



## COVERSHEET

<b>Minister</b>	Hon Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	Energy Efficiency (Energy Using Products) Amendment Regulations 2020	<b>Date to be published</b>	18/02/2021

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
December 2020	Energy Efficiency (Energy Using Products) Amendment Regulations 2020	Office of the Minister of Energy and Resources
9 December 2020	<i>Cabinet minute</i> DEV-20-MIN-0171	Cabinet Office

### Information redacted

**NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

[IN CONFIDENCE]

Office of the Minister of Energy and Resources

Chair, Cabinet Business Committee

## **Energy Efficiency (Energy Using Products) Amendment Regulations 2020**

### **Proposal**

1. This paper seeks authorisation for the submission of the Energy Efficiency (Energy Using Products) Amendment Regulations 2020 to the Executive Council.

### **Executive Summary**

2. Cabinet has agreed to amend the minimum energy performance standards (MEPS)<sup>1</sup> for commercial refrigeration, and the MEPS and energy labelling requirements for air-conditioners/heat pumps.<sup>2</sup>
3. These changes will improve product energy efficiency and consumer information, while having a minimal effect on business compliance costs and costs to consumers. They will also more closely align our requirements to the equivalent Australian requirements, in the spirit of the Trans-Tasman Mutual Recognition Agreement.
4. Regulatory impact statements have been prepared for each product and there has been widespread industry consultation and appropriate public notifications.

### **Policy**

5. On 28 May 2018 Cabinet agreed to revise the MEPS for commercial refrigeration as an amendment to the Energy Efficiency (Energy Using Products) Regulations 2002 [CAB-18-MIN-0246.01 refers].
6. On 27 May 2019 Cabinet agreed to revise the MEPS and labelling requirements for air-conditioners/heat pumps as an amendment to the Energy Efficiency (Energy Using Products) Regulations 2002 [CAB-19-MIN-0240 refers].
7. The proposed amendment regulations give effect to the above decisions by updating the relevant standards, test methods<sup>3</sup> and labelling requirements, jointly agreed with Australia via the Equipment Energy Efficiency (E3) programme, that apply to these products.
8. The Equipment Energy Efficiency (E3) programme is a bilateral programme between Australia and New Zealand that supports the Trans-Tasman Mutual Recognition

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<sup>1</sup>Minimum Energy Performance Standards are measures to regulate the energy performance of products.

<sup>2</sup> This technology is commonly referred to as a heat pump in New Zealand where it is primarily used for heating, but may be referred to as air-conditioning (or climate control) in warmer climates.

<sup>3</sup> Test standards include testing methods to assess the energy performance of a product.

Agreement (TTMRA).<sup>4</sup> The E3 programme facilitates trade, reduces business costs, and achieves administrative efficiencies for both governments.

9. The E3 programme covers a range of domestic, commercial and industrial energy-using products. The objectives of the programme are to raise the energy efficiency of these products and influence consumer behaviour by increasing awareness of product performance with regards to energy consumption. MEPS and related energy-rating labels are cost-effective regulatory interventions used to achieve these objectives.
10. Incorporating the proposed amendments will align New Zealand regulations with the equivalent Australian regulations pertaining to each product, and with international best practice. These amendments will ensure that more energy efficient products are made available for sale in the Trans-Tasman market.
11. The following amendments are proposed:

Product Class	Regulatory Change
Air-conditioners / heat pumps	<p>Introduce MEPS for single duct portable air-conditioners at the same level proposed for double duct portable air-conditioners.</p> <p>Increase New Zealand's MEPS for cooling to Australian levels.</p> <p>Reduce the MEPS level for double duct portable air-conditioners.</p> <p>Remove the existing Energy Rating Label and replace it with a climate-zoned version of the label.</p> <p>Apply the climate-zoned energy rating label to single and double duct portable air-conditioners (not currently subject to labelling).</p> <p>Products not required to display an Energy Rating label must provide test data to calculate the total cooling seasonal performance factor and demand response capability. Where applicable, data must be provided for heating seasonal performance factor and sound power.</p> <p>All registrations must continue to declare whether a product is demand response capable as per AS4755.</p>
Commercial refrigeration	<p>Update MEPS to align with international best practice and the simultaneous revision of the Australian Determination.</p> <p>Cite three new European test standards and one international test standard:</p> <ul style="list-style-type: none"> <li>• European Standard EN 16825:2016 Refrigerated storage cabinets and counters for professional use — Classification, requirements and test conditions.</li> <li>• European Standard EN 16838:2016 Refrigerated display scooping cabinets for gelato — Classification, Requirements and test conditions.</li> <li>• European Standard EN 16901:2016 Ice cream freezers — Classification, requirements and test conditions.</li> <li>• International Organisation for Standardisation Standard ISO 23953-2:2015, Refrigerated display cabinets – Part 2: Classification, requirements and test conditions.</li> </ul>

### Timing and 28 day rule

12. To match with Australia's implementation timeline, I propose that the amendments come into force on the following dates:

<sup>4</sup> Under the Trans-Tasman Mutual Recognition Arrangement, goods legal for sale in either Australia or New Zealand can legally be offered for sale in both.

1 July 2021	Air-conditioners/heat pumps
1 July 2021	Commercial refrigeration

13. No waiver of the standard 28 day rule is sought.
14. Existing stock can still be sold as the new MEPS requirements will only apply to products either manufactured in New Zealand or imported from the date the product amendments come into force.
15. Suppliers have been given sufficient notification of the intention to introduce the new and revised requirements.

## Compliance

16. The draft amendments meet the requirements of:
  - the principles of the Treaty of Waitangi;
  - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990;
  - the principles and guidelines set out in the Privacy Act 2020;
  - relevant international standards and obligations;
  - the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
17. The World Trade Organisation (WTO) has been notified of the proposed amendments to air-conditioners/heat pumps and commercial refrigeration.<sup>5</sup> No submissions have been received in response to these notifications.
18. Under section 36(2) of the Energy Efficiency and Conservation Act 2000, the Minister is required to publicly notify the proposal to make the regulations, allowing time for interested persons to make a submission. This notification requirement has been met. No submissions were received. The following notifications were made:
  - The notification in the Gazette was published on 12 March 2020: <https://gazette.govt.nz/notice/id/2020-au1157>.
  - The newspaper notification was published in Stuff NZME (Wellington) and Christchurch Press and NZ Herald, also on 12 March 2020.

## Regulations Review Committee

19. There are no grounds for the Regulations Review Committee to draw the amendments to the regulations to the attention of the House under Standing Order 319.

## Certification by Parliamentary Counsel

<sup>5</sup> Dates of WTO TBT notification as follows: commercial refrigeration notified 5 January – 23 February 2018 and air-conditioners/heat pumps notified on 23 May 2017, then updated 21 March 2019, final dates for comments 60 days from notification.

20. The draft regulations have been certified by the Parliamentary Counsel as being in order for submission to Cabinet.

### **Impact Analysis**

21. Regulatory Impact Statements were prepared for air-conditioners/heat pumps and commercial refrigeration at the policy approval stage [CAB-19-MIN-0240; CAB-18-MIN-0246.01 refers respectively].
22. Copies of these regulatory impact statements can be found at:
  - <https://www.mbie.govt.nz/dmsdocument/148-impact-summary-commercialrefrigeration-pdf>
  - <https://www.mbie.govt.nz/dmsdocument/5909-led-lamps-and-air-conditionersheatpumps-minimum-energy-performance-standards-and-labelling-requirements-proactive-pdf>
  - <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Climate Implications of Policy Assessment**

23. The Ministry for the Environment confirms that this Cabinet paper is exempt from the CIPA requirements. At this stage, the CIPA framework does not apply to Cabinet papers seeking approval from Cabinet Business Committee.

### **Publicity**

24. The amendment regulations will be notified in the *Gazette* and the Energy Efficiency and Conservation Agency newsletter - *Efficient Products News*. Stakeholders will be updated by email.
25. This paper will be published on the Ministry of Business, Innovation and Employment's website, subject to any redactions consistent with the Official Information Act 1982.
26. The Energy Efficiency and Conservation Authority's website will also be updated.

### **Proactive release**

27. The Cabinet papers, Cabinet committee papers and minutes associated with these proposed amendments will be published online within 30 business days of final decisions being taken by Cabinet.

### **Consultation**

28. The proposed amendments for air-conditioners/heat pumps and commercial refrigeration have been through extensive consultation and cost-benefit analyses for both New Zealand and Australia. Stakeholder groups, including manufacturers and importers in Australia and New Zealand, have provided input for both the MEPS and testing methods for each product during multiple rounds of consultation.

29. The following New Zealand departments and agencies have been consulted on the proposed amendments: the Ministry of Business, Innovation and Employment, Worksafe NZ, Standards NZ, the Energy Efficiency and Conservation Authority, the Electricity Authority, the Commerce Commission, the Ministry for the Environment, the Ministry of Foreign Affairs and Trade, and the Treasury. The Department of the Prime Minister and Cabinet was informed.
30. The World Trade Organisation (WTO) has also been notified of the proposed amendments to air-conditioners/heat pumps and commercial refrigeration. No submissions have been received in response to these notifications.

## Recommendations

I recommend that the Cabinet Business Committee:

1. **note** that on 28 May 2018 Cabinet agreed to revise the MEPS for commercial refrigeration, as amendments to the Energy Efficiency (Energy Using Products) Regulations 2002 [CAB-18-MIN-0246.01 refers];
2. **note** that on 27 May 2019 Cabinet agreed to revise the MEPS and energy labelling requirements for air-conditioners/heat pumps as amendments to the Energy Efficiency (Energy Using Products) Regulations 2002 [CAB-19-MIN-0240 refers];
3. **note** that the Energy Efficiency (Energy Using Products) Amendment Regulations 2020 give effect to the decisions referred to in paragraphs 1 and 2 above;
4. **note** the Energy Efficiency (Energy Using Products) Amendment Regulations 2020 have been developed under the Trans-Tasman Equipment Energy Efficiency (E3) Programme;
5. **note** that to align with Australia's implementation timeline, the Energy Efficiency (Energy Using Products) Amendment Regulations 2020 will come into force as follows:

1 July 2021	Air-conditioners/heat pumps
1 July 2021	Commercial refrigeration

6. **note** that section 36(2) of the Energy Efficiency and Conservation Act 2000 requires that, before making regulations, the Minister notified the public of the proposal, provides interested persons a reasonable time to make submissions, and consults with appropriate persons;
7. **note** the advice of the Minister of Energy and Resources that this requirement, as set out in recommendation 6 above, has been met.
8. **authorise** the submission of the Energy Efficiency (Energy Using Products) Amendment Regulations 2020 to the Executive Council.

Authorised for lodgement

Hon Dr Megan Woods  
**Minister of Energy and Resources**