



**CEMENT INDUSTRY
FEDERATION**

19 October 2005

The Secretary,
Senate Economics Legislation Committee,
Suite SG.64, Parliament House
CANBERRA ACT 2600

Dear Sir or Madam:

Inquiry into the provisions of the Energy Efficiency Opportunities Bill 2005

The Cement Industry Federation ("the CIF") welcomes the opportunity to submit comments to the Senate Economics Committee's Inquiry into the provisions of the Energy Efficiency Opportunities Bill 2005 ("the Bill").

Background

The Cement Industry Federation is the national body representing the Australian cement industry, and comprises the three major Australian cement producers - Adelaide Brighton Ltd, Blue Circle Southern Cement Ltd and Cement Australia Pty Ltd. Together these companies account for 100 per cent of integrated clinker and cement supplies in Australia.

The CIF aims to help promote and sustain a competitive Australian cement industry, committed to best practice in its activities.

In relation to greenhouse action by the industry, the CIF has been an active member of the Australian government's Greenhouse Challenge Plus program since 1997. As described in the CIF's 2003/2004 Annual Report to the Australian Greenhouse Office, the industry has achieved significant reductions in greenhouse gas emissions from projects initiated across Australia since 1997. Measured from the Kyoto baseline year of 1990, reductions have totalled over 1.5 million tonnes of carbon dioxide, or an absolute reduction of 3.6%. This is equivalent to an approximate 21% reduction per tonne of cementitious material sold which reflects the efficiency gains attributable to the industry, independent of market fluctuations. This abatement effort is considered to be all the more impressive given a nearly 22% increase in cementitious materials sold into the market over the same period.

Abatement projects have ranged from equipment upgrades (technology improvements), the adoption of alternative lower carbon-emitting fuels and raw materials, and improvements in plant operation and control practices.

The CIF's 2003/2004 Annual Report concluded that by the end of the Challenge agreement period in 2005, that abatement achievements will have been 70% better than that forecast in 1997 for the drafting of the cooperative agreement. The industry is continuing to seek out new opportunities to reduce CO₂ emissions through more energy efficient technology as well as addressing better energy efficiency in the transport sector.

At the recent Greenhouse Challenge Plus conference in Canberra, the CIF received a special commendation for outstanding contribution for greenhouse action. The CIF's achievements in greenhouse gas mitigation highlight the value of early mover activity and the implantation efficiencies available through voluntary abatement action.

The member companies of the CIF, despite their voluntary activities under Greenhouse Challenge, will fall under the provisions of the Energy Efficiency Opportunities program ("the EEO program").

While the CIF is supportive of the objective to improve the identification and implementation of cost-effective, energy efficiency opportunities by large energy using businesses, the indiscriminate application of the EEO program simply duplicates the energy efficiency measures already being identified and acted upon by our member companies, resulting in an increase in reporting and auditing burden with likely little or no net increase in energy efficiency improvement.

It is our belief that EEO legislation should recognise existing common-purpose programs and work to streamline, where possible, common functional and administrative requirements.

In meeting their Greenhouse Challenge Plus commitments, the CIF's member companies already undertake regular energy efficiency, as well as greenhouse-abatement opportunity assessments. Identified opportunities are developed and submitted for funding through normal corporate processes prior to implementation as Greenhouse Challenge action plans. As required, CIF publishes an annual report to the Australian Greenhouse Office as well as providing a public statement outlining the greenhouse activities and performance of the industry.

We believe that there is a need for greenhouse abatement action, but that voluntary, early-movers should not be penalized by overlapping mandatory programs, and request that consideration be given to better integrating voluntary and mandatory programs.

We would also like to comment on the following specific aspects of the Bill:

Regulations

The Bill provides for the enactment of unspecified regulations and, of course, for unspecified and unlimited additions to the regulations in the future. The CIF is concerned in relation to this unrestricted opportunity for regulation, particularly as only sketchy information has been provided as to the likely details of those regulations.

Section 12 of the Bill provides for the establishment of a Register of Corporations for the Energy Efficiency Opportunities Scheme, which may be made available to the public.

Section 12 (2) identifies the information that may be made available on that register, including the name of each corporation that the Secretary must register and “*any other matters required by the regulations.*” (12[2b])

The CIF considers that parameters should be set in the legislation which limit what may be added to the Register and which protect Registered Corporations from the publication within the Register of information that may be commercially sensitive.

Similarly, Section 21 states that a registered corporation must prepare and make available to the public a report in accordance with Section 22.

Section 22 provides for the public reporting of an energy efficiency opportunities assessment report, identifying the contents of such a public report, including:

1. a description of the way in which the corporation has carried out, during the period, the proposal in its approved assessment plan for assessing the opportunities for improving the energy efficiency of its group; and
2. the results of carrying out that proposal; and
3. the response of the corporation to those results; and
4. any other information required by the regulations. (Section 22 [3])

The provision to allow for “*any other information required by the regulations*” once again provides no restraints on the regulations, and no limit on what might be required to be publicly reported, in particular information of a commercially sensitive nature. Provision should be provided within the Bill to make it clear that regulations must not require the publication of commercially sensitive information.

While the unfettered power to require publication of information, which is provided in these previous sections, is of most concern, the Bill contains a number of other provisions that leave potentially onerous aspects of the program to the regulations.

For example, Section 18 sets out the requirements for an assessment plan, which states that:

The assessment plan must meet any extra requirements set out in the regulations (18 [7]).

The Bill should provide at least some guidance as to the extent and nature of these extra obligations. This section also allows for unspecified additions to the regulations in Section 18 (8). The requirement under Section 20 of the Bill to carry out energy efficiency opportunities assessments contains similar provisions to allow for unlimited additions to the regulations.

The CIF suggests that limitations should be set on the information that may be required to be made public under the program and on the nature of the extra requirements that might be called for by regulation. In addition, we would ask that consultation take place between the government and stakeholders on the scope and details of the regulations.

Report Sign off by Chair of the Board

Section 22 (2b) states that the report must be signed by the chair of the board of directors (or equivalent officer) of the registered corporation.

We would consider that this is outside the normal functions of the Chairman of a Board of Directors. Identifying energy efficiency opportunities and taking appropriate action is an operational function and as such the responsibility of the operational management of the company.

Authorised officers

Section 25 allows for the appointment of authorised officers to verify information provided to the Secretary by registered corporations. It states that the Secretary may, in writing, appoint:

1. an officer or employee of the Department; or
2. any other suitably qualified person; (Section 25 [1]).

While Note 2 to Section 23 states that Section 70 of the Crimes Act 1914 imposes *secrecy obligations on Commonwealth officers*, no specific provision is made for confidentially requirements imposed on authorised officers who are not Commonwealth Officers. We would suggest that, given the high level of access to confidential company information that authorised officers will have under the Bill, equivalent confidentiality requirements should be specified in the Bill for those appointed as authorised officers, but who are not covered by Commonwealth secrecy provisions.

This submission has been authorized at the level of the Chief Executive Officer of the CIF. Thank-you for the opportunity to provide this submission.

Yours faithfully,



Stuart Ritchie

Sustainable Development Policy Manager