

# Energy Savings Scheme Rule and Regulation Change 2025

EEC submission

April 2025

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## About the EEC

The EEC is the peak body for Australia’s energy management sector.

We are a membership association for businesses, universities, governments, and NGOs that have come together to ensure Australia harnesses the power of efficiency, electrification, and demand management to deliver a prosperous, equitable, net zero Australia with:

- People living and working in healthy, comfortable buildings;
- Businesses thriving in a decarbonised global economy; and
- An energy system delivering affordable, reliable energy to everyone.

The EEC works on behalf of its members to drive world-leading government policy, support businesses to rapidly decarbonise, and to ensure we have the skilled professionals to drive Australia’s energy transformation.

# General comments

The EEC welcomes the opportunity to provide feedback on the Energy Savings Scheme (ESS) Rule and Regulation Change 2025.

The EEC supports the ESS evolving over time to continue to meet its objectives, particularly as the grid becomes less emissions-intensive, necessitating stronger incentives for electrification. However, the proposed changes primarily focus on ending or scaling back existing activities, without identifying opportunities to strengthen the scheme by reforming existing activities or adding new activities. While some of the proposed changes appear reasonable, certain changes may leave opportunities for increasing energy performance untapped, particularly in hard-to-reach commercial and industrial (C&I) sectors like manufacturing, mining, and agriculture.

Removing rather than refining existing activities, without introducing new activities, carries risks. Fewer activities could lead to a shrinking consumer base, and the possibility of installers becoming disengaged as the financial incentives diminish, leading some to move away from the scheme. This would result in fewer businesses operating to the higher-than-average standards often set by the ESS and risks reducing the pool of skilled workers critical for the broader energy transition. For Accredited Certificate Providers (ACPs), fewer activities will reduce scale, likely leading to higher costs for consumers, as fewer certificates are issued.

Ultimately, it is in the interests of NSW if the ESS continues to operate sustainably to deliver improvements in energy performance that reduce emissions, build the workforce for retrofits, promote recycling, and other benefits for the community. In this context, the EEC urges administrators to improve and enhance current activities and add new activities to better meet the challenges of the future.

Please don't hesitate to contact me to discuss anything contained in this submission.

Yours faithfully,

Jeremy Sung,  
EEC Head of Policy

# Specific comments

## Commercial Lighting Energy Savings Formula

It is important to acknowledge the challenges facing the commercial lighting market, particularly the oversupply in certain segments and consistently low certificate prices over the past year. Our members advise that the market is not shrinking due to lack of interest, but rather because the 'low-hanging fruit' in many C&I segments has been largely identified, and low certificate prices do not provide enough incentives for lighting upgrades in other, harder-to-reach C&I entities.

While some C&I market segments may be relatively saturated, the EEC's members are aware of existing opportunities for lighting upgrades, particularly in heavy industry. Members identified significant opportunities in sectors such as agriculture, mining and manufacturing, where lighting upgrades present underutilised potential for energy savings and emissions reductions.

In terms of specific technologies, members reported untapped opportunities to upgrade high-intensity discharge (HID) flood lights on industrial sites that would be missed if the CLESF method is discontinued as proposed.

The EEC heard suggestions that incorporating more baseline hours in the BCA classification relied on for the ESS commercial lighting formula may assist to drive upgrades in harder-to-reach sectors.

In short, restructuring the CLESF method to target specific industry sub-sectors (such as agriculture, mining and manufacturing) or technologies (such as HID flood lights in C&I facilities), is likely to deliver significant energy and emissions benefits to NSW, and address market needs better than removing it entirely.

## Gas boiler installation/replacement activities

The EEC agrees with the proposal to remove these activities from the scheme, which will ensure NSW businesses that can electrify their operations are incentivised to move to efficient electric alternatives, rather than install new gas infrastructure and risk being subject to higher gas prices as fossil gas use is inevitably phased out over time.

The EEC understands that these changes are also necessary given the proposed changes to certificate conversion factors, outlined in section 4 of the discussion paper: If these activities remained in the scheme, there would be a high risk of incentivising new gas boiler installations when the new factors are introduced.

That said, changes will be needed to ensure the remaining gas boiler activities (e.g. activities F16 and F17, focussed on gas-to-electric conversions) are taken up and result in genuine energy and emissions savings.

Our members reported that the slow uptake of deemed C&I gas boiler activities is largely due to their design. Existing methods do not fully address the complexity of boiler systems, particularly in the C&I context. These system replacements are not off-the-shelf products; they are often complex, custom-designed systems with various configurations of tanks, compressors and other components.

As such, the success of C&I gas boiler replacement activities in general requires the methods for calculating certificates to balance both accuracy and practicality.

The EEC heard several suggestions from members on how existing activities could be improved, including:

- A simplified, modular approach to calculation could better reflect the variability and customisation of these systems, ultimately leading to a more accurate and efficient method for calculating certificates as well as increased commercial uptake.
- Treating different types of commercial heat pump applications, like apartment buildings and end-of-trip facilities, separately, due to varying usage profiles.
- Ensuring methods reward performance in delivering water at required temperatures while maintaining safety standards, like preventing Legionella.

The EEC was also advised that the Australian Plumbing Code requires hot water delivery at higher temperatures than current C&I methodologies may allow, leading to overestimates of system performance. This is another challenge to work through, should these activities be reviewed.

## Heat pump hot water system (HPHWS) activities: warranty period requirements and market state

### Warranty period

The EEC and its members support a five-year warranty period for HPHWS. In addition to these warranty provisions, members noted the importance of strong quality and performance standards for HPHWS, as the period used to calculate certificates associated with the product is ten years. If products routinely fail before the ten-year mark, the emissions reductions calculated could be inaccurate, potentially by a significant margin. This would be an integrity issue for the scheme.

During the *HPHWS Roadmap* process, some industry stakeholders expressed concern that consumers may require further protection against retailers failing to honour warranties in the mid to long term. Currently, there are few protections for consumers where this occurs. To address this, a recurring idea was the development of an accrual system. This would involve a third party holding a dollar amount per unit sold, which is put into a safeguard fund which could be accessed by a consumer in the event a warranty is not honoured. There are examples of this approach overseas, and it could be applied beyond the HPHWS product. However, existing warranty obligations and the law that underpins these would need consideration.<sup>1</sup>

During the *HPHWS Roadmap* consultation process, the EEC heard that:

- Retailers should store a minimum number of essential spare parts to service their HPHWS products in case of a fault; and
- Providers should demonstrate they have service technicians readily available in all regions in which their products are offered.<sup>2</sup>

We are advised that an approved product list – ideally managed at the national level, so that it can be used by all states and territories as well as Federal government incentive programs – would be a highly beneficial complementary measure, as it can be challenging for ACPs to track all available products and their associated warranties. Manufacturers can change warranties without notifying providers, which creates a risk for both the providers and consumers. Having a centralised, up-to-date list of approved products would help mitigate this issue, ensuring that all stakeholders have access to accurate and consistent information regarding warranties, thereby reducing potential risks.

## Market state

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<sup>1</sup> Energy Efficiency Council, [Heat Pump Hot Water Systems in Australia: Building quality, confidence, and the market](#), 2024.

<sup>2</sup> Energy Efficiency Council, [Heat Pump Hot Water Systems in Australia: Building quality, confidence, and the market](#), 2024.

The EEC led the development of the 2024 [HPHWS Roadmap](#) and currently convenes the [HPHWS Industry Consultative Group](#) (HPHWS ICG), as recommended in the roadmap. As such, the EEC is well-placed to understand the views of a wide range of stakeholders across the industry regarding HPHWS. Based on these discussions, the EEC agrees with the assessment in Section 3.1 of the consultation paper, as well as the key concerns highlighted. These concerns are valid for both industry and the public and we encourage NSW to work to address these issues in future rule changes.

*Question 14: What are your views on addressing the issues related to modelling, installation and consumer protection? What are the other key issues with heat pump hot water systems?*

Most stakeholders with whom the EEC engages argue that approaches to modelling could be improved, although there is often disagreement on the specifics. Some members argue that the real-world operation of HPHWS often deviates from the conditions assumed in the standard relied on to calculate ESCs. Aligning with anecdotal feedback received during the *HPHWS Roadmap* consultation, a research institution that conducted recent work on HPHWS has since advised the EEC of evidence that some manufacturers may be ‘gaming’ the testing system by designing products that maximise certificates while disregarding practical performance conditions. This includes issues such as more frequent use of resistive heating elements, higher temperature settings at installation, and excessive anti-Legionella cycles during product use, compared with testing. Further research may be required to quantify the gap between actual and expected performance, which could help address these issues and inform future standards updates.

The EEC notes that there is critical work underway to update *AS/NZS 5125 Heat Pump Water Heaters* with new test methodologies, with public consultation on the update expected in the coming months. Additionally, the Commonwealth, under the direction of the Energy and Climate Change Ministerial Council (ECMC), is working to introduce Minimum Energy Performance Standards (MEPS) for HPHWS. This work will be crucial for better informing future modelling and, hopefully, addressing many of the key concerns within the industry.

The *HPHWS ICG* has installation and consumer working groups exploring key challenges with installation quality and consumer protection. We would welcome to opportunity to offer up these working groups for engagement with the ESS team to support improved outcomes.

*Question 15: Apart from warranty requirements, are there any other measures to address concerns of early equipment failures or to strengthen consumer protection for hot water systems such as the availability of spare parts or afters sales customer service?*

The EEC has heard that the design, materials, construction, and handling of HPHWS products can vary significantly in terms of quality. To improve outcomes, the key approach is likely to be introducing rule changes that ensure product components meet relevant Australian standards, even if other regulations do not mandate it. Additionally, supporting Standards Australia in developing new standards as needed would also be beneficial.

## **Refrigerated display cabinet: Activity Definition**

Through consultation the EEC heard that the refrigerated display cabinet activity has been subject to significant gaming in the past, which has undermined its effectiveness. We support a review of the activity that focuses on better targeting customers such as supermarkets, who can deliver substantial energy savings through genuine replacement and upgrade of refrigerated cabinets. A period of review aimed at better targeting appropriate customers and the closing of loopholes that undermine integrity, followed by the re-activation, is our favoured approach.

## **Sale of New Appliances**

The sale of new appliances holds significant potential for driving energy savings and emissions reductions. If properly designed, this activity could offer real benefits to both the program and consumers, by promoting high efficiency appliances to consumers who are already primed to make an appliance purchase, negating the need for ACPs to find possible customers through cold calls.

However, without the right education and support for retailers to ensure their floor staff understand and can properly articulate the benefits of high efficiency appliances and the incentives on offer from the ESS, retailers will have little incentive to promote the method – as was observed in the study referenced in the consultation.

The EEC recommends reviewing this activity to better explore the costs and benefits of implementing the method with the necessary support that would result in increased uptake, rather than removal without taking this step.

## NABERS baseline method

In general, the EEC supports the expansion of the method to other building types that are now included in NABERS.

However, through consultation, the EEC heard general member concerns about double dipping under the NABERS baseline method: the idea that the ESS could be used to make upgrades to a building to increase its NABERS rating, which could then be used to subsequently generate more certificates under the NABERS baseline method. While we understand Clause 6.4 of the ESS Rule specifies that certificates may not be created in respect of energy savings for which certificates have already been created, this risk may warrant further investigation and review.

## Air-conditioning activities: market state

While we did not receive detailed feedback on this section, we agree that future rule changes should thoroughly investigate the key considerations outlined by the NSW Government. Specifically, the development of a calculation method to incentivise air-conditioning systems with larger capacities, ensuring definitions for multi-split air-conditioning systems are fit for purpose, reviewing and updating the lifetime of savings, and incorporating warranty requirements are all critical aspects that warrant further exploration. Additionally, reviewing ESS incentives for installations that exceed the regulatory requirements of the Building Sustainability Index (BASIX) could present further opportunities for energy savings. The EEC supports addressing these considerations in future rule changes to enhance the effectiveness and relevance of the ESS and looks forward to engaging on the specifics when the time comes.

## Telemarketing and door-knocking campaigns

Assuming the NSW Government has strong evidence that telemarketing and door-knocking practices are having adverse impacts for consumers, or that the risk of such impacts is high given Victoria's move to ban them, the EEC supports alignment with the VEU by banning telemarketing and door-knocking campaigns in NSW. However, based on experiences in Victoria the design of such bans requires careful design to ensure businesses are not prevented from engaging in normal communications with their customers.

## Updating certificate conversion factors

The EEC supports changes to the certificate conversion factors in Clause 37A of the regulations. As we have previously commented, the current factors are not fit for purpose as the electricity grid decarbonises.

The proposed factors in table 4 should encourage more activities that reduce fossil gas and diesel use, both of which are significant contributors to NSW's current energy use and emissions. Using a 10-year average of the forecasted non-renewable primary energy factors for grid electricity appears to be a reasonable approach that allows for some uncertainty as to exactly when retirements of ageing fossil generators will occur.

The factors will require revision over time as the emissions-intensity of the grid changes. Ideally, changes to the factors should be flagged with industry transparently, and in a way that provides plenty of time to adjust.

The discussion paper is right to acknowledge the risk that on their own, these factors could risk increasing the incentive to conduct gas-to-gas boiler conversions rather than electrification, thus it is important that the changes are made alongside the proposed removal of gas boiler activities.