

Work Package 3 - TRAINING, Module A

Introduction to the EU regulatory framework

TRAINING SLIDES v2

This is the 1st of 4 training modules developed in the Energy Efficiency Compliant Products 2014 (EEPLIANT) programme.

EEPLIANT is a programme of coordinated activities being undertaken by market surveillance authorities across the EU.

Much more detail on EEPLIANT is available on www.eepliant.eu

The materials covered in the 4 training modules are based on the document *Best Practice Guidelines*. Users of these training materials need to download a copy of these from <http://eepliant.eu/index.php/knowledge-base> in order to maximise the benefit from using this and the training modules B, C & D.

Overview of this Module

This first training module for EEPLIANT provides a brief overview of the EU regulatory framework for Ecodesign and Energy labelling.

Besides the Directives mentioned in these Modules, a market surveillance officer needs to be aware of other EU legislation, in particular, the New Legislative Framework for marketing of products.

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The legal base...

The general objective of market surveillance is to ensure that products placed on the Single market, put into service or made available, comply with applicable product-related legislation and that the products do not endanger health, safety or any other aspect of protection of public interests, e.g. energy efficiency.

General requirements for market surveillance on products available on the EU market are stated in the EU Regulation 765/2008 on accreditation and market surveillance. This, together with Decision 768/2008 and Regulation (EC) 764/2008, make up the New Legislative Framework (“NLF”).

European Union

The EU Member States (MS) are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK

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Originally, the European Economic Community (EEC) was a regional organisation which aimed to bring about economic integration between its member states. It was created by the Treaty of Rome of 1957. Upon the formation of the European Union (EU) in 1993, the EEC was incorporated and renamed as the European Community (EC).

The European Community was dissolved into the European Union by the Treaty of Lisbon in 2009.

European Economic Area (EEA)

The EEA follows from an agreement between the European Free Trade Association (EFTA), except for Switzerland, and the then EC (now EU). It allows Iceland, Liechtenstein and Norway to participate in the EU's internal market without a conventional EU membership. In exchange, they are obliged to adopt all EU legislation related to the single market, except laws on agriculture and fisheries.

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It is useful to be aware of what “EEA” stands for as this descriptor is sometimes used in place of “EU”. Where this is the case, it may signify that EFTA is partnering the EU in some way. For example, some European activities might be co-funded by the EU and EFTA.

EU and Turkey

The EU and Turkey are linked by a customs agreement that establishes a free trade area between the two for manufactured goods.

Turkey has adopted and implements EU product legislation such as the Ecodesign and Energy Labelling Directives.

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For this reason, it is not unusual for delegates from Turkey to attend EU meetings such as the ADCO meetings (more information on ADCO meetings is given in Module B).

EU legislation

The European Union (EU) is a major source of national legislation in the Member States. In the field of product energy efficiency, almost all legislation will have its origin in European rules.

European legislation can consist of a number of components:

- Directives
- Regulations
- Decisions
- Recommendations and Opinions

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The European Commission (primarily DG ENERGY) manages the process by which EU legislation governing the energy efficiency of products is developed. The website <http://www.eceee.org/ecodesign/products> provides useful (but quite detailed) background on this process.

Directives and Regulations

Directives are aimed at Member States (MS) which are duty bound to adhere to them. MS are obliged to transpose directives into national legislation.

Regulations - These are aimed at EU citizens and economic operators who are duty bound to follow them and have direct effect within the MS. The MS make non-compliance with the provisions of these regulations punishable in their national rules on penalties.

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A "directive" is a legislative act that sets out a goal that all EU countries must achieve. Although Member States (MS) have to adopt Directives, it is up to them to devise their own laws on how to reach these goals.

The Directives related to energy efficiency of products are sometimes described as "horizontal" measures since they apply across all products sectors without being specific to any of them.

See Slide 9 for more details about the Ecodesign Directive, see Slide 11 for more details about the Energy Labelling Directive.

A "regulation" is a binding legislative act. It must be applied in its entirety across the EU. These, for energy efficiency, are specific to individual product sectors and define the measures necessary for that product sector. Ensuring the effective implementation of these regulations forms the basis of the market surveillance workload.

Although each MS has to implement all ecodesign and energy labelling regulations, they are free to prioritise their workload and to determine the level and type of sanctions to apply in the cases of non-compliance. This "freedom" can lead to significant differences in how the different market surveillance authorities operate in each of the MS.

Decisions, Recommendations and Opinions

Decisions - These are legal instruments that are binding upon the Member States and EU citizens or economic operators, with direct effect in the Member States. They relate to individual cases or about certain subjects.

Recommendations and Opinions - These are self-explanatory and are not binding for Member States, EU citizens or economic operators.

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The applicability of “Energy Star” labelling to office products sold in the EU is the subject of a “Decision” – see Slide 13 for more details.

“Opinions” are most likely to be encountered by market surveillance authorities. Often, these are requested by suppliers of products seeking guidance in how to interpret and implement the requirements of the regulations. An example of how the European Commission provides opinions in respect of energy efficiency can be found at <https://ec.europa.eu/energy/en/energy-labelling-tools> where there is a Frequently Asked Questions (FAQ) on the Energy Labelling Directive 2010/30/EU. This 26 page document provides a wealth of guidance but comes with the cautionary note *“The answers provided reflect a common understanding between Commission services and the Market Surveillance Authorities of Member States. The answers as such are not legally binding. A binding interpretation of Community law is the sole competence of the European Court of Justice.”*

Legal Background

- **EU Regulation No. 765/2008**
 - general requirements for EU products relating to health, safety and protection of public interests e.g. energy efficiency
- **Ecodesign directive** for Energy Related products 2009/125/EC
- **Energy Labelling directive** 2010/30/EU
- **Commission proposal COM (2013) 75** for a regulation on market surveillance of products...



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The generalities of EU Regulation No. 765/2008 apply to all regulatory areas (not just ecodesign and energy labelling) that are covered by national MSAs.

The legal base for ecodesign market surveillance is found in the sectorial legislation, the ecodesign framework Directive 2009/125/EC, and in the national legislation of Member States transposing the Directive. In addition, specific criteria that are essential for market surveillance can also be found in the implementing measures (regulations). Market surveillance according to the Ecodesign Directive is the responsibility of all Member States. Member States are requested to appoint national market surveillance authorities (MSAs). See Section 1.4.2 of the Best Practice Guidelines.

Similar requirements apply to energy labelling. See Section 1.4.3 of the Best Practice Guidelines.

The Commission proposal COM (2013) 75, had not been agreed at the time of preparing these slides (January 2016)

Ecodesign Directive

Directive 2009/125/EC (and the amending Directive 2012/32/EC) establishes ecodesign requirements for energy-related products in the EU. The policy intent is to deny market access to poorly performing products.

The requirements (not always just for energy efficiency) typically set minimum performance levels. They are implemented as Commission Regulations that currently cover 28 product sectors. Additionally, there are 3 voluntary agreements.

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This is one of the two key Directives applicable to the energy efficiency of products. It is a particularly powerful policy instrument because it can eliminate entire product categories from the market. It is said to “push” the entire market to a higher level of performance.

Whilst the ecodesign regulations always specify a minimum level of energy efficiency, they sometime also include other minimum requirements too. For example, the regulation for domestic washing machines, COMMISSION REGULATION (EU) No 1015/2010, also includes a requirement to ensure that the washing performance is maintained at a satisfactory level.

Many countries outside of the EU also set minimum levels for energy efficiency – these are often described as “MEPS” – minimum energy performance standards.

The Voluntary Agreements (for Complex set top boxes, Imaging equipment and Games consoles) are intended to be self-regulating so are seen to fall outside of the remit of MSAs. This factor is currently under study in the EEPLIANT project.

Implementing the Ecodesign Directive

- All products covered by implementing measures (regulations) must bear CE marking before being placed on the market.
- Market surveillance is to be carried out by competent authorities designated by Member States that have the task of verifying product conformity through...
 - requiring the parties concerned to provide the necessary information;
 - taking samples of products and subjecting them to compliance checks.

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The activities undertaken by market surveillance authorities to ensure that the regulations are being complied with are covered in detail in Modules B, C & D.

Energy Labelling Directive

Directive 2010/30/EU (and the amending Directive 2012/27/EU) establishes a framework for labelling and consumer information regarding energy consumption for energy-related products.

It applies to products that are likely to have a direct or indirect impact on the consumption of energy and on other potential resources during use.

The requirements are implemented as Commission Regulations that currently cover 16 product sectors. Additionally, there is a tyre labelling regulation.

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This is other of the two key Directives applicable to the energy efficiency of products. It is a less powerful policy instrument than the Ecodesign Directive because products, though required to be labelled, are not required to attain the higher (more efficient) label categories.

It is said to “pull” the market to a higher level of performance.

Implementing the Energy Labelling Directive

- Products on the market must have a label containing information on the product's consumption of electric energy or other forms of energy.
- Product suppliers are required to provide dealers with labels and product information free of charge. Dealers must affix labels in such a way that they are visible and legible.
- For verification, suppliers must make technical documentation (results of design calculations carried out, test reports; ways to allow identification of similar models) available for a period of 5 years.

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Most products that are required to be labelled are required to be labelled at the point of sale – the applicable regulations will specify any exceptions – so the responsibility for ensuring this happens is shared between the supplier (who must supply the label) and the seller (who must ensure the label is affixed in the correct place and so is visible to the would-be purchaser). Market surveillance thus has two tasks – one to check that the label is displayed, the other to check that the label declarations are correct.

The activities undertaken by market surveillance authorities to ensure that the regulations are being complied with are covered in detail in Modules B, C & D.

Labels are also required to be displayed by online sellers (“distance selling”). The requirements are detailed in COMMISSION DELEGATED REGULATION (EU) No 518/2014.

Energy Star

Council Decision 2006/1005/EC is an agreement between the EU and USA on the coordination of energy-efficiency labelling programmes for office equipment.

It enables manufacturers to voluntarily apply agreed specifications to measure the energy performance of office equipment. The "Energy Star"® label can be used for office equipment meeting these specifications.

No further coverage is given to Energy Star® in these EEPLIANT training modules.

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"Energy Star" originates in along-standing voluntary product labelling scheme operated by the US Environmental Protection Agency (USEPA). In the USA, this scheme covers a wide range of products – see <https://www.energystar.gov/> In the EU, Energy Star has been adopted as a voluntary measure covering just office equipment (printers, PCs etc.). These products are typically subject to rapid escalations in performance and would otherwise require any applicable regulations to be frequently amended. Under the coordination agreement between the EU and US authorities, the USEPA take the lead on setting standards, standards that are intended to award the Energy Star to the upper quartile (top 25% most energy efficient) portion of the market.

It is not believed that many MS authorities are actively checking the performance of Energy Star labelled products. This is probably because the measures are not mandatory and because there is such a large workload presented by the regulations for ecodesign and energy labelling. For this reason, Energy Star is not covered any further in these training materials.