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## Summary

**Regulatory bodies and enforcement agencies monitor and enforce rules and regulations, thus ensuring proper practice and implementation. They play an instrumental role in governing water and environmental resources management. Their functions and mandates are set by policies and legal instruments. This Tool describes the regulatory function, presents the different types of regulatory entities, their key roles in water management, and highlights considerations to enhance the capacity of regulatory and enforcement bodies.**

### **Regulatory Function and Enforcement Responsibilities**

Regulatory bodies and enforcement agencies have an important role to ensure that IWRM principles are adequately translated into practice. They ensure that the standards stipulated in policies (Tools A1), legal frameworks (Tools A2) or plans (Tools A3) are being respected by all actors (Hannam, 2003). The enforcement functions may include responsibilities to identify offences, build capacity, report, resolve conflict, conduct monitoring, gather evidence, take remedial actions, and initiate proceedings. A range of regulations can be executed through these bodies such as tariff regulations, water or wastewater quality regulations, service delivery regulations, licensing regulations, and efficiency regulations (WAREG, 2015). In some cases, regulatory bodies may have the power to subcontract specific activities related to water management to specialised organisations, including private companies.

The goal for these bodies and agencies is to ensure accountability and transparency in decision making processes (Tool B1.05). It also ensures that the system functions as envisioned while also building trust in the system for all stakeholders. Their responsibilities are often associated with water supply (Tools B2) or irrigation management and utilise a wide range of management instruments

(Tools C) to ensure efficiency, alignment, quality of service and protection of customers. The role of regulators to oversee interactions between policy makers, communities, users, and service providers (Figure 1).

### Image



**Figure 1.** Role of regulators in context of different stakeholders. Source: Water Governance Facility (2021)

### IWRM in Regulatory Bodies and Enforcement Agencies

Enhancing accountability and transparency supports legitimacy of the institution and vice versa. The legitimacy of the regulatory body is critical in ensuring compliance and implementing policies (Berg, 2013). Regulation and enforcement bodies should work hand in hand with local stakeholders to develop and implement policies that are aligned with social and economic needs while accounting for environmental concerns. Stakeholders such as community members, NGOs, media, industries can be involved in boosting accountability by including them in processes such as oversight boards, external audits, and inquiry commissions. Accountability, transparency, and legitimacy also hinge on the communication and information sharing on procedures of procurement and contracting. Experience shows that genuine consultation and collaboration helps the legitimacy of the regulatory and enforcement bodies (Brown et al., 2006).

IWRM requires alignment of major users such as municipal, industrial, agricultural, and hydropower, while also preserving governmental, environmental and stakeholder interests. Water abstraction licenses across different user groups are managed by the entities while also ensuring quantity and quality of water discharge into ecosystems. This is further integrated with enforcing regulations on

land-use planning such as zoning, building permits and soil protection measures. Restrictions on application of manures, pesticides as well as habitat protection may also be implemented through these agencies.

In order to ensure effectiveness, regulations must be practical and enforceable while the mandates must be clear to specify the roles and responsibilities of the entities (OECD, 2018). The agencies must utilise meaningful indicators that captures technical, economic, and social issues.

## **Governance of Water Regulators**

Different agencies and governance structures are present at varying scales to regulate water based on their mandates. One of the most important ideas behind these principles is that an institution cannot be the regulatory body for itself. There must be a clear distinction between regulating agencies and regulated agencies (OECD, 2015). Furthermore, enforcement and regulatory agencies must be free from political and economic interference so that their actions are not biased in any

specific direction. Regulators should have sufficient independence from the legislative and executive branches of government to allow them to make final decisions (Yepes, 2000). Some of the institutional arrangements for regulatory bodies and enforcement agencies are described below:

- **Regulation by government:** The public sector may take on responsibility for the management of the water services through public water operators (Tool B2.01) while the regulatory functions are carried out directly by the state at appropriate levels such as central, regional, basin, and municipal. For example, government regulation and action may be required to protect consumers from high water prices or monopolies with large exploitative power. The government might provide direct subsidies (Tool C4.05) to low-income users, to compensate for high water prices. In the same way, the quality of drinking water must be cross checked to ensure water services are not deviating from their obligations to supply water of specific standards. This may also entail catchment protection at a basin scale.
- **Regulation by contract:** In such a regulation system the provision of water services are delegated to private operators (Tool B2.02) through contract agreements. The contract agreements establish the set of rights and obligations for each contracting authority. The contracts are awarded to private companies following public tenders while the water infrastructures remain public assets (OECD, 2015).
- **Independent regulators:** Independent regulation has three dimensions which are independence in decision making, management, and financing. This regulatory framework is organised around the establishment of dedicated agencies which supervises and regulates the water sector independently from the private operators, the government and the consumers. It clearly divides the roles of regulators and policy makers which limits potential conflicts between policy formulation and enforcement (Marques, 2010).
- **Outsourcing regulatory functions:** Specific regulatory functions such as tariff reviews, benchmarking, dispute resolution, and financial auditing can be outsourced to external contractors to promote accountability (Trémolet, 2007). It is important to establish clear agreements outlining the roles and responsibilities of each party when subcontracting happens.

## **Considerations to Enhance Capacity of Regulatory Bodies**

Capacity in regulatory and enforcement bodies varies widely from region to region and stress on capacity building and support is essential (Tools B4). The staff need to be knowledgeable about good management practices and have appropriate scientific knowledge in water resources management to enforce regulations and take appropriate water management measures. Capacity building for regulatory bodies support effective and efficient management (Eldridge, 2004). Furthermore, they must be supported by adequate financial resources for operations. Capacity is also required for transparency in financial management.



## **Thematic Tagging**

Water services

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