



Australian Government
**Department of Climate Change
and Energy Efficiency**

Submission 1
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The Hon Tony Zappia MP
Chair
House Standing Committee on Climate Change, Environment and the Arts
Parliament House
CANBERRA ACT 2600

Dear Mr Zappia,

I would like to thank the House Standing Committee on Climate Change, Environment and the Arts for its inquiry into the Greenhouse and Energy Minimum Standards Bill 2012 and the Greenhouse and Energy Minimum Standards Bill (Registration Fees) 2012.

The Committee is inquiring into a concern that the GEMS legislation, or the Equipment Energy Efficiency (E3) Program that it will underpin, may increase costs and green tape for those involved. In particular, the Committee will consider whether the power to request data from businesses that register products under the Act will be a potential burden on business.

The GEMS legislation will reduce costs and potential burdens for businesses associated with energy efficiency regulation by transferring the E3 Program to a consistent national framework. The legislation will replace seven state laws and four state regulators with a single legislative framework, with one Regulator to administer the E3 Program.

The establishment of national legislation will implement a 2009 COAG commitment to address inconsistencies in the state-based E3 Program, recorded as measure 2.2.2 of the National Strategy on Energy Efficiency.

I am pleased to present the Department's response to these issues, detailed in Attachment A.

I trust this information will assist the Committee's inquiry.

Yours sincerely

Tim Farrell
Director
GEMS Legislation Taskforce

Attachment A

GEMS Legislation

The Greenhouse and Energy Minimum Standards Bill 2012, supported by the Greenhouse and Energy Minimum Standards (Registration Fees) Bill 2012, will transfer Australia's existing Equipment Energy Efficiency (E3) Program to a national framework. The E3 Program was established in 1992, building on existing state regulation, and is Australia's primary mechanism for setting domestic and Trans-Tasman energy efficiency standards. The existing measures under the E3 Program are forecast to deliver approximately \$5.2 billion in energy savings to Australian households and businesses, in the year 2020 alone.

The GEMS legislation will implement a 2009 COAG commitment to address inconsistencies in the state-based E3 Program, recorded as measure 2.2.2 of the National Strategy on Energy Efficiency. It will reduce the red tape and costs associated with the E3 Program by establishing a single, national platform for energy efficiency regulation.

The GEMS legislation will replace 7 state laws with a single legal framework, and replace four state regulators with a single Australian Regulator. The GEMS legislation will remove inconsistencies from the state legislation, including harmonising costs and application processes, and enabling a more consistent enforcement program to ensure a level playing field in all jurisdictions. The GEMS legislation will end a double-standard that exists in state legislation, which treats businesses that supply products in Australia differently to those that import products for commercial use and may encourage businesses to purchase products overseas rather than domestically.

The GEMS legislation will also enable better coordination of Australian and Trans-Tasman efficiency standards. Under the state-based E3 Program, efficiency standards for air conditioners changed three times in three different jurisdictions in the space of two years, raising considerable difficulties for Australian industry. The GEMS legislation will provide for national energy efficiency regulations, coordinated by the Commonwealth Government, and reduce the scope for divergent standards.

The decision to transfer the E3 Program from seven state laws to a single national framework was strongly recommended by industry stakeholders and the Government consulted widely over the course of several years to develop the GEMS legislation. This process included written submissions and consultation forums in Sydney, Melbourne and Canberra in 2011 that attracted representatives from over 100 businesses and industry bodies. Australian business stakeholders praised the 'collaborative and productive' development of the GEMS legislation and have voiced strong support for the legislation and the improvements it will bring to the E3 Program.

Clause 56 – Power to request information for the effective administration of the GEMS legislation

Clause 56 of the Greenhouse and Energy Minimum Standards Bill 2012 permits the Australian GEMS Regulator to request information from businesses that register products under the Act. This information can relate to the number of regulated products the business imported, manufactured, supplied or exported in a specific time period, in Australia. The majority of businesses will maintain records of such matters in the usual course of business.

Information cannot be requested from all businesses. The power to request information is only applicable to those constitutional corporations that acquire the benefits and responsibilities that come with registering a product under the Act. The obligation to provide information upon request accrues when a business chooses to register regulated products and supply or install them in Australia, to enable the Regulator to effectively administer the registrations and regulations.

Information that can be requested under clause 56 is important for the Regulator's core functions, allowing the Regulator to:

- Identify which areas of the market are progressing toward greater efficiency and those areas in which intervention is required to drive greater efficiency;
- Determine the appropriate statutory notice period before commencement of GEMS determinations;
- Monitor stockpiling of inefficient products;
- Direct compliance checks to product areas and industry sectors with the heaviest traffic; and
- Evaluate the effectiveness of regulations over time, and the accuracy of past projections of energy use and savings

The ability to monitor stockpiling risk is particularly important because stockpiling inefficient products in Australia has been experienced in the existing E3 Program, which permits sale of non-compliant products if they are imported into Australia before they cease to comply with efficiency standards.

To control stockpiling risk, a mandatory ban on non-compliant products two years after they cease to comply with efficiency standards initially was considered in the GEMS legislation, but was rejected in consultation with industry due to possible costs for business. Instead, the Regulator has the discretion to ban products that enter Australia before efficiency standards change.

During consultation, the Department advised stakeholders that the move from a mandatory control of stockpiling to an optional one would be balanced by monitoring product data and a risk-based approach to product bans. If data indicate that products are being stockpiled to circumvent energy efficiency regulation, this may result in more frequent application of optional product bans. Stakeholders expressed support for this balanced approach.

Understanding the need for product data, the Government has structured the reporting framework to minimise the potential costs for business.

New Zealand requires this data as a mandatory requirement under energy efficiency law, so many businesses that register products in the joint E3 Program already provide this data on an annual basis.

Australia's data-reporting program will not be mandatory across the board, like New Zealand's, but will apply upon request by the Regulator.

The Australian Regulator will synchronise any reporting periods to coincide with New Zealand's data reporting period, beginning in April 2014 at the earliest. This will allow businesses and the Australian Regulator one and a half years to prepare.

Businesses will use the same online reporting tool to submit data in Australia and New Zealand, which links directly with the Energy Rating website and product register. Reporting will not require any spreadsheets or written response from businesses, businesses can simply submit their data via the online reporting tool and it is transmitted automatically to the Regulator. The online reporting tool was developed in 2011 under the jointly-funded E3 Program, to improve the ease of data reporting.

The Department of Climate Change and Energy Efficiency is confident that the efforts to synchronise the data reporting program with New Zealand's equivalent program, and make the process for submitting data as easy as possible, will ensure the need for data is managed with minimal cost to the businesses that may be requested to provide information.