



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



Exposure draft of the Crown Minerals (Petroleum) Amendment Regulations 2022

Commentary and request for submissions

June 2022

How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by 5pm on **8 July 2022**.

Your submission may respond to any or all of these issues. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please include your contact details in the cover letter or e-mail accompanying your submission. You can make your submission by:

- sending a completed submission template to resource.markets.policy@mbie.govt.nz, or
- mailing your submission to:
Resource Markets team
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Please direct any questions that you have in relation to the submissions process to resource.markets.policy@mbie.govt.nz.

Use of information

The information provided in submissions will be used to inform MBIE's policy development process, and will inform advice to Ministers on petroleum sector information disclosure regulations. We may contact submitters directly if we require clarification of any matters in submissions.

Release of information

MBIE intends to upload PDF copies of submissions received to MBIE's website at www.mbie.govt.nz. MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

- indicate this on the front of the submission, with any confidential information clearly marked within the text
- provide a separate version excluding the relevant information for publication on our website.

Submissions remain subject to request under the Official Information Act 1982. Please set out clearly in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take

such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.

Private information

The Privacy Act 2020 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate in the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

Contents

How to have your say.....	2
Submissions process.....	2
Use of information	2
Release of information.....	2
Private information	3
Introduction	5
Purpose	5
Context	5
Overview of proposed regulations.....	6
Process and timeline	6
Proposed regulations and questions to consider.....	7
Field development plans	7
Asset registers	7
Decommissioning plans to be provided under Subpart 2 of the Amendment Act.....	8
Decommissioning cost estimates	9
Decommissioning completion reports	9
Monitoring financial position	10
Assessment of financial capability	11
Summary and next steps.....	11
Questions	12

Introduction

Purpose

The purpose of this consultation paper is to obtain stakeholders views on the proposed drafting of regulations to be made under the Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021 (the Amendment Act).

MBIE is seeking feedback on the accompanying draft regulations, to test the clarity of the drafting, obtain technical feedback, and ensure that the regulations can work as intended.

This document provides a commentary to assist submitters and asks questions to highlight areas on which we require feedback. Beyond these specific questions, we also welcome feedback any other aspects that may impact the implementation of the proposed regulations.

Context

Decommissioning, in the context of the Amendment Act, is the process of permanently taking petroleum mining infrastructure and wells out of service, which may include removing the infrastructure, plugging and abandoning wells, and restoring the site.

The Amendment Act, which came into effect in December 2021, strengthens the rules governing the petroleum sector's responsibility for decommissioning by introducing:

- a) a clear and consistent obligation on petroleum mining permit and licence holders to decommission;
- b) greater monitoring powers; and
- c) a requirement on petroleum mining permit and licence holders to obtain and maintain a financial security for decommissioning.

The Amendment Act provides for regulations to be made to specify the detail of new (decommissioning-related) technical and financial information requirements that apply to petroleum mining permit and licence holders. These regulations are intended to meet the following objectives:

1. the decision-maker has relevant, consistent, accurate and timely information to make decisions relating to decommissioning obligations under the Amendment Act and to monitor permit and licence holders' capability to discharge those obligations;
2. the regulator has relevant, consistent, accurate and timely information to monitor and enforce compliance with obligations under the Amendment Act;
3. permit and licence holders have certainty on the types of records and reports that they are obligated to maintain; and
4. the overall purpose of the Amendment Act is effectively met – to mitigate the risk to the Crown and other third parties of having to carry out and fund decommissioning.

In July 2021, MBIE released a [Discussion Document: Proposed regulations to support the Crown Minerals \(Decommissioning and other Matters\) Amendment Bill 2021](#). MBIE received 15 submissions on the proposed regulations, 10 from industry submitters and five from non-industry submitters. After taking into account submissions, in December 2021, Cabinet agreed on the content of the proposed regulations and instructed Parliamentary Counsel Office to draft them. You can read the Cabinet minutes, Regulatory Impact Statement and supporting information [here](#).

Overview of proposed regulations

We are proposing new information requirements to be prescribed by amending and adding to the reporting requirements presently in the Crown Minerals (Petroleum) Regulations 2007 (Petroleum Regulations).

The new regulations will specify:

1. Minimum information requirements for field development plans and asset registers to be submitted within specified times of an event;
2. Minimum information requirements and external verification for decommissioning plans to be provided under Subpart 2 of the Amendment Act within specified times of an event;
3. Minimum information requirements, minimum quality standards and external verification for decommissioning cost estimates to be submitted within specified times of an event;
4. Statement of completion and supporting information for decommissioning completion reports to be submitted within specified times of an event;
5. The annual disclosure of financial statements that are prepared in accordance with other enactments and other prescribed information to enable ongoing financial monitoring; and
6. Assessment of financial capability and minimum supporting information required to enable financial capability assessments.

The new regulations will be administered by the Ministry of Business, Innovation and Employment (MBIE).

Process and timeline

We welcome feedback by 5pm on **Friday 8 July 2022**.

After consultation on this document, we will analyse feedback, submissions and any other evidence before making recommendations on the final text for the regulations.

The proposed regulations are intended to come into force by 30 November **2022**.

Proposed regulations and questions to consider

The new regulations will be inserted within the Petroleum Regulations:

- after regulation 37 as a new Part 3A “Decommissioning information requirements”,
- as a new regulation 41A inserted after regulation 41,
- as an amendment to regulation 47 and Schedule 6, and
- as new Schedules 5A-5C.

Field development plans

The Amendment Act added new section 42B to the Crown Minerals Act 1991 (CMA), which relates to requirements for field development plans (FDPs). The new section requires updated FDPs to be submitted to the Chief Executive of MBIE (Chief Executive) throughout the life of the permit or licence.

FDPs detail how a permit or licence holder intends to develop a petroleum field over its life. For some mining permit and licence holders, ongoing FDP requirements are set out in permit or licence conditions. However, this is not the case for all permit and licence holders. Therefore, the regulator has FDPs for some permit and licence holders and not for others.

More regular and detailed updates from petroleum mining permit and licence holders are necessary for the Minister and the regulator to understand the nature of decommissioning and associated costs. The new regulations to be added to the Petroleum Regulations set out minimum information requirements for FDPs that substantially correspond to those in the existing Petroleum Regulations and require FDPs to be submitted to the Chief Executive within a specified time of certain prescribed events.

These requirements are covered in:

- 37B – Minimum information requirements for field development plans,
- 37C – Timing of submission of field development plans, and
- Schedule 5A – Minimum information requirements relating to field development plans.

Question 1:

- a) Is it clear and unambiguous within regulations 37B, 37C and Schedule 5A that FDPs should describe planned developments within a permit or licence area?
- b) Are the minimum information requirements for FDPs in Schedule 5A clear and unambiguous? If not, how could they be amended?
- c) Is regulation 37C clear and unambiguous regarding the times when FDPs should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation?
- d) Do you foresee any challenges in providing the information required in Schedule 5A within the timeframes specified in regulation 37C?

Asset registers

The Amendment Act added new section 89ZD to the CMA, which sets out asset register requirements. An asset register is a list of the petroleum infrastructure and wells in New Zealand that are subject to decommissioning requirements under Part 1B, subpart 2 of the Act.

This list can help the Minister and regulator understand the scope of decommissioning for a particular permit or licence and where responsibility for decommissioning specific wells or infrastructure lies. Petroleum mining permit and licence holders do not currently supply asset registers.

The new regulations to be added to the Petroleum Regulations set out minimum information requirements for asset registers, require asset registers to be submitted to the Chief Executive within a specified time of certain prescribed events and require updates on changes to assets listed in the asset register to be provided in annual reports.

These requirements are covered in:

- 37D – Minimum information requirements relating to asset registers,
- 37E – Timing of submission of asset registers,
- Schedule 5B – Minimum information requirements relating to asset registers
- A new requirement added to Schedule 6 to provide updates on changes to assets listed in the Assets Register in annual reports.

Question 2:

- a) Are the minimum information requirements for asset registers in Schedule 5B clear and unambiguous? If not, how could they be amended?
- b) Is regulation 37E clear and unambiguous regarding the times when asset registers should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation?
- c) Do you foresee any challenges in providing the information required in Schedule 5B within the timeframes specified in regulation 37E?

Decommissioning plans to be provided under Subpart 2 of the Amendment Act

The Amendment Act added new section 89ZB to the CMA, which sets out “Subpart 2 decommissioning plans” requirements.

A decommissioning plan should explain, for the petroleum infrastructure and wells listed in an asset register, the planned methodology for decommissioning, the proposed solution for each asset, and the timing of decommissioning, including any dependencies such as regulatory or other processes. Decommissioning plans are required for the Minister and regulator to conduct financial capability assessments and mitigate the risks associated with decommissioning.

The new regulations to be added to the Petroleum Regulations set out minimum information requirements for decommissioning plans, require the plans to be developed by or verified by an independent third party, and require the plans to be submitted to the Chief Executive within a specified time of prescribed events.

These requirements are covered in:

- 37F – Minimum information requirements relating to decommissioning plans,
- 37G – Review of draft decommissioning plan by competent independent person, and
- 37H – Timing of submission of decommissioning plans.

Question 3:

- a) Are the minimum information requirements for decommissioning plans in regulation 37F clear and unambiguous? If not, how could they be amended?
- b) Do you have any comments on the practical feasibility of appointing a competent and independent person to review the decommissioning plan as outlined in regulation 37G?
- c) Is regulation 37H clear and unambiguous regarding the times when decommissioning plans should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation?

Decommissioning cost estimates

The Amendment Act added new section 89ZC to the CMA, which sets out requirements for decommissioning cost estimates.

A decommissioning cost estimate, based on a decommissioning plan, will allow the Minister and the regulator to assess the level of financial resources required for a permit or license holder to decommission their petroleum infrastructure and wells.

The new regulations to be added to the Petroleum Regulations set out minimum information requirements, minimum quality standards and external verification requirements for decommissioning cost estimates. The requirements for decommissioning cost estimates are informed by international best practice from the United Kingdom and Norway along with industry experience. Assumptions and proposed contingency levels are particularly relevant as costs can vary in their accuracy when decommissioning is not imminent. Understanding the magnitude of potential variance would also be useful for the Minister and regulator to make better informed decisions under certain requirements in the Amendment Act such as setting the kind and amount of financial security for permit and licence holders.

These requirements are covered in:

- 37I – Minimum information requirements relating to decommissioning cost estimate,
- 37J – Standards to be met by decommissioning cost estimate,
- 37K – Review of decommissioning cost estimate by competent and independent person, and
- 37L – Timing of submission of decommissioning cost estimates.

Question 4:

- a) Are the minimum information requirements for decommissioning cost estimates in regulation 37I clear and unambiguous? If not, how could they be amended?
- b) Are the standards to be met in regulation 37J accessible?
- c) Do you have any comments on the practical feasibility of appointing a competent and independent person to review the decommissioning cost estimate as outlined in regulation 37K?
- d) Is regulation 37L clear and unambiguous regarding the times when decommissioning cost estimates should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation?

Decommissioning completion reports

The Amendment Act added new section 89ZE to the CMA, which sets out requirements for decommissioning completion reports.

Decommissioning completion reports will serve as a record for the regulator of how decommissioning was undertaken, what assets remain in the field and their status, particularly if intervention is required in the future.

The new regulations to be added to the Petroleum Regulations will require a statement of completion and supporting information to be submitted within specified times of an event. New information requirements will also be added as an amendment to existing regulations relating to well abandonment reports.

These requirements are covered in:

- 37M – Minimum information requirements for decommissioning completion report and supporting information, etc.
- 47 – New requirements added as an amendment to existing regulations relating to well abandonment reports.

Question 5:

- a) Are the minimum information requirements for the decommissioning completion report and supporting information as outlined in regulation 37M clear, unambiguous and practicable? If not, how could they be amended?
- b) Are the new requirements in regulation 47 relating to well abandonment reports clear and unambiguous? Specifically, in 47(2)(d)(v) and (vi), is it clear what a “description of fluid” entails? If not, how could it be made clearer?

Monitoring financial position

The Amendment Act added new section 89ZF to the CMA, which sets out requirements relating to monitoring the financial position of petroleum permit or licence holders.

Ongoing light-touch financial monitoring would be used to determine whether a full financial capability assessment is necessary. Effective ongoing monitoring will help to ensure financial capability assessments are not carried out more frequently than reasonably necessary.

The new regulations to be added to the Petroleum Regulations will require permit and licence participants or their parent company to disclose financial statements that they are already required to prepare under the Financial Reporting Act 2013.¹ If the permit or licence participant is not required to prepare financial statements under the Financial Reporting Act, they will be required to submit financial statements as provided for under the Tax Administration (Financial Statements) Order 2014.

The regulations also require the disclosure of certain information where this information is not disclosed in a financial statement. This information must be disclosed in respect to a permit or license participant’s New Zealand and overseas operations (with the exception of the cumulative amount of company tax paid in New Zealand, that would be eligible for a decommissioning tax credit in the future).

These requirements are covered in:

- 41A Additional financial information

¹ Note that the proposed regulations originally agreed to by Cabinet referred to the Companies Act 1993 rather than the Financial Reporting Act 2013. We are now proposing to reference the Financial Reporting Act 2013 as it contains the core financial reporting obligations that other Acts reference (such as the Companies Act and Financial Markets Conduct Act).

- Schedule 5C – Information requirements for monitoring of financial position.

Question 6:

- a) Are the information requirements for monitoring of financial position as outlined in regulation 41A and Schedule 5C clear and unambiguous? If not, how could they be amended?
- b) Is the timing for submission the specified financial information clear and unambiguous from regulation 41A? If you are a permit or license holder, assuming the regulations come into force by the end of 2022, by which date do you understand this information would need to be provided?

Assessment of financial capability

The Amendment Act added new section 89ZK to the CMA, which sets out requirements for information relating to financial capability assessments.

Financial capability assessments will allow the Minister and the regulator to proactively and periodically assess whether a permit or licence holder will be able to carry out and meet the costs of decommissioning. The outcome of this assessment can be considered when setting the kind and amount of financial security requirements for petroleum licence and permit holders, as required in the Amendment Act.

The Minister will carry out an initial financial capability assessment for all permit and licence holders within a certain period after the regulations have been made. Thereafter, the Minister can take a risk-based approach to assessing financial capability.

The new regulations to be added to the Petroleum Regulations will set out requirements for an assessment of financial capability and minimum supporting information. This information must be disclosed in respect to a permit or license participant's New Zealand and overseas operations.

Instead of prescribing times that this information must be provided to the Minister, this information must be provided at times specified in a request. This aligns with the risk-based approach to setting financial securities.

These requirements are covered in:

- 37N Minimum information requirements for assessment of financial capability and supporting information.

Question 7:

Are the information requirements for the assessment of financial capability and supporting information, as outlined in regulation 37N, clear and unambiguous? If not, how could they be amended?

Summary and next steps

We welcome your feedback on the proposed regulations to be added to the Petroleum Regulations under the Amendment Act, which specify the detail of new (decommissioning-related) technical and financial information requirements that apply to petroleum mining permit and licence holders.

These new regulations will require petroleum mining permit and licence holders to supply the government with Field Development Plans, Asset Registers, Decommissioning Plans, Decommissioning Cost Estimates, regular financial statements, and Financial Capability Assessments. Together, the information provided will create certainty, predictability, and enable the government to make better informed decisions under certain requirements in the Amendment Act such as setting the kind and amount of financial security for permit and licence holders.

Questions

Please review the appended draft regulations and refer to the list of questions below which highlight areas on which we require feedback:

1.	<ul style="list-style-type: none"> a) Is it clear and unambiguous within regulations 37B, 37C and Schedule 5A that FDPs should describe planned developments within a permit or licence area? b) Are the minimum information requirements for field development plans in Schedule 5A clear and unambiguous? If not, how could they be amended? c) Is regulation 37C clear and unambiguous regarding the times when field development plans should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation? d) Do you foresee any challenges in providing the information required in Schedule 5A within the timeframes specified in regulation 37C?
2.	<ul style="list-style-type: none"> a) Are the minimum information requirements for asset registers in Schedule 5B clear and unambiguous? If not, how could they be amended? b) Is regulation 37E clear and unambiguous regarding the times when asset registers should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation? c) Do you foresee any challenges in providing the information required in Schedule 5B within the timeframes specified in regulation 37E?
3.	<ul style="list-style-type: none"> a) Are the minimum information requirements for decommissioning plans in regulation 37F clear and unambiguous? If not, how could they be amended? b) Do you have any comments on the practical feasibility of appointing a competent and independent person to review the decommissioning plan as outlined in regulation 37G? c) Is regulation 37H clear and unambiguous regarding the times when decommissioning plans should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation?
4.	<ul style="list-style-type: none"> a) Are the minimum information requirements for decommissioning cost estimates in regulation 37I clear and unambiguous? If not, how could they be amended? b) Are the standards to be met in regulation 37J accessible? c) Do you have any comments on the practical feasibility of appointing a competent and independent person to review the decommissioning plan as outlined in regulation 37K?

	d) Is regulation 37L clear and unambiguous regarding the times when decommissioning cost estimates should be submitted to the Chief Executive? If not, what additional detail should be added to the regulation?
5.	<p>a) Are the minimum information requirements for the decommissioning completion report and supporting information as outlined in regulation 37M clear, unambiguous and practicable? If not, how could they be amended?</p> <p>b) Are the new requirements in regulation 47 relating to well abandonment reports clear and unambiguous? Specifically, in 47(2)(d)(v) and (vi), is it clear what a “description of fluid” entails? If not, how could it be made clearer?</p>
6.	<p>a) Are the information requirements for monitoring of financial position as outlined in regulation 41A and Schedule 5C clear and unambiguous? If not, how could they be amended?</p> <p>b) Is the timing for submission the specified financial information clear and unambiguous from regulation 41A? If you are a permit or license holder, assuming the regulations come into force by the end of 2022, by which date do you understand this information would need to be provided?</p>
7.	Are the information requirements for the assessment of financial capability and supporting information, as outlined in regulation 37N, clear and unambiguous? If not, how could they be amended?

Please provide your feedback to MBIE in written format as detailed on page 1 of this document, by **8 July 2022**.