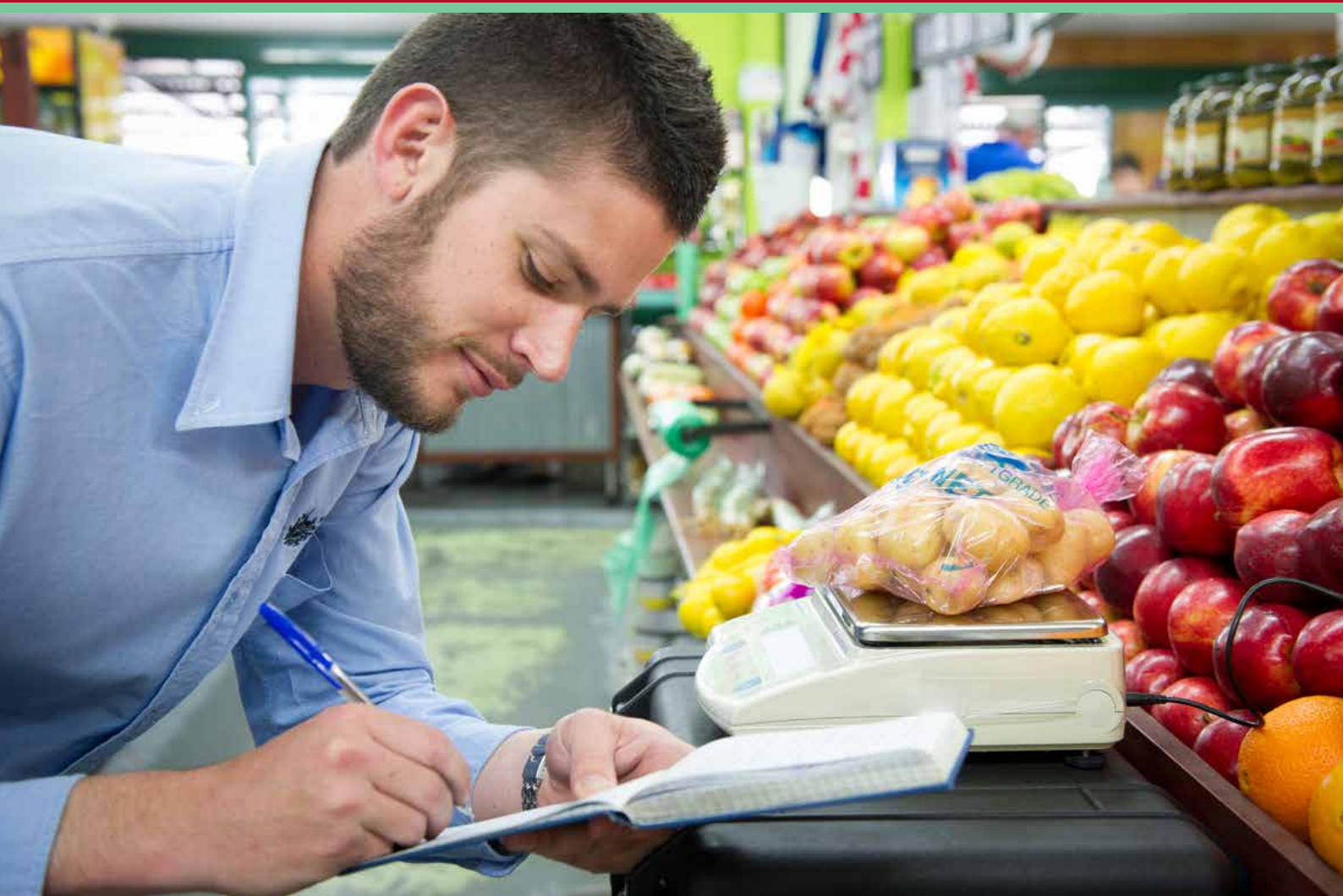




Australian Government
Department of Industry, Science,
Energy and Resources

National
Measurement
Institute



National Compliance Plan 2020–2021

Legal Metrology Branch

June 2020

MEASUREMENT.GOV.AU

CONTENTS

Our Principles	3
Proportionality	3
Consistency	3
Transparency	3
Our Service Aims	3
Efficiency	3
Clarity	3
Empathy	3
Professionalism	3
Accountability	3
A Risk-Based Approach to Minimise Harm	3
Recognising Compliance History	3
Program-Driven Compliance Activities	4
2020–21 Compliance Programs	4
Return to COVID-Safe Fieldwork	4
Social Media Engagement	4
Concentrated National Audit Programs	4
National Targeted Programs	5
Emerging Industry Programs	5
Licensee Compliance Programs	5
Research (Pilot) Programs	6
External Agency Programs	6
2020–21 Compliance Targets	6

Our Principles

NMI is committed to ensuring that its legal metrology compliance activities will be consistent with best-practice approaches to regulation, including following the principles of proportionality, consistency and transparency.

Proportionality

Any regulatory response will be proportionate to the impact of any actual or potential harm.

Consistency

We will take a consistent approach when interpreting, applying and enforcing national trade measurement legislation.

Transparency

As a regulator, we will be accessible, provide clear guidance on all aspects of our legislation, and be open about our policies, processes and, where permitted, our decisions.

Our Service Aims

All NMI staff involved in compliance activities work within a clear framework of service aims and standards as outlined in our [Legal Metrology Service Charter](#):

Efficiency

We respond to client and stakeholder requests in the stated timeframes.

Clarity

We demonstrate sound technical or legal knowledge and provide customers with unambiguous guidance.

Empathy

We seek to understand customer needs.

Professionalism

We are friendly, polite, and always conscious of how we represent legal metrology as a service of the Australian Government.

Accountability

We accept and respond to stakeholder feedback and keep stakeholders informed of the processes we undertake to address their enquiries and complaints

A Risk-Based Approach to Minimise Harm

The aim of NMI's administration of legal metrology regulatory compliance is to minimise harm without creating unnecessary compliance costs or burdens for business.

We measure risk in terms of the harm and likelihood of regulatory non-compliance. Some of the factors used to determine harm include:

- impact on confidence in the measurement system
- extent of financial detriment to consumers or industry
- impact on maintaining a level playing field for business competition
- ability of consumers to make informed purchasing decisions.

In assessing risk we consider the impact of any single instance and/or the cumulative effect of many individual instances of non-compliance.

We use a risk-based approach when:

- prioritising the development and maintenance of legal metrology infrastructure (for example, pattern approval standards, National Instrument Test Procedures and appointment of Authorities)
- targeting compliance activities
- determining the appropriate and proportionate regulatory response where non-compliance is identified.

Recognising Compliance History

Consideration of risk when determining regulatory responses will also be guided by previous compliance history. For example, NMI may:

- consider appropriate levels of surveillance for particular traders that have demonstrated a commitment to compliance through adoption of robust quality assurance systems or an industry code of conduct
- prioritise responding to complaints received about potential breaches of trade measurement law based on the compliance record of industry sectors and/or particular traders.

Program-Driven Compliance Activities

NMI combines market intelligence, consumer complaints and stakeholder feedback with compliance history to plan and implement targeted inspection programs for industry sectors that have a higher risk of non-compliance with the requirements of trade measurement law.

NMI undertakes pilot programs to assess the level of risk associated with non-compliance in particular or emerging industry sectors. These pilot programs are used to determine whether a targeted program needs to be introduced.

NMI allocates a small portion of its resources to maintain a base level of compliance monitoring activity through random audits. These provide visibility in the wider market. The 'potential' for a low-risk entity to be subject to some form of compliance activity can be a sufficient incentive for these entities to continue to voluntarily meet their obligations.

NMI also takes advantage of the presence of its trade measurement inspection force in the field to undertake market surveillance and investigation activities on behalf of other Commonwealth agencies, such as the Department of Health.

2020–21 Compliance Programs

Return to COVID-Safe Fieldwork

In order to reduce the risk of COVID-19 transmission to our staff and within the community, NMI largely suspended trade measurement field audit activity in mid-March 2020. Beginning in mid-June 2020, NMI commenced a three stage return to the field for our trade measurement inspectors.

To support the return to fieldwork, NMI will supplement existing safe work method statements and risk assessments for each industry sector, including a general risk assessment statement for COVID-19. We will continue to follow social distancing and hygiene practices throughout the staged return to COVID-Safe fieldwork. We remain committed to ensuring staff and clients remain safe.

Stage one of the return to fieldwork is expected to last for four weeks and will involve audits in a restricted group of industries.

Stage two is planned for the following four weeks and will extend the list of industry sectors subject to trade measurement audits.

Stage three will represent an effective resumption of business as usual, subject to the provisions of safe work method statements and risk assessments, with all industry sectors subject to audits.

Our plans for a staged return to fieldwork will, of course, be subject to any conditions imposed by the Commonwealth or State and Territory governments that could restrict inspectors from carrying out their normal duties and affect the implementation of our compliance activities.

Social Media Engagement

In addition to our traditional stakeholder engagement strategies, in 2020–21 we will explore opportunities for creating short video presentations on trade measurement compliance matters for use on social media platforms. Topics that could be covered include: how measuring instruments are tested; compliance of packaged goods; and the role of trade measurement inspectors.

Concentrated National Audit Programs

Under this program methodology, first introduced in 2018–19, all trade measurement inspectors will be involved together in a concentrated national audit, focused on a single industry sector over a specific time period, to assess compliance with trade measurement legislation.

Two major factors determining which traders are targeted in these national audits will be:

- previously identified non-compliance
- relative market shares of industry participants.

Four concentrated national audit programs will be undertaken in 2020–21.

Fruit and Vegetable Retail

Fruit and vegetable retail has historically been a sector where significant and sustained non-compliance has been identified. This program will focus on fruit and vegetable retail traders, including those traders previously identified as non-compliant, and will gather information to identify wholesale sites for future audits of grower direct facilities and market distribution centres.

Meat and Seafood Wholesale

Building on the 2019–20 Meat, Fish and Poultry Retail program, this program will focus on compliance of measurement transactions and trading practices of wholesalers, packers and importers in the meat and seafood industries.

Licensed Premises

The 2019–20 Licensed Premises program identified a high rate of non-compliance (28%) when conducting trial purchases. This program will follow up on traders found non-compliant during 2019–20 and also include audits in new market segments, such as in-house restaurants and bars at hotel accommodation. We will continue to work with the industry on strategies to improve the level of compliance.

Retail Fuel

Following the concentrated fuel retail audit programs of recent years, NMI is engaged in ongoing discussions with the major fuel retail groups to promote compliance and confidence in the industry. The 2020–21 program will revisit traders found to be non-compliant during the 2019–20 Retail Fuel program and inspect retail fuel sites not recently audited. Data gathered during the audits will also be analysed to identify whether there are issues related to the performance of particular models of fuel dispenser.

National Targeted Programs

Regional and Remote Inspections

As part of our commitment to the Government's Reconciliation Plan, we will continue auditing traders in remote locations, including indigenous communities, to increase awareness of trade measurement requirements and assess compliance with trade measurement legislation. This will help ensure that industry and consumers are not unfairly disadvantaged as a consequence of their locality.

Weighbridge Testing

Weighbridges are a fundamentally important measurement instrument in industries that contribute significantly to Australian GDP such as mining, agriculture, livestock and transport. NMI will continue to deliver a program of weighbridge inspection tests across metropolitan and regional areas, focusing on higher risk instruments and industry sectors.

Compliance Confidence

NMI will continue to target a selection of traders and industry groups found to be non-compliant in previous years, to evaluate their ongoing business practices and improve levels of compliance. The results of these inspections will be used to determine the level and nature of future engagement with particular traders and industries and address any systemic failures to commit to long term compliance. Priorities for 2020–21 include:

- **Meat, Fish and Poultry Retail** – revisit sites found to be non-compliant during the 2019–20 concentrated audit program.
- **Major Supermarkets** – follow up on previous concentrated audit programs to ensure measures included in enforceable and administrative undertakings have been implemented.
- **Enforcement Effectiveness** – revisit traders who were subject to enforcement action in the previous 12 months, including those issued warning letters, infringement notices and subject to other substantive actions.

Proactive High Risk

This program provides a mechanism to initiate inspection activity in response to government priorities and stakeholder intelligence. It will allow us to address issues where significant market failure is identified in areas not covered by other current compliance programs. During 2020–21, there will be a particular focus on importers of packaged goods in sectors with historically high levels of non-compliance and associated financial detriment to consumers.

Fuel Quality Testing

Following the Machinery of Government changes in early 2020, NMI is now responsible for administering compliance with the *Fuel Quality Standards Act 2000*. Under this program, NMI will undertake sampling and testing to help maintain the integrity of liquid fuel composition throughout Australia.

Emerging Industry Programs

Waste Management

In addition to continuing compliance audits of larger national companies in this sector, this program will also focus on small and medium sized traders in both solid and liquid waste to ensure their methods of measurement comply with trade measurement legislation.

New Traders

This program will target newly registered traders likely to have regulatory obligations under the *National Measurement Act 1960*, to provide information on the requirements of trade measurement legislation applicable to their business. As part of these efforts, we will seek opportunities to collaborate with other Commonwealth and State government agencies to distribute guidance material where appropriate.

Licensee Compliance Programs

The basis of any trade measurement transaction is an accurate measuring instrument. NMI appoints organisations called Servicing Licensees to verify trade instruments to ensure they are accurate before being used. NMI also appoints Public Weighbridge Licensees to ensure public weighbridges are operated in accordance with regulatory requirements.

During 2020–21 we will undertake a range of measures to help ensure the integrity of the licensing system, including:

- quality management audits of Servicing Licensees and Public Weighbridge Licensees, including through the Weighbridge Testing program
- audits of recently verified measuring instruments to ensure that verification is being undertaken correctly.

We will also monitor Servicing Licensee compliance through a number of metrics, including:

- appropriate submission of Form 6s to record all instrument verifications
- receipt of test reports on complex instrument verifications
- Licensees being authorised to verify relevant instrument subclasses
- verifiers having successfully completed relevant competency for specific instrument types.

Research (Pilot) Programs

Pilot programs are used to examine levels of trade measurement compliance associated with particular industry sectors and instrument types. Program results are used to inform consideration of the need for an ongoing commitment of inspection resources in this particular market segment in future years.

Pattern Approval Conformity to Type

Trade measurement law requires that all measuring instruments used for trade are pattern approved. Pattern approval confirms that the instrument's design meets relevant documentary standards and performs as intended over a range of environmental and usage conditions. The first stage of this program will include testing a range of newly manufactured instruments to assess ongoing compliance of production instruments with the approved pattern.

External Agency Programs

Tobacco Plain Packaging – Department of Health

Under a Memorandum of Understanding with the Department of Health, NMI's trade measurement inspectors are appointed as authorised officers to undertake education and investigation activities to promote compliance with the provisions of the *Tobacco Plain Packaging Act 2011* and the *Tobacco Plain Packaging Regulations 2011*.

2020–21 Compliance Targets

OVERALL INSPECTION ACTIVITY	PERFORMANCE TARGETS
Provide broad coverage across industry sectors in metropolitan and regional areas	10,000 trader audits (including both initial and follow-up audits)
Test a wide range of instruments in use for trade	10,000 instruments
Test a wide range of pre-packaged articles	70,000 pre-packed article lines
Monitor trading practices	1000 'secret shopper' trial purchases
Monitor liquid fuel quality	2000 fuel samples screened 180 fuel samples submitted for analysis