



The Regulator Performance Framework

Background

The Government released its Regulator Performance Framework as part of 2014 Spring Repeal Day. The Framework is an important part of its commitment to reduce the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations by at least \$1 billion a year.

The purpose of the Framework

The Framework aims to encourage regulators to undertake their functions with the minimum impact necessary to achieve regulatory objectives. It establishes a common set of performance measures that will allow for the comprehensive assessment of regulator performance and their engagement with stakeholders.

The Framework consists of six outcomes-based key performance indicators covering reducing regulatory burden, communications, risk-based and proportionate approaches, efficient and coordinated monitoring, transparency, and continuous improvement.

Who is subject to the Framework

The Framework applies to those Commonwealth regulators that administer, monitor or enforce regulation will be required to implement the Framework. The Framework will apply from 1 July 2015 — with the first assessment period being the 2015-16 financial year.

Defence activity supporting the Government's objective

Based on the guidance material provided by the Department of the Prime Minister and Cabinet it is assessed that the Framework applies to the following three areas within Defence:

- Defence Export Control Office
- Arms Control Branch; and
- Woomera Prohibited Area Coordination Office

Descriptions of the three areas and the respective metrics for measuring their performance are provided below.

Defence's primary activities as a regulator involve conducting licensing and approvals processes.



Defence Export Control Office (*Defence Export Control Act 2012*):

The Defence Export Control Office (DECO) is responsible to the Minister for Defence for regulating the export of defence and dual-use goods as part of Australia's system of export controls.

Australia's export control system reflects the Government's commitment to ensure that proliferation-sensitive goods and technologies are not supplied or exported to states or groups that would be detrimental to Australia's national interests or in contravention of Australia's international obligations and commitments.

Organisations and individuals who supply or export proliferation-sensitive goods and technologies must comply with the regulatory framework and are required to apply for a permit prior to supply or export. DECO processes around 3,000 export permissions per year.

Australia's export control legislation, policies and procedures are reviewed regularly to reflect changes in strategic circumstances and priorities and in Australia's international obligations.

Arms Control Branch (*Defence Export Control Regulation 2013*):

In 2007, the Australian and the United States Governments signed the Treaty concerning Defence Trade Cooperation (the Treaty).

The Treaty is intended to improve the efficiency of eligible two-way transfers between Australia and the US by facilitating the export of controlled goods by Approved Community members, without the need for an export licence.

The Approved Community comprises an Australian Community and a US Community. Both communities include government and non-government entities that have applied for and been approved as members of the Approved Community. Each community is managed by their respective Government.

The membership of Australian Community members and Intermediate Consignees is administered by the US Trade Treaty Team within Defence.

Woomera Prohibited Area Coordination Office (*Woomera Prohibited Area Rule 2014*):

The Woomera Prohibited Area (WPA) has been declared a 'Prohibited Area' under the Defence Force Regulations 1952 and described in the Woomera Prohibited Area Rule 2014. The WPA is an important Defence capability and testing and evaluation asset that plays a significant role in Australia's national security. Defence is responsible for ensuring the safety of people and security of trials during all defence activities inside the WPA.

As a declared prohibited area, access to the WPA (excluding some access routes and the Village) for non-Defence use requires prior Commonwealth approval by the way of permission or a permit. Users of the WPA with prescriptive application requirements are: a) Mining and Exploration b) Tourists c) Opal and precious stone prospectors and research and environmental.

Proposed evidence metrics for measuring regulator performance for the Defence Export Control Office (DECO)

Key Performance Indicator ¹	Measures ²	Evidence ³
KPI 1 - Regulators do not unnecessarily impede the efficient operation of regulated entities	Demonstrate an understanding of the operating environment	1.1: Engage up stream with stakeholders to ensure prompt decisions and resolve any issues 1.2: Licence/Permit renewal process (2 years export licence to 5 years or life of project licence)
	Take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities	1.3: Close engagement with stakeholders (Strengthened Export Controls Steering Group and Senate Committee)
KPI 2 - Communication with regulated entities is clear, targeted and effective	Extensive information on website including approval time periods published	1.4: Assessment time for routine applications is up to 15 working days
	Close stakeholder engagement and open channels of communication	1.5: Engage up stream with stakeholders to ensure prompt decisions and resolve any issues.
		1.6: Online help facility & range of contact options (telephone, email and mail)
		1.7: Conference, news, notices, guidance materials & training modules on website
KPI 3 - Actions undertaken by regulators are proportionate to the regulatory risk being managed	Risk-based approach is regularly re-assessed and amended to reflect changing priorities, without diminishing regulatory impact	1.8: Risk assessment process determines licensing conditions
		1.9: Licence/Permit renewal process (2 years export licence to 5 years or life of project licence)
KPI 4 - Compliance and monitoring approaches are streamlined and co-ordinated	Utilise existing information and shares information with other regulators	1.10: Online Defence Export Control System (DECS) provides an automated permits and assessments application process
		1.11: Sharing of information with other agencies/dept i.e. Customs, Australian Intelligence Community (AIC), non-proliferation counterparts
KPI 5 - Regulators are open and transparent in their dealings with regulated entities	Extensive information on website including approval time periods published	1.12: Conference, news, notices, guidance materials & training modules on website
		1.13: Assessment time for routine applications is up to 15 working days
	Advice and guidance is widely available to stakeholders, with feedback mechanisms in place to support continuous improvement	1.14: Engage up stream with stakeholders to ensure prompt decisions and resolve any issues
		1.15: Online help facility & range of contact options (telephone, email and mail)
KPI 6 - Regulators actively contribute to the continuous improvement of regulatory frameworks	Seeks regular feedback	1.16: Engage up stream with stakeholders to ensure prompt decisions and resolve any issues
		1.17: Consistent and regular outreach activities
	Improve and refine licensing and approval process	1.18: DECS is fully integrated to deliver a more robust and flexible approach to managing the expanding range of export legislation

Proposed evidence metrics for measuring regulator performance for the Arms Control Branch

¹ Articulates the Government's overarching expectations of regulator performance;

² Outlines the principles that all regulators should be using to guide the collection of evidence; and

³ Activity-based evidence specific to the regulators' circumstances.

Key Performance Indicator ⁴	Measures ⁵	Evidence ⁶
KPI 1 - Regulators do not unnecessarily impede the efficient operation of regulated entities	Implement continuous improvement strategies to reduce the costs of compliance for those they regulate	1.1: Stakeholder and industry consultation on policies and procedures
		1.2: Documented application and compliance processes
	Take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities	1.3: Data sourced from other government agencies
		1.4: Information only sought for demonstrated requirements
KPI 2 - Communication with regulated entities is clear, targeted and effective	Close stakeholder engagement and open channels of communication	1.5: Outreach and industry engagement
		1.6: Feedback mechanisms and timely responses
	Extensive information on website including approval time periods published	1.7: Accessible, plain language guidance (online, by email or telephone hotline)
		1.8: Regulatory decisions clearly communicated and explained
KPI 3 - Actions undertaken by regulators are proportionate to the regulatory risk being managed	Risk-based approach is regularly re-assessed and amended to reflect changing priorities, without diminishing regulatory impact	1.9: Applicant self-assessment against published frameworks
		1.10: Compliance management plan published and guidance issued
		1.11: Authorised offices formally trained and qualified in compliance
		1.12: Resolution by negotiation at the lowest possible level
KPI 4 - Compliance and monitoring approaches are streamlined and co-ordinated	Utilise existing information and shares information with other regulators	1.13: Compliance management plan published and guidance issued
		1.14: Annual member self-assessment against published frameworks
	Regulators base monitoring and inspection approaches on risk	1.15: Authorised officers formally trained and qualified in compliance
		1.16: Compliance monitoring visits by negotiation
		1.17: Exception reports for non-compliant occurrences
KPI 5 - Regulators are open and transparent in their dealings with regulated entities	Extensive information on website including approval time periods published	1.18: Accessible, plain language guidance (online, by email or telephone hotline)
		1.19: Regulatory decisions clearly communicated and explained
		1.20: Feedback mechanisms and timely responses
KPI 6 - Regulators actively contribute to the continuous improvement of regulatory frameworks	Conduct regular engagement with regulated entities and representative bodies to identify areas for improvement	1.21: Post implementation review of the regulation
		1.22: Annual stakeholder forums or surveys regarding regulation, application and compliance policies and processes

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Proposed evidence metrics for measuring regulator performance for the Woomera Prohibited Area Coordination Office (WPACO)

Key Performance Indicator ⁷	Measures ⁸	Evidence ⁹
KPI 1 - Regulators do not unnecessarily impede the efficient operation of regulated entities	Implement continuous improvement strategies to reduce the costs of compliance for those they regulate	1.1: Source regulated entities, representative bodies and industry feedback on policies and procedures via WPACO service support hotline and inbox
	Take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities	1.2: Extant WPACO databases track the time taken to process applications against mandated legislative requirements
		1.3: WPACO performance metrics are published via the <i>WPA Quarterly Report</i>
KPI 2 - Communication with regulated entities is clear, targeted and effective	Close stakeholder engagement and open channels of communication	1.4: Regulated entities, representative bodies and industry consultation on policies and procedures via WPACO service support hotline and inbox
		1.5: Direct engagement with regulated entities and representative bodies to source feedback about communication mechanisms
KPI 3 - Actions undertaken by regulators are proportionate to the regulatory risk being managed	Risk-based approach is regularly re-assessed and amended to reflect changing priorities, without diminishing regulatory impact	1.6: Annual review of identified risks and mitigation strategies put in place by WPACO
		1.7: Undertake consultation with regulated entities, representative bodies and industry to discuss the current regulatory requirements managed by WPACO
		1.8: Subsequent amendment of regulatory activities based on this advice
KPI 4 - Compliance and monitoring approaches are streamlined and co-ordinated	Utilise existing information and shares information with other regulators	1.9: Regularly engage with the Air Force Compliance Management Team (CMT) assigned to conduct Woomera specific monitoring activities
		1.10: Use of the Defence Policing and Security Management System (DPSMS) to record and action compliance breaches
		1.11: Authorised officers formally trained and qualified in compliance management
KPI 5 - Regulators are open and transparent in their dealings with regulated entities	Extensive information on website including approval time periods published	1.12: Providing clear guidance material on the website, service hotline and inbox
	Advice and guidance is widely available to stakeholders, with feedback mechanisms in place to support continuous improvement	1.13: Regulatory decisions clearly communicated and explained in all correspondence
		1.14: Conduct of workshops with regulated entities and representative bodies when regulations are amended
KPI 6 - Regulators actively contribute to the continuous improvement of regulatory frameworks	Conduct regular engagement with regulated entities and representative bodies to identify areas for improvement	1.15: Formal 2018 WPA post implementation review of the new regulatory scheme
		1.16: Annual regulated entities and representative body forums which include discussion of regulation policies and processes

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