

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry

*Greenhouse and Energy Minimum Standards Act 2012*

*Greenhouse and Energy Minimum Standards (External Power Supplies)  
Determination 2014*

### **Purpose**

The *Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2014* (**Determination**) establishes minimum energy use and energy labelling requirements, and associated requirements for conducting tests, for single output external power supplies (**EPS**).

The Determination revokes and replaces the *Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2012* (**the revoked Determination**). In substance, the Determination reproduces the revoked Determination along with the following changes:

- permitting the labelling of EPS as mark VI, if they:
  - exceed the energy performance requirements for mark V as mentioned in *Australian/New Zealand Standard AS/NZS 4665 (AS/NZS 4665)*; and
  - meet the requirements for mark VI of the International Efficiency Marking Protocol for External Power Supplies, Version 3.0 (**IEMP**); and
- providing that external power supplies that exceed the energy performance requirements for mark V of AS/NZS 4665 will meet the high efficiency level if they meet the requirements for Mark VI of the IEMP.

### **Background**

#### *Greenhouse and Energy Minimum Standards Act 2012*

The *Greenhouse and Energy Minimum Standards Act 2012* (**GEMS Act**) establishes a national framework for regulating the energy efficiency of products supplied or used within Australia, implementing Australian Government and the Council of Australian Governments' (**COAG**) commitments to establish national legislation to regulate energy efficiency and labelling standards for appliances and other products. The national legislation permits the Australian Government to set mandatory minimum efficiency requirements for products, to drive greater energy efficiency for regulated products. The Act also allows the Australian Government to set nationally-consistent labelling requirements, to increase the awareness of Australians' of options available to improve energy efficiency and reduce energy consumption, energy costs and greenhouse gas emissions. The national framework replaced seven state and territory legislative frameworks, harmonising the regulation of equipment energy efficiency.

Energy labelling requirements primarily relate to requirements for the display of energy rating labels, such as those commonly seen on products including refrigerators, dishwashers and televisions, amongst others. Energy rating labels allow consumers to compare the energy consumption of similar products, and factor potential cost savings into their purchasing decision. For some products labelling requirements also relate to specific information that must be marked on the product itself or the box in which it is supplied.

Other regulatory requirements possible under the Act include requirements relating to high efficiency levels, product performance, and the impact of the product on the environment or the health of human beings. Of these types, only high efficiency level requirements are set in this Determination. High efficiency level requirements allow suppliers or manufacturers to differentiate more efficient products in the market where the product does not carry an energy rating label, provided they meet a specified efficiency benchmark over and above the nominated GEMS level requirements.

### **Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2014**

The revoked Determination, which references AS/NZS 4665.2:2005, only permits EPS products to be marked at efficiency levels III, IV and V, with mark 'V' being the highest energy performance mark available to registrants.

In September 2013, the U.S. Department of Energy released version 3.0 of the IEMP which sets out the performance requirements for an EPS product to be marked at a new efficiency level VI, which corresponds to a new energy performance mark VI.

To allow mark VI EPS to be supplied in Australia, the revoked Determination needed to be updated to reflect the new efficiency requirements set out in the IEMP. The Determination achieves this through amending the labelling and other requirements in sections 7 and 8 of the revoked Determination to permit the voluntary use of mark VI, provided the EPS meet the performance requirements for mark VI specified in the IEMP. The other components of the Determination, including the MEPS and testing requirements, remain the same as in the revoked Determination, although some wording has been updated for clarity.

### **Legislative basis**

Under subsection 23(1) of the Act, the Minister may, by legislative instrument, make a Determination (a GEMS Determination) that specifies one or more classes of products if the products in those classes use energy or affect the amount of energy used by other products. A GEMS Determination is the vehicle by which energy efficiency requirements (GEMS level requirements), energy labelling requirements (GEMS labelling requirements) for classes of products and other requirements for a product class are established.

Under section 25 of the Act the GEMS level requirements specified in a GEMS Determination may be:

- requirements relating to one or more of the following:
  - the amount of energy used in operating products in relevant product classes;
  - the amount of greenhouse gases resulting from operating products in the relevant product class;
  - the effect of those products on the amount of energy used by operating other products; and
- requirements for conducting tests in relation to products in the relevant product class in order to determine whether the products meet the specified requirements.

Under section 26 of the Act the GEMS labelling requirements specified in a GEMS Determination may be:

- requirements relating to the information that must be communicated in connection with supplying or offering to supply products in the relevant product class;
- requirements relating to the manner in which that information must be communicated; and
- requirements for conducting tests in relation to products in the relevant product class in order to determine whether the products meet the specified requirements.

Under section 27 of the Act other requirements that may be specified in a GEMS Determination are:

- requirements for products in the relevant product class to meet a specified level (the high efficiency level);
- requirements relating to the performance of products in the relevant product class;
- requirements relating to the impact of products in that product class on the environment or on the health of human beings;
- requirements for conducting tests in relation to products in the relevant product class in order to determine whether the products meet the specified requirements; and
- requirements of a kind specified in the regulations for the purposes of this paragraph.

Under section 35 of the Act the Minister may, by legislative instrument, revoke a GEMS Determination that covers one or more product classes, and make another GEMS Determination in accordance with Division 2 of the Act that specifies that it replaces the revoked Determination. The Determination is a legislative instrument within the meaning of the *Legislative Instruments Act 2003*.

## **Consultation**

The Australian Government released a consultation paper on 12 September 2014 on the proposed changes to the revoked Determination, which would give effect to the voluntary use of Mark VI on EPS products. The closing date for submissions was on 26 September 2014.

Submissions were generally supportive of the proposal. Two minor clarification comments relating to the wording of the new section 8 as well as the definition for the IEMP were taken into account in the finalisation of the Determination.

## **Regulatory Impact**

The revoked Determination reflected the requirements that had been set under previous state and territory legislation, prior to the Act coming into force, which had been the subject of a comprehensive COAG regulatory impact analysis process. As the changes encapsulated by this Determination makes no substantive changes to the requirements of the revoked Determination, a detailed regulatory impact analysis was not considered necessary by the Office of Best Practice Regulation.

Under the revoked Determination, manufacturers, importers and other registrants could not supply EPS with the highest efficiency level of mark VI because EPS could only be labelled at III, IV or V levels. The practical effect of this restriction was that EPS manufacturers could only label their EPS as mark V or to dual label the product with mark V and VI, in order to supply the product in Australia. Industry indicated that this would be an additional cost burden for manufacturers and suppliers of EPS for a comparatively small market like Australia. The Determination addresses this regulatory burden by permitting the voluntary use of mark VI, provided the EPS meets the requirements set out in the IEMP.

## **Detailed description of the Determination**

A detailed explanation of the Determination is provided at Attachment A.

## **Statement of compatibility with human rights**

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment B.

## Details of the Determination

### Section 1 – Name of Determination

This section sets out the title of the Determination.

### Section 2 – Commencement

This section provides that the Determination commences the day after it is registered on the Federal Register of Legislative Instruments. The default 12 month period that otherwise applies to the commencement of a GEMS Determination, as provided for by paragraph 34(a) of the Act, is not necessary with respect to this Determination because it reproduces in Commonwealth law the energy efficiency and energy labelling requirements that previously existed in state and territory legislation.

### Section 3 – Revocation of *Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2012*

This section provides that the Determination revokes and replaces the *Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2012*, in accordance with section 35 of the Act.

### Section 4 – Definitions

This section sets out definitions for key terms used in the Determination. The definitions include:

- definitions relating to the various Australian/New Zealand Standards by which the requirements of the Determination are specified;
- a definition of “single output external power supply”, which reflects the meaning in AS/NZS 4655.1:2005;
- a definition of “extra low voltage (ELV)”, which is given the same meaning as in AS/NZS 4655.1:2005;
- a definition of “end-use product”, which means the product powered by the external power supply;
- a definition of “IEC Standard”, which is a standard published by, or on behalf of, the International Electrotechnical Commission;
- a definition of “IEMP”, which is the International Efficiency Marking Protocol for External Power Supplies, Version 3.0, September 2013; and
- a definition of “standard”, which means an Australian Standard, an Australian/New Zealand Standard, an IEC Standard or any other equivalent document.

## **Section 5 – Interpretation**

This section provides guidance for interpreting certain aspects of the Determination.

### Subsection 5(1)

The purpose of this subsection is to avoid any inconsistency in terminology between the Determination (and other elements of the GEMS legislation) and the standards referenced in section 4 of the Determination. It provides that where a term used in the Determination is not defined in any part of the GEMS legislation, but is defined in a standard referenced in section 4, for the purposes of the Determination the term has the meaning set out in the applicable standard.

### Subsection 5(2)

Unless otherwise specified, the applicable version of a document incorporated by reference in a legislative instrument is the version that exists on the date the instrument takes effect. This is made clear for standards specifically referenced in section 4 of the Determination. However, often these standards refer to other standards or documents which also contain requirements that must be applied to give effect to the Determination or a standard referred to in the Determination. The purpose of this subsection is to make clear that the applicable version of these further documents is also the version that existed on the day the Determination takes effect.

## **Section 6 – Specified product classes covered by the Determination**

This section sets out the scope of the Determination with respect to the class of products that it covers.

### Subsection 6(1)

This subsection provides that the Determination covers single output external power supplies, as defined in section 3, with a maximum output power of 250 watts or 250 volt-amperes, in the product classes specified in subsection 6(2). This reflects the scope of the regulations for this product type under the previous state and territory legislation, as it was set out in the Australian/New Zealand Standard AS/NZS 4655.2:2005 (*Performance of external power supplies Part 2: Minimum energy performance standard (MEPS) requirements*).

### Subsection 6(2)

This subsection specifies the product classes that are covered by the Determination. This subsection specifies that there are four product classes for external power supplies covered by the Determination, based on whether the output voltage is user selectable or not, and whether the output is alternating current or direct current.

### Subsection 6(3)

This subsection sets out product classes that are not covered by the Determination. These are:

- external power supplies with simultaneous multiple output voltages;
- direct current to direct current (d.c. to d.c.) voltage conversion equipment;

- single output external power supplies for transformers and electronic step-down converters for extra low voltage (ELV) lamps;
- therapeutic devices on the Australian Register of Therapeutic Goods;
- direct current (d.c.) or battery powered equipment; and

This reflects the product classes excluded under the previous state and territory legislation.

#### Subsection 6(4)

This subsection defines the term “user selectable output voltage” for the purposes of section 6 as a means by which a user can select one of multiple output voltages.

### **Section 7 – GEMS level requirements**

This section specifies GEMS level requirements for energy use for external power supplies covered by the Determination, including requirements for conducting tests in order to demonstrate compliance with the energy use requirements, under section 25 of the Act.

#### Subsection 7(1)

This subsection provides that the GEMS level requirements in relation to energy use are those set out in:

- clause 2.1 of AS/NZS 4655.2:2005 (No Load Power Consumption and Average Active Mode Efficiency) for products in product classes 1 and 2; and
- clause 2.2 of AS/NZS 4655.2:2005 (Average Active Mode Efficiency) for products in product classes 3 and 4.

#### Subsection 7(2)

This subsection specifies that the requirements for conducting tests for products in product classes 2 and 4 (products with a user selectable output voltage) are those set out in:

- section 2 of AS/NZS 4665.1:2005 (General Conditions for Measurement);
- section 3 of AS/NZS 4665.1:2005 (Measurement Approach);
- clause 4.2 of AS/NZS 4665.2:2005 (Input Test Voltage); and
- clause 4.3 of AS/NZS 4665.2:2005 (Output Test Voltages at Highest and Lowest Voltage only).

#### Subsection 7(3)

This subsection specifies that the requirements for conducting tests for products in product classes 1 and 3 (products with a non-user selectable output voltage) are those set out in:

- section 2 of AS/NZS 4665.1:2005 (General Conditions for Measurement);
- section 3 of AS/NZS 4665.1:2005 (Measurement Approach); and

- clause 4.2 of AS/NZS 4665.2:2005 (Input Test Voltage).

#### Subsection 7(4)

This subsection specifies, for subsection 7(3), that if a product in product class 1 or 3 is part of a family of models, the testing requirements in clause 4.3 of AS/NZS 4665.2:2005 (Output Test Voltages at Highest and Lowest Voltage only) also apply.

Models of external power supplies in product class 1 and 3 that are part of a family of models may have different output voltages. Clause 4.3 of AS/NZS 4665.2:2005 requires that only the models with the highest and lowest output voltage in the family of models be tested.

### **Section 8 – GEMS labelling requirements**

This section specifies GEMS labelling requirements for external power supplies covered by the Determination, including requirements for conducting tests in order to demonstrate compliance with the energy labelling requirements, under section 26 of the Act.

#### Subsection 8(1)

This subsection provides that the specified labelling and communication requirements for a product class mentioned in subsection 6 (2) are:

- the requirements mentioned in Appendix A of AS/NZS 4665.1:2005 and section 5 of AS/NZS 4665.2:2005 in relation to the energy performance mark to be shown on the product; or
- if a product exceeds the energy performance requirements for Mark V as mentioned in Appendix A of AS/NZS 4665.1:2005 and meets the performance requirements for Mark VI mentioned in the IEMP then the product may be labelled in accordance with the requirements for:
  - Mark V mentioned in Appendix A of AS/NZS 4665.1:2005 and sections 4.2 and 5 of AS/NZS 4665.2:2005 (Energy Performance Mark); or
  - Mark VI mentioned in the IEMP.

#### Subsection 8(2)

This subsection specifies that the requirements for conducting tests are the same as those set out in subsections 7(2) to 7(4) of the Determination.

### **Section 9 – Other GEMS requirements**

This section specifies other GEMS requirements in relation to the high efficiency level for external power supplies covered by the Determination, including requirements for conducting tests in order to demonstrate compliance with high efficiency level requirements, under section 27 of the Act.



A high efficiency level is a concept that will help to distinguish the most efficient product models in each product class, assisting businesses to promote highly efficient products. Products need not meet the high efficiency level but those which do will be entitled to use the more distinctive high efficiency claim and a higher energy performance mark – for as long as they meet the high efficiency level (which may change over time to encourage greater efficiency).

#### Subsection 9(1)

This subsection provides that the specified requirements for a product class to meet the meet the high efficiency level are:

- the requirements mentioned in section 3 of AS/NZS 3664.2:2005 (High Efficiency Levels) for that product class - which are the requirements for Marks IV and V in this Determination ; or
- if a product meets the energy performance requirements for Mark VI of the IEMP then the requirements for Mark VI of the IEMP.

#### Subsection 9(2)

This subsection specifies that the requirements for conducting tests are the same as those set out in subsections 7(2) to 7(4) of the Determination.

### **Section 10 – Family of models**

Section 28 of the Act provides that a GEMS Determination must specify, for each product class covered by the Determination, the circumstances in which two or more models in that product class are in the same family of models.

For external power supplies, different circumstances are specified depending on whether the product has a non-user selectable output voltage (product classes 1 and 3) or a user selectable output voltage (product classes 2 and 4). Unlike the majority of other products regulated under the Equipment Energy Efficiency (E3) Program, external power supplies supplied under different brand names may be part of the same family of models, provided all other requirements for a family registration are met.

#### Subsection 10(1)

This subsection specifies that the family of models circumstances for external power supplies in product classes 1 and 3 covered by this Determination are those set out in clause 1.3.8 of AS/NZS 4665.1:2005.

#### Subsection 10(2)

This subsection specifies that the family of models circumstances for external power supplies in product classes 2 and 4 covered by this Determination are those set out in clause 1.3.9 of AS/NZS 4665.1:2005.

## **Section 11 – Product categories**

Section 29 of the Act requires that a GEMS Determination specify whether the products it covers are category A or category B products. Category B products are subject to higher penalties than category A products for certain offences under the Act, on the basis that category B products have a high impact on energy use or greenhouse gas production.

This section specifies that external power supplies covered by this Determination are category A products.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2014*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Greenhouse and Energy Minimum Standards (External Power Supplies) Determination 2014* prescribes matters relating to minimum energy efficiency and energy labelling requirements for external power supplies under the *Greenhouse and Energy Minimum Standards Act 2012*. The Determination establishes requirements for energy use, energy labelling and high efficiency levels, including requirements for conducting tests in order to demonstrate compliance with those requirements. The Determination also sets out the circumstances in which two or more models in a product class may be a family of models, and establishes the applicable product category for the purposes of calculating certain penalties under the Act.

### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Ian Macfarlane MP  
Minister for Industry**