

BNXS23: Procedure for Defra product monitoring checks

Version 3.2

This Briefing Note and referenced information is a public consultation document and will be used to inform Government decisions. The information and analysis form part of the Evidence Base created by Defra's Market Transformation Programme.

1 Summary

This Briefing Note details the procedure for Defra's monitoring of product performance data provided by suppliers under UK regulations (eg those covered by an EU Energy Label, an EuP Implementing Measure etc.), voluntary schemes (eg Energy Star), or other self-declared claims. It also describes how the resulting data shall be published or otherwise issued.

2 Introduction

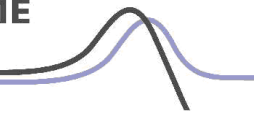
The primary responsibility for market surveillance of products falling under EuP Implementing Measures and for the performance claims of energy labelled products, rests with the UK Market Surveillance Authority (MSA). Currently this is the National Measurement Office: <http://www.rohs.gov.uk/EUP/>. The primary responsibility for ensuring the correct display of labels continues to rest with the Trading Standards departments of local authorities.

Additionally and from time to time, Defra may fund programmes that test products to investigate levels of compliance with claimed environmental attributes. The claimed attributes may be part of regulated schemes such the EU Energy Label, or voluntary schemes such as Energy Star, or part of any other product scheme such as the SEDBUK boiler database, or any other self-declared claims. Products covered by the Framework Directive for the Eco-design of Energy Using Products (EuP Directive) may also be included as implementing regulations appear.

Individual policy activities that support efficient products (eg such as those under The Energy Saving Trust's Energy Saving Recommended (ESR) scheme) have separate procedures for monitoring products in those schemes. Defra will liaise with those schemes, with LACORS and with the MSA before any testing programmes are started to prevent duplication of work.

There are two routes that may be taken by Defra:

- Policy relevant market picture testing to identify overall levels of compliance with particular schemes or claims in liaison with the MSA.



- Undertaking label inspections for regulatory purposes in liaison with Trading Standards Officers (TSO).

3 Policy relevant market picture testing

Defra may, from time to time, investigate the level of compliance of products across a market or market sector with declared environmental criteria.

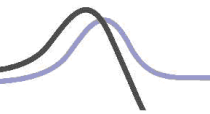
3.1 Testing against claimed environmental criteria

Testing projects will generally be selected on the basis of a prioritised list of different product groups, taking into consideration the level of policy support or participation in existing schemes. Products for which eg new EU regulations or other schemes are introduced, or existing ones for which the criteria are upgraded or test methods changed, may also be selected. Other products, such as those that are covered by implementing legislation under the EuP Directive, may also be included and levels of compliance with minimum standards, whether regulated or voluntary, may be investigated.

For any testing project, the models will be selected on the basis of market intelligence. This may be with an aim to cover the majority of manufacturers, or newly introduced brands, or a particular market sector, and may use other criteria such as the selling price compared to the market average or promotion via Ofgem Carbon Emission Reduction Target (CERT), or other scheme, to select models. The criteria used to select any products will be given when results are published or otherwise issued.

All samples tested will be purchased anonymously from retailers, either in person or on-line. Trade samples or other samples provided by the Supplier will not be tested; however, samples may be purchased directly from a Supplier if it is impossible to obtain the samples from retailers. Defra may, at its discretion, retain the tested samples; offer them back to the Supplier at a reasonable cost, or dispose of them by other means.

Defra will initially provide test results in confidence to individual Suppliers whose products have been tested. Suppliers will be invited to respond to these results within a reasonable period of time, usually four weeks. Suppliers will be invited to comment on the results and to explain the reasons for any discrepancy between the test results and the Supplier's claimed results. In the event that a sample tested is found to underperform its claims, its Supplier will be informed and, if appropriate, asked to supply a copy of the technical documentation that they were required under the applicable Regulations to have compiled prior to placing the product on the market. Additionally, they will be offered the opportunity to demonstrate that the result achieved was not typical for the model in question. To do so, the Supplier would need to carry out, at their expense, repeat tests on 3 further samples at an accredited testing laboratory of their choice. If timing permits, the results of these further tests will be published at the same time as the original results. Whilst reasonable steps will be taken to include them, the publication of the Defra report will not unreasonably be held back in order to include the results of the further testing.



After responses from the Suppliers have been received by Defra, a draft summary report including the brand names of the tested products will be prepared by Defra and sent in confidence to the respective Suppliers, the relevant trade association and certain other directly interested bodies (eg other Government departments, MSA, LACORS, EST, Ofgem, etc).

If appropriate, Defra will make available to relevant certification and enforcement bodies (eg MSA, TSO) detailed results to enable them to take suitable action. Defra, at its discretion, will hold meetings with Suppliers and with their representatives (eg trade associations) and with enforcement authorities to discuss the draft report and detailed results, and to help identify any remedial or policy actions that may be required.

Defra will, when it is satisfied that the test results are valid, publish the summary report (see above) and full detailed test results. Manufacturers/brand names will be withheld from publication in the event that this full process is not followed by Defra.

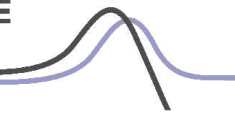
Defra will aim to publish this procedure, all actions and timings and other information relating to monitoring activity via the public domain Defra documents and websites, so far as is possible without breaching confidences or compromising the integrity of the exercise.

3.2 testing for display of the labelling

Defra may support TSOs with funding and technical expertise to address areas of concern related to the display of labels on consumer products. Defra will contact the Local Authorities Coordinators of Regulatory Services (LACORS) to initiate projects. Alternatively, any TSO may request support from Defra if they have reasonable concern about labelling in an individual consumer product or market sector.

Subject to agreement, where Defra has sponsored all or part of the work, the authority will effectively be the owner of this work, which should follow TSO procedures. The results cannot be discussed by Defra with any third parties until the regulatory process (if applicable) has been completed, unless permitted to do so by the authority.

The authority will report the results of the process to Defra after all regulatory processes have been finalised, and at their discretion during the process. Results will be made available to industry representatives and via the Defra Web site. These results will not be anonymised unless otherwise required by the regulatory process.



Changes from version 3.2

Introduction of MSA, reduction in role of TSOs

Consultation and further information

Stakeholders are encouraged to review this document and provide suggestions that may improve the quality of information provided, email info@mtprog.com quoting the document reference, or call the MTP enquiry line on +44 (0) 845 600 8951.

For further information on related issues visit www.mtprog.com