Policy
Food Safety Compliance

Responsible portfolio	Public Health and Environment	**Document Register ID**	250.2019.546.2
Policy owner	Public Health and Environment	**Review date**	
Date of Council Meeting	16 May 2019	**Resolution Number**	188/19
Legislation, Australian Standards, Code of Practice	Food Act 2003 Food Regulation 2015 Food Safety Standards Code AS4674 – Design, construction and fit-out of food premises Department of Primary Industries: Biosecurity and Food Safety Enforcement Policy (INT17/45446) Department of Primary Industries: Biosecurity and Food Safety Compliance Policy (INT17/45434)		
Aim	This policy sets out Snowy Monaro Regional Councils (SMRC) approach to Food Safety compliance to support the achievement of outcomes. It does this by: - clearly defining regulatory outcomes - identifying and assessing risks that affect regulatory - outcomes - remaining accountable and transparent - providing information to improve compliance within a regulated community - communicating with regulated parties.		

1   Introduction

This policy summarises the Snowy Monaro Regional Councils (SMRC) approach to Food Safety compliance.

This policy explains how Snowy Monaro Regional will conduct its compliance functions to drive continual improvement and sets out the principles adopted by SMRC to achieve compliance with the law, and outlines the Branch's functions, priorities, strategies and regime in relation to Food Safety Compliance.

2   Scope

It is the responsibility of the regulated parties, industry and community to comply with all relevant Acts and Regulations. SMRC takes a risk-based approach to compliance management. Where compliance with the legislation administered and enforced by SMRC is not achieved, there is a range of tools that can be implemented to bring about compliance.

While regulated parties are expected to comply with legislative requirements, if non-compliance is identified the likely consequence for the regulated parties are clearly identified, predictable and consistently applied. Regulated parties can expect that any non-compliance will be treated seriously by the SMRC and will be dealt with in a professional manner.

This compliance policy is intended to describe SMRC 's overall approach to assessing and monitoring compliance and responding to instances of non-compliance.

The objective of the policy is to promote:

a)   compliance with the objective legislative provisions of the Act

b)   the use of regulatory tools in such a way as to best achieve our organisational objectives

c)   a risk-based approach to compliance through adoption of a graduated and proportionate response to non-compliance.

3   Outcomes

SMRC primary focus is targeted preventative operations. The team constantly improves its capacity to detect and respond to non-compliance. When a problem or a risk is identified, the team seeks to resolve it before it impacts the community and industry.

Monitoring compliance and investigating non-compliance is therefore a key role for SMRC. Figure 1 shows the components of SMRC compliance approach. This enables the team to focus on identified areas of highest risk and learn and adapt to continuously improve the appropriateness, efficiency and effectiveness of its compliance program.
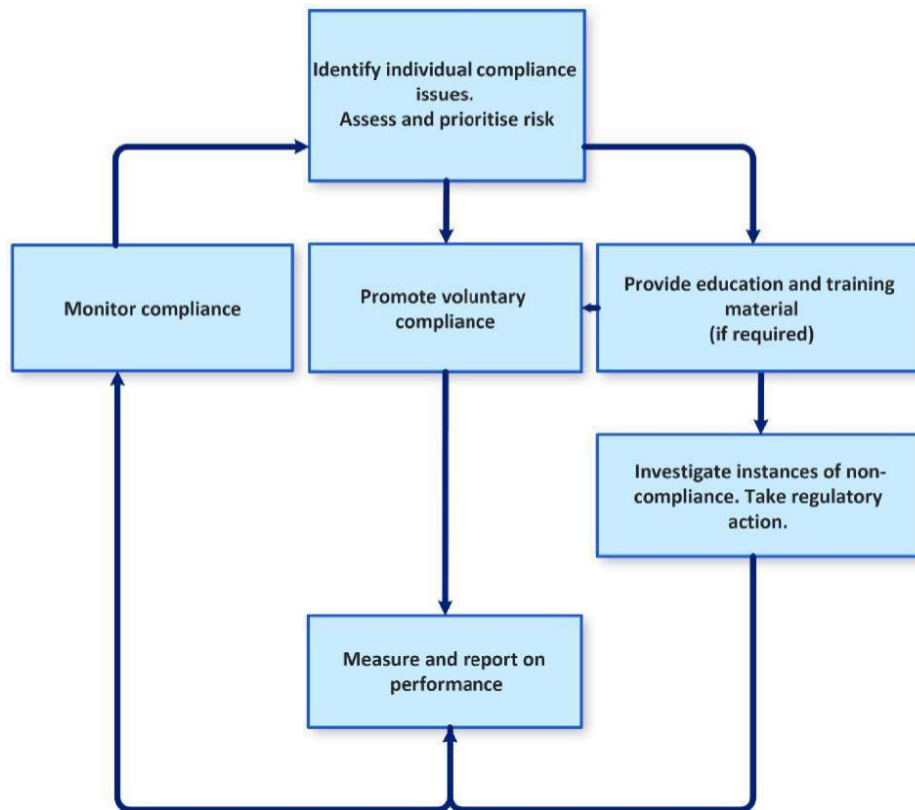
Figure 1

It has been identified that the most effective way to gain and maintain voluntary compliance is by building a relationship of trust between Snowy Monaro Regional Council, the community and industry. This relies on the premise that if regulated businesses are treated as trustworthy, they will repay this by:

a) voluntarily complying with their obligations
b) being truthful and cooperative in their dealings and
c) meeting their requirements as and when they fall due.

SMRC applies its resources to optimise voluntary compliance and to ensure understanding and a fair system for all.

SMRC encourages voluntary compliance through a range of educational activities which aims to build a capacity within industry to play an informed and active role in complying with food safety and biosecurity matters.

4 Activities

4.1 Education

SMRC acknowledges the need for comprehensive education, advisory and extension initiatives as integral components of successful compliance strategies. A key area of education for SMRC is the engagement with stakeholders to ensure understanding of educational materials to targeted areas of non-compliance.

Environmental Health Officers play an important role in informing and educating business of their requirements, as well as the consequences of non-compliance.

In addition, SMRC ensures that participants have the opportunity to raise issues of concern and participate in workshops and discussion forums.

Education activities may include:

a) providing information and tools to assist stakeholders to be aware of their rights and the law, and to help provide certainty in planning for the future

b) engaging with stakeholders to build capacity, such as through workshops and newsletters

c) promoting and reinforcing good regulatory practices

d) promoting the benefits of complying with legislation

e) highlighting the potential consequences of not complying with legislation

4.2   Compliance Data

SMRC is committed to the collection, analysis and use of appropriate data and intelligence to inform strategic decision making and allocation of resources to compliance activities.

Information is gathered and analysed from sources such as:

a) compliance inspections – planned and complaint

b) complaint data

c) other government or industry compliance data.

Information gathered through industry stakeholder engagement and internal surveys is used to inform the NSW Food Authority of compliance rates within the Council area.

4.3   Monitoring Compliance

Monitoring compliance with legislation is an essential component of Food Safety regulatory role. Information gained during monitoring assists to:

- determine the level of and trends in compliance

- identify when and what type of education responses or enforcement action may be required

- identify where action may be required to avoid or mitigate public harm

- detect instances of non-compliance in a timely manner

- assessing and prioritising risk and optimising an appropriate response

- identify opportunities for improvement

- develop compliance programs focused on the greatest risk to regulatory outcomes

- assess and review the effectiveness of its operations, education and programs.

SMRC analyses this information, as well as information from other sources and data from research, to identify emerging issues, define any associated problems, and develop and implement effective, well-targeted compliance responses.

4.4   Inspections

SMRC uses routine inspections as a method of collecting information and monitoring compliance. During these visits, authorised officers may collect samples, view records and take photographs. In line with their legislative powers, authorised officers are able to enter premises unannounced.

SMRC also uses various external resources to assess compliance and performance, such as accredited third party contractors.

4.4.1   Risk Profiling

The NSW Food Authority provides a national food safety risk profiling framework to classify the risk priority of NSW food businesses[1]. The classifications are used to apply regulations relating to food safety programs in food businesses and their audit frequency

The NSW retail risk-based inspection frequency model is a two-step process. It is based on the risk classification of the business (which depends on factors such as the types of activities, the types of consumers i.e. vulnerable populations, the size of the operation) and its previous business inspection outcomes and complaint history (i.e. compliance history).

http://www.foodauthority.nsw.gov.au/sp/priority-classification-of-businesses

Classification	"Risk"	Example
Priority 1 (P1)	High	Childcares, School Canteens, Vulnerable Populations
Priority 2 (P2)	Medium	Cafes, Restaurants, takeaways
Priority 3 (P3)	Medium	Mobile Food Vendors
Priority 4 (P4)	Low	Service Stations (Prepackaged food)

Businesses in the P1 tier represent the highest food safety risk. Conversely, P4 businesses represent the lowest food safety risk. The risk status of P2 and P3 businesses are intermediate between these extremes. An example of an inspection frequency schedule, across risk categories is provided in **Table 1** below.

Table 1 - Determination of Inspection Frequency

Business type of retail food premises	Business risk classification	Starting frequency[9]	Minimum frequency - every x months[9]	Maximum frequency - every x months[10]
Only sell pre-packaged or low risk non-PHF (e.g. service stations, newsagents, confectionery stores, fruit and vegetable shops, bars and liquor stores)	Low	Incident only		
Home kitchen used for preparation of low volumes of food (refer to criteria above)	Low	Incident only		
Correctional facilities, armed forces bases, international cruise ships	Varies	Incident only		
Stall at market/event	Varies	Incident or risk based inspection of market/event only[11]		
Most hospitality-type retail premises that prepare or sell PHF (e.g. cafes, restaurants, takeaways, supermarkets)	Medium	12 months	18 months	6 months
Mobile food vending vehicles that prepare and sell PHF	Medium	12 months	12 months[12]	6 months
Large-scale operation (e.g. function centre/large restaurant that employs more than 10 FTE food handlers[12])	High	6 months	12 months	4 months
Undertakes high risk activities/processes (e.g. raw egg products, smoking meats, sous vide)	High	6 months	12 months	4 months
Preparing/serving foods to vulnerable persons (e.g. childcare facility)	High	6 months	12 months	4 months

Advisory guideline for Enforcement Agencies – Risk Based Inspection Frequency

4.5   Investigations

Investigations, following complaints, conducted by the SMRC are a key means of assessing incidents or significant breaches of legislation to determine the priority for further compliance action. During an investigation, authorised officers gather evidence in order to establish:

- whether an offence has occurred,

- the severity of the offence, and

- the identity of those who may be responsible.

This evidence may take the form of videos, photographs, samples and physical evidence, witness statements and records of interview, consistent with legislative powers

4.6   Risk Based Analysis

Risk-based compliance is about prioritising efforts to assist in identifying and enforcing compliance. SMRC has adopted a risk-based strategic approach to the application of enforcement and implemented a compliance strategy that:

- identifies sectors with a history of adopting non-compliant practices

- identifies inappropriate or misleading trade practices with the potential to intentionally mislead consumers

- develops compliance level indicators for businesses

- identifies behavioural issues and use of compliance data to evaluate/review the compliance strategy

- allocates resources according to risk

- clearly defines regulatory outcomes

- identifies and assesses risks to achieving regulatory outcomes

- tailors its use of enforcement and other regulatory tools based on the severity and behavioural drivers of non-compliance.

4.7   Pro-active Monitoring

SMRC undertakes a range of pro-active, planned monitoring and inspection programs to determine the level of compliance within a regulated community.

- Pro-active inspection programs can include:

- inspections/audits carried out at regular intervals, determined on the basis of the risk rating

- follow up audits or more frequent auditing of identified poor performer or high risk activities or businesses

4.8   Re-active Monitoring

Reactive monitoring and inspections are undertaken in response to customer requests, complaints, incidents or other intelligence gathered, in accordance with the DPI advisory guidelines. [3]

SMRC applies a risk-based approach to reactive monitoring. This allows SMRC to achieve the best outcomes and minimise the burden on regulated entities that are found to be complying or have only minor or technical non-compliance issues. SMRC triages complaints at the point of receipt based on information obtained from the complainant, with:

a) low priority complaints being noted but not actioned unless further complaints are received

b) mid priority complaints being followed up with an inspection or audit, and

c) high priority complaints being followed up with an inspection or audit, an enforcement response (if necessary), and follow up interactions over time to achieve better compliance.

5   Choosing the appropriate enforcement action

Where none compliances exist, appropriate enforcement action will be undertaken in accordance with SMRC Food Safety Enforcement Policy.

6   Definitions and Acronyms

- DPI: NSW Department of Primary Industries:
- BFS: Biosecurity and Food safety
- SMRC: Snowy Monaro Regional Council
- Food Authority: NSW Food Authority

7   Other Related Documents

- NSW Food Authority - Instrument of Appointment - Enforcement Agency Roles and Responsibilities
- NSW Food Authority - Advisory Guideline - Appointing Authorised Officers
- NSW Food Authority - Advisory Guideline - Enforcement Agency Compliance
- NSW Food Authority - Advisory Guideline - Fees and Charges
- NSW Food Authority - Advisory Guideline - Food Complaint Management
- NSW Food Authority - Advisory Guideline - Food Premises Assessment Report
- NSW Food Authority - Advisory Guideline - Food Premises Assessment Report Guideline
- NSW Food Authority - Food Premises Assessment Report
- NSW Food Authority - Advisory Guideline - Managing Non-Local and Complex Issues
- NSW Food Authority - Advisory Guideline - Register of Penalty Notices
- NSW Food Authority Advisory Guideline - Regulation of Mobile and Temporary Food Premises
- NSW Food Authority Advisory Guideline - Risk Based Inspection Frequency
- NSW Food Authority Advisory Guideline - Seeking Assistance
- NSW Food Authority - Protocol - Activity Reports
- NSW Food Authority - Protocol - Food Complaint Referral
- NSW Food Authority - Protocol - Reporting Legal Proceedings
- NSW Food Authority - Protocol - Submitting Food Samples for Testing
- NSW Food Authority - Protocol - Urgent Food Safety Response
- NSW Food Authority - Food premises Design, construction and fit-out guide

8   Related Documents

This procedure should be read in conjunction with the following documents:

Documentation
List the name and document reference number of any other document referred to in this document, including any related policies and procedures
250.2019.552.1 Snowy Monaro Regional Council: Compliance and Enforcement Policy
250.2019.547.1 Snowy Monaro Regional Council: Food Safety Enforcement Policy

Variation

Council reserves the right to review, vary or revoke this policy and should be reviewed periodically to ensure it is relevant and appropriate.