Proposed Implementation of Mandatory Energy Performance Standards and Labelling

Discussion document for consultation under the Energy Efficiency and Conservation Act 2000

Prepared by the Energy Efficiency and Conservation Authority and the Ministry for the Environment

April 2001

Acknowledgement

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Contents

Foreword

I am pleased to release this discussion document on proposals for regulations on energy efficiency performance standards and labelling. The regulations are an important step in improving New Zealand's energy efficiency, and there is a lot of room for improvement.

Overseas experience has shown that energy efficiency can make a big contribution to reducing greenhouse gas emissions and at the same time benefit the economy by reducing costs.

These energy performance regulations are an important part of our broader energy efficiency strategy for New Zealand. I recently issued a Draft Strategy for public consultation. In turn, the energy efficiency strategy is a key plank of our policy response to the greenhouse gas issue. The Government intends to ratify the Kyoto Protocol on climate change around mid-2002.

In the future, when New Zealanders shop for whiteware, they will have accurate information available on how energy efficient each appliance is, and how that model compares with other brands of similar size and performance. The information will be attached to each appliance, on a label which will show how much energy the appliance uses each year under normal operating conditions. The label will also give a star rating of the appliance's energy efficiency. The information on the label will be based on testing of the products to joint Australian/New Zealand Standards. Information on labelled products will also be available on a public website.

But what about products someone else chooses? For example, hot-water cylinders are seldom chosen by the person who pays the energy bills. They may be chosen by the builder, the landlord, the previous owner or replaced in an emergency with what is readily available. For products like this, enforcing minimum standards for energy efficiency ensures that the badly inefficient products simply aren't available.

I believe that New Zealand can design a system for energy efficiency standards and energy labelling which keeps the compliance costs to business as low as possible. As part of the process of consulting on the regulations, a panel of business people will be looking at the proposals and advising on how to streamline the regulatory regime and reduce any compliance costs. With their help, we can make our regulations and the way we administer them user-friendly and easy to understand and apply.

I am releasing this document to further test how the energy efficiency proposals might affect New Zealand businesses and householders. We will take your views into account when we finalise the design of the new regime. Help us by reading this document and sending us your ideas.

Hon Pete Hodgson
MINISTER OF ENERGY

Making a Submission

The Ministry for the Environment and the Energy Efficiency and Conservation Authority (EECA) want to hear your views on the proposed regulations outlined in this document, and how to implement them. In particular we want to hear your views on:

- how to introduce and administer the regulations in a way that will minimise costs, especially compliance cost to business
- how to ensure that the requirements are fair and equitable.

We also want to hear what you have to say about extending the scope of the regulations to apply minimum energy performance standards to an additional three product classes.

Submissions on proposals in this discussion document will be accepted until **11 May 2001**. During this time EECA will also be contacting a number of known affected groups to discuss their views.

Once draft regulations are available, there will be further opportunities to comment. The intention to make regulations will be publicly notified, and in addition all those who made submissions on this discussion document will be invited to comment on the draft regulations.

Please contact David Cogan at EECA (telephone (04) 470 2200), if you would like to discuss your ideas and views, or to be invited to meetings and workshops.

Submissions should be posted to:

MEPS/Labelling Advisor
Energy Efficiency and Conservation Authority
PO Box 388
WELLINGTON

Or faxed to: 04 499 5330
Or emailed to: regs@eeca.govt.nz

Closing date for submissions is **11 May 2001**.

Please provide your name, address and contact details with your submission. If you supply information that is confidential, please clearly identify the parts of your submission which are confidential.

Executive Summary

The proposed regulations will be made under the Energy Efficiency and Conservation Act 2000. The Government has specifically decided to:

- apply minimum energy performance standards (MEPS) for three product classes (domestic electric hot-water storage heaters, tubular fluorescent lamps and ballasts for fluorescent tubes)
- adopt mandatory energy performance labelling (energy labelling) for those product classes regulated in Australia (refrigerators and freezers, dishwashers, clothes dryers, clothes washers and household-size air conditioners)
- ensure that the MEPS and energy labelling regime is compatible with the regime in Australia and based on the same joint Standards
- investigate the extension of the MEPS regime to three additional product classes (three-phase cage induction motors, refrigerators and freezers, and packaged air conditioners)
- publicly notify regulatory proposals for MEPS and energy labelling and to commence consultation.

After considering submissions on the discussion document, officials will report back to Government with recommendations on drafting the regulations, and on which additional product classes, if any, should be adopted. There will be further opportunity for public comment on the final draft of the regulations later this year. Regulations could be in force as early as February 2002.

The regulations will contain a schedule of product classes subject to MEPS and/or energy labelling, and specify which New Zealand or joint Australian/New Zealand Standards set out the requirements for product testing, minimum energy performance, and/or labelling for each scheduled product class.

The MEPS and energy labelling regime will be similar to the equivalent Australian scheme:

- Manufacturers and importers will not be permitted to make available for sale or sell models in New Zealand which do not comply with MEPS. Information will need to be supplied to the Energy Efficiency and Conservation Authority (EECA) unless the product is already registered in Australia.
- Retailers may not sell items which do not comply with MEPS, but may have a defence if the MEPS status of the model was misrepresented to them by a manufacturer or importer.
- For all scheduled products subject to energy labelling, a valid label must be displayed at the point of sale. The manufacturer or importer will need to supply EECA with the information used to calculate the energy consumption and star rating on the label (unless the product is already registered in Australia), and ensure that appliances are correctly labelled.
- Retailers will be responsible for ensuring a valid label is displayed, and that it is for the correct make and model of appliance.

The regulations will not apply to sale of second-hand, pre-used goods (unless imported specifically for retail sale). Energy labelling would not normally apply to models where no more than 50 are sold in total in New Zealand, but there will be provisions to stop this being used as a loophole.

EECA will be responsible for administering and enforcing the regulations. In preparing the regulations EECA and the Ministry for the Environment will consult on methods of reducing compliance costs to business through a business compliance test panel.

Once the regulations are in place, EECA will promote the regulations and provide information and training to manufacturers, importers and retailers to assist them fulfil their responsibilities. EECA will enforce compliance with the regulations by a variety of methods including prosecution under the Act if necessary. The maximum penalty is a $10,000 fine per offence.

1 Background

Energy labelling of household appliances has been voluntary in New Zealand since 1989. Some retailers display energy labels on appliances, others do not. In November 2000, the Government decided to implement mandatory energy performance labelling (referred to in this document as "energy labelling") for refrigerators and freezers, dishwashers, clothes dryers, clothes washers, and household-size air conditioners. It also confirmed the introduction of minimum energy performance standards (MEPS) for domestic electric storage water heaters, fluorescent tubes, and ballasts for fluorescent tubes.

Section two of this discussion document describes the regulatory proposals for MEPS and energy labelling for these product classes, and invites comment on the implementation of the proposed regulations. The detail is set out under the following headings: MEPS and labelling; Government policy relevant to the proposals; the legal basis for the regulations; the proposed regulatory and compliance regime; and ways to educate and inform people about the new regulations.

The Government is also considering extending the MEPS regulations to include three additional product classes: three-phase cage induction motors, refrigerators and freezers, and packaged air-conditioning units.

Section three presents the results of a recent economic analysis of the impact of these additional MEPS on business and low-income households and invites comment on the extension of the MEPS regime to include these additional product classes.

Regulations on MEPS and energy labelling will be prepared under section 36 of the Energy Efficiency and Conservation Act 2000 ("the Act"). Later in the year the intention to make regulations will be formally advertised and final comment invited on the draft regulations.

2 Implementation of a MEPS and Energy Labelling Regime

2.1 Introduction

A number of obstacles currently mean that uptake of energy-efficiency measures is not optimal within New Zealand. These include unreliable and inconsistent information on the energy performance of products, price signals that do not reflect the true cost of energy, and a lack of incentives in the market to encourage the purchase of energy-efficient products.

2.1.1 What are MEPS and energy labelling?

MEPS and energy labelling are regulatory measures which will raise the average energy efficiency of various product classes and remove some energy inefficient models from the marketplace. They will reduce operating costs and contribute to a reduction in New Zealand's energy consumption and associated greenhouse gas emissions. MEPS and energy labelling are complementary policy tools, designed to address different barriers to energy efficiency. For some product classes both MEPS and energy labelling can usefully be applied, but in most cases only one is appropriate.

MEPS

MEPS require particular product classes to meet specified minimum energy performance criteria when tested under standard conditions. Therefore the worst energy performing models are removed from the market by regulation.

MEPS are most suitable for product classes where the lifetime energy costs are not a factor in the purchase decision. This may be because the purchaser does not pay the energy bills. For example, equipment such as air conditioning, hot-water cylinders and lighting systems may be specified or installed by a construction contractor without input from the end-user. Another example is where appliances such as hot-water cylinders and refrigerators are purchased by a landlord but the tenant pays the energy costs.

Energy labelling

Labelling of domestic white goods is currently voluntary. Mandatory energy performance labelling ensures that potential purchasers are provided with prominent and accurate energy performance information at the point of sale. Scheduled products are given an energy performance rating based on the results of testing to agreed technical standards. A label showing the energy performance rating is displayed on the item. A labelling regime will also include providing information on a publicly accessible website.

Energy labelling is appropriate for product classes where consumers readily have the opportunity to consider energy performance information when making purchase decisions. It provides information which would be difficult or expensive for individual consumers to obtain, and provides it in an easily understood form at the point of sale. Better-informed consumers will tend to opt for more energy-efficient models with lower life-cycle running costs. The effect of energy labelling can be enhanced by additional awareness-raising and educational activities (see 2.11).

What is happening in other countries?

MEPS and energy labelling have been implemented in some 34 countries, including New Zealand's key trading partners Australia, the United States, Japan, the European Community, South Korea and Canada.

The Energy Rating Label was first introduced in Australia in 1986. In most states and territories, it is mandatory that refrigerators, freezers, clothes washers, clothes dryers, dishwashers and room air-conditioners carry the label when they are offered for sale. The energy labelling regime was revised in 2000, and energy efficiency is now measured against tougher standards than those used for the earlier labels. In Australia, MEPS currently apply to refrigerators, freezers and hot-water heaters. MEPS for motors, packaged air conditioners and lighting ballasts are imminent.

2.1.2 Benefits of MEPS and energy labelling

The MEPS and energy labelling scheme is being introduced to save energy that otherwise would be needlessly wasted. This will help reduce New Zealand's emission of carbon dioxide, one of the main greenhouse gases posing serious climate-related risks. MEPS and labelling can make a significant contribution to reducing New Zealand's greenhouse gas emissions over time by gradually improving the energy efficiency of household appliances and industrial electrical products.

The proposed scheme is good for households, business and the economy because it results in lower running costs. The regime is cost-effective – studies show that additional upfront costs, if any, are offset by energy savings over the short to medium term. The regulations will be implemented in a business-friendly manner, keeping compliance costs as low as possible.

Energy labelling empowers consumers by providing them with the information they need to select the more energy-efficient of the models now on the market. In turn this should encourage suppliers to bring more efficient models on to the New Zealand market over time.

MEPS protect consumers from the ongoing energy costs associated with running inefficient appliances they did not personally choose. MEPS also remove the risk that suppliers will divert inefficient articles that no longer comply with Australian MEPS to New Zealand. Although this might only be a short-term problem as models are phased out, it can easily be prevented by adoption of the Australian MEPS levels in New Zealand. It is in any case generally desirable under the Trans-Tasman Mutual Recognition Arrangement (TTMRA) for New Zealand and Australian regulations affecting trade to be in broad alignment (see 2.2.4).

In the future, New Zealand will have the opportunity to participate fully in the ongoing development of the Australasian MEPS regime to ensure it is well-suited to New Zealand conditions. This could lead to further substantial energy savings.

2.1.3 Potential disadvantages of MEPS and energy labelling

Even with a regime designed to minimise compliance costs, there may be some transition costs as manufacturers, importers, retailers and consumers adjust. A business compliance test panel will be asked to advise on ways of reducing compliance costs to business.

There is significant evidence that the overall benefits of the scheme outweigh the costs. However, consumers sensitive to first-price (as opposed to life–time cost) could be inconvenienced if the less energy-efficient models were no longer available – but only if these were cheaper than energy-efficient models.

Section three of this document discusses the effect of MEPS for refrigerators and freezers on low-income households. The economic analysis undertaken shows that the models currently on the market in New Zealand are MEPS-compliant, and indicates that the market in New Zealand has already responded to international MEPS requirements.

2.2 Relevant Government policy

2.2.1 Energy efficiency policy

The Energy Policy Framework, released in October 2000, stresses the need for continuing improvements in energy efficiency. The Government recognises that energy efficiency can contribute to the competitiveness of industry, foster wider economic prosperity and improve the well-being of households in New Zealand. The Energy Policy Framework noted the Government's intention to develop consumer labelling and apply energy performance standards for appliances.

The Energy Efficiency and Conservation Authority (EECA) and the Ministry for the Environment are working together to produce a National Energy Efficiency and Conservation Strategy by October 2001. The Minister of Energy released a Draft Strategy on 29 March 2001. Submissions on the Draft Strategy will be received until 1 June 2001. The MEPS and energy labelling regime is one of the proposed measures in the Draft Strategy.

MEPS and energy labelling form an important part of a broad-ranging package of measures to improve energy efficiency. Regulatory measures will be complemented by voluntary schemes and education in energy efficiency.

2.2.2 Climate change policy

The Government has stated its intention to ratify the Kyoto Protocol on climate change and greenhouse gas emissions by the middle of 2002. Energy use is one of the dominant sources of New Zealand's greenhouse gas emissions. Experience in countries throughout the world has demonstrated that improving energy efficiency is one of the most cost-effective ways of reducing greenhouse gas emissions.

2.2.3 Government decisions on MEPS and energy labelling

Since releasing the Energy Policy Framework in October 2000, the Government has specifically decided to:

- apply mandatory MEPS for three product classes (domestic electric hot-water storage heaters, tubular fluorescent lamps and ballasts for fluorescent tubes)
- adopt energy labelling for those product classes regulated in Australia
- ensure that the MEPS and energy labelling regime is compatible with the regime in Australia
- develop regulations pursuant to the Energy Efficiency and Conservation Act 2000 in order to implement MEPS and energy labelling for agreed product classes
- publicly notify regulatory proposals for MEPS and energy labelling and to commence consultation.

Officials will report back later in 2001 with detailed recommendations for having the regulations drafted into legal text. They will also report on which additional product classes, if any, should be adopted.

An independent economic analysis of the impact on end-users of introducing MEPS for three additional product classes (three-phase cage induction motors, refrigerators and freezers and packaged air conditioners) has been undertaken and is discussed in section three of this document.

2.2.4 Trade harmonisation

Adopting mandatory MEPS and energy labelling regimes will prevent New Zealand from becoming a dumping ground for energy-inefficient stock than can no longer be sold in other countries as their energy efficiency standards are tightened. Under the Trans-Tasman Mutual Recognition Arrangement (TTMRA), products that can be legally sold in any one Australian state or territory, or in New Zealand, can be sold in all other participating jurisdictions.

Australia and New Zealand form a single market for many commercial and residential products. New Zealand decisions to apply MEPS and energy labelling regimes along similar lines to those in Australia are expected to facilitate trade. It is hoped that this will prevent the implementation of permanent exemptions to TTMRA. Exemptions would mean that products from New Zealand which are subject to MEPS and energy labelling in Australia could not be sold there unless the products were registered in the Australian system. The MEPS and energy labelling implementation regime proposed in this document is consistent with the Government's direction to align our regime with that of Australia.

2.3 Legal basis for regulations

2.3.1 Energy Efficiency and Conservation Act 2000

The Energy Efficiency and Conservation Act 2000 came into force on 1 July 2000. It provides the empowering legislation to issue regulations to prescribe MEPS and energy labelling.

The Act also covers issues to do with:

- evidence of compliance
- the manner of product testing
- certification of testing
- offences and fines
- public notification and consultation
- ability to incorporate material (such as standards) into the regulations
- confidentiality of information.

The relevant provisions are contained in sections 36–39 of the Act (reproduced in Appendix 1).

2.3.2 Consultation on proposed regulations

The Act requires that the Minister publicly notify the proposal to make the regulations, consult as appropriate and provide the opportunity to make submissions on the proposed regulations. The Ministry for the Environment administers the Act and is managing the production of the regulations, in consultation with EECA. EECA will be responsible for administering the regulations.

Consultation will provide valuable input to the regulations, and help minimise any adverse impacts on manufacturers, importers, retailers and consumers. The process includes several opportunities for input:

- Initial comments are being sought on the proposals, as outlined in this discussion document. The availability of the discussion document will be advertised widely.

- An industry test panel is being established to canvas the views of manufacturers, importers and retailers on the proposed regulations. This is part of a Ministry of Economic Development initiative aimed at reducing compliance costs to business.
- A draft of the regulations will be made available for formal submissions in mid-2001, before the regulations are finalised.
- Informal consultation will be carried out by EECA throughout the development of the regulatory proposals.

2.4 Proposed MEPS and energy labelling regime

2.4.1 Overview

The regulations will set out the requirements for the product classes covered by MEPS and/or energy labelling. Some products may be subject to both MEPS and energy labelling, and will need to fulfil the requirements relating to both. In addition it is proposed that there be a requirement that any voluntary labelling complies with an appropriate standard, and prohibiting any other forms of energy labelling.

The key elements of the proposed New Zealand regime for MEPS and energy labelling are:

- products for sale or lease in New Zealand to be tested to determine their energy performance according to New Zealand or joint Australian/New Zealand Standards
- information showing testing results to be lodged with EECA prior to a product being made available for sale within New Zealand, unless the product is already registered in Australia
- products subject to energy labelling would be required to show the correct label at all times when made available for sale or lease
- products subject to MEPS cannot be sold unless they comply with the required MEPS levels
- second-hand products and limited production/import runs may be exempt from some of the requirements
- any changes to the regulations would allow stock manufactured or imported before a specified date to be sold.

Three main types of activities are proposed to promote compliance with the regulations:

- providing information and education on MEPS and energy labelling to businesses and consumers

- maintaining surveillance over scheduled articles and products, undertaking random check-testing, and following up on reports of products that may not comply with standards
- enforcement – primarily through co-operation with industry, but also through prosecution when necessary.

2.4.2 Scope

The regulations will specify in a schedule the five products subject to energy labelling (referred to throughout this document as "scheduled products"):

- domestic refrigerators and freezers
- dishwashers
- washing machines
- clothes dryers
- air conditioners.

The regulations will specify in a schedule the products subject to MEPS ("scheduled products"):

- electric storage water heaters
- fluorescent lamps
- fluorescent lamp ballasts
- additional product classes if approved (domestic refrigerators and freezers, packaged air conditioners, three-phase cage induction motors).

The MEPS requirements will also apply to assemblies that incorporate items subject to MEPS, where the incorporated item can be removed for testing.

The regulations will incorporate by reference the New Zealand or joint Australian/ New Zealand Standards which apply to each product (see Appendix 2), and in the case of fluorescent lamps, may set out the requirements in detail as there is no single applicable Standard.

2.4.3 Administration of the regulations

In order to minimise compliance costs on affected parties, administration of the regulations would be based on a simplified version of the Australian system.

It is proposed that all core functions relating to MEPS and energy labelling be the responsibility of EECA, who would:

- maintain day-to-day oversight of the regulations
- promote the regime and inform consumers and stakeholders
- monitor compliance and initiate enforcement.

However, some functions would be managed by other parties – eg, standards would probably continue to be developed by Standards Australia or Standards New Zealand.

2.4.4 Standards

The mechanisms for MEPS and energy labelling are detailed in the relevant New Zealand or joint Australian/New Zealand Standards. These Standards are developed by joint technical committees, with representatives from industry, test laboratories and consumer groups as well as Government regulators. The Standards development process is consensus-based and includes a public consultation phase. These Standards will be incorporated in the regulations by reference. A list of the Standards to be cited in the regulations is attached as Appendix 2.

Energy efficiency Standards are normally written to be suitable for both Australia and New Zealand, as this is increasingly one market. There is also a tendency towards alignment of requirements with other regions (Asia, Europe, North America) where appropriate. This is intended to reduce restrictions on trade and encourage a move towards consistency of energy performance throughout the world. New Zealand alone cannot expect international manufacturers to conform to a unique set of standards solely to be able to sell on the New Zealand market.

For scheduled products, the Standards generally have two parts:

- test procedure and ambient conditions such as the test method, performance measures and test materials
- detailed technical requirements for energy labelling and Minimum Energy Performance Standards (as applicable).

The second part of the Standards includes data on how to calculate star ratings and the comparative energy consumption (the energy number that appears on the label) for each model, details on the number of units to be tested, minimum performance requirements, application forms, check-testing procedures, the design and shape of the energy label and how the label is to be affixed to the appliance.

2.5 Requirements for MEPS

The regulations will require that:

- all scheduled products which are sold or leased in New Zealand must comply with the relevant Minimum Energy Performance Standard
- the importer of the scheduled product or the New Zealand manufacturer must lodge with EECA summary information (as required by the Standard) demonstrating compliance with the relevant Minimum Energy Performance Standard, unless the model is already registered under the MEPS regime in Australia.

This differs from the regulatory regime in Australia, which requires that products be registered with the appropriate authority and the offence is to sell products which are not registered.

In New Zealand, it will be an offence to sell products which do not comply with MEPS. It will also be an offence not to supply information on energy efficiency of a product model to EECA (see 2.8.1). It is not anticipated that EECA will run a register, nor receive applications for registration as such. EECA will simply receive and store this information, and will not approve applications or endorse the testing in any way.

If EECA, through check-testing, finds that a product model has been sold or leased which does not in fact comply with the relevant Minimum Energy Performance Standard, then that non-compliance itself will form the basis for further investigation and possibly prosecution.

It is proposed that once the information has been received by EECA, then the product will be deemed to be acceptable under the terms of the Australian regulation system and can be sold in either country.

2.5.1 Duties of importers and New Zealand manufacturers

The importer or New Zealand manufacturer will be obliged to supply information demonstrating compliance with MEPS. As stated above, this information will not be required if the product is registered in Australia. The nature and format of the information that EECA will require is set out in the second part of the relevant Standard (see the examples in Appendix 3).

Importers will need to ensure that the product model is registered in Australia or supply performance testing information to EECA before selling the product. The obligation to comply with MEPS applies to all importers. Importers will be liable if either the information due to EECA is not received, or the product is found not to comply with the appropriate MEPS (eg, after independent check-testing by EECA).

Importers are expected to have access to information on the product and be able to ascertain whether it complies with MEPS. Therefore, an importer will not have a defence if they claim they did not know that the product didn't comply. The only defence will be where the importer reasonably relied on testing information supplied by a laboratory or overseas manufacturer, which was subsequently found to be incorrect.

New Zealand manufacturers who are selling products in New Zealand will be under an identical obligation. The obligation will apply to New Zealand manufacturers who are selling directly to the public as well as manufacturers who are on-selling to a wholesaler or retailer. Again, New Zealand manufacturers have full responsibility to ensure that their products comply, and that the correct information based on laboratory testing (as specified in the second part of the relevant Standard) is supplied to EECA.

Manufacturers will be liable if either the information due to EECA is not received, or the product is found not to comply with MEPS (eg, after independent check-testing by EECA). It will not be a defence for a manufacturer to claim that they did not know that the product did not comply. However, the manufacturer may have a defence if they reasonably relied on testing information supplied by a laboratory, which was subsequently found to be incorrect.

In order to cover situations where the energy performance characteristics of a product are changed by a person so as to make the product non-complying, "manufacturer" would be defined in the regulations to include any person who physically modified products in a way that affects the product's energy performance.

2.5.2 Duties of retailers

Although retailers are not under an obligation to supply testing information to EECA, retailers will be liable if they make available for sale or lease any product that does not comply with MEPS. A "retailer" will include any person that sells, leases, or makes available for sale or lease the product to a consumer in New Zealand. This duty will mean that retailers need to exercise reasonable care when purchasing from suppliers, to ascertain that the product model complies. If the results of check-testing show that a product does not in fact comply with MEPS, then EECA may initiate proceedings against the retailer.

The retailer will have a defence if they can show that they exercised reasonable care to ascertain whether the energy performance characteristics of the product complied with MEPS. This reasonable care would include, for example, the retailer relying on information from the supplier. Retailers will therefore need to maintain a paper trail in order to protect themselves. The extent to which retailers are required to show reasonable care could either be specified in the regulations, or could be the subject of separate guidelines developed by EECA.

Discussion Question

What do you think "reasonable care" might require? Should what constitutes "reasonable care" be included in the regulations, or simply in administrative guidelines?

2.6 Requirements for mandatory energy performance labelling

The regulations will require that:

- all scheduled products sold or made available for sale in New Zealand have a valid Energy Performance Label
- the importer of the scheduled product or the New Zealand manufacturer must lodge with EECA summary information (as required by the Standard) demonstrating that the energy performance characteristics on the label correspond to the product's energy performance characteristics after testing
- for models already registered under the labelling regime in Australia, the importer or manufacturer would not be required to lodge the information with EECA in New Zealand.

The obligation is to label the product in accordance with the appropriate Standard and in accordance with the results of testing of the product. The energy labelling requirements are set out in the appropriate Standards – eg, label design, size of the label, placement. The label can be a self-adhesive sticker, or in some cases a swing tag, attached to the front of each unit. The energy label will include a website address where further information can be accessed.

2.6.1 Duties of retailers

Retailers are responsible for ensuring that all new scheduled products sold, leased or available for sale or lease carry a label which is of the general appearance and layout specified in the Standard, and is for the correct make and model number of product. For example, any energy label must be properly affixed and not obscured.

Retailers will not be required to verify that the energy efficiency rating on the label is correct (eg, by independent testing or by checking that EECA has received testing information from the importer or New Zealand manufacturer). However, if a retailer has been advised that a label is incorrect, then that retailer is liable if they continue to sell products carrying the invalid label.

If an item is packed by the manufacturer and shipped directly to the purchaser without being unpacked by the retailer, the retailer may have a defence if the label is absent or invalid. In this case the obligation for the label is with the manufacturer or importer. The onus is on the retailer to demonstrate that they could not have known about the breach of the regulations. However, it should be noted that some of the applicable Australian/New Zealand and New Zealand Standards also contain requirements for energy labelling of packaging, and the retailer would continue to be liable if the label on the packaging is incorrect.

2.6.2 Duties of importers and New Zealand manufacturers

Importers and New Zealand manufacturers will be responsible for ensuring that all products carry a label which is of the general appearance and layout specified in the Standard, and is for the correct make and model number of the product. Importers and New Zealand manufacturers will also be required to verify that the energy efficiency rating on the label is correct.

For importers, this will mean obtaining the information from overseas manufacturers. For New Zealand manufacturers, this will mean ensuring that all scheduled products sold in New Zealand are tested in accordance with the relevant Standard. The relevant information will need to be supplied to EECA in the required format, unless the model is already registered in Australia.

As with MEPS, the energy labelling requirements of the regulations will need to cover situations where the energy performance characteristics of a product are changed by a person so as to make the label inaccurate. To cover this, the definition of "manufacturer" would include any person who physically modified products in a way that affects the product's energy performance. Thus a person who changed the energy performance characteristics of a product would be responsible for re-labelling the product if required.

2.7 Voluntary labelling

Some of the Australian/New Zealand Standards provide for voluntary labelling of products subject to MEPS, such as packaged air conditioners and three-phase cage induction motors. This means that, although MEPS products need not be labelled, if they are labelled, then the information must be displayed in accordance with the provisions of the Standard, and based on testing requirements of the Standard.

Labelling in this instance can take the form of an energy performance category to be included on the unit's nameplate or packaging, or a statement of energy efficiency to be provided within catalogues and technical brochures. It is proposed that the regulations include voluntary labelling, so as to prohibit any forms of energy labelling that are not in accordance with the Standards for certain products classes.

2.8 Information to be lodged with EECA

2.8.1 Information requirements

For both MEPS and energy labelling, importers and New Zealand manufacturers will need to supply EECA with information before selling or leasing products within New Zealand unless the product model is already registered in Australia. EECA will acknowledge receipt of the information.

The format of the information required will be that specified in the second part of the relevant Australian/New Zealand or New Zealand Standard. Generic examples of forms for submitting information are set out in Appendix 3. The application form summarises the test data, and other relevant information.

These forms generally require laboratory test reports to be attached (as specified in the relevant first part of the Standard) for three sample units. The proposed New Zealand regime will not require the laboratory test reports to be sent to EECA, as long as they are held by the submitting organisation and made available to EECA on request. The test results would need to be held for five years following the cessation of manufacture, import or sale within New Zealand.

Discussion Question

Are the proposed information requirements reasonable?

2.8.2 Product testing

It is proposed to allow the manufacturer/importer to have their products tested to the appropriate Standard by an independent laboratory or by in-house laboratories as long as these are capable of testing to the appropriate Standard. Testing laboratories will be required to undertake the testing according to the methods set out in the relevant Standard, and to provide a test report. The resulting laboratory test report showing conformance to the relevant Standard would be used to complete the form required by EECA.

Knowingly falsifying testing information which is then supplied to EECA, or used as the basis for an application to EECA, will be an offence under the regulations. That is, it is proposed that testing laboratories themselves could be prosecuted under the regulations.

The manufacturer will need to hold the test data upon which the test report is based for a period of five years following the cessation of manufacture of the item, and will be required to provide this information to EECA if requested to do so.

2.8.3 Display of information on a public website

It is proposed that New Zealand and Australia would share a unified database to act as a single source of information on products available for sale or lease in New Zealand or registered in Australia. The Australian database is managed by a consultant on behalf of the National Appliance and Equipment Energy Efficiency Committee (NAEEEC), of which EECA is a member. The database currently contains data relating to each product registered in Australia, including those manufactured in New Zealand but made available for sale within Australia. EECA is entering into discussions with Australian authorities with a view to utilising this database for New Zealand. The database is already operating and can be viewed at www.energyrating.gov.au, or by links on the EECA website www.eeca.govt.nz.

Under the relevant Australian/New Zealand Standards, the website address of this database must be on every energy performance label. Although the database will not constitute a register in New Zealand (in the sense that it will not have any legislative force), the database will still be the mechanism by which members of the public can access information for products subject to MEPS and/or energy labelling. Accordingly, it is proposed that when EECA receives the required information for items subject to MEPS and/or energy labelling, EECA will enter this information on the website and it will be publicly available. However, commercially sensitive information will not be publicly displayed on the website.

Discussion Question

Would you consider any of the information required by EECA (section 2.8.1) to be commercially sensitive?

2.8.4 Information gathering

The regulations will also enable EECA to require sales data and other pertinent information for statistical purposes, as allowed for under section 36(1)(f) of the Energy Efficiency and Conservation Act. This would allow EECA to measure energy efficiency progress within the New Zealand marketplace.

However, sales data and other confidential information, as defined at the time of collection, would be made available only to EECA. The Act requires that if statistical information is to be published it must be aggregated or arranged to prevent individuals or firms being identified.

2.9 Exceptions to MEPS and energy labelling

It is proposed that the following categories will be exempt from the requirements of MEPS and energy labelling:

- products destined for export or in transit (this exemption will apply to products to be exported to any country; however, any MEPS and/or energy labelling regime in the importing country would still need to be complied with)
- second-hand products, except when products are imported with the sole purpose of supplying such items to the retail market here, or sold simply to alter their status to avoid the regulations.

Where only 50 or fewer products are ever imported into New Zealand, then a person can apply to EECA for an exemption from energy labelling. EECA may require an alternative or special label to be affixed to such models. EECA will not be obliged to grant a relaxation of the energy labelling requirements.

Discussion Question

Are there any other situations where you consider exemptions to the MEPS or energy labelling requirements should be granted?

2.10 Enforcement and penalties

For both MEPS and energy labelling, any breach of the regulations will be an offence and the importer, manufacturer or retailer will be liable for a fine. EECA would initiate prosecutions after following protocols outlined below. The Act sets the maximum fine that can be imposed at $10,000 for each offence. The regulations could provide that in determining the scale of the fine, the Court must take into account the value of the energy that would have been wasted because the items didn't comply with MEPS.

EECA plans to carry out its monitoring and enforcement responsibilities by:

- inspecting all types of scheduled products on display in commercial retail premises
- inspecting all types of scheduled products being made available for sale from commercial wholesale premises
- investigating cases of non-compliance and consumer complaints
- notifying manufacturers, importers and retailers in writing of any non-compliant products
- preparing reports detailing inspections and documenting findings of non-compliance
- gathering evidence to assist in the prosecution of persistent violators.

Inspections will also be carried out by check-testing. When selecting a model for check-testing regard will be given to factors such as: the numbers of each model on the market; high claims for energy efficiency; how recently the product was introduced onto the market; annual sales, and any history of non-compliance. EECA's investigations will be prioritised to ensure that the most questionable product groups are subject to earlier and more frequent testing. Account will also be taken of complaints concerning the levels of energy efficiency claimed for an article received from third parties such as competitors, consumers, consumer groups or regulatory agencies.

Initial check-testing costs would be met by EECA. EECA plans to use laboratories accredited by International Accreditation New Zealand (IANZ) for the relevant test to undertake product check-testing. Alternatively, other laboratories accredited via a mutual recognition agreement with IANZ may be used provided that they have accreditation for the relevant test.

If the initial check-testing of a product showed non-compliance with the regulations, EECA would give the manufacturer, importer or retailer the opportunity to respond by further testing of three units to be undertaken at that person's expense. If the person declines to undertake further testing, then they need to be aware that failure to provide the relevant data may result in prosecution and prevent them from selling their product.

In circumstances where additional testing following an initial failure is undertaken at a manufacturer, importer or retailer's own expense, EECA would generally require an IANZ-accredited laboratory to be used. If this is not possible, then a test witnessed by an IANZ appointee would probably be acceptable.

The ability to prosecute under the regulations would not affect any ability to prosecute or any civil liability under the Fair Trading Act 1986, which covers all misleading and deceptive conduct in trade, and will therefore involve some overlap with the regulations being promulgated under the Energy Efficiency and Conservation Act 2000. Although there is this overlap, a person could not be prosecuted under both the proposed regulations and the Fair Trading Act for the same offence.

Discussion Question

Can you suggest any ways that we can further reduce compliance costs?

2.11 Promoting energy-efficient appliances

Once the regulations are in place, EECA will be looking at ways to encourage consumers to make energy-efficient choices. Energy efficiency may not be the most important consideration for all consumers buying a new appliance, but it is certainly a key factor for some consumers. There is also evidence to suggest that many consumers use energy efficiency as a tool to help them choose between the final two or three products that meet their other main selection criteria.

Many consumers shopping for appliances have a checklist of features that may not include energy efficiency in the first instance. However, once they establish how much they wish to spend and decide upon key features such as type, size and colour, then energy consumption often becomes a valuable selling feature. The energy consumption on the energy label can be used to calculate the cost of operating an appliance. The operating cost is also known as the "second price tag", and can help customers choose between models.

By providing objective information and showing understanding and concern about the operating cost of an appliance, retailers can help win the confidence of their customers. EECA will be looking at ways to work with retailers to provide information on energy efficiency and operating costs of appliances to their customers.

Discussion Questions

What additional information, education or promotion could help customers choose energy-efficient appliances? How can we best provide information about the new regulations and the obligations they impose?

3 MEPS for Additional Product Classes

This section reproduces (with minor editorial changes) the executive summary from the report on an economic analysis undertaken by PA Consulting Group, January 2001.

3.1 Introduction

The Government has deferred its decision on whether to include three additional product classes in the MEPS regime until an economic analysis of the impact of these MEPS on end-users has been undertaken, and until those who may be affected have been consulted on the proposals.

PA Consulting Group (PA) was retained by the Ministry for the Environment (on behalf of the Ministry, The Treasury, the Ministry for Economic Development and EECA) to conduct an investigation of the economic impact on end-users of mandatory Minimum Energy Performance Standards for selected product classes.

The three product classes covered along with the relevant Standards are:

- domestic refrigeration appliances, as defined in AS/NZS 4474.1 (test method) and AS/NZS 4474.2 (requirements)
- three-phase cage induction motors as defined in AS/NZS 1359.102.3 (test method) and AS/NZS 1359.5 (requirements)
- packaged air conditioners as defined in AS/NZS 3823.1.1 (test method) and AS/NZS 3823.1.2 (requirements).

3.2 Summary of conclusions

All of the product classes considered are notable for the current high level of compliance with the MEPS standards. It appears that the product being supplied to New Zealand is strongly influenced by international trends towards more efficient product. In particular, the forthcoming introduction of MEPS in Australia and the very close relationship between the New Zealand and Australian markets mean that the market in New Zealand has largely already been transformed.

Notwithstanding this general conclusion, there are a few areas of uncertainty. Specifically, the testing procedures used to generate efficiency data with respect to some motors and air conditioners is not always disclosed and/or the relationship with the proposed Australian/New Zealand testing standard is sometimes unclear.

However, where this uncertainty exists, the consultant's discussions with manufacturers and importers suggest that in the event that non-compliance was discovered this could be remedied without a corresponding penalty in terms of purchase price flowing through to the end-user.

The only market where it is clear that there is product which would not comply with the Standards is with respect to small motors (less than 7.5 kW) imported for the purpose of inclusion by original equipment manufacturers in appliances such as extractor fans. But, even in this market, only one importer is affected.

An examination of a number of scenarios with respect to the end-use of these motors suggests that it is highly unlikely that the end-user would be made worse off – even if bringing them up to MEPS levels resulted in a price increase.

Overall, the consultant concludes that it is highly unlikely that the introduction of MEPS at the levels considered in this study will have an adverse impact on any end-user for any of the product classes under consideration.

3.3 Background

This study is the most recent of a series of investigations and streams of policy advice stretching back to the development of the Long Term Integrated Strategy for Energy Efficiency announced by the Government in July of 1994.

The objective of the investigation is to identify those individuals (or groups of individuals) who may be made better or (in particular) worse off by the introduction of MEPS, along with the extent of that advantage or disadvantage. Special consideration is given to the possible adverse impact of MEPS on low-income purchasers and to situations where affected product may only be used intermittently.

In accordance with the brief, this study does not purport to represent the costs and benefits of MEPS to society as a whole. For example, it does not address questions such as whether the variable rate of electricity represents the value to society of electricity saved. It is but one of the necessary inputs into the policy decision of whether or not to proceed with MEPS.

Although the timeframe provided for this assignment was tight it was possible for the consultant to gather a considerable amount of both quantitative and qualitative information from the industry and other sources about the products affected. Consequently, the consultant has a considerable degree of confidence about the robustness of the overall conclusions presented.

3.4 Methodology and information sources

At the core of the study is a discounted cash flow (DCF) analysis conducted from the perspective of the end-user. The key parameters used are the electricity price, the discount rate, the capital cost premium (if any) and energy savings for MEPS-compliant product vis-à-vis their non-complying equivalents. The values for all of these parameters are those that would be faced by the end-user.

The focus on the end-user means that the value of these parameters varies from one market segment to another. For example the (variable) price of electricity faced by a commercial consumer is not generally the same as that faced by a domestic consumer. Similarly, the discount rate relevant to a firm is not relevant to a low-income consumer.

In order to capture these differences, the DCF analysis was run with respect to a variety of different values for each of the product classes under consideration. In addition, the consultant has calculated the impact of an increase in the price of carbon on the cost of fossil fuels and geothermal energy sources and modelled the impact that this would have on the price of electricity. The impact of this increase has been included in the sensitivity analysis.

In terms of the information sources referred to, the consultant has relied on a combination of published material (including previous reports, relevant websites and product literature) the analysis of industry data obtained from Statistics New Zealand and interviews with key industry players – including importers, manufacturers and retailers. Given the timeframe provided for this study, it has not been possible to independently verify published material on such things as energy consumption for particular appliances. Unless there was good reason to think otherwise this material was assumed to be correct.

3.5 Domestic refrigeration appliances

The New Zealand market for domestic refrigeration appliances has two major players (Fisher & Paykel and Email Appliances) along with a number of small importers. Although imports from Korea are increasing, the market share of Korean appliances (LG and Samsung) is still small compared to that of the main players.

The New Zealand market appears to be strongly influenced by the pending introduction into Australia of MEPS for domestic refrigeration appliances. The closeness of the two markets means that the transition of the Australian market to MEPS-compliant product has provided the impetus for the New Zealand market to change as well. The consultant was not able to identify any product currently available within New Zealand that would not meet the joint Australian/New Zealand Standard.

With respect to low-income earners, four new models appear to be popular – particularly two of the LG product range. These appliances are all MEPS-compliant. The consultant's analysis of the second-hand market for domestic refrigeration appliances shows that the market is competitive with prices typically well below new price levels.

As a result of the above, the consultant concludes that it is most likely that the introduction of MEPS at the level considered will have no impact at all on the end-user. Notwithstanding this conclusion, it is possible that MEPS could make the end-user worse off – if the market was about to revert to non-compliant product and the product was put on the market at a price well below compliant product. It is also possible that MEPS could make the end-user better off – if the market was about to revert to less efficient product and the capital cost was similar to MEPS-compliant product.

In order to demonstrate the relationship between efficiency levels and the capital cost of the appliance, we calculated how much cheaper a non-compliant fridge would need to be for a low-income purchaser to be made worse off by MEPS, under varying assumptions relating to discount rate, cost of carbon and efficiency differential. The results suggest that a product which is slightly less efficient than the proposed MEPS standard could plausibly be brought to the New Zealand market at a discount sufficient to make the end-user worse off under MEPS. This might occur if there is a sudden over-supply of non-compliant product.

However, the consultant does not believe that this alternative scenario is particularly likely. For one thing, markets worldwide are progressively moving to more (not less) efficient products to meet increasingly demanding efficiency standards. In addition, discussions with the manufacturers and experience in Australia suggest that the cost penalty associated with making MEPS-compliant products is very low to the point of being insignificant. Nevertheless the possibility of this alternative scenario is a matter relevant to the wider MEPS policy question.

3.6 Three-phase cage induction motors

The New Zealand market for three-phase cage induction motors is supplied principally by five major importers. These are ABB, Brook Crompton, Motor Technologies, TECO, and WEG. No player has more than 30 percent of the market. Together these suppliers provide the vast majority of all motors sold within New Zealand. There are no domestic motor manufacturers.

As with domestic refrigeration appliances, there are strong links between the Australian and New Zealand markets. The industry tends to view these markets as one. Some New Zealand suppliers combine orders with their sister companies in Australia in order to increase the volume of the order and achieve more competitive pricing.

Published data on efficiency levels is, arguably, less reliable than that available for domestic refrigeration appliances. For example many of the lower cost motors imported from China do not include within their product literature the Standards underpinning the efficiency data supplied.

Importers of this product acknowledge that improved efficiencies may be required if mandatory Standards backed up by regulations and enforcement are introduced. However they felt that, in the event that this did impose additional cost, it would most likely be absorbed by the manufacturers – due to the competitive nature of the market.

Aside from the uncertainty with respect to efficiency levels discussed above, it appears that only one manufacturer currently imports non-compliant product in one (large) sub-segment of the market (motors less than 7.5 kW). Typically these motors are sold to original equipment manufacturers (OEMs) for inclusion in products such as extractor fans or other building service applications.

The consultant estimates that the present value of the energy savings accruing to the end-user as a result of bringing a 7.5 kW motor up to the MEPS standard would range between around $100 and over $5000, depending on their use pattern. In the time available, the consultant was not able to obtain from the manufacturer information on the associated price premium (if any) of the MEPS-compliant equivalent motor. However, a comparison of the energy savings with the cost of the motor (around $800) strongly suggests that it is highly unlikely that any consumer of these motors would be made worse off by the introduction of MEPS.

In summary, it is most likely that, for most of the product range, MEPS at the level considered will have very little impact on the end-user. Most of the market appears to have already anticipated the introduction of MEPS. The pending introduction of MEPS into Australia coupled with the strong links between the two markets provides good reason to suspect that the transition to compliant products will be complete within the near future. Where existing motors are non-compliant, the proposed MEPS are most likely to make all end-users better off.

As with domestic refrigeration appliances, the consultant has conducted sensitivity analysis to determine the impact of the proposed MEPS under the assumption that the market would revert back to non-compliant product in the absence of the introduction of MEPS into New Zealand.

The sensitivity analysis shows that it is highly unlikely that MEPS would make the end-user worse off under this scenario. Even if the market was about to revert to non-compliant product, the high running cost to capital cost ratio means that for most applications, the energy cost savings resulting from the introduction of MEPS would overwhelm any plausible capital cost differential.

3.7 Packaged air conditioners

The New Zealand market for packaged air conditioners is supplied by two main manufacturers; Temperzone and Carrier. Temperzone has the major share of the market with Carrier supplying most of the remainder. The rest of the market is made up of product from York, Trane, Alcair, Lennox and a number of other more minor manufacturers.

Temperzone is an Auckland based manufacturer. It not only supplies the domestic market but is also a significant exporter. Around two-thirds of its production goes offshore. Over half is destined for Australia with the remaining units going into Asia. Carrier supplies New Zealand from its Perth factory.

There is no second-hand market for packaged air conditioning units. The cost of installing a packaged air-conditioning unit on top of a building is such that the overriding consideration is to obtain a reliable unit. A second-hand unit not only needs to be removed from an existing building, but will also typically lack the reliability of a new unit.

As with motors, there is a degree of doubt surrounding the published energy efficiency data. In particular, it is unclear how the published efficiency data might compare with testing done to the draft Australian/New Zealand Standard. On this note, manufacturers have indicated that they are reluctant to invest in the required testing while the Standard is still in draft form and thus subject to change.

Notwithstanding reservations about the data, current indications are that all existing product would comply with the draft Standard. This coupled with the fact that Australia is about to introduce MEPS for packaged air conditioners and the fact that the Australian and New Zealand markets are strongly intertwined means that we consider it most likely that the introduction of MEPS at the level considered will have no impact on the end-user.

However, as with both domestic refrigeration appliances and three-phase cage induction motors we can not rule out the possibility that the market may move away from its current high level of compliance to non-compliant product in the absence of MEPS.

In the (unlikely) event that this was to occur, sensitivity analysis suggests that, like motors, the additional energy costs would not be sufficiently compensated for by a reduction in capital cost. This, under this scenario, it is most likely that MEPS would make the end-user better off.

Discussion Question

Are there any reasons why MEPS should not be implemented for: refrigerators and freezers? motors? air conditioners?

4 Glossary

Act, the Act	Energy Efficiency and Conservation Act 2000
Energy label	A label which provides information on the energy performance of a product model, including a star rating. The design and information content of labels is set out in the appropriate Standard. Generally the energy label is a sticky label attached to the appliance itself, but in some cases it may be on a tag, or attached to the packaging.
Energy labelling	Mandatory energy performance labelling. The appliances which must carry energy labels will be specified in a schedule to the regulations.
MEPS	Minimum energy performance standards. The products to which MEPS apply will be specified in a schedule to the regulations.
Importer	An individual, organisation or company which imports scheduled products for sale in New Zealand.
Item	A single unit of any product model.
Manufacturer	A company which manufactures or assembles scheduled products. For the purposes of the regulations, this would include any person who physically modifies products in a way that affects the energy performance.
Model number	For motors, the unique motor identifier, and for other products the model number that appears on the product or packaging.
Product class	A class of appliance or electrical product – for example, dishwasher, refrigerator/freezer.
Product model	A specific model of product, identified by the brand name, product class and model number eg, "Sirrocco Sahara clothes washer Model SS120"
Retailer	An organisation or company which makes scheduled products available for sale to consumers. In the context of this document, "retailer" also includes companies which make products available for lease to consumers.
Scheduled product	A product class to which MEPS or energy labelling applies, as specified in a schedule to the proposed regulations
Standard	A New Zealand Standard or joint Australian/New Zealand Standard. May also refer to an international standard, eg, an IEC (International Electrotechnical Commission) Standard.

Appendix 1:
Sections from the Energy Efficiency and Conservation Act

Sections from the Energy Efficiency and Conservation Act 2000 dealing with Regulations.

Section 36 Regulations

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) prescribing minimum energy performance standards for energy-using products and services, including all vehicles:

(b) prescribing requirements in relation to the labelling of products, including all vehicles, in terms of their energy efficiency or proficiency in conserving energy:

(c) requiring specified classes of persons to provide, on the request of the Authority, evidence in the specified form that a minimum energy performance standard prescribed under paragraph (a) has been complied with:

(d) prescribing, for the purposes of paragraphs (a) to (c), the form and manner of testing or verifying the energy performance of energy-using products and services, including vehicles:

(e) requiring, for the purposes of paragraphs (a) to (c), specified classes of persons to certify, in the prescribed form and manner, as to the energy performance of energy-using products and services, including vehicles:

(f) requiring specified classes of persons to supply prescribed information to the Authority for the purpose of compiling statistics on energy efficiency, energy conservation, and the use of renewable sources of energy:

(g) prescribing offences in respect of the contravention of, or non-compliance with, any provision of any regulations made under this section:

(h) prescribing the amount of the fines that may be imposed in respect of any offences against any regulation made under this section, which fines must be an amount not exceeding $10,000.

(2) Before making regulations under this section, the Minister must –

(a) publicly notify the proposal to make the regulations; and

(b) give interested persons a reasonable time, which must be specified in the notice published under paragraph (a), to make submissions on the proposed regulations; and

(c) consult with such persons as the Minister in each case considers appropriate.

Section 37 Incorporation of material by reference

(1) Regulations made under section 36 may incorporate the following information by reference:

(a) standards, requirements, or recommended practices of international organisations:

(b) any other written material or document that, in the opinion of the Minister, is too large or impractical to be printed as part of the regulations.

(2) Material incorporated into regulations by reference under subsection (1) forms part of the regulations for all purposes.

(3) Unless otherwise provided in the regulations, every amendment to material incorporated by reference that is made by the person or organisation originating the material is, subject to subsection (4), part of the regulations.

(4) The Minister must, by notice in the Gazette, specify the date on which an amendment to material incorporated by reference takes effect.

Section 38 Confidentiality of information

(1) This section applies to information supplied to the Authority in accordance with regulations made under section 36(1)(f).

(2) The information may be used only for statistical purposes.

(3) Subject to subsection (5), no person, other than an employee of the Authority, may be permitted to see information that relates to a particular person, except for the purposes of a prosecution or proposed prosecution against regulations made under section 36.

(4) Except for the purposes of a prosecution or proposed prosecution against regulations made under section 36, information that is not particular to any one person –

(a) may be disclosed only to –
(i) an employee of the Authority; or
(ii) a person to whom the information relates; and

(b) may be published only in accordance with subsection (5).

(5) The Authority may publish statistical information only if it is arranged in such a manner as to prevent any information published from being identifiable by any person (other than the person who supplied the information) as information relating to a particular person, unless –

(a) that person has consented to the publication of the information in that manner, or has already permitted its publication in that manner; or

(b) the publication of the information in that manner could not reasonably have been foreseen by the Authority or any employee of the Authority.

(6) Nothing in the Official Information Act 1982 or the Privacy Act 1993 requires the Authority to disclose information to which this section applies.

Section 39 Offence

Every person commits an offence and is liable on summary conviction to a fine not exceeding $10,000 who, without lawful excuse, publishes or discloses, otherwise than in accordance with section 38, any information to which that section applies.

Appendix 2: List of Standards

Product	Proposed for MEPS?	Proposed for Labelling	MEPS Standard	Labelling Standard	Testing Standard	Notes
Electric storage water heaters	Approved		NZS 4602 (low pressure) NZS 4606 (mains pressure)			Harmonisation with AS 1056 proceeding
Fluorescent lamps	Approved		No New Zealand Standard			IEC 60081 applicable
Fluorescent lamp ballasts	Approved		AS/NZS 4783.2		AS/NZS 4783.1:2001	AS/NZS Part 1due to be published soon and part 2 in preparation
Dishwashers		Approved		AS/NZS 2007.2:2000	AS/NZS 2007.1:1998	
Washing machines		Approved		AS/NZS 2040.2:2000	AS/NZS 2040.1:1998	
Clothes dryers		Approved		AS/NZS 2442:2000	AS/NZS 2442.1:1996	
Room air conditioners		Approved		AS/NZS 3823.2:2001	AS/NZS 3823.1.1:1998 (non-ducted) or AS/NZS 3823.1.2: 2001 (ducted)	
Domestic fridge-freezers	Proposed	Approved	AS/NZS 4474.2:2000	AS/NZS 4474.2:2000	AS/NZS 4474.1: 1997	
Packaged air conditioners	Proposed		AS/NZS 3823.2:2001	AS/NZS 3823.2:2001 (voluntary)	AS/NZS 3823.1.2: 2001 or AS/NZS 3823.3:2001	
Three-phase cage induction motors	Proposed		AS/NZS 1359.5:2000		AS/NZS 1359.102.3:2000	

Appendix 3:
Sample Application Forms

This appendix contains examples of sections of the forms which would be completed by the manufacturer/importer to supply information to the New Zealand regulatory authority under the terms of the regulations outlined in this paper. This material is reproduced from several of the Standards listed in Appendix 2, with permission of Standards New Zealand. See the relevant Standard for the formats applicable to individual product classes.

Note: references in this appendix are to the appropriate section of the relevant Standard.

Section 1: Application Details

I hereby supply information for the purpose of energy labelling/MEPS pursuant to the Energy Efficiency and Conservation Act 2000 in New Zealand.

Section 2: Applicant Details (generic example)

Name of Supplier:	
Company Name:	
Company Address:	
Contact Person:	
Position/Title:	
Telephone:	
Mobile:	
Facsimile:	
E-mail:	

Section 3: Description of appliance – energy labelling (generic example)

Is the label for a single model or a family of models? *(indicate correct answer)*	Single		Family
Brand name:			
Model name *(if available)*:			
Model number or family number:			
Model number on indoor unit: *(split systems only)*			
Model number on outdoor unit: *(split systems only)*			
Other model numbers that will use the same label:			
Country of manufacture:			
Year in which model first available in New Zealand or Australian market:			
Model number(s) to appear on the energy label:			
Does this model or family replace or supplement another model or family with identical energy consumption and energy efficiency rating? *(indicate correct answer)*	Yes		No
If yes, indicate relevant details:	**Model name:**	**Model number:**	**Registration number:**

or

Section 3: Description of Product (MEPS) (generic example)

Is the registration for a single model or a family of models?	Single	Family
Brand name		
Name of manufacturer		
Make of the motor		
Year model(s) first manufactured		
Year model(s) first imported		
If registering a family of models, list all model names and numbers covered by this application:	Model number(s):	
Does this model or family replace or supplement another with the same specifications?	Yes	No
If yes, state model(s)?		

Section 4: Testing and test report (example of form for room air conditioners)

Is a test report attached? *(indicate correct answer)*	Yes	No
If no test report is attached note the source registration number of the appliance upon which this application relies for its test report: *(proceed to Section 5 if no report attached)*		
Test laboratory type: *(indicate correct answer)*	Own "in-house" laboratory	Independent laboratory
Test laboratory name:		
Test laboratory address:		
Test laboratory location: *(indicate correct answer)*	Australia New Zealand	Other *(please specify)*:
Test laboratory accreditation:		
Test standard used: *(relevant standards to be listed on application form for individual product types)*		
If using AS/NZS 3823.3, indicate the modelling software used to simulate the results: *(ensure a full report to AS/NZS 3823.3 is included with this application)*	Appliance specific questions like this would be included on the relevant application forms.	
Test report numbers:		
Unit serial numbers and dates tested:		
Unit rated voltage range and frequency:		
Test voltage and frequency:		

Section 5: Specific appliance details (example for room air conditioners)

Appliance dimensions *(advisory only): (for split systems note only dimensions of the internal unit)*	**Width (mm):**	**Height (mm):**	**Depth (mm):**
Air conditioner type: *(indicate correct answer)*	Cooling only	Reverse cycle	Heating only ***
Power supply:	Single phase	Three phase	
Air conditioner configuration: *(indicate correct answer)*	Window wall Single split system Double / triple split Ducted Packaged	Cassette Water cooled split Water cooled packaged Other *(please specify)*	

Does this model use a variable speed drive or multi-speed compressor?	Yes	No
If yes, indicate the setting and % of rated capacity used to verify MEPS		

Test results – cooling – condition T1		
Cooling power	Rated effective power input (kW)* Tested cooling effective power input (kW)**	
Cooling capacity	Rated sensible cooling capacity (kW)* Rated dehumidifying effect (kW)* Rated total cooling capacity (kW)* Tested sensible cooling capacity (kW)** Tested dehumidifying effect (kW)** Tested total cooling capacity (kW)**	
EER	Rated EER** Tested EER**	

Does the air-cooled condenser evaporate the condensate? *(indicate correct answer)*	Yes	No
Does this model comply with the Maximum Cooling Test for Condition T1? *(indicate correct answer)*	Yes	No

* To two decimal places.
** To three decimal places.
Where AS/NZS 3823.3 has been used, "tested" means "simulated".
Note: Heating only units have no MEPS requirements and do not require registration.

Rated values – heating – condition H1		
Does this model incorporate electric resistance heating? *(indicate correct answer)*		Yes No
Heating power	Rated effective power input (kW)*:	
Heating capacity	Rated heating capacity (kW)*:	
COP	Rated COP**:	

* To two decimal places.
** To three decimal places.
Note: Tests for heating performance are not necessary for MEPS compliance.

Minimum energy performance standards (minimum efficiency)	
MEPS are mandatory for all three phase air conditioners that fall within the scope of this standard (see clause 1.1). Detailed MEPS requirements are set out in Section 3.	
Rated cooling capacity:	kW:
Applicable MEPS level (minimum EER): *(see Table 3.1)*	
Tested or modelled EER:	
Does this model comply with MEPS?	Yes No

Section 6: Declaration (generic example)

I declare that the details stated above are correct.

Signature of applicant:..... Date:.....

About the Ministry for the Environment

Making a difference through environmental leadership.

The Ministry for the Environment Manatu Mo Te Taiao advises the Government on policies, laws, regulations, and other means of improving environmental management in New Zealand. The significant areas of policy for which the Ministry is responsible are: management of natural resources; sustainable land management; air and water quality; management of hazardous substances, waste and contaminated sites; protection of the ozone layer; and responding to the threat of climate change. Advice is also provided on the environmental implications of other Government policies.

The Ministry monitors the state of the New Zealand environment and the operation of environmental legislation so that it can advise the Government on action necessary to protect the environment or improve environmental management.

The Ministry carries out many of the statutory functions of the Minister for the Environment under the Resource Management Act 1991. It also monitors the work of the Environmental Risk Management Authority on behalf of the Minister.

Besides the Environment Act 1986 under which it was set up, the Ministry is responsible for administering the Soil Conservation and Rivers Control Act 1941, the Resource Management Act 1991, the Ozone Layer Protection Act 1996 and the Hazardous Substances and New Organisms Act 1996.

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