AUSTRALIAN INDUSTRY

GROUP

Ai Group Submission

to the
Electrical Regulatory Authorities Council
Electrical Equipment Safety System
Draft Scheme Rules

August 2010

EXECUTIVE SUMMARY

The Australian Industry Group (Ai Group) welcomes the opportunity to comment on the *Electrical Regulatory Authorities Council (ERAC) Electrical Equipment Safety Scheme (EESS) draft scheme rules*.

Ai Group's response to the *EESS draft scheme rules* builds on our earlier response to the Preliminary Regulation Impact Statement (RIS) and is based on substantial consultation with industry through Ai Group's networks.

Ai Group welcomes the undertaking of the Electrical Equipment Safety review process and is very supportive of the move towards harmonising requirements across all state jurisdictions in Australia. We realise that much consultation with industry has already taken place since 2007 and this submission mainly asks questions regarding finer details of the proposed scheme.

Ai Group has some comments and questions mainly around:

- security and privacy of commercially sensitive information;
- precedence of the RCM over internationally recognised and other country specific compliance marks;
- the timing of mandatory RCM marking;
- whether the scheme is intending to capture unfinished products of incorporation;
- Ai Group informing the check testing process.

It is essential that the proposed Electrical Equipment Safety System and national legislation benefit all stakeholders: community, government and industry.

Ai Group supports the objectives of national legislation to provide a vehicle for harmonising state electrical safety legislation and regulation. Harmonisation of legislation, regulations and enforcement provisions will benefit Ai Group members by providing greater certainty to the marketing of electrical equipment.

Ai Group considers the main benefit to all stakeholders will come from the targeted check testing and policing program. Ai Group believes that an efficient check testing program will bring maximum benefits for all stakeholders. Ai Group would like to engage with ERAC by informing the check testing and policing program. Ai Group proposes that consultation between it and the ERAC Electrical Equipment Working Group may be an effective mechanism for such engagement.

RESPONSE TO THE ERAC ELECTRICAL EQUIPMENT SAFETY SYSTEM (EESS) DRAFT SCHEME RULES

Ai Group has several comments and questions regarding details of the *EESS draft scheme rules*:

Marking of electrical equipment with the Regulatory Compliance Mark (RCM)

Referring to Section 12 of the *EESS draft scheme rules,* "Marking of electrical equipment with the Regulatory Compliance Mark", the proposed requirement for the RCM mark to take precedence over other marks and stand alone does not seem practical to industry where equipment is supplied to many markets and will have many compliance marks applied. This requirement will be problematic for Australian industry.

Consider a computer power supply which may have as many as fifteen internationally recognised or country specific marks of conformity applied. Australia is a relatively small market and overseas suppliers are reluctant to give preferential treatment to such a small market. Ai Group proposes that a reasonable position is for the RCM to be no more or less prominent than other internationally recognised or country specific marks of conformity applied to a product.

Ai Group proposes the following wording be used, "The applied RCM shall be no less visible than any other mark of conformity on the equipment."

Timing of enforcement provisions around the marking of equipment with the RCM

Regarding the timing of the enforcement provisions around marking requirements, Ai Group requests a minimum grace period of five years starting from 1 July 2011 for the mandatory marking of the RCM on equipment supplied to the market after 1 July 2011. Electrical Accessory manufacturers and suppliers will be heavily affected by the proposed requirement for mandatory RCM marking on all equipment within the *EESS draft scheme rules* scope.

Suppliers exist who will have 30 000 different products affected by the marking requirements of the proposed EESS scheme rules. Modifying the marking on all these products must be able to be accomplished in time frames suitable to such suppliers. Otherwise, meeting this requirement in shorter time frames will become logistically impossible resulting in large amounts of stock needing to be either re-worked or sent to land fill.

Regarding electrical equipment already in the market (sold in Australia or New Zealand) before 1 July, 2011, Ai Group would argue that retrospective marking should not apply to this equipment and it

should be able to be sold out of stock without time restriction. Only the provisions in place at the time equipment is first sold should apply to that equipment.

Security and Privacy of Commercially Sensitive Information on the National Registration Database

Referring to Section 7.11, paragraph 2 of the *EESS draft scheme rules*, this clause details the security of information and public access to information that may be commercially sensitive. The draft wording reads, "details of new products on the market may be hidden until the product release date nominated by the responsible supplier".

Ai Group would like this information to be guaranteed to be hidden from public view until the date nominated by the responsible supplier and proposes the following wording be used in the scheme rules, "details of new products on the market shall be hidden until the product release date nominated by the responsible supplier".

Using the example of Community Of Interest Networks, it is feasible for an equipment supplier to grant access to their own documents. In this case, security of information is the responsibility of the supplier. Ai Group proposes that the National Database specification include the provision for enabling responsible suppliers to grant access to their own documents.

Improved Surveillance

Attachment 1 of the *EESS draft scheme rules* describes improved surveillance including a check testing program and nationally co-ordinated inspection programs as part of the proposed EESS. Ai Group believes that an efficient check testing program will bring maximum benefits for all stakeholders.

Ai Group would like to engage with ERAC in the check testing and policing program. Ai Group proposes that consultation between it and the ERAC Electrical Equipment Working Group may be an effective mechanism for such engagement.

Also, Ai Group would like to know what course of action will be taken if a product fails check testing, has not been involved in a serious electrical accident or safety incident and has a compliant test report from the supplier?

Penalties, Complaints, Review and Appeals

Ai Group wonders what actions taken by registered "responsible suppliers" would result in them being de-registered?

Also, what is the detail on the level of fines that will apply if Responsible Suppliers and their Authorised Officers fail to discharge their obligations under the new EESS?

Responsible Supplier Declaration (RSD)

Section 7.4 of the *EESS draft scheme rules* provides some detail regarding the Responsible Supplier Declaration (RSD). When a Responsible Supplier completes a RSD, does the supplier need to list all the individual products they supply and the standards applying to each product? Or simply make a basic statement that all the products supplied conform to the relevant standards without listing all the products and standards?

Ai Group is concerned that if individual products are required to be listed on a RSD, a supplier will need to update the RSD every time a level 1 product is introduced. Depending on the ease with which suppliers are able to interact and update their information on the national database, it may be quite a burden on industry to continually update level 1 information, as suppliers may introduce many hundreds of new products every year.

Testing that is not "materially different" to accredited testing

Section 11.3 mentions "materially different" testing. Ai Group would like the ERAC Electrical Equipment Working Group to provide examples of testing that are not "materially different" and examples of testing that are "materially different to a testing laboratory accreditation". These examples will provide some level of clarity in regard to this type of testing.

Changes to scheme rules

Ai Group would like to highlight that product development cycles are typically two to three years for a supplier to develop a new product, including research and development, prototyping, testing, manufacturing, shipping and supply to the market. Ai Group would like this fact taken into account when major changes are made to the EESS Scheme Rules that will greatly affect individual equipment.

Complaints to the ERAC secretariat

Section 13.3 details the complaints procedure relating to electrical safety concerns raised by a purchaser of electrical equipment. Ai Group would like clarity as to who has reporting responsibility when safety concerns are raised. Does the purchaser, supplier or both have responsibility to report a complaint to the regulator?

Will the EESS scheme rules capture unfinished electrical equipment of incorporation?

Ai Group is concerned that unfinished "electrical equipment of incorporation" may be captured by the *EESS draft scheme rules.* Suppliers currently import and then sell this type of equipment to Original Equipment Manufacturers who then incorporate the equipment into a finished product. The finished product may be used in a residential or domestic application.

A standard may or may not exist for the "electrical equipment of incorporation". A standard may or may not exist for the finished product. In some cases the finished product is not exclusively designed for use in commercial or industrial installations and will be captured by the *EESS draft scheme rules.*

Ai Group realises the EESS will definitely apply to a finished product not exclusively designed for commercial or industrial use. However, Ai Group would like clarity as to whether the "electrical equipment of incorporation" will be captured by the scope of the EESS scheme rules? Ai Group considers that where equipment is sold to an OEM, it should be classified as being exclusively used commercially in a manufacturing setting and not captured by the scope of the EESS.

The same "electrical equipment of incorporation" may also be sold as spare parts. Spare parts will be installed by a licensed or competent person with either protective earthing or double insulation provisions applied. Electrical testing on the repaired equipment (Insulation Resistance and protective earthing) is required to be conducted before the repaired equipment is placed into service. Ai Group would like clarity as to whether a spare part will be captured by the scope of the EESS scheme rules, or whether, in the case of it being sold to a professional contractor or licensed worker, it would be classified as being used exclusively commercially. Ai Group would argue that such spare parts can only legally be installed by competent, supervised or licensed workers under a commercial arrangement and should be outside of the scope of the EESS scheme rules.

Ai Group also seeks clarification as to who will determine whether equipment is designed exclusively for commercial or industrial purposes? A manufacturer may determine that the equipment they supply is designed exclusively for commercial and industrial use, however, the ERAC Electrical Equipment Working Group (ERAC EEWG) may determine otherwise. To provide clarity and certainty, Ai Group suggests that example determinations by ERAC EEWG, on a range of commercial and industrial electrical equipment, are made publicly available as soon as possible.

Registration of level 1 equipment on the national database

The first paragraph of Subsection 7.3 says that Certificates of Conformity (CoC) shall be registered on the national database where level 1 electrical equipment has been assessed and certified under the same criteria as level 3 electrical equipment.

Paragraph 4 of subsection 7.3 says, “While CoCs may be registered for level 1 electrical equipment, such equipment cannot be registered as such or as level 2 or level 3 elec equipment,…”.

The above statements seem to contradict each other. Ai Group would like this point regarding registration of level 1 equipment clarified.

ABOUT Ai GROUP

The Australian Industry Group (Ai Group) is a leading industry association in Australia. Ai Group member businesses employ around 750,000 staff in an expanding range of industry sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other related service industries.

In response to the *EESS draft scheme rules*, Ai Group conducted industry consultations with members of our Electrical Appliances and Accessories Forum, Rotating Machines Forum and Hazardous Area Forum.

Electrical Appliances and Accessories Forum

Electrical Appliances & Accessories (EA&A) Forum addresses the technical and regulatory environment affecting supply of electrical appliances and electrical accessories through interaction with regulators and participation in standards bodies. This Forum is particularly focused on electrical safety, energy efficiency and environmental issues associated with appliances.

Rotating Machines Forum

The Rotating Machines Forum addresses the common interest areas of members involved with the manufacture or supply of electric motors, motor control systems and equipment utilising electric motors. The Forum’s work focuses on minimum energy performance standards, educating the market on standards issues and working with the government regulators.

Hazardous Area Forum

The Hazardous Area Equipment Forum is concerned with general use electrical products with additional safety requirements for dangerous environments (such as the mining and petrochemical industries). The Forum is very actively involved in establishing and assessing international and national Standards. Extension of this work by the Forum members includes educating end-users, government and industry about hazardous area equipment and assisting with the adoption of the international IECEx Scheme