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## **National Compliance Policy for the *Electricity and Gas Inspection Act***

Measurement Canada  
Program Development Directorate  
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Canada 

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## Policy

It is the policy of Measurement Canada, to promote, monitor and achieve compliance with the *Electricity and Gas Inspection Act* in accordance with the principles and directives stated in this document.

### 1.0 Introduction and Purpose

1.1 The *Electricity and Gas Inspection Act* (EGIA) is federal legislation that was created to ensure accuracy in the trade of electricity and gas bought and sold on the basis of measurement. The EGIA has its roots in the Constitution Act, 1867 and predecessor legislation dating from the 1870's with respect to gas measurement and the 1890's with respect to electricity measurement. Measurement Canada, an agency of Industry Canada, is responsible for administering the EGIA.

1.2 The National Compliance Policy for the *Electricity and Gas Inspection Act* has been established to complement and enhance the effectiveness of the legislation. The primary purposes of the policy are to:

- Establish a document which publicly communicates to regulated parties and other interested stakeholders, Measurement Canada's compliance expectations and the tools that are available to the Agency for obtaining compliance.
- Encourage voluntary compliance with the regulatory requirements.
- Establish appropriate, transparent and consistent approaches to dealing with violations.
- Ensure that appropriate corrective and preventive actions are taken once a violation has occurred.
- Maintain public confidence in the integrity of electricity and gas measurement transactions and the governing regulatory program to which they are subject.

### 2.0 Scope

2.1 This policy applies to all compliance activities undertaken in the administration of the EGIA and to all regulated parties.

2.2 The scope of this policy does not exceed that of the EGIA nor does it limit the scope of the exemptions provided for by the legislation. However, its principles may be used in reviewing the legislation and the continued appropriateness of any exemptions.

### **3.0 Definitions**

For the purpose of this policy, the following definitions apply.

#### **Accredited Meter Verifier**

Any person accredited under section 10 of the EGIA to verify the compliance of meters with legal requirements. Also referred to as “accredited organizations”.

#### **Compliance**

The state of conformity of a regulated party (including a corporation, institution, individual or other legal entity) or product with regulatory requirements.

#### **Contractor**

Any person or body that has undertaken to supply electricity or gas to any purchaser. A contractor is most commonly a public or private utility company but also includes a redistributor or electricity or gas to tenants of a building or buildings complex.

#### **Director**

The director appointed under subsection 26(1) of the EGIA.

#### **EGIA**

*The Electricity and Gas Inspection Act.* Any reference to the EGIA in this document shall be interpreted to include all regulations, specifications, requirements, policies and procedures issued under the EGIA's authority.

#### **Enforcement**

Range of actions that may be taken from inducing to compelling compliance with the EGIA.

#### **Inspector**

Any officer appointed under the authority of the EGIA and in relation to any functions that may be executed by such an officer, includes any person designed under subsection 26(3) of the EGIA for the purpose of executing those functions.

#### **Meter**

Any machine, instrument, or device used for the purpose of making measurements of, or obtaining the basis of a charge for, electricity or gas supplied to a purchaser.

#### **Minister**

The Minister of Industry Canada.

#### **Purchaser**

Any person to whom electricity or gas is sold.

## **4.0 Roles and Responsibilities**

### **4.1 General**

Several parties and classes of parties have important roles and responsibilities in regulating and contributing to national compliance with the EGIA. The key authority and responsibility centres are identified and described below.

### **4.2 Regulatory Parties**

#### **4.2.1 Minister**

The Minister of Industry is responsible for the general administration of the EGIA.

#### **4.2.2 Director**

The Director, under the Minister, is responsible for the direction and general supervision of the administration and enforcement of the EGIA, as well as for the ongoing review and maintenance of its effectiveness. The President of Measurement Canada exercises the authority of the director for the purposes of the EGIA.

#### **4.2.3 Inspectors**

Inspectors are responsible for promoting, monitoring, and enforcing compliance with the EGIA. Agency personnel with various titles and specializations (e.g., managers, officers, specialists, auditors, and inspectors) are officially designated as inspectors under the EGIA.

#### **4.2.4 Attorney General of Canada**

The Attorney General has responsibility for all litigation relating to the EGIA. Authorized officials of Measurement Canada present information to the Department of Justice which, on behalf of the Attorney General, considers whether to proceed with a prosecution under the statute.

#### **4.2.5 Federal, Provincial and Territorial Courts**

The courts are responsible for making the final decisions regarding prosecutions for offences and the imposition of penalties.

### **4.3 Regulated Parties**

#### **4.3.1 Meter Owners**

Meter owners are responsible for ensuring that all meters comply and continue to comply with regulatory requirements both before and during use and for keeping records containing associated information related to the administration of the EGIA. A meter owner may be a contractor, purchaser, or a third party.

### **4.3.2 Contractors**

Contractors are responsible for registering as sellers of electricity or gas when the sale is based on measurement, for using only approved and verified meters for this purpose, for ensuring that these meters are appropriately dealt with as concerns verification and for providing equipment and all reasonable facilities necessary for the purposes of the EGIA. Contractors are frequently also meter owners.

### **4.3.3 Meter Manufacturers**

As applicants for meter pattern approval, meter manufacturers are responsible for demonstrating that their meters meet and will continue to meet regulatory approval requirements throughout their production. For providing all performance and regulatory conformance data and any quality, reliability, and technical information related to objectively support their application. Applicants are also responsible for ensuring all design or production changes are properly authorized.

### **4.3.4 Accredited Meter Verifiers**

Accredited meter verifiers are responsible for verifying the compliance of meters to national specification requirements in accordance with the policies and procedures of their documented quality management systems. This responsibility also includes, but is not limited to, keeping associated records necessary for the administration of the EGIA, and for meeting all conditions of accreditation listed in the Electricity and Gas Inspection Act and Regulations, and in the Measurement Canada document S-A-01 "Criteria for the Accreditation of Organizations to Perform Inspections Pursuant to the *Electricity and Gas Inspection Act* and the *Weights and Measures Act*".

## **5.0 Program Orientation**

### **5.1 Guiding Principles**

The following guiding principles will govern the administration of the legal requirements.

#### **Privacy of the Agency's Mission, Vision and Values**

The Agency's mission is to ensure accuracy in the trade of electricity and gas bought and sold on the basis of measurement and the Agency will proactively promote this purpose, along with its vision and values, in the administration of all compliance activities in support of maintaining program integrity and public confidence.

#### **Prevention**

The Agency will promote the adherence to the modern quality management system principles of prevention of non-compliance, continual improvement, and owner/contractor responsibility and commitment to reduce the need for external intervention.

#### **Balance**

Compliance options will be exercised in a manner that fosters conformity with regulatory requirements while considering economic impact to the public, relevant circumstances, and mitigating factors.

### **Objectivity and Consistency**

Compliance promotion, monitoring and enforcement activities will be carried out by inspectors in an objective manner and applied uniformly across the country.

### **Respect for Privacy and Right to Access**

Compliance and enforcement information is subject to applicable privacy and access to information legislation. Where charges have been laid or where an organization or individual has been convicted of an offence under the Act, this information is considered a matter of public record.

## **5.2 Legislative and Program Instruments**

The Agency uses the following instruments to achieve compliance.

### **Act**

The *Electricity and Gas Inspection Act*, authorized by Parliament, serves as the foundation for the Agency's activities in the field of electricity and gas trade measurement.

### **Regulations**

The *Electricity and Gas Inspection Regulations*, provided for by the Act and authorized by the Governor-in-Council, expand on the requirements of the Act.

### **Specifications**

The Act and Regulations authorize the Director to create various technical specifications for meters and measurement.

### **Program Requirements**

The Director establishes various program requirement documents such as those pertaining to accreditation to ensure uniformity in national implementation.

### **Policy Bulletins**

The Director as well as certain Agency representatives, issue policy bulletins to guide activities pertaining to the administration of various aspects of the EGIA.

### **Procedures**

Agency representatives issue technical and administrative procedural documents to facilitate uniform implementation of program activities.

### **Communiqués**

Agency management publish informational documents to communicate various matters such as issues, proposed changes, research findings, and progress reports to facilitate public awareness of matters that may affect them.

### **5.3 Regulatory Program Elements**

The Agency regulates the electricity and gas measurement marketplace according to seven major metrological control activities.

#### **Establishment of Measurement Requirements**

Requirements for the units and methods of measurement and the various aspects of measurement management and control are established via the Act, Regulations, specifications, program requirements and technical procedures.

#### **Maintenance and Certification of Measurement Standards**

Reference standards for the basic units of measurement are maintained at the Agency's laboratories in Ottawa, kept traceable to national measurement standards maintained by the National Research Council, and used to calibrate working standards and measuring apparatus used throughout the country by inspectors and accredited meter verifiers.

#### **Pattern Evaluation and Approval of New Meter Designs**

New meter designs are typically evaluated at the Agency's laboratories in Ottawa for performance, reliability and robustness to influence quantities or factors. Meter designs are approved for use in Canada when all regulatory requirements are met; pattern approval is a prerequisite to meter verification.

#### **Initial Verification of New Meters**

New, pattern-approved, meters are verified for performance and conformance in accordance with national measurement requirements prior to being placed in service; where appropriate, verification may be performed by statistical methods authorized by the Director.

#### **Reverification of In-service, Reservices or Renewed Meters**

Formerly verified meters are revived for performance and conformance in accordance with national measurement requirements. Reverification is performed to determine if meters may remain in service or may be placed back into service, as the case may be, and for how long a period of time. Reverification may be performed by statistical methods authorized by the Director, where appropriate.

#### **Inspection of Meter Installation and Use**

Where the installation or use of a meter may have an adverse impact on the acceptability of its accuracy and compliance with the requirements of the statute, meters are inspected at their operational locations for appropriate installation and use.

#### **Accreditation of Organizations to Perform Meter Verifications or Delegation of Authorities for the Certification of Measurement Standards**

Where an organization can demonstrate its technical proficiency and ongoing commitment to meeting Measurement Canada program requirements, the organization may be officially recognized by the Agency. Accreditation is granted to directly perform certain meter verification and standards certification activities are capable of being delegated under the EGIA; accreditation and delegation status must be maintained through periodic program audits and evaluations.



## **6.0 Compliance Activities**

### **6.1 General**

The Agency will perform the following activities in the areas of promotion, monitoring, enforcement, and program review and improvement to maximize compliance with the EGIA and its underlying principles.

### **6.2 Promotion**

#### **Providing Information and Education**

The Agency will continue to make all of its publications and meter/service-provider databases freely available via its web site where it also identifies headquarters and regional personnel and their specialties so that interested parties may contact them for additional information as needed; informational meetings or educational seminars may also be held as demand and interest warrants, including ad hoc meetings with industry associations and working groups, as well as the Canadian Forum on Trade Measurement (CFTM).

#### **Public Consultation**

Proposed changes to regulatory requirements, whether they constitute additions or revocations, will be subject to a public consultation process so that affected Canadians have the opportunity to participate and express their views before changes are finalized.

### **6.3 Monitoring**

#### **Meter Inspection**

The Agency will collect data on the performance and conformance of meters through direct meter inspection activities, where strategically necessary to monitor marketplace compliance.

#### **Audits**

The Agency will perform periodic audits of accredited organizations' quality management systems, meter owners' record systems, including product audits.

#### **Measurement Disputes and Complaints**

The Agency will provide expertise to resolve measurement-related disputes and complaints which may occur between contractors and purchasers and maintain the associated records to assist in marketplace monitoring.

#### **Investigations**

The Agency will investigate reports of performance related meter defects and nonconformities, as well as allegations relative to an organizations' non-compliance with legal requirements to assist in marketplace monitoring.

#### **Request for Self-assessment**

The Agency may assess or request that regulated parties perform self-assessments, of compliance with regulatory requirements and report the results of such assessments along with corrective and preventive action plans, as may be applicable.

## **6.4 Enforcement**

### **6.4.1 Preventive Measures**

#### **Meter Inspection**

Where necessary, the Agency will perform inspections of meters to support pattern evaluation and approval and, where alternate providers of meter services are not available, meter verifications and reverifications; accredited meter verifiers will perform meter verification and reverification inspections.

#### **Standards Certification**

Where necessary, the Agency will perform calibrations and certifications of measurement standards to support regulatory requirements; where authorized, accredited organizations may also perform certain calibrations and certifications of measurement standards.

#### **Audits**

To support its accreditation and delegation programs, the Agency will perform initial audits, surveillance audits, and product audits of quality management system documentation, its implementation and effectiveness.

#### **Preventive Action Requests**

The Agency will issue written requests or general communiqués to regulated parties to take action to prevent non-compliance where information suggests the potential for non-compliance is very likely.

### **6.4.2 Responses to Non-Compliance**

#### **Written Reports**

Inspectors shall document all findings of non-compliance in written reports to Agency management as a preliminary step towards further potential actions.

#### **Corrective Action Requests**

Agency representatives shall issue written requests to regulated parties to take action to correct non-compliance where warranted. Written requests shall include identification of the non-conformance and shall specify a date by which formal response is expected. Corrective actions should ensure future recurrences of the non-conformance are prevented and implementation of the corrective actions should be followed up where warranted.

#### **Administrative Orders**

The Director will issue written administrative orders with respect to non-compliance, adhering to any specific instructions established in the Regulations with respect to content or publication in the Canada Gazette and securing the Minister's concurrence as necessary. Orders may address such matters as suspension or revocation of permission, a meter approval, or an accreditation, or for the withdrawal of meters from service, where such actions are believed to be in the interest of the public and the regulatory program's ongoing integrity.

#### **Prosecution**

The Director will recommend that the Attorney General prosecute any case that has escalated to the point that lesser responses to non-compliance have been ineffective and no other solution is in sight or where the seriousness of the case does not lend itself to appropriate alternative responses within the Agency's direct authority.

## **Publication**

The Director, having regard to the requirements of the EGIA, the Access to Information Act, and the Privacy Act, may determine that it is in the public interest to publish information on the Agency's web site or in local media as concerns a conviction for an offence under the EGIA.

### **6.4.3 Factors Considered in Response to Non-compliance**

While the enforcement options that may be applied in response to a violation may vary according to a number of factors, the Agency's objective is always to gain compliance, ensure ongoing equitable and accurate measurement, and treat regulated parties in an even-handed manner. The factors and analysis in this section provide guidance as to Agency considerations in determining the appropriate response to a violation. However, it is important to recognize that these considerations are cumulative and are not applied in isolation.

### **Impact and Significance of the Violation**

Where the number of parties impacted by a specific violation is large, the consequences of the violation are significant, the violation has continued for an extended period of time, or the number of violations is large, the likelihood of an enforcement response is high and the severity of that response is likely to ascend.

Behaviours which can be viewed as being in bad faith (e.g., requests for information or corrective action not acted upon, obstruct investigations, conceal or provide misleading information) also increase the likelihood and severity of an enforcement response.

Technical violations (e.g., failure to submit requested information or reports, maintain required records, respect administrative compliance deadlines) are significant to the extent they affect the Agency's ability to determine whether a company has been in compliance, determine the level of non-compliance, or the extent and length of any adverse impact which has resulted from a non-compliance. Such violations jeopardize regulatory program integrity and stability by undermining the objectives and requirements of the EGIA and are likely to elicit enforcement responses which are considered proportional to the violation.

### **Circumstances under which Violations are Discovered**

Where the Agency discovers non-compliance during an announced or unannounced inspection or audit, or as a result of investigating complaints from the public, the likelihood of an enforcement response is significantly greater than where a party reports the results of an internal or third party compliance assessment along with proposed corrective action plans for Agency consideration. A demonstrated commitment to voluntary compliance and a strong overall compliance record diminish the likelihood or severity of an enforcement response. The Agency views immediate disclosure of compliance problems and immediate work to permanently resolve issues as good-faith efforts that will be considered in determining an appropriate enforcement response. The failure to consistently evaluate compliance with regulatory requirements and immediately disclose and correct compliance problems increases the likelihood and severity of an enforcement response.

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## **Causes and Circumstances of the Violations**

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## **Action Taken once there was Awareness of a Violation**

The Agency views regulated parties as responsible measurement professionals involved in highly technical fields for which they are qualified and therefore relies heavily on voluntary compliance and self-reporting. If a violation is reported immediately and corrective action is promptly taken, the likelihood or severity of an enforcement response diminishes. Likewise, the quality actions, whether they were taken before or after Agency involvement, whether or not they truly addressed any immediate problem, and whether or not they were designed to prevent similar future problems are all factors that determine an enforcement response. Where violations are addressed in a manner that permanently removes the potential for recurrence, this will be considered as a demonstration of a greater willingness to comply than instances where a temporary fix may be used to address a problem that resulted in non-compliance.

## **Financial Gain Associated with the Violation**

Where appropriate, the Agency will examine whether the violation resulted in a direct benefit to the regulated party (e.g., aversion or deferral of required replacement, maintenance, or servicing costs, omission of quality control activities to gain competitive advantage, or strategic non-compliance). In those instances where a significant benefit is evidenced or can be demonstrated as a result of the noncompliance, the likelihood that the Agency will pursue an appropriate enforcement response is high.

## **Overall Compliance Record**

The Agency will consider the compliance record of the regulated party in determining the nature of an enforcement response. This consideration may include aggregate performance in all areas of Agency interest as well as any trend toward or away from overall compliance. Where there is evidence that non-compliance is of a repetitive, continuing nature, is likely to recur, or Agency resources are being disproportionately consumed to deal with the matter, the enforcement response necessary to achieve continuing compliance or permanent discontinuation of the non-compliance will be given the Agency's full consideration.

## **Similar Violations**

In determining an appropriate enforcement response, the Agency will consider how similar situations of non-compliance are currently being addressed as concerns other regulated parties. This does not preclude the Director from determining a more appropriate enforcement response which may be of a greater or lesser nature if, in his assessment, it will be more effective in achieving continuing compliance.

## **6.5 Program Review and Improvement**

Shortcomings in the regulatory program may be identified through monitoring activities or as a result of decisions that have been rendered by the courts. The Agency has the responsibility to ensure that its programs continue to achieve their intended objectives and to improve them where required.

### **Regulatory Requirements**

The Agency will propose amendments to the Act and Regulations, as necessary, to ensure that regulations are appropriate and remain current with regard to achieving their objectives in a changing marketplace.

### **Specific Policies**

The Agency will develop more detailed policies for specific program activities wherever necessary to ensure the intent of the EGIA is achieved.

### **Training**

The Agency will endeavour to ensure that enforcement personnel are and continue to be adequately trained as concerns the detection of non-conformance and the implementation of appropriate enforcement actions.

## **7.0 Offences and Punishment**

The EGIA provides for various punishments, ranging from summary conviction to indictment and from fines to imprisonment, for persons found guilty of offences by the courts. It should also be noted that specified fines may be interpreted by the courts to apply to each instance of non-compliance.

### **Falsification and Meter Fraud Offences (s.30)**

Guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

### **Fraudulent Meters**

Additional possible forfeiture of all such meters to Her Majesty upon court order.

### **Stealing Stamp or Seal Offences**

Guilty of an offence punishable on summary conviction and liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both; or guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

### **Obstruction, Negligence, Short Measure and other Offences (s.33)**

Guilty of an offence and liable, on summary conviction, to a fine not exceeding one thousand dollars or, on indictment, to a fine not exceeding five thousand dollars.

### **Any other General Offence (s.34)**

Guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

## **8.0 Information on Compliance Activities**

Subject to the provisions of the federal *Access to Information Act* and the *Privacy Act*, information on compliance and enforcement activities may be made available to the public.

## **9.0 Force and Effect**

The policies and principles in this document do not constitute law-making by the Agency. The Agency may take action that varies from the policies and principles contained in this document if the Director considers it appropriate in a specific case. In addition, while Agency decisions regarding compliance matters will normally be respected, the Attorney General retains independent law enforcement authority over federal statutes and may be concerned about particulars of offences which exceed the scope of the EGIA (and the Agency) and extend to other federal statutes.