

***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”*

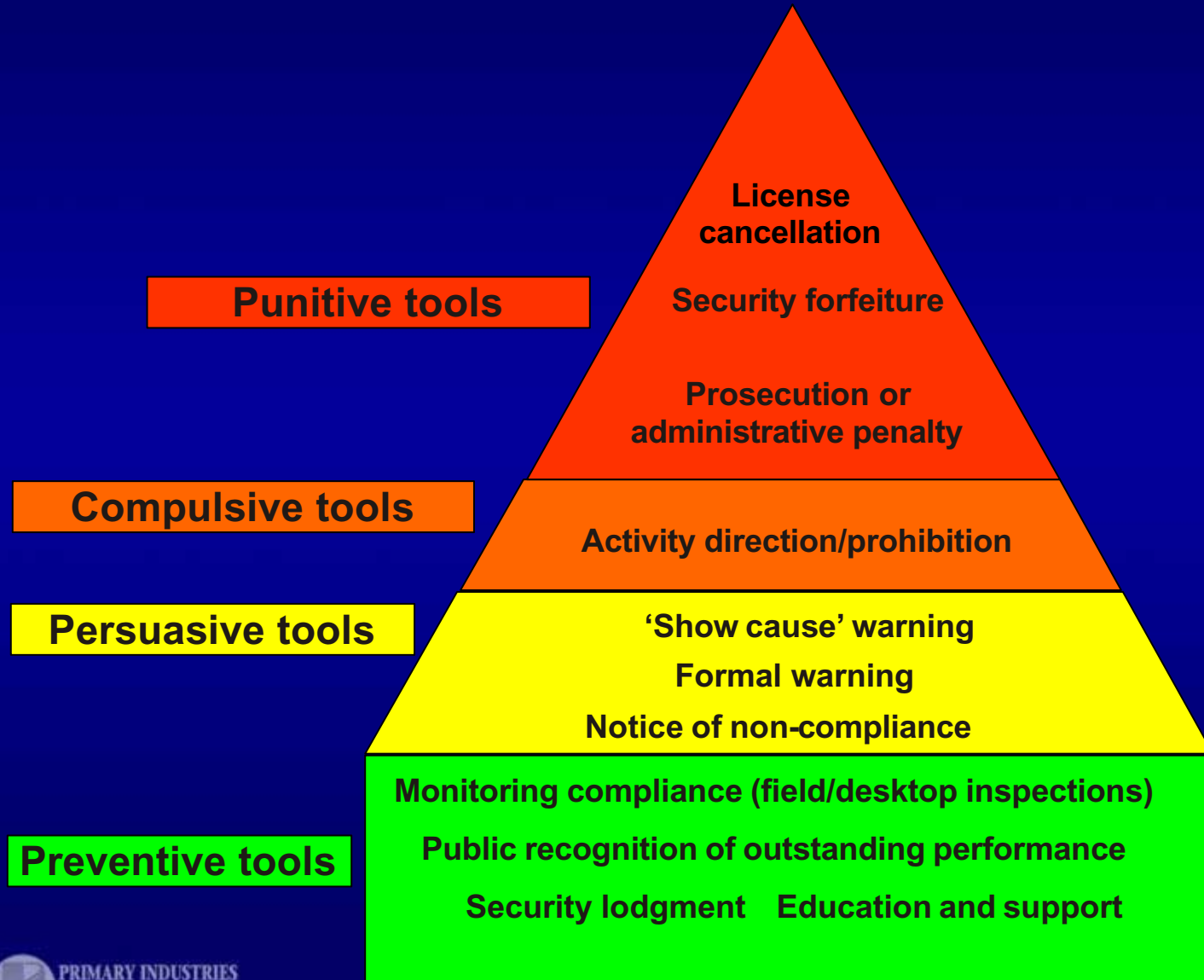
# *How do I know?*

- **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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