



Western Australian Auditor General's Report

Second Public Sector Performance Report

Report 7 – June 2009





**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

SECOND PUBLIC SECTOR PERFORMANCE REPORT 2009

I submit to Parliament my Second Public Sector Performance Report for 2009 under the provisions of section 25 of the Auditor General Act 2006.

A handwritten signature in black ink, appearing to read 'C. Murphy'.

COLIN MURPHY
AUDITOR GENERAL

25 June 2009

Contents

Auditor General's Overview	4
Dangerous Goods Safety	5
Compliance in Western Australia's Commercial and Recreational Fisheries	16

Auditor General's Overview

This is the second Public Sector Performance report for 2009. These reports address public sector performance across a broad range of important government operations with the findings often relevant to many agencies.

In this report my Office has examined two areas where, for very different reasons, government regulates public access to materials and resources. The two items in the report are:

- Dangerous Goods Safety
- Compliance in Western Australia's Commercial and Recreational Fisheries

The first examination in this report tested how the Department of Mines and Petroleum carries out its licensing and regulatory functions to ensure dangerous goods safety. Controlling access to dangerous goods is important to protect public safety. In March 2008 new legislation and regulations came into effect, dealing with dangerous goods manufacture, storage, handling and transport.

The second examination assessed how the Department of Fisheries planned for and conducted its compliance activities to ensure the sustainable management of our commercial and recreational fisheries. Western Australia's fisheries are important commercial and recreational resources, which generate more than \$1.5 billion for the state economy each year.

Regulatory functions are an important responsibility of many government agencies. The state relies on regulatory functions to protect its varying interests, ranging from the health and safety of its residents to its commercial and environmental interests.

This report highlights the need for regulatory compliance programs to be based on good data and research and to be carefully planned, implemented and regularly monitored to ensure their effectiveness.

Dangerous Goods Safety

Overview

Dangerous goods are substances, such as explosives, flammable liquids and gases, and oxidising agents, with the potential to harm people, property and the environment.

The Dangerous Goods Safety Act 2004 and associated regulations came into effect in March 2008 replacing older legislation. The new legislation provides for the safety of dangerous goods manufacture, storage, handling and transport. Individuals and companies involved in handling dangerous goods are required to operate under a valid licence and comply with the legislation in performing their functions.

In Western Australia, the Department of Mines and Petroleum (the Department) manages and regulates dangerous goods safety. The Department not only issues the licences but is also responsible for compliance inspections and responding to incidents and complaints.

Other state and Commonwealth agencies may also play a role in dangerous goods safety. For example, security clearance checking of licence applicants is done by WA Police, Main Roads can inspect vehicles transporting dangerous goods and the Fire and Emergency Services Authority may respond to incidents involving dangerous goods.

Conclusion

The Department of Mines and Petroleum has made much progress in implementing and managing the new legislation for dangerous goods in Western Australia. Nevertheless, significant weaknesses in some systems and practice are evident. The Department needs to address these to effectively manage dangerous goods safety in the state.

Key Findings

- Weaknesses in the regulations have led to the Department issuing licences without required background checks by WA Police. Background checks are intended to prevent inappropriate persons getting access to dangerous goods.
- Weaknesses exist in the Department's process for licensing people to deal with dangerous goods. Licences have been:
 - renewed well after reapplication dates had expired
 - issued for vehicles without ensuring that they have undergone required safety inspections.

- The Department lacks an adequate management system for planning and managing its compliance activities:
 - there is no information system to manage compliance and inspection activities. The Department plans to introduce a specific compliance management system by 2012
 - remediation notices are not issued when problems are identified during inspections at explosives sites
 - overdue remediation notices are not always followed up.

What Should Be Done?

The Department should:

- as a matter of urgency, resolve the issue of background checks
- ensure that it adheres to the requirements of the legislation and best practice by having operational rules about renewal of licences
- ensure that the proposed compliance management system is introduced as soon as possible. In the meantime the Department should ensure:
 - that appropriate inspections evidence is recorded and updated
 - it effectively tracks the outcomes of inspections.

Response by Department of Mines and Petroleum

The Department of Mines and Petroleum accepts and supports the key findings of the audit and is committed to addressing them as a matter of urgency. It is noted however that the required improvements in management systems for planning and managing compliance activities may not be fully realised without additional funding.

Response by Western Australia Police

Western Australia Police supports the finding outlined in the report. Both Western Australia Police and the Department of Mines and Petroleum have reached consensus on proposed amendments to the regulations and anticipate the issue to be resolved quickly.

It is also anticipated the Western Australian Police will finalise the balance of probity checks prior to the expiration of the Ministerial exemption which concludes December 2009. Upon the implementation of the amendments to the regulations, the Western Australian Police will provide the objections identified during the background checks conducted.

Background

Dangerous goods are substances, such as explosives, flammable liquids and gases, and oxidising agents, with the potential to harm people, property and the environment.

Under the Dangerous Goods Safety Act 2004, the Department of Mines and Petroleum is responsible for managing and regulating dangerous goods safety. The Department's responsibilities include issuing licences, inspecting storage sites, facilities and vehicles used for transporting dangerous goods, and responding to incidents and complaints.

The Department also regulates the operation of major hazard facilities and manages explosives reserves at Kalgoorlie and Baldivis. Major hazard facilities are dangerous goods sites, such as oil refineries and some chemical plants and storage sites, which have the potential to cause major accidents.

As at May 2009, over 12 500 current licences were recorded in the Department's licensing system. These range from licences for dangerous goods and explosives sites, drivers and vehicles, to licences for major hazard facilities – refer Table 1.

Licence category	Number of licences
Dangerous Goods Sites	4 000
Dangerous Goods Drivers	3 400
Dangerous Goods Vehicles	2 000
Dangerous Goods Handling (Shot firing)	2 200
Explosives (import, manufacture, transport, storage, driver and supply)	489
Fireworks (licences and permits)	310
Security Risk Substance (import, manufacture, transport, storage, fertiliser and supply of ammonium nitrate)	87
Dangerous Goods Pipelines	30
Major Hazard Facilities	20
Port Special Berth Approval	5
Total number of licences in all categories	12 541

Table 1: Number of licences by major licence category

The Department has issued more than 12 500 licences.

Source: Department of Mines and Petroleum and OAG

What Did We Do?

We examined how the Department carries out its licensing and regulatory functions to ensure dangerous goods safety. We tested activity in the period from 1 March 2008 to 28 February 2009. Specifically we examined whether the Department:

- was prepared for implementing the new Dangerous Goods Act and Regulations
- complies with the legislation when issuing and renewing licences
- is effectively monitoring the transport, storage and use of dangerous goods
- evaluates its performance.

Our examination involved reviewing documents, testing records, and interviewing key personnel. We also visited one explosives reserve and held discussions with WA Police.

We conducted the examination in accordance with the relevant Australian Standards on Assurance Engagements.

What Did We Find?

Licensing Activities

We found fundamental weaknesses in the Department's processes for licensing people to store, handle and transport dangerous goods. These included:

- dangerous goods licences are being issued to individuals without Police clearances
- licences were being renewed after reapplication dates had expired
- the Department is renewing licences for tankers without ensuring that they are safe for transportation of dangerous goods

During the period 1 March 2008 to 28 February 2009, the Department issued 2 090 new licences and 5 247 renewals spread over 19 categories of licences. We found that in 80 per cent of cases, the Department issued and renewed licences within its 10 working day target.

Table 2 provides a summary of licence types and total number of licences issued and renewed for each type.

Licence Type	Issued	Renewed
Dangerous Goods Drivers Licences	714	558
Dangerous Goods Vehicle Licences	402	1 444
Shot Firing Licence	289	1 294
Explosives Storage Licence	148	4
Fireworks Event Permit	147	–
Pyrotechnics Special Use Licence	92	–
Dangerous Goods Storage Licence	75	1 913
Explosives Driver's Licence	64	25
Fireworks Operators licence	64	–
Explosives Transport Licence	20	–
Fireworks Contractors Licences	16	–
Explosives Supply Licence	15	1
Explosives Import / Export Licence	13	1
Explosives Manufacture Mobile Processing Unit Licence	13	–
Explosives Storage (discontinued category)	13	–
Security Risk Substance Transport Licence	2	–
Explosives Manufacture (discontinued category)	1	–
Explosives Manufacture Licence	1	7
Security Risk Substance Storage Licence	1	–
Total	2 090	5 247

Table 2: Licences issued and renewed in 2008 by type

The Department issued and renewed more than 7 000 licences in 2008.

Source: Department of Mines and Petroleum and OAG



Dangerous goods licences are issued to individuals without Police clearances

The new Act and Regulations require all individuals applying for dangerous goods licences to have a valid dangerous goods security card. WA Police is responsible for conducting the background checks before the Department issues a security card to an individual. Without these checks there is an increased risk that inappropriate individuals could gain access to dangerous goods.

For the reasons outlined below, WA Police has not given security clearance for any of the 4 000 security card applications received since the Act came into effect in March 2008. The Department believes that a small number of individuals will have their licences cancelled when this issue is resolved.

Despite not having police clearances, the Department has issued dangerous goods licences under the authority of a ministerial exemption. The exemption was issued in March 2008 and is in effect until December 2009. The Act provides the Minister with authority to grant exemptions from all or specified provisions of the regulations.

The regulations require that WA Police conduct background checks of the applicant and close associates. WA Police and the Department agree that the present regulated checks are unworkable:

- the Department's application form for a security card does not request the names of close associates as defined in the Regulations. Without this information WA Police cannot conduct the required checks
- the definition in the regulations of 'close associate' is too restrictive and does not support the intended outcome of identifying applicants that might be a risk to public security.

The Department and WA Police have agreed on the amendments needed to the regulations and expect that the issue will be resolved by July 2009. WA Police is presently conducting checks against the agreed amended requirements. However, as these are outside the present regulations, it does not believe it has the power to share this information with the Department. When and if the regulations are changed, WA Police will provide information on all processed applications to the Department.

Licences were being renewed after reapplication dates expired

The legislation requires that renewal shall only be granted if an application is received before the licence expires. Otherwise, the applicant is required to apply for a new licence.

We found that 22 per cent of sampled renewals were granted despite the application being made 15 days or more after the expiry of the licence. One licence was renewed six months after the expiry date. We observed that the Department sends out reminder notices to licence holders three months before the renewal date.

The Department is renewing licences for tankers without ensuring they are safe for transportation of dangerous goods

Under the Australian Dangerous Goods code, tankers must have hydrostatic pressure tests at least once every five years. We found that licence renewals were issued without checking for an up-to-date hydrostatic test. The Department only checks for a current test result when issuing an initial licence for new tankers.

Tanker transport dangerous substances, including petroleum, diesel and LPG to fuel stations. Unless the Department checks that vehicles have been tested, there is increased risk that unsafe tankers will be allowed to carry dangerous goods in densely populated areas.

Compliance Activities

The Department's compliance activities are improving in volume and quality but still have significant weaknesses. The main areas of concern are:

- there is no information system to manage compliance and inspection activities
- remediation notices are not issued when problems are identified during inspections at explosives sites
- overdue remediation notices are not always followed up.

Departmental officers inspect licensed sites, vehicles and other licence categories to ensure compliance with the requirements of the regulations. A remediation notice should be issued for deficiencies or non-compliance identified during an inspection. The notice requires the licensee to address the deficiency by a due date, normally 28 days, and return a signed copy of the notice to the Department declaring that the issues have been resolved.

In the 10 years to 2007-08, the Department conducted minimal compliance activity for dangerous goods. For example we found:

- 30 per cent of sites have never been inspected and a further 30 per cent of sites had not been inspected for at least three years. Some had not been inspected for up to 14 years
- 70 per cent of dangerous goods vehicles including tankers were not inspected in the last three years. Some had not been inspected for up to 14 years.

Following the implementation of the new legislation the Department revised its compliance program and increased its annual target of inspections from 140 to 700. This target will be achieved in 2008-09. In addition to inspections the Department conducts a range of compliance activities as detailed in Table 3.

Table 3 summarises the Department's compliance activities during the period 1 March 2008 to 28 February 2009.

Type of activity	
Inspections	685
Complaints	27
Incident investigations	20
Consultant accreditations	17
Enforcements	7
Assessments for issue of licences (technical advice, risk assessment, site inspections)	680
Total	1 436

Table 3: Compliance activities in 2008-09

The Department will meet its target for inspections in 2008-09.

Source: Department of Mines and Petroleum

There is no information system to manage compliance and inspection activities

The Department currently lacks an information system that it can use to effectively manage its compliance activities. Instead, it is utilising its licensing management system 'HAZMAN' with other tools until a dedicated system becomes available in 2012.

We found that this makeshift arrangement limits the Department's ability to effectively manage its day-to-day compliance functions and to evaluate its activities and overall performance.

In particular, we found that HAZMAN cannot effectively record or report all inspection results. This includes types of non-compliance and the associated risks, and whether remediation or infringement notices have been issued. The Department records some inspection information in HAZMAN and reports on this information. However we found weaknesses which are reported below.

In addition to HAZMAN, the Department maintains a spreadsheet to keep a record of all compliance activities. However, the information recorded in this sheet is inadequate for performance evaluation. The spreadsheet records all inspections, but does not record details about inspection outcomes, for example how many issues were identified that need to be resolved. Apart from these practical inefficiencies, such multi-handling increases the risk of data errors.

The Department is working to introduce a dedicated compliance management system which will handle all relevant information dealing with inspections and their outcomes. It expects that this system will be fully active from 2012, and hopes to phase in implementation from 2010.

Remediation notices are not issued when problems are identified during inspections at explosives sites

The Department conducts inspections at explosives sites, dangerous goods sites and major hazard facilities. These inspections are handled by three different sections within the Department.

Since the commencement of the new legislation:

- only one remediation notice has been issued following an explosives site inspection. This is inconsistent with the number of deficiencies that Department inspections identified. Our sample testing showed that inspectors identified deficiencies in 75 per cent of inspections
- remediation notices were being issued for deficiencies identified during inspections of dangerous goods sites, in line with Departmental policy and procedures

- only two remediation notices had been issued for major hazard facilities. The Department informed us that normal practice is to issue remediation notices as a last resort. This is because these sites are managed through consultation and require more in-depth safety audits than normal dangerous goods or explosives sites. However, we consider that remediation notices should be issued for any specific regulatory non-compliance identified during an MHF audit.

Failing to issue formal remediation notices limits the Department's ability to track and manage outcomes and in particular, to obtain timely remediation.

Overdue remediation notices are not always followed up

As a result of the systems weaknesses discussed above, the Department cannot track remediation notices. This limits its ability to monitor inspection activities and take timely action against licensees.

When inspectors issue a remediation notice, it includes a due date for resolution. The Department sends a reminder letter to recipients if remediation notices are not resolved by the due date. We found the following issues in the Department's follow-up procedures:

- we reviewed 52 inspections. Ten of these had no information recorded about the inspection. Of the remainder, 12 were overdue for remediation but only four had been sent a reminder letter
- we reviewed one of the follow-up reports generated from HAZMAN and found that it had missed 81 items that required follow-up. This report is part of the workaround procedures mentioned earlier
- we identified 26 inspections where a remediation notice was issued but was not recorded in HAZMAN. This makes it difficult to ascertain if the licensee was issued with a remediation notice or not and also affects follow-up.

The Department's inspection program is not based on formal risk assessment

The Department has a program of inspections which focuses on dangerous goods sites, explosives storage sites and major hazard facilities and has conducted risk assessments of these sites to determine its priorities for inspection. However, the assessments did not use clear criteria for determining the risk. We expected to see formal risk processes and tools such as those outlined in the Australian and New Zealand Risk Standard AS/NZS 4360:2004 and Treasurer's Instruction 825.

Without clear and defined risk criteria, the Department may not identify all risks associated with its regulatory responsibilities. It may also not correctly classify the risks and appropriately plan its monitoring and enforcement activities to address those risks.

Dangerous goods sites made up the vast majority of inspected sites in 2008-09 (refer table 4). We note that the Department plans to inspect all sites on a rolling basis over five years.



	Dangerous Goods Sites*	Explosives Sites*	Major Hazard Facilities*
Number of sites	4 000	300	20
Inspections in 2008-09	600	50	40

* figures presented have been rounded

Table 4: Inspection activity 2008-09

The Department conducted approximately 700 inspections of dangerous goods, explosives and major hazard sites.

Source: Department of Mines and Petroleum and OAG

Management of explosives reserves

The Department manages a number of explosives reserves, including those at Baldviss and Kalgoorlie. Private organisations lease sites at these reserves for the bulk storage and manufacture of explosives and the storage of ammonium nitrate.

An internal audit report in May 2007 highlighted significant weaknesses in the management of explosives reserves. We examined one of the reserves, and found that the Department had addressed the issues raised in the report.

Compliance in Western Australia's Commercial and Recreational Fisheries

Overview

Fishing generates more than \$1.5 billion each year for the Western Australian (WA) economy and provides tens of thousands of jobs, often in regional areas.

WA has 50 commercial fisheries. Thirty-five are managed under the Fish Resources Management Act 1994 (FRMA), with another 15 managed through regulations and a variety of subsidiary legislation. In addition to the commercial fisheries, there are five licensed recreational fisheries attracting an estimated 643 000 recreational fishers each year.

The Department of Fisheries' (the Department) State of the Fisheries Report 2007-08 states that the majority of WA's significant fisheries stocks continue to be in a healthy condition. However, it reports that stocks in 20 per cent of fisheries were below acceptable levels or had not been assessed. Two iconic WA species, dhufish and snapper, are overfished. The Department is also concerned that there will be a decline in the predicted catch level of rock lobsters over the coming years.

Pressure on fish resources will continue to grow as population and boat ownership increase, and commercial and recreational fishers become ever more efficient.

Sustainable fisheries management and balancing the different requirements of the commercial, recreational and indigenous sectors requires sound research, effective management planning and compliance with plans.

The objective of the examination was to determine the effectiveness of the Department's commercial and recreational fishing compliance model. Our focus was on enforcement activities carried out by the Department in 2008-09 and enforcement performance data since 2002-03.

Conclusion

The Department commits considerable resources to its compliance and enforcement effort, including well trained, professional fisheries and marine officers. However, we found the Department is unable to demonstrate that its compliance program for WA's commercial and recreational fisheries is effective.

Key Findings

- There has been an increase in detected illegal fishing in the recreational sector and a decrease in the commercial sector since 2002-03. Compliance activity over this period has remained relatively constant.
- The Department's compliance program and planning is not clearly linked to a state-wide assessment of risk. Approximately one quarter of compliance activities are directed at six fisheries under an agreement with commercial license holders while the remaining effort targets the other 44 managed fisheries, about one-third of which have been assessed for risk.
- The Department's enforcement activity covers less than five percent of total fishing activity, but it has yet to determine what represents an effective level of compliance effort.
- The Department's information systems do not support effective monitoring or reporting of compliance activities and results.

What Should Be Done?

The Department should:

- develop regional and state-wide compliance risk assessments as a basis for its compliance program
- determine the level of compliance activity that is required to achieve effective compliance outcomes for individual fisheries
- identify and collect the key information required for compliance reporting and management purposes.

Response by the Department

The diversity of fish habitats and the nature of the recreational and commercial fisheries around Western Australia have contributed to a regionally based regulatory model being employed that promotes regional variation. The resultant complexity has adversely impacted on voluntary compliance, particularly among recreational fisheries. Population and the resultant increase in fishing activity have exacerbated this impact, which has not been matched by resources. The Department of Fisheries is responding to these issues by reallocating internal resources toward compliance activities, reforming regulatory arrangements to reduce complexity, improving compliance information tools and increasing the use of risk based compliance assessments.

Background

Western Australia (WA) has 12 500 km of relatively pristine coastline. It covers coastal marine habitats including Ningaloo Reef, the largest fringing reef in the world, and the world heritage listed Shark Bay.

Practically all commercial and recreational fishing is managed under the Fish Resources Management Act 1994 (FRMA), its subsidiary Fish Resources Management Regulations 1995 and a variety of management plans, orders and notices. The Pearling Act 1990 regulates the pearl oyster managed fishery.

Managing fisheries sustainably requires sound research, effective management planning and compliance with plans. Fishing rules aim to limit the total catch from a fishery to an ecologically sustainable level, and share the available catch between fishing sectors and fishers. They are designed to protect fish at vulnerable stages in their lifecycle, protect vulnerable or rare species, and prevent damage to the environment.

Restrictions include licences, seasonal and area closures, catch quotas and restrictions on gear, fishing effort and the size of fish that can be landed. Possession limits and legal sizes may apply state-wide; other restrictions vary depending on the geographical location.

The Department of Fisheries (the Department) has three core functions by which it manages the state's fisheries: research, management and compliance. These are housed in separated divisions of the Department. The Regional Services Division delivers compliance and enforcement in:

- commercial and recreational fisheries
- the pearling and aquaculture industries
- fish habitat protection areas and marine parks.

It also provides marine safety services within the Perth metropolitan region on behalf of the Department for Planning and Infrastructure, and has to deal with shark patrols and emergency incident responses.

The Department aims to create an effective deterrence against illegal activity and maximise voluntary compliance with fisheries laws. In addition to the deployment of well trained, professional fisheries and marine officers it uses a wide range of tools to ensure that industry and the public are complying with fisheries legislation. These include:

- land and sea patrols
- aerial surveillance
- covert operations
- mobile patrols
- vessel monitoring systems
- FishWatch confidential telephone line
- education activities.

The Department's compliance budget for 2008-09 was \$19.6 million. Our Office last reported on Fisheries Management in Western Australia in 2002.

What Did We Do?

The objective of the examination was to determine the effectiveness of the Department's commercial and recreational fishing compliance model. In particular we focused on the following criteria:

- Is the Department monitoring, measuring and reporting on its enforcement activities?
- Does the Department have clear plans and targets for its enforcement program?
- Does the Department have effective compliance policies and outcomes?

Our examination focused on enforcement activities carried out by the Department's Regional Services Division in 2008-09 and assessed enforcement performance data since 2002-03. We conducted file reviews, interviewed Departmental staff and industry representatives, conducted site visits to two regional offices, and accompanied fisheries and marine officers on a number of inspections of commercial and recreational fisheries.

We conducted the examination in accordance with the relevant Australian Standards on Assurance Engagements.

What Did We Find?

Detected illegal fishing has increased in the recreational sector and decreased in the commercial sector

Our analysis of data from 2002-03 to May 2009 indicates that the total number of enforcement actions – warnings, infringement notices and prosecutions – in commercial fisheries has declined by 54 per cent. By comparison, the total number of warnings, infringement notices and prosecutions has increased by 52 per cent in the recreational sector (see Figures 1 and 2). The number of infringement notices and prosecution actions in the recreational sector has increased by 88 per cent. The level of compliance activity over this period has remained relatively stable (see Figure 3).

Thirty-six prosecutions have been made for illegal commercial fishing in 2008-09 (1 July 2008 to 27 May 2009) of which illegal west coast rock lobster fishing made up approximately 25 per cent.

By contrast, there have been 237 prosecutions in 2008-09 for recreational fishing, nearly half of which were for illegal crabbing. Illegal fishing of marron, fin fish, lobster and abalone make up the bulk of the remainder.

There are various factors which impact on the number of enforcement actions in a particular year. These include:

- the numbers of fisheries and marine officers undertaking field patrols
- compliance operations targeting specific illegal activity
- changes to fisheries management arrangements
- implementation of the results of compliance risks assessments
- education campaigns
- available resources.



Image courtesy Department of Fisheries

In the last six years, the Department's FishWatch confidential hotline has generated between 300 and 500 reports of potential illegal fishing each year. The Department considers FishWatch a useful intelligence tool that helps the reassessment of the level and nature of illegal fishing activity. FishWatch incident reports are entered into the Department's Seastar fisheries intelligence database and allocated to the appropriate regional compliance manager. Depending on the seriousness of the reported incident and availability of resources, investigative action may be taken. We noted that the Department does not consistently record what action is taken or the outcome of these reported incidents.

The Department also has approximately 131 fisheries volunteers. Their role is to assist the Department in educating fishers about fishing rules, catch care and fishing techniques, and provide assistance with research data collection throughout the state. They do not have authority to issue warning or infringement notices.

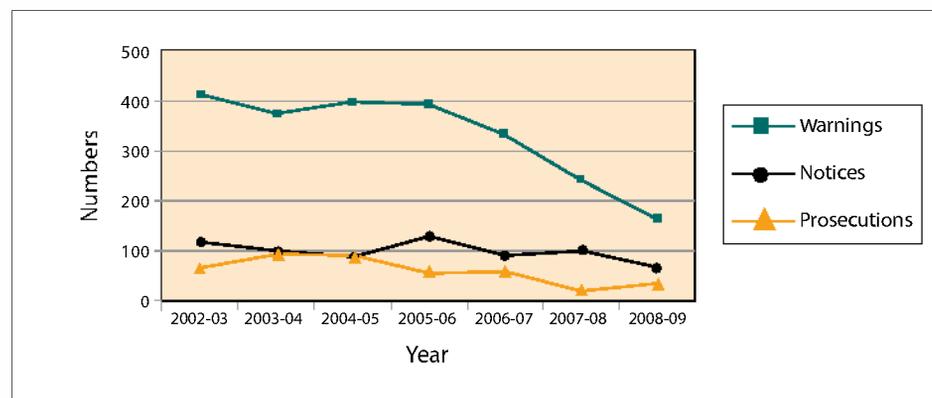


Figure 1: Enforcement actions in commercial fishing

There has been a significant decrease in infringement warnings for the commercial fishing sectors since 2002-03.

Source: Department of Fisheries and OAG

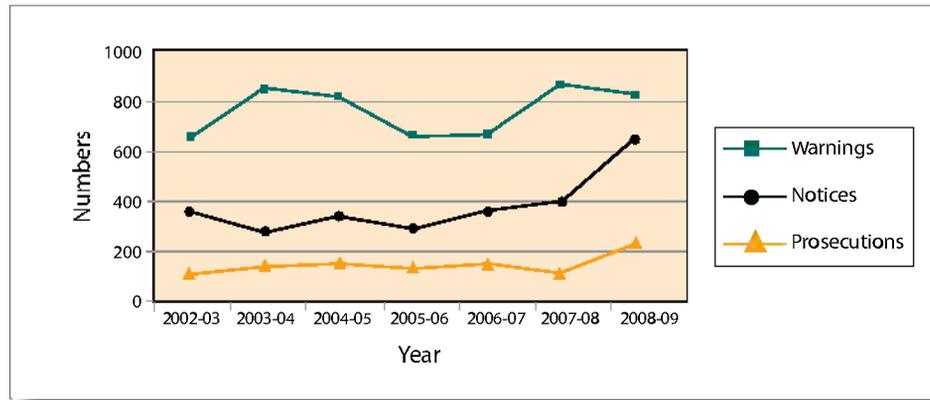


Figure 2: Enforcement actions in recreational fishing

There has been a significant increase in infringement notices and prosecutions for the recreational fishing sector in recent years.

Source: Department of Fisheries and OAG

The Department's data indicates that the level of compliance activity has remained relatively constant since 2002-03 across commercial and recreational fisheries (see Figure 3). The Department's State of the Fisheries Report 2007-08 details that in 2006-07, fisheries and marine officers delivered 26 000 hours of compliance patrol activity to commercial and recreational fishing and made over 60 000 contacts. This is the most recently available data as the Department does not regularly collate or report this information. Our analysis shows that more than 100 000 hours were spent on compliance activity to March 2009. This includes hours spent on patrols, planning, training, public education, enforcement follow-up and prosecutions.

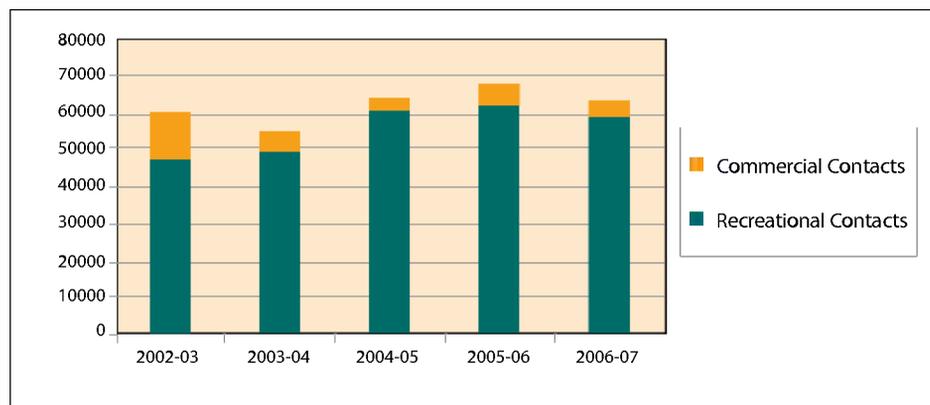


Figure 3: Field contacts by fisheries officers

Field contacts for commercial and recreational fisheries have remained relatively constant since 2002-03.

Source: Department of Fisheries and OAG

The Department's compliance program and planning are not clearly linked to a state-wide assessment of risk

We found that the Department does not have an overall state-wide compliance plan to guide enforcement activity. Rather, risk assessments and compliance plans have been developed for what the Department considers to be the key fisheries in each region. The Department considers that fisheries with higher sustainability, economic, equity and public perception issues take priority. We note that 36 commercial fisheries have not had a formal risk assessment and receive very little enforcement activity.

State-wide risks are not ranked or prioritised for the purpose of determining where compliance activities should be directed. As a result, some 'at risk' fisheries may receive inadequate enforcement activity.

Compliance models should ideally direct resources to areas of greatest risk. The Department recognises that it needs to change the way it conducts its risk assessments and is seeking ways to integrate individual risks into an operational compliance plan at a spatial level covering more than one fishery. It has recently conducted its first regional risk assessment which identified and prioritised risks for the whole South Coast Region. Importantly, this process identified which enforcement activities can and cannot be delivered with existing resources. The Department plans to conduct risk assessments for the other bioregions and create a state-wide compliance risk assessment by the end of 2009. We raised the need for risk based assessments in our 2002 report.

The Department has conducted risk assessment, compliance planning and resource allocation for some fisheries

WA has six major commercial fisheries where licensees pay fees to cover the total cost of fishery management including research, policy and compliance. We found that for these cost recovered fisheries the Department in consultation with industry determines the key risks to the fishery, plans appropriate compliance strategies and determines the resources required to implement compliance programs.

The Department introduced a standard system of fisheries compliance risk assessment in 2002. The risk assessment methodology reflects best practice in accordance with the Australian Fisheries Compliance Strategy, and is based on Australian/New Zealand Standard AS/NZS 4360:2004 Risk Management.

We estimated in 2008-09 the six cost recovered fisheries will provide \$5.5 million funding for compliance. This represents 28 per cent of the Department's compliance budget. The Department recorded around 27 000 hours of total compliance effort against these fisheries. This represents approximately 26 per cent of total compliance effort by the Department. The remaining compliance budget of \$14 million is funded by the State Government and targets the other 44 managed fisheries, recreational fishing, aquaculture, fish habitat protection areas and marine parks. This money also covers contingency activities like shark patrols and emergency incident responses. Table 1 shows the amount of money each cost recovered fishery had contributed towards the Department's compliance activities to March 2009.

Cost Recovered Fisheries	Recovered Cost \$
Abalone	638 154
Exmouth Prawn	25 598
Pearl Oyster	490 415
Shark Bay Prawn	158 533
Shark Bay Scallop	37 431
West Coast Rock Lobster	2 802 872
Total	4 153 003

Table 1: Contribution by cost recovered fisheries to March 2009

Source: Department of Fisheries

The Department has also conducted risk assessments for some of the non-cost recovered fisheries and each region maintains its own operational compliance plans. The regional compliance plans are used to allocate enforcement effort and create regional and district office work schedules.

The Department has conducted compliance risk assessments for:

- 14 commercial fisheries
- recreational fishing for each region and for the abalone and marron fisheries
- aquaculture
- marine parks
- charter boats
- Abrolhos islands.

The Department has planned assessments for eight other commercial fisheries (see Table 2) but has set no date for completion.

Compliance Risk Assessments	
Completed assessment and date	Planned risk assessments
Commercial	Commercial
West Coast Rock Lobster 2008	All Shark Fisheries
Abalone November 2005	South Coast Estuarine
Pearl Oyster 2009	South West and South Coast Salmon
Exmouth Gulf Prawn 2004	West Coast Deep Sea Crab
Shark Bay Prawn 2008	Pilbara Trap and Trawl
Shark Bay Snapper 2004	Beche de Mer
Lake Argyle Freshwater Catfish 2004	Northern Prawn Trawl Fishery (Onslow, Nichol Bay, Broome and Kimberley)
Barramundi 2004	Cockburn Sound Crab, West Coast Estuarine and South West Trawl
Northern Demersal Scalefish 2004	
Marine Aquarium Fish 2004	
Specimen Shell 2006	
South Coast Crustacean 2005	
Mackerel 2006	
West Coast Demersal Scalefish 2008	
Recreational	
Northern Bioregion 2004	
Southern Bioregion 2004	
Gascoyne Bioregion 2003	
West Coast Bioregion 2006	
Metro Abalone 2003	
Southern Abalone 2004	
Southern Marron 2004	

Table 2: Status of Fisheries Compliance Risk Assessments

Source: Department of Fisheries and OAG

The Department's enforcement activity covers only a small portion of total fishing, but they have yet to determine what represents an effective level of compliance effort

The Department has calculated that their enforcement contact covers less than five per cent of total fishing activity. However, compliance inspections in many minor commercial fisheries and aquaculture are reactive only.

Table 3 shows the Department's estimated inspection levels for a number of key fisheries.

Fishery	Compliance Inspection Levels
Commercial West Coast Rock Lobster	3 to 4 per cent of commercial catch inspected at factories for undersize, setose and tarspot Lobster pots counted once every 5 years
Commercial Abalone	5 per cent inspection rate on landings and 2 per cent at processors
Recreational Abalone	Average of 25 per cent over the last 3 years
Recreational West Coast Rock Lobster	Average of 2.8 per cent over the last 3 years
Recreational Marron Fishery	Average of 13 per cent over the last 3 years
Recreational Marine Finfish Shore	Average of less than 0.5 per cent over the last 3 years
Recreational Marine Finfish Boat	Average of less than 1.5 per cent over the last 3 years
Recreational Crab Fishery	Average of 20 per cent over the last 3 years

Table 3: Compliance Inspection levels for key commercial and recreational fisheries

Source: Department of Fisheries

Although the Department has established benchmarks for compliance coverage in some key fisheries (west coast rock lobster and commercial abalone), the Department has yet to determine what represents an effective level of fisheries enforcement. Defining what level of effort represents effective compliance is difficult and is a problem experienced by all fisheries compliance agencies. We note that the Department has initiated a project to move towards outcome based compliance planning. We made similar findings around this issue in 2002.



The Department's information systems do not support effective monitoring or reporting of compliance activities

The Department's information systems cannot easily generate reports to assist compliance planning and management.

The Department manages at least six separate database systems that record information for various purposes. Analysis and reports are produced on request, and can require statistics from more than one database. This is a time consuming, manual exercise complicated by the difficulty in generating comparable data from the different systems. These databases are not linked, use different codes and naming conventions for the same information and have varying report capabilities.

The Department is aware that the lack of a systematic approach to reporting is hampering effective compliance management. A compliance workshop conducted in August 2008 identified that there was a lack of standard compliance reports for project leaders, and a lack of 'dashboard indicators' to enable compliance managers to monitor progress against risk assessments and compliance plans.

We recognise that outcomes-based measurement of compliance is a difficult task and that the Department has identified the risk resulting from the different data systems. It is taking steps to improve data linkage and expects that improved reporting will be available by the end of July.

Reports of the Auditor General

2009

Maintaining the State Road Network	17 June 2009
Rich and Rare: Conservation of Threatened Species	10 June 2009
Coming, Ready or Not: Preparing for Large-scale Emergencies	20 May 2009
Audit Results Report – 31 December 2008 Assurance Audits and other audits completed since 3 November 2008	6 May 2009
Information Systems Audit Report	8 April 2009
Public Sector Performance Report 2009	1 April 2009
– Management of Water Resources in Western Australia – Follow-up	
– Administration of the Metropolitan Region Scheme by the Department for Planning and Infrastructure	
– Management of Fringe Benefits Tax	

2008

Second Public Sector Performance Report 2008	3 December 2008
– Complaints Management in Shared Service Centres	
– Funding and Purchasing Health Services from Non-Government and Not-For-Profit Organisations	
– Management of Traffic Infringements for Government Vehicles and Staff	
Responding to changes in attraction, retention and achievement in Vocational Education and Training	12 November 2008
Audit Results – Assurance Audits completed at 3 November 2008	
– Opinions of Ministerial Notifications	12 November 2008
Improving Resource Project Approvals	7 October 2008
The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994	18 June 2008
Lost in Transition: State Services for Humanitarian Entrants	11 June 2008
Audit Results Report on Universities and TAFE Colleges and other audits completed since 19 November 2007 and Performance Examinations of Risk Management, Delegation of Authority and Records Management	7 May 2008
Public Sector Performance Report 2008	19 March 2008
– Regulation of Security Workers	
– Information Security: Disposal of Government Hard Drives	

The above reports can be accessed on the Office of the Auditor General's website at www.audit.wa.gov.au

On request these reports may be made available in an alternative format for those with visual impairment.