energymakeovers

36/7 Hoyle Avenue • Castle Hill, NSW 2154

August 23, 2019

Stephen Procter
Strategic Delivery Manager
Sustainability Programs
Energy, Climate Change and Sustainability
NSW Department of Planning, Industry and Environment

sustainability@environment.nsw.gov.au

Dear Stephen,

Re: EM's response to the ESS Rule Change Consultation Paper July 2019

Thank you for the opportunity to respond to the Rule Change Consultation Paper July 2019.

EM is committed to the ESS and believes it will continue to make an important contribution to energy productivity and carbon abatement in NSW.

In addition to direct responses to many of the questions posed, EM has appended ADDITIONAL COMMENTS AND SUGGESTIONS it would like DPIE to consider when finalising the draft Rule.

Question 1: Do you agree with the proposed transitional arrangement? Please provide reasoning supporting your response.

At 2.1 in the Consultation Paper, DPIE proposes that "ACPs will be able to register ESCs in accordance with the previous rule until 30 June 2020, for Implementations with an Implementation Date before 17 February 2020."

EM supports "grandfathering" because energy savings should always be calculated according the Rule as it applies at the implementation date, not the ESC registration date, which could be many months later due to extraneous factors such as administrative delay.

Question 2: Is this approximate three-month timeframe sufficient for preparing your business to be ready to comply with the new ESS rule? If not, what timeframe do you deem necessary?

Yes, sufficient.

Question 3: Can you foresee any particular part of the new ESS Rule for which it will be difficult to get 'business-ready' within the proposed timeframe?

Yes, the changes proposed to the SONA method will significantly harm appliance retailers and ACPs operating SONA businesses because they will reduce ESC production/value by 80% with only without potentially only 6 months' notice. EM's objection to the magnitude of proposed changes and the short notification period is outlined in its response to question 15 below.

Question 4: Do you agree with the proposed changes to Table A26? Please provide reasoning supporting your response.

EM supports removing non-NSW postcodes and PO Box postcodes. It also supports adding NSW postcodes that aren't already included in Table A26.

Question 5: Do you agree with the proposed changes to Section 5.4(i)(ii)? Please provide reasoning supporting your response.

EM support changes to the Rule that increasing the number of eligible activities and/or reduce administrative burden.

Question 6: Do you perceive any significant impacts, either positive or negative, associated with increasing the ESS cap on generating systems from 5MW to 30MW?

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

Question 7: Do you agree with the proposed updates to Equation 1 in Clause 6.5? Please provide reasoning supporting your response.

It is not clear from 2.4 of the Consultation Paper where the ambiguity lies, and therefore that additional clarity is required. Neither is it clear whether the proposed change of "placing brackets around the Electricity Savings and Gas Savings sections of the formula" would have any material impact on usual method EM uses to determine the "Number of Certificates".

EM would appreciate receiving more information from DPIE on the reason for the proposed change and its impact before responding.

Question 8: Do you agree with the proposed updates to Clause 6.8? Please provide reasoning supporting your response.

EM agrees that the current requirement to collect ABNs from entities using the End-Use Service where applicable is administratively burdensome.

EM supports the proposal to require, instead, the ABN of Appliance Retailers, which relevantly are the Energy Savers under 9.3 of the Rule.

EM supports initiatives that reduce the administrative costs of ACPs.

Question 9: Do you agree with the proposed changes to Clause 7A.1? Please provide reasoning supporting your response.

At clause 7A.1 of the draft Rule DPIE proposes to further qualify the calculation of energy savings under the PIAM&V method by requiring that all other factors which may have contributed to the energy saving are effectively excluded from calculations, and that the determination of this will be at IPART's discretion, as per:

"provided that, to the satisfaction of the Scheme Administrator, the calculated Energy Savings are attributable only to the Implementation and represent a genuine reduction in the consumption of energy"

It will not always be possible to exclude or indeed disentangle other energy savings factors from a PIAM&V calculation. It will not always be possible to provide positive assurance that other factors did not contribute to the energy savings because only a few variables, and only the most influential, are use in persistence models. Therefore, in its current form, the proposed change will represent increased commercial risk to ACPs.

EM proposes that the clause not be appended with the new qualification, but if DPIE decides a change is necessary, the wording instead be:

"provided that, to the satisfaction of the Scheme Administrator, the calculated Energy Savings are attributable ~~only~~ to the Implementation ~~and represent a genuine reduction in the consumption of energy~~"

Question 10: Do you agree with the proposed changes to Measurement Procedures of the PIAM&V method? Please provide reasoning supporting your response.

We don't agree that a M&VP sign-off should be required prior to the end of the baseline period because it limits the ability of an ACP to choose the most appropriate baseline in accordance with the Rule.

EM would prefer the Rule to require that an M&V professional sign off on the M&V plan prior to the installation commencing. The M&V plan should give a detailed description of how the baseline will be generated and the M&VP would sign-off that it's appropriate for the type of upgrade. If the baseline is required to change for any reason, a variation to the plan can be added and then the M&VP signing off the upgrade at the end has a trigger to check the baseline and it's appropriateness when signing off post-upgrade.

This would also be more in line with the VEU scheme PBA-M&V method.

Question 11: Do you have any specific concerns in relation to the cut-off date of 17 February 2020?

No response.

Question 12: Would this change present any particular issues for your business?

No response.

Question 13: Do you agree with the proposed changes to Clause 7A.16 of the PIAM&V method? Please provide reasoning supporting your response.

No response.

Question 14: Do you agree with the proposed changes to the NABERS baseline method? Please provide reasoning supporting your response.

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

Question 15: Would this change shift the market to the sale of these high efficiency appliances over appliances of a lower energy efficiency? Please provide reasoning supporting your response.

The consultation paper at 5.1.1 states that "…a review of the performance of the SONA method showed that this has not raised the proportion of high efficiency appliance sales in NSW compared to the Australian average."

EM believes this is a flawed methodology for determining additionality because the purchasing and marketing decisions of 80% of appliance retailers are made on a national basis. This means that additionality caused by the SONA method is not limited to NSW but provides a flow-on benefit to other states and territories; it means that the star ratings of appliances sold will be similar between all states and territories making a state-by-state comparison of little use.

An example of additionality that would not recognised by this methodology were the relatively recent actions of a national appliance retailer who had the power supplies in TVs upgraded in order to achieve a higher energy star rating and thereby, the benefit of creating a greater number of ESCs.

EM believe that DPIE should choose a different method for determining additionality.

The consultation paper at 5.1.1 states that "Deemed Equipment Electricity Savings were also updated for each eligible activity under SONA. These updates combine equipment and factor updates with review results and stakeholder feedback to reflect the most recent sales data."

It is unclear of the basis on which the proposed revisions are made to Deemed Equipment Electricity Savings and upon which stakeholder feedback and sales data was relied upon but the affect will be a devastation of the SONA method and a substantial weakening of the incentive needed if Retailers are to promote more energy efficient appliances than baseline in the medium to long-term.

EM estimates that the draft Rule proposes to no longer recognise as much as 82% of energy savings recognised under the current Rule.

Appliance type	Activity	2019 ESC	2020 ESC	%
Washing Machine	B1	71,587	9,941	13.9%
Clothes Dryer	B2	8,017	5,027	62.7%
Dishwasher	B3	10,189	455	4.5%
1Refrigerator	B4	1,846	5	0.3%
2Refrigerator	B5	49,609	10,900	22.0%
Freezer	B6	632	500	79.1%
Television	B7	31,819	4,384	13.8%
TOTAL		173,699	31,213	18.0%

This table was generated using 341,174 records of appliances sold between 1-1-19 and 31-7-19 across 5 appliance retailers, then extrapolated out to 12 months.

As you will see, some activities would suffer a more devastating impact than others. There will no longer be any real incentive for the retailers of almost all dishwashers and 1 door fridges, for example. The incentive offered to retailers of washing machines would be is just 13.9% of the incentive offered under the current Rule. Across all categories this will mean the number of eligible appliance will drop from 451 to just 107.

The proposed changes would reduce ESCs created under the SONA method by and estimated 82%, a substantially larger change than any other baseline adjustment made since the SONA method began.

This a extraordinarily large change for a minor Rule change, with too little notice given to ACPs and appliance retailers. It will devastate ACP's SONA businesses with only 6 month notification. The methodology used to explain why the change is needed appears to be flawed and we have not been given access to "stakeholder feedback and sales data" that informed DPIE's decision. DPIE should consider reviewing the methodology and data relied upon.

This proposal, if implemented, represents a dangerous precedent for and changes proposed for other ESS methods in the future. DPIE should consider the severity of impact on ACPs and their customers when contemplating changes and ensure that adequate notice is given.

EM urges DPIE to reconsider the magnitude of changes proposed and the notice period (6 monthly only.) A change of this magnitude might be contemplated in the context of the next major Rule review.

Question 16: Is the link between sales data and proposed changes to the grouping of appliances appropriate?

Yes, the link between sales data and proposed changes to the grouping of appliances is appropriate.

Question 17: Do you agree with the proposal to amend Activity Definition B5 to include refrigerators with more than two doors? Please provide reasoning

Yes, EM agrees with the proposal to amend SONA Activity Definition B5 to include refrigerators with more than two doors. Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM.

Question 18: Do you agree with the proposed amendments to the space type and space type classifications? Please provide reasoning supporting your response.

No response.

Question 19: Given the scope of these changes, is it your understanding that the three-month transitional period for being 'business-ready' is sufficient?

No response.

Question 20: Do you agree with the proposed change to the definition of maintained emergency lighting? Please provide reasoning supporting your response.

No response.

Question 21: Does the proposed change provide for all relevant qualified contractors to undertake the lighting upgrade works? Please provide reasoning supporting your response.

No response.

Question 22: Does the proposed change provide for all relevant qualified contractors to undertake the lighting upgrade works? Please provide reasoning supporting your response.

Yes, all contractors conducting HEER lighting upgrades should/will comply with the proposed change in requirements, which applies the requirements in respect of electrical wiring work stated in the Home Building Act 1989 Section 14 to the upgrade of lighting under the HEER Method in houses and small business premises.

The change also makes it clear that even should the lighting upgrade not require electrical wiring work, as many HEER activities in practice don't e.g. E3 reflector lamp replacement, contractors must none-the-less be qualified and/or supervised to do electrical wiring work.

Question 23: Do you have any comments on proposed Activity Definition E13?

EM welcomes the proposal to recognise the energy savings achieved when a T5 fluorescent lamp is upgraded to LED.

However EM would like DPIE to consider reducing the minimum lumen output requirement to match that of the E5 activity.

When setting minimum lumen requirements of the E13 activity it should be considered that:

1. LED battens and especially LED panels are much more directional that fluorescent lamps mounted in aging fixtures and lenses (e.g. yellowing of plastic) of various types and therefore, lumen levels alone can't be used to compare effective lighting levels between old and new lamps for the sake of ensuring post-upgrade service levels are maintained. It is reasonably, we think, for the sake of comparison to use an "effective" measure of brightness.

2.Fluorescent lamps are not usually new when replaced and as lumen output levels drop significantly over time, a lower lumen minimum for replacement lamps would still result in post-upgrade service levels being maintained.

We also note that some customers complain about overly bright LED battens/panels replacing existing fluorescent battens/troffers, which achieve the lower requirement under the T5 activity of 3,000 lumens.

Question 24: How likely are you to use the proposed Activity Definition E13? Why/why not?

EM intends to make use of the E13 activity, however, because energy savings are calculated at approximately half that of the equivalent E5 activity, customers will be have to financially contribute to make the upgrade offer viable. We expect this will considerable reduce the attractiveness and therefore uptake of the activity.

Question 25: Do you agree with the proposed definition as opposed to the current definition of the Implementation Date for HEER activities? Please provide reasoning supporting your response.

Yes, EM agrees.

Occasionally a customer achieves the minimum co-contribution requirement months after the upgrade has occurred. Under the current Rule, where all other conditions have been met, this results in an "Implementation Date" months after energy saving began.

The proposed definition sets the implementation at the commencement of the upgrade, ensuring that nomination has occurred before commencement of energy savings.

Question 26: Do you anticipate that this change would present any difficulties with being nominated and generating ESCs for a particular work program?

No, this change will not present difficulties.

Question 27: Do you agree with combining lamp only magnetic and electronic transformers into a single category? Please provide reasoning supporting your response.

Yes, EM agrees. The change will greatly reduce complexity, cost and risk of error when upgrading lamps under the E1 activity.

Changes that simplify and lower the cost and risk of participating in the ESS are welcome, provided that they also don't result in a reduction in energy savings.

Question 28: Would this change result in reduced administrative costs for your business?

Yes, the change would result in reduced administrative costs.

Changes that simplify and lower the cost and risk of participating in the ESS are welcome, provided that they also don't result in a reduction in energy savings.

Question 29: Do you agree with aligning the terminologies used in Schedule E? If not, please provide supporting evidence to justify your response.

Yes, EM agrees.

We will always support changes that remove ambiguity from the Rule.

Question 30: Do you agree with the use of the 3-star rating, as defined within the 2019 Refrigerated Cabinets Determination, as a baseline for determining energy efficient status? Please provide reasoning supporting your response.

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

Question 31: Do you agree with the proposed changes to Activity Definition F1? Please provide reasoning supporting your response.

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

Question 32: Do you agree with the proposed changes to Activity Definition F4? Please provide reasoning supporting your response.

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

Question 33: Do you agree that the removal of "and accepted by the Scheme Administrator" would make the activity easier to use? Please provide reasoning supporting your response.

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

Question 34: Do you agree with updating and aligning this Activity Definition in line with the updates to the GEMS Determination 2018? Please provide reasoning supporting your response.

Changes that expand the opportunity for recognising energy savings under the ESS are always welcomed by EM, so too those that lower administrative burdens by removing complexity and ambiguity from the Rule.

ADDITIONAL COMMENTS AND SUGGESTIONS

1. Activity Definition B4, table error

The middle column of the Deemed Equipment Electricity Savings table at B4 reads:

> "Total volume ≥ 200 litres to <300 litres"

It should read:

> "Total volume ≥ 200 litres to <250 litres"

2. Activity Definition B7, clarification

The first column of the Deemed Equipment Electricity Savings table at B7 has removed references to Tier 1 and Tier 2. This refers to the Energy Star Ratings for TVs before and after recalibration of the rating system. The MEPS data sheets still records both Energy Star Ratings.

EM proposes that in the Equipment Requirements section of B7 a clause is added or an existing clause modified to state which Energy Star Ratings is referred to in the table.

3. Insulation Installation Activity D6-D9

EM believes that insulation activities D6-D9 should commence immediately under HEER method.

A large percentage of houses have insufficient or no insulation and are instead using electricity and/or gas to heat and/or cool. Consequently, there exists a large abatement opportunity which could be realised relatively quickly.

The installation of insulation under D6-D9 could be performed safely with the development of compliance guidelines to control for what risk exists, which would be a relatively straight forward matter; that the activity in no less safe than electrical activities currently allowed in the ESS.

Allowing D6-D9 activities under the HEER method would significantly stimulate uptake by ACPs of the HEER method generally, with householders directly benefiting.

EM would welcome an invitation to participate in a working group to consider ways of quickly and safely activating the insulation installation activities D6-D9 currently dormant under the HEER method, or at least exploring what would need to be in place for the NSW Government to consider activating it in the near future.

4. Removal of Old Appliances Method, improvements

In the interests of kick-starting the ROOA method EM has written separately to DPIE identifying opportunities for improvement to the Rule and has proposed alternative evidence requirements.

5. Home Energy Efficiency Retrofit (HEER) method, changes and improvements

DPIE should consider these changes and improvements to the HEER method:

5.1 Deletion of 9.8.1(f) which requires the creation of a minimum of 4 ESCs if implementations only consist of those from Schedule E or are delivered through a low income energy program. EM understands that this was originally put in place to stimulate the simultaneous uptake by ACPs of non-lighting activities in homes and small businesses. This has not worked and has led to administrative inconvenience and real financial loss when a completed implementations (e.g. 8 down-light only replacement lamps on existing electronic transformers create less than 4 ESCs) unexpectedly dip below 4 ESCs making the whole implementation ineligible.

5.2 In the interests of further encouraging regional implementations, DPIE should consider excluding regional postcodes from the 4 ESC minimum requirement at 9.8.1(f) and the $30 co-contribution requirement at 9.8.1(g). It might also review the regional factor in the interests of determining whether there is a basis for increasing it.

5.3 There is a need to clearly state the meaning of "working order" in the E5 and proposed E13 activity definitions because many fluorescent tube fitting include more than one lamp and on a generous interpretation an ACP might be inclined to think that if there's light it's working; that mostly working is close enough. EM understands that all lamps in a multi-lamp fitting must producing light to be counted in the energy savings calculations of E5 and the proposed E13, however, this may not be universal amongst ACPs.

6. Home Energy Efficiency Retrofit (HEER) method, Exempt Seller clarification

In respect of the HEER sub-method, the Rule says:

> 9.8.1 The Energy Savings for an Implementation may be calculated using Equation 16, provided that:
>
> (a) the Site is a Residential Building or a Small Business Site, as evidenced to the satisfaction of the Scheme Administrator;

and

> "Small Business Site" means a Site:
>
> (a) that is entirely occupied by one business; and
>
> (b) where the business, as a consumer of electricity at the Site:
>
> > i. is a Small Customer (and, for the avoidance of doubt, has not aggregated its load at the Site with consumption at other Sites for the purposes of being treated as a Large Customer under its electricity purchase arrangements); or
> >
> > ii. is a customer of an Exempt Seller, and has an annual electricity consumption below the Upper Consumption Threshold for electricity.

Where a the Small Business Site is the customer of an Exempt Seller, the HEER Method Guide requires as evidence (Table 6.1) an "extract from the public register of retail exemptions showing the exempt seller name."

However, the AER does not require all Exempt Sellers to be registered. A deemed exemption applies automatically to certain classes of energy seller. Refer https://www.aer.gov.au/system/files/AER%20Retail%20Exempt%20Selling%20Guideline%20-%20version%205%20-%20March%202018.pdf at 4.1 and Appendix A-1 (Table 1).

EM believes that where it has reasonable evidence that a seller of electricity to a Small Business Site could be deemed an Exempt Seller by the AER, then is should not have to obtain as evidence an "extract from the public register of retail exemptions showing the exempt seller name" to satisfy the evidence requirement that the Small Business Site is the customer of an Exempt Seller.

For example:

A customer provides a strata invoice inclusive of electricity charges and a statement of electricity consumption averaging less that 273kWh/day from an Exempted Seller.

The Exempted Seller provides an email confirming they believe they meet the AER deemed exemption conditions e.g. Class D1 below, selling to less than 10 commercial/retail customers at the site.

Appendix A-1: Classes of deemed and registrable exemptions and conditions

Table 1 – Deemed classes of exemption

Deemed exemption class	Application	Class criteria	Class restrictions
Class D1 Persons selling metered energy to fewer than ten small commercial/retail customers within the limits of a site that they own, occupy or operate.	Applies (but is not limited to) bodies corporate, landlords, lessors or property managers who sell energy in commercial or retail developments such as shopping centres, office buildings, airports and industrial parks. Customers are commercial or retail customers.	Energy is used for premises within the limits of a site owned, occupied or operated by the person, and Each premises is separately metered, and The site has fewer than 10 commercial or retail premises.	Class remains open except for sites where embedded networks are retrofitted after 1 January 2015 and the applicant is unable to obtain the explicit informed consent of all affected customers. Individual exemptions will be required if **explicit informed consent** cannot be obtained.

EM would welcome an invitation to speak further with DPIE and/or IPART about and of the responses and comments made above and would be happy to provide further details as required.

Sincerely,

Mark Wilson
General Manager NSW
Energy Makeovers

0437 252 830
mark.wilson@energymakeovers.com.au