

## GEMS Review: Energy Council Response to the Recommendations

Recommendation area	Recommendations	Energy Council Response	Implementation
Program design (Section 5.4)	<p>The review recommends that MEPS and labelling should be retained as national government measures. Improvements to design of the program should consider:</p> <ol style="list-style-type: none"> <li>1. <u>For MEPS and comparison labelling:</u> Exploring all possible voluntary and mandatory interventions. However, as current practice demonstrates, most future standards are expected to be mandatory as they provide the greatest level of certainty for businesses and consumers and deliver significant savings at least cost.</li> <li>2. <u>For endorsement labelling:</u> Exploring voluntary interventions, noting that in the Australian and New Zealand markets, these have sat on top of the mandatory regulations. If voluntary schemes are supported, to attract strong consumer support and acceptance they will need significant financial and administrative resources for their development, implementation and promotion.</li> </ol> <p><b>Key recommendation</b> In future, both MEPS and labelling schemes should be retained as national government measures.</p>	<p>1. Agreed.</p> <p>Appliance standards and labelling is one of the most cost effective ways of improving energy productivity and as a result, saving consumers money and reducing greenhouse gas emissions. Projections for the E3 Program in Australia, developed by the Department of Industry and Science, show a Net Present Value in the range of \$3.3 - \$7.3 billion; and a Benefit : Cost Ratio in the range of 1.7 – 5.2, over the period 2014-2020. Emissions savings over the same period are estimated to be 60-70 million tonnes CO<sub>2</sub>-e.</p> <p>The Energy Council has tasked the E3 Committee to identify opportunities to strengthen existing minimum energy performance standards and product energy labelling, and opportunities to expand the program to new products to reduce energy consumed and benefit consumers. Due to its very cost-effective nature the Program is well placed to make a significant contribution to delivering Australia's energy productivity targets and greenhouse abatement.</p> <p>The E3 Committee is to investigate both voluntary and mandatory policy approaches that may be used to improve energy efficiency standards and labelling for equipment and appliances. This will be undertaken in conjunction with a strategic review to identify opportunities to expand the program, both in terms of</p>	For completion by: October 2015

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		<p>the scope of the regulations and their stringency.</p> <p>This work should be completed by October 2015 for consideration by the Energy Council at its December 2015 meeting.</p>	
<p>Delivering IGA, GEMS and E3 objectives (Section 6.2)</p>	<ol style="list-style-type: none"> <li>1. <u>Improving the evidence base</u>: The program should undertake further outcome evaluation studies to improve the evidence on program savings and cost effectiveness. In particular, this should continue to focus on actual market impacts rather than projections and isolating the impact of the program from other factors. Furthermore, it would be useful to better understand the impacts of labelling through further research in order to help understand the costs and benefits of labelling vs. MEPS.</li> <li>2. <u>Increasing impacts</u>: The program should: <ol style="list-style-type: none"> <li>a. Implement MEPS and labelling for planned products groups and consider further broadening coverage of product groups;</li> <li>b. Increase the stringency of MEPS levels or the energy labelling requirements for existing</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>2. Agreed. The Energy Council tasks the E3 Committee to prioritise: <ol style="list-style-type: none"> <li>a) impact assessment work already underway to improve the program’s evidence base and better understand the costs and benefits of labelling and / or MEPS; and</li> <li>b) investigation of the development of emerging technologies and trends in energy use that will inform where E3 could focus the work program to best effect.</li> </ol> </li> <li>3. Agreed. The Energy Council tasks the E3 Committee to: <ol style="list-style-type: none"> <li>a) review, prioritise and accelerate completion of policy development and regulatory impact assessment of measures currently in the Committee’s plan;</li> <li>b) consider broadening the coverage of product groups taking into consideration international developments and potential energy saving and greenhouse abatement from new products;</li> </ol> </li> </ol>	<p>For completion by:</p> <ol style="list-style-type: none"> <li>a) October 2015</li> <li>b) April 2016</li> </ol> <p>For completion by: October 2015</p>

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	<p>product groups; and</p> <p>c. Give consideration to the further use of endorsement labelling where it can be demonstrated that this would add value to the Program.</p> <p><b>Key recommendation</b> The program should implement MEPS and labelling for planned products groups and consider further broadening coverage of product groups.</p>	<p>c) review and determine the case for increasing the stringency of MEPS levels or labelling requirements for existing product groups;</p> <p>d) explore whether the further use of endorsement labelling would add value to the E3 Program; and</p> <p>e) identify capacity building opportunities for industry and consumers that target products identified as significant contributors to household energy consumption, costs and emissions.</p>	
Opportunities to reduce burden and improve outcomes	<p><b>The IGA (Section 7.1)</b></p> <p>The IGA in its current form represents good practice, providing a strong framework for the governance of the program.</p>	<p>4. Agreed.</p> <p>The review noted a number of challenges and risks in the implementation of the program, and the Energy Council will continue to cooperate in delivering the program to realise the energy, cost and greenhouse emission savings that benefit consumers and businesses.</p>	
	<p><b>The Act (Section 7.2)</b></p> <p>The Act supports the delivery of significant benefits compared to costs. While detailed review has found no fundamental gaps or inefficiencies, the following opportunities to reduce regulatory burden and improve outcomes have been identified.</p> <p><b><u>Opportunities to reduce regulatory burden which are recommended for action:</u></b></p>		Trial of voluntary

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	<ol style="list-style-type: none"> <li>1. Removing the requirement for registrants to provide information relating to import, manufacture etc. of products<sup>1</sup>. Such information is necessary to help inform the impact of the program. A voluntary approach to collecting this information is currently being trialled, whereby industry has agreed to provide it on an 'as needed', rather than regular basis. If this approach is not successful, the provision could be brought into effect. If it does prove successful, then this provision in the Act could be removed, cutting over \$12 million in costs over 10 years<sup>2</sup>.</li> <li>2. Removing the allowance for state and territory laws to go beyond levels required by GEMS<sup>3</sup>. This clause has not been applied to date but does place a risk of increased regulatory burden on industry if it were to be in future<sup>4</sup>. Note, however, that this would be ineffective unless the states and territories also repealed their own legislation.</li> </ol>	<p>5. Under consideration. At the conclusion of the voluntary approach currently being trialled for 12 months, the Council requests that the GEMS Regulator review whether requests for data were successful. The E3 Committee should then make a decision on whether requirement for registrants to provide information relating to import, manufacture etc. of products from the GEMS Act be removed.</p> <p>6. Not agreed – the GEMS Act sets out the option and process for state and territory laws to go beyond product energy efficiency levels required by Act. While no circumstances have arisen where this has had to be used by the states since the Act commenced in 2012, the states wish to retain the right to apply higher standards if their circumstances require it. The GEMS IGA sets out a number of quite strict conditions which need to be satisfied if individual jurisdictions are to set their own regulatory levels.</p>	<p>approach underway. To be reviewed in May 2016.</p>

<sup>1</sup> The GEMS Act, Part 5, Division 7, sub-division B.

<sup>2</sup> Whilst the information has not been sought by program administrators to date, the requirement places a burden on industry through the need to keep and manage such data should it be required. Cost savings have been estimated by DoS using the OPR Regulatory Burden Measure calculator.

<sup>3</sup> GEMS Act, Part 1, Division 5, Clause 9.

<sup>4</sup> It is recognised that this is a relatively small risk, as its implementation does require the agreement of all participating jurisdictions.

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	<p>3. Allowing streamlining of the required process for updating GEMS determinations<sup>5</sup>: Currently, the Minister cannot vary a GEMS determination (except to make minor administrative changes); it must be made anew, as the procedures required to replace a determination are the same as for establishing a new one. In practice this results in unnecessary burden by requiring the full COAG Best Practice Regulation process to be adhered to in all cases. This could be made more efficient and faster if a process were enabled which acknowledged previous analysis (e.g. Decision RIS) which had been accepted to establish regulations (as long as the previous analysis remained relevant and if certain conditions, such as agreement by stakeholders, were met). Further investigation, including legal advice and possible changes to the COAG Best Practice Guide, may be required to enable this.</p> <p>4. Exploring the possibility of extending the length of registration periods (currently five years), where</p>	<p>7. Under consideration The Energy Council tasks the E3 Committee with exploring the potential for providing streamlined processes in amending determinations through COAG (as it would require a change in COAG administrative processes).</p> <p>8. Agreed. The Energy Council tasks the E3 Committee to work with the GEMS Regulator to consider the costs and</p>	<p>For completion by: September 2015</p> <p>For completion by: September 2015</p>

<sup>5</sup> GEMS Act, Part 4, Division 2, Clause 35.



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		and welcomes the further steps taken by the GEMS Regulator to reduce the regulatory burden on industry with savings of \$2.42 million reported during 2014.	
	<p><b>Program Administration</b> (Section 7.3)</p> <p>Whilst there are no gaps or issues in program administration that represent fundamental risks to the achievement of objectives, the following opportunities for improvement have been identified.</p> <p><u>Opportunities to reduce burden:</u></p> <ol style="list-style-type: none"> <li>1. <u>GEMS determinations:</u> <ol style="list-style-type: none"> <li>a. Stakeholders believe a continued focus on international harmonisation (for both test methods and energy efficiency standards) will be key in mitigating future burden.</li> <li>b. Increasing the pace at which determinations (including research and RISs) are developed and agreed will also reduce burden.</li> </ol> </li> </ol>	<p>12. Agreed. The Energy Council tasks the E3 Committee to continue efforts to harmonise test methods and energy efficiency standards under the E3 Program with international requirements.</p> <p>13. Agreed. The Council tasks the E3 Committee to explore all options to reduce impediments and timeframes to develop Regulatory Impact Statements through the COAG process. This will include the Commonwealth working actively with OBPR to see if it is possible to create a more efficient and less onerous process to develop an E3 RIS. The Energy Council requests the Commonwealth to report back on its efforts and advise of any actions the Council could take to reduce impediments and timeframes.</p>	<p>Ongoing</p> <p>For completion by: December 2015</p>

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	<p>2. <u>Product registration:</u></p> <p>a. Industry respondents are concerned that the Department progress several practical actions to resolve identified issues with the registration system to simplify the process. This includes some practicalities of completing forms, making payments and removing any information collected which isn't strictly necessary.</p> <p>b. Whilst most respondents were accepting that financial contributions made via the registration fee were appropriate, a reduction in fees would be welcome amongst industry (although it is less of a concern than administrative issues).</p> <p>c. Consideration could also be given to removing the requirement for test reports to be lodged in cases where they are not routinely used by technical assessment officers in assessing a registration request. In these cases, suppliers would still be required to provide evidence for their declaration</p>	<p>14. Agreed. The Energy Council requests the GEMS Regulator to continue the current and ongoing program of registration system enhancements in consultation with the E3 Review Committee.</p> <p>15. The Energy Council notes that the Commonwealth, in consultation with other members of the E3 Committee, will undertake a review of fees under the <i>GEMS Registration Fees Act 2012</i>. This will commence by October 2015 and be finalised by June 2016.</p> <p>16. Not agreed. Test reports are required to be lodged with registration applications for eighteen product classes (Determinations). In these cases the reports are used by technical assessors to accurately assess registration applications. In six product classes (Determinations) the submission of test reports with applications is voluntary. For these instances, the Energy Council requests the GEMS Regulator work with industry to determine the costs and benefits of continuing to</p>	<p>Ongoing</p> <p>Commence: October 2015 For completion by: June 2016</p>

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	<p>should the need arise.</p> <p><u>Opportunities to improve outcomes:</u></p> <ol style="list-style-type: none"> <li>1. <u>Communication with stakeholders and strategic planning:</u> <ol style="list-style-type: none"> <li>a. Stakeholders reported mixed experiences of communication with the Department of Industry and Science, an element of which included a lack of understanding and engagement on the strategic direction of the program. The introduction of three year strategic planning and a stakeholder engagement plan should help improve this. Improved stakeholder awareness, understanding and ability to influence the direction of the program at an early stage could bring a number of potential benefits, such as accelerating RIS processes, if potential difficulties had already been explored prior to it starting.</li> <li>b. The input of consumer, environmental groups and the retail sector could be improved. This could be achieved through</li> </ol> </li> </ol>	<p>provide the option for voluntary report lodgement.</p> <p>17. The Energy Council has tasked the E3 Committee to provide a strategic plan by October 2015 for the Council to consider opportunities to achieve further energy productivity gains that benefit consumers through lower energy bills.</p> <p>The E3 Committee should continue to focus on improving its engagement with program stakeholders by:</p> <ol style="list-style-type: none"> <li>a) ensuring and encouraging engagement with consumer groups, consumers, industry and business and government equally; and</li> <li>b) reviewing and improving the energy rating website to support consumers and business to save energy, save money and reduce emissions.</li> </ol> <p>18. The Energy Council tasks the E3 Committee to explore better engaging consumer, environmental groups and the retail sector in the work of the E3 Program (for example, through bodies such as Energy</p>	<p>For completion by: October 2015</p> <p>Ongoing Review progress in May 2016</p> <p>Ongoing Review progress May 2016</p>

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	<p>strategic planning consultation (seen as a more effective forum for such groups to engage) and considering supporting resources for this, such as through Energy Consumers Australia, which superceded the Consumer Advocacy Panel in January 2015.</p> <p>2. <u>Compliance and enforcement:</u> Whilst there is broad recognition that this is an area demonstrating good practice, both government and industry stakeholders suggested that there are opportunities to further target check-testing in areas at risk of non-compliance. In order to act as an effective deterrent to non-compliance and to foster trust in GEMS, registration and labelling surveys, testing activity and the penalties imposed for violations should be more visible. Publicising this information more widely would also reassure those who may be unclear on the amount of compliance activity the Department of Industry and Science (DoIS) undertakes and/or are concerned about ‘cowboy’ operators.</p>	<p>Consumers Australia) and active engagement on a product by product basis where relevant. Note that a Retailer Engagement Strategy is currently under development.</p> <p>19. The Energy Council requests the GEMS Regulator increase the visibility of its compliance efforts by:</p> <ul style="list-style-type: none"> <li>• Developing an enhanced web presence for compliance which includes: <ul style="list-style-type: none"> <li>○ overview of compliance objectives, approaches, policies, and frameworks</li> <li>○ clear “Contact us” avenues</li> <li>○ publication of an annual Compliance Monitoring Plan</li> <li>○ publication, where permitted by the GEMS Act, of the results and outcomes of GEMS compliance monitoring activities</li> <li>○ publication, where permitted by the GEMS Act, of enforcement responses</li> </ul> </li> <li>• Attending and presenting at industry and consumer fora on compliance related issues.</li> <li>• Increasing GEMS inspector activity in the market with a focus on engagement and education.</li> </ul> <p>While products failing check tests and having</p>	<p>Commence: July 2015 For completion by: December 2015</p> <p>Ongoing</p> <p>Ongoing</p>

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	<p><b>Key recommendations</b></p> <ol style="list-style-type: none"> <li>1. <u>GEMS determinations</u> – the overall GEMS determinations process should be maintained and opportunities for improvements identified within this review explored. This includes continuing the focus on international harmonisation, implementing a set timetable for development, and greater cooperation with the program and the Office of Best Practice Regulation (OBPR).</li> <li>2. <u>Product registration</u> - practical issues with registration should be addressed as a priority to reduce administrative burden. A change in registration requirements for particular product categories could be considered in order to make the fees more equitable.</li> <li>3. <u>Communication with stakeholders and strategic planning</u> – the Department should continue its efforts to extend and formalise stakeholder engagement</li> </ol>	<p>registrations suspended or cancelled are already publicised at <a href="http://energyrating.gov.au">energyrating.gov.au</a>, the enhanced web presence will provide easier access and more visibility in communicating the results and outcomes of GEMS compliance monitoring activities, and the enforcement responses and penalties imposed, as permitted by the GEMS Act.</p> <p>refer Responses 12 &amp; 13</p> <p>20. The Energy Council requests the GEMS Regulator consider the equity of fees across product categories as part of the funding review to be commenced early in 2015/16 (refer Response 15).</p> <p>21. The Energy Council tasks the E3 Committee with extending and formalising strategic planning for GEMS by:</p> <p style="padding-left: 40px;">a) continuing to develop and share a three year</p>	<p>Commence: October 2015 For completion by: June 2016</p> <p>For completion by: a) October 2015</p>

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	<p>and strategic planning for GEMS.</p> <p>4. <u>Compliance and enforcement</u> - delivering compliance and enforcement effectively should remain a top priority.</p> <p>5. <u>Other initiatives</u> – innovations such as climate zone labelling, and supporting policy initiatives such as the website and mobile application, should continue to be developed.</p>	<p>work plan with stakeholders to promote certainty on E3 policy development;</p> <p>b) improving formal performance assessment and feedback mechanisms (Statement of Service, Regulator Performance Framework); and</p> <p>c) meeting via teleconference every two months to review progress with work plan activities.</p> <p>22. The Energy Council requests the GEMS Regulator and the E3 Committee continue to prioritise compliance and enforcement actions. The GEMS Regulator’s compliance monitoring and enforcement activities should provide a greater and more visible assurance that the GEMS Regulator continues to see compliance and enforcement as a top priority.</p> <p>23. The Energy Council tasks the E3 Committee with continuing to develop the climate zone label (subject to the submission of the RIS process), the energy rating website and innovations such as the smartphone app, where there is a clear and demonstrable benefit.</p>	<p>b) July 2015</p> <p>c) immediate</p> <p>Ongoing</p> <p>Ongoing</p>
	<p><b>Program funding</b> (Section 7.4) The existing funding model is broadly accepted by stakeholders and could be maintained (with</p>		

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	<p>consideration given to the above recommendations relating to the registration process).</p> <p><b>Key recommendations</b></p> <ol style="list-style-type: none"> <li>1. Take account of stakeholder feedback in relation to cost recovery levels when reviewing registration fees in October 2015.</li> </ol>	<p>24. The Energy Council requests the GEMS Regulator take account of stakeholder feedback in relation to cost recovery levels when reviewing registration fees in October 2015.</p>	<p>Commence: October 2015 For completion by: June 2016</p>
	<p><b>Suggestions by some industry stakeholders which are <b>not</b> recommended for action</b></p>	<p><b>Energy Council Response</b></p>	
	<ol style="list-style-type: none"> <li>1. Requirement to register products under GEMS (Part 2, Division 2, Clause 13). Registration is seen as a crucial element of an effective compliance regime. It is also one way to understand the impacts that the program is having. Whilst it is not possible to quantify the benefits of registration (e.g. in terms of improved compliance activities), it is perceived by most stakeholders that the benefit of keeping registration significantly outweigh the costs.</li> <li>2. The ability to charge fees (Part 2, Clauses 8, 9, Part 6, Division 4, Clause 77). It is not recommended to remove the ability to charge fees for registration and other aspects of the program. This is on the basis</li> </ol>	<p>25. Agree not to action. The registration system provides information that underpins compliance and policy development. Best practice regulation approaches involve analysis of the impact of the regulation. Collecting data to enable such analysis is aligned with best practice. Data collection (and its associated burden) must be minimised to measure effectiveness.</p> <p>26. Agree not to action. In establishing the GEMS Act, it was envisaged that the costs of registration and compliance would, over time, move towards full cost recovery through registration fees. Currently, around 50% of regulatory costs are</p>	

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	<p>that the program was intended to operate on a partial cost recovery basis, which is supported by industry. Further, it would remove the potential for a useful funding stream and therefore increase costs to government. It is however, recommended that the level of fees be reviewed.</p> <p>3. Ability to limit grandfathering (Part 4, Division 2, Clause 31). In the context of the GEMS, the term ‘grandfathering’ refers to the period for which non-compliant products may continue to be sold. Removing this clause (which allows a limit for grandfathering) has been raised by industry as a way to reduce burden, which could be implemented. However, there are no examples of grandfathering limits having been implemented, nor obvious examples of where this would be a risk in the near future. This means that there is no actual regulatory burden impact of the measure, but it would leave the scheme open to risk if such an issue became apparent in a future GEMS determination. Finally, if grandfathering were to be identified as an issue, the issue would be addressed and discussed within RISs, which would allow industry the opportunity to discuss and respond.</p>	<p>recovered, and registration fees contribute around 10% to the overall program cost. Fees will be reviewed every three years and the first review will commence early in the 2015/16 financial year. The review will be undertaken in close consultation with all stakeholders, and in particular businesses that pay the fees.</p> <p>27. Agree not to action. The default approach in the GEMS Act is to grandfather all products which have entered the market legally before any change to product standards. The Energy Council retains the right to consider an alternate approach if consumers will be significantly disadvantaged.</p>	

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	<p>4. Removing products which affect energy consumption of other products such as insulation, window glass and air conditioner ducting (Part 2, Division 2, Clause 11). The Act specifically expanded the scope of the scheme to cover these products on the basis that they present a significant opportunity to further reduce energy consumption and householder bills and to allow the scheme to focus on those which represent the largest savings for least cost. This has not changed (and more of these products are now covered by international schemes), so we would not recommend their removal. Furthermore, some appliances are not significantly affected by other factors (e.g. televisions), whereas others can be (e.g. air conditioning, heating). The provision allows for greater consideration of key parts of the system where there are these dependencies, which can help deliver a significantly better energy efficiency and cost saving outcome.</p> <p>5. Including specific timeframes for implementation of determinations once they come into force within the regulations (Part 4, Division 2, Clause 34). Some industry stakeholders have requested specific timeframes within the regulations.</p>	<p>28. Agree not to action. Some products may diminish the energy efficiency of energy using products. Improvements in such products can therefore help consumers reduce their energy consumption and energy bills. Any regulatory proposals for non-energy using products will be subjected to the same RIS requirements and will need to demonstrate a net benefit before being adopted.</p> <p>29. Agree not to action. The GEMS Act includes flexibility for governments to work with industry and consumers to identify the most appropriate timeframe to implement new efficiency or labelling requirements. Implementation timeframes are discussed early in the consideration of new standards</p>	

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	<p>The advantage of this is that it provides industry with additional certainty that they will have sufficient time to ensure compliance prior to a determination coming into force. However, the disadvantage of this is that this would remove flexibility to move faster, or slower, if necessary (or due to unforeseen circumstances). Ensuring that timescales are discussed and agreed early in the RIS and determination development process then removes the need for specifying this within the Act.</p>	<p>and labelling requirements, and the Energy Council will take into account industry and consumer requests in taking a decision on implementation timeframes.</p>	