



Designing a Robust Compliance Framework for S&L Implementation

Nicole Kearney
NIST S&L Program Workshop
22 October 2015
Gaithersburg, Maryland



Core Ingredients for a Robust Compliance Framework

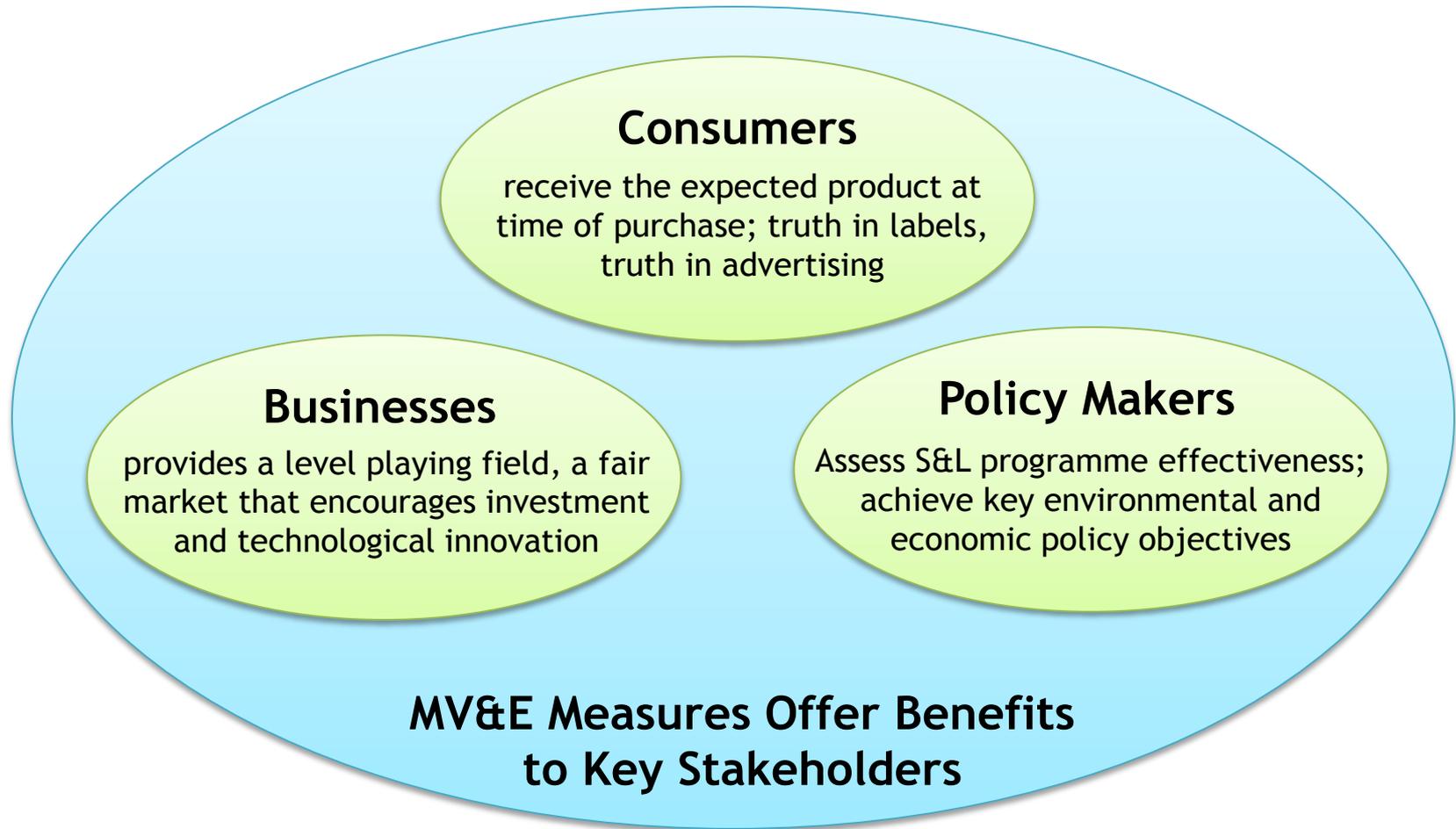
- M - MONITORING** - collection and analysis of data using agreed test methods to give an accurate picture of programme progress and compliance
- V - VERIFICATION** - determines whether a product actually performs according to its claimed energy performance value; often by testing a product against a specified test procedure, via either a third party laboratory or in-house testing facility
- E - ENFORCEMENT** - action taken in response to non-compliance offences with a suite of timely and appropriate actions; built on rigorous testing; and yields a high return in terms of market and consumer protection





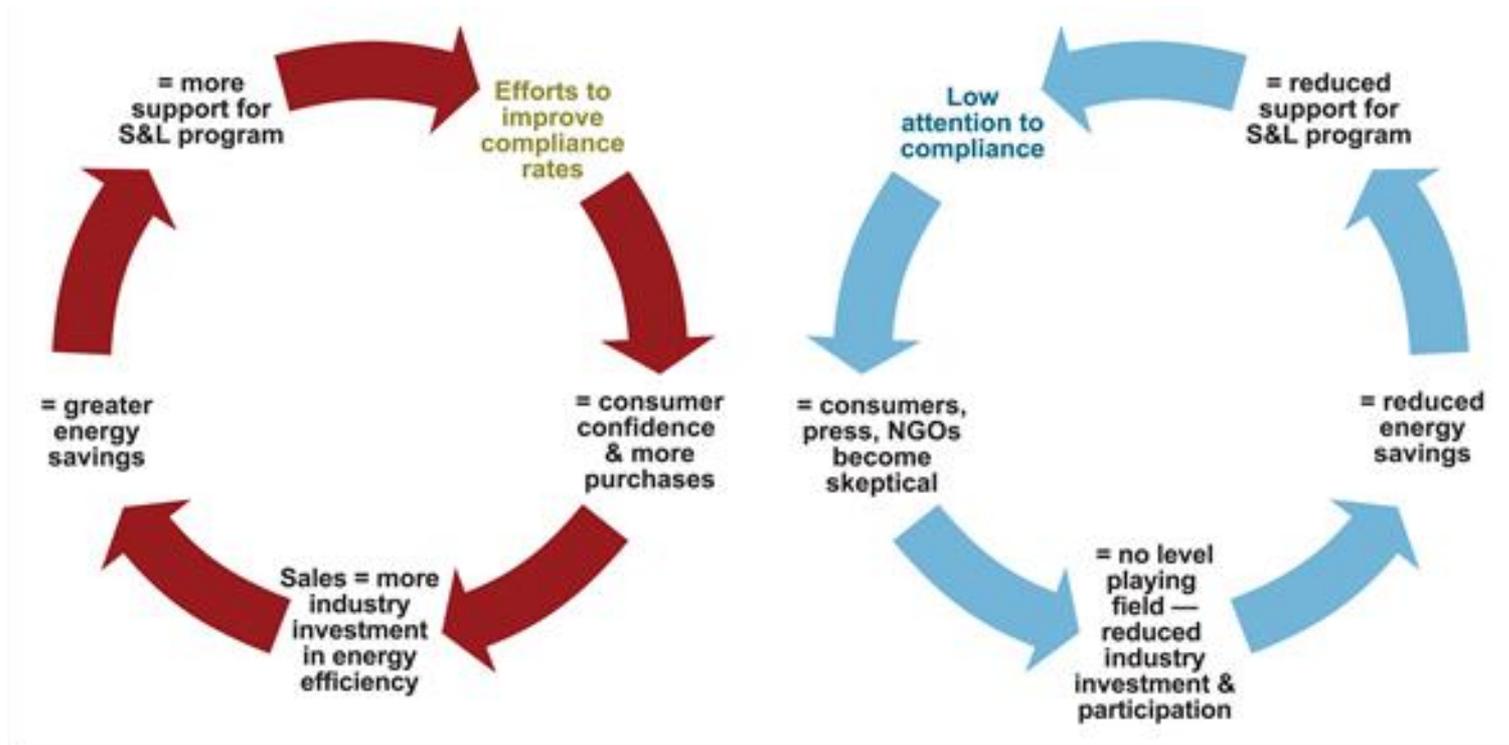
Monitoring and Evaluation: Coordinate with other agencies and evaluate the programme

Why is MV&E important?



The Compliance Circle

MV&E policies safeguard energy savings of energy efficiency programmes by ensuring products meet standards & labelling requirements and live up to their energy efficiency claims.



Safe-Guarding Success...

- Up to 25% of potential S&L programme energy savings are lost through poor compliance and lack of enforcement
- MV&E policies safeguard S&L programme energy savings by ensuring products meet requirements and live up to their energy efficiency claims



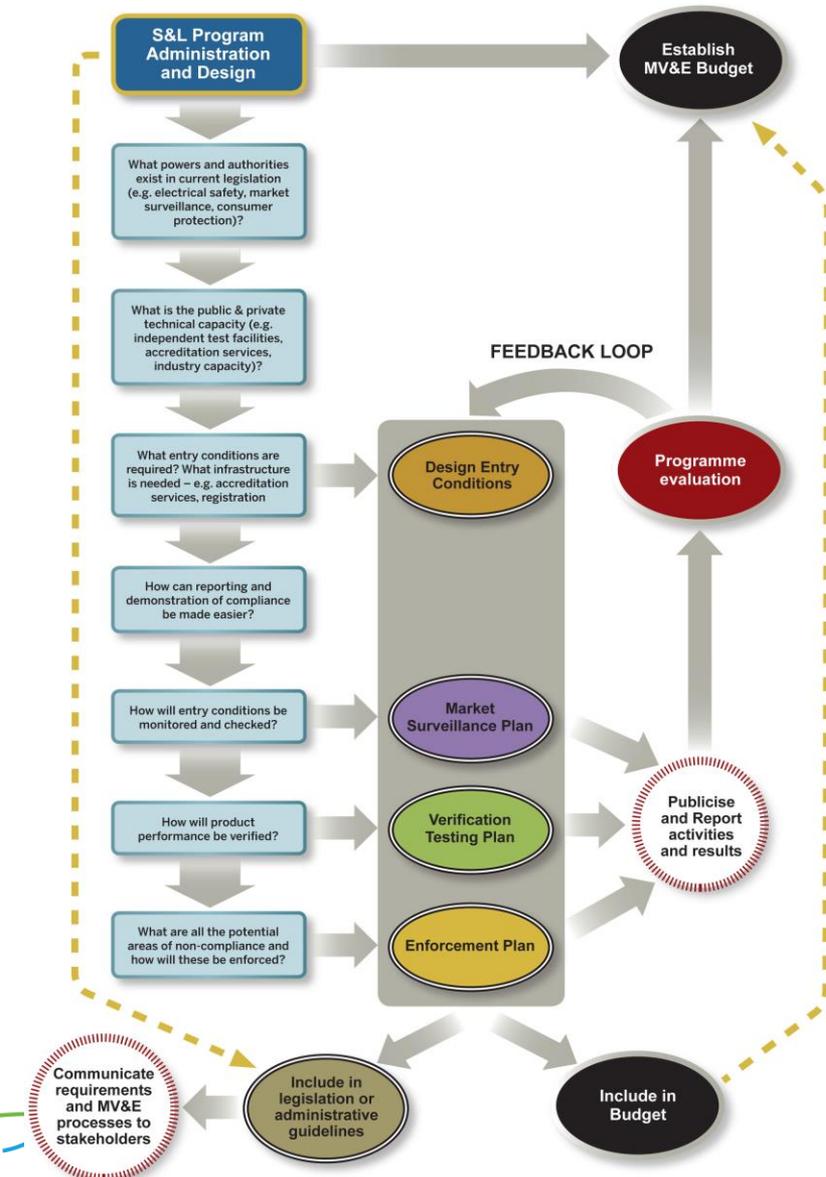
“In most markets...

- 20% of the regulated population will comply with any regulation
- 5% will attempt to evade it, and
- the remaining 75% will comply as long as they think that the 5% will be caught and punished.”

- Mark Ellis, Global MV&E Expert

A Successful MV&E Framework

Planning and Reviewing a MV&E regime



1. Legal and administrative framework
2. Mechanism to facilitate compliance
3. Entry conditions
4. Market surveillance
5. Verification testing
6. Enforcement
7. Communication, reporting, feedback
8. Budget and resource allocation
9. Evaluation processes

Ensure appropriate framework is in place to give credibility and authority to the programme

- MV&E requires a combination of legislation and administrative rules to form the foundation of the programme
- Legal framework should clearly delineate responsibilities between agencies, to support inter-institutional collaboration
- Operational rules should be transparent to stakeholders, supported with guidance to **facilitate compliance**

Legislation	Administrative Rules
Definitions and responsibilities of all participants	Consultation processes
Powers to support enforcement authorities	Public accountability
Penalties or sanctions	Reporting of outcomes

Communication

- Offer regular structured dialogue with stakeholders
- Consult with stakeholders to improve compliance and reduce costs
- Ensure correction action is taken quickly to minimize market damage
- Ensure correction action is visible to deter others

Tools, Training and Guidance

- Develop information material to convey requirements
- Industry guidance to explain regulatory requirements
- Maintain a compliance hot-line
- Use a Frequently Asked Questions webpage

Simplify Compliance Reporting

- Minimise transaction costs for demonstrating compliance
 - Use templates or other standardised reporting
- 

Conditions a supplier must meet when registering or certifying products for selling on the market

- Before placing product on the market, supplier has to provide the following product information:
 - Supplier details
 - Product specifications: make, model, dimensions
 - Information requirements about energy performance of a product
 - Market penetration or sales
 - Supported by test reports and a Declaration of Conformance with product regulations
- Product registration systems
 - Best practice method for capturing and tracking product information
 - Supports market surveillance and tracking compliance

Responsibility for certifying compliance with entry conditions can rest with different programme stakeholders

Entry Condition	Distribution of Costs		
	Government/ Programme	Industry Participant	Consumers
In-house testing, calculation or self declaration allowed	High cost in market surveillance & verification testing	Low compliance costs	None
Independent tests required	Medium cost in market surveillance & verification testing	Medium initial compliance costs	May fund compliance costs in price of equipment
Third-party verification and / or certification required	Low cost in market surveillance & verification testing	High initial compliance costs	May fund compliance costs in price of equipment

Review products already offered in the national market to assess potential incidents of non-compliance

- Through retail site visits, on-line sales, document inspections, etc
- Checking compliance for display of label, information requirements, MEPS levels, etc
- Use risk assessment to identify and target product areas with the greatest risk, and to use resources efficiently
 - Looking at competitor or consumer complaints
 - Assessing history based on other areas of non-compliance
 - Ex. Looking at non-compliant products under other regulations



Conduct full compliance testing to verify products perform as claimed against the regulation

- Can take place before and after placing on the market
- Can pose certain challenges, as testing is costly and requires laboratory availability, competency and capacity
 - Ensure testing plan is feasible and resource efficient
 - Consider using accredited test labs in other countries
 - Consider sharing test results on a regional level
- Target products which are the most likely to fail
 - Focus high-cost testing on those parts of the market judged to pose the greatest risk of non-compliance
- Consider Mutual Recognition Agreements (MRAs)

Penalise and correct cases of non-compliance, and deter future cases of non-compliance

- Start by identifying types of infringements that can happen; rank them and determine appropriate actions and penalty procedures for each
- Practical enforcement procedures enable rapid and consistent responses to non-compliance from a range of sanctions
- Quick action will minimise market damage and build reputation
- Maintenance of detailed records are vital to support the process, particularly if legal action is required later



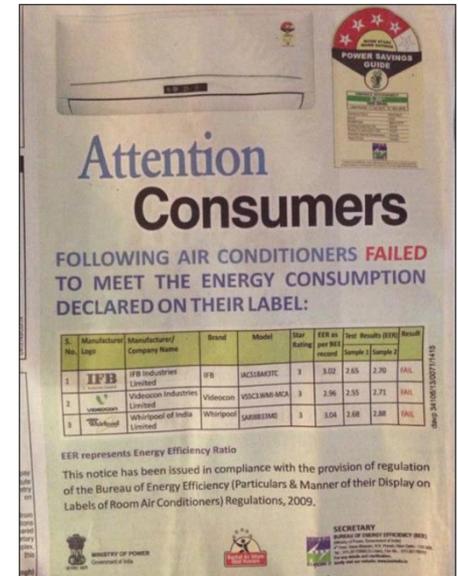
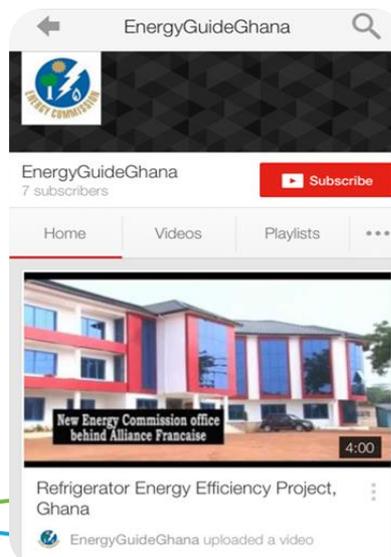
Enforcement Pyramid

Communications activities support all stages of the MV&E process

- Develop a Communications Plan
 - Identify stakeholder groups and appropriate information for them
 - Maintain records of communications at all times
- All stakeholders informed of regulatory requirements - an on-going activity, not only when new laws are introduced
- Report and publicise all compliance and enforcement activities - mixture of public and private
 - Public reporting to demonstrate a risk of detection and sanctions
 - Private reporting so companies can take corrective action



Effective information campaigns are essential towards successful implementation of an S&L programme, targeting all stakeholders through all stages of the process.



- Deterrence is key for highlighting risks of non-compliance
 - List number and frequency of surveys and tests;
 - Identify plans for future compliance work and publish results;
 - Consider identifying products and brands non-compliant ('name and shame' approach)

Which is the best deterrent...?



Budget appropriately to support the MVE programme

- Budget must be consistent with programme ambition
- Sufficient staff with the appropriate skills are needed
- Access to expert test laboratories is costly
- Investment in MVE is highly cost-effective
 - Costs <1% of savings from S&L activities
 - Safeguards all future savings by protecting integrity of programmes
- Costs can be lowered through: education, clarity of rules, publicity, timely responses to non-compliance



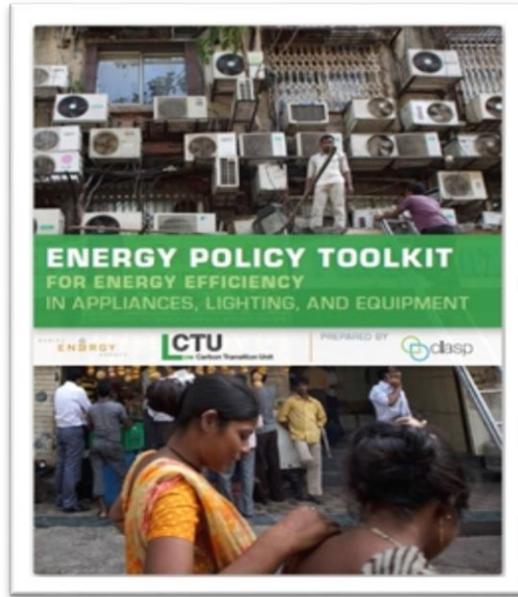
Monitor and evaluate to continuously improve effectiveness of the programme

- Establish a programme evaluation process
- Assess outcomes and evaluate accountability of programme participants
- Look to develop improvements and effectiveness of the MV&E programme
 - Take advice from stakeholders - dialogue with industry
- Develop metrics to assess the performance of the programme (and justify running costs)
 - Consider lost energy savings for consumers - e.g., 2% more energy in refrigerators in a market of 500,000 units sold p.a. equates to US\$600,000 in lost savings



- Large diversity of MV&E schemes amongst S&L programmes in the world
- Excellent opportunities to adopt best practice and transfer knowledge between MV&E programmes
- No ‘one size fits all’ - lots of options and choices
- Adapt and adopt to fit national needs
- MV&E programmes should be designed around the local market conditions and circumstances

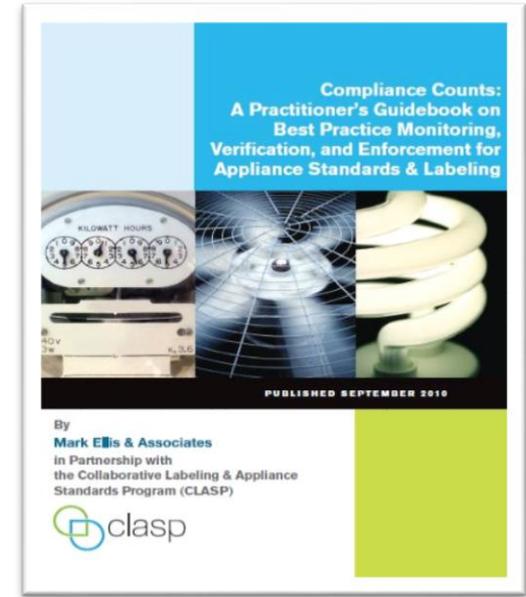




Energy
Efficiency Policy
Toolkit



Standards &
Labelling
Guidebook



Monitoring Verification
& Enforcement
Guidebook

MVE Economy Profiles

CLASP Global S&L
Database

APEC-ESIS Secretariat