



Australian Government
Department of Foreign Affairs and Trade



AUSTRALIAN SAFEGUARDS AND NON- PROLIFERATION OFFICE REGULATOR SELF-ASSESSMENT 2015-16

December 2016

Australian Safeguards and Non-Proliferation Office

Regulatory Performance Framework

Self-Assessment Report 2015-16

Statement: This performance report is prepared for the Government's Regulatory Performance Framework (RPF). It covers financial year 2015/16. The report presents ASNO's performance during the reporting period and complies with the RPF requirements.

Introduction

The goal of ASNO is to enhance Australian and international security through activities which contribute to effective regimes against the proliferation of nuclear and chemical weapons. ASNO performs domestic regulatory functions to ensure that Australia is in compliance with treaty commitments and that the public is protected through the application of high standards of safeguards and physical protection to nuclear materials and related facilities and also Chemical Weapons Convention (CWC)-Scheduled chemicals. ASNO also works to strengthen the operation and effectiveness of relevant treaty regimes through the application of specialist knowledge to complex policy problems in technical areas; including verification and compliance of WMD-related treaties.

ASNO is a federal regulator covering all States and Territories. Our legislation affects all organisations or individuals holding nuclear material, associated material, equipment and technology, as well as producers and users of CWC-Scheduled chemicals and producers of Discrete Organic Chemicals. Australia's permit and reporting systems ensure that ASNO is able to track relevant materials and activities, gather information and report to the International Atomic Energy Agency (IAEA) and the Organisation for the Prohibition of Chemical Weapons (OPCW).

ASNO works closely with organisations holding items with proliferation risk. Examples include: ANSTO, Defence, CSIRO, uranium mines, universities, hospitals and the chemical industry.

Along with colleagues from the Department of Foreign Affairs and Trade, and other Government agencies, ASNO proactively engages with international organisations and other nations to shape the frameworks that ultimately affect Australian businesses.

ASNO took the opportunity presented by the regulatory reform program to reflect on the Government's goals and complement our own effectiveness measures. Within the Framework and outcomes-based KPIs, ASNO devised a set of metrics (see table below) that focused our staff on how we engage with industry, and streamlining opportunities. We are mindful of RPF evidence collection pervasively increasing the burden on our regulated businesses. This report summarises and analyses the information we were able to readily collect and describes the 2015/16 regulatory environment.

Measures and Results

| ASNO Regulator Performance Framework KPIs and Metrics Evidence | |
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| KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities. | |
| Metric 1: Percentage of permit applications where options to eliminate the regulated material or equipment is discussed. | |
| ASNO issues new nuclear permits under s13, s16, s16A, s16B, or s18 of the <i>Nuclear Non-Proliferation (Safeguards) Act 1987</i> and issues new CWC Schedule 1, Schedule 2 and Schedule 3 facility permits under s16, s17, s18 and s19 of the <i>Chemical Weapons (Prohibition) Act 1994</i> and new CWC-Scheduled chemical import permits under Regulation 5J of the Customs (Prohibited Imports) Regulations 1956. | |
| All assessments of permits began with a discussion between ASNO and the prospective permit holder on their need for a permit based on the types and quantities of material produced, used, imported or held. ASNO discussions with these applicants address industry concerns and potential options to eliminate the need for a permit. | |
| Metric 2: Time to process permit applications. | |
| Permit applications processing times for nuclear material and associated items are captured in the central nuclear accounting database (NUMBAT). In an unusually busy year, sixty-seven permits were renewed with modifications as part of a bulk review of the permit system. The new permits were all provided to the permit holders before their previous permits expired, thus supporting continuity of business. Thirteen permits were varied at the request of the permit holder. | |
| Approximately 60% of nuclear permit applications were processed in less than 30 days. | |
| Eleven chemical facility permits were re-issued and fifty-nine import permits renewed before their previous permits expired, thus supporting continuity of business. Three new facility permits were issued, all within 30 days, and five new import permits were issued, all within 7 days, thus meeting ASNO's target response timeframe. | |
| Metric 3: Number of compliance/performance reviews not involving a site visit. | |
| ASNO has in place a mature strategy for assessing permit holder compliance via available evidence and discussions with effected parties. ASNO uses information supplied in permit applications (new permits or modification to existing arrangements) as much as possible before considering a site visit. Eighty-one percent of 47 nuclear compliance/performance reviews that were conducted did not involve a site visit. | |
| Exceptions to the practice of minimising the need for site visits are as follows: | |

- When a permit holder is subject to IAEA or OPCW international compliance inspections, a site visit by ASNO is then mandatory.
- In the case of OPCW inspections, ASNO conducts an advance on-site visit on the preceding work day to facilitate an effective OPCW inspection.
- When a company first applies for a new chemical facility permit, a site visit is conducted in all such cases to assess compliance.

KPI 2: Communication with regulated entities is clear, targeted and effective.

Metric 4: Number of site visits that include an allocation of time to discuss efficiency measures.

ASNO has included in its regulatory processes discussions with permit holders on how to best meet permit requirements. These discussions have become a routine component of all inspection and site visit activities, including during IAEA and OPCW inspections.

ASNO engages regularly with the IAEA and OPCW and is able to use this experience to provide advice on effective compliance options. For example, in preparation for inspections, ASNO sends a notification to the permit holder outlining what information and access should be prepared, and where necessary, discusses alternative ways to meet regulatory requirements for the inspection.

All nuclear and chemical site visits during the year included discussions on good practice.

KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed.

Metric 5: Establish risk-based inspection program. (also relates to KPI 1)

ASNO is moving forward with its risk management strategy including systematising its processes. The relevant plans and arrangements will continue to mature over time. During the reporting year ASNO produced a new suite of permits that categorised permit holder requirements according to the risk posed by the type and quantity of nuclear material held. The new permits were developed using feedback from regulated businesses.

ASNO's inspection activities are consistent with the risk categories within the new permits and cascades from the ASNO Risk Management Plan (in development). This plan is based on the elements of the Commonwealth Risk Management Policy released in 2014. It uses the tools provided by the DFAT Guide to Better Risk management (2015).

Metric 6: External review of ASNO's risk-based inspection program.

ASNO operates on multi-year review cycles. The most recent review of ASNO's inspection process was completed by a team from the IAEA International Physical Protection Advisory Service in 2013. The recommendations generated from the review are being actioned, and a follow up review is planned in 2017.

KPI 4: Compliance and monitoring approaches are streamlined and coordinated.

Metric 7: Establish streamlined inspection processes.

ASNO has developed a combined inspection check-list and inspection report for streamlining safeguards and security assessment processes for inspections of permit holders with small quantities of nuclear material.

The next stage of development is guidance for streamlining IAEA complementary access inspections at Australian facilities such as mines and universities.

ASNO has developed and continues to refine its guidelines “Inspection Information for Producers and Users of Chemicals” to enhance the efficiency and effectiveness of OPCW inspections. This provides industry with detailed requirements for OPCW inspections and includes a facility preparation check-list and information required in the facility’s pre-inspection briefing.

Metric 8: External review of inspection method.

The streamlined inspections processes are still being matured. No external review was conducted during the reporting period.

KPI 5 - Regulators are open and transparent in their dealings with regulated entities.

Metric 9: Quality of regulatory information provided on ASNO website and in the ASNO Annual Report. (also relates to KPI 2)

A significant innovation during the year was the establishment of DG ASNO’s Twitter feed. Using this effective communication tool, DG ASNO provides updates and insight on global and national events relevant to the Australian nuclear and chemical industries.

Online information is made available to current and prospective permit holders. This information is continuously reviewed and updated. ASNO ensures that the application forms required for permits and approvals are functional and readily accessible on its website. A HTML version of our 2014-15 annual report was placed on the website, providing detailed information on our activities, current and future focus, and performance.

ASNO distributes an annual newsletter to chemical stakeholders and periodically updates its three industry guidance brochures which are mailed out in hard copy and are also available on the website.

ASNO plans to post its recently developed Compliance Codes on the ASNO website in 2016. This will significantly assist with the transparency of our permit requirements among industry stakeholders, especially for new entrants.

Metric 10: Outreach activities conducted to communicate regulatory requirements to stakeholders. (also relates to KPI 2)

During the year, 10 nuclear and 13 chemical on-site outreach visits were conducted. To maximise the effectiveness of our communication on ASNO requirements, industry events were targeted. Presentations were delivered at the Australasian Radiation Protection Society and Australian Institute of Mining and Metallurgy national conferences.

Targeted outreach was delivered to an audience of nuclear practitioners at the Australian National University.

KPI 6 - Regulators actively contribute to the continuous improvement of regulatory frameworks.

Metric 11: Number of meetings attended to influence international policy. (also relates KPI 1)

ASNO continued to concentrate on our international partnerships in order to influence the nuclear and chemical frameworks that Australia operates under due to our regime of WMD treaties. Nineteen nuclear and four chemical international meetings were attended. These included the Nuclear Security Summit, a meeting with bilateral partners on bilateral nuclear cooperation agreements, the 20th Conference of the State Parties to the CWC, the IAEA General Conference and regular meetings of the IAEA Standing Advisory Group on Safeguards Implementation.

Metric 12: Engagement with other regulators to explore opportunities for regulatory efficiencies.

Important regulatory partners include the Australian Radiation Protection and Nuclear Safety Agency, Defence Export Controls, Department of Industry, Innovation and Science and Department of Immigration and Border Protection. Numerous meetings occurred throughout the year to develop strategies and coordinate activities to effectively and efficiently work with common regulated entities.

Examples of coordinated activities that benefit regulated businesses include: working with Australian Border Force to monitor prohibited imports under the *Customs Act 1901*; and a comprehensive risk assessment of transport security for uranium ore concentrates conducted with the Office of the Inspector of Transport Security.

Additional Comment

An exchange of letters between ASNO and Defence Export Controls (DEC) in November/December 2015 established a legal mechanism, through amending the export permit conditions, to require exporters of CWC-Scheduled chemicals who have been issued export permits by DEC to report directly to ASNO annually on the previous years' exports via ASNO's secure on-line portal. This arrangement reduces the regulatory burden on exporters who were previously required to report twice per year to DEC, as well as being required to complete an export survey once per year to ASNO. This also enhances ASNO's ability to ensure data integrity through having direct contact with exporters to clarify their reports. ASNO uses this information in its declarations to the Organisation for the Prohibition of Chemical Weapons as required under the Chemical Weapons Convention (CWC).

In May 2016, ASNO and DEC agreed to streamline the permit requirements for multiple exports of CWC Schedule 1 chemicals. Previously exporters of Schedule 1 chemicals were only granted single-use permits. However under the revised arrangements, a single licence will allow multiple exports with additional reporting requirements to ASNO. This enables ASNO to continue to meet its declaration obligations under the CWC while reducing the regulatory burden on exporters.

The development of improved databases and online reporting portals was also a focus for our chemical and nuclear regulatory teams, however, progress has been hindered by numerous technical issues. Under the new development project, expanded capacity to track permit and approval processing is expected. There have been several upgrades to ASNO's database in FY 15/16 with a range of enhancements which improve the user experience when using the chemical online portal.

Both the Australia-India and Australia-United Arab Emirates Nuclear Cooperation Agreements became operational during 2015-16. In addition, the Australia-Ukraine nuclear cooperation agreement (NCA) was negotiated and signed during the period. New NCA's allow access to new markets and decrease regulatory limitations on where Australian uranium can be used. With the conclusions of the Ukraine NCA, Australian uranium will be able to be transferred to all of the world's top 10 nuclear power generating countries.