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Auditor-General for Australia



11 September 2025

Senator Sarah Hanson-Young  
Chair  
Environment and Communications References Committee  
Parliament House  
CANBERRA ACT 2600

By email: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

Dear Senator Hanson-Young

**ANAO submission for the Inquiry into Greenwashing**

The Australian National Audit Office (ANAO) presented the following performance audit to the Parliament that you may find relevant to the above inquiry:

- Auditor-General Report No.43 2024–25, [\*Administration of the Equipment Energy Efficiency Program \(GEMS\)\*](#).

Information about what the audit assessed, concluded, and recommended is attached. The full audit report is available online at [www.anao.gov.au](http://www.anao.gov.au).

Should the Committee require further information in relation to these matters, my office would be pleased to provide you with a briefing at a time convenient to you or appear as a witness at a hearing. To arrange a briefing, please contact our External Relations team at [external.relations@anao.gov.au](mailto:external.relations@anao.gov.au).

Yours sincerely

Dr Caralee McLiesh PSM  
Auditor-General

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The Auditor-General  
Auditor-General Report No.43 2024–25  
Performance Audit

## **Administration of the Equipment Energy Efficiency Program (GEMS)**

Department of Climate Change, Energy, the Environment and Water



# Audit snapshot

## Auditor-General Report No.43 2024–25

*Administration of the Equipment Energy Efficiency Program (GEMS)*



### Why did we do this audit?

- ▶ The Australian Government's National Energy Performance Strategy identified the regulation of appliance and equipment energy efficiency standards as 'one of the most effective mechanisms for decarbonisation and ensuring consumers benefit from energy performance improvements'.



### What did we find?

- ▶ The department's administration of the GEMS Act and its regulation of appliance and equipment energy efficiency standards is partly effective.
- ▶ The department's arrangements to support regulatory activities for the GEMS program are partly effective.
- ▶ The department's implementation of its regulatory approach is partly effective.



### Key facts

- ▶ The Equipment Energy Efficiency program is a joint initiative of the Australian, state and territory and the New Zealand governments. In Australia, it is underpinned by the *Greenhouse and Energy Minimum Standards Act 2012* (GEMS Act).
- ▶ The purpose of the GEMS Act is to prevent the sale of the most energy inefficient products in the Australian market and to help inform Australian consumers about the energy efficiency of products when making decisions about which products to purchase.



### What did we recommend?

- ▶ The Auditor-General made nine recommendations to the Department of Climate Change, Energy, the Environment and Water.
- ▶ The department agreed to the nine recommendations.

27,268

products registered in Australia under the GEMS Act between 2019–20 and 2023–24.

87%

of the 8,379 registration applications processed between 6 December 2022 and 30 June 2024 were processed without appropriate delegations.

4

infringement notices issued by the GEMS Regulator. None were paid or enforced.

# Summary and recommendations

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## Background

1. The *Greenhouse and Energy Minimum Standards Act 2012* (GEMS Act) establishes the national framework for the regulation of appliance and equipment energy efficiency standards. The purpose of the program is to prevent the sale of the most energy inefficient products in the Australian market and to help inform Australian consumers about the energy efficiency of products when making decisions about which products to purchase. It aims to:

- reduce energy consumption, and associated greenhouse gas emissions and energy costs, of Australian households and businesses; and
- incentivise manufacturers to innovate and produce more energy efficient products.<sup>1</sup>

2. The GEMS Regulator, who sits within the Department of Climate Change, Energy, the Environment and Water (the department), is responsible for administering the GEMS Act.

## Rationale for undertaking the audit

3. In April 2024, the Australian Government published its National Energy Performance Strategy (the strategy), which aims to 'drive a high energy performance economy and help consumers take control of their energy use and save on bills'.<sup>2</sup> The strategy identifies the regulation of appliance and equipment energy efficiency standards as 'one of the most effective mechanisms for decarbonisation and ensuring consumers benefit from energy performance improvements'.<sup>3</sup>

4. This audit provides independent assurance to the Parliament regarding the effectiveness of the department's administration of the GEMS Act and its regulation of appliance and equipment energy efficiency standards.

## Audit objective and criteria

5. The objective of the audit was to assess the effectiveness of the department's regulation of appliance and equipment energy efficiency standards.

6. To form a conclusion against the objective, the following criteria were adopted:

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1 Australian Parliament, *Greenhouse and Energy Minimum Standards Bill 2012, Second Reading Speech*, House of Representatives, Wednesday 30 May 2012, The Hon Mark Dreyfus KC, MP, Parliamentary Secretary for Climate Change and Energy Efficiency, available from <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F4a17e30d-c43b-48b9-83ed-4280fc00314c%2F0045%22> [accessed 11 November 2024].

*Inter-Governmental Agreement for Greenhouse and Energy Minimum Standards (GEMS) Legislative Scheme*, September 2012, available from <https://www.energyrating.gov.au/industry-information/publications/inter-governmental-agreement-greenhouse-and-energy-minimum-standards-gems-legislative-scheme-original> [accessed 19 November 2024], pp. 4–5.

2 Minister for Climate Change and Energy, 'First National Energy Performance Strategy ready to take pressure off energy bills', media release, 5 April 2024, available from <https://minister.dcceew.gov.au/bowen/media-releases/first-national-energy-performance-strategy-ready-take-pressure-energy-bills> [accessed 3 July 2024].

3 Department of Climate Change, Energy, the Environment and Water, *National Energy Performance Strategy*, 2024, available from <https://www.dcceew.gov.au/sites/default/files/documents/national-energy-performance-strategy.pdf> [accessed 25 February 2025] p. 40.

- Have appropriate arrangements been established to support regulatory activities?
- Has the regulatory approach been effectively implemented?

7. The audit focused on the department's administration of the GEMS Act and its regulation of appliance and equipment energy efficiency standards. The audit did not examine the appropriateness of GEMS determinations or the accuracy of the data that was used to inform the determinations or the appropriateness of methodologies used to calculate estimated energy savings and emission reductions resulting from the scheme.

## Conclusion

8. The department's regulation of appliance and equipment energy efficiency standards is partly effective. The department has not effectively implemented a risk-based approach that is informed by data, evidence and intelligence. This limits the department's ability to effectively encourage compliance and deter non-compliance. The department is unable to demonstrate whether the GEMS program is achieving its intended purpose.

9. The arrangements to support regulatory activities for the GEMS program are partly effective. The GEMS program's records are incomplete, missing contextual information underpinning the records and may not be connected with related records. Staff supporting the program do not have direct access to GEMS records prior to 2020. Between 6 December 2022 and 30 June 2024, 87 per cent of registration applications were processed without appropriate delegations. The department was not managing risk for the GEMS program. Thirty-six per cent of GEMS staff in 2024, including the GEMS Regulator, did not make the required annual conflict of interest declaration. The department has established policies, procedures or guidance to outline how the GEMS Regulator's powers and functions should operate. The GEMS registration system operated without an authority to operate and did not have effective segregation of duties controls. The GEMS program is not fully recovering its costs. Fees have not been reviewed since 2016–17.

10. The department's implementation of its regulatory approach is partly effective. It uses the Energy Rating website to inform and engage with regulated entities. The department is undertaking compliance monitoring activities. The check testing conducted by the department is not informed by the department's assessment of compliance risk. There is a lack of direct access to records prior to 2020 and there are issues impacting the quality of data in the registers used to document compliance monitoring activities and investigations. This limits the quality and completeness of the department's records of its investigations of suspected non-compliance as well as its ability to effectively utilise the regulatory tools available under the GEMS Act. The GEMS Regulator has issued four infringement notices since the establishment of the program, all of which were not paid and were not enforced. The department is not measuring the program's impact on reducing energy consumption and carbon emissions and so cannot demonstrate whether the program is achieving its intended purpose.

## Supporting findings

### Arrangements to support regulatory activities

11. The administration of the GEMS program is overseen by intergovernmental and departmental bodies and structures. The GEMS program's records are 'fractured' and incomplete; staff supporting the program do not have direct access to GEMS records prior to 2020. Between 6 December 2022 and 30 June 2024, 87 per cent of registration applications were processed without appropriate delegations. The department was not managing risk for the GEMS program in accordance with its enterprise risk management framework. Thirty-six per cent of staff supporting the administration of the GEMS program in 2024, including the GEMS Regulator, did not make the required annual conflict of interest declaration in 2024. (See paragraphs 2.3 to 2.63)

12. The department has established policies, procedures or guidance documents to outline how the GEMS Regulator's powers and functions should operate. The GEMS Register includes fields to record 75 per cent of the information required by the GEMS Act. The GEMS registration system operated without an authority to operate until March 2025, when the system was granted authority to operate. The department had not established segregation of duties controls for the processing of applications to register a GEMS product. Between 2019–20 and 2023–24, there were 439 instances (1.5 per cent) where an application had been assessed and approved by the same individual and six instances (46 per cent) where an application was assessed and refused by the same individual. (See paragraphs 2.64 to 2.96)

13. The department has established a GEMS Compliance Policy that outlines the department's compliance objective. It has not established performance measures for the GEMS program's compliance objective. The department has documented a risk-based approach for its compliance monitoring activities and responses to non-compliance. The GEMS program is not fully recovering its costs. Between 2019–20 and 2023–24, the GEMS program recovered an average of 65 per cent of its costs each financial year. GEMS fees have not been reviewed since 2016–17. (See paragraphs 2.97 to 2.122)

### Implementation of regulatory approach

14. The department uses the Energy Rating website to provide information to and engage with regulated entities to encourage voluntary compliance. GEMS Inspectors may also provide educational materials regarding the GEMS labelling and registration requirements to suppliers when conducting inspections. Stakeholder satisfaction surveys indicate that stakeholders are satisfied that the department provides them with the support they need to understand and comply with their obligations. (See paragraphs 3.1 to 3.14)

15. The department is undertaking compliance monitoring activities (market surveillance, check testing and investigating allegations of non-compliance). The department's check testing records and reporting indicate that check testing activities have been decreasing. Forty-two per cent of GEMS Inspectors operating between 2019–20 and 2023–24 were fully compliant with the minimum requirements used for the GEMS Regulator to be satisfied that a person has suitable training or experience to properly exercise the powers of a GEMS Inspector. The receipt of allegations of suspected non-compliance are not recorded in a central database. (See paragraphs 3.15 to 3.50)

16. The department has established selection criteria for the assessment of compliance risk for its compliance monitoring activities. In 2023–24 and 2024–25, the department’s assessment of compliance risk (to inform check testing) included products registered under less than half of GEMS determinations. The department is not using the assessment of compliance risk it has produced to inform its selection of models for check testing. Sixteen per cent of models check tested in 2023–24 were assessed as within the top 10 highest risk models for their product category. The majority (62 per cent) of models check tested had not been assessed for compliance risk. The ANAO was not able to determine whether the assessment of compliance risk was used to inform the selection of market surveillance activities, as 2024–25 was the department’s first year using its current approach. (See paragraphs 3.52 to 3.85)

17. The highest level of regulatory response issued or sought by the GEMS Regulator since the establishment of the program is an infringement notice. Four infringement notices have been issued, all of which were not paid and were not enforced by the GEMS Regulator. There is a risk that the GEMS Regulator may be seen as unable or unwilling to enforce the GEMS Act, which may limit the department’s ability to effectively encourage compliance and deter non-compliance. The department is not documenting the assessment of the detriment that non-compliance may have caused. The quality and completeness of the department’s records of its investigations of suspected non-compliance are limited by the lack of direct access to records prior to 2020 and issues impacting the quality of data in the department’s register of investigations. The department has established processes for the internal review of reviewable decisions. (See paragraphs 3.90 to 3.130)

18. The GEMS Act has been independently reviewed, as required under the GEMS Act. In 2023, the GEMS program was internally audited. The department conducts annual surveys to measure stakeholder satisfaction. The department prepares annual reports on the operation of the GEMS Act. Reporting on the program’s operation and performance could not be verified against departmental records. The department is not measuring and reporting on the program’s impact on reducing energy consumption and carbon emissions. (See paragraphs 3.131 to 3.157)

## Recommendations

### Recommendation no. 1 Paragraph 2.23

The Department of Climate Change, Energy, the Environment and Water ensure that the records related to the GEMS program are appropriately transferred to and stored in the department’s electronic document and records management system where they can be accessed by those responsible for administering the GEMS program.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 2**  
**Paragraph 2.75**

The Department of Climate Change, Energy, the Environment and Water review and update the GEMS Register to ensure that it documents all information that it is required to document under the GEMS Act.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 3**  
**Paragraph 2.91**

The Department of Climate Change, Energy, the Environment and Water review all instances where registration applications had been assessed and approved or refused by the same individual to ensure that the decisions were appropriate.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 4**  
**Paragraph 2.123**

The Department of Climate Change, Energy, the Environment and Water review and update the fees for the GEMS program to ensure that its costs are fully recovered in accordance with its charging arrangements.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 5**  
**Paragraph 3.32**

The Department of Climate Change, Energy, the Environment and Water review and improve its arrangements for recording and reporting on compliance monitoring activities to ensure that its records are complete and its reporting is accurate and verifiable.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 6**  
**Paragraph 3.42**

The Department of Climate Change, Energy, the Environment and Water ensure that GEMS Inspectors are compliant with the minimum requirements used for the GEMS Regulator to be satisfied that a person has suitable training or experience to properly exercise the powers of a GEMS Inspector.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 7**  
**Paragraph 3.86**

The Department of Climate Change, Energy, the Environment and Water review its assessment of compliance risk and its selection of check testing and market surveillance activities to ensure that compliance activities are focused on the areas where there is the greatest risk of non-compliance by ensuring that:

- (a) all regulated products (those covered by a GEMS determination) are considered as part of its assessment of compliance risk;



- (b) calculations of compliance risk are accurate; and
- (c) the assessment of compliance risk is used to inform the selection of compliance activities.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 8**  
**Paragraph 3.103**

The Department of Climate Change, Energy, the Environment and Water review and improve its arrangements for recording investigations into suspected non-compliance with the GEMS Act to ensure its records are complete, accessible and maintained in accordance with the Australian Government Investigations Standard.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

**Recommendation no. 9**  
**Paragraph 3.158**

The Department of Climate Change, Energy, the Environment and Water develop performance measure(s) that provide meaningful information on the effectiveness of the program in achieving its outcomes.

**Department of Climate Change, Energy, the Environment and Water response:** *Agreed.*

## Summary of entity response

19. The proposed report was provided to the department. The department's summary response is reproduced below and the full response is at Appendix 1. Improvements observed by the ANAO during the course of this audit are listed at Appendix 2.

The Department of Climate Change, Energy, the Environment and Water (the department) is committed to effective regulation that achieves legislated outcomes, manages risks proportionately and promotes continuous improvement.

The department welcomes the Australian National Audit Office's audit report on the Administration of the Equipment Energy Efficiency Program (GEMS) and acknowledges the findings of the audit. The department agrees with all nine of the report's recommendations and can confirm that changes to strengthen the regulatory oversight of the GEMS Program are well underway.

The GEMS Program is estimated to have saved Australian households and businesses \$12–\$18 billion in avoided energy costs. In 2021–22 alone, it is estimated to have saved Australia between \$1.3 billion and \$2 billion in avoided energy costs while delivering greenhouse gas emissions savings of between 4.1 and 6.3 million tonnes<sup>4</sup>. The department is committed to ongoing improvement of the operation of the GEMS Program – in partnership with states, territories and

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4 Australian Government, Energy Rating, *GEMS Data Modelling Project 2022*, available from <https://www.energyrating.gov.au/industry-information/publications/gems-data-modelling-project-2022> [accessed 14 May 2025].

New Zealand – to ensure it continues to deliver energy and cost savings and emissions abatement as an important part of Australia's pathway to Net Zero.

## Key messages from this audit for all Australian Government entities

20. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

### **Governance and risk management**

- Regulators should assess the level of risk across the entire breadth of their regulation, and then target their monitoring and compliance activities at those areas with the highest level of risk.
- Where Parliament has legislated investigation and sanction powers for regulators, it is important that those powers be used where necessary to effectively deter non-compliance.
- Undertaking regulatory activities in full accordance with procedural and legislative requirements, including maintaining appropriate records, is necessary to ensure effective and defensible action can be taken in response to non-compliance.

### **Performance and impact measurement**

- Performance and evaluation frameworks should provide information on progress towards desired outcomes. Performance monitoring should include effectiveness measures to help provide assurance that regulatory activities are achieving their intent.
- Effective record keeping is especially critical to retain evidence of decision-making processes and ensure continuity in program administration through machinery of government changes and staff turnover that may lead to loss of corporate knowledge. Entities should ensure that records are transferred to and/or shared with receiving entities, when implementing machinery of government changes, in a timely and effective manner. Records should be complete, directly accessible and include relevant metadata.