



Resource Management (Measurement and Reporting of Water Takes) Regulations 2010

Anand Satyanand, Governor-General

Order in Council

At Wellington this 23rd day of August 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 360(1)(d) of the Resource Management Act 1991, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010.

2 Commencement

These regulations come into force on 10 November 2010.

3 Interpretation

(1) In these regulations, unless the context requires another meaning,—

Act means the Resource Management Act 1991

full pipe means a closed pipe or conduit that is full of water when it is conveying water

permit holder, for a water permit, means the person who holds the permit

water permit means a water permit under the Resource Management Act 1991 to which these regulations apply

water year, for a water permit, means a period during the term of the permit—

- (a) starting on 1 July or, for the permit's first water year, starting on the first day on which these regulations apply to the permit; and
- (b) ending on the next 30 June or, for the permit's last water year, ending on the last day on which these regulations apply to the permit.

- (2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in these regulations has the meaning given by the Act.

4 Regulations apply to certain water permits

- (1) These regulations apply only to a water permit that allows fresh water to be taken at a rate of 5 litres/second or more.
- (2) However, these regulations do not apply to a water permit if the taking of water under the permit is non-consumptive in that—
- (a) the same amount of water is returned to the same water body at or near the location from which it was taken; and
 - (b) there is no significant delay between the taking and returning of the water.

5 Determining rate in litres/second for purposes of regulations

- (1) The rate at which fresh water may be taken under a water permit, for the purposes of regulations 4(1) and 13(2), must be determined under this regulation.
- (2) If the permit specifies only 1 rate at which water may be taken in litres/second, then that is the applicable rate, even if the permit specifies any other rate.
- (3) If the permit specifies 2 or more rates at which water may be taken in litres/second, then the applicable rate is the greatest of those rates, even if the permit specifies any other rate.
- (4) Otherwise, the applicable rate is the greatest rate at which water may be taken under the permit, after applying the following rules:
- (a) each rate specified in the permit must be converted into the average rate at which water may be taken in litres/second during the period to which the rate applies;
 - (b) any conversion of a period of time must ignore daylight saving time and leap years;
 - (c) if the permit specifies the amount of water that may be taken, but not the period of time during which the water

may be taken, the permit is to be treated as if it allowed that amount of water to be taken each year:

- (d) if the permit does not specify any rate at which water may be taken or any amount of water that may be taken, or specifies only a rate that is not a fixed number (for example, a rate that depends on the flow rate of a water body), then the permit is to be treated as if it specified a rate of 20 litres/second:
- (e) a reference in the permit to a “head” or “sluice-head” is to be treated as a reference to water taken at a rate of 28.3 litres/second.

6 Permit holder must keep records of water taken

- (1) A permit holder must keep records that provide a continuous measurement of the water taken under a water permit, including water taken in excess of what the permit allows.

Form of records

- (2) The records must comprise measurements (in cubic metres) of the volume of water taken—
 - (a) each day; or
 - (b) each week, but only if the permit holder has approval under regulation 9.
- (3) The records must be able to be combined to produce further records that cover each water year of the permit.
- (4) If no water is taken, the records must specify the volume of water taken as zero cubic metres.
- (5) The records must be kept in a format that, in the opinion of the regional council that granted the permit, is suitable for auditing.

Manner in which records kept

- (6) The records must be kept using a device or system that—
 - (a) measures the volume of water taken—
 - (i) to within $\pm 5\%$ of the actual volume taken, for water taken by a full pipe; or
 - (ii) to within $\pm 10\%$ of the actual volume taken, for water taken by another method (including by an open channel or a partially full pipe); and

- (b) is able to provide data in a form suitable for electronic storage; and
- (c) is suited to the qualities of the water it is measuring (such as temperature, algae content, and sediment content); and
- (d) is sealed and is as tamper-proof as practicable; and
- (e) is installed—
 - (i) at the location from which the water is taken; or
 - (ii) at the location specified by any approval granted under regulation 10 that is held by the permit holder; and
- (f) has been verified as accurate in accordance with regulation 7.

7 Verification of device or system

- (1) This regulation specifies how a device or system that keeps records for a water permit must have been verified as accurate (**verified**) for the purposes of regulation 6(6)(f).
- (2) For records provided under regulation 8 for the permit's first water year, the device or system must have been verified before the end of that water year.
- (3) For records provided under regulation 8 for any later water year, the device or system must have been verified at any time in the 5-year period ending when that water year ends.
- (4) Verification must have been performed by a person who, in the opinion of the regional council that granted the water permit, is suitably qualified.

8 Permit holder must provide records and evidence to regional council

- (1) A permit holder must provide records that cover each water year of the permit to the regional council that granted the permit.
- (2) The records for a water year must be provided no later than 1 month after the end of the water year.
- (3) The records must comply with regulation 6.

- (4) The regional council may request evidence from the permit holder that the device or system that kept the records has been verified as accurate in accordance with regulation 7.
- (5) The permit holder must provide the regional council with the evidence as soon as practicable after receiving the request.
- (6) The records or evidence must be provided—
 - (a) in writing; or
 - (b) electronically, if requested by the regional council.

9 Approval to measure water taken each week (instead of each day)

- (1) The regional council that granted a water permit may, at its discretion, grant approval to the permit holder to keep records of measurements of the volume of water taken under the permit each week (instead of each day).
- (2) The council must grant approval by providing a written notice to the permit holder that specifies the period of approval.

10 Approval to use device or system installed near (instead of at) location from which water taken

- (1) The regional council that granted a water permit may, at its discretion, grant approval to the permit holder to keep records using a device or system that is installed as near as practicable to the location from which water is taken under the permit (instead of at that location).
- (2) The council must grant approval by providing a written notice to the permit holder that specifies—
 - (a) the location at which the device or system may be installed, which must be a location that, in the council's opinion, is as near as practicable to the location from which the water is taken; and
 - (b) the period of approval.

11 Approval may be revoked

- (1) The regional council that granted an approval under regulation 9 or 10 may revoke the approval at any time if, in the council's opinion, the approval was granted on the basis of incorrect information provided by the permit holder.

- (2) The council must revoke approval by providing a written notice to the permit holder that specifies when the approval is revoked.

12 Relationship with regional rule or condition of water permit

- (1) These regulations prevail over a regional rule or a condition of a water permit.
- (2) However, a regional rule or a condition that is more stringent than these regulations prevails over the regulations.
- (3) Despite the rest of this regulation, the requirement under regulation 8(1) to provide records that cover each water year of a permit by the deadline under regulation 8(2) is additional to any requirement of a regional rule or a condition to provide records that cover a different period or periods.

13 Transitional provision for existing water permits

- (1) These regulations do not apply immediately to a water permit held at the commencement of the regulations.
- (2) Instead,—
- (a) the regulations apply to the permit only on and from 10 November 2012 if the permit allows water to be taken at a rate of 20 litres/second or more:
- (b) the regulations apply to the permit only on and from 10 November 2014 if the permit allows water to be taken at a rate of 10 litres/second or more, but less than 20 litres/second:
- (c) the regulations apply to the permit only on and from 10 November 2016 if the permit allows water to be taken at a rate of 5 litres/second or more, but less than 10 litres/second.

Rebecca Kitteridge,
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 are the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010.

The regulations impose minimum requirements on the holders of certain water permits to keep and provide records of fresh water taken under the permits.

The regulations apply to a water permit that allows fresh water to be taken at a rate of 5 litres/second or more, unless the taking of the water is non-consumptive (as described in *regulation 4(2)*).

The permit holder must keep records that provide a continuous measurement of the water taken under the water permit. The permit holder must provide the records to the regional council that granted the permit.

The regulations specify—

- the form and manner in which the records must be kept; and
- when and how the records must be provided to the council.

The regulations prevail over a regional rule or a condition of a water permit, unless the rule or condition is more stringent.

The regulations do not apply immediately to existing water permits. Instead, the regulations start to apply to a water permit 2, 4, or 6 years after the commencement of the regulations, depending on the rate at which water may be taken under the permit.

The regulations come into force on 10 November 2010.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 26 August 2010.

These regulations are administered by the Ministry for the Environment.
