



Natural Resources  
Canada

Ressources naturelles  
Canada

# Compliance and Enforcement Policy 2016

*Energy Efficiency Act*  
*Energy Efficiency Regulations*

Replaces: Compliance Policy for the *Energy Efficiency Act* and the *Energy Efficiency Regulations* (September 1995)

This document does not constitute part of the *Energy Efficiency Act (Act)* or its associated regulations. This document is an administrative document that is intended to facilitate compliance by the regulated party with the Act and its associated regulations. This document is not intended to provide legal advice regarding the interpretation of the Act or its associated regulations. If a regulated party has questions about their legal obligations or responsibilities under the Act or its associated regulations, they should seek the advice of legal counsel.

# Table of Contents

## **Section I: Introduction**

Purpose of the Act and Regulations	3
Purpose of the Compliance and Enforcement Policy	4

## **Section II: Regulatory Requirements**

Key Requirements	5
Exemptions	5

## **Section III: Compliance Activities**

Self-Monitoring by Dealers and Third Party Verification	6
Report Verification	6
Compliance Testing	7
Surveillance	7
Tips and Complaints	7

## **Section IV: Preventative Measures**

Guiding Principles for Achieving Compliance	8
---	---

## **Section V: Enforcement Activities**

Prevent Sub-Standard Equipment from being imported	9
Negotiated Settlements	9
Prosecution	10

## **Section VI: Contact and Useful Links**

11

## Section I: Introduction

This policy applies to all compliance activities undertaken in the administration of the [Energy Efficiency Act](#) (Act) and [Energy Efficiency Regulations](#) (Regulations) and to all regulated parties.

Dealers of [energy-using products](#) have responsibilities under the Act and its Regulations. If you manufacture, import, or distribute for the purpose of sale or lease, one or more prescribed energy-using products, this document will interest you.

The Act defines a “dealer” as a person whose business

- manufactures energy-using products in Canada,
- imports energy-using products into Canada, or
- sells or leases energy-using products obtained, directly or indirectly, from a person who manufactures energy-using products in Canada or imports them into Canada.

The Act was passed by Parliament in 1992 and gives the Government of Canada the authority to make and enforce regulations concerning minimum energy performance levels for energy-using products, and/or the labelling of energy-using products that are imported into Canada or shipped across provincial/territorial borders for purposes of sale or lease, as well as the collection of energy-use data. The Act was amended in 2009, making it possible to prescribe standards not only for more products that use energy but also for products that affect energy use.

The first Regulations came into effect in February 1995. The Regulations establish energy efficiency standards for a wide range of energy-using products.

The Regulations are administered by Natural Resources Canada (NRCan) and are amended on a regular basis to strengthen existing performance standards and to introduce performance standards for new products. The Regulations are also amended to align minimum energy performance requirements with those of other jurisdictions and update testing methodologies and labelling requirements.

### Purpose of the Act and Regulations

The purpose of the Act and Regulations is to increase the use of energy-efficient products and eliminate the least efficient products from the Canadian market. The Act and Regulations also:

- identify the energy-using products NRCan regulates;
- set minimum energy efficiency standards for regulated products;

- require that energy-using products bear an energy efficiency verification mark from a [Standards Council of Canada](#) (SCC) accredited certification body to verify their energy efficiency; and
- require people whose businesses manufacture, import, sell or lease energy-using products to file an energy efficiency report with NRCan before importing them or shipping them from one province to another;
- prohibits the import or the shipment between provinces/territories of energy-using products that do not meet prescribed energy efficiency standards;
- require certain types of energy-using products to carry an EnerGuide label or a lamp package label before their first retail sale or lease.

### **Purpose of the Compliance and Enforcement Policy**

This Compliance and Enforcement Policy provides general information about the provisions of Canada's *Energy Efficiency Act* and its associated Regulations and sets out the steps NRCan is taking to enforce the requirements and ensure compliance.

This Compliance and Enforcement Policy has been established to complement and enhance the effectiveness of the legislation. The primary purposes of the policy are to:

- summarize regulatory requirements
- outline compliance activities
- clarify preventative measures, and
- describe enforcement activities.

## Section II: Regulatory Requirements

### Key Requirements under the Act and Regulations

The law requires dealers to ensure that regulated energy-using products meet the energy efficiency requirements and that certain products bear an EnerGuide or lamp package label.

Under the Act and the Regulations, dealers who import or ship interprovincially or interterritorially for the purpose of sale or lease must:

- ensure that energy-using products meet [energy efficiency standards](#) ;
- ensure that an [energy efficiency verification mark](#) from a Standards Council of Canada (SCC) accredited certification body is on an energy-using product unless otherwise indicated by the Regulations;
- ensure that an [EnerGuide or lamp package label](#) is on the products, where necessary, before the first retail sale or lease;
- file an [energy efficiency report](#) with NRCAN before importing it or shipping it between provinces. A report must be filed only when a product model is not already listed in the [NRCAN database](#);
- ensure that the required [import information](#), about the energy-using product, is provided on the customs release request;
- give NRCAN inspectors all reasonable assistance to enable them to carry out their duties and provide such information the NRCAN inspectors may reasonably require.
- provide models of a product for testing and inspection, when requested; and
- keep records about energy-using products for six years, unless authorized by the Minister to do otherwise.

### Exemptions

Under the following circumstances, a dealer importing or shipping energy-using products between provinces/territories can be exempted from submitting an energy efficiency report to NRCAN and the product can be exempted from meeting the prescribed energy efficiency standard.

- A dealer is importing or shipping between provinces/territories an energy-using product that will be modified to meet the energy efficiency standard. In this case, the dealer has 90 days to ensure that the product is modified and meets the energy efficiency standard. Within 120 days after the product was imported or shipped, the dealer must submit an energy efficiency report to NRCAN.
- A dealer is importing or shipping between provinces/territories an energy-using product that will be incorporated into another product and then exported from Canada.
- A dealer is importing or shipping between provinces/territories an energy-using product, only to export it from Canada.

## Section III: Compliance Activities

To determine whether dealers are complying with the requirements of the Act and the Regulations, NRCan relies on five main monitoring mechanisms.

### Self-monitoring by Dealers and Third Party Verification

The Act requires dealers to ensure that the energy-using products they import or ship interprovincially or interterritorially meet the energy efficiency requirements. Regulated products are required to bear an [energy efficiency verification mark](#) (EEV) from a Standards Council of Canada (SCC) accredited certification body indicating that the product meets the [energy efficiency standards](#) on an ongoing basis.

This requirement places a legal obligation on dealers to verify the energy efficiency of a product and to ensure all units bear the energy efficiency verification mark.

With respect to labelling, NRCan encourages dealers to have procedures in place to ensure all products are properly labelled. Dealers can get detailed information about [EnerGuide and lamp package labelling requirements](#) from NRCan.

### Report Verification

NRCan's monitoring and enforcement program relies on two reporting mechanisms: energy efficiency reporting and import reporting.

Dealers are required to provide NRCan with product-specific information on energy-using products before they are imported or shipped interprovincially or interterritorially. As well, Canada Border Services Agency (CSBA) collects information on behalf of NRCan from customs release requests which dealers must provide when importing products.

The information is kept in two linked databases where it is monitored electronically to detect non-compliant products. [Compliant products](#) are listed on NRCan's website.

## **Compliance Testing**

The Act requires dealers to provide the Minister of Natural Resources Canada with samples of products for testing upon request.

NRCan's testing priorities include:

- product from a dealer with a history of non compliance;
- a product that performs near minimum levels or close to best performance in its class;
- a newly regulated product; and
- a product that is not regulated in another jurisdiction.

## **Surveillance**

This includes but is not limited to activities undertaken by NRCan-designated inspectors, provincial and territorial partners, and market studies commissioned by NRCan.

Verifying the presence of an energy efficiency verification mark, or an EnerGuide or lamp package label is a simple procedure which can be easily undertaken through systematic spot checks and compliance reviews. NRCan works with other agencies to monitor compliance with labelling requirements.

## **Tips and Complaints**

NRCan follows up on tips and complaints from the public, including retailers and consumers, related to a missing label on a product and/or claims of discrepancies between a product's reported energy efficiency and its actual energy efficiency.

The public can find information about the energy efficiency of [energy-using products](#) from a variety of sources: for example, the EnerGuide label on a product; product websites; and when SCC-accredited certification bodies publish energy efficiency verification test results. Consumers and other stakeholders can inform NRCan of any discrepancies.

Similarly, retailers and consumers who notice the absence of EnerGuide labels or lamp package labelling can request the missing information from dealers or file a complaint with NRCan. Contact information for NRCan can be found at the end of this document.



## **Section IV: Preventative Measures**

### **Guiding Principles for Achieving Compliance**

NRCan is committed to achieving a high level of compliance with the Act and Regulations. NRCan believes that a high level of compliance will occur when all the parties support them. This philosophy is reflected in the approach to develop the Act and the Regulations and will continue as the key operating principle in their administration.

#### *Consulting Stakeholders*

NRCan consults with stakeholders on any planned changes to the Act and the Regulations, as well as on administrative matters. NRCan involves all interested parties in the consultation process in order to make the process as open and transparent as possible. The goal is to have realistic regulations that are based on reliable economic and technological information and that will be actively supported by stakeholders.

#### *Minimizing the Regulatory Burden*

NRCan is continually looking for ways to minimize the regulatory burden on regulatees. The regulatory requirements rely, as much as possible, on information already provided in existing documents such as product directories and customs release requests.

#### *Aligning with other Jurisdictions*

NRCan is committed to harmonizing federal standards and labelling requirements with those developed in other jurisdictions and by independent standards-writing organizations. For instance, NRCan is working with the Canada-U.S. Regulatory Cooperation Council to advance Canada's ability to align energy efficiency regulations with those in the United States.

The EnerGuide labelling requirements are also, to the extent possible, coordinated with labelling requirements in the United States.

#### *Cooperating with Key Players*

NRCan is committed to a collaborative approach which ensures that regulatees, provincial and territorial governments, and interested third parties all play a role in securing compliance with the Act and the Regulations. Federal and provincial/territorial authorities will coordinate their activities to avoid duplication and focus on priorities.

#### *Informing Regulatees and the Public*

NRCan distributes fact sheets, bulletins, and information on EnerGuide labelling. Plain language materials are available on the website to help regulatees and the public understand the requirements and find lists of compliant products.

NRCan publishes accessible up-to-date information on EnerGuide labelling and regulatory requirements on its website to help regulatees and the public understand the requirements and find lists of compliant products.

## Section V: Enforcement Activities

NRCan is committed to securing compliance through a range of enforcement measures. The first approach with regulatees is to seek compliance by informing them of the violation and encouraging them to initiate corrective measures.

NRCan emphasizes self-monitoring, reporting, and collaboration. However, enforcement measures can be used if regulatees violate the law. The choice of enforcement measures depends on the following:

- the nature of the violation (including factors such as the circumstances, the gravity of the violation and tolerance levels in the manufacturing and testing process);
- culpability (including the degree of intent to violate the law, compliance history, the motive for the violation and attempts to conceal or falsify information);
- effectiveness of the enforcement measure in achieving compliance; and
- consistency in the application of enforcement approaches.

### Prevent Sub-Standard Equipment from being Imported

Canada Border Services Agency (CBSA) officers may refuse to release an energy-using product, if the release information transmitted to the CBSA electronically<sup>1</sup> does not contain all the information that is required by the Regulations. CBSA may also issue fines through their [Administrative Monetary Penalty System](#) (AMPS) program for infractions under the [Customs Act](#).

### Negotiated Settlements

As a first step, NRCan, in consultation with the [Department of Justice Canada](#), may choose to discuss remedial action with a regulatee to correct a violation. For example, NRCan and the regulatee could agree that the regulatee will:

- recall unsold units of a product that do not meet energy efficiency standards;
- send a notice to purchasers of products that do not meet the standards;
- compensate purchasers of products that do not meet the standards;
- review and modify the manufacturing process;
- review and modify the testing and quality assurance process;
- increase and improve self-monitoring procedures;
- participate in more frequent independent audits of product performance;
- post a performance bond as a commitment to future compliance; and
- promote energy efficiency in product advertising.

---

<sup>1</sup> In cases where exceptions to the CBSA requirement of transmitting release information through [Electronic Data Interchange](#) (EDI) apply – paper release packages will be accepted; please refer to the [Memorandum D17-1-4 Release of Commercial Goods](#) (paragraph 41).

NRCan uses these main criteria to decide if it should try to negotiate a settlement with a regulatee:

- compliance history of the regulatee;
- likelihood that the regulatee will respect the terms of the settlement;
- relative benefits of settlement versus prosecution;
- willingness of the regulatee to negotiate in good faith;
- consistency of the approach taken with other similar situations; and
- long-term compliance benefits of a negotiated settlement.

## **Prosecutions**

Prosecutions will only be used for the most serious violations.

This course of action will only be considered in cases where the manufacturer or importer has repeated violations, where the benefits from non-compliance have been significant, or where the manufacturer or importer failed to comply with the requirements specified in a negotiated settlement agreement for a previous violation.

NRCan focuses on the criteria listed below when deciding whether or not to prosecute a violation of the *Energy Efficiency Act* or the *Energy Efficiency Regulations*:

- compliance history of the regulatee;
- extent of the benefits the regulatee could gain through continued non-compliance; and
- the regulatee's failure to follow through on remedial action or other commitments made to NRCan for this or other violations.

Prosecutions are only initiated as a result of serious contraventions or when corrective actions have not been taken. The maximum penalties for [offences](#) under the Act range from \$10,000 to \$200,000. Prosecutions may not start later than two years after the time when the subject matter of the prosecution arose.

## Section VI: Contact and Useful Links

### Contact

**Kelly-Ann Chisholm**

Chief, Compliance Operations  
Equipment Division  
Office of Energy Efficiency  
Natural Resources Canada  
930 Carling Avenue, Building 3  
Ottawa ON K1A 0E4

[equipment@nrcan.gc.ca](mailto:equipment@nrcan.gc.ca)

For import related inquiries: [importation@nrcan.gc.ca](mailto:importation@nrcan.gc.ca)

### Useful Links

[Natural Resources Canada](#)  
[Guide to the Regulations](#)  
[Department of Justice](#)  
[Energy Efficiency Act](#)  
[Energy Efficiency Regulations](#)  
[Canada Gazette](#)  
[Standards Council of Canada](#)  
[Canada Border Service Agency](#)