities of farm operator***30 Farm operator must implement actions within required time frames**

In order to ensure that the farm operates in compliance with the certified freshwater farm plan, the farm operator must implement the actions specified in the action plan contained in the certified freshwater farm plan within the time frames required under the action plan.

31 Choosing and paying auditor

- (1) A farm operator must choose an auditor appointed by the regional council for the region in which the farm is situated.
- (2) The operator must engage and pay for the services of the auditor directly according to the terms agreed between the operator and the auditor.

32 Audit after initial certification of freshwater farm plan

A farm operator must, not later than 12 months after the initial certification of their freshwater farm plan, arrange for an auditor to audit the farm for compliance with the plan.

33 Audit after recertification of certified freshwater farm plan

- (1) A farm operator must, not later than 12 months after recertification of their certified freshwater farm plan, arrange for an auditor to audit the farm for compliance with the plan.
- (2) This regulation does not apply if only part of a certified freshwater farm plan has been recertified.

34 Subsequent audits as determined by audit grades

- (1) A farm operator must also, within the time frame specified by the audit grade assigned to the farm, arrange for a subsequent audit of the farm for compliance with the certified freshwater farm plan.
- (2) Audit grades—
 - (a) are assigned by an auditor following an audit under section 217H of the Act; and
 - (b) are based on whether actions are being implemented and the category of the actions (whether regulated actions, catchment actions, or supplementary actions); and
 - (c) specify the time frame within which the farm operator must arrange for the next audit of the farm to be carried out after receiving the final report from the auditor; and
 - (d) are set out in Schedule 3.
- (3) However, if a farm operator submits their entire freshwater farm plan for recertification within the time frame specified by the audit grade assigned to their farm, they are not required to comply with subclause (1).

35 Audit after farm operator takes over farm and adopts previous operator's certified freshwater farm plan

- (1) A farm operator who takes over a farm and adopts the existing certified freshwater farm plan of the previous operator must, not later than 12 months after taking over the farm, arrange for an auditor to audit the farm for compliance with the plan.
- (2) A new farm operator under subclause (1) is not responsible for any failure of the former operator to—
 - (a) implement actions within the time frames required under the action plan; or
 - (b) meet any time frames for submitting the certified freshwater farm plan to a certifier for recertification; or
 - (c) meet any time frames for arranging for an audit of the farm.
- (3) Subclause (1) applies despite regulations 33 and 34(1).

Auditor's reports

36 Auditor's report

A report of the auditor's findings on whether the farm achieves compliance with the certified freshwater farm plan must, in addition to the requirements under section 217H of the Act,—

- (a) assess whether individual actions in the action plan have been implemented within the time frames required under the action plan; and

- (b) assign an audit grade and outline why the farm receives a particular audit grade in accordance with regulation 34(2); and
- (c) record any response provided by the farm operator under section 217H(5)(b) of the Act, if applicable.

37 Time frames for first and final audit reports

First audit report

- (1) An auditor must provide a copy of the first audit report to the farm operator within 20 working days after being engaged by the operator.

Final audit report

- (2) For the purposes of section 217H(5)(c) of the Act, the **prescribed period** is 15 working days after the auditor provides the farm operator with a copy of the first audit report.

Appointment of auditors

38 When first auditor must be appointed

A regional council must appoint at least 1 auditor under section 217K of the Act within 6 months after Part 9A of the Act first applies to its region or part of its region.

39 Auditor competencies, appointment process, and criteria

- (1) The competencies of auditors are set out in clause 2 of Part 1 of Schedule 2.
- (2) The appointment process and criteria for auditors are set out in Part 3 of Schedule 2.

**Part 5
Information requirements**

Farm operator to provide information to regional council

40 Farm operator to provide regional council with report or decision

- (1) A regional council may require a farm operator to provide the council with a certifier's draft, preliminary, or final assessment report or certifier's draft or preliminary decision in relation to the operator's freshwater farm plan.
- (2) The farm operator must provide the report or decision within 20 working days after receiving the council's request.
- (3) The council may only make this request for the purposes of the regional council's functions under section 217I of the Act.

41 Farm operator to provide certified freshwater farm plan to regional council

- (1) This regulation applies if a regional council requires a farm operator to produce a certified freshwater farm plan for inspection under section 217I(2) of the Act.
- (2) The farm operator must provide the certified freshwater farm plan within 20 working days after receiving the council's request.

42 Farm operator must provide information for purpose of monitoring compliance

A farm operator must provide any information reasonably required by a regional council enforcement officer for the purpose of monitoring compliance with Part 9A of the Act and these regulations.

Certifiers and auditors to provide information to regional council

43 Certifiers and auditors must provide information to regional council

- (1) A certifier must provide the following to the regional council within 5 working days after notifying the council of a decision under regulation 22(3)(a) or 26(4)(a):
 - (a) the information required under regulation 13 (administrative information in freshwater farm plan):
 - (b) the action plan:
 - (c) a conflict of interest declaration:
 - (d) a statement as to whether the farm operator intends to use the freshwater farm plan to meet another regulatory requirement (*see* regulation 14):
 - (e) a map of the spatial extent of the farm at the time of certification.
- (2) An auditor must provide the following to the regional council within 5 working days after completing an audit under section 217H of the Act:
 - (a) the information required under regulation 13 (administrative information in freshwater farm plan):
 - (b) the final audit report:
 - (c) a conflict of interest declaration.

Requirements for keeping information

44 Information that certifiers and auditors must keep

- (1) Certifiers must keep information received and prepared in relation to the certification of a freshwater farm plan for 7 years.
- (2) The information under subclause (1) includes, without limitation, the following:

- (a) comments received from the farm operator on the draft decision or assessment report:
 - (b) any draft, preliminary, and final assessment reports and draft and preliminary decisions:
 - (c) the information required under regulation 13 (administrative information in freshwater farm plan).
- (3) Auditors must keep all of their audit reports for 7 years.

45 Information that regional councils must keep and maintain

- (1) A regional council must keep and maintain the following information in a digitalised system in relation to each farm in its jurisdiction:
- (a) the information set out in section 217J of the Act:
 - (b) the information required under regulation 13 (administrative information in freshwater farm plan):
 - (c) the action plan:
 - (d) certification decisions:
 - (e) audit reports:
 - (f) conflict of interest declarations:
 - (g) statements as to whether the farm operator intends to use the freshwater farm plan to meet another regulatory requirement (*see* regulation 14):
 - (h) a map of the spatial extent of the farm at the time of certification.
- (2) A regional council must also keep and maintain the following information:
- (a) records of any complaints made about a certifier or an auditor, or about the certification or audit process:
 - (b) details of any actions taken as a result of the complaints:
 - (c) contact information for certifiers and auditors appointed by the regional council:
 - (d) documentation in relation to the appointment process of applicants seeking to be certifiers and auditors:
 - (e) training records of certifiers and auditors appointed by the regional council:
 - (f) dates and outcomes of performance reviews of certifiers and auditors appointed by the regional council.

*Additional functions of regional councils***46 Regional council must collate existing information about catchment context, challenges, and values**

- (1) A regional council must collate existing information about the catchment context, challenges, and values relevant to its region.
- (2) A regional council must keep the information—
 - (a) accessible on an Internet site administered by or on behalf of the council; or
 - (b) available to the public free of charge at its regional offices, if it is not practicable to comply with paragraph (a).

**Part 6
Consequential amendments****47 Principal regulations**

Regulations 48 to 52 amend the Resource Management (Infringement Offences) Regulations 1999.

48 Regulation 2 amended (Infringement offences)

After regulation 2(2), insert:

- (3) Non-compliance with a provision of Part 9A of the Resource Management Act 1991 (the Act) or the Resource Management (Freshwater Farm Plans) Regulations 2023 listed in Schedule 1B is an infringement offence for the purposes of sections 343A to 343D of the Act.

49 Regulation 3 amended (Infringement fees)

In regulation 3, replace “Schedules 1 and 1A” with “Schedules 1, 1A, and 1B”.

50 New Schedule 1B inserted

After Schedule 1A, insert the Schedule 1B set out in Schedule 4 of these regulations.

51 Schedule 2 amended

In Schedule 2, after “Resource Management (Stock Exclusion) Regulations 2020”, insert “or Resource Management (Freshwater Farm Plans) Regulations 2023”.

52 Schedule 3 amended

In Schedule 3, after “Resource Management (Stock Exclusion) Regulations 2020”, insert “or Resource Management (Freshwater Farm Plans) Regulations 2023”.

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.

Schedule 2

Appointment processes and criteria for certifiers and auditors

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Part 1

Competencies of certifiers and auditors

1 Competencies of certifiers

A certifier must have an understanding of—

- (a) these regulations and certification requirements:
- (b) any objectives, policies, and rules relevant to the management of freshwater or freshwater ecosystems in policy statements or regional plans:
- (c) any relevant freshwater matters in planning documents that are recognised by iwi authorities and lodged with regional councils:

- (d) the National Policy Statement for Freshwater Management and any action plans made by regional councils:
- (e) other secondary legislation made under the Act that is relevant to the management of freshwater or freshwater ecosystems:
- (f) the Treaty of Waitangi (Te Tiriti o Waitangi):
- (g) te ao Māori:
- (h) Te Mana o Te Wai:
- (i) sites or species of cultural significance as defined by tangata whenua:
- (j) contaminants and their impacts on freshwater and freshwater ecosystems:
- (k) impacts of farming on freshwater and freshwater ecosystems:
- (l) actions to manage the impacts of farming on freshwater and freshwater ecosystems.

2 Competencies of auditors

An auditor must have an understanding of—

- (a) these regulations and certification requirements:
- (b) any objectives, policies, and rules relevant to the management of freshwater or freshwater ecosystems in policy statements or regional plans:
- (c) any relevant freshwater matters in planning documents that are recognised by iwi authorities and lodged with regional councils:
- (d) the National Policy Statement for Freshwater Management and any action plans made by regional councils:
- (e) other secondary legislation made under the Act that is relevant to the management of freshwater or freshwater ecosystems:
- (f) the Treaty of Waitangi (Te Tiriti o Waitangi):
- (g) te ao Māori:
- (h) Te Mana o Te Wai:
- (i) sites or species of cultural significance as defined by tangata whenua:
- (j) actions to manage the impacts of farming on freshwater and freshwater ecosystems.

Part 2

Certifier appointment process and criteria

3 Applications for role of certifier

- (1) A person may apply to a regional council to be a certifier.

- (2) The regional council must be satisfied that the applicant meets the criteria set out in clause 4.
- (3) If the regional council is of the view that an applicant does not meet the criteria, the council must—
 - (a) inform the applicant; and
 - (b) give them the council’s reasons why they do not meet the criteria.

4 Criteria for appointment as certifier

- (1) The criteria that a person must meet to be appointed as a certifier are set out in subclauses (2) to (4).
- (2) The person must demonstrate an understanding of the competencies for certifiers and—
 - (a) have a qualification in natural resource management or farm system management; or
 - (b) have at least 3 years’ experience in a field related to the competencies for certifiers.
- (3) The person must have successfully completed training in the catchment context, challenges, and values and the competencies for certifiers, as required by the regional council.
- (4) If required by the regional council, the person must undergo a practical assessment to demonstrate their understanding of the competencies for certifiers.

5 Regional council must engage with tangata whenua

A regional council must engage with tangata whenua in the preparation and delivery of training under clause 4(3) and the practical assessment under clause 4(4).

6 Regional council must keep and maintain list of certifiers

- (1) A regional council must keep and maintain a list of the certifiers who have been appointed by the council under section 217K of the Act.
- (2) The list must be published on an Internet site administered by or on behalf of the council.

7 Continuing practice requirements for certifiers

- (1) Certifiers must—
 - (a) undergo regular performance reviews at the discretion of the regional council; and
 - (b) demonstrate and maintain their practice proficiency in the competencies for certifiers, including by taking additional training in the competencies as required by the regional council; and

- (c) demonstrate in their practice the following attributes of professional conduct:
 - (i) integrity: being honest and avoiding bias and the influence of others:
 - (ii) professional competence: maintaining professional knowledge and skills through continuing professional development:
 - (iii) confidentiality: keeping personal details and information secure, private, and confidential:
 - (iv) appropriate behaviour: complying with the law and behaving in a professional manner:
 - (v) management of conflict of interest: identifying and managing any matters that compromise the exercise of professional judgment.
- (2) A regional council may assess a certifier's ability to continue to meet the requirements in subclause (1)(b) and (c).

8 Complaints about certifiers

- (1) A complaint may be brought against a certifier for failure to meet—
 - (a) the criteria set out in clause 4; or
 - (b) 1 or more of the requirements in clause 7(1)(b) or (c).
- (2) The regional council may review a person's appointment as a certifier if a complaint is brought under subclause (1).

9 Regional council may discontinue appointment of certifier

- (1) A regional council may discontinue the appointment of a certifier who does not meet—
 - (a) the criteria set out in clause 4; or
 - (b) 1 or more of the requirements in **clause 7(1)(b) or (c)**.
- (2) Before proceeding under subclause (1), the regional council must—
 - (a) give the certifier the reasons why the regional council considers the certifier is not meeting the requirements, along with relevant information; and
 - (b) give the certifier the opportunity to respond.
- (3) The regional council must then—
 - (a) consider the reasons, the relevant information, and the certifier's response; and
 - (b) determine whether, on the evidence, the certifier has met the requirements to continue being appointed as a certifier.
- (4) The regional council must inform the certifier of the council's decision.

- (5) The decision of the regional council has immediate effect at the time the certifier is informed.

Part 3

Auditor appointment process and criteria

10 Applications for role of auditor

- (1) A person may apply to a regional council to be an auditor.
- (2) The regional council must be satisfied that the applicant meets the criteria set out in clause 11.
- (3) If the regional council is of the view that an applicant does not meet the criteria, the council must—
 - (a) inform the applicant; and
 - (b) give them the council’s reasons why they do not meet the criteria.

11 Criteria for appointment as auditor

- (1) The criteria that a person must meet to be appointed as an auditor are set out in subclauses (2) and (3).
- (2) The person must—
 - (a) be a member of a professional audit body and demonstrate an understanding of the competencies for auditors; or
 - (b) have at least 3 years’ auditing experience in a field related to the competencies for auditors.
- (3) The person must have successfully completed training in the catchment context, challenges, and values and the competencies for auditors, as required by the regional council.

12 Regional council must engage with tangata whenua

A regional council must engage with tangata whenua in the preparation and delivery of training under clause 11(3).

13 Regional council must keep and maintain list of auditors

- (1) A regional council must keep and maintain a list of the auditors who have been appointed by the council under section 217K of the Act.
- (2) The list must be published on an Internet site administered by or on behalf of the council.

14 Continuing practice requirements for auditors

- (1) Auditors must—
 - (a) undergo regular performance reviews at the discretion of the regional council; and

- (b) demonstrate and maintain their practice proficiency in the competencies for auditors, including by taking additional training in the competencies as required by the regional council; and
 - (c) demonstrate in their practice the following attributes of professional conduct:
 - (i) integrity: being honest and avoiding bias and the influence of others;
 - (ii) professional competence: maintaining professional knowledge and skills through continuing professional development;
 - (iii) confidentiality: keeping personal details and information secure, private, and confidential;
 - (iv) appropriate behaviour: complying with the law and behaving in a professional manner;
 - (v) management of conflict of interest: identifying and managing any matters that compromise the exercise of professional judgment.
- (2) A regional council may assess an auditor's ability to continue to meet the requirements in subclause (1)(b) and (c).

15 Circumstances in which auditor must not audit plan

An auditor must not audit a certified freshwater farm plan if they have—

- (a) certified the plan; or
- (b) provided advice in the preparation of the freshwater farm plan to the farm operator in the previous 2 years.

16 Complaints about auditors

- (1) A complaint may be brought against an auditor for failure to meet—
 - (a) the criteria set out in clause 11; or
 - (b) 1 or more of the requirements in clause 14(1)(b) or (c).
- (2) The regional council may review a person's appointment as an auditor if a complaint is brought under subclause (1).

17 Regional council may discontinue appointment of auditor

- (1) A regional council may discontinue the appointment of an auditor who does not meet—
 - (a) the criteria set out in clause 11; or
 - (b) 1 or more of the requirements in clause 14(1)(b) or (c).
- (2) Before proceeding under subclause (1), the regional council must—
 - (a) give the auditor the reasons why the regional council considers the auditor is not meeting the requirements, along with relevant information; and
 - (b) give the auditor the opportunity to respond.

- (3) The regional council must then—
 - (a) consider the reasons, the relevant information, and the auditor’s response; and
 - (b) determine whether, on the evidence, the auditor has met the requirements to continue being appointed as an auditor.
- (4) The regional council must inform the auditor of the council’s decision.
- (5) The decision of the regional council has immediate effect at the time the auditor is informed.

Schedule 3

Audit grades

r 34(2)

Audit grade	Description	Time frame within which farm operator must arrange next audit after receiving final audit report
A	All actions categorised in the action plan as regulated actions, catchment actions, and supplementary actions have been implemented within the time frames required under the action plan	3 years
B	All actions categorised in the action plan as regulated actions and catchment actions have been implemented within the time frames required under the action plan, but 1 or more actions categorised as supplementary actions have not been implemented within the required time frames	2 years
C	All actions categorised in the action plan as regulated actions have been implemented within the time frames required under the action plan, but 1 or more actions categorised as catchment actions have not been implemented within the required time frames	1 year
D	1 or more actions categorised in the action plan as regulated actions have not been implemented within the time frames required under the action plan	6 months
D	1 or more actions categorised in the action plan as catchment actions or supplementary actions have still not been implemented within the time frames required under the action plan following a subsequent audit	6 months

**Schedule 4
New Schedule 1B inserted into Resource Management (Infringement
Offences) Regulations 1999**

r 50

**Schedule 1B
Infringement offences and fees under Part 9A of Resource
Management Act 1991 and Resource Management (Freshwater
Farm Plans) Regulations 2023**

rr 2(3), 3

**Part 1
Infringement offences and fees under Part 9A of Resource
Management Act 1991**

Infringement offence provision	General description of offence	Infringement fee for offence (\$)
Section 217D of the Act	Failure to have a certified freshwater farm plan	1,500

**Part 2
Infringement offences and fees under Resource Management
(Freshwater Farm Plans) Regulations 2023**

Infringement offence provision	General description of offence	Infringement fee for offence (\$)
Regulation 17	Failure to submit, within the time frame specified in regulation 17, a freshwater farm plan to a certifier	1,500
Regulation 27(1)	Failure to submit, within 5 years after the last certification, a certified freshwater farm plan to a certifier	1,500
Regulation 27(2)	Failure to submit, within 12 months after an event specified in regulation 27(2), a certified freshwater farm plan, or part of a certified freshwater farm plan, to a certifier	1,500
Regulation 30	Failure to implement 1 or more actions in the action plan contained in a certified freshwater farm plan within the time frames required under the action plan	1,500
Regulation 32	Failure to arrange, within 12 months after initial certification of a certified freshwater farm plan,	1,500

Infringement offence provision	General description of offence	Infringement fee for offence (\$)
Regulation 33(1)	for an auditor to audit the farm for compliance with the plan Failure to arrange, within 12 months after recertification of a certified freshwater farm plan, for an auditor to audit the farm for compliance with the plan	1,500
Regulation 34(1)	Failure to arrange, within the time frame specified by the audit grade, for an auditor to audit the farm for compliance with the certified freshwater farm plan	1,500
Regulation 35(1)	Failure to arrange, within 12 months after taking over a farm and adopting the previous operator's certified freshwater farm plan, for an auditor to audit the farm for compliance with the plan	1,500

Rachel Hayward,
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 August 2023, set out further obligations for the preparation, certification, audit, and enforcement of freshwater farm plans under Part 9A of the Resource Management Act 1991 (the **Act**). They are to apply in a district, region, or part of New Zealand set out in 1 or more separate Orders in Council made under section 217C of the Act.

Part 1 contains preliminary provisions.

Part 2 sets out additional requirements for the contents of freshwater farm plans.

Part 3 sets out the process and time frames for certification and recertification of freshwater farm plans. *Part 3* also provides for the certifier competencies and appointment process set out in *Schedule 2*.

Part 4 and *Schedule 3* specify time frames in which a farm operator must arrange audits under section 217H of the Act. *Part 4* also provides for the auditor competencies and appointment process set out in *Schedule 2*.

Part 5 sets out information that farm operators, certifiers, and auditors are required to supply to regional councils. It also sets out information that a regional council must keep in relation to farms in its jurisdiction.

Part 6 contains consequential amendments to the Resource Management (Infringement Offences) Regulations 1999. It inserts into those regulations *new Schedule 1B*, which contains infringement offences that are subject to an infringement fee of \$1,500. The infringement offences under Part 9A of the Act and these regulations relate to—

- failure to have a certified freshwater farm plan as required under the Act:
- failure to submit a freshwater farm plan for certification or recertification within a specified time frame:
- failure to arrange an audit of a farm within a specified time frame:
- failure to implement actions in an action plan contained in a certified freshwater farm plan within the time frames required under the action plan.

Regulatory impact statement

The Ministry for the Environment and the Ministry for Primary Industries produced a regulatory impact statement on 10 May 2023 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/proposed-regulations-freshwater-farm-plans/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 8 June 2023.

These regulations are administered by the Ministry for the Environment.