



Environmental
Protection Authority
Te Mana Rauhi Taiao

EXCLUSIVE ECONOMIC ZONE

Compliance and enforcement programme

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Purpose of the programme

The EEZ compliance and enforcement programme sets out how the EPA prioritises its proactive compliance efforts under Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) in a risk-based, and responsive way that is proportionate to the risks being managed.

Our compliance monitoring activities are governed by an EEZ Compliance Monitoring Policy which sets our approach. The programme describes the process we use to direct and target our proactive compliance monitoring activities and efforts over a 12 month financial year period. Specific details of what we are doing and when is captured in our internal planning tool, the EEZ compliance and enforcement plan.

Context

We see that compliance and enforcement are not the end goal of regulation: they're part of a cycle that ensures the best result for the regulated community, and for New Zealand as a whole.

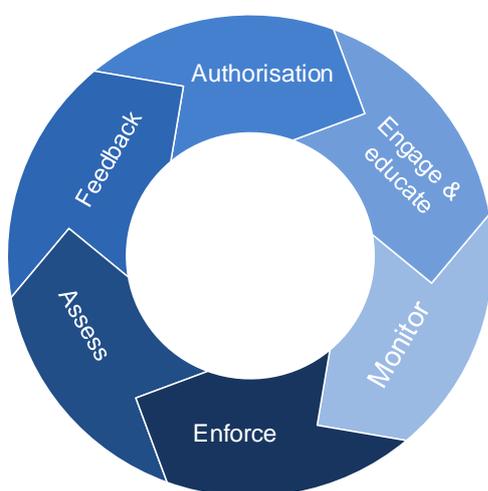


Fig 1. Regulatory cycle

We follow this cycle for regulating activities under the EEZ Act:

- **Authorisation:** represents the pathways for a new activity to be authorised.
- **Engage** and **educate:** we make sure operators are aware of their responsibilities.
- **Monitor:** we monitor an operator's compliance with the rules in a variety of ways.
- **Enforce:** If we notice an operator is falling short, we take steps to make sure they follows the rules.
- We assess and provide **feedback** to ensure lessons learnt are captured and used to inform our work.



Fig 2. Framework

The EPA has a framework in place that helps guide our regulatory approach. This provides us with:

- The **foundations** and **arrangements** to ensure we meet our legislative functions.
- **Integration** by incorporating the EEZ Act, EPA strategies and compliance related policies.

The EEZ compliance and enforcement programme is an important operational component of our framework.

What we want to achieve

We tailor our compliance and intervention efforts to make sure we provide the most value for the regulated community and New Zealand as a whole.

The EPA's statement of performance expectation requires us to identify and agree on our EEZ compliance and enforcement programme. The table to the right describes our key targets and milestones in implementing this programme.

Establishing priority areas to focus our efforts

In making the best use of our finite regulatory resources we will target our compliance efforts on key priority areas. These are areas we identify where additional focus by the EPA is needed. They may be attributed to cases when a cluster of similar, related or recurring incidents are found; or when an issue affects multiple teams within the EPA or other government bodies; or when an issue has caused substantive community concern.

In focusing on a priority area, the EPA will develop context specific strategies, and use a range of regulatory tools provided for in the regulatory cycle. Clear objectives and success measures will be set and monitored to ensure we have been effective in addressing the issue. We will review our success each year and make decisions about whether to continue with a priority area and/or focus on another. A variety of means to communicate our priority area will be used.

We use different methods to monitor compliance

There are four ways that we regularly monitor to check operators are following the rules. How we implement each of these is described in the EEZ Compliance Monitoring Policy. Some activities are initiated following response to information

Targets and milestones

Compliance Monitoring	1	We will check all regulatory monitoring records to determine whether a compliance response is needed
	2	If we find a potential non-compliance in regulatory monitoring records a compliance response will be initiated in keeping with our processes
	3	We will inspect all new operators who undertake a discretionary activity within 3 months
	4	We will inspect all operators following a significant statutory change impacting an activity within 3 months
	5	We will inspect an activity following issue of an abatement notice, enforcement order, or prosecution within 3 months
	6	We will inspect all activities in keeping with the risk-based inspection frequency set
Promote	7	We will ensure an EEZ engagement plan is in place by 30 June 2018
	8	We will have technical guidance for burials at sea in place by 30 June 2018
Enforcement	9	We will ensure enforcement action is initiated and completed in response to potential or realised serious adverse environmental effect
Priority	10	We will set at least one priority area and it will be demonstrated that strategies have been effective

or events, and some are planned in advance. The programme focusses on those that are planned in advance.

- **Assessments.** In some cases, people have to submit information to meet their legal obligations and the EPA is required to decide whether to accept this information or not. In doing this we will complete an assessment to see whether the information meets legal requirements.
- **Desktop monitoring.** The EPA receives a wide range of regulatory information. We review this so we can make informed, risk-based decisions about whether a compliance response is needed.
- **Inspections.** We conduct inspections to monitor and promote compliance with requirements of the EEZ Act, Regulations, and marine consents granted under the EEZ Act. This is when our staff go to an installation, office or site to check whether people are following the rules.
- **Investigations.** We conduct investigations when there has been a serious environmental incidents, or incidents impacting existing interests, and breaches likely to result in enforcement action.

How we decide whether to carry out inspections

We conduct inspections to monitor and promote compliance with requirements of the EEZ Act, Regulations, and marine consents granted under the EEZ Act. This involves a physical visit to the operator's office, vessel or installation. Inspections are triggered and generally undertaken within 3 months when:

- Any **new operator** undertakes a discretionary activity in the EEZ for the first time.
- There is a significant **statutory change** impacting an activity such as new or changes to conditions of a marine consent.
- Following issue of an **abatement notice, enforcement order, or prosecution.**
- If we have determined that an inspection is needed given potential unlawful activity, or adverse environmental effect, or impact to an existing interest found during **desktop monitoring.**

We also undertake planned inspections in accordance with a **risk-based** inspection **frequency** discussed below.

Planned inspection

In some cases, there is a clear need for **regular inspections.** The frequency of these inspections is based on consideration of **risk, compliance history** and **attitudes** of the operator. We have an annual plan which sets out specific details of which activities we will inspect and when.

We follow the process below to set the inspection frequency and will review this on a regular basis.

Step 1 – Identify the worst case consequence of the activity

This is achieved by selecting the worst case environmental or existing interest consequence (i.e. before application of any measures to avoid, remedy or mitigate an adverse effect).

Environmental consequence		
	Environmental effect	Existing interest
Severe	Destruction of important species, or regional and long-term impact on areas of significant environmental value	Complete loss of trust by affected community threatening the continued viability of businesses
Major	Destruction of an important population, or of an area of environmental value	Long-term community unrest and outrage significantly impacting businesses
Moderate	Localised and medium-term impacts on areas, or populations of environmental value	Many complaints requiring substantial attention
Minor or Insignificant	Localised and short-term impact to an area, or population of limited environmental value	Complaints from one or two interested parties

Step 2 – Identify operator factors

Identifying operator, or responsible party factors is achieved by selecting the poorest rating describing the operator's behaviour or past performance.

What is the attitude of the operator?	
Poor	Deliberate decision not to comply and/or do not want to comply
Reasonable	Try to comply but don't always succeed
Good	Willing and able and does the right thing

What is the compliance history of the operator?	
Poor or Unknown	Poor history of compliance with requirements, or new operator with minimal compliance history
Reasonable	Only occasional issues with compliance
Good	Good compliance history and responsive to advice and recommendations

Step 3 – Where the points intersect is the activity risk rating

Consequence	Responsibility factors			Inspection frequency	
	Good	Reasonable	Poor		
Severe	High	Very High	Very High	Very High	6 months
Major	Medium	High	High	High	12 months
Moderate	Medium	Medium	High	Medium	18 months
Minor or insignificant	Low	Low	Medium	Low	Every 5 years (if at all) ¹

¹ For those activities that are deemed low risk the EPA will not undertake a planned inspection unless it is deemed appropriate

We work to educate and promote compliance with the rules

We know that most people want to follow the rules that have been set to protect the environment. We want to help them do this by providing good information, and making sure they know to come to us if they need help understanding the rules. We use a range of techniques to help us do this, we provide information sheets relating to specific activities, will hold targeted workshops, and send out staff to conferences and industry meetings.

We're currently working on an EEZ Engagement Plan to guide our efforts to engage with, and educate operators and other stakeholders. The target is to have this in place by 30 June 2018. This will help make sure we're targeting people with the right level of engagement. The plan will also direct us in how we should engage with each stakeholder, so that education, feedback and the overall relationships are adapted to particular needs.

We will also work with industry to get voluntary agreements on achieving environmental management systems, or similar, that are in line with modern international practices, go beyond minimum regulatory requirements, and are contributing to improved environmental outcomes, in place. We are starting with getting technical guidance for burials at sea in place by 30 June 2018.

Operators are asked to come to us and seek assistance if they have any questions about rules applying to their activity.

We can enforce compliance if operators break the rules

We generally expect that operators will work to understand the rules and follow them – and we do everything we can to support them to do this. If operators break the rules, we have the following options:

- Work with them to make sure they understand their obligations
- Use non-statutory tools such as letters or change inspection frequency
- Use statutory tools such as abatement notices
- Prosecute those responsible for breaking rules

You can contact us to find out more

We're always happy to answer questions and provide more information about our work.

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