



CANADA-UNITED STATES REGULATORY COOPERATION COUNCIL

Webinar:

Work Plan Development – 2016/17

April 12, 2016



Natural Resources Ressources naturelles
Canada Canada



**U.S. DEPARTMENT OF
ENERGY**



Purpose

- To collect early stakeholder views on:
 - Emerging trends that may impact regulatory systems in Canada and the U.S.; and,
 - Medium-term regulatory cooperation opportunities
- These topics will be discussed as RCC stakeholder event in May 2016 and used to update the joint annual work plan for 2016/17



Background

- **Fall 2014** – *Joint Forward Plan* establishes NRCCan-DOE goal of aligning new and existing standards and test methods, to the extent practicable and permitted by law
- **Spring 2015** – first joint annual work plan released:
 - Work Stream A: Learning from U.S. regulatory actions
 - Work Stream B: Joint information gathering on energy savings potential of emerging technology



Work Plan 2015/16

- **Work Stream A:**
 - Several bilateral NRCan-DOE discussions held throughout the year to share information on past and current U.S. rulemakings under consideration for regulatory action in Canada
- **Work Stream B:**
 - Canada and U.S. engagement in CSA express document (non-consensus test procedure) to inform data collection regarding performance of variable capacity air-source heat pumps in different climate conditions



Work Plan 2016/17

- Establish document for reporting/tracking Canada-U.S. alignment
- Reaffirm short-term regulatory plans and timelines
- Identify joint Canada-U.S. information sharing activities to facilitate short- and long-term regulatory cooperation
- Focus on efforts to address broader regulatory system issues



Current Regulatory Systems

- Identification of potential improvements in regulatory systems starts with an understanding of the current situation
- Regulatory authorities dictated by legislation:
 - Canada: *Energy Efficiency Act*
 - U.S.: *Energy Policy and Conservation Act, as amended*
- Other regulatory policies and processes:
 - Canada: Treasury Board
 - U.S.: Office of Information and Regulatory Affairs



Regulatory System Comparison

	U.S.	Canada
Publication Milestones	<ol style="list-style-type: none">1. Framework2. Preliminary Analysis3. Notice of Proposed Rulemaking4. Final Rule	<ol style="list-style-type: none">1. Forward Regulatory Plans2. Pre-Consultation: Technical Bulletins3. Pre-Publication4. Publication
Typical Timelines	Approximately 3 years from rule initiation	Approximately 2 years from pre-consultation to publication
Lead Times: Final Regulation to Effective Date	Product-specific lead times prescribed in statute – range from 3 to 5 years	No prescribed lead time in statute – at minimum, follow World Trade Organization guidance of 6-month notification period



Regulatory System Comparison

	U.S.	Canada
Subject of Rules	Typically cover one product category per rule	Use omnibus regulatory packages to implement changes across multiple product categories
Test Procedures & Minimum Energy Performance Standards (MEPS)	Use separate, sequential or concurrent rules to amend test procedures and MEPS (standards)	Rely on standards-making bodies (e.g. CSA) to develop test procedures Amend test procedures (by reference to CSA) and MEPS at the same time
Stakeholder Engagement	Comment periods associated with each publication milestone	Engaged in standards-making committees Comment periods after technical bulletins and pre-publication



Regulatory System Comparison

	U.S.	Canada
Cost-Benefit Analysis	Demonstrate that standard represents maximum improvement in energy efficiency that is determined to be technologically feasible and economically justified	Demonstrate that selected option maximizes net benefits while placing least possible cost on CDNs and businesses to achieve policy objective (<i>Cabinet Directive on Regulatory Management</i> guides what to assess to demonstrate – <i>Small Business Lens; One-for-One</i>)
Drivers for Rulemakings	Statutory requirement to re-visit MEPS (standards) every 6 years; text procedures every 7 years Secretary of Energy can consider new consumer product categories, subject to prescribed criteria (eg, portable ACs)	Typically initiate amendments following U.S. final rules Able to regulate any <i>energy-using product</i> or product that affects how energy is used No statutory requirement to re-visit



Regulatory System Comparison

	U.S.	Canada
Compliance	<p>Manufacturers must test their products to determine energy/water efficiency or consumption</p> <p>They must then certify to the Department that their products meet the applicable standard(s)</p> <p>These requirements apply to importers, as well as traditional OEMs</p> <p>DOE may, at any time, test a basic model to assess whether the basic model is in compliance with the applicable energy conservation standard(s)</p>	<p>Every energy-using product imported or shipped between provinces must be labelled with a verification mark</p> <p>Standards Council of Canada accredits Certification Body to apply verification mark, signifying that it has:</p> <ul style="list-style-type: none">(i) determined that the product is in compliance; or(ii) tested and verified the energy performance of the product <p>Dealers submit energy efficiency report to NRCan and import report to CBSA</p> <p>NRCan undertakes compliance monitoring (testing, market surveillance)</p>



Emerging Trends – U.S.

- Negotiated Rulemaking – Direct Final Rules
 - DOE has completed 10 Negotiated Rulemakings to date - 2 additional negotiations in process
 - Can lead to issuance of a direct final rule - commercial AC, for example
- New product areas
 - Portable AC first new product added to statutory list of covered products
 - Miscellaneous refrigerators (wine chillers, etc) next product to be added



Emerging Trends – U.S.

- Renewed focus on certification, verification, and enforcement to raise awareness of regulations and to help ensure products sold in the U.S. meet the energy and water conservation standards to deliver consumer savings
- Additional emphasis on test procedure rulemakings, including adopting provisions for allowing ratings generated from validated simulations for select commercial and industrial equipment to help reduce burden



Emerging Trends – Canada

- Addressing ‘alignment gap’ will require multiple omnibus rules (4 in 5 years), which will overlap
 - Pre-consultation on one amendment could occur at same time as 75-day comment period for another
- Commitment to reduce burden on regulated industry renewed in Prime Minister’s March 10 announcement
- Energy efficiency standards expected to play role in pan-Canadian strategy to achieve climate change goals



Challenges

- Time lag between U.S. final rule and Canada final publication
 - Market conditions (e.g. currency exchange/fuel prices) can influence policy rationale
- U.S. early compliance options not easily adopted in Canada
 - **U.S.:** if test procedure is final, can use before MEPS in force
 - **Canada:** test procedure must be changed by standards-making body (e.g. CSA) since referenced by regulations



Challenges

- U.S. Direct Final Rules
 - Can be issued under certain circumstances in the U.S.; Canada has no ‘fast track’ process
- Canada Omnibus Regulations
 - More product categories increases risk that an issue with a single category could delay entire package
 - Fewer product categories per regulation increases number of Cabinet approvals required, which could slow down process (A13 requires 1 approval for 20 product categories)



Options Under Consideration in Canada

- Increased use of incorporation by reference, where appropriate
- Ability to make minor changes to the Regulations in a short timeframe
- Streamline CSA process to more quickly create aligned standards when no Canada-specific circumstances
- Ability to streamline aspects of the regulatory process in cases where pre-consultation reveals broad support for alignment



Questions

- Do stakeholders agree with the types/nature of the challenges identified?
- Are there other challenges – current or emerging – the should be taken into account?
- Are there other options that should be considered by DOE and NRCCan?



Key Contacts

NRCCan

- Debbie Scharf, Director of Equipment Division
- Andrés Drew, Senior Policy Advisor (RCC lead)
- Katherine Delves, Chief of Standards Development
- Jamie Hulan, Team Leader for Standards Development

U.S. DOE

- John Cymbalsky, Program Manager for Appliance and Equipment Standards
- Ashley Armstrong, Supervisory Mechanical Engineer