

# Portfolio Committee on Trade and Industry

## Presentation on the NRCS Letters of Authority

**Mr Asogan Moodley**  
**Chief Executive Officer**  
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# Purpose

**To present to the Portfolio Committee on Trade and Industry the NRCS Letters of Authority issued by the Entity**

# Delegation from NRCS

**Mr. Asogan Moodley:** Chief Executive Officer

**Mr. Bongani Khanyile:** General Manager Electro-technical

**Ms. Teboho Aphane:** Senior Manager Legal Services

# Scope

- Legislative Mandate
- Background
- Regulatory Model
- Risk Based Approach
- Summary

# Legislative Mandate

**Mandate of the NRCS is derived from the following Acts.**

**National Regulator for Compulsory Specifications Act  
(Act No. 5 of 2008)**

**Legal Metrology Act  
(Act No. 9 of 2014)**

**National Building Regulations and Building Standards Act  
(Act No. 103 of 1977)**

# Regulated Products Requiring LOAs or Pre-market Approval

- Approvals/LOAs are issued for regulated products falling under the NRCS Act and LM Act

Industry Sector	Product regulated where pre-market approval or LOAs are required
<b>Automotive</b>	Vehicles, Manufactures Importers and Builders of Motor Vehicles, Replacements components including brake pads and brake linings and windscreens
<b>Chemicals, Materials and Mechanicals</b>	Cement, chemicals, detergents, personal protective equipment, safety shoes, building materials, treated timber, plastic bags, paraffin stoves and heaters and cigarette lighters
<b>Electro-technical</b>	Electrical appliances and products, Electronic appliances and products including plugs and cord sets
<b>Legal Metrology</b>	Measuring instruments and gaming equipment

## Letters of Authority



# Regulatory model

- Technical regulations are based on the level of risk which determines the safety critical products to be regulated
- Safety-critical products refer to those products that, if not manufactured in accordance with strict safety requirements, may harm the consumer or the environment.
- Regulatory model of the NRCS is dependent on the risk of the product and it may include the following:
  - Pre-market approval (issuance of LOA and other certificates)
  - Market surveillance
  - Third party Certification
- The burden to prove compliance lies with the Manufacturer, Importer or Builder (MIB).



# Letter of Authority

- Where an LOA is required, the MIB must apply for an LOA prior to products being imported or made available on the market
  - Majority of Importers - import and apply for LOAs after products are either detained at the Port of Entry or having been served with a directive by the NRCS
- The LOA must be accompanied by valid documentary evidence such as test reports from approved laboratories. A sample of the product may also be required to enable the NRCS to conduct its own tests.
- LOAs or Approval Certificates are issued after the NRCS has satisfied itself that the product does comply with the safety requirements will an LOA be issued

# Reason for Increase in LOA Applications

- The NRCS experienced a significant increase in the number of applications for LOAs in the past number years. This increase can be attributed to a number of factors including:
  - Since 1994, the South African borders opened up to global trade. South Africa thus experienced an influx of Products from various countries, which Products were subject to compliance with Technical Regulations.
  - Border Enforcement - After conducting the international benchmarking (research) exercise, the Board approved the implementation of the Border Enforcement Approach to NRCS surveillance and enforcement work.
  - The Border Enforcement Approach enabled the NRCS to profile consignments of products entering South Africa and to undertake targeted inspections, focussing mainly on regulated products increasing the detection rate of non-compliant products.

# Border Enforcement

- The NRCS Border Enforcement project highlighted the following:
  - Information, especially LOAs, requested are not received from clearing agents/ importers timeously
  - No proof of compliance (NRCS approval) is provided
  - Incorrect documentation is supplied
  - False declarations from clearing agents/ importers (***A case in point is a fraudulent NRCS release note and documentation***)
  - In the case where regulated products are not approved, there are delays from importers in obtaining the correct test reports
  - Shipping lines delays in communicating regulatory requirements to their clients

# Border Enforcement cont

- The NRCS then began embargoing consignments of regulated products until the NRCS pre-market approval process
- This stance had the effect of increasing the number of applications in the electro-technical sector from approximately 400 to approximately 1200 per month. In addition, the number of non-compliances (unsafe products) found through the Border Enforcement Project increased significantly.
- The year-on-year statistics provides a clearer picture of the level of non-compliance. **The statistics must be considered in light of the fact that NRCS can only profile and inspect approximately 0.5 percent of all containers entering South Africa.**

# Value of Non-compliances

Year	Non-compliances for Automotive, CMM and Electro-technical	Non-compliances within the Legal Metrology domain	Total Value of Non-compliances
2010/14			+/- R450 million for four years from 2010 to 2014
2014/15	R56 million	R492 million	R548 million
2015/16	R98,85 million	R106,2 million actual market value of the non-compliant products - Extrapolated figure based on market coverage of 20% is estimated at R531million	R205,05 million Extrapolated figure – R629,85 million

# Value of Non-compliances

Port of Entry	Total no of Containers	Number of NRCS detentions	Percentage NRCS over containers	Percentage stop total containers processed without NRCS detention
Durban	2 600 000	1128	0.043%	99.956%
PE/ Port of Ngqura/ East London	55 000	899	1.63%	98.36%
Cape Town	400 000	351	0.09%	99.40%
<b>Totals</b>	<b>3 055 000</b>	<b>2378</b>	<b>0.59%</b>	<b>99.41%</b>

# Electro-technical

- Applications carried over and received 01 October 2015 to 30 April 2016 – **11378**
- Applications processed during this period 6 896 which is 62% of the applications on hand
  - **4989** Within 120 days 62%
  - **1894** Outside 120 days 38%
  - **1094** applications were rejected and cancelled
- Of the total applications on hand **1 781 (1781/11 378)** are outside of the 120 days and getting urgent attention

- Applications received – 01 October 2015 – 30 April 2016
  - **FAI**                    **13069 – processed**
  - **LM**                     **628 – processed**
  - **Automotive**        **2517 – processed**
  - **CMM**                 **348 – processed**
  - **Electro**              **11378 – discussed in slide above**
  - **Total**                **27940**



- Applications received – 01 October 2015 – 30 April 2016

# Initiatives

- In order to comply with the shortened time-frame, several measures were implemented which included:
  - Overtime
  - Appointment of two candidate inspectors
  - Allocating LOA evaluation work to field inspectors and regional inspectors
- Inspectors will adopt 60/40 to inspections/evaluations, including regional inspectors
- Electro-technical management instructed to ensure implementation of RBA and other measures (9 May 2016), to attend to backlog
- A firm of attorneys was appointed to assist in developing the RBA policy and the NRCS is in the process of finalising the policy document.

# Risk-Based Approach

- As a result of the large number of increases in application for LOA and the huge quantities of non-compliant products entering South Africa, the NRCS:
  - Reviewed its business and operating processes specifically with regard to regulated products being imported into South Africa.
  - Introduced a considerably more vigorous approach to pre-market evaluations, such an approach necessitated that more time be allocated to each application for evaluation purposes.
- The cumulative impact of the increase in the number of LOA applications and more rigorous approach to evaluating resulted in a longer time-lines.

# Risk-Based Approach

- Turn-around times: The NRCS calculated that a period of 120 working days was required to effectively carry out our duties. This compared favourably with other countries and was implemented in April 2014 and industry raised concern over the increased time-frame.
- After several engagements with industry and parliament, Minister instructed NRCS, in September 2015, that LOA applications must be considered within 120 calendar days as opposed to 120 working days thereby reducing turn-around times by 33% from 6 to 4 months.
  - Led to huge strain on the NRCS to ensure that only safe products are approved.
- The NRCS is in the process of fully implementing the new turn-around times 120 calendar days

# Risk-Based Approach

- The new NRCS risk based approach to approvals is meant to categorise applications received into high, medium and low risk categories
- Based on an assessment of the risk of the product, applicant and country of origin. The risk based approach will lead to three targeted turnaround times:
  - Low risk applications – to be processed within 75 calendar days
  - Medium risk applications – to be processed within 90 calendar days
  - High risk applications – to be processed within 120 calendar days

# Summary

- The Border Enforcement Approach to NRCS work, has led to the identification and embargoing of hundreds of millions of rands worth of non-compliant products.
- Significant quantities of these consignments did not bear the prior approval of the NRCS to confirm the safety of regulated products.
- Over a 5 year period more than R1billion worth of goods were identified by the NRCS, inspecting approximately half a percentage of all containers entering SA
- The need for a 120 day period to consider an application for an LOA is to obtain assurance that products approved for trade are safe and will not harm the consumer or the environment or result in unfair trade.
- Shortening turn-around times may result in unsafe products being traded, severe negative consequences for the consumer and the South African environment

# Acronyms

**CMM** - Chemicals, Materials and Mechanicals

**LOA** – Letter of Authority

**FAI** – Foods and Associated industries

**HR** – Human Resources

**IPAP** – Industrial Policy Action Plan

**MIB** – Manufacturers, importers and Builders

**NBR** – National Building Regulations

**SABS** – South African Bureau of Standards

**SAPS** – South African Police Service

**SARS** – South African Revenue Service

**TR** – Technical Regulation

**VC** – Compulsory Specification



**Thank You**