



Australian Government
Department of Industry

Deputy Secretary

Mr Jason McNamara
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600

Dear Mr McNamara

**Regulation Impact Statement – Encouraging Energy Efficiency in Australian Industry:
removal of unnecessary regulation**

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for *Encouraging Energy Efficiency in Australian Industry: removing unnecessary regulation*. The regulatory burden to business, community organisations and/or individuals has been quantified and offsets have been identified and quantified using the Regulatory Burden Measurement framework. These have been agreed with your office.

I am satisfied that the RIS addresses the concerns raised in your letter of 07 May 2014. The attached table details the department's response to each of the comments made in your letter.

Accordingly, I am satisfied that the RIS now meets best practice consistent with the *Australian Government Guide to Regulation*.

I submit the RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Martin Hoffman'.

Martin Hoffman
9 May 2014

RIS Amendments Table

OBPR Comments	Industry Response
1. The RIS provides an overview of the objectives of the EEO Program, but does not explain how it works. This makes it difficult to understand what the impacts of repealing the program are, and how the regulatory costs reductions are attached. To address this the RIS could consider the following:	
a) What does the EEO require businesses to do in a practical sense? For example what do businesses have to report on? How must they do this and how frequently?	Practical implications added to 1.1.
b) Do businesses have to measure their energy use?	Discussion added and linked to NGRS requirements in 1.1.
c) What is the relationship between the requirements of the EEO Program and the NGRS?	As above.
d) Which businesses does the EEO Program apply to?	Participation criteria added in 1.1.
e) How has the EEO Program changed and expanded over time?	Timeline added to 2.1.
2. The RIS notes that economic modelling will be prepared for the details-stage RIS (i.e. the RIS for final assessment). This has not been done. Either modelling should be included or this statement should be removed.	Statement has been deleted.
3. The Australian Government Guide to Regulation replaced options and details-stage RISs with one single RIS that could be submitted to the OBPR for assessment at various stages through the policy process. Therefore, references to options and details-stage RISs should be removed other than where explaining the RIS process that was undertaken for this proposal.	Reference to details and options stage RIS has been removed.
4. We understand the RIS considers the EEO Program was successful in addressing perceived failures in the market for energy consumption, but that, because energy prices are expected to increase, there are now sufficiency incentives in the market for business to optimise their energy use. This claim warrants more detailed analysis and evidence.	Discussed in the EWP comments of section 2.1. Discussed in 2.2 Program Outcomes.
a. In terms of original market failures:	
i) How significant and broad were they? For example, how many businesses were understood to be affected, and what was the magnitude of this?	Rationale for original policy included into 2.1 EEO Evolution.
ii) Why were there insufficient incentives in the market for businesses to use their energy efficiently?	Detail added into 2.1 EEO Evolution.
iii) What were stakeholders opinions about the existence and, if appropriate, magnitude of the market failures prior to the introduction of the EEO requirements.	Discussion added about stakeholder consultation held post the 2004 energy white paper release and experience from voluntary energy efficiency programs.

OBPR Comments	Industry Response
iv) Why were other regulations at the time understood not to address the problems (if this was the case)?	No previous regulation in place.
b. In terms of the claimed success of the EEO program:	
i) How did the EEO program address the perceived market failures?	Program was intended to improve access within corporations to information on cost-effective energy efficiency practices and to move energy efficiency investment up the priority list for consideration.
ii) What is the basis for the claimed energy savings cited in the RIS from the ACIL TASMAN report? For example, are those savings the result of improvements in energy efficiency, conservation, or substitution to other production inputs?	Additional information regarding additionality analysis included in section 2.2.
iii) What is the basis for claiming that 40% of the energy savings result from the EEO program? For example, what is the counter-factual, or base-case, against which this claim is being assessed?	Additional comments included in the introduction and problem sections.
iv) What are stakeholder's views?	Additional comments have been included in the consultation and other sections
c. In terms of the market impact on energy consumption from changes to energy prices:	
i) How do changes to prices affect the existence of impact of an underlying market failure?	A para has been added to section 2.4.
ii) Is there a threshold? For example, do prices of inputs that are below a certain price (either in absolute terms or relative to the price of other inputs) result in inefficiencies?	A para has been added to section 2.4.
iii) Would the expected increase in prices fully eliminate all market failures, or partially eliminate some? Why?	A para has been added to section 2.4.
iv) Is it suggested that if energy prices were to decrease again the perceived market failures would re-appear? Would it then be necessary to re-instate the EEO Program?	A para has been added to section 2.4.
You may wish to draw on previous analysis or reports (such as RISs) as evidence to support these discussions. Where you do this, it is important that the analysis, including key assumptions, in those reports is explained in this RIS,	Noted
5. The RIS appears to suggest that the EEO Program may have been relevant in 2006, but, since then, some business have incorporated processes to improve energy efficiency into their normal business practices. As such, the RIS appears to suggest that the EEO Program is no longer relevant. The RIS could provide some analysis to support this view, including	A sentence has been added to section 2.4.

OBPR Comments	Industry Response
views from stakeholders.	
6. The RIS claims that energy prices have increased since 2006, and that prices are expected to continue to increase. Evidence to support this is appropriate. For example.	Detail added in section 2.1 Context of the problem. Evidence is given in the form of reference to stakeholder consultation, and IEA figures from 2005 to current.
a. What has been the magnitude of energy price increases since 2006?	Due to confidentiality clauses in industrial energy contracts – sufficient data is unavailable.
b. What is the magnitude of the forecast increase over, say, the next 10 years?	Due to confidentiality clauses in industrial energy contracts – sufficient data is unavailable.
c. Have the prices of all sources of energy (for example, gas, electricity and ‘renewables’) increased?	Due to confidentiality clauses in industrial energy contracts – sufficient data is unavailable.
d. How do other Government policies i.e. repeal of the carbon tax and regulation of generators and retailers) impact on energy prices and consequently on the EEO Program?	Due to confidentiality clauses in industrial energy contracts – sufficient data is unavailable.
7. In terms of existing state-based regulation the RIS only considers the Energy Savings Scheme in NSW. Are there any other regulations in NSW and other jurisdictions that aim to improve energy efficiency? If so, what are they?	All other relevant state based programs have now been included. Links are made to their relevance to EEO and where an overlap may occur.
8. The RIS currently gives an overview of other Commonwealth Government energy efficiency regulations. But the RIS does not explain what the relevance of these regulations are to the EEO Program. In relation regulation at all levels of Government, the RIS could consider the following:	Section 2.7 and 2.5.1 now address this.
a. Is there a substantial cumulative burden on industry from these regulations?	The links between NGERs and EEO reporting which impose burden with no benefit to industry have been made.
b. What is the nature and extent of duplication?	The overlap in some industry sectors are noted between MEPS and NABERS and EEO.
c. Does the existence of other schemes imply there is sufficient regulation of energy use?	The section mostly presents simple facts about the programs rather than implying anything. It does comment that other programs do aim to improve energy efficiency in industry.
9. The RIS notes that ‘improving energy productivity in Australia remains a priority of the government’ and that ‘the Government understands that there are still significant gains to be made in industrial energy efficiency and productivity’. Do you have a reference from the Government to support this?	Quote from Mr Macfarlane included in section 2.3 Changes in the Economic Environment. Issues addressed.
10. The RIS needs to explain what the objective of repealing the EEO program is. This section is currently a conjecture about the costs and benefits of the scheme.	Along with the costs and benefit, a section has been added which states the objective is to remove the regulatory burden placed on large industry by the program.

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11. Consistent with the Australian Government Guide to Regulation, the RIS should estimate the net-benefit of each option and recommend the option with the greatest net-benefit.	Net benefit – examined in section 5.5.
12. The OBPR needs to agree to the regulatory cost estimates. Previous agreement by the OBPR at the options-stage was provisional and agreement is now required for the final assessment.	Costs have been approved
13. The RIS should consider the costs and benefits on consumers, the environment and industry from repealing the EEO in more depth. To achieve this you may want to consider the following: In terms of impacts on consumers:	Detail provided in Impact Analysis section, particularly in the Consumers and Community sub-sections.
a. What are the cost and benefits to consumers from repealing the EEO? For example did the EEO program result in any flow-on impacts to relevant markets, such as in terms of prices?	Discussed in section 5.
b. Have consumers or their representatives provided any feedback to consultation? If so, what did they say?	Detail provided in Impact Analysis section, particularly in the Consumers and Community sub-sections.
In terms of impacts on the environment:	
c. Is there likely to be any environmental impacts from repealing the program (* such as impacts on carbon emissions)?	Detail provided in Impact Analysis section, particularly in the Consumers and Community sub-sections.
d. Have environmental groups provided feedback? If so, what did they say?	No concerns were recorded; we are unaware of any consultation feedback on EEO from an environmental group. A comment has been made in 5.1.3
In terms of impacts on industry:	
e. What are the indirect, or flow-on, impacts on energy use in relevant industries?	Further detail provided in 5.1.
f. What are the overall cost and benefits to industry from the EEO Program, and therefore what are the overall costs and benefits to industry from repealing the program? Quantification is preferred.	This has been included in section 5.3 and 5.5.
g. Have the benefits been falling as the scheme has matured?	Yes 25% attributable through second cycle Section 5.4.1 amended.
14. The RIS should provide more depth to the explanation of how the regulatory cost estimates were derived. For the OBPR to agree to these estimates the RIS must:	The BCC has been provided. Costs have been approved
a. Explain what are the direct (i.e. compliance) impacts on industry from the EEO Program? And therefore, what are the direct impacts on industry from repealing the program?	The BCC has been provided. Costs have been approved
b. Outline all of the assumptions behind the cost estimates. This ordinarily includes stating the type of activities that businesses will no longer have to undertake; if these activities are one-off	The BCC has been provided. Costs have been approved

OBPR Comments	Industry Response
or ongoing; and assumptions about the value of staff that can be re-directed toward other activities (i.e. number of staff and wage rates); and	
c. Explain how stakeholder input was used to estimate the savings. If stakeholder feedback was not gathered on the estimates, then you must consult again.	Discussed as part of full cycle evaluation in section.
15. You must also provide the OPBR with the BCC (or equivalent) File	The BCC has been provided. Costs have been approved
16. The RIS notes that consultation has not been undertaken for this proposal, but that stakeholder views about repealing the EEO program can be inferred from previous consultation. It is very important that the RIS outlines, in more depth, what stakeholders' views are for and against repealing the EEO program. If sufficient information cannot be provided to demonstrate that you have a good understanding of stakeholders' views, then you will need to consult again on this policy specifically. To address this matter you may wish to consider the following:	
a. Which stakeholders favour retaining and repealing the EEO Program? Why?	Details of EWP stakeholder feedback inserted in section 6.1.
b. Have any stakeholders views about the program changed since its introduction? For example, were there any stakeholders who supported the programs introduction and now favour its repeal? If so, what has driven this change?	No – details of EWP stakeholder feedback incorporated into section 6.1 includes stakeholders who would like the program be modified to reduced regulatory burden and provide a graduation strategy for corporations who already meet the intent of the program.
c. Are there stakeholders who have consistently opposed the EEO program? What were/are their reasons for this?	FCE survey data included in section 6.3.
d. How many stakeholders have indicated that they would continue to use the information provided by the EEO program on a voluntary basis?	N/a.
17. The conclusion is not supported by the preceding analysis; in particular the claim the EEO program is unnecessary.	Additional information supplied throughout. Net benefit explored in section 5.
18. Because the net-benefit is not estimated for each option, the RIS is unable to recommend the option with the greatest net-benefit.	The BCC has been provided. Costs have been approved