



CROWN MINERALS ACT 1991
MINERALS PROGRAMME FOR MINERALS (EXCLUDING PETROLEUM) 2013
CROWN MINERALS (MINERALS OTHER THAN PETROLEUM) REGULATIONS 2007

Enforcement under the Crown Minerals Act 1991

NZP&M ensures that the Crown Minerals Act 1991 (the “Act”), regulations and the conditions of permits are being complied with and, where appropriate, undertakes enforcement action.

Compliance activities include reviewing reports submitted by permit holders, undertaking site inspections to monitor conformity with the conditions of permits, auditing royalty records, and investigating complaints about mineral activities that may contravene the Act, such as illegal mining.

Non-compliance or contravention of the Act, regulations or permit conditions may lead to enforcement action.

PURPOSE

This guideline explains the concept of enforcement under the Crown Minerals Act, a circumstance that is only reached when a permit holder is non-compliant with their legal obligations. Work Programme compliance is covered in a separate guideline.

ENFORCEMENT OFFICERS

Enforcement Officers are appointed specifically by the Chief Executive (of the Ministry of Business, Innovation and Employment) to undertake enforcement and compliance work. There is no legal connection to the legislative powers of WorkSafe New Zealand or local government inspectors.

NZP&M Enforcement Officers are provided with a warrant of authorisation which sets out the functions and powers the particular person has been given. The holder is obliged to carry the warrant when exercising any function or power, and to produce it together with evidence of identity if required to do so, for example when exercising the power to enter private land.

Enforcement Officers have wide ranging powers. The Act provides that an Enforcement Officer may at all reasonable times enter any place or structure, except a dwelling house or marae¹, to determine whether a permit, the Act or the regulations are being complied with. An Enforcement Officer

¹ A search warrant is required to enter a dwelling house or a marae.

may be accompanied by any person reasonably necessary to assist with the inspection.

Wilful obstruction of an Enforcement Officer executing any of these powers is an offence under the Act. The maximum penalty is a fine of \$3000.

INDEPENDENT AUDITORS

Sections 99E of the Act provides that the Chief Executive may appoint an independent auditor to carry out an audit of records, kept by or on behalf of the Chief Executive or a permit holder, for the purpose of obtaining:

- › information about the calculation of mineral resources
- › the calculation and payment of royalties or fees, or
- › compliance with any requirement to keep or provide records or other information.

ENFORCEMENT OPTIONS

Persuasion

Generally, NZP&M prefers education and persuasion to encourage voluntary compliance over other enforcement strategies as it is often a more effective use of its resources. This can take the form of explanatory letters or on site meetings to provide an opportunity for voluntary compliance. However, in the event that persuasion fails (either because of continued



non-compliance or repeat occurrences of non-compliance) NZP&M has the option of escalating enforcement action to either revocation or prosecution.

Revocation

Section 39 of the Act provides that the Minister may revoke or transfer a permit to the Minister if:

- (a) the Minister is satisfied a permit holder has breached a condition of the permit, or a condition imposed by the Act or the regulations; or
- (b) payment of money to the Crown under the permit or the Act (such as fees or royalties) has not been made 90 days after the due date for the payment.

The Act sets out a process whereby the Minister must serve on the permit holder written notice of his or her intention to revoke or transfer the permit.

Permit revocation is a serious matter, and will be taken into account in consideration of future permit applications by that person, company or related company.

Prosecution

Offences under the Act include:

- › Prospecting, exploring or mining for Crown-owned minerals without a permit. This is an offence punishable on conviction by a fine of up to \$400,000 and up to two years in prison. If the offence continues, a further fine may be imposed of up to \$20,000 for every day the offence continues.
- › Failing to comply with the conditions of a permit or the Act, or contravening the conditions of an access arrangement. On conviction, this may result in a fine up to \$20,000 and if the offence continues, a further fine of up to \$2,000 per day may be imposed.
- › Knowingly providing altered, false, incomplete or misleading information in respect of a matter under the Act. On conviction a person is liable to a fine not exceeding \$800,000.

Interference

Interference offences were introduced in 2013 to strike a balance between the right to protest and a permit holder's right to operate in New Zealand's marine environment. It is an offence to unlawfully interfere with a structure, ship or equipment used in offshore exploration or mining. These requirements are enforced in association with NZ Police and NZ Defence Force. The maximum penalty for this offence is up to 12 months imprisonment or a fine of up to \$50,000 for an individual or \$100,000 for a company or organisation.

Additionally, protestors are required to keep outside of a specified non-interference zone. Unauthorised entry into the zone is punishable by a fine of up to \$10,000. It is unnecessary to prove that the person intended to commit the offence in order to gain a successful prosecution.

Interest on unpaid money

If a permit holder does not fully pay, by the due date, all fees and other money payable by the holder to the Crown, the Chief Executive may make a written demand under section 99J of the Act for the payment of interest on the part of the original amount that remains unpaid.

ILLEGAL MINING

Mining for Crown-owned minerals without a mining permit is an offence under the Act. Exceptions include mining for gold using hand-held methods in designated gold fossicking areas, and mining minerals in land which a person owns for any reasonable pastoral or domestic purpose on that land.

NZP&M's response to any report of illegal mining will depend on the nature and location of the incident, and the veracity and reliability of information provided, and may include:

- › contacting the alleged offender by phone, letter or email to direct that mining operations cease immediately and that equipment be removed from the land; or
- › a site inspection by NZP&M Enforcement Officers to investigate the incident; or
- › engaging the assistance of other regulatory agencies with regional presence, such as the Department of Conservation, WorkSafe New Zealand, or local authority, to investigate the incident and report back to NZP&M.

NZP&M takes illegal mining very seriously. NZP&M will conduct investigations with the intent to prosecute. Whether or not a prosecution is pursued will depend on a number of factors, including the nature and duration of the offence, any known previous offending, the location and impact of the activity, the level of cooperation and remorse shown by the alleged offender, and whether the public interest would be served by taking a prosecution in the particular instance.

CONTACT NZP&M

Illegal mining can be reported to NZP&M by email, phone or mail.

Email: nzpam@mbie.govt.nz

Phone: 0508 263 782

Postal address: New Zealand Petroleum & Minerals
PO Box 1473
Wellington 6140
New Zealand

Street address: 15 Stout Street
Wellington 6011
New Zealand

Disclaimer

This document is a guideline only and is not intended to cover every possible situation. If this guideline is inconsistent with the Act, relevant Minerals Programme or relevant regulations, the Act, Programme and regulations prevail. This guideline has no binding legal effect and should not be used as a substitute for obtaining independent legal advice.

New Zealand Petroleum and Minerals (NZP&M) is not responsible for the results of any action taken on the basis of information in this guideline, or for any errors or omissions in this guideline. NZP&M may vary this guideline at any time without notice.

There may be factors taken into account in any application process, transaction or decision that are not covered by this or any other guideline. Adherence to this guideline does not guarantee a particular outcome. NZP&M retains the discretion to decline any application where the statutory requirements for that application are not met.



**NEW ZEALAND
PETROLEUM & MINERALS**

www.nzpam.govt.nz
nzpam@mbie.govt.nz

PO Box 1473, Wellington 6140,
New Zealand

FREEPHONE (WITHIN NEW ZEALAND): 0508 263 782
INTERNATIONAL CALLS: +64 3 962 6179 FAX: +64 4 471 0187

NZP&M is a division of the Ministry of Business, Innovation and Employment. We lead and actively manage New Zealand's petroleum and minerals portfolio ensuring the country's economic interests and assets are comprehensively protected. Our goal is to use our wider understanding of the energy and resources sector to increase national and regional prosperity via petroleum and minerals exploration and production.

As a government agency, we engage with Councils, iwi and communities about petroleum and minerals development and regulation of the industry. We manage compliance and revenue collection on behalf of the Crown and aim to maximise the return that these important industries deliver for the benefit of all New Zealanders.

We report to the New Zealand public through the Minister of Energy and Resources.