

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Audits

**REFERENCE:** Question on Notice - Written

**QUESTION No.: 1**

Between 1 July 2019 and 30 June 2022, 1,399 audits were conducted by a person who had either not yet been appointed or where there is no record of them having ever been appointed. Approximately 33% of these audits resulted in a ‘failed’ audit result. The department considers it cannot take valid enforcement actions where an audit was conducted by a person not appointed, or not yet appointed under the legislation.<sup>1</sup>

- a. How was the noncompliance identified in these 546 audits dealt with?
- b. Can you update the committee on where work to implement a new policy outlining
- c. when and how persons, who are not appointed as Trade Measurement Inspectors, can support trade management compliance activities?
- d. How has the department updated its guidance on what constitutes a trader audit?

**ANSWER**

- a. Any non-compliance identified in the audits was managed in accordance with the standard *Non-Compliance and Enforcement Protocol*.

All Trade Measurement Inspectors exercising regulatory powers had their ‘Inspector identification card’ signed by the appropriate delegate as evidence of their appointment. Since December 2022 the department has used a central instrument of appointment rather than issuing individual certificates.

- b. The new policy *Assisting or observing a trade measurement inspector* defines activities that can be conducted by unappointed persons. This was introduced in December 2023 and is now a module within the training package for Assistant Trade Measurement Officers (ATMOs).
- c. Guidance has been updated in the internal procedure *TMARS<sup>2</sup> – Creating traders and trader audits*. This defines the types of trader audits and their application within TMARS. All Inspectors and ATMOs received training on this new procedure in June and July 2024.

---

<sup>1</sup> ANAO, *Trade measurement report*, paragraph 2.10.

<sup>2</sup> TMARS is the Trade Measurement Activity Reporting System, the digital business system used to manage trade measurement compliance activities.

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Assessments of compliance risk

**REFERENCE:** Question on Notice - Written

**QUESTION No.: 2**

The audit found several shortcomings in industry-level assessments of compliance risk, including problems with the weighting, content, utility, and reliability of the datasets. In particular, ten of the datasets were indicators of the relative level of harm that may result from non-compliance, and these could not influence the risk rating.<sup>1</sup>

- a. What specific changes has the department made so all 19 of the existing datasets are fully used in the calculation of risk; and so risk is measured in terms of the harm of regulatory non-compliance not just the likelihood of noncompliance?
- b. What are the additional datasets referred to on page 3 of your submission and how do these assist in improving the assessment of compliance risk?
- c. The ANAO found there was not a strong relationship between industry-level risk
- d. assessments and targeting and compliance activities. What changes has the department made to ensure the selection of industries for targeting is based on risk of harm?
- e. How has the department improved its calculation of risk ratings in relation to the shortcomings identified by the ANAO on pages 71-73 of the audit report?

**ANSWER**

- a. The department has reviewed all datasets and updated weightings and formulas used in the calculation. One dataset, *Projected Annual Community Detriment*, was removed for greater consistency of risk assessment.

The risk assessment identifies and prioritises breaches of the legislation that cause harm to consumers or business. The assessment considers both the likelihood of non-compliance and the harm arising from regulatory non-compliance, for example a financial loss or detriment.

- b. Datasets added are sourced from IBIS world and include:
  - **Domestic demand** - spending on goods and services, regardless of country of origin.
  - **Industry value added** - contribution to Gross Domestic Product (GDP) by industry.
  - **Business Enterprises** - each enterprise consists of one or more establishments that are under common ownership or control.

---

<sup>1</sup> ANAO, *Trade measurement report*, pages 71-73.

- **Employment** - the number of permanent, part-time, temporary, and seasonal employees working within the industry.
- **Establishments** - a single physical location where business is conducted or where services or industrial operations are performed. Multiple establishments under common control make up an enterprise.
- **Exports** - total value of industry goods and services sold by Australian companies to customers abroad.
- **Industry revenue** - the total sales of industry goods and services (exclusive of excise and sales tax).
- **Imports** - total value of industry goods and services brought in from foreign countries to be sold in Australia.
- **Wages** - wages cover salaries and wages of all full-time, part-time, temporary and contract employees.

These datasets provide specific industry information to refine the assessment of overall risk and assist in designing the appropriate regulatory intervention or response. For example, a larger industry may have reduced likelihood of non-compliance due to greater resources for training, or a high-revenue industry may carry greater potential harm arising from non-compliance. Changes in these indicators (for example, an increase in domestic demand) can be reviewed to inform potential changes to compliance monitoring.

Additionally, since 2023 Trade Measurement Inspectors have collected data relating to trader quality processes, such as the use of a quality management system. The department will review this dataset in 2026 to determine if there is a relationship between trader quality processes and trader compliance.

- c. Industry and trader risk of harm are key factors in targeting compliance activities. However, the department also considers other factors, such as stakeholder feedback and the need to maintain up-to-date information on compliance rates across multiple industries.

In July 2024, the department updated its trader risk assessment processes used to target individual traders within high-risk industries, formalised in policies *Compliance Program Risk Methodology* and *Risk Assessment Ranking Methodologies*. The department is working to integrate the trader risk assessment into the Trade Measurement Activity Reporting System (TMARS), the digital business system used to manage trade measurement compliance activities. The department has also updated its published priorities to provide transparency about how targets are selected.

- d. The responses to Questions 2(a), 2(b) and 2(c) indicate the changes made to the calculations of risk ratings.

Additionally, the department now uses an integrated data analysis platform (Power BI) to draw risk assessment data directly from TMARS to inform the industry and trader risk assessments. This replaces manual data transfer between systems and minimises the risk of data error.

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Level of noncompliance

**REFERENCE:** Question on Notice - Written

**QUESTION No.: 3**

The level of noncompliance detected during follow-up audits is not declining.<sup>1</sup> According to the department's data: 25% of traders who receive education and non-compliance notices, 29% of traders who receive a warning letter, and 39% of traders who receive an infringement notice remain noncompliant at follow-up inspections.<sup>2</sup> The audit recommended the department strengthens its approach to conducting follow-up audits in a timely manner, and take regulatory action where noncompliance is continuing.<sup>3</sup>

- a. What is the department's accountability framework for strengthening its approach to follow-up audits and regulatory responses?
- b. How exactly do the Inspectors Manual and the Trade Measurement Services Accountable Leadership statement improve the timeliness of follow up audits, and the use of enforcement actions where continuing non-compliance is detected?
- c. The 2022-23 *Compliance with Measurement Regulation* report shows that 44 meat retail businesses remained non-compliant on a follow-up audit, but only 4 warning letters and 4 infringement notices were issued; 46 supermarkets remained non-compliant on a follow-up audit, but only 11 warning letters and 5 infringement notices were issued. Can you explain why the number of warning letters and infringement notices issues appears significantly lower than the instances of identified non-compliance on a follow up audit?
- d. Where noncompliance was detected, the audit found only 14% of follow-up audits were scheduled to be conducted within the recommended 28 days.<sup>4</sup> What are the statistics for follow-up audits in 2023–24?
- e. What enforcement actions have been taken in 2023–24—warning letters, compliance agreements, infringement notices, enforceable undertakings, referrals to the DPP and convictions?

---

<sup>1</sup> ANAO, *Trade measurement report*, table 3.5.

<sup>2</sup> DISR, *Submission 6*, p. 7.

<sup>3</sup> ANAO, *Trade measurement report*, paragraph 3.44.

<sup>4</sup> ANAO, *Trade measurement report*, paragraph 3.35.

## ANSWER

- a. The accountability framework consists of three elements:
- Expectations and key performance indicators for inspectors (*Inspectors Manual*)
  - Supervisory checks to ensure the expectations and KPI's are met (*Trade Measurement Services Accountable Leadership Procedure*)
  - An internal audit procedure to confirm that new processes and procedures introduced after the ANAO audit are being followed. Auditing will commence in early 2025.

- b. The *Inspector's Manual* sets out mandatory requirements and best practice for regulatory activities such as trial purchases, instrument accuracy testing and pre-packaged testing. It specifies KPI's for follow-up inspections and details expected activities at follow-up inspections.

The *Trade Measurement Services Accountable Leadership Procedure* establishes a governance structure for assistant managers and senior inspectors and ensures accountability of departmental staff. It details the content and frequency of supervisory checks. These include checking the progression of investigations and accuracy of recorded data, and that expectations detailed in the *Inspector's Manual* are being met by Inspectors.

- c. The appropriate compliance response is determined by the department's *Non-Compliance and Enforcement Protocol*. Repeated non-compliance may not lead to escalation in every instance. For example, a non-compliance may relate to a minor labelling issue (low impact / harm) which justifies providing a trader additional opportunity to rectify before further escalation.

Enforcement actions are aggregated against entities rather than individual locations. Multiple failed audits may be dealt with by a single enforcement action. For example, one infringement notice was issued to a meat retail entity following an investigation that included visits to 6 of its stores, each of which was reported as a failed follow-up.

The time delay between identifying failed trader audits and issuing infringement notices may cross a year boundary. In the example immediately above, 6 failed audits were recorded in 2022-23, whilst the single infringement notice was issued and recorded in 2023-24.

- d. For 2023-24, the average days taken to complete follow up trader audits was 72. The 28-day target was updated in October 2023. The new target for follow up trader audits is within 60 days for non-compliance with consumer detriment and 120 days for non-compliance with no consumer detriment. Following the introduction of the accountability framework, to date during 2024-25, the average days taken to complete follow up trader audits is 44.
- e. In 2023-24<sup>5</sup> enforcement actions comprised 1,971 non-compliance notices, 59 warning letters, 24 infringement notices, and 1 enforceable undertaking. There were no referrals to the CDPP and no convictions.

---

<sup>5</sup> <https://www.industry.gov.au/publications/compliance-measurement-regulation-2023-24>

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Decrease in audits

**REFERENCE:** Question on Notice - Written

**QUESTION No.: 4**

In its response to the audit, the department stated costs associated with administering legislation were increasing, which required the NMI to adapt to meet rising demand from industry and government. The department stated it was having difficulty recovering high fixed costs.<sup>1</sup> There has been a 57% decrease in the number of audits conducted per FTE between 2017–18 and 2021–22.<sup>2</sup>

- a) Trader audits conducted between 2017–18 and 2021–22 have decreased by 67%.<sup>3</sup> What are the reasons for the significant reduction in planned and undertaken trader audits, beyond temporary pandemic-induced reductions?
- b) Measurement instrument inspections declined by 52% between 2017–18 and 2021–22; and pre-packaged article lines inspected by 76% between 2017–18 and 2021–22. Has this decline continued? What are the statistics for 2023–24?
- c) What was the target number for trader audits for 2023–24 and how many audits were undertaken?
- d) How is the NMI adapting to meet rising demand from industry and government?

**ANSWER**

- a. The department has adjusted its regulatory approach to focus greater attention on harm associated with trade measurement activities rather than solely focusing on compliance with required measurement accuracy. The Trade Measurement Inspector (Inspector) discusses a range of topics with the trader to assess compliance, including assessing trader practices and viewing quality systems and training records. This approach seeks to improve compliance outcomes by ensuring the trader has appropriate systems in place to achieve ongoing compliance, but generally requires more time for each inspection, which can contribute to a reduction in overall inspection numbers.

Since 2019 the department has used co-operative agreements (i.e. Enforceable or Administrative Undertakings) as an alternative to traditional regulatory responses to monitor and improve compliance. These arrangements result in the relevant entity making improvements across their organisation, for example formalised quality assurance activities

---

<sup>1</sup> ANAO, *Trade measurement report*, p. 62.

<sup>2</sup> ANAO, *Trade measurement report*, paragraph 3.12.

<sup>3</sup> ANAO, *Trade measurement report*, paragraph 3.4.

and staff training. The resulting compliance improvements do not appear in simple metrics such as audit numbers and infringement notices.

The COVID pandemic imposed constraints on inspections, which was offset to some extent by better targeted risk analyses and the use of other measures such as industry-wide and community-wide education programs. Those other measures are continuing.

- b. Inspection numbers are trending upwards after a sharp decline due to constraints during the COVID pandemic. The inspection statistics for measurement instruments and pre-packaged lines are provided in the table.

*Table – Trader audits for measurement instruments and pre-packaged lines*

<b>Year</b>	<b>Measurement instruments</b>	<b>Pre-packaged lines</b>
2021-22 <sup>4</sup>	7,118	17,360
2022-23 <sup>5</sup>	7,651	29,966
2023-24 <sup>6</sup>	8,526	61,263

- c. The target number of trader audits for 2023-24 was 5,450 of which 5,161 (95%) were completed. These figures exclude Tobacco Plain Packaging and Fuel Quality Sampling activities.
- d. NMI has adopted a range of measures to respond to rising demand from industry and government, including:
- working closely with industry and consumer groups to seek feedback on current issues and prioritise its regulatory activities, for example through the Consumer and Industry Liaison Committee and through other engagements.
  - reviewing data from enquiries and complaints as an additional input to determining regulatory program priorities
  - undertaking regular concentrated audits that maximise the impact of Inspector activity nationwide for a priority sector, and working with industry bodies to raise awareness of regulatory obligations across that sector
  - providing greater transparency about regulatory priorities and the reasons for targeting certain sectors through publication of *Legal Metrology Priorities*
  - enhancing monitoring of progress against published targets to inform allocation of resources.

NMI Inspectors are a nationwide regulatory workforce for government. By delivering a range of regulatory functions, not only under measurement legislation but also for example for the Department of Health and Aged Care and the Department of Climate Change, Energy, the Environment and Water, NMI is reducing regulatory burden for the regulated community and providing efficiency in the delivery of government priorities.

<sup>4</sup> <https://www.industry.gov.au/publications/legal-metrology-compliance-2021-22> page 5

<sup>5</sup> <https://www.industry.gov.au/publications/compliance-measurement-regulation-2022-23> pages 12, 30

<sup>6</sup> <https://www.industry.gov.au/publications/compliance-measurement-regulation-2023-24> pages 12, 25

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Audit targets

**REFERENCE:** Question on Notice - Written

**QUESTION No.: 5**

The ANAO found the department was prioritising audits for Health and DCCEEW and failing to meet its own audit targets.<sup>1</sup> The ANAO recommended that DISR focus on its legislated regulatory responsibilities, and its directions to officers for tobacco plain packaging audits be limited and complying with the provisions of the legislation. DISR partially agreed to the recommendation, stating that so long as it was giving appropriate priority to its responsibilities under the *National Measurement Act 1960*, it was up to DISR to negotiate agreements as it saw fit.<sup>2</sup>

Given the department achieved only 39 percent of its planned trader audits in 2021–22, but exceeded targets for TPP visits, and completed only 55% of planned trader audits in 2022–23 and conducted more TPP site visits than 2021–22,<sup>3</sup> how is the department of the view it is giving appropriate priority to its responsibilities under the *National Measurement Act 1960*?

**ANSWER**

Audit numbers are not the only measure of regulatory outcomes, and are affected by a range of operational constraints from COVID pandemic restrictions to the available workforce.

- The department has adjusted its regulatory approach to focus greater attention on harm rather than solely on compliance with required measurement accuracy. The Trade Measurement Inspector (Inspector) discusses a range of topics with the trader to assess compliance, including assessing trader practices and viewing quality systems and training records. This approach generally requires more time for each inspection, which can contribute to a reduction in overall inspection numbers but ensures the trader has appropriate systems in place to achieve greater ongoing compliance.
- Since 2019 the department has used co-operative agreements (i.e. Enforceable or Administrative Undertakings) as an alternative to traditional regulatory responses to monitor and improve compliance. These arrangements result in the relevant entity making improvements across their organisation, for example formalised quality assurance activities

---

<sup>1</sup> ANAO, *Trade measurement report*, paragraphs 3.22, 3.32.

<sup>2</sup> ANAO, *Trade measurement report*, paragraph 3.30.

<sup>3</sup> See: ANAO, *Trade measurement report*, paragraph 3.4; DISR, National Measurement Institute (NMI), *Compliance with measurement regulation 2022–23*, February 2024, p. 11; DISR, National Measurement Institute: National Compliance Plan 2022–23: 2022–23 Audit Capability, 29 August 2022.



and staff training. The resulting compliance improvements do not appear in simple metrics such as audit numbers and infringement notices.

- The COVID pandemic imposed constraints on inspections, which was offset to some extent by better targeted risk analyses and the use of other measures such as industry-wide and community-wide education programs. Those other measures are continuing.
- Inspectors do not only undertake inspections, but also provide critical support for reforms to trade measurement, underpin third-party licensing and accreditation frameworks, and train newly-appointed Inspectors. While Inspector numbers are subject to resignations and retirements, 8 new Inspectors were appointed in 2023-24 and an additional 8 so far in 2024-25.

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Desired rate of compliance

**REFERENCE:** Question on Notice - Written

**QUESTION No.: 6**

The audit recommended DISR improve its performance measurement and reporting. To comply with RMG 128, DISR introduced a performance measure (for follow up audits) that does not benchmark against a desired rate of compliance.<sup>1</sup>

- a) Why does the department's performance measure not contain a benchmark for a desired rate of compliance or require rates of compliance to increase year on year?
- b) DISR continues to undertake significantly fewer trader audits than it targets, how is DISR certain it has an appropriate level of compliance monitoring?

**ANSWER**

- a. The regulatory performance measure was first introduced in 2023. It is an effectiveness measure, rather than an output or efficiency measure, as part of a balanced set of performance measures across the activities of the department. NMI achieved a 12 per cent improvement in compliance between initial and follow up audits (see the [DISR 2023-24 Annual Report](#) page 37). The department will continue to review this measure to ensure it is a representative indication of regulator performance.

It is not straightforward to establish a desired rate of compliance when targeting an array of industries each year where compliance rates and risk of harm vary. For example, rates of non-compliance are typically higher in the fruit and vegetable retail sector than for major supermarkets, but this does not mean the risk of harm is correspondingly higher.

- b. Audit numbers are not the only measure of regulatory compliance, and are affected by a range of operational constraints.

The performance measures introduced in the *Legal Metrology Priorities* document for both initial and follow up audits focus on improving the quality of our regulatory responses and compliance monitoring (i.e. proportionate and timely response to non-compliance and follow-up audits, acknowledgment of complaints and review of our national compliance policy).

---

<sup>1</sup> DISR, *Submission 6*, p. 10; DISR NMI, *Legal metrology priorities 2023–24*, 2024, p. 8.

The department recently published its first reporting cycle based on the new performance metrics, providing a baseline to help demonstrate appropriate compliance monitoring. This data will enable the department to monitor ongoing year on year compliance trends and review resources assigned to high risk and high harm industry sectors.

The Statement of Expectations, received from the Minister on 26 November 2024, sets out the expectations of the government for NMI's regulatory functions including regular reviews of its compliance regime. This informs the level of compliance monitoring. The department is currently drafting its Statement of Intent in response and is aiming to publish both statements by the end of February 2025.

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Clarification of failed audits

**REFERENCE:** Question on Notice (Hansard, 22 November 2024, Page 17)

**QUESTION No.: 7**

Senator DARMANIN: I don't know if this is the same group that you're talking about, but the ANAO found 1,399 of the audits had been conducted by persons that had either not been appointed or where there was no record. Of those, 456 resulted in a fail because the audit was invalid. Is that 456 the result of a second audit being found when they did the follow-up inspection that you just explained to Senator Reynolds? Does that explain that 456?

Mr Loizides: Yes, as I understand it. But I would have to crosscheck that information.

Senator DARMANIN: I think that's important because it either suggests that they weren't failed audits, but just a failure of—

Mr Loizides: The system.

Senator DARMANIN: the systems. As opposed to 456 pieces of work that were done but then couldn't be followed through because you didn't have the right people doing the work. That is an important clarification to make.

Mr Loizides: Yes. Can I reiterate that any regulatory activities and directions made were appropriately made by inspectors appointed.

Senator DARMANIN: Okay. Thank you.

CHAIR: If there's any more information in relation to that, could you take it on notice?

Mr Loizides: Yes, Chair.

**ANSWER**

Of the 456 failed audits sampled by ANAO, the department identified that:

- 20 were desktop audits of online stores conducted by Assistant Trade Measurement Officers (ATMOs) that did not involve the exercise of regulatory powers.
- 2 were incorrectly recorded in NMI business systems as having been conducted by an ATMO in training, rather than by the appointed Inspector supervising.
- All of the remaining 434 were conducted by Trade Measurement Inspectors with an 'Inspector identification card' signed by the appropriate delegate as evidence of their appointment.

**Joint Committee of Public Accounts and Audit**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Department of Industry, Science and Resources  
**Inquiry into the administration of Commonwealth regulations**  
22 November 2024

---

**AGENCY/DEPARTMENT:** Department of Industry, Science and Resources

**TOPIC:** Changes made following ANAO report

**REFERENCE:** Question on Notice (Hansard, 22 November 2024, Page 22)

**QUESTION No.: 8**

Senator REYNOLDS: Just on your last comments, it's good to hear that you're very happy with the morale and the professionalism of your team—and I have no doubt that is true—but I think, on the basis of the ANAO report, I'm a bit surprised to hear that you see yourself as an exemplar.

Clearly—and you're not the only organisation; this is not a witch-hunt—in terms of the description of how your business is conducted, it doesn't scream 'exemplar' in this report. It could be.

What concrete steps, with some specificity then, in terms of the system and the processes and the data and how it's used and the results that you are getting—that just does not scream to me a modern exemplar. What are the specific changes you have made, then, from the organisation, that you accept the ANAO described, to now?

Mr Loizides: I mentioned the continuous improvement in regard to the risk-assessment process. That's one of the main outcomes. The second is building that trust and reliability within our staff to undertake that work, the development of the accountability framework. So there are specific key performance indicators, especially where detriment has occurred to a consumer or a business, including the way we undertake those follow-ups in a timely manner—resolution of those compliance outcomes in a more timely manner. The third element is in regard to ensuring that we are interrogating appropriate datasets to better target and do that risk-assessment process.

Senator REYNOLDS: There is an issue that the ANAO described—I think it was Mr White—in terms of not having the right information or tracking systems to allow that more contemporary risk based approach and also the follow-up. Has that system that they identified and saw then changed?

Mr Loizides: Yes, it has. As I mentioned earlier, our data capture has changed. It's called our TMARS database. As we speak, we're making further changes, to be able to capture that information and report on it, in accordance with the accountability framework that I mentioned earlier. I envisage that that will show results in the next 12 months. As I said, it's incumbent upon me because it's a key performance indicator.

Senator REYNOLDS: In terms of metrics, what will the evidence be that it is actually resulting in reform and better outcomes?

Mr Loizides: The first visit and follow-up visit, you should see an improvement in compliance—first thing. Second thing: if you use enforcement actions as a driver or an indicator of compliance, you'll see those enforcement actions also increasing, which they are doing now. We're targeting appropriately. You also should see an increase in compliance rates, but not necessarily. If you're targeting high-risk people, you would expect you are identifying more noncompliance. It's a balancing act.

Senator REYNOLDS: Could you take on notice to provide more detail of those new approaches for us?

Mr Loizides: Absolutely.

## ANSWER

A summary of the improvements introduced by the department since the ANAO report are provided in the table below.

*Table – Improvements introduced by the department since the ANAO report*

ANAO Recommendation	Summary of the department's response
<p><b>Recommendation 1</b> The Department of Industry, Science and Resources implement stronger controls that ensure persons undertaking monitoring and compliance activities have been appointed in accordance with the relevant legislation, and that appropriate records are made and retained of all appointments.</p>	<ul style="list-style-type: none"> <li>• Introduced a centralised process and instrument to appoint and record the appointment of Trade Measurement Inspectors (Inspectors)</li> <li>• Implemented a new policy outlining when and how persons, who are not appointed as an Inspector, can support trade measurement compliance activities</li> <li>• Updated guidance on what constitutes a trader audit</li> </ul>
<p><b>Recommendation 2</b> The Department of Industry, Science and Resources improve its record keeping processes to ensure that trade measurement business information and records are accurate, fit-for-purpose and are appropriately stored within departmental systems.</p>	<ul style="list-style-type: none"> <li>• Released a procedure for the uniform entry of trade measurement business information into database</li> <li>• Introduced an audit/review system of the trade measurement business information database, including monthly monitoring by Supervisors/Managers of data entered by Inspectors</li> <li>• Delivered training to staff on the proper use of the database</li> <li>• Improved record keeping of inspector documentation</li> <li>• Finalised all higher priority procedural documents</li> </ul>
<p><b>Recommendation 3</b> The Department of Industry, Science and Resources put in place an improved approach to assessing the risk of legal metrology regulatory non-compliance at the industry and trader levels, and a transparent process that reflects the assessment of risk for selecting industries for targeting under its annual National Compliance Plans.</p>	<ul style="list-style-type: none"> <li>• Amended trader/industry regulatory risk assessment processes to address ANAO concerns</li> <li>• Included information in publicly available documents indicating how compliance targets are selected</li> </ul>
<p><b>Recommendation 4</b> In its activities related to the Tobacco Plain Packaging Act 2011 (TPP) and the Tobacco Plain Packaging Regulations 2011, the Department of Industry, Science and Resources ensures that:</p>	<ul style="list-style-type: none"> <li>• Updated the accountability framework for Inspectors (see Recommendation 5) to ensure: <ul style="list-style-type: none"> <li>○ Roles in program delivery are clearly defined</li> </ul> </li> </ul>

ANAO Recommendation	Summary of the department's response
<ul style="list-style-type: none"> <li>a. appropriate priority is given to its responsibilities under the National Measurement Act 1960;</li> <li>b. its directions to officers are limited to the undertaking of education and investigation activities to promote compliance with the provisions of the legislation; and</li> <li>c. it is complying with its duties and obligations to those officers under the Work Health and Safety Act 2011.</li> </ul>	<ul style="list-style-type: none"> <li>○ Regular reporting against all agreed priorities to track progress of both trade measurement and contracted work</li> <li>● Agreed the scope of TPP work with Department of Health and Aged Care and provided training to officers on extent of duties</li> <li>● Continued to review and improve the WHS management system including risk assessments and mitigating controls</li> </ul>
<p><b>Recommendation 5</b></p> <p>The Department of Industry, Science and Resources strengthen its approach to conducting follow-up audits where an initial trader audit identifies non-compliance such that follow-up activities is conducted in a timely manner, regulatory action taken where there is continuing non-compliance and appropriate records made and retained.</p>	<ul style="list-style-type: none"> <li>● Introduced expectations for timeliness of follow-up audits on a risk basis</li> <li>● Introduced an accountability framework for Inspectors including: <ul style="list-style-type: none"> <li>○ Regular supervisor checks upon inspector performance</li> <li>○ Auditing procedure to review all compliance actions against recommendation 5</li> </ul> </li> <li>● Enhancements to database to improve scheduling of work</li> </ul>
<p><b>Recommendation 6</b></p> <p>As regulator of Australia's legal metrology system, the Department of Industry, Science and Resources:</p> <ul style="list-style-type: none"> <li>a. apply Resource Management Guide 128: Regulator Performance; and</li> <li>b. establish indicators of, and report on, the effectiveness of its regulatory approach.</li> </ul>	<ul style="list-style-type: none"> <li>● Enhanced the department's Corporate Plan and Annual report to include performance measurements and reporting consistent with RMG 128 requirements</li> <li>● Received a Statement of Expectations from the Minister for Industry and Science in November 2024, with a Statement of Intent in preparation</li> <li>● Updated LMB's annual program/report to include improved metrics upon regulatory performance.</li> </ul>