

# Energy Security Safeguard Schemes Notice

## 01/2024

19 April 2024

### Refrigerated cabinet activity compliance

Accredited Certificate Providers (**ACPs**) undertaking the following activities should review their service offering and evidence collection procedures to ensure their operations are compliant with legislation and consistent with the objectives of the Energy Security Safeguard schemes.

- **Energy Savings Scheme Activity Definition F1.1** – Install a New High Efficiency Refrigerated Cabinet
- **Energy Savings Scheme Activity Definition F1.2** – Replace an Existing Refrigerated Display Cabinet
- **Peak Demand Reduction Scheme Activity Definition RF2** – Replace an Existing Refrigerated Display Cabinet

This notice is particularly relevant to activities involving refrigerated display cabinets with adjustable temperature controllers which can operate in fridge or freezer mode.

### Replacement refrigerated cabinets must be of the same class as the replaced equipment

In accordance with requirements of the ESS Rule, IPART expects ACPs to demonstrate that the replacement End User Equipment (**EUE**) is the same class or type as the EUE being replaced. That is, the replacement and replaced equipment must be the same product Class as listed in column 2 of Table F1.2.1 or the corresponding product Type from AS 1731 as listed in column 3 of Table F1.2.1.

It is implicit in the energy savings calculation that the baseline equipment must be of the same class as the replacement equipment. This is because the Baseline Energy Efficiency Index values are attributed according to the product class of the replacement equipment.

For example, the Baseline Energy Efficiency Index for class 7 (integral refrigerator vertical) refrigerated display cabinets differs from that of class 8 (integral freezer vertical) refrigerated display cabinets.

It is not appropriate to deem a class 8 Baseline Energy Efficiency Index when replacing a class 7 unit. We do not consider that approach is a correct application of the ESS Rule. We have disallowed the registration of ESCs and PRCs in situations where ACPs have sought to replace a different class (e.g. a freezer for fridge replacement). Where IPART considers certificates were created or are proposed to be created outside of this guidance it may:

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging. We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

- disallow the creation of certificates
- seek the forfeit of certificates
- take action including issuing penalty notices, civil penalties or prosecution.

## Installation of new refrigerated cabinets

The Installation of High Efficiency Appliances for Business method (**IHEAB**) provides an incentive to purchase and install high efficiency appliances for business consumers who will benefit from the ongoing energy savings.

The method used to calculate the energy savings arising from a Recognised Energy Saving Activity must produce a result reasonably reflecting, to the satisfaction of the Scheme Administrator, the energy savings arising from that Implementation. You should consider the use scenario and whether the supply of a particular fridge or freezer is likely to result in energy savings.

Auditors are not obliged to provide assurance and we may not accept certificate registration if we are not satisfied that your activity has resulted in energy savings.

The installation of new refrigerated display cabinets should be fit for purpose and the class of the new EUE should match the intended use of the equipment by the end user. For example, a new installation of a product registered with the Greenhouse and Energy Minimum Standards (**GEMS**) regulator as a class 8 (integral freezer vertical) refrigerated display cabinet should only be for the identified purpose of operating as a freezer for the end user.

We remind ACPs that the new equipment must be installed, and the installation must be performed or supervised by a suitably qualified licence holder in compliance with the relevant standards and legislation. For example, it is not acceptable to modify the operating parameters of a product, for example by connecting a 15 amp rated product to a 10 amp circuit.

We may consider regulatory action where activities do not provide reasonable results or otherwise undermine the objectives of the schemes to reduce the consumption of, and peak demand for, energy.

## The Australian Consumer Law applies

The Australian Consumer Law (ACL) makes it an offence for a person supplying goods or services to engage in conduct likely to mislead the public about the nature, manufacturing process, performance characteristics, suitability for purpose, or quantity of those goods or services.

ACPs are liable for their actions before, during and after installation of equipment, including for the actions of agents acting on their behalf. We encourage ACPs to regularly review websites, marketing material, call scripts and other interactions to ensure they adhere to the requirements of the ACL. We refer potential breaches of the Australian Consumer Law to NSW Fair Trading who are the responsible Australian Consumer Law agency in NSW.

## We are monitoring compliance for refrigerated cabinet activities

We can require audit of certificates both before and after registration. We are focussing our audit and compliance effort on refrigerated cabinets because we consider it represents a higher risk of non-compliance. We aim to ensure all activity is compliant with the legislation and consistent with objectives of the schemes to incentivise energy savings and reduce peak demand. In our audit and compliance activities we consider:

- Evidence of installation including geo-tagged photos of the refrigerated cabinet installed at the site and other documents which show the make and model of the appliance.
- Recycling evidence which demonstrates refrigerants have been being disposed of appropriately (for replacement installations),
- Whether installations are 'new' or 'replacement'. We consider that a 'new' installation occurs where the refrigerated cabinet is installed where either:
  - there is no existing EUE of the same type, function, output or service, or
  - there is existing EUE of the same type, but the refrigerated cabinet is not replacing this EUE (such as where it will provide additional capacity which is genuinely required).

You should expect to be able to evidence this at audit. Where we identify wilful, serious or repeated non-compliance we will consider appropriate regulatory action which may include warnings, penalty notices, civil penalties or prosecution.

We can also impose conditions on accreditations to address any ongoing risk of activities which undermine the objectives of the scheme. In some instances we may refuse an application to change conditions in order to protect the integrity and good reputation of the schemes. We can also suspend or cancel an accreditation following serious non-compliance.

## Further consideration of activity F1.1 and F1.2 by DCCEEW

The NSW Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) regularly assess whether activities undertaken under the ESS and PDRS are achieving the objectives of reducing the consumption of energy or reducing peak demand. Where DCCEEW considers an activity is not achieving these objectives it may recommend changes to the rules. We regularly exchange information with DCCEEW and the GEMS Regulator to help inform our respective roles in regulating refrigerated cabinet activities.

## Reporting concerns about refrigerated cabinet activities

If you have information about potential non-compliance with the ESS or PDRS rules, please report it to [ess.compliance@ipart.nsw.gov.au](mailto:ess.compliance@ipart.nsw.gov.au).

If you or your representatives are aware of any companies misrepresenting a GEMS product class for new end user equipment, then you should forward that information to both the GEMS Regulator and IPART.

If you or your representatives are aware of any companies misrepresenting the GEMS product class for old/baseline end user equipment, then you should forward that information to IPART.