



Guidance Note

Marking Requirements for Incandescent Lamps

The information in this document is provided as guidance only. This document has been developed to help registrants of incandescent lamps better understand their responsibilities under the legislative framework in Australia. This document should be read in conjunction with the *Greenhouse and Energy Minimum Standards Act 2012* (GEMS Act) and its supporting Regulations and Instruments. Changes to legislation may affect the information in this document. Ultimately, persons are responsible for determining their obligations under the law, and for applying the law to their individual circumstances. This document does not constitute legal advice and is not a substitute for independent professional advice.

Background

The *Greenhouse and Energy Minimum Standards (Incandescent Lamps for General Lighting Services) Determination 2015* (**2015 Determination**), which came into force on 17 March 2015, sets out the marking requirements for the packaging of regulated incandescent lamps. The 2015 Determination made minor amendments to the marking requirements that had been previously specified, in order to provide greater clarity on how the specified parameters should be communicated.

Under section 16 of the GEMS Act a person must not supply¹ (or offer to supply) a product if it is covered by a GEMS Determination and does not meet the requirements of that GEMS Determination.

Some incandescent lamp suppliers have recently approached the GEMS Regulator in regard to the revised marking requirements, suggesting that due to the change some of their registered products cannot comply with the 2015 Determination. The issue appears to arise as a result of the way suppliers were interpreting the previous requirements in the *Greenhouse and Energy Minimum Standards (Incandescent Lamps for General Lighting Services) Determination 2012* (**previous Determination**).

Marking Requirements

The previous Determination set the marking requirements by reference to clause 4.5 of the Australian Standard AS 4934.2-2011. Clause 4.5 of AS 4934.2-2011 states that:

All lamp packaging shall carry the following information:

- (a) Light output in lumens.
- (b) Wattage in watts.
- (c) Lamp lifetime.

¹ A supply of a GEMS product includes a supply of the product by way of sale, exchange, gift, lease, loan, hire or hire-purchase.

In the 2015 Determination, the marking requirements are set out in full in subsection 7(1), which states the following:

- (1) For paragraphs 24 (1) (b), 26 (1) (a) and 26 (1) (b) of the Act, the specified labelling requirements for products in product classes 1 to 7 are that the following information must be marked on all lamp packaging:
 - (a) *Light output in lumens*: the marked value must be not more than the mean measured initial value rounded to the nearest 10 lumens;
 - (b) *Power in watts*: the marked value must be equal to the mean measured initial value rounded to the nearest watt;
 - (c) *Average lamp lifetime*: the marked value must not be more than the median value as calculated from the measured lifetime test value rounded to the nearest 100 h.

The changes were made to provide greater clarity on how the specified parameters should be communicated, with the requirements in substance the same as those in clause 4.5 of AS 4934.2-2011. The 2015 Determination makes it clear that the values for the parameters marked on the packaging are not required to be the exact tested values, because it explicitly permits the rounding of the tested values. On this basis, the marking requirements of the 2015 Determination are less restrictive than those of the previous Determination, where a strict reading would support the view that the exact tested values were required to be displayed on the packaging.

Enforcement and Compliance Position

The GEMS Regulator recently became aware that incandescent lamp suppliers have adopted the practice over time of offering products around standard “nominal” wattages, which sometimes diverge from the tested value by a significant percentage, and marking this nominal value for the ‘power in watts’ parameter, rather than the tested value. A similar practice exists for the ‘light output in lumens’ and ‘average lamp lifetime’ parameters, where the nominal value marked on the packaging diverges from the tested values for these parameters.

As a result of this practice, some incandescent lamp suppliers have indicated that certain products currently available on the market may not comply with the 2015 Determination.

Further, it has come to the GEMS Regulator’s attention that if these requirements were to be strictly enforced, a significant number of incandescent lamp models are likely to be removed from the market, or costs are likely to be imposed on suppliers in order to comply with the revised requirements.

On the basis that the changes to the marking requirements were to provide greater clarity rather than to substantially alter the requirements themselves, the GEMS Regulator has taken the position that it was not the intent of the 2015 Determination to impact on the market or impose supplier costs in the ways discussed above. Therefore, as a transitional measure, the GEMS Regulator has decided to adopt a policy of non-enforcement in relation to possible offences under sections 16 of the GEMS Act for products covered by the 2015 Determination, in relation to the marking requirements specified in subsection 7(1) of that Determination.

Replacement Determination

It is intended that this issue will be addressed in a forthcoming Replacement Determination, with an anticipated implementation date of the second half of 2016.