



# Environmental Regulatory Strategy

Version 1.1 August 2021

## 1 Introduction

### 1.1 Our environmental regulation responsibilities

The Department of Mines, Industry Regulation and Safety (DMIRS) regulates the resources industry in Western Australia. We have environmental regulation responsibilities, operating within a state and federal regulatory framework.

Our key responsibilities are to:

- undertake environmental impact assessment and compliance monitoring under the *Mining Act 1978*, *Petroleum and Geothermal Energy Resources Act 1967*, *Petroleum (Submerged Lands) Act 1982*, and the *Petroleum Pipelines Act 1969* and subsidiary legislation;
- undertake environmental assessment of native vegetation clearing permits for mining and petroleum activities under delegation of the *Environmental Protection Act 1986* (EP Act).
- inspect, investigate and enforce compliance with environmental impact assessment approvals
- provide information on our regulatory services and advise other government agencies.

Proposals which may have an environmentally significant<sup>1</sup> impact may be referred to the Environmental Protection Authority (EPA) for assessment under Part IV of the EP Act.

### 1.2 Regulatory approach

Our focus is to ensure that resources development in Western Australia is safe, environmentally acceptable, and achieves community confidence.

## 2 Regulatory strategy

This regulatory strategy articulates our environmental regulation program's long-term objectives and our strategy to achieve these objectives.

The regulatory strategy's success depends on our ability to collect information and data so that we can make evidence-based, robust decisions.

Just as the industry is responsible for monitoring its risk mitigation strategies to adaptively manage its environmental risks, we are responsible for monitoring our regulatory program so that we can target our compliance and enforcement efforts.

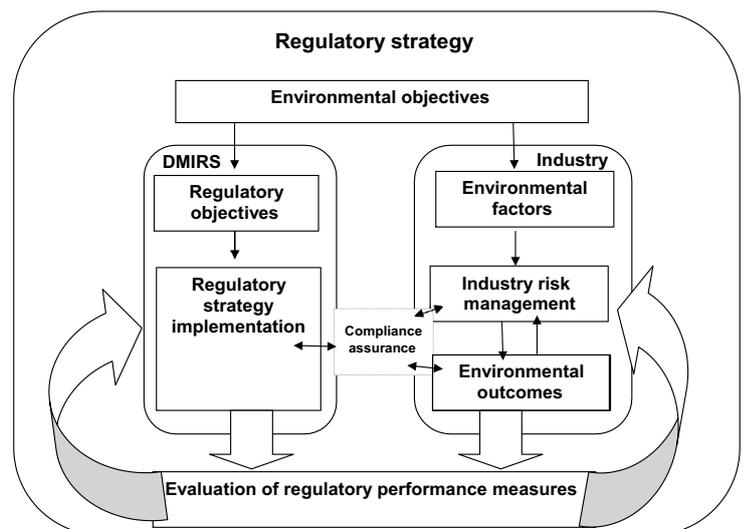


Figure 1. The DMIRS regulatory strategy relies on evidence-based adaptive management to identify new and emerging environmental risks and trends and identify the efficiency and effectiveness of the strategy implementation.

<sup>1</sup> Environmental significance as identified in the Environmental Protection Authority's Environmental Assessment Guidelines 9: Application of a significance framework in the environmental impact assessment process

See Section 3 for an outline of the environmental objectives. These provide a clear purpose for both our regulatory objectives (Section 4) and industry's risk management (Section 6).

The DMIRS regulatory objectives (Section 4) identify our regulatory activities for achieving the environmental objectives (Section 3), and will guide our strategy implementation (Section 5).

The information we gather through industry reporting, compliance auditing and inspections informs a proactive compliance program. This program has been designed to give reasonable assurance to the community that industry is undertaking responsible development (Section 7). We collate information and data on each of these elements to underpin our evaluation of the regulatory performance measures (Section 8). These measures help us determine the regulatory strategy's success in achieving the environmental objectives and our regulatory efficiency.

### 3. Environmental objectives

The objectives of a risk-based regulatory approach must be clearly defined. This supports the industry's risk management of their activities (Section 6) and underpins how we measure the regulatory framework's success (Section 8).

Our overall objective for environmental regulation is that:

- *resource industry activities are designed, operated, closed, decommissioned and rehabilitated in an ecologically sustainable manner, consistent with agreed environmental outcomes and end land uses without unacceptable liability to the State.*

### 4. Regulatory objectives

We have regulatory objectives that inform the design and implementation of our regulatory activities to achieve the environmental objectives. The regulatory objectives are:

1. Environmental approval requirements for industry ensure projects are designed and operated to minimise risks to the environment to an acceptable level
2. Environmental performance monitoring requirements for industry during operations ensure they detect and successfully manage new and emerging risks
3. The regulator detects non-compliance, and specific and general emerging risks to the environment
4. The regulator takes effective actions to address non-compliance and specific and general emerging risks to the environment
5. Sites are successfully closed, decommissioned and rehabilitated to agreed end land uses

We will set regulatory performance measures against all of the regulatory objectives to evaluate how effectively and efficiently they are being implemented.

## 5 Regulatory strategy implementation

### Framework

The DMIRS risk and outcomes-based regulatory framework will ensure our regulatory effort is targeted and proportionate and effectively manages environmental risks.

The regulatory strategy is:

- **Outcomes based:** sets clear environmental outcomes to guide environmental risk assessment and management
- **Risk based:** identifies risks to achieving those outcomes and targets effort to minimise and manage those risks
- **Evidence based:** gathers intelligence on industry and regulatory performance to ensure effective and efficient implementation, and adapts regulatory activity in response to emerging risks and trends

Our regulatory strategy aligns with the principles of best-practice government administration as set out below:

<b>Effective</b>	Our service delivery contributes to the achievement of environmental outcomes
<b>Targeted</b>	Our service delivery is targeted at minimising risk to environmental outcomes
<b>Proportional</b>	Our service delivery is proportional to risk or harm
<b>Predictable and consistent</b>	Our service delivery is predictable and consistent according to clear standards, procedures and guidelines
<b>Authoritative</b>	We are well informed, evidence-based, detect non-compliance, undertake effective enforcement, and have an excellent reputation
<b>Efficient</b>	We have clear procedures and processes using information systems and innovation
<b>Transparent</b>	Our information is well managed and available and informs operational decision-making, policy development and public opinion
<b>Accountable</b>	We will be subject to public and industry scrutiny on the performance of our service delivery
<b>Inclusive</b>	We engage with industry and the community to promote environmental compliance and set standards

## Responsibilities

Government has responsibilities to:

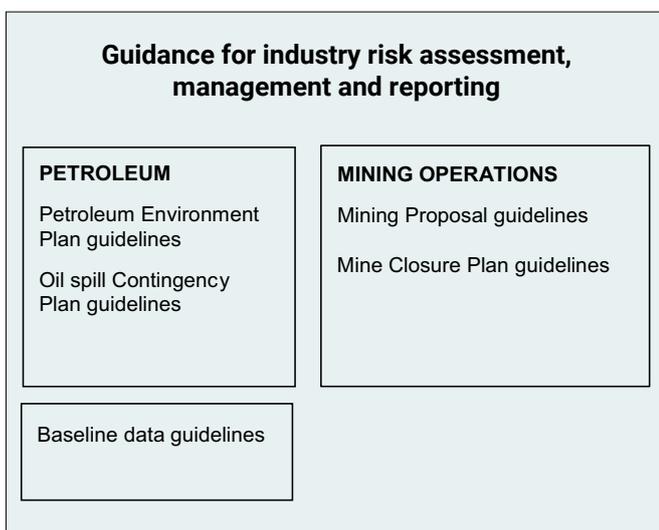
- establish a clear process for industry to assess and manage risks to achieve environmental outcomes
- assess applications to ensure environmental outcomes are acceptable and that the applicant has the capacity to effectively monitor and manage risks
- support innovation and continuous improvement in environmental management, creating flexibility for industry to customise solutions to environmental risks at each site
- target regulatory activities at increased monitoring and auditing of industry performance
- use evidence-based decision-making for strategic compliance programs.

Industry has responsibilities to:

- engage and consult early with stakeholders to inform project design where appropriate
- assess project risks to environmental outcomes and where necessary design fit-for-purpose solutions and management strategies to reduce risks to as low as reasonably practicable and an acceptable level
- monitor and assess environmental performance and the success of management strategies, and implement actions to minimise risks
- report on compliance and environmental performance to inform onsite environmental risk management and provide evidence of performance to the regulator.

## Guidance material

We will revise or develop the following guidelines to support the regulatory strategy's successful implementation. These will identify environmental factors, environmental outcomes, expectations of industry risk management and reporting for compliance assurance.



## 6 Industry risk management

Sections 6 and 7 describe our own and industry obligations to achieve the regulatory objectives identified in Section 4. We use regulatory performance measures (see Section 8) to assess the success of this strategy's implementation.

### Environmental factors and outcomes

Environmental factors are matters that industry must consider when assessing the risks of their activities. These matters include groundwater, fauna and native vegetation.

Environmental outcomes are the site-specific impacts on the environmental factors. These result from the industry activities after an assessment and mitigation of risks (as discussed further below).

We will set clear expectations on acceptable environmental outcomes. Our guidelines for both petroleum and mining applications will set the relevant environmental information to guide risk assessment.

We will consult and collaborate with industry and relevant experts to ensure our supporting guidance materials are well-informed, relevant and up-to-date.

It is industry's responsibility to clearly identify the environmental outcomes for their activities and how they will measure, monitor and achieve them. For example, Figure 2 below describes the system in the *Petroleum Environment Plan guidelines*.

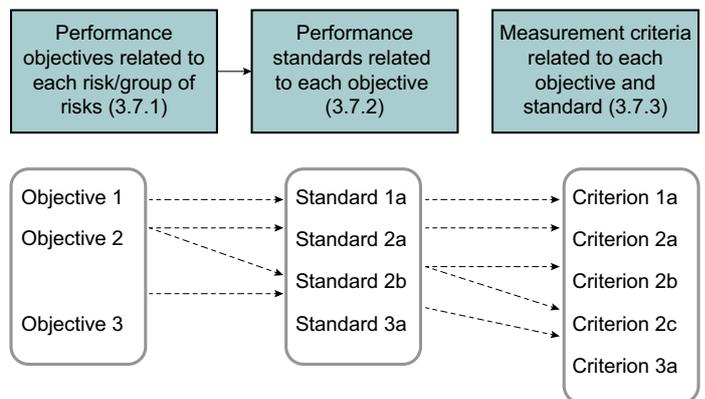


Figure 2. System of measurement criteria and standards to demonstrate achievement of performance objectives, as depicted in Petroleum Environment Plan guidelines.

### REGULATORY OBJECTIVE 1:

Environmental approval requirements for industry ensure projects are designed and operated to minimise risks to the environment to an acceptable level.

### Information requirements

The assessment information we ask industry to supply is tailored and proportional both to the size, scope and risks that the activity type poses, and to the receiving environment's characteristics. Where management

methods and the receiving environment are well understood and known to be low risk, a tailored risk assessment has limited value and standard conditions could apply. We will provide clear guidelines on what information we expect from industry so that we can assess the proposed activities.

### **Risk assessment**

We have based the model on the key principles of risk assessment and management.

Industry must undertake risk assessment for their operations, and:

- take appropriate management actions
- identify environmental outcomes as auditable commitments
- keep this information current for their operations.

Industry must show, through design and management actions, that the environmental risks are as low as reasonably practicable, and that they are environmentally acceptable.

Industry must consult with all relevant stakeholders and report on the outcomes of the consultation process, detailing the comments received. This will ensure stakeholder awareness and help identify risks associated with potential impacts on stakeholders.

### **Assessment and approval**

We must be satisfied that industry has:

- undertaken risk assessment that is robust, adequate and reasonable
- an ongoing capacity to monitor, measure and manage their performance
- shown the risks and environmental outcomes are environmentally acceptable.

## **REGULATORY OBJECTIVE 2:**

**Environmental performance monitoring requirements for industry during operations ensure they detect and successfully manage new and emerging risks**

### **Industry risk management**

Industry is responsible for the ongoing monitoring of environmental risks. Operators must identify and assess any new or increasing risks, and implement actions to minimise or avoid those risks.

### **Reassessment**

For both mining and petroleum activities, operators must provide a new proposal if there are new or emerging risks or if there is a substantial departure from the original approved activities.

## **7 Compliance assurance**

An outcomes-focused regulatory system must have robust compliance monitoring, reporting and data management. This helps us to evaluate the industry's performance in achieving environmental outcomes.

The increased efficiencies associated with a risk-based, outcomes-focused assessment system enables us to target our resources on compliance, inspections and enforcement.

### **REGULATORY OBJECTIVE 3:**

**The regulator detects non-compliance, and specific and general emerging risks to the environment.**

A combination of industry reporting obligations and our robust audit and inspection regime help us to detect non-compliance events and identify emerging risks.

Specific risks refer to particular sites and general risks refer to identified trends across the industry.

### **Industry reporting**

Industry reports on compliance and environmental performance, including incident reporting. We use this information for compliance assurance, to establish operational risk profiles for compliance planning, and to assess industry performance as a whole.

Reporting mechanisms are in place for industry to measure and report on performance against their committed environmental outcomes. These range from annual reports, activity reports and close-out reports (as appropriate) to specific incident reports.

Serious incidents must be reported immediately (determined in the proposal's approval as having a high or moderate environmental impact) and less serious incidents must be reported within a timely period.

### **Audits and inspections**

We have a strong compliance and auditing presence to ensure risks are managed and outcomes are being achieved.

### **REGULATORY OBJECTIVE 4:**

**The regulator takes effective actions to address non-compliance and specific and general emerging risks to the environment.**

### **Enforcement actions**

We swiftly employ appropriate enforcement tools to address specific non-compliance and environmental risks, and provide a deterrent to non-compliance to maintain the integrity of the regulatory regime. We publish quarterly enforcement reports outlining what actions we have taken.

## Compliance programmes

Each year we publish a compliance plan that summarises the types of activities or risks we will target in the compliance program for the year ahead. We use an analysis of industry performance data to underpin proactive regulatory interventions to address compliance trends and issues.

Our compliance planning will include latent resources to respond to emerging and immediate high-risk incidents.

## Evaluating performance

Industry reporting against environmental outcomes informs the 'outcome indicators' of the regulatory performance measures in Section 8.

### REGULATORY OBJECTIVE 5:

#### Sites are successfully closed, decommissioned and rehabilitated to agreed end land uses.

We have clear requirements for the closure, rehabilitation and relinquishment of project sites.

Operators must integrate closure planning into project design and implementation to ensure a greater likelihood of success. Stakeholder consultation should inform what the end land uses should be, where appropriate.

## 8 Regulatory performance evaluation

We will evaluate our regulatory strategy's effectiveness through the development, monitoring and analysis of performance measures. Types of measures are indicated in Table 1.

**Table 1. Types of measures**

Indicator	Efficiency evaluation		Effectiveness evaluation	
	Input indicator	Output indicator	Intermediate outcome indicator	Outcome indicator
<b>Measures</b>	<b>Resources</b> Staffing Training and development ICT systems	<b>Products/services</b> Assessments completed, inspections conducted, guidance documents	<b>Progress towards outcomes</b> Changes in behaviour, knowledge or environment, resulting from program activities	<b>Achievement of outcomes</b> The real outcomes of regulation – the state of the environment and public confidence
<b>Examples</b>	Staff number Cost per activity	Number of outputs	Changes in industry procedures or processes, introduction of management systems	Environmental outcomes performance

## Version History

Version	Date	Changes
1.0	November 2014	Initial Publication
1.1	August 2021	Clear guidance language updates

We will use information systems to collect, collate and report on data to inform the performance measures across all aspects of regulatory activity.

Industry data on environmental performance provides the environmental outcome measures and enables us to assess the regulatory strategy's effectiveness.

We monitor and report on regulatory performance measures to:

- evaluate the regulatory strategy's success in achieving environmental outcomes
- manage regulatory performance to ensure continued efficiency by assessing the inputs and outputs we need to achieve outcomes
- learn from performance reports to adapt regulatory resources and drive continuous improvement
- maintain transparency and accountability to the community by public reporting of performance measures relevant to stakeholders.

When we evaluate regulatory performance measures, this ensures we can allocate resources appropriately and have a regulatory system flexible enough to adapt to performance trends and new information.

## 9 More information

For more information on the environmental regulation of the mining and petroleum industries, assessment guidelines and updates please visit:

[Department of Mines, Industry Regulation and Safety](#)

Government of Western Australia

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