

Regulator Performance Framework 2018-19 self-assessment for Agriculture

WATER EFFICIENCY LABELLING AND STANDARDS SCHEME

Water Efficiency Labelling and Standards scheme

The **Water Efficiency Labelling and Standards Act 2005** (WELS Act) aims to:

- conserve water supplies by reducing water consumption
- provide information for purchasers of water-use and water-saving products
- promote adoption of efficient and effective water-use and water-saving technologies.

The WELS Act and corresponding state and territory legislation provide for the operation of the Water Efficiency Labelling and Standards scheme (WELS). The Australian Government administers the scheme on behalf of state and territory governments. The WELS scheme is 80 per cent cost recovered from industry product registration fees. The additional 20 per cent is funded by a 10 per cent Australian Government contribution and a 10 per cent collective contribution from state and territory governments. To ensure currency of the scheme, the WELS Act requires an independent statutory review is undertaken every five years.

The scheme applies to dishwashers, washing machines, taps, showers, lavatories, urinals and flow controllers. To be legally supplied, these products must meet the performance and testing requirements of the WELS standard and must be registered and labelled correctly.

— WATER EFFICIENCY LABELLING AND STANDARDS SCHEME —


122GL
Water savings
in 2018


30,905
Registrations as of
30 June 2019


\$1.1b
Savings per annum
in household utility bills

PROJECTED SAVINGS BY 2036


230GL **\$2.6b**
water savings savings per annum

The scheme is delivering annual domestic water savings in the order of 122 gigalitres per annum in 2018, and water efficiency improvements have resulted in consumer savings of \$1.1 billion per annum in household utility bills (water, electricity and gas). Annual savings are expected to increase to 230 gigalitres and \$2.6 billion by 2036. As of 30 June 2019, there were 30,905 products registered by over 370 organisations, including manufacturers, importers and wholesalers. This consisted of 27,860 registrations (22,338 products and 5,522 variants) and 3045 ceasing registrations (2,874 products and 171 variants).

The approach to compliance with the WELS Act is outlined in the WELS Compliance and Enforcement Policy. It encourages suppliers of regulated products to meet their legislated obligations through

cooperation and collaboration, targeted communication and education activities, and timely provision of information and advice. The policy details the compliance model we use to address individual supplier compliance. Overall compliance with WELS obligations is high and continues to improve, with a growing group of suppliers integrating WELS requirements into their business processes to ensure compliance.

The WELS Compliance and Enforcement Strategy was developed in consultation with industry and was published in December 2017. It identifies six key areas of focus for compliance and enforcement activities from 2018 to 2020, including a strong focus on online sellers and the building industry.

An ISO standard based on the WELS standard was championed by the Department in 2017-18 and a new committee has been established to develop a standard for water efficiency rating and labelling. The ISO standard is expected to reduce costs for Australian businesses, improve access to overseas markets for Australian manufacturers and increase compliance with the WELS scheme in Australia. It will also provide a tool that can be used by other countries to save water through similar consumer labelling schemes.

KPI 1 — We consider the impacts of our regulation

Objective: We take account of the operating environment of our regulated entities and stakeholders.

Performance Measures	Targets	Results
Our regulatory practices take into account the impact of regulation on stakeholders and regulated entities.	New and amended regulations are supported by best practice regulatory impact analysis that includes consultation on impacts.	Rating: (Managed) <ul style="list-style-type: none"> We did not make any changes to the WELS regulatory framework in 2018-19. When we amend regulations we do so in accordance with Department policies and procedures. This includes consulting with stakeholders and regulated entities, such as individuals, businesses and community organisations, to assess the regulatory burdens of the amendments. WELS also undertakes a regulatory impact analysis, resulting in a Regulatory Impact Statement (RIS), in consultation with the Office of Best Practice Regulation. We routinely consult with stakeholders and regulated entities on a range of regulatory and related matters, even where a RIS is not required.
Our regulatory practices take into account the impact of regulation on stakeholders and regulated entities.	We engage with our stakeholders on implementation and compliance approaches.	Rating: (Managed) <ul style="list-style-type: none"> We routinely consult stakeholders and regulated entities on compliance approaches, such as providing them with the opportunity to make a submission in the development of the WELS Compliance and Enforcement Strategy for 2018-2020. The principles underpinning our compliance approach are set out in the Strategy and is published on waterrating.gov.au (the water rating website). We provide updates on developments on a range of matters, including compliance approach, to stakeholders and regulated entities who have subscribed to the InkWELS newsletter. We have a WELS industry advisory group, WELSAG, which is made up of industry representatives and meets as needed to discuss WELS matters, including compliance approaches.

Performance Measures	Targets	Results
Our regulatory practices take into account the impact of regulation on stakeholders and regulated entities.	We consider the operating environment impacting the Department and regulated entities.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> We maintain strong relationships with stakeholders and regulated entities, through regular engagement, including WELSAG. This helps us to understand the impacts of the WELS scheme on stakeholders and regulated entities and the constraints they face, such as time availability and staffing levels, when complying with the WELS scheme. This understanding allows WELS to consider the operating environment of stakeholders and regulated entities and the Department and adjust our compliance approach accordingly. We continually work with stakeholders and regulated entities to assist them in meeting the WELS scheme's requirements and we also create efficiencies in processes and systems where possible.

KPI 2 — Our communication with regulated entities is clear, concise and targeted, and effective

Objective: Our communication with regulated entities and stakeholders is effective and substantive.

Performance Measures	Targets	Results
Our guidance and information is tailored to the needs of regulated entities and is accessible.	Risk-based frameworks, strategies and service standards are available on our website and the information is regularly reviewed to ensure currency.	Rating: (Managed) <ul style="list-style-type: none"> Product registration requirements, how to label and display products, and the standards that they must meet are accessible on the water rating website. The website was updated in 2019 to increase accessibility and ease of navigation. Information about products are tailored to different segments of regulated industries. The WELS Compliance and Enforcement Strategy for 2018-2020 can be accessed on the water rating website, is reviewed regularly and was last reviewed in 2017. This document sets out the strategies to focus on for 2018 to 2020 to address issues raised during consultation as well as the agreed recommendations of the 2015 WELS review. It sets out the approach taken to maximize compliance with the WELS Act based on a risk-based framework.
We engage with regulated entities on potential changes to regulatory policies, practices or services.	Advice notices and guidance material are up to date, accurate, accessible and in plain English.	Rating: (Managed) <ul style="list-style-type: none"> The water rating website provides a broad range of information that offers stakeholders and regulated entities assistance with understanding and becoming compliant with the WELS scheme. This information is regularly reviewed to ensure currency. Stakeholders and regulated entities can get access to industry advice notices and compliance advice notices electronically via the WELS website. We pay a fee to make the WELS standard that underpins the scheme available free of charge to the public. We provide updates on developments on a range of matters to stakeholders and regulated entities who have subscribed to the InkWELS newsletter. WELS has two free call (1800) numbers and two email addresses that stakeholders and regulated entities can use to provide us with feedback or ask questions.

Performance Measures	Targets	Results
We engage with regulated entities on potential changes to regulatory policies, practices or services.	We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> • We work closely with stakeholders and regulated entities. In particular, increased communications with the building, construction and development industry (areas of targeted compliance) has improved industry awareness of responsibilities under the WELS Act. • We regularly participate in industry forums and maintain industry consultative forums across our regulatory responsibilities. • We also conduct targeted consultations and engage with experts and industry representatives as appropriate, often through the WELSAG. • We consulted with industry in developing our Compliance and Enforcement Strategy for 2018-2020 and obtained endorsement from WELSAG before finalising the document. • WELS has two free call (1800) numbers and two email addresses that stakeholders and regulated entities can use to provide us with feedback or ask questions. • Any proposed or considered changes to the WELS scheme is consulted with stakeholders and regulated entities in accordance with Department policies and procedures.

KPI 3 — Actions undertaken by regulators are proportionate to the regulatory risk being managed

Objective: We apply a risk-based, proportionate approach to compliance, engagement and enforcement activities.

Performance Measures	Targets	Results
Our regulatory frameworks are supported by best practice compliance strategies that are risk based.	We use information, data, analysis and intelligence-based approaches to determine risk, and consider the circumstances of regulated entities	Rating: (Managed) <ul style="list-style-type: none"> The Compliance and Enforcement Policy sets out a range of factors that are taken into account when identifying the relative risk associated with a suspected non-compliance. For example, the Policy requires consideration be given to, among other things, the compliance history and impact of non-compliance. This includes measures that provide flexibility to consider the circumstances of the regulated entity and assist them to correct inadvertent non-compliance.
Our regulatory frameworks are supported by best practice compliance strategies that are risk based.	Our regulators employ a range of compliance and enforcement tools.	Rating: (Managed) <ul style="list-style-type: none"> Compliance and enforcement tools are employed on a graduated pyramid scale, in accordance with the Compliance and Enforcement Policy, which has been adopted from Ayres & Braithwaite 1992, <i>Responsive regulation</i>. This pyramid comprises of four levels and begins at level one, providing advice and guidance to regulated entities in response to identified non-compliance and can increase up to level 4 where criminal and civil proceedings are undertaken. Decision processes and escalation pathways in accordance with WELS compliance management model are formally documented internally, and used in addressing non-compliance identified by WELS inspectors.

Performance Measures	Targets	Results
Our regulatory frameworks are supported by best practice compliance strategies that are risk-based.	Our staff are provided with appropriate training and guidance materials to support their compliance roles.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> • We seek to recruit staff with relevant expertise and ensure training needs are identified. • We offer a range of relevant online training courses to staff, including introduction to risk management and specific training on various legislation and regulations. Staff involved primarily in compliance and enforcement are required to have or obtain a Certificate IV in investigations or equivalent. • We have Standard Operating Procedures to provide guidance to support the day-to-day work undertaken in compliance roles. These are reviewed and updated regularly.
Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile.	We apply a graduated approach to compliance activities that provides for earned autonomy, within legislative parameters.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> • In undertaking the objectives of the WELS Compliance and Enforcement Strategy for 2018 to 2020, we adopt a risk based approach to regulation where feasible and supported by evidence. This means that our inspection regimes may vary with the risk of a regulated activity. The broad principles are set out in our Compliance and Enforcement Policy and relevant statements published on our website. • We use compliance and enforcement tools tailored to the identified risks and behaviour of our regulated entities. These include inspections, audits, warrants and investigations. Enforcement tools such as compliance audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful. • We adopt a regulatory approach that takes into account compliance history and overall risk of the activities. This is set out in our Compliance and Enforcement Policy and Standard Operating Procedures. This includes measures that provide flexibility to assist inadvertent non-compliance.

Performance Measures	Targets	Results
Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile.	Our compliance responses are coordinated and undertaken with appropriate authority and accountability.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> • All appointments and delegations are made in accordance with the WELS Act and are documented and registered with the Department's Office of the General Counsel. The Regulator, WELS Delegates and WELS Inspectors are accountable under the WELS Act, the Crimes Act and the Public Service Act. • WELS Inspectors and Delegates under the WELS Act use their authority responsibly in the management and compliance of the WELS Scheme. Before any powers are exercised under the WELS Act we always ensure the person exercising the power has the appropriate authority. • All decisions to exercise a power under the WELS Act go through the appropriate briefing process and are appropriately documented to ensure accountability and accessibility if required.

KPI 4 — Compliance and monitoring approaches are streamlined and coordinated

Objective: We base our monitoring and inspection approaches on assessed risk and where possible, we take into account the operating context.

Performance Measures	Targets	Results
There are demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities.	We regularly review our business processes with a view to streamlining where possible.	Rating: (Managed) <ul style="list-style-type: none"> We are progressively modernising the delivery of the WELS. This includes progressive upgrades in the capability of our online systems. Significant changes in infrastructure and service delivery are subject to internal assessment regarding benefits and costs for business and there is external consultation on impacts. We are also working with related programs (WaterMark and the Equipment Energy Efficiency program) on streamlined approaches to product registrations. The compliance and registration component of WELS works closely together to ensure consistency and that business processes are streamlined where possible. The product registration database used by regulated entities to apply to register or renew product registration was enhanced in 2019 to improve product registration processing times.
There are demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities.	Our published service standards are met or exceeded.	Rating: (Managed) <ul style="list-style-type: none"> We respond in a timely manner consistent with service standards for the Department. We correspond with regulated entities, including product manufacturers and suppliers, via phone. Over 80% of calls received by WELS are answered immediately. We also correspond with regulated entities via email. Over 80% of emails are acknowledged or responded to within one to two business days. We are progressively improving and publishing information documenting our assessment process to better inform and enable product manufacturers to meet the requirements of WELS.

Objective: We share information and coordinate our compliance activities within the department and with other regulators as appropriate, to minimise duplication and increase efficiency.

Performance Measures	Targets	Results
Business processes and services are improved through the better use of modern technology, and agreed service standards.	We analyse complaints, information and other feedback from our regulated entities to understand trends and make improvements where possible.	Rating: (Managed) <ul style="list-style-type: none"> We respond to complaints and feedback and use provided information to make improvements where possible, such as enhancements to WELS product registration database. We consider suggested changes in terms of whether they support the objectives of the WELS Act, with an aim to meet the objectives at the least cost to regulated entities. We also use complaints, information and other feedback to help inform our compliance activities and regulated entities that should be targeted.
Business processes and services are improved through the better use of modern technology, and agreed service standards.	We collaborate and coordinate with stakeholders, and other relevant regulators to reduce compliance costs and improve efficiency of our regulatory frameworks.	Rating: (Managed) <ul style="list-style-type: none"> In collaboration with Standards Australia and several interested countries, WELS staff are working on an ISO International Standard for water-efficient product testing, rating and labelling. WELS held workshops with the WaterMark Conformity Assessment Bodies (WMCABs) on streamlined application processes for WELS registration and WaterMark certification. The WMCABs undertake WaterMark certification for plumbing products and can also submit applications for WELS registration on behalf of their clients. By doing so, the WMCABs can provide a 'one-stop-shop' application process to registrants for WELS and WaterMark. We have cooperative arrangements with the Equipment Energy Efficiency (E3) program, who share results of their product check testing program when a washing machine or dishwasher fail the water consumption component of testing.

KPI 5 — We are transparent and accountable in the way we administer our regulation

Objective: We make decisions in a manner that is timely, consistent and supports predictable outcomes.

Performance Measures	Targets	Results
When we make decisions we provide reasons and our advice is timely and consistent.	Our approach to regulation is clearly defined in publicly available regulatory statements and compliance plans.	Rating: (Managed) <ul style="list-style-type: none"> As outlined in KPI 2, our regulatory approach is outlined in the WELS Compliance and Enforcement Policy which can be accessed on the water rating website. The department is currently developing a Regulatory Practice Framework, which will support a strengthened regulatory posture by outlining the department's approach to its regulatory responsibilities and providing principles to help guide regulatory staff in performing their duties.
When we make decisions we provide reasons and our advice is timely and consistent.	Our advice to regulated entities explains the reasons for decisions and provides information about avenues for review or complaint (as provided for in relevant legislation).	Rating: (Managed) <ul style="list-style-type: none"> WELS has internal documents that set out processes and rationales for making compliance and enforcement decisions in accordance with the WELS Act and good decision-making principles. These templates include briefs and letters and provide advice to entities, include the reasons for decisions, provides the regulated entity with the opportunity to provide a response and sets out the avenues for review or complaint. We also issue a Notice of Intention before making a decision which notifies the regulated entity the intention to make a decision, the reason for the intended decision, and provides them with an opportunity to respond or provide information. For reviewable registration decisions WELS provides advice to regulated entities on the avenue to seek an internal review or review by the Administrative Appeals Tribunal.

Objective: Reports on regulator performance are published in required timeframes.

Performance Measures	Targets	Results
We publish an annual self-assessment of our performance by the required timeframes.	Our regulators publish performance information specific to their regulatory frameworks.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> As a regulator we publish a range of material on our regulatory activities and related programs. This is available on our website and in hard copy on request. Our regulator performance report provides a high level assessment of our performance as a regulator. The 2018-19 results for the regulator performance framework will be published by the Department of Agriculture. The department's annual report also provides significant performance information on WELS and related activities. The Water Efficiency Labelling and Standards scheme performance information for the year 2018-19 will be available in the Department of Agriculture, Water and the Environment's Annual Report 2018-19. We also undertake an independent review of the WELS scheme every 5 years, as mandated by the WELS Act. The report is published and must be tabled in Parliament and provided to each participating state and territory. We have published other reports evaluating the scheme, including an updated report from the Institute for Sustainable Futures evaluating the environmental and economic benefits of the WELS scheme.

Objective: Our assurance and integrity processes will ensure our compliance approaches are targeted to need.

Performance Measures	Targets	Results
Our regulatory actions are subject to internal assurance processes.	We verify the integrity and reliability of our compliance activities.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> • We follow commonwealth procedures, departmental processes and our standard operating procedures, processes and guidelines. We work within the parameters of our Strategic Plan and the WELS Compliance and Enforcement Policy. • A recent internal audit verified the integrity and reliability of our compliance activities. • We also are in the process of undertaking a self-assessment of WELS compliance with the Australian Government Investigations Standards (AGIS) to ensure quality investigative practices and outcomes.

KPI 6 — Regulators actively contribute to the continuous improvement of regulatory frameworks

Objective: We establish cooperative and collaborative relationships with regulated entities and stakeholders to promote trust and improve the efficiency and effectiveness of our regulatory frameworks.

Performance Measures	Targets	Results
We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.	We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions (this target also applies for KPIs 2&5).	Rating: (Managed) <ul style="list-style-type: none"> As noted above, we maintain a range of consultative arrangements, including through our WELSAG and by seeking feedback on our website and through our InkWELS newsletter. We also have two free call phone lines and two email addresses for stakeholders to use to ask questions or provide feedback. In 2017, consultation with Industry occurred in which input from Industry was used to shape the Compliance and Enforcement Strategy 2018–2020.
We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.	We have a program of review for our regulatory frameworks and operational arrangements are fit for purpose and appropriate.	Rating: (Managed) <ul style="list-style-type: none"> The WELS Act requires a five-yearly independent review of the scheme. Following the second independent review of the WELS Scheme in June 2015, a joint government response to the review's recommendations and the 2016–2019 WELS Scheme Strategic Plan was prepared in consultation with all governments. All states and territories agreed to the Plan. The review included administrative streamlining measures which are now implemented. It did not recommend legislative changes. The next review will take place in 2020. We also are in the process of undertaking a self-assessment to assess WELS compliance with the AGIS to ensure quality investigative practices and outcomes.

Performance Measures	Targets	Results
We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.	We review our regulatory performance and identify areas for improvement in our systems and processes.	<p>Rating: (Managed)</p> <ul style="list-style-type: none"> As detailed in KPI 1, we create efficiencies in processes and systems where possible. One significant improvement regarding performance relates to a change when payment was required during the registration process and in the system. This improvement has created efficiencies for WELS stakeholders (namely Registrants) and WELS registration staff. As outlined in KPI 4, the WELS Act is independently reviewed every five years. The outcome of the review may include identification of areas for improvement in our system and process.