

Conducting a regulatory change measurement

Guide to mapping – Toolkit 1

December 2009

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- The manual is available on the DTF website at <http://www.dtf.vic.gov.au/betterregulation>.
- See Toolkit 2 for information on assessing and calculating costs

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T1.0 Introduction

This toolkit provides details relevant to s.2.6.1 of the Victorian Regulatory Change Measurement (RCM) manual . Mapping involves:

- i. identifying obligations that bind a party to perform a certain action; and
- ii. identifying the type of regulatory costs imposed.

Thus, the purpose of mapping is to systematically identify the relevant regulatory obligations to obtain a better understanding of the components and drivers of costs. A good mapping exercise will enable easier collation and organisation of data for cost calculations .



Business-as-Usual activities should be excluded during the mapping process (refer to section A.1 of the Victorian RCM manual).

T1.0.1 General principles

The following general principles apply to the mapping exercise.

- **Only map the change:** For an RCM, only the change in regulation or regulatory process should be mapped. For instance, if only two out of 10 compliance obligations have changed, the RCM should only map these two obligations.
- **Use this Toolkit only to the extent practicable:** Where it is impractical or onerous to map regulatory obligations in the manner outlined in this Toolkit, alternative defensible methods can be used and relevant assumptions documented.



Tip

Where an alternative method of mapping (including an alternative to mapping) is considered by a department, the Better Regulation Unit (BRU) in DTF should be consulted for advice on the suitability of the approach, and to agree the criteria by which the alternative approach would be assessed.

In agreeing to such criteria, the BRU will consult with VCEC where changes are estimated to be greater than \$10 million per annum.

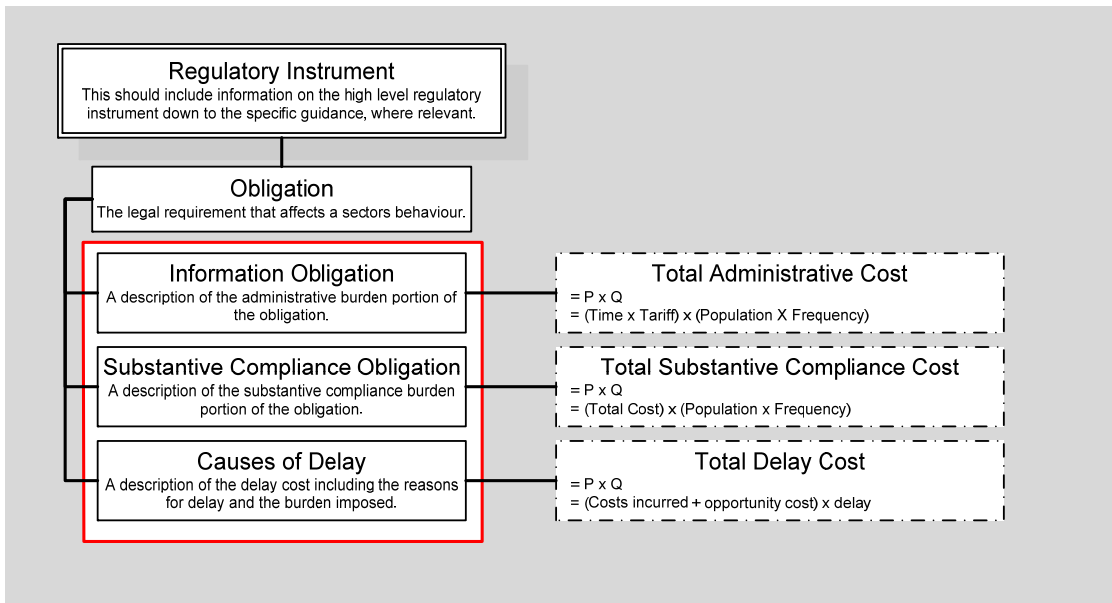
- **Mapping cost obligations should be sufficient in most cases:** As noted in s.2.6.1, mapping can be conducted up to the following three levels of disaggregation:
 - (1) **obligation** (such as information obligation or compliance obligation),
 - (2) **requirement** (such as data requirement or compliance requirement); and
 - (3) **action (or activity)** (such as administrative or compliance activity).

Mapping up to the obligation (or highest) level of detail is generally sufficient for the purpose of an RCM, with disaggregation below that undertaken only where:

- the necessary information can only be collected at that level; and
- the cost of such disaggregation is not excessive.

- **Within an obligation, map the cost categories:** An obligation can impose three types of costs: (a) information obligation, (b) substantive compliance obligation and (c) cause of delay. Where an obligation imposes two or more types of costs, it should be mapped into its appropriate components (see Figure T1.1). If a particular cost is a minor part of an obligation, there is no need to create a separate cost category for it.

Figure T1.1: Mapping regulatory obligations into cost categories



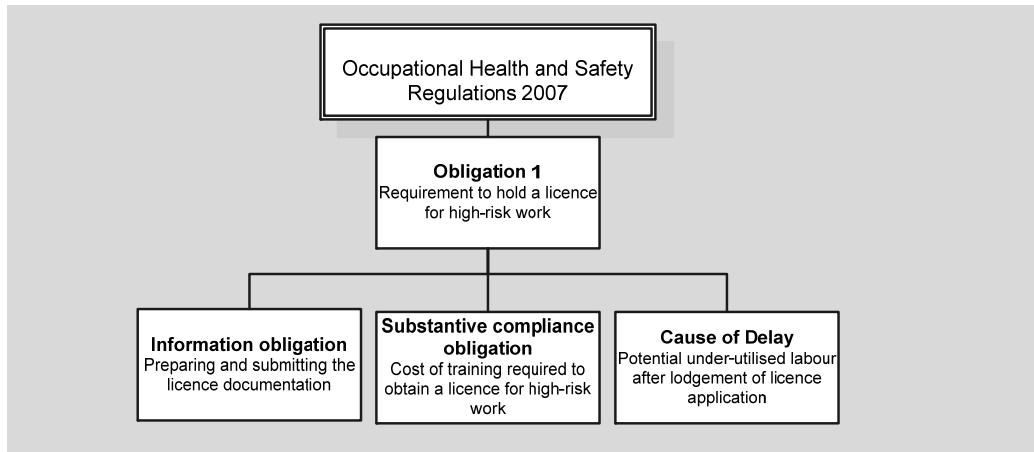
An example of mapping of an obligation is provided in Box T1.1.

Box T1.1: Mapping high risk work licences

A ‘requirement to hold a licence for high-risk work’ is one of the obligations under the *Occupational Health and Safety Regulations 2007* (Part 3.6, Division 1, Section 3.6.1). Within this, potentially three obligations can be mapped (see Figure T1.2):

- i. information obligation: this relates to the information to be submitted to government as part of the licence application;
- ii. substantive compliance obligation: this is the cost of obtaining a competency requirement as part of the licence application; and
- iii. cause of delay is the applicant earning lower wages while waiting for the licence (this imposes an opportunity cost on the applicant).

Figure T1.2: Mapping an obligation into various cost categories



- Document the mapping precisely:** The relevant section of the regulatory instrument should be cited during the mapping exercise. Where only the process of a regulation is being mapped, the relevant regulatory instrument that gives rise to the regulatory process should be clearly identified. It may be useful in some cases to note (in a working sheet) the underlying activities or actions that may be driving the costs under the obligations – without necessarily mapping them. One of the outputs of the mapping exercise would be a diagram (e.g. of the type shown in Figure T1.2).

The three different cost categories (obligations) are discussed in the following sections in detail.

T1.1 Mapping and understanding compliance obligations

Compliance obligations are of two types:

- (i) information (administrative) obligations and
- (ii) substantive compliance obligations (please refer to Figure 2 in the Victorian RCM manual).

These impose, respectively, administrative and substantive compliance costs.

T1.1.1 Information (i.e. administrative) obligations

Administrative costs are costs incurred by regulated entities primarily to demonstrate compliance with the regulation or to allow government to administer the regulation. Obligations that impose administrative costs are called information obligations.

Thus an information obligation is a duty to procure or prepare information and subsequently make it available to a public authority. It may require collection or preparation of information by others, for example by cooperating with an audit, visit or inspection. It is not necessary for businesses to send information to a public authority. Information that businesses must have available and forward or display upon request, such as workplace health and safety assessments, are also information obligations.

Underlying activities within information obligations

While not obligatory (or even recommended) to disaggregate an information obligation it may be necessary to do so in some cases (see s.T1.0.1). In such cases, **administrative activities** can be mapped (Table T1.1 provides examples); mapping **data requirements** is not recommended.

Table T1.1: Illustrative categories of administrative activities

1. Understanding the requirement
Training. Relevant employees must be kept up to date with information obligations that change frequently (at least once a year). Familiarisation with the information obligation. The resource consumption of businesses in connection with familiarising themselves with the rules for a given information obligation.
2. Gathering the information
Information retrieval. Retrieving the relevant figures and information needed to comply with a given information obligation. Assessment. Assessing which figures and information are necessary for the public authorities to accept the report.
3. Calculation and preparation
Calculation. Performing the relevant calculations needed for the government or its agencies to accept the report. Checking. Checking the calculated figures, e.g. by reconciliation with other data. Correction. If the business's own checks reveal errors in the calculations, corrections are made afterwards. Internal meetings. Meetings held internally between the various personnel groups involved in complying with the information obligation. External meetings. Meetings held in cases where compliance with the information obligation requires meetings with an auditor, lawyer or the like.

4. Finalisation and transmission

Description. Preparing a description for reporting requirements, e.g. for an annual report.

Presentation. Presenting the calculated figures in tables or the like.

Reporting/submitting information. Where applicable, sending the information to the relevant authority.

Copying, distribution, filing, etc. In some cases the report is copied, distributed and/or filed in order to comply with the information obligation. It may also be necessary to store the information obligation with a view to subsequent production in connection with an inspection.

Settlement/payment. Activities associated with paying tax, charges or the like, such as preparing internal approvals to draw the cheque.

5. Reaching agreement

Inspections by public authorities. Assisting external inspectors when they carry out their inspection at the business.

T1.1.2 Substantive compliance obligations

Costs that directly lead to the regulated outcomes being sought are called substantive compliance costs. Obligations that impose substantive compliance costs are called substantive compliance obligations.

To comply with **substantive compliance obligations**, an affected entity may need to make active changes to its operating processes, by implementing technical or other solutions (like adjusting a machine to ensure compliance with noise standards) or making provisions that involve capital investment. In general, these obligations often impose capital and production costs such as the purchase of new equipment, maintenance of equipment, or the undertaking of specified training.

**Tip**

In mapping substantive compliance obligations it may be useful to consider:

- whether the relevant requirement affects a core activity of business or a supporting service;
- which aspect of business operations (i.e. technical, financial or administrative) is involved; and
- the type of objects (such as persons, vehicles, buildings) involved.

Underlying actions to meet substantive compliance obligations

To better understand a particular substantive compliance obligation, it may be useful (but not obligatory) to disaggregate it into various component activities. The following is an illustrative list of underlying compliance actions or activities:

- provide the staff with orientation or other mandatory training;
- consult with suppliers and construction companies;
- request for and assess quotations to purchase raw material, plant or machinery (such as scaffolding, or building and construction material);
- enlist external advisors;
- print a statement for third parties or otherwise provide information to third parties (printing of labels or signage);
- undertake steps required by an Environment and Resource Efficiency or other Plan;

- purchase of plant, capital goods, devices, or structural adaptations required by the regulation, or extra raw materials, auxiliary materials or new maintenance requirements;
- hiring of extra personnel; and
- impacts on increased energy consumption.

T1.2 Mapping and understanding the causes of delay

T1.2.1 Causes of delay

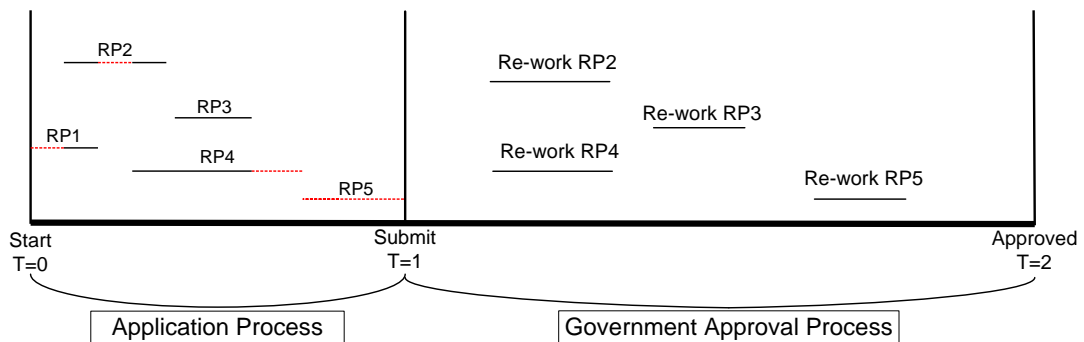
As defined in the s.A.2.3 in the Appendix to the Victorian RCM manual, delay costs are the expenses and loss of income imposed on a regulated entity through (a) an application delay and (b) an approval delay. The cause of a delay can accordingly be mapped into two main types:

- **application process** (e.g. obligation to lodge a planning application); or
- **approval process** (e.g. requirement to wait for government approval of application).

The direct costs of preparing an application or re-working it, including time spent on phone calls or meetings as part of an approval process is to be counted as an administrative cost.

It is important to ensure that BAU costs are identified clearly and that the delay is attributed only to processes that actually impose a delay, i.e. are on the critical path of the activities of the regulated entity. Removing such activities should directly expedite business activities.

Figure T1.3 illustrates the two kinds of delays and the BAU concepts involved.

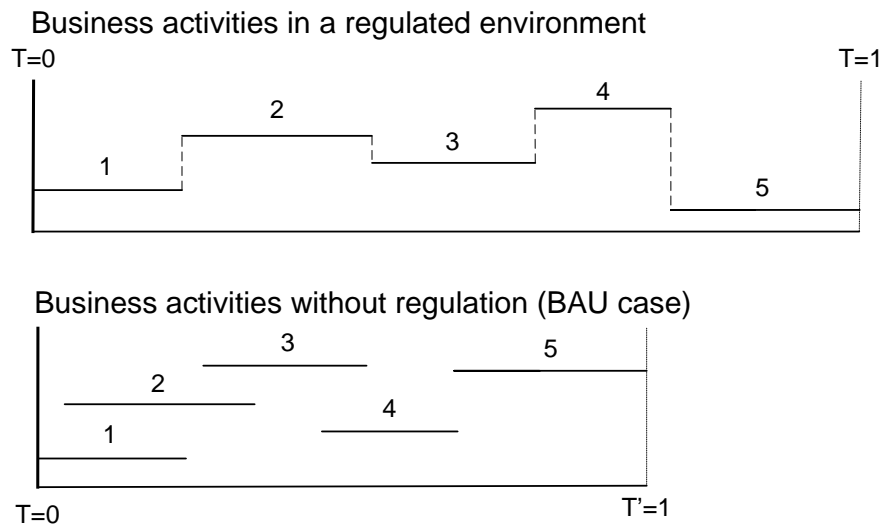


To be counted as a delay, an application delay must meet all of the following criteria:

- these delays must prevent the regulated entity from commencing its intended operations;
- reducing the delay should directly impact the critical path (this refers to the widely known Critical Path Method in project management literature). The critical path is shown by the dotted lines in Figure T1.3. This means that parallel processes during the application process have not be double-counted; and
- normal (BAU) business processes that would otherwise have been undertaken as a parallel process during the period of preparation of an application have been excluded or the time spend on these activities subtracted.

In Figure T1.4, time $T'=1$ under the unregulated situation is theoretically the earliest time a business could conduct its normal operations (lower figure). However, in a regulated situation, business may stagger its necessary activities over a longer duration (upper figure).

Figure T1.4: The effect of business-as-usual on delays



Understanding and mapping out all business and regulatory activities clearly is necessary (preferably on MS Project using a Gantt chart), to identify the precise cost of application delay.

Calculating approval delays

The moment such an application is lodged with a regulator, the time lapsed can be counted (from T=1 in Figure T1.3), subject to a deeper understanding of the overall processes underway. In general, to initiate an approval delay, the application lodged with a regulator should generally conform to regulatory requirements (e.g. by furnishing relevant documentary evidence) to a standard expected of a normally efficient business. Since normally efficient businesses may be required to put in a moderate amount of re-work despite their best intentions to submit a perfect application (for the regulatory requirements may be too complex or unclear even for the most expert business), a moderate level of re-work should be counted as part of the approval delay. The average time for re-work taken by businesses can be counted towards this purpose.

To be counted as a delay, an approval delay must meet all of the following criteria:

- the delays must actually prevent the regulated entity from commencing its intended operations;
- parallel processes of re-work during the approval process must not have been double counted (thus, in Figure T1.3, the re-work of processes 2 and 4 must not be double-counted);
- normal (BAU) business processes that would be undertaken in parallel during approval of an application have been subtracted.

The average duration of an approval (difference between T=2 and T=1 in Figure T1.3 – including the re-work period), can be determined by considering a normally efficient business and a normally efficient regulator (a concept similar to normally efficient business, when applied to a regulator).



Tip

It is recommended that a Gantt Chart based on MS Project be used to map and demonstrate the critical path.

Underlying causes of delay

Where it is felt necessary to gain a better understanding of underlying costs, the cause of delay can be disaggregated into its underlying causes, such as:

- underlying requirement to pay land taxes and rates during a period of delay; and
- underlying requirement to maintain structures (such as fences) during a period of delay.

T1.3 Estimate the relevant costs

After the mapping is complete, relevant costs can be estimated for each of obligation. Detailed guidance on cost calculations is provided in **Toolkit 2**.

