Seismic survey guidance 2016

This document is for operators undertaking seismic surveys in New Zealand’s Exclusive Economic Zone. It provides answers to commonly asked questions and recommendations for good practice, as well as pointers on how to comply with the Department of Conservation’s Code of Conduct.

Purpose of and audience for this document

This document provides operators conducting seismic surveying in the EEZ with answers to commonly asked questions about the EPA's role in regulating seismic surveys, as well as some pointers on how to comply with the Department of Conservation’s (DOC) 2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations (the Code).

If you are conducting a seismic survey in New Zealand’s EEZ, you must comply with the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2013 (the permitted activities regulations) or obtain a marine consent from the Environmental Protection Authority (EPA). The permitted activities regulations require you to comply with the Code.

The Code aims to provide effective practical mitigation measures for minimising acoustic disturbance to marine mammals. Outside of the EEZ, compliance with the Code is voluntary. However, we recommend following it as it describes good practice. Other mandatory regulations for seismic surveying may apply in marine mammal sanctuaries or under regional council plans within the territorial seas.

The EPA has also published Quick tips to help you comply with the Seismic Surveying Code of Conduct. See the links under ‘More information’ to see where to find this document, and other resources which will help in understanding what you need to do to comply with the Code.

Legend
- Territorial Seas: compliance with Code of Conduct voluntary
- Exclusive Economic Zone: compliance with Code of Conduct compulsory
- Extended Continental Shelf: compliance with Code of Conduct voluntary
- Other Department of Conservation legislation may apply
The EEZ and EEZ Act

New Zealand’s Exclusive Economic Zone (EEZ) extends from 12 to 200 nautical miles off the New Zealand coast. The extended continental shelf is the area where the seabed and subsoil of New Zealand’s landmass extend beyond the EEZ.

The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act) provides a framework for environmental management in New Zealand’s Exclusive Economic Zone and Continental Shelf. The purpose of the EEZ Act is to promote the sustainable management of the natural resources in this area, and to protect the environment from pollution by regulating or prohibiting the discharge of harmful substances and the dumping or incineration of waste or other matter.

If you are conducting seismic surveying in the EEZ, the EEZ Act and associated regulations will apply to your activities.

Who regulates seismic surveying in the EEZ?

The EPA works closely with DOC to regulate seismic surveying in New Zealand’s EEZ. Pre-survey requirements, such as submitting a notification and a Marine Mammal Impact Assessment (MMIA), are dealt with by DOC.

However, once your survey is underway, the EPA will monitor compliance with the Code and will engage regularly with you.

When should I start talking with the EPA?

We encourage you to engage with us early, and keep us informed as your plans develop or change. Many operators plan kick-off meetings with DOC, and these are also a great opportunity to meet with us.

What can I expect from the EPA?

We have developed a monitoring approach which builds on the requirements of the Code to allow us to effectively monitor seismic surveys in the EEZ.

Once your survey is confirmed, please tell us your approximate start date. At this time we will also ask you to provide us with a shape file of your operational area, as defined in your MMIA. This file should include details of any non-standard mitigation zones which have been agreed to in the MMIA.

We will ask you to submit weekly reports to us for the duration of your survey. Because the weekly reports are voluntary, we do not prescribe the content. However, in our correspondence with you we will indicate the areas we are most interested in. These are likely to include: monitoring effort; source operations and mitigation procedures; and detections of Species of Concern (as defined within the Code) and other marine mammals.

If we wish to conduct an inspection of your survey, we will notify you ahead of time and provide you with an inspection brief which will outline the scope of the inspection activities. This could be before or on completion of your survey, or during a port call.

We do not publish weekly reports or inspection reports. If we receive an Official Information Act (OIA) request to release information from these documents, we are bound by the requirements of the OIA. However we have a robust consultation process in place to protect private or commercially sensitive information if appropriate, and will contact you to discuss any such requests.
What does the EPA need from me?

The Code requires operators to inform DOC immediately of any instances of non-compliance with the Code. Because the EPA is the compliance agency for seismic surveys, we ask you to include us on any communications about compliance matters. When dealing with any such issues, the faster we are provided with the information we need to assess an incident, the faster it can be resolved. The information available to you immediately after a potential non-compliance may be limited, so within 48 hours of the initial notification we encourage you to record a short summary of the incident. This should include what, where, when, who, why, and how, and outline whether you have been able to take any steps to prevent reoccurrence. Please include a figure showing the location and timing of any potential non-compliance.

How does the EPA deal with non-compliance?

We have published a Compliance Approach document on our website (www.epa.govt.nz, and search on 'compliance approach'). Any case of potential non-compliance will be assessed on its merits by considering a number of factors, including: the extent or risk of harm; public interest; fairness; conduct and compliance history of those involved; and attitude to compliance of those involved. Our assessment determines whether we need to pursue enforcement action, and what form that enforcement might take. Accordingly, we also have a range of compliance tools available. These include educational directives as well as more serious options, such as abatement notices and prosecution.

Passive Acoustic Monitoring Operators

DOC and the EPA would like to highlight to all operators that there are now a handful of Passive Acoustic Monitoring Operators (PAMOs) who are fully qualified under the Code. The qualified PAMOs must be used in preference to PAMOs who have simply been trained or met the experience requirements under the Code.

DOC may approve the use of other experienced PAMOs based on the exceptions described in the Code, but only if you can demonstrate that the qualified PAMOs are unavailable. “Unavailable” means that the PAMO is unable to accept the work due to other commitments, or they have turned down the work for their own reasons. Commercial considerations, such as the day rate being requested by a qualified PAMO, are not relevant to the Code. Trained PAMOs may work alongside a qualified or experienced PAMO to gain the sea time required for them to upgrade their status to qualified.

Contact DOC if you would like an updated list of qualified or trained Marine Mammal Observers (MMOs) or PAMOs.
Operational area and capacity

It is your responsibility to ensure the operational area and capacity are adhered to as defined in the MMIA. Our Seismic Survey Quick Tips sheet covers these aspects (see the link under ‘More information’). However, we continue to see issues in these areas.

Remember: you may only activate your acoustic source within the operational area boundaries, and you should not exceed your operational capacity during routine operations, such as soft starts.

Operations ‘outside the norm’

A common thread through many observed incidents is that operations at the time were not ‘normal’. We strongly encourage you to test your processes and systems for situations when operations might not be ‘normal’. For example, this might be where your MMIA includes additional mitigation measures in one part of your operational area. In these cases, we would recommend that the relevant personnel check that such areas are clearly displayed on navigational screens, and that all relevant personnel know when the vessel is entering or leaving an area where mitigation rules are different.

Recommendations for good practice

Marine Mammal Mitigation Plans

Marine Mammal Mitigation Plans (MMMPs) are commonly included as appendices to MMIAs. They are required by the Code when working in Areas of Ecological Importance, or when additional mitigation measures have been developed as part of the MMIA process.

We recommend that survey-specific MMMPs, detailing on-board processes and procedures, are developed as standard documentation for any seismic survey. A good MMMP will be an operational document which gives effect to the agreed MMIA. It can be used to highlight areas where the operator is aware issues have occurred in the past, based on their own experiences or information from EPA and DOC publications. It should not simply be a ‘copy and paste’ of the Code.

PAM operations

Passive Acoustic Monitoring (PAM) is an important component of the monitoring of marine mammals during seismic surveys. A complete PAM system comprises three main elements: the deployed hardware; the software used to receive, process and display acoustic detections; and at least two PAMOs on board to maintain 24-hour effort. We consider that the capacity of PAM to acoustically detect marine mammals is hampered if any of these three main elements is not working properly.

PAMOs must schedule their shifts and breaks in such a way as to manage their fatigue levels appropriately and maintain focus on the required monitoring. Similarly, any hardware or software problem which compromises the ability of the PAMOs to detect or localise marine mammals must be dealt with according to the provisions within the Code.

Who can I talk to?

DOC has expertise in marine mammals and is your primary point of contact for:

- preparing your Marine Mammal Impact Assessment
- submitting your raw data sheets
• reporting any non-compliance (but please copy the EPA on any emails about compliance issues)
• submitting your trip report
• clarifying uncertainty or ambiguity with the Code.

You can contact the DOC marine team by email at marine@doc.govt.nz. Emergency contact details will be determined during survey planning and can be found in the approved MMIA for each survey.

The EPA works closely with DOC to monitor compliance with the Code and carries out enforcement activities as appropriate. If you have any compliance questions, you can contact the EEZ Compliance team on Seismic.Compliance@epa.govt.nz.

More information

To find out more about the Code, read DOC’s list of frequently asked questions. Search www.doc.govt.nz for ‘frequently asked questions seismic surveys’. Or, search for ‘seismic survey code of conduct’ to find and download the Code.

You can learn about your seismic surveying requirements, and download our Seismic Survey Quick Tips, on our website. Search at www.epa.govt.nz for ‘seismic survey’.

The EEZ Act and associated regulations can be downloaded from www.legislation.govt.nz. Search for ‘Exclusive Economic Zone’ to view or download the EEZ Act or the permitted activities regulations.
