

Radiation Control Amendment (Tanning Units) Regulation 2009: Initial survey and inspection report



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Executive summary

Concerns about the health risks associated with the use of commercial tanning units for cosmetic purposes have driven calls for a national regulatory approach. The issue was brought to wide public attention by a young Victorian woman, Clare Oliver, who was diagnosed with melanoma which she attributed to her use of solaria. Before her death in September 2007, she vigorously campaigned to raise awareness of the dangers of tanning units.

Commercial tanning units have been largely unregulated, with the voluntary Australian Standard, *AS/NZS 2635:2008 Solaria for cosmetic purposes* being the only guideline on safety, maintenance and operational issues. Studies undertaken in 2003 and 2006 indicated that industry compliance with the standard was low.

States have therefore progressively introduced state-based regulations consistent with the Australian Standard. The NSW Radiation Control Amendment (Tanning Units) Regulation commenced on 29 May 2009. The Regulation is based on the Australian Standard and a nationally consistent approach developed by the States and the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

'Operation Icarus', undertaken on 30 September and 1 October 2009 by the NSW Department of Environment, Climate Change and Water (DECCW), comprised an audit of all identified businesses with tanning units in the Sydney Metropolitan Area. Its aims were to educate industry about the new requirements, assess the current level of compliance with the Regulation and find out in what ways commercial tanning units were being used, to provide a basis for stronger regulatory action for non-compliers.

The results of Operation Icarus indicated a poor level of compliance with many of the Regulation's requirements with few business operators having read and understood it. The main compliances were:

- businesses not obtaining written consent from clients in the correct form
- exposure times not being set in accordance with skin type
- the use of eye protection not consistent with the Australian Standard
- inadequate supervision of tanning sessions
- skin assessments not being carried out in accordance with the Fitzpatrick Skin Photo Type Classification System
- businesses using non-complying warning notices containing out-of-date information
- poor record keeping for tanning sessions, skin assessments and consent forms.

The campaign revealed some significant industry trends:

- A number of businesses had noticed a decline in the number of clients using tanning units which they attributed to negative publicity about the health risks.
- A number of businesses had disposed of, or were considering disposing of, their tanning units because reduced demand made them no longer profitable. In addition, the new requirements imposed strict standards which some businesses may not have been able to meet.

- This trend was most evident in businesses which operated tanning units as only part of their business such as hairdressers, beauticians and fitness centre, many of whom experienced reduced patronage of tanning units in recent years.
- Businesses with the most knowledge and understanding of how tanning units operate were specialised solarium businesses. Some business operators such as hairdressers, beauticians and fitness centre staff had little or no knowledge of the units they were operating. ARPANSA's online training package to be introduced in the first half of 2010 is expected to increase technical knowledge of the tanning units and the effects of ultraviolet radiation.
- Most businesses did not calculate the exposure time for each client according to skin type by either using an exposure schedule provided by the tanning unit manufacturer or using a calculation based on the ultraviolet output measured with a radiometer. These businesses either used token-operated units with a fixed exposure time calculated at the time of purchase or set the exposure time according to their judgement.
- Lack of regular maintenance of tanning units was an issue which emerged during the inspection campaign, particularly among beauticians and hairdressers. While maintenance records were not checked during the inspections, many owners and operators did not know when the last maintenance was undertaken. Regular maintenance according to the manufacturer's instructions is a requirement under the Australian Standard.
- Businesses were generally willing to comply with the new requirements, with many making immediate changes such as implementing new warning notices, consent forms and skin assessment forms.

Businesses have to provide DECCW with details of how they have addressed non-compliance issues identified in the inspection reports. Follow-up inspections will be undertaken within six months.

DECCW's approach in the initial campaign was to educate businesses about the new regulatory requirements, identify non-compliances and ensure that non-compliances are corrected. Given the findings of the initial campaign, DECCW will be conducting an early follow-up enforcement campaign. Penalties for non-compliance can range from warning notices to penalties of up to \$11,000 for serious breaches of the Regulation.

1. Introduction

1.1 The issue

In recent years, there has been increased media coverage and public concern about the link between cosmetic tanning units which emit ultraviolet (UV) radiation and skin cancer.

Tanning units emit ultraviolet radiation in the form of UVA and UVB. UVA penetrates the skin more deeply than UVB and can damage skin in areas of the epidermis (outermost skin layer) where most skin cancers occur.

UVB is the primary cause of skin reddening and sunburn and tends to damage the skin's more superficial epidermal layers. UVA also plays a key role in the development of skin cancer.

1.2 The evidence

In two surveys of the cosmetic tanning industry in 2003 and 2006, NSW Health and the Centre for Health Research and Psycho-oncology found that voluntary compliance with previous versions of the Australian Standard, *AS/NZS 2635:2008 Solaria for cosmetic purposes* was quite low.

Recent studies have found individuals who have used solaria have a 22 percent increased risk of developing melanoma compared with those who have never used solaria. The risk is elevated by 98 percent amongst people who first used solaria under the age of 35 years.

Recently, the World Health Organisation concluded that all types of UV radiation induce cancer, not just UVB which has been implicated in the past. Previously, UVA tanning units were thought to be safer but studies have shown this is not the case.

1.3 The solution

These research findings, and the Clare Oliver case, prompted a national initiative coordinated through the Radiation Health Committee of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) to develop a common national approach to regulate the industry. Consistent with the national approach and following a public consultation process, the NSW Radiation Control Amendment (Tanning Units) Regulation commenced on 29 May 2009.

The NSW Regulation, which is based on the latest *AS/NZS 2635:2008 Solaria for cosmetic purposes* (Standards Australia 2009), restricts people under 18 years of age, those with fair (type 1) skin or those who do not sign a consent form from using solaria. It also includes requirements for completing and recording skin assessments, displaying mandatory health warnings, limiting the length and frequency of exposure, training operators, supervising tanning sessions, wearing protective eyewear, control of sessions by trained operators, keeping appropriate records, and banning misrepresentations about health benefits and exposure limits.

In May 2009, DECCW wrote to all businesses in NSW that were listed in the *Yellow Pages* as operating tanning units. The letter outlined the main regulatory requirements and included a notification form to be completed and sent back to DECCW. Advertisements advising of the requirement to register with DECCW were also placed in *The Sydney Morning Herald* and *The Daily Telegraph* on 3 June 2009, and in three major industry magazines in August and September 2009: *The Australian Hairdressers Journal*, *Fitness Network* and *Professional Beauty Magazine*. In addition, the Health and Fitness Industry Association and the Hair and Beauty

Industry Association placed information about the Regulation in their newsletter and industry bulletin which are emailed out to all their members in NSW.

'Operation Icarus', on 30 September and 1 October 2009, was the first audit and inspection campaign of commercial tanning units undertaken across the Sydney Metropolitan Area.

Before the campaign, a draft inspection report and survey form were pilot tested on four solarium businesses on 7 August and 3 September 2009.

Twenty-seven DECCW staff formed 15 teams to inspect 89 premises across the Sydney Metropolitan Area. Most inspections were undertaken over the two-day period with some premises, which were unable to be inspected or were subsequently identified, inspected in November and December 2009.

The inspections and survey results have been included in the analysis.

It is anticipated that about 54 businesses operating tanning units commercially across regional NSW will be inspected during 2010. This will be carried out in conjunction with the DECCW regional offices.

1.4 Project objective

Operation Icarus was undertaken to raise awareness by educating businesses about the new regulatory requirements, assess the current level of compliance, identify areas for improvement and collect survey information which can be used to plan future regulatory activities.

Most businesses, while aware of the existence of the Regulation, were not familiar with all the requirements, having not read it. Operation Icarus provided an opportunity to answer any questions about the requirements and the Australian Standard and to provide practical advice, where possible, to help businesses address their non-compliance issues.

2. Methodology

Given that businesses with tanning units have not previously been regulated, it was important to design a project plan which combined raising awareness of the new requirements with a sound regulatory approach.

The project plan had a number of key objectives:

- to raise awareness and educate businesses about the new requirements
- to inform businesses about the online training on the Australian Standard being prepared by the Commonwealth through ARPANSA
- to determine the current level of compliance within the industry, and industry trends
- to provide advice, where possible, about ways in which businesses could meet the requirements
- to identify any gaps in the information currently available on DECCW's website (www.environment.nsw.gov.au/radiation)
- to collect general survey information to assist in the development of future regulatory activities
- to warn businesses that future non-compliances could lead to penalties or fines.

A comprehensive advertising, information dissemination and education and inspection campaign also needed to be developed.

2.1 Tasks

The project plan outlined key tasks for the campaign which included:

- a letter sent to 240 businesses across NSW listed in the *Yellow Pages* on 21 May 2009, outlining the main requirements in the Regulation, the availability of information on DECCW's website and a notification form
- advertisements placed in the major newspapers on 3 June 2009 and in several major industry magazines in August and September 2009
- development of a survey and inspection checklist
- telephoning businesses with tanning units in the Sydney Metropolitan Area during the week commencing 21 September 2009, informing them inspections would be undertaken on 30 September and 1 October 2009
- a two-day inspection audit and survey of businesses operating solarium tanning units
- inspections of premises not previously identified
- follow-up letters to business who did not indicate they had addressed non-compliance issues by the end of November 2009
- follow-up inspections of premises in early 2010 to ensure that non-compliances have been addressed and to take appropriate regulatory action where non-compliances are evident.

The inspection checklist and survey forms were designed to gather quantitative and qualitative data on whether businesses were complying with the main regulatory requirements, namely:

- clients must be 18-years-old or older and not have fair (type 1) skin
- operators must have appropriate training

- skin type must be assessed by a trained operator
- consent forms must be signed and understood
- the amount of UV radiation exposure clients received in any one session must be restricted according to skin type
- the frequency of exposure must be restricted (namely, not within 48 hours of a previous session)
- sessions must be supervised by a trained operator
- warning notices must be displayed
- records must be kept, including signed consent forms, along with details of maintenance and servicing of tanning units, the sale or transfer of tanning units, training undertaken by operators, and skin assessments and tanning sessions undertaken
- there must be no representations or claims that:
 - there are any non-cosmetic health benefits
 - tanning units are safe from risk
- there must be no representations or claims that tanning sessions can be provided more often or at a higher dosage than allowed under the Regulation
- information must be submitted to DECCW about the name, location, contact details, number and type of tanning units used (a completed notification form).

Businesses inspected were given a copy of the inspection report indicating they had 30 days from the date of inspection to notify DECCW of steps taken to rectify non-compliance issues identified in the report. All businesses not providing this information by the due date were sent a follow-up letter and could be subject to further regulatory action, as appropriate.

2.2 Project stakeholders

The main project stakeholders were businesses with tanning units, industry associations, the Cancer Council, the Cancer Institute and the general public. Most of the tanning units were located in gyms and fitness centres.

Businesses with tanning units

The types of businesses operating tanning units in the Sydney Metropolitan Area included:

Solaria	20 businesses
Gyms/fitness centres	38 businesses
Beauticians/hairdressers	27 businesses
Mixed business, for example, bodybuilding products, clothing	4 businesses

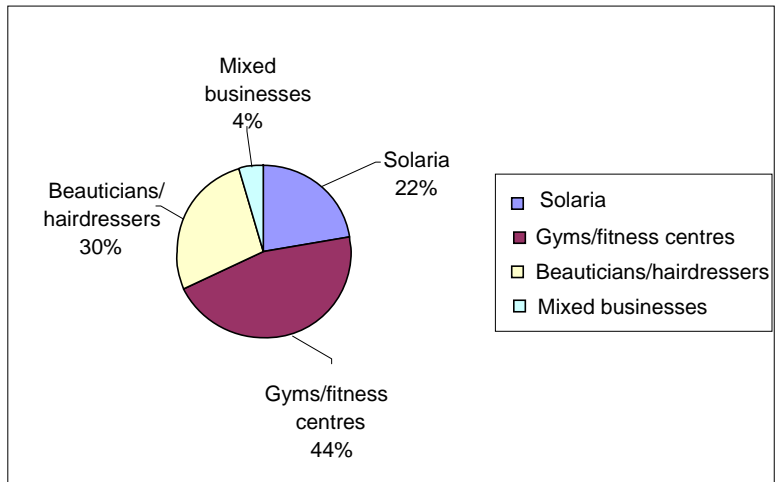


Figure 1: Businesses operating tanning units in the Sydney Metropolitan Area

Industry associations

Membership of industry associations was low with only 22 premises surveyed being members of an association. Two businesses were members of more than one association. A breakdown of the industry association membership is as follows:

Table 1: Industry association membership

Industry association	No. of members
Australasian Solarium Association	5
Smart Tan Association (USA)	4
Fitness Australia	4
Fitness NSW	1
Australian Tanning Association	1
Indoor Tanning Association	1
Advanced Association of Beauty Therapists	2
Professional Hairdressers Association	5
Australian Association of Professional Aestheticians of Australia	1
Beauticians Industry Association	1

3. Survey results

3.1 Number of tanning units

A total of 225 commercial tanning units operated across the 89 premises surveyed. Of these, 123 were tanning beds and 102 were standing units.

Only one solarium business indicated that it was going to expand its operations by moving to a new location. This industry trend is either to maintain or reduce the existing number of tanning units.

3.2 Client profile

According to the survey results, an estimated 800 to 1200 clients visited the 89 premises each day. However the number of visits varied greatly depending on the season and the type of business. For example, more people visited solarium-specific businesses, particularly in summer, and fewer visited solariums at gyms or fitness centres. Most clients were regular customers who purchased a package of tanning sessions.

The survey results showed tanning units were generally used by clients from English speaking backgrounds. Operators reported that most clients from non-English-speaking backgrounds understood consent and warning notices written in English. Clients from non-English-speaking backgrounds included Arabic, Portuguese, Spanish, Greek, Italian, Cantonese, Mandarin, Thai, Indian, German, French and Russian speakers.

3.3 Medical referrals

Of the premises visited, 34 (38%) advised they had clients referred by medical practitioners, some of whom were regular clients using the tanning unit once a week. Reasons for referrals included psoriasis, eczema, acne, vitamin D deficiency, rashes, allergies, depression and back pain.

3.4 Operators

The survey indicated that there were about 400 full-time and part-time operators employed by the 89 premises surveyed. The number of staff operating tanning units at each premises varied considerably with the smaller premises employing one operator and the larger fitness centres employing up to 40 front desk staff in shifts, all of whom were responsible for the use of the tanning units on the premises. There were twice as many part-time staff as full-time staff.

3.5 Operator training

Of the 89 premises surveyed, few provided staff with training specific to the Regulation and Australian Standard. Under clause 301 of the Regulation, staff must be given specific training. However, this requirement does not commence until 29 May 2010. Most training provided has been in-house via one-on-one training, some training by manufacturers or suppliers and general instructions to staff about use of consent forms and skin assessments.

Table 2: Types of training being conducted in businesses operating tanning units

Type of training	Premises
Internal/in-house	33
Manufacturer/distributor/Smart Tan Association website training	11
Manual/booklet/company package	3
N/A – owner operates units, no staff to train	1
No response provided to this question	2

4. Inspection results (Sydney Metropolitan Area)

The inspections included assessing compliance against the most significant issues in the Regulation for 89 premises across the Sydney Metropolitan Area.

4.1 Location of businesses inspected

Table 3: Location of businesses operating tanning units

Sydney East	Bondi, Bondi Junction, Coogee, Randwick, Maroubra
Sydney City	City, Darlinghurst, Kings Cross
Inner West to Parramatta	Newtown, Marrickville, Stanmore, Rozelle, Glebe, Leichhardt, Waterloo, Burwood, Bankstown, Auburn, Strathfield, North Strathfield, Parramatta, Greystanes
Sydney South	Cronulla, Woollooware, Jannali, Miranda, Sylvania, Engadine, Panania, Lugarno, Carlton, Rockdale, Hurstville, Kogarah, Roselands
Sydney Northern Beaches	Manly, Dee Why, Collaroy, Manly Vale, Belrose, Avalon Beach
Sydney North	Chatswood, Mosman, St Leonards, North Sydney, Willoughby, Crows Nest
Sydney North-west	Richmond, Castle Hill, Bella Vista, Baulkham Hills, Carlingford, North Ryde
Sydney Outer West	Penrith, Cranebrook, Blacktown, Campbelltown, Glenbrook

5. Compliance issues

Clause 30C(1)

The operator must complete a skin assessment:

- 21 businesses inspected were non-compliant with this clause
- non-compliance with this clause was due to:
 - skin assessments not being carried out
 - assessments being carried out not in accordance with the Fitzpatrick assessment process
 - assessments being carried out by the client, not the operator (self-assessment).

Clause 30C(2)

Exposure of persons under 18-years-old or with fair (type 1) skin is prohibited:

- 20 businesses inspected had warning signs which allowed persons 16–18-years-old to use tanning units with parental consent.

While these warning signs suggest that operators would allow people 16–18 years old to use tanning units, few premises reported that this age group requested tanning sessions. Many premises removed and replaced incorrect warning signs during the inspection.

Clause 30D

Exposure of persons without written consent is prohibited:

- 24 businesses inspected were non-compliant with this clause
- 21 of the 24 had consent forms, but the forms did not comply with the clause as:
 - they were not in the prescribed format
 - consent was not being obtained for each tanning session.

Clause 30E

There should be limits on exposure times, according to skin type:

- 41 businesses inspected were potentially non-compliant with this clause
- non-compliance with this clause was due to:
 - exposure not being varied according to skin type
 - exposure being limited by tokens and time limits and not assessed based on 0.9 MED for the skin type
 - many businesses being aware of this clause but not of how to apply the 0.9 MED limit to their tanning unit/s
- businesses were advised ARPANSA have been asked to advise on how to calculate the 0.9 MED limit
- businesses were advised to seek an exposure schedule from the manufacturer or supplier indicating how to calculate 0.9 MED for their particular unit/s.

Clause 30F

Frequency of exposure to radiation from tanning sessions should be no more than once every 48 hours:

- 27 businesses inspected were non-compliant with this clause as they did not have adequate administrative systems in place to record client visits and thereby determine the frequency to no more than once every 48 hours.

Clause 30G

People exposed to ultraviolet rays must wear protective eye wear that complies with the Australian Standard:

- 34 businesses inspected were potentially non-compliant with this clause
- many businesses were using disposable stick-on eye protection rather than goggles – DECCW is concerned that these stickers cannot be demonstrated to conform with the Australian Standard, particularly if they are not applied correctly by the user.

Clause 30H

Warning notices must be displayed in the correct format, size or font:

- 65 business inspected were non-compliant with this clause
- 54 of these businesses did display warning signs, although the signs:
 - were not in the prescribed format
 - were not displayed at the front desk or at each unit
 - allowed for exposure of 16–18 year olds with parental consent
- many businesses took immediate action during inspections to remove and replace non-complying warning notices or undertook to do so after the inspection.

Clause 30J

Tanning sessions must be supervised:

- 33 businesses inspected were potentially non-compliant with this clause as tanning units were located a distance from operators and staff, where effective supervision is difficult to demonstrate.

Clause 30L(a) and (b)

The client must not be able to operate a unit except to terminate or suspend a session:

- 11 businesses inspected were non-compliant with this clause as the client was able to turn on the unit or adjust the time limit.

Clause 30L(c)

The operator must be able to terminate the session remotely:

- 35 businesses inspected were non-compliant with this clause.

Clause 30L(d)

A timing device must be fitted which limits exposure:

- one business inspected was non-compliant with this clause

- most units had timing devices or were token-operated which limited exposure to a specified time (i.e. five minutes per token).

Clause 30L(e)

Ultraviolet screening must be provided to contain the direct UV radiation emitted to the area occupied by the client. This screening is to protect the operator from receiving UV radiation during a tanning session. Vertical tanning units have a metal exterior which provides UV screening when the unit is closed and operating. Horizontal tanning units do not close fully so they must be located in a separate room or have special shielding to protect the operator.

- All tanning units inspected were compliant.

Clause 30M

Appropriate records and documents must be kept:

30M(1)(a) A record of each completed skin type assessment must be kept:

- 23 businesses inspected were non-compliant with this clause as they kept no records of skin type assessments

30M(1)(d) A record detailing the date and duration of exposure of tanning sessions must be kept:

- 47 businesses inspected were non-compliant with this clause as they kept no records of the details of tanning sessions

Clause 30O

Representations that imply the non-cosmetic health benefits or safety of tanning units are not permitted:

- Six businesses inspected were non-compliant with this clause in terms of signage, customer testimonials or promotional display materials. For example, one business had a poster suggesting that 'tanning beds are healthier than the natural sun'.

Clause 30P

Representations that imply longer or more frequent sessions can be bought than those permitted by the Regulation are not permitted:

- all businesses were compliant.

Table 4: Summary of non-compliances (89 premises inspected)

Clause	No. of non-compliances	Comment
Clause 30C (1) Operator must complete skin assessment	21 24% non-compliance	Non-compliance with this clause was due to: <ul style="list-style-type: none"> • skin assessments not being carried out • assessments being carried out visually without using a written assessment process • assessments being carried out by the client and not the operator
Clause 30C (2) Exposure of persons under 18 years or with fair	0	There was no evidence that businesses were exposing persons under 18 years of age, even though some businesses had warning signs

Clause	No. of non-compliances	Comment
(type 1) skin prohibited		which indicated that persons 16–18-years-old could use tanning units with parental consent.
Clause 30D Exposure of persons without written consent prohibited	0	21 businesses had consent forms which were not in the correct format. Most businesses were not obtaining written consent for every tanning session.
Clause 30E Limits on exposure times (according to skin type)	0	<p>Issues which arose in relation to this clause were:</p> <ul style="list-style-type: none"> • exposure limits were not being set according to skin type • many businesses were uncertain of how to determine the exposure limits. <p>Businesses have been advised that DECCW has contacted ARPANSA for advice on how operators can determine exposure limits and to obtain an exposure schedule from the manufacturer/supplier of the tanning unit(s).</p>
Clause 30F Frequency of exposure to radiation from tanning sessions (no more than once every 48 hours)	27 30% non-compliance	Non-compliance with this clause was due to businesses not having adequate administrative systems in place to record client visits and determine frequency to no more than once every 48 hours.
Clause 30G Ensure that persons exposed wear protective eye wear that complies with the Australian Standard	34 possible non-compliances	Possible non-compliance with this clause was due to the use of disposable stick-on eye protection – there are concerns that if such protection is not applied correctly, it may not provide a tight seal around the eye area.
Clause 30H Warning notices displayed in correct format/size/font	65 73% non-compliance	<p>Eleven businesses did not display warning signs. The 54 businesses that did display warning signs did not have signs:</p> <ul style="list-style-type: none"> • in the prescribed format • at the front desk and at each unit • which indicated persons 16–18 years old could use a tanning unit with parental consent.
Clause 30J Tanning sessions must be directly supervised by an operator	33 37% non-compliance	These businesses needed to improve their level of supervision as the tanning units were located a distance from operators/staff.
Clause 30L(a) and (b) Client must not be able to operate unit except to terminate or suspend session	11 12% non-compliance	Non-compliance with this clause was due to the client being able to turn on the unit without operator intervention.

Clause	No. of non-compliances	Comment
Clause 30L(c) Operator must be able to terminate session remotely	35 39% non-compliance	Non-compliance with this clause was due to the operator being unable to terminate the session remotely.
Clause 30L(d) Timing device must be fitted which limits exposure	1 1% non-compliance	Most units have timing devices which are set by the operator or are token-operated with a set time.
Clause 30L(e) Ultraviolet screening must be provided to contain direct UV emitted to the area occupied by the client	0	Every business was compliant, having tanning units in separate rooms or compartments. Vertical tanning units had doors which could be closed.
Clause 30M Requirements to keep records and documents 30M(1)(a) A record of each completed skin type assessment	23 26% non-compliance	These businesses did not have records of skin type assessments on the premises.
Clause 30O Representations that imply non-cosmetic health benefits or safety of tanning units	6 7% non-compliance	Non-compliance was due to representations on signage, customer testimonials or promotional banners being displayed.
Clause 30P Representations that imply longer or more frequent sessions than those permitted by the Regulation	0	Every business was compliant.

The main areas where solaria businesses need to demonstrate compliance with the Regulation are:

- 30G – ensure that persons exposed wear protective eye wear that complies with the Australian Standard
- 30H – warning notices should be displayed in the correct format/size/font and location
- 30J – tanning sessions must be supervised
- 30L(c) – the operator must be able to terminate the session remotely
- 30E – there should be limits on exposure times, according to skin type
- 30F – the frequency of exposure to radiation from tanning sessions should be no more than once every 48 hours
- 30M – there are requirements to keep appropriate records and documents.

6. Regulatory framework

Regulations have been adopted in NSW, Victoria, Queensland, South Australia and Tasmania. The statutory requirements are consistent with the proposed amendment to the National Directory for Radiation Protection (ARPANSA RPS 6) and the *AS/NZS 2635:2008 Solaria for cosmetic purposes*, as part of a national regulatory approach.

The regulatory approach used in NSW specifies the performance requirements in the Regulation, requiring owners to register with DECCW and provide the details of the ownership and location of solaria. This ensures that DECCW has up-to-date details so it can issue educational materials and inform businesses of regulatory activities such as compliance audits and enforcement. This approach:

- avoids unnecessary red tape for small business
- avoids diverting DECCW resources into paperwork at the expense of compliance activities
- establishes a cost-effective model for potential expansion into other forms of low-risk non-ionising radiation, should this be required
- avoids any perceptions that the government 'endorses' the particular business operation.

7. Project evaluation

'Operation Icarus' identified a poor level of compliance with the Regulation across businesses operating tanning units in the Sydney Metropolitan Area. Most businesses were aware of the Regulation because they had received an information package but the majority had not examined it in detail. Consequently, the inspections provided an opportunity to inform businesses of the details of the Regulation. While only two of the 89 premises inspected were fully compliant with the Regulation, many of the non-compliance issues related to incorrect signage and inaccurate record keeping which were rectified at the time of the inspections.

The campaign revealed that while skin assessments were being undertaken by many businesses, they were not undertaken in accordance with the Fitzpatrick Skin Photo Type Classification System. They covered only a portion of the assessment questions asked in the Fitzpatrick system and were often completed in a hurry. Many businesses included the skin assessment as a part of their consent forms.

Few could demonstrate compliance with the requirement to keep records detailing tanning sessions such as the date and duration of exposure. Ensuring frequency of exposure of no more than once every 48 hours was also poorly complied with. While some businesses such as beauticians had a computerised system in place to record client details, administrative systems were not in place in the remaining businesses inspected.

The campaign also revealed a widespread lack of understanding of, and formal training in, the use of tanning units, their effects on the skin and how to undertake a skin assessment.

Businesses inspected were given a copy of the inspection report indicating they had 30 days from the date of inspection to notify DECCW of steps taken to rectify non-compliance issues. Businesses have informed DECCW in writing of how they have addressed non-compliance issues.

Operation Icarus has increased awareness of and compliance with the Regulation, with many businesses having taken immediate steps to rectify non-compliance issues.

Feedback from businesses such as beauty salons, hairdressers and gyms/fitness centres suggest that they will find many of the regulatory requirements difficult and time consuming to implement. A number of these indicated they are considering removing tanning units as their popularity has decreased and replacing them with other forms of artificial tanning, such as spray tans which are becoming increasingly popular.

8. Key outcomes and achievements

Improving awareness

The inspection audits provided an opportunity to:

- explain the requirements under the Regulation and the Australian Standard
- remind and where possible, help businesses to complete the notification form
- explain the online training package being prepared by the Commonwealth (ARPANSA)
- provide appropriate warnings about escalating enforcement action to ensure full compliance in the future.

Removing uncertainty

The inspection audits enabled owners and operators to have any questions answered or issues clarified. The most commonly asked questions concerned the signing of consent forms; the content, location and size of warning notices; skin assessment and how to calculate exposure times/limits according to skin type.

Providing advice

Businesses were advised to obtain an exposure schedule from the solarium manufacture/supplier to assist in determining 0.9 MED for each skin type – this is consistent with the Australian Standard which specifies that an exposure chart be available for each tanning unit to enable the operator to determine the time settings to achieve a particular dose for each user.

Improving compliance

All known businesses with tanning units in the Sydney Metropolitan area were surveyed and inspected, with many non-compliance issues being addressed immediately.

9. Further action

Enforcement campaign

There will be ongoing inspection of individual premises, and a regulatory enforcement campaign will be undertaken in February 2010 and March 2010 to follow up compliance by the industry.

Regional campaign

The next phase of the compliance campaign is to inspect about 54 businesses in regional NSW that operate tanning units.

Additional inspections

As new businesses operating tanning units are identified across NSW, they will need to be contacted and inspected. Businesses that were non-compliant will be the subject of further inspections in early 2010.

Online training

DECCW will liaise with ARPANSA on an ongoing basis about finalising the online training package and advising businesses when it becomes available.

Exposure limits

Most owners or operators of tanning units are having difficulty determining the exposure limits according to skin type specified in the Regulation and the Australian Standard as they are unable to calculate 0.9 MED for each skin type. Businesses have been advised to seek further information including an exposure schedule from the manufacturer of the tanning unit as well as the supplier of the tubes.

Maintenance

A couple of businesses indicated they checked the UV emissions from their units regularly using a hand held meter to ensure that levels did not exceed those recommended in the Australian Standard. There is a requirement under the Regulation that tanning units be regularly maintained in line with manufacturer instructions and advice.

Updating website information

DECCW will update its website information as new information becomes available, including details of the training package being prepared by ARPANSA.

Liaison with councils

During the campaign, some businesses advised they thought the commercial operation of tanning units was regulated by councils and not DECCW. It is recommended that an information letter be sent to the Local Government and Shires Association drawing its attention to the Regulation and information on the website.

10. Enforcement

The inspection reports issued to businesses during 'Operation Icarus' required businesses to notify DECCW within 30 days of the inspection of steps taken to rectify matters noted in the report. As a result, DECCW has received written advice from businesses indicating the steps they have taken to rectify non-compliance issues. Three businesses have not completed a notification form to be placed on DECCW's register. Appropriate regulatory action is being considered.

A regulatory enforcement campaign will be the next step to ensure full compliance by industry as soon as possible. This will include follow-up inspections in February and March 2010 of all businesses which were non-compliant. Appropriate regulatory enforcement action will be taken against those businesses found to be still non-compliant with the Regulation. This could include penalties and fines.