



Environmental
Protection Authority
Te Mana Rauhi Taiao

EXCLUSIVE ECONOMIC ZONE

Compliance and enforcement programme

JANUARY 2017



Table of Contents

Our approach to compliance and enforcement	3
Our responsibilities are set by law.....	3
Monitoring and enforcement is part of the regulation cycle	4
What we want to achieve	5
We use different methods to monitor compliance	6
Operators are required to give us information about their activities.....	7
How we decide whether to carry out inspections	7
We have set inspection schedules for some activities	8
Existing structures and Marine Consents	8
Seismic surveys	8
We work to educate operators about the rules	9
We can enforce compliance if operators break the rules	9
You can contact us to find out more	9

Our approach to compliance and enforcement

As an organisation, the Environmental Protection Authority (EPA) is committed to the vision of “An environment protected, enhancing our way of life and the economy”. This vision guides all of our work, from making decisions about hazardous substances, to administering the emissions trading scheme.

In our work in the Exclusive Economic Zone, or EEZ, we coordinate with central and local government agencies, and other stakeholder groups, to deliver specific and effective outcomes to the environment.

In any given year we are required to undertake proactive and responsive activities to protect the environment. We aim to be a proactive and risk-based regulator, focussing on work to achieve our vision and strategic objectives.

This compliance plan outlines the focus of our regulatory compliance work and targeted interventions.

Our responsibilities are set by law

The EPA has been involved in New Zealand’s EEZ since 2012. Our functions, duties and powers are set out in:

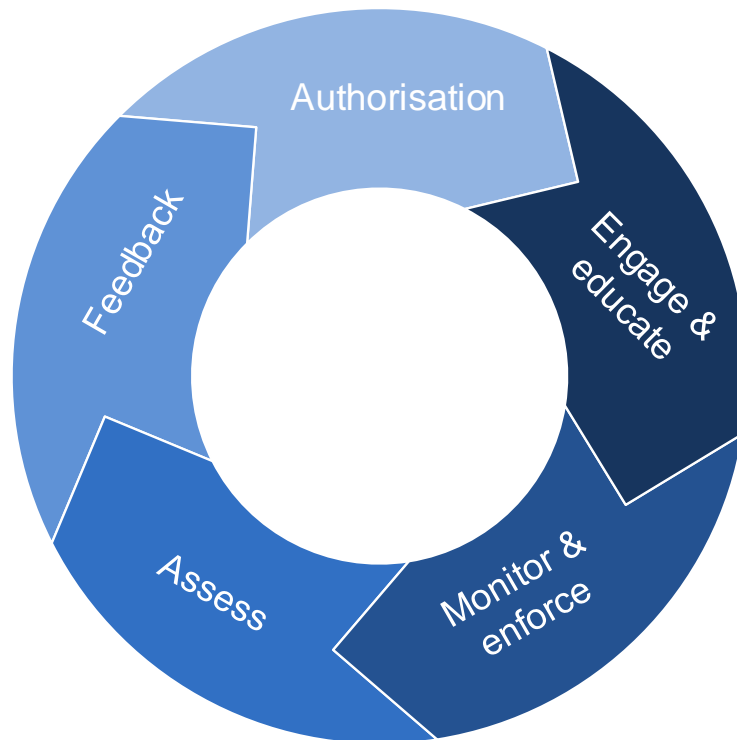
- Section 13 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act);
- Clause 9 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2013 (the Permitted Activity Regulations); and
- Clause 37 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharge and Dumping) Regulations 2015 (the Discharge and Dumping Regulations).

Additionally, we regulate burial at sea through the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Burial at Sea) Regulations 2015 (the Burial Regulations).

Monitoring and enforcement is part of the regulation cycle

Monitoring 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.

When we commit to following this cycle, we move closer to the vision of "An environment protected, enhancing our way of life and the economy".



If we follow this cycle for a new activity under the EEZ Act:

- **Authorisation:** represents the various pathways for a new activity to be authorised under the EEZ Act. For example, a new activity may come to the EEZ Compliance team through a newly-issued Marine Consent, or directly to the team via the Permitted Activities Regulations.
- **Engage and educate:** this is the first step to make sure the operator(s) is aware of its responsibilities, and knows how to contact us to learn more or get help.
- **Monitor and enforce:** we then make sure the operator(s) is following the rules properly. If we notice an operator is falling short, we take steps to make sure it follows the rules.
- The **assess** and **feedback** steps happen as we provide technical support and formal feedback to the EPA's EEZ Applications and the Regulatory Policy teams, and to other agencies such as the Department of Conservation (DOC) and the Ministry for the Environment.

What we want to achieve

We tailor our compliance and enforcement work to make sure we meet the different success measures that we've identified.

The table below describes the nine objectives we've identified, and the related success measures.

	Objectives	Success measure
1	Monitor discretionary activities (consents and deemed consents)	All discretionary activities are monitored to assess compliance against marine consents (or deemed marine consents) and any associated consent conditions
2	Monitor existing structures (including rulings)	All existing structures are monitored to assess compliance with s 162 of the EEZ Act
3	Monitor permitted activities (excluding marine seismic surveys)	All known permitted activities are monitored to assess compliance
4	Monitor marine seismic surveys	All known seismic surveys are monitored to assess compliance
5	Monitor burials at sea	All known burials at sea within the EEZ are monitored to assess compliance
6	Enforcement, where necessary, across all monitored activities	Enforcement activities are initiated and completed, where necessary
7	Operator education and engagement	We engage with consent holders, holders of existing authorisations and other operators undertaking activities authorised by the EEZ Act to ensure that they are aware of their obligations
8	Public education and awareness	We promote awareness of the requirements of the EEZ Act and regulations to interested parties
9	Management of compliance information	We engage with and initiate organisation projects to develop EPA systems that improve the way we identify, gather, sort, analyse and act on relevant information

We use different methods to monitor compliance

There are two key ways that we monitor whether operators are complying with the rules:

- *Inspections.* This is when our staff go to an installation or site to check whether people are following the rules. For example, we regularly visit the offshore oil and gas installations in the Taranaki Basin, and we often carry out inspections of seismic survey ships to make sure they're following the Department of Conservation's (DOC's) Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals.
- *Desktop monitoring.* This is a short-hand term for the variety of ways we can monitor whether people are following the rules when we're not at their site, such as analysing reports and data. For example, we do not attend sea burials, but instead require written proof that the burial happened in the correct place and met the legal requirements.

The table below sets out the different types of activities we monitor, and the legislation that governs both us and the operator. It details what we monitor, how we monitor, and the overall objective we achieve (see the previous table for the list of objectives).

Activity type	Legislation	What we monitor	How we monitor	Objectives
Discretionary (i.e. marine consents)	Part 3, subpart 2 of the EEZ Act.	Activities meet the requirements of the marine consent and conditions.	Desktop Inspections	1, 6
Existing structures	Part 5, subpart 2 of the EEZ Act.	Activities continue in accordance with the law. The operator must seek a ruling if it wants changes.	Desktop Inspections	2, 6
Permitted activities	Clause 5 of the Permitted Activity Regulations.	The operator meets all notification and reporting requirements	Desktop	3, 6
Permitted activities	Clauses 7 – 9, 15, 18 of the Dumping and Discharge Regulations.	The operator meets all notification and reporting requirements	Desktop Inspections	3, 6
Marine seismic surveys	Clause 7 of the Permitted Activities Regulations.	Compliance with DOC's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals.</i>	Desktop Inspections	4, 6

Activity type	Legislation	What we monitor	How we monitor	Objectives
Space vehicle launch	Clause 8A of the Permitted Activities Regulations	Notification and reporting requirements are fulfilled	Desktop	3, 6
Burial at Sea	Clause 4 of the Burial Regulations.	Obtain certificate of compliance Submit evidence in support of compliance	Desktop	5, 6

Operators are required to give us information about their activities

All operators have to give us regular reports about their activities. The frequency of these reports, and the information they have to contain, is set out in the law, regulations, and/or the conditions of any consents.

Some examples of the information we review include:

- Operators with 'existing structures' (those in place before the EEZ Act came into force in 2013) have to submit regular records related to their deemed marine discharge consents (formally discharge management plans). We also ask them to provide a variety of documents before we carry out an inspection.
- Seismic surveys operators provide reports upon completion of their surveys and may provide additional reports upon request.
- Anyone who carries out a burial at sea has to give us evidence to demonstrate they've met the conditions set out in clause 4 of the Burial Regulations (such as carrying out the burial in the right place, and making sure the casket has sunk).

How we decide whether to carry out inspections

We take care to monitor the right things, in the right way, to make sure everyone follows the rules that have been set to protect the environment.

Our work starts with *desktop monitoring*, which involves reviewing reports and data to get a clear picture about what is going on. This helps us keep track of many different activities at once, and in some cases may be all that's required.

In other cases, we may also need to do inspections. This involves sending EPA staff to an operator's office, vessel, or other facility to make further checks on their activities.

We have an annual Compliance and Enforcement Plan which sets out further detail around our activities. For example, for any activity that may require an inspection, we use the plan to determine the frequency, timing and duration of inspections (noting that we try not to schedule offshore inspections in winter months).

To make these decisions around inspection planning, we consider the following qualitative risk factors, giving a score to each:

- a. The stage of the activity. For example, has the exploratory drilling activity been completed? If yes, then we would probably not need to do an offshore inspection.
- b. How long the activity will last.
- c. The operator's track record. If they have performed well in recent inspections, we may not need to visit them so frequently.
- d. Compliance history of all parties involved: poor compliance history may result in increased inspection frequency. Included in this assessment is overall attitude to compliance.
- e. Regulatory performance within the relevant domestic industry sector (as above).
- f. History of major incidents within the relevant international industry sector.
- g. Level of public interest.
- h. Any other information we've received (including from operators, other agencies, and via monitoring of media).
- i. Any other operator- or activity-specific information as determined by the relevant Enforcement Officer at the time of assessment.

In some cases, we might not have information to help us assess a particular factor. When this happens, we give the maximum score for that decision factor. This means the operator will be more likely to be selected for an inspection.

We have set inspection schedules for some activities

In some cases, there is a clear need for regular inspections. We set a minimum frequency of inspections, and can increase this if required.

Existing structures and Marine Consents

Existing structures in the EEZ (these are structures that were in place when the EEZ Act came into force in 2013), and marine consents (new activities that have been approved since the creation of the EEZ Act), are generally inspected each year.

We will increase or decrease this frequency, depending on their scores for the qualitative risk factors above.

Seismic surveys

We carry out inspections of all high-risk seismic surveys, and aim to inspect medium-risk activities too. Our Enforcement Officers are trained to allocate risk-levels according to the wide variety of factors listed above. They also work with operators to consider logistics such as frequency and duration of port calls.

Seismic surveys are generally done during summer, when weather conditions are favourable. This short timeframe means we may need to re-assess quickly whether to carry out additional inspections. We are committed to acting promptly when there is any indication of increased risk to the environment.

We work to educate operators about 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 are already working to do this by providing high-quality information sheets related to specific activities, holding targeted workshops for operators, and sending out staff to conferences and industry meetings.

In addition, we're currently working on an EEZ Compliance Engagement Plan to guide our efforts to engage with and educate operators and other stakeholders. This will help make sure we're targeting people with the right level of engagement and support.

The plan will also direct us in how we should engage with each stakeholder, so that education, feedback and the overall relationship are adapted to particular needs.

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 which confirm expectations
- 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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