

***What is the Role of Government in
Technical Regulation?
("Finding the Right Balance")***

APIA TECHNICAL REGULATION SEMINAR

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Overview

- **Introduction**
- **Why regulate?**
- **“We are all regulators”**
 - *Setting the rules*
 - *Performance monitoring*
 - *Corrective Action*
- **Conclusions**
 - *Factors affecting regulators*
 - *The role of the regulator*
 - *Challenges*

Introduction

- **40 year history of pipelines**
 - *Changes in societal expectation*
 - *Changes in regulatory approach*
- **Everyone has a view**
 - *Views are shaped by our experience and history*
- **Coherent regulatory philosophy is required**
- **Technical regulation NOT economic regulation**

Why regulate? (1)

- **Balance common and conflicting objectives**
- **Recognise all stakeholders**
- **Regulation required where there is “market failure”**
 - *No direct economic incentive*
 - *Information asymmetry*
- **Environment, public safety, stakeholder rights**
- **Effective regulations need teeth**

Why regulate? (2)

- **Grant rights to undertake development**
- **Provide means to manage natural conflicts in stakeholder objectives**
- **Facilitate informed-decision making by all stakeholders**
- **Enforce remedial action when required**
- **Question becomes “What is the regulator’s role?”**

“We are all regulators”

- **Project management analogy**

Regulations = contract

Regulator = project manager

Contractor = licensee

Minister = company board

Community = shareholders

Common features

- **Clear rules of engagement**
 - *Objectives*
 - *Technical standards*
 - *Roles and responsibilities*
- **Performance monitoring and review system**
- **Dispute resolution and corrective action**
- **Information flow and trust**

Rules of engagement

- **Contract = regulations / licence**
- **AS 2885**
 - *Clear technical standard*
 - *Accepted by all parties*
 - *Common objectives*
- **Environmental rules**
 - *Approvals process*
 - *Consultation*
- **Roles and responsibilities**

Common objectives

- **SA Petroleum Act 2000 objectives**
 - *Minimise risks to public and pipeline personnel*
 - *Minimise environmental damage*
 - *Maximise security of supply*
- **AS 2885 Objectives (Part 0)**
 - *“This standard exists to ensure the safety of the community, protection of the environment, and security of supply”*

Roles and responsibilities

- **Licensee**
 - *Achieve agreed objectives*
 - *Design, build and operate safe pipelines*
 - **Demonstrate** *safe pipelines to community, regulatory authorities*
- **Government**
 - *Act as agent of community*
 - *Make informed decisions on quality of information*
 - *Apply positive pressure by the “threat of scrutiny”*
 - *“Don’t tell licensee how to do the job, but find out that the job is being done”*

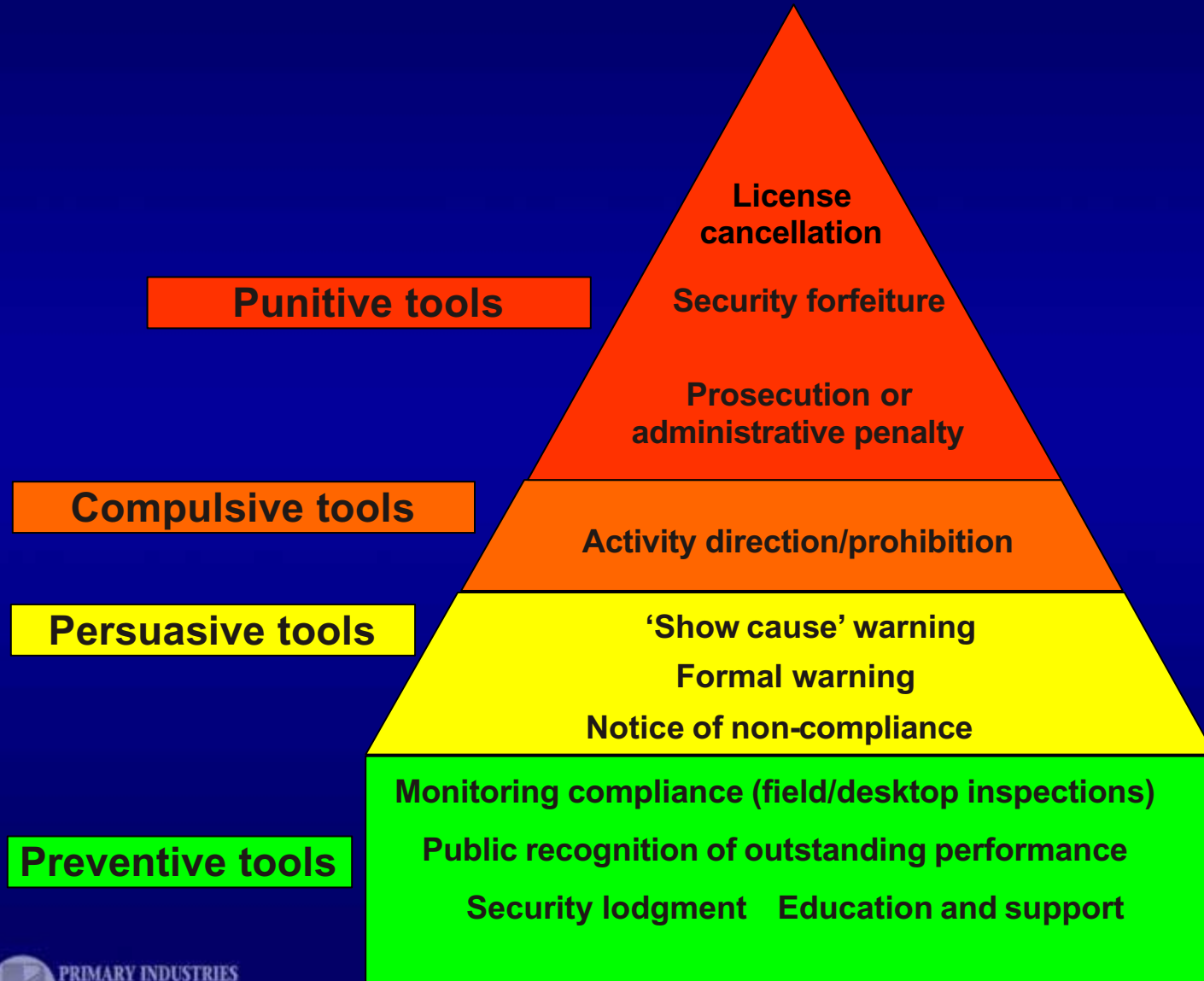
How do I know?

- **What do I need to know?**
 - *Outcomes are the most important*
 - *Systems and procedures deliver outcomes*
 - *Objective NOT prescriptive*
- **How do I find this out?**
 - *Agreed reporting program*
 - *Inspections to check integrity of reports*
- **Demonstrate good practice**
 - *Board, financiers, shareholders*
 - *Regulator, government, community*

What happens when rules are broken?

- **Objective is compliance NOT punishment**
- **Rectify immediate breach**
- **Fix the root causes**
- **Range of strategies required**
 - *Account for compliance history*
 - *Punitive measures are the last resort*
- **SA Petroleum Act 2000 Compliance Policy**

SA Petroleum Act Compliance Policy



Finding the right balance

- **Regulator style is dictated by:**
 - *Legislation (primary and secondary)*
 - *Regulatory philosophy*
 - *Perceptions of market failure*
 - *Whether roles & responsibilities are clear*
 - *Perception of risk associated with industry*
 - *Political environment (government, media, public)*
 - *Confidence in licensee and industry*
 - *Technical competence of regulator*
 - *Resources*

The role of the regulator

- **Agent of the community**
- **Find the right balance:**
 - *Focus on outcomes*
 - *Address market failure issues*
 - *Develop and implement effective compliance monitoring strategies*
 - *Apply positive pressure by the “threat of scrutiny”*
 - *Enforce effective compliance strategies*
 - *Continually ask “Why regulate?”*
- **“Don’t tell licensee how to do the job, but find out that the job is being done”**

Challenges to industry and government

- **Develop a regulatory philosophy**
- **Debate in the context of regulatory philosophy**
- **Recognise legitimate role of regulator**
- **Understand “we are all regulators”**
- **Listen to, and learn from, one another**
- **Ongoing questions:**
 - *Why regulate?*
 - *Is this the best way to achieve regulatory objectives?*

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