

Operational Policy

Minerals and Energy Resources Compliance Policy

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22 January 2020
Version 1.02

Purpose

The Georesources division, within the Department of Natural Resources, Mines and Energy (the department) is responsible for administering the legislation associated with promoting and regulating access to mineral and energy resources in Queensland. The department ensures that resource authority holders uphold their statutory commitment associated with access to these resource rights. This includes ensuring appropriate resource utilisation, economic return to the State and co-existence with other land users and communities.

The purpose of this policy is to outline the principles and practices that underpin our compliance and enforcement activities and actions. These activities are a critical part of ensuring the objectives of the resources legislation are upheld.

The information provided in this policy does not override legislative requirements. Any changes to requirements will be published through a revised version of this policy.

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

Resources Legislation

The department administers a number of resources Acts (collectively referred to as the resources legislation) and corresponding regulations, including:

- Fossicking Act 1994
- Geothermal Energy Act 2010
- Greenhouse Gas Storage Act 2009
- Mineral and Energy Resources (Common Provisions) Act 2014
- Mineral Resources Act 1989
- Petroleum Act 1923
- Petroleum and Gas (Production and Safety) Act 2004

The Acts and supporting regulations are available online from the Office of Queensland Parliamentary Counsel [website](#).

This policy should be read in conjunction with the department's administrative compliance tools and other relevant operational policies and guidance materials on the Business Queensland [website](#)

Objectives

The Georesources division's objective is to assist the department to deliver against the strategic objective of "*managing Queensland's land, water, mineral and energy resources to optimise sustainable development outcomes*" by ensuring:

- The resources sector has the support, guidance and information necessary to meet their statutory commitments;
- Industry's on-ground performance is compliant with regulatory framework and that the resource sector continues to build upon their social licence to operate in resource impacted communities;
- Industry and community have confidence in regulatory framework and trust in the department to enforce the regulation; and
- Decision-making is consistent, transparent and defensible.

Regulatory Values

In all compliance activities and decision making under the resources legislation, we will uphold the following values:

Outcomes and risk-based	We apply our resources to the areas of greatest risk and community concern and to the activities that will achieve the best public policy outcomes in administering the resources legislation
Transparency	All stakeholders must have a clear understanding of what to expect from the department, and what the department expects of them. To achieve this we will communicate on these matters with integrity and clarity
Consistency	We will apply a consistent approach to regulation and compliance, whilst ensuring appropriate flexibility to adapt to unique circumstances
Independence	We will act with impartiality and without fear or favour
Accountability	We will take responsibility for our role in Queensland's resources legislative framework
Proportionality	Our compliance and enforcement decisions will be proportionate to the conduct, having regard to the level of risk, extent of wrongdoing and the attitude of the wrong doer
Fairness	In exercising our regulator powers, we will afford persons and organisations procedural fairness

Compliance Principles and Practice

Context

As demonstrated in Figure 1 below, most of the time, most people try to do the right thing, but sometimes a small minority may do things that are inconsistent with, or contravene, legislative requirements.

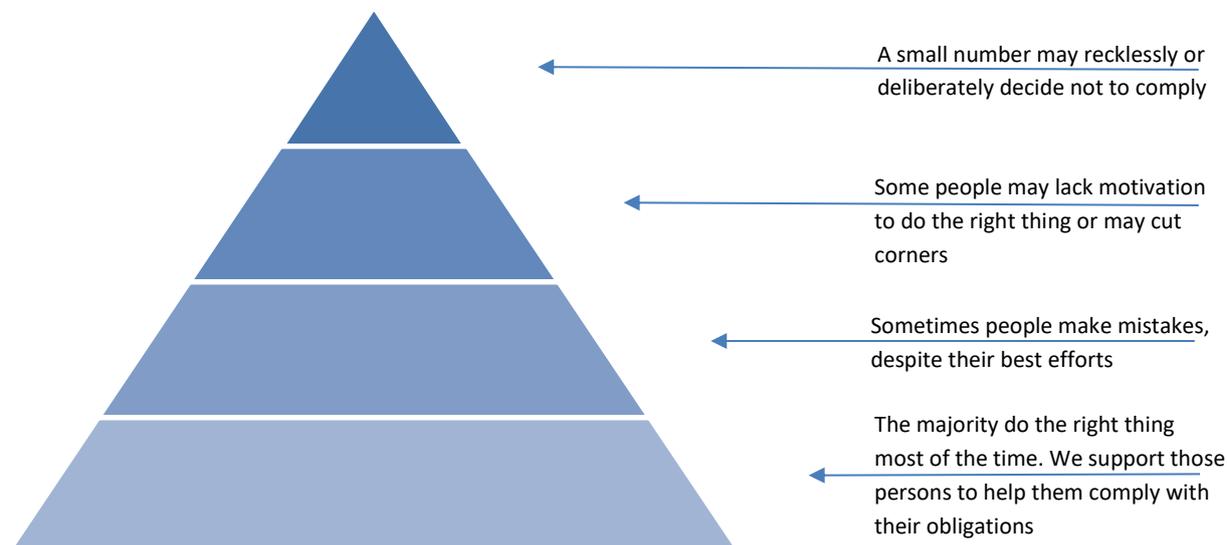


Figure 1: Compliance Attitudes and Behaviours

Principles

We achieve our regulatory objective through compliance action that is systems-focussed and proportionate to the risk and/or circumstances. When considering the compliance action that may be taken, regard is given, but not limited to:

- the nature of the particular risk;
- whether the noncompliance is systematic and/or recurrent; and
- the nature of the noncompliance, considering evidence of:
 - resistance or disregard to resources regulation;
 - the capacity of the obligation-holder; and
 - the extent to which the noncompliance was deliberate, reckless or accidental.

When assessing an alleged noncompliance, these principles are considered in determining an effective and appropriate regulatory response. The interplay of these principles with enforcement responses is demonstrated in Figure 2, below.

There are broad characteristics of different noncompliance and enforcement action that may be taken in any given case against either individuals or corporations. Actions may be taken for one, or a combination of, the following reasons:

Education: Actions may be taken to ensure relevant parties have the information, advice and support to achieve compliance in their activities and operations. We also strive to increase awareness and provide information about resource authorities across stakeholder groups, with a view to improve performance;

Corrective: In some cases, we take action to remedy or correct noncompliance in situations where noncompliance with a resource authority is minor or administrative in nature;

Deterrent: we take action to deter future noncompliant activities and to incentivise behaviour compliant with the resources legislation; and

Punitive: Where it is in the public interest, we will pursue punitive action in respect of recurrent, recalcitrant or flagrant noncompliance, including prosecutorial or other punitive action.

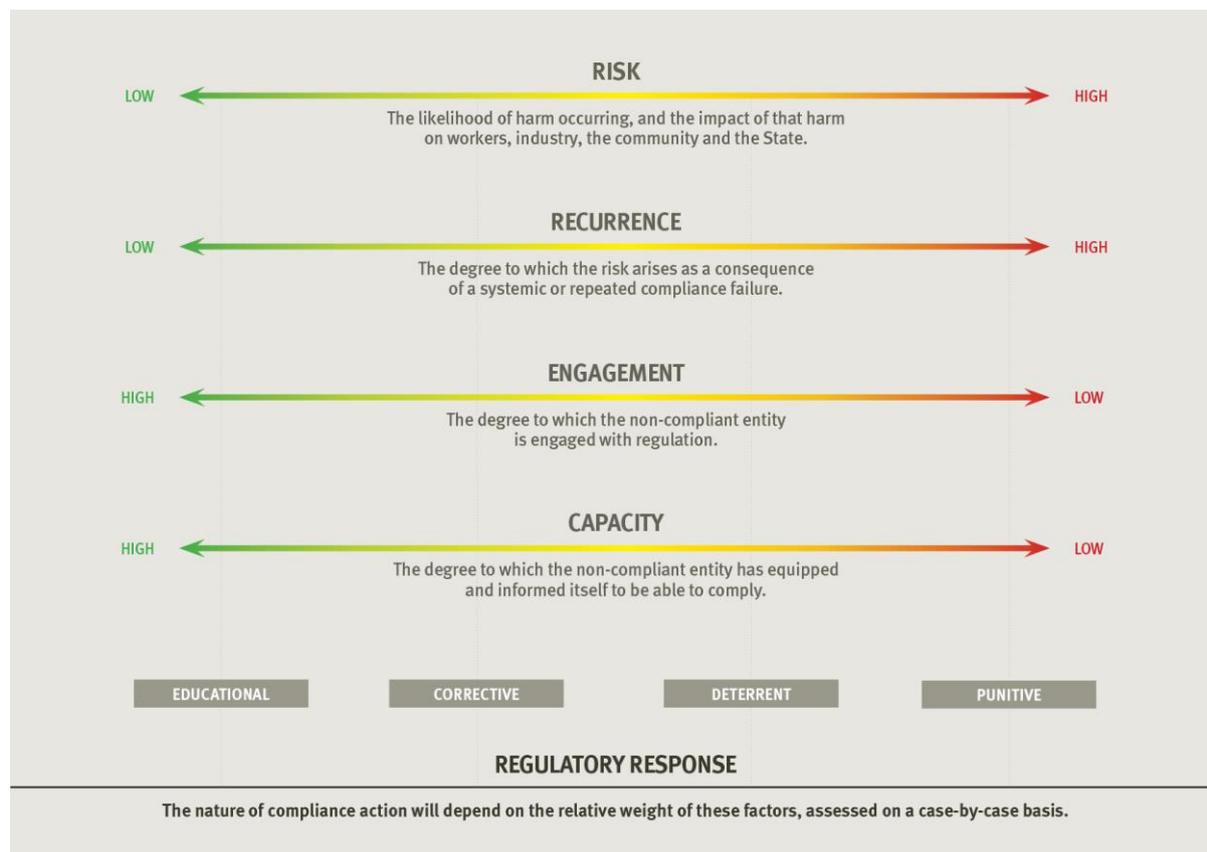


Figure 2: identifying an appropriate and effective regulatory response

Enforcement Options

There is a range of enforcement options we may utilise in response to noncompliance. These may be used in isolation or in combination, depending on the outcome sought. As the seriousness of the noncompliance escalates so does the enforcement response.

Guidance material – Educational, corrective

Education and guidance is a cooperative, practical and open approach, for providing advice and support to encourage best practice. Education and guidance material may include:

- publication of operational policies and guidelines;
- routine inspection of operations;
- field and desktop audits;
- encouragement of pre-lodgement or regular portfolio meetings; and
- representation at stakeholder forums and industry events.

Inspections, audits and engagement – Educational, deterrent, corrective

Inspections, audits and engagement are at the core of our regulatory work. We tailor the frequency and scope of inspections, audits and engagement activities as we become aware of particular risks and other incidents of noncompliance.

Interactions between regulatory officers and individuals or corporations involved in regulated activities are opportunities to provide guidance and advice.

Investigations – Educational, deterrent

Investigations may follow from an incident, complaint, inspection or audit.

We carry out an investigation when the circumstances of a particular case indicate that it is an appropriate response, or an appropriate part of a broader response.

When we receive complaints, we investigate these in a manner consistent with the principles and values set out in this policy.

Advisory action – Educational, corrective

Advisory action may be taken in circumstances where the noncompliance is of a minor administrative or technical nature, or where the aim is to assist by focusing on increasing knowledge and understanding of compliance. Examples of advisory action may include a warning or reminder letter or a non-statutory request to fix a noncompliance.

Statutory notices – Corrective, deterrent

Statutory notices may be used where noncompliance is more serious, widespread or recurrent. This approach aims to provide a formal and considered course of action. They may be used alone or in conjunction with another enforcement tool.

Financial or permit penalties – Corrective, deterrent, punitive

In certain instances, financial penalties or conditions may be imposed on the resource authority. Examples of where this may occur include where a resource authority holder repeatedly behaves in a noncompliant manner, where there is a high level of public concern about the type of noncompliance or where there is sufficient evidence to suggest the noncompliance was for an economic benefit.

Cancellation - Corrective, deterrent, punitive

We may seek to cancel a resource authority if the offence is serious or the holder demonstrates an inability or unwillingness to comply with the law.

Prosecution - Corrective, deterrent, punitive

A decision to prosecute may be made when it is in the public interest to do so and there is sufficient evidence to support a conviction. Further information about the prosecution policy can be found on the department's [website](#).

Availability:	External
Location	Business Industry Portal
Owner:	Georesources Division
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Approving Authority	Deputy-Director General
Related documents	N/A
Contact:	<p>For help and information contact an Assessment Hub</p> <p>Coal Assessment Hub Phone: (07) 4936 0169 Email: CoalHub@dnrme.qld.gov.au</p> <p>Mineral Hub Phone: (07) 4447 9230 Email: MineralHub@dnrme.qld.gov.au</p> <p>Petroleum Hub Phone: (07) 3199 8118 Email PetroleumHub@dnrme.qld.gov.au</p> <p>For community questions arising from this policy please contact</p> <p>Resource Community Hotline Phone: 13 71 07 Email: resources.info@dnrme.qld.gov.au</p> <p>For technical support contact the MyMinesOnline Helpdesk. Telephone: +61 7 3199 8133 Email: mines_online@dnrme.qld.gov.au</p> <p>8.30am – 4.30pm (AEST) Monday to Friday on Queensland business days.</p>