

WILL I NEED A RESOURCE CONSENT?

If the NES regulations apply to your land, resource consent is not required providing certain requirements are met.

As a guide, the following examples are the types of things that need to be complied with:

- » demonstrating to your council that it is highly unlikely that there will be a risk to human health given the intended **subdivision or proposed new use** (note soil samples are not necessarily required for this)
- » ensuring earthworks do not expose people to contaminated soil and that all contaminated soil is taken to an approved facility when the activity involves **disturbing soil (earthworks)**
- » ensuring works associated with the **removal or replacing of an underground fuel storage system** have been done in accordance with the industry guideline.

If you cannot meet the requirements of a permitted activity you will need to apply for a resource consent. Your application must include a report of the results of a detailed site investigation, including the results of soil sampling.

FURTHER INFORMATION

For more detailed information visit the Ministry for the Environment website

<http://www.mfe.govt.nz/laws/standards/contaminants-in-soil/>

or email standards@mfe.govt.nz.

Your council's environmental health officer can provide more information if you wish to discuss the requirements of the NES.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

Information for landowners and developers



WHAT THE NES MEANS FOR LANDOWNERS AND DEVELOPERS

If you own land and want to subdivide or change the use of that land, you need to know about the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

An environmental standard (under the Resource Management Act 1991) came into force on 1 January 2012. This standard means that if your land is, or has been, used for a hazardous activity or industry and you want to subdivide or change the use of the land, or disturb the soil, or remove or replace a fuel storage system, you will need to comply with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES).

City and district councils, and unitary authorities, are responsible for checking compliance with the standard. Failing to comply with the NES may result in the council taking enforcement action against you.

Five activities are controlled by the regulations in the NES if they are undertaken on specified 'at-risk' land. Depending on the level of exposure people may have to any contaminants present, the activity may be allowed as a permitted activity, or will require a resource consent. To find out if the regulations apply to you, first check if your land is specified, then check if the activity you want to do is one of the five activities.

IS MY LAND COVERED BY THE NES?

The regulations **apply** to your land if it is used, or has been used, or is more likely than not to have been used, for one of 53 specified hazardous activities or industries, such as petrol stations, orchards, sheep dips, engineering workshops, and mining. These activities and industries, listed on the Hazardous Activities and Industries List (HAIL), are considered likely to cause land contamination.

How do I find out if my land is HAIL land?

- » You can check the Hazardous Activities or Industries List (HAIL) on the Ministry for the Environment's website (www.mfe.govt.nz/hail) or visit your local council.
- » If you suspect a HAIL activity or industry has been carried out on your land you can ask the council for records they have about its land-use history. You could also seek information from past property owners or neighbours.
- » Alternatively, you can engage a suitably qualified and experienced practitioner to make a professional assessment of the likelihood of contamination. This person would undertake a preliminary site investigation to establish the land-use history.

IS MY ACTIVITY COVERED BY THE NES?

The regulations **apply** if your land is covered **and** you want to carry out any of the following activities:

- » remove or replace an underground fuel storage system or any of its parts
- » sample the soil to determine contamination
- » disturb the soil (earthworks)
- » subdivide the land (see exception below)
- » change the use of the land.

The regulations **do not apply** to:

- » existing uses (including consented activities before 1 January 2012) on HAIL land
- » subdivision of production land that does not stop being production land
- » sampling or disturbing soil on production land such as an orchard or market garden that is also HAIL land, unless the activity is near the house or involves removing or replacing a fuel storage system
- » land where a detailed site investigation exists and shows that contaminants in the soil are at or below background concentrations
- » changing the use of HAIL land to a use that is not reasonably likely to harm human health
- » land within your property that was not used for any purpose described on the HAIL. That is, the regulations only apply to the actual area that is HAIL land.