

## **WELS Scheme Delays in registration**

Industry has concerns and questions as follows:

- It would appear that many of the complaints about the WELS system arise from the excessive costs to product suppliers and the resource constraints within DEWHA for this program. The emphasis on the need for the WELS program to show cost recovery may be the root of the more serious complaints.
- DEWHA has advised that it has commissioned KPMG to prepare a report on the extent to which the WELS Scheme is recovering its costs (actual performance as compared to original cost recovery projections) and to assess the extent to which the Scheme is compliant with Australian Government Cost Recovery policies. Following on from that, a Cost Recovery Impact Statement will be prepared and released for public comment by mid 2008. It is not clear how or when this assist in addressing the complaints lodged to date
- DEWHA has advised that they are developing a new and improved registration system. The new system is expected to operate from July 2008. It is not clear how this will address the complaints to date and there appears to be little time for trialing the system to confirm that it addresses the reported problems prior to implementation.
- DEWHA has advised that it is currently reviewing the Water Efficiency Labeling and Standards Act 2005 and that any proposed amendments would be made available for public comment. The aims are to clarify registration and application requirements and to provide greater flexibility in application of the Scheme, especially with respect to the implementation of minimum levels of performance. It is not clear how these will address the complaints lodged to date.
- DEWHA has advised that work has begun on the Government's response to the 2007 Parliamentary inquiry, "Managing the Flow". Industry hope that one outcome of this review will be the establishment of WaterMark as a pre-requisite for WELS. DEWHA has advised that these are separate processes via separate agencies but it is hoped that they can "mesh". There is little confidence that the preferred position of WaterMark as a pre-requisite for WELS registration will be achieved.
- It is not clear what is happening in New Zealand – hopefully this will not be different to Australia for the same models of product.
- DEWHA has advised that it has commenced a program of compliance inspections and will commence check-testing in 2008, and that it has been working with online exchanges, such as EBay to ensure products sold comply with the WELS Scheme. When will this be at the level requested by industry?
- DEWHA has advised it intends to pursue partnership approaches with individual organisations / manufacturers to provide targeted and appropriate information to different groups. When and how will this occur?

## **Poor compliance and enforcement**

**Industry suggests the following improvements to the WELS System:**

With respect to compliance and enforcement, industry has requested consideration be given to:

- DEWHA has advised that it is producing a "scorecard" on its compliance efforts. Industry suggests that this scorecard should be based on # reports received vs # resolve vs # in court vs # dismissed and this information could be used to both assess and promote the success and credibility of WELS.

- providing feedback to the person making an allegation re. non-compliant product in the market re. progress of investigations.
- ensuring compliance through the whole supply chain in addition to at point of sale
- increasing inspection capacity in the field (regional areas to be added to metro focused inspections), including (possibly) by enlisting state government agency inspectors.
- All parts of the supply chain in each market channel to be the focus of the inspections ie. Retail, wholesale or import.
- DEWHA to make better use of technical experts and to use standards committees to provide input to WELS work.
- DEWHA to work closer with water utilities and state governments to increase consumer awareness of WELS and understanding of the merits of purchasing water-saving equipment.

## **Energy labeling and minimum energy performance standards**

### **Slow development of standards**

The first step in the development of Standards pertaining the regulated levels of energy efficiency of equipment and appliances is the justification of the need for such programs and regulations.

E3 (Equipment Energy Efficiency Committee) continues to meet the 2004 COAG guidelines for Regulatory Impact Statement (RIS) requirements by preparing for each product a:

- Consultation RIS - cleared before industry consultation, through the Office of Best Practice Regulation (OBPR); and
- Decision RIS – cleared by OBPR before presentation to the Ministerial Council on Energy (MCE).

In 2006 in an effort to streamline processes with the OBPR, the E3 committee agreed to trial the publication of a Cost Benefit Analysis (CBA). This additional pre-RIS step did not require OBPR clearance and was not a formal requirement under the COAG guidelines.

The aim of the CBA was to allow industry to respond to potential OBPR issues, meaning that successive discussion and decision RISs would be expedited. However, this theory did not match practice as OBPR questioned similar issues at both CBA and RIS stages, and as a result delayed implementation as timelines lapsed.

Industry has concerns with the need for sufficient notification of impending regulation and has emphasised the importance of E3 meeting planned timelines for the introduction of that regulation, which requires the OBPR to cooperate in the timely approval of RISs

In light of this observation and industry concerns, the E3 committee agreed in January 2008 to drop the formal policy of undertaking CBAs prior to a RIS; although one may be developed occasionally on a case by case basis where it is warranted. It is not clear how this will be decided and how / if industry will have input to the decision.

Having established the need for an Australian Standard to support regulation, the Standard needs to be developed. Standards Australia have consulted with Stakeholders on a range of proposed options for improving this work. At present, feedback is being collated in preparation for further consultation. In the interim it would appear that one option is agreed by most stakeholders as the least undesirable.

Industry has concerns that the way forward

- has not been properly planned,
- may not be properly resourced,
- may add to the costs of industry and impact on competitiveness
- may fail to be implemented by the proposed deadlines
- may not actually improve the situation

Industry will insist that whatever approach is used, the principles of achieving consensual outcomes by way of structured and balanced must be adhered to in the interests of providing national consistency of regulatory outcomes)

As industries commitment to making the Standards development process work to the satisfaction of all stakeholder, Ai Group have commenced discussions and work with senior management of Standards Australia on the following:

- a “good news” communication campaign .....:
  - Standards Australia staff have drafted a Q&A leaflet covering the areas of misconception about Stds Aust finances, commercial objectives, future plans and resourcing. Once signed off by Stds Aust CEO this will be finalised for printing as a leaflet and for inclusion in trade press, on Stds Aust website, etc.
  - Following discussion within Ai Group membership, it was agreed that the EL-004 Standards Committee and one or more Working Groups under EI-015 Stds Committees are good candidates for pilot projects to trial new processes and systems at Stds Aust. These were chosen because they are (1) important, (2) active, (3) problematic, (4) relate to energy efficiency of appliances, and (5) have some immediate issues. It is hoped that emphasis on these committees will provide some good news early and as such remove some of the frustration and negative perceptions among key industry personnel.
  - All to work through Ai Group Forums to review Stds Comm membership to ensure that delegates nominated by Ai Group are active, committed to the making the Committees work, available, employed by Ai Group member companies and have the support of their industry colleagues. Replacements will be nominated as required.

## **Poor compliance and enforcement**

DEWHA has confirmed that the E3 committee continues to place great significance on the check testing of appliances to ensure compliance with MEPS and/or labeling and explained that a significant work program has been undertaken this financial year, with further testing of clothes washers, clothes driers, dish washers, fluorescent lighting ballasts, fluorescent lamps, refrigerators, electric storage water heaters and refrigerated display cabinets to be completed by mid June 2008.

Over the next three years, significant funding has been allocated to continued compliance activities. To facilitate ongoing testing, DEWHA, on behalf of E3, has instigated an open tender process to procure testing facilities for the next three years. This will enable greater access to appropriate testing laboratories in Australia, New Zealand and overseas.

Negotiations are currently underway with a number of suppliers in relation to compensation actions for non-compliant products. The outcomes of these negotiations, and recent check testing activities, will be reported in the next edition of the compliance newsletter.

Industry accepts this advice as well intentioned however we are concerned regarding the ongoing prevalence of non compliant product in the market and apparent inaction or slow action.