

Minerals regulators in New Zealand

Minerals development in New Zealand is regulated by a series of separate agencies, each with different responsibilities and areas of expertise.

New Zealand Petroleum & Minerals (NZP&M)

The New Zealand Government (the Crown) owns all gold and silver, petroleum, and radioactive minerals in New Zealand. It owns about half of the coal, metallic and non-metallic minerals, industrial rocks and building stones. The Government has rights to all minerals and petroleum in New Zealand's Exclusive Economic Zone (EEZ).

The Crown Minerals Act 1991 (CMA), and its associated regulations, governs the allocation rights to these Government owned resources and is administered by New Zealand Petroleum & Minerals (NZP&M). Under the Act 'New Zealand' includes not only its land area but also its territorial sea (out to 12 nautical miles(nm) from the shore). Under international law, New Zealand also has exclusive rights to petroleum and minerals in the sea bed of the EEZ (between 12nm to 200nm) and even further, to the extended continental shelf (ECS).

Under the CMA there are a number of documents of relevance to permit holders:

- The Minerals Programme for Minerals (Excluding Petroleum) 2013 [<http://mbie17.cwp.govt.nz/our-industry/rules-regulations/>] outlines the policies, procedures and provisions to be applied in relation to the allocation and management of mineral permits granted under the CMA. It also sets out requirements for NZP&M's statutory obligations with iwi and hapū, including the matters that must be consulted on (such as specified permit applications) and the consultation principles.
- The Crown Minerals (Minerals other than Petroleum) Regulations 2007 [<http://mbie17.cwp.govt.nz/our-industry/rules-regulations/>] covers requirements and procedures for permit applications, permit changes applications, reporting to the Crown on prospecting and exploration and lodging core and samples with the Crown.
- The Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013 [<http://mbie17.cwp.govt.nz/our-industry/rules-regulations/>] covers royalties and royalty reports on mining permits. (Permits granted before these regulations fall under the minerals programme at the time). The Crown Minerals (Minerals Fees) Regulations 2006 covers fees payable under the Crown Minerals Act 1991 for Minerals and Coal.

When considering a permit application, NZP&M assesses an operator's technical and financial capability and compliance history. For larger (Tier 1) mineral permits we also undertake a preliminary, high level assessment of the operator's health, safety and environmental capability. NZP&M undertakes consultation with relevant iwi and hapū as part of the permit process. This can result in areas being removed from the proposed permit area or certain activities being subject to additional requirements.

It is important to note that NZP&M does not manage or regulate the environmental effects of minerals activities, or grant land access. For any onshore permits granted land access permission is required from the landowner/occupier. A “land access arrangement” is a requirement under the Crown Minerals Act, but it is a private contract between the permit holder and landowner/occupier. However, NZP&M does have joint responsibility for approving access arrangements on Crown-owned land for Tier 1 permits with other government agencies such as the Department of Conservation (DoC) or Land Information New Zealand (LINZ).

NZP&M also administers New Zealand's National Data Repository for minerals [<http://mbie17.cwp.govt.nz/maps-geoscience/core-store/>]. This is freely available exploration and production information, including data funded by the Government. New exploration results acquired by operators are regularly added and made public after 5 years or at the expiry of a permit. The repository is made up of an online database and the 2300m² National Core Store in Featherston, Wairarapa.

Territorial Authorities

The Resource Management Act 1991 (RMA) [<http://mbie17.cwp.govt.nz/our-industry/rules-regulations/>], and its amendments, is the central piece of legislation that controls the environmental effects of activities on land and in New Zealand's territorial sea (out to 12nm of the coast).

The Act is administered by the Ministry for the Environment (MfE) [<http://www.mfe.govt.nz/>] and is implemented by Local and Regional Councils. Local Councils (District or City Councils) focus on the environmental effects of land use activities and Regional Council's address air, water, the coast, pollution and discharges. Regional Councils have jurisdiction in the coastal marine area (out to 12nm offshore). The Act is designed to carefully weigh economic benefits against potential environmental impacts.

Resource consents are the main mechanism for implementing the RMA, and may be required for mineral operations depending on the activity taking place and the requirements of the relevant council(s) district or regional plans. Conditions may be attached to a resource consent to avoid, remedy or mitigate any adverse effects associated with the activity. The council would monitor compliance with conditions and carry out enforcement, if required.

Environmental Protection Authority (EPA)

The Environmental Protection Authority (EPA) [<http://www.epa.govt.nz/>] has three main roles that may relate to mineral activities. Under the RMA (onshore and out to 12nm off the coast), resource consents for Proposals of National Significance [<http://www.epa.govt.nz/about-us/what/Pages/nsp.aspx>] can be lodged with the EPA instead of through councils. This is particularly relevant to projects involving key infrastructure.

Under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act), which came into force in 2013, the EPA is responsible for managing the effects of “restricted” activities on the environment in the EEZ and New Zealand's continental shelf. For seabed mining, the EPA considers applications for marine consents (similar to resource consents), monitors compliance and carries out enforcement.

Like resource consents, conditions may be attached to a marine consent to avoid, remedy or mitigate any adverse effects associated with the activity. Discharge of harmful substances and dumping of waste is managed by the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Discharge and Dumping) Regulations 2015 administered by the EPA.

Department of Conservation (DoC)

New Zealand has a large Conservation Estate – making up about a third of the land mass – and a number of marine protected areas. A range of marine species are also protected in New Zealand – including a number of whales, native dolphins and the New Zealand Sea Lion.

The Department of Conservation (DOC) [<http://www.doc.govt.nz/>] is responsible for the conservation estate under the Conservation Act 1987, the Wildlife Act 1953 and Marine Mammals Protection Act 1978. Onshore permission is required from DOC, as the landowner, to carry out activities on conservation land.

Offshore there are six Marine Mammal Sanctuaries [<http://www.doc.govt.nz/nature/habitats/marine/other-marine-protection/>] around the New Zealand coast (within 12nm) which restrict certain mining activities. The sanctuaries have their own mandatory regulations, which can include prohibiting seabed mining in nearshore areas. There are also restrictions on seismic surveying designed to minimise the risk of harm to marine mammals.

Maritime New Zealand (MNZ)

Ships, including those used in seabed mining, need to comply with all applicable regulatory requirements under the Maritime Transport Act 1994 (MTA) and maritime and marine protection rules.

Offshore installations involved in seabed mineral activities are also subject to regulations under the MTA and associated marine protection rules. Requirements include an oil spill contingency plan (OSCP) to manage any accidental spills of (fuel) oil and a certificate of insurance for liability cover for any potential pollution damage that arises from its installations or operations.

The regulation of health and safety on seabed mining operations falls under the Health and Safety at Work 2015 (HSW Act). In this context, this Act is administered by both WorkSafe New Zealand (WorkSafe) [<http://worksafe.govt.nz/>] and Maritime New Zealand (MNZ) [<http://www.maritimenz.govt.nz/>]. MNZ administers the HSW Act aboard ships while WorkSafe has jurisdiction for any work related to seabed mining which is not on board a ship – for example, any diving operations carried out relating to seabed mining exploration.

WorkSafe New Zealand

Workplace safety is regulated by the Health and Safety at Work Act 2015, and associated regulations specific to the mining sector.

WorkSafe [<http://www.worksafe.govt.nz/worksafe/>] is New Zealand's workplace health and safety regulator – which was made a stand-alone Crown Entity with a sole focus on workplace health and safety in 2013. It has a specialist High Hazards Unit (HHU) [<http://www.worksafe.govt.nz/worksafe/about/what-we-do/high-hazards/>] that regulates petroleum, geothermal and minerals mining operations.

WorkSafe is responsible for the rules that ensure workers are kept safe – which includes that the risk of a mine failure is as low as reasonably practicable. WorkSafe must approve an operator's Principal Hazard Management Plan – which outlines any hazards and the systems to manage them.

There are also a range of requirements to ensure a mine is managed through its life cycle, including oversight of the design and construction of a mine. High hazards unit inspectors make onsite inspections over the life-cycle of a mining operation.

See the [Health and Safety factsheet \[http://mbie17.cwp.govt.nz/our-industry/factsheets/\]](http://mbie17.cwp.govt.nz/our-industry/factsheets/) for an overview of health and safety in extractive industries.

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