

Energy Security Safeguard Compliance Priorities

11 October 2023

IPART is the Scheme Administrator and Scheme Regulator for the Energy Security Safeguard which currently comprises two certificate schemes, the Energy Savings Scheme and the Peak Demand Reduction Scheme ("the Safeguard Schemes").

The *Compliance Priorities* set out where IPART's Energy Sustainability Schemes Team will focus its compliance resources for the year. Being transparent about our *Compliance Priorities* can assist businesses to understand where compliance attention will be focussed and to take steps to address identified risks.

By focussing on our *Compliance Priorities* we can target our resources to the areas of greatest risk to better achieve our objectives of maintaining the integrity of the Safeguard Schemes. This will help ensure the Schemes meet their objectives to encourage activities that save energy or create peak demand reduction capacity, and in turn, realise positive sustainability outcomes for the people of NSW.

Our 2023-24 Compliance Priorities

Emerging scheme activities including heat pumps, air conditioners and other new activities

Changes to the ESS Rule in February 2022 introduced new heat pump water heater activities. These activities are continuing to grow and remain a compliance focus. We are expecting rule changes or complimentary incentive programs may result in air conditioning and other activities (such as pool pumps and batteries) increasing under the ESS and PDRS.

The uptake of emerging activities and the emergence of new business models is likely to result in an increase in inquiries and complaints and increased risk of non-compliance or other adverse outcomes such as installations not being fit for purpose.

We will target our compliance efforts to build an understanding of emerging business models and risks to ensure:

- Activities are being conducted compliantly in accordance with the rules
- Activities are fit for purpose and aligned with the objective of the scheme to incentivise energy savings and peak demand reduction activities
- Any unintended consequences of the new activities are identified and analysed.

Our objective is to assess how businesses operate within the current laws, to assist businesses to navigate uncertainty and to take an escalated approach where there is deliberate or repeat non-compliance.

Peak Demand Reduction Scheme (PDRS)

The PDRS commenced on 1 November 2022 and while initial activities have been occurring under the Reducing Demand Using Efficiency Method, the scheme is still in its infancy and new activities are expected in early 2024. We want to ensure that businesses know and understand their obligations under the scheme.

We will target our compliance efforts to support and educate Accredited Certificate Providers and Scheme Participants by producing a range of tools and guidance material supported by workshops and other engagement activities. We will also actively work with ACPs and auditors as they work through their first audits of PRCs.

Our objective is to embed good compliance behaviour at the outset of the PDRS and to ensure businesses gain knowledge and set up processes which enable ongoing compliance with PDRS requirements and successful participation in the scheme.

Scheme Participant liability

The evolving nature of the Safeguard Schemes and the introduction of the Energy Security Safeguard Application (TESSA) means there may be increased compliance risks as Scheme Participants get familiar with meeting their compliance obligation using a new system.

We will target our activity at supporting Scheme Participants navigate their compliance obligations in TESSA. This may include information sessions and more targeted engagement.

Our objective is to ensure that entities that are required to participate in the scheme fulfil their obligations and can do so effectively, in turn ensuring certificate targets continue to be met.

Consumer protection

We are continuing to see consumer complaints about the Safeguard Schemes. These complaints vary from products failing or not performing as expected to misleading information or advertising. While some of these issues do not relate directly to legislation we administer, it is important that we leverage the tools and networks that are available to us to ensure positive consumer experiences and ultimately more successful, reputable, and compliant Safeguard Schemes.

We will target our compliance efforts to:

- Leverage existing Safeguard Scheme rules and requirements which have a consumer facing element (such as the Minimum Requirements of Conduct)
- Increase focus on considering consumer complaints as an indicator of compliance culture when assessing Safeguard Scheme applications and audits
- Develop a deeper understanding of Australian Consumer Law requirements and how they apply to Safeguard Scheme activities
- Build stronger relationships with other regulators such as NSW Fair Trading to better ensure consumer complaints are appropriately dealt with
- Increase consumer awareness of the Safeguard Scheme activities by publishing consumer facing information on higher risk activities.

Our objective is to ensure that the integrity and good reputation of the scheme is maintained and that consumers are well informed so they can confidently interact with the Safeguard Schemes.

How do we set our *Compliance Priorities*?

We take an intelligence led and risk-based approach to setting our Compliance Priorities. The Compliance Priorities are informed by assessment and analysis of our information holdings, our operational knowledge, research of existing and emerging issues, and interaction with industry, government stakeholders and consumers.

The Compliance Priorities are set on annual basis and apply for the duration of one year or until the next set of Compliance Priorities are launched.

What action will we take in our priority areas?

While we conduct a broad range of business-as-usual functions to administer the Safeguard Schemes, this document is intended to provide guidance to stakeholders on where proactive compliance activities will be focussed for the 2023-24 financial year.

Focussing our resources on areas of higher risk allows us to make the best use of our limited resources and minimise costs to regulated entities. The compliance activities that we may use in our priority areas include:

- Increased engagement with stakeholders to ensure they understand their obligations
- Increased and targeted audit programs focussing on systemic and emerging issues
- Inspecting sites where energy savings or peak demand reduction activities have occurred
- Identification and investigation of suspected non-compliance
- Enforcement action including issuing penalty notices, civil penalties, imposing conditions, suspending/cancelling accreditations or requiring the forfeit of certificates.