



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

# Guidance on work programme compliance

In return for rights to Crown minerals, permit holders must meet a range of obligations: payment of fees and royalties, Annual Summary Reporting under regulation, adherence to good industry practice, and carrying out an agreed work programme.

Work programme compliance for prospecting, exploration and mining permits is fundamental to the interaction between permit holders as commercial operators and NZP&M as resource owners on behalf of the Crown.

Managing work programme compliance and processing changes to work programmes to avoid non-compliance are a large part of the permit management workload for NZP&M.

## PURPOSE

This guideline explains how NZP&M administers work programme compliance in accordance with the requirements of the legislation.

This guideline should be read in conjunction with the companion guidelines on work programme design and technical reporting.

## LEGISLATIVE CONTEXT

Section 23 of the Crown Minerals Act 1991 (“The Act”) outlines the purpose of each type of permit. Chapters 8, 9 and 10 of the Minerals Programme for Minerals (Excluding Petroleum) 2013 (the “Minerals Programme”) detail the expectations of permit work programmes.

Section 33 of the Act requires a permit holder to comply with the conditions of the permit and perform activities under the permit in accordance with good industry practice. Section 43 requires that a work programme be approved before a subsequent permit can be granted. The work programme becomes a set of conditions in the permit document.

Chapter 11 of the Minerals Programme covers many of the general obligations of permit holders throughout the life of a permit, including complying with permit conditions and work programme obligations, Annual Summary Reporting, technical reporting, resource and reserves reporting and attending Annual Review Meetings (for Tier 1 permits).

## APPLICABLE GUIDELINES

### General

#### Compliance with work programmes

Work programmes are proposed by permit holders as part of their application. In general, NZP&M does not require detailed, prescriptive work programmes. Each stage of a work programme should have an outcome that is based on activities to support that outcome. The simpler work programmes are, the fewer compliance problems there are.

Work programme compliance is primarily guided by outcomes and is not intended to be overly prescriptive. However, work programmes are minimum activities and NZP&M expects that those agreed and set out in the permit conditions are carried out. This should be considered when minimum work programmes are proposed. However, competitive permit allocation (NAA or public tender) are effectively work programme bids, so there is some tension between minimum work programmes and competitive bids.

#### Compliance with reporting requirements

All reports created in relation to work programme activities in prospecting, exploration and mining permits must be submitted to NZP&M, either under regulation 33 or under specific permit work programme conditions.

Compliance with reporting requirements is an important transaction with NZP&M and is explained further under prospecting and exploration permits below.



## Data submission standards

Compliance will also be carried out on the data resulting from the work programme activity. Data should be submitted according to the Mineral and Coal Digital Data Submission Standards 2011, available on the NZP&M website [www.nzpam.govt.nz](http://www.nzpam.govt.nz).

## Recording of non-compliance

NZP&M's permit management system holds the compliance record of a permit and the compliance history of permit holders across their portfolio of current and past permits. If work programme activities are not completed, and no change of conditions has been granted, the permit holder will be non-compliant for that activity. Non-compliance is recorded on a scale of seriousness, and is cumulative. Permit holders can view their compliance records through the online permitting system.

## Good industry practice

Work programme compliance, including on general work programme obligations such as completion of mining feasibility studies, will be judged against good industry practice. As well as compliance with the conditions, this has a bearing on whether a level of resource delineation has been reached that will support an application for a subsequent permit. It is in a permit holder's interest to consider this in work programme proposals<sup>1</sup>.

## NZP&M discretion

NZP&M has some discretion in determining the level of non-compliance. For example lateness of work programme activities being carried out, or lateness of reporting on them, is at a lower level of non-compliance than failure to complete the activity or provide a report to NZP&M. Non-compliance is cumulative and may result in decline of applications for new permits or revocation of an existing permit.

Work programme obligations are based on individual permits. Where several permits cover the same resource body, their boundaries may be an arbitrary fit to a resource and its development potential. The legislation does not directly allow work programme trade-offs between permits, which can result in compliance difficulties when company priorities change. There are opportunities for work programme rationalisation through changes of conditions, extensions of land and permit amalgamations.

There is some discretion possible on compliance trade-offs between different obligations for a single permit providing the outcome of the overall work programme is not compromised. There is also some discretion if the outcome of a work programme stage is met without all activities on the work programme being fully completed. Work programme conditions not met result in non-compliance being recorded against the activity.

There is no discretion to use funding constraints, economic downturns or changes to commodity prices to excuse non-compliance.

## Change of conditions to avoid non-compliance

Changes of conditions can be applied for to avoid non-compliance. The considerations for a change of conditions are set out in clause 12.1 and 12.2 of the Minerals Programme. Applications for changes of conditions must be received 90 days prior to the specified date of an obligation unless compelling reasons exist.

A change in work programme conditions should not compromise the overall outcome of the work programme's objectives or make it materially weaker. However, extenuating circumstances may mean that an exploration objective is compromised, such as when land access is denied despite all endeavours.

## Prospecting and exploration permits

### Staged work programmes

Work programmes for prospecting and exploration permits must have staged obligations that are measurable and time bound. The stages should have defined outcomes with activities that will enable the permit holder to meet the outcome of the stage and ultimately the objective of the permit.

Exploration permits generally contain a three-year and a two-year stage, in no particular order, intended to reduce compliance transactions. This work programme structure differs from the previous detailed, year-by-year work programme obligations. Permit holders are required to complete the prescribed minimum work programme obligations by the end of each stage. Annual Review Meetings (for Tier 1 permits) are intended to monitor progress on work programme obligations and deal with compliance issues early before the obligations become due at the end of the work programme stage.

### Work programme compliance

When assessing compliance with work programme conditions, NZP&M will consider whether:

- › individual work programme obligations have been completed
- › the work has been completed within the timeframe specified in the work programme. The quality of reporting cannot be assessed as being in compliance until the reporting has been lodged and reviewed
- › the work completed meets the intended outcome of the minimum work programme. Whether only 1000 m of drilling was done to meet a work programme obligation to drill 1200 m is less important than whether the objective of the drilling was met
- › the work has been carried out to a reasonable standard and in accordance with good industry practice.

Note that work programme reports are usually due 40 working days after an activity is due to have been completed or a condition met. This cannot be determined until the reports have been received and reviewed.

<sup>1</sup> See the guideline on Work Programme design.

## Compliance with reporting requirements

When assessing compliance with reporting requirements, NZP&M will consider whether:

- › reporting on the work undertaken (usually in technical reports for exploration and prospecting permits) has been submitted by the due date
- › data was provided in accordance with the data submission standards
- › reports meet reasonable standards of good industry practice<sup>2</sup>
- › reports are complete (regulation 34).

Note that reports and data are usually due 40 working days after the end of each stage of the work programme but at the end of the permit year under regulation 33. If reporting is required by the work programme conditions, it should be submitted by the due date. All other reports curated during a calendar year should be submitted at the end of the calendar year.<sup>3</sup>

For some work programme activities it is appropriate to report bare data and results. At the end of a defined stage, NZP&M interprets these requirements to mean that reporting should not only provide data and results but also include interpretations of data.

## Good industry practice for prospecting and exploration permit obligations

A permit holder is required to complete the activities specified in the work programme in accordance with good industry practice under section 33 of the Act. Prospecting, exploration and appraisal activities should be conducted to ensure that good quality, objective data is acquired, within reasonable technical and economic constraints.

Although it is not a matter for work programme compliance, permit holders should bear in mind that sufficient data should be obtained from work programmes to enable appropriate resource estimates and mining studies. This information will be needed to support subsequent applications for appraisal extensions or mining permits.

## Mining Permits

### Mining permit work programmes

Work programmes for mining permits centre on production rather than staged activities. The work programme is primarily mining itself, and the key consideration is assurance that this will economically deplete the mineable resource to the maximum extent practicable in accordance with good industry practice. Mining permit work programmes can include exploration, feasibility and design studies.

## Work programme compliance

NZP&M's main insights into mining permit activities are through Annual Summary Reports<sup>4</sup>, Annual Review Meetings (for Tier 1 permits) and site visits. Information acquired by NZP&M through these means will be assessed against a mining permit's work programme and general conditions. NZP&M will consider whether a permit holder is complying with their work programme and whether the mining operation is being carried out in accordance with good industry practice.

## Start dates for mining

In general, mining operations will be expected to start as soon as possible on the permit unless otherwise specified in the permit's work programme conditions. Most mining permit work programmes have a specified date by which mining must commence. The obligation is also to ensure a permit holder is not "holding ground" unproductively.

If a permit holder has legitimate grounds for mining not commencing within the specified timeframe on the permit,<sup>5</sup> a change of conditions should be applied for. Alternatively the permit holder should apply to amend the commencement date of the permit under section 35(9) if applicable.

Not commencing mining on a mining permit is considered to be non-compliance and extended delay of start-up can lead to permit revocation.

## Minimum production

Most mining permits will have an annual minimum production obligation. This is to ensure that there is a return to the Crown from the right to mine its resources. If resource depletion or other technical issues arise that constrain production, a change of conditions should be applied for with a proposed new work programme that has the objective of bringing the permit back into production in a timely manner. The Act does not accommodate economic or funding constraints.

If there is no intention to mine, the permit should be surrendered under section 40 of the Act.

## Exploration in mining permits

Permit holders are also required to provide reports to NZP&M on all prospecting and exploration completed in a mining permit. This includes any additional drilling to delineate the extent of the deposit and any additional feasibility studies. Although usually not specifically stated in a mining permit work programme, providing these reports and records is a requirement under regulation 33 for all permit holders. These reports and records are required 40 working days following the commencement of each permit year.

<sup>2</sup> See guideline on good industry practice.

<sup>3</sup> See guideline on technical reporting for further explanation of regulation 33.

<sup>4</sup> See guideline for preparing Annual Summary Reports.

<sup>5</sup> See part 12.2 of the Minerals Programme.

To avoid doubt about the reports which should be submitted, all reports produced in relation to work programme activities in Tier 1 permits must be listed in the Annual Summary Report. If there are reports on that list that have not been submitted under work programme reporting or separately under regulation 33, NZP&M may request them under section 90 of the Act.

### Good industry practice for mining permit work programmes

Compliance with mining permit work programmes will be assessed against good industry practice. Annual summary reports (including submission of mine plans, production reporting, and resource and reserve reporting), Annual Review Meetings and site visits are important aspects of considering compliance with good industry practice. The technical approach an applicant originally proposed in a permit application is also considered.

Mining operations need to be conducted in a way to maximise economic recovery of the mineral being mined and minimise sterilisation and waste. Sterilisation can occur during a mining operation due to economic and/or technical constraints that may not be avoidable. High-grading or sterilisation of a mineral deposit that would otherwise be economic to mine is contrary to good industry practice and is likely to trigger compliance action.

Good industry practice includes management of operational risks, including health and safety risk. NZP&M works closely with WorkSafe NZ in this area of compliance.

### 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.

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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.