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Department of Industry, Science,
Energy and Resources

National
Measurement
Institute



National Compliance Plan 2021-2022

Legal Metrology Branch

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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.

2021-22 Compliance Programs

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.

Three concentrated national audit programs will be undertaken in 2021-22.

Importers

This program will include a focus on pre-packaged products with measurements based on volume. Imported products to be audited under this program will include:

- consumable items, including oils and seasonings
- animal food products, such as pet foods
- beverages
- sanitisers such as alcohol based products
- cleaning products.

Inspectors will also be reviewing documentation for measurement-related QA processes to ensure regulatory compliance.

Independent Supermarkets

Previous programs have identified higher rates of non-compliance in this market segment in areas such as measurement accuracy of pre-packaged products and measurement-related trading practices. This program will include a focus on smaller independent supermarket chains.

Licensed Premises

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.

National Targeted Programs

Remote and Indigenous Communities

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 2021-22 include:

- Meat, Fish and Poultry Retail
- Fruit and Vegetable Retail
- Major Supermarkets

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 2021–22, there will be a particular focus on meat, fish and poultry retail and fruit and vegetable retail traders not visited during the 2020–21 compliance programs.

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.

Agriculture and Farm Supplies

This program will target traders who sell products intended for agricultural and/or farming purposes, such as stockfeed, fertilisers, pesticides, animal medicines and antibiotics.

Bulk Fuel

This program will focus on compliance of bulk flow meter systems delivering fuel with a maximum approved flowrate greater than 60L/min. A mixture of fuel distributors, wholesalers and retailers will be audited, including traders who sell fuel to farmers and fishing trawlers.

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.

Regionally-based Local Audits

This program will focus on regional communities and local priorities such as produce markets, as well as an emphasis on compliance of products sold by linear and area measurement.

Licensee Compliance Programs

The basis of any trade measurement transaction is an accurate measuring instrument. Businesses across Australia rely on the capability of licensed third-party organisations in order to comply with the requirements of the Act and to help maintain the metrological infrastructure for trade measurement. NMI appoints organisations called Servicing Licensees to verify the accuracy of trade measuring instruments before first use or after repair. NMI also appoints Public Weighbridge Licensees to ensure weighbridges made available to the public are operated in accordance with regulatory requirements.

During 2021–22 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 and timely reporting of measuring instrument verifications
- auditing of test reports submitted for complex instrument verifications
- licensees being authorised to verify relevant instrument subclasses
- verifications being performed by verifiers holding appropriate competency for specific instrument types.

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. This program will include testing a range of production (newly manufactured) instruments to assess ongoing compliance 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*.

2021-22 Compliance Targets

OVERALL INSPECTION ACTIVITY	PERFORMANCE TARGETS
Provide broad coverage across industry sectors in metropolitan and regional areas	8,000 trader audits (including both initial and follow-up audits)
Test a wide range of instruments in use for trade	15,000 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	3000 fuel samples screened 530 fuel samples submitted for analysis