



Energy Efficiency Opportunities Amendment Regulations 2011 (No. 2)¹

Select Legislative Instrument 2011 No. 156

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Energy Efficiency Opportunities Act 2006*.

Dated 17 August 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

MARTIN FERGUSON
Minister for Resources and Energy

1 Name of Regulations

These Regulations are the *Energy Efficiency Opportunities Amendment Regulations 2011 (No. 2)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Energy Efficiency Opportunities Regulations 2006*

Schedule 1 amends the *Energy Efficiency Opportunities Regulations 2006*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 1.3, definition of *baseline energy*

substitute

assessment cycle means each of the following periods:

- (a) the period of 5 years beginning on 1 July in the financial year after the trigger year;
- (b) each subsequent five year period after the end of the period mentioned in paragraph (a).

baseline energy means the amount of total energy use of a controlling corporation's group, identified for the purpose of paragraph 201 (1) (a) of Schedule 3.

baseline year, for an assessment cycle relating to a controlling corporation, means the period of 12 months identified as the 'baseline year' in the controlling corporation's approved assessment plan for the assessment cycle.

Note See items 101, 201 and 202 of Schedule 3.

[2] Regulation 1.3, definition of *energy-mass balance*

substitute

facility has the meaning given by section 9 of the *National Greenhouse and Energy Reporting Act 2007*.

financial control has the meaning given by section 22R of the *National Greenhouse and Energy Reporting Act 2007*.

[3] Regulation 1.3, after definition of *GJ*

insert

indicator means a measure of the energy use of a controlling corporation's group, or a part of a controlling corporation's group, that is expressed by reference to a unit of production or service that is reasonably relevant to an industry, its energy use, or both.

Examples

- 1 GJ per tonne of product produced.
- 2 GJ per square metre of floor space.
- 3 Litre per kilometre travelled.

Note It is intended that, if a particular indicator is used in providing data about baseline energy use in an assessment plan, corporations should also use the indicator when carrying out assessments and providing energy use data in reports to the Secretary. This will allow meaningful comparisons to be made between baseline indicators provided in the assessment plan and the indicators provided during later reporting milestones in the course of the assessment cycle.

[4] Regulation 1.3, after definition of *key activity*

insert

operational control has the same meaning as it has in section 11 of the *National Greenhouse and Energy Reporting Act 2007*.

[5] Regulation 1.4

substitute

1.4 User of energy — general principles

- (1) The entity that has operational control over a facility in which energy is consumed is the *user* of energy at the facility unless another user is identified in accordance with regulations 1.4A to 1.4C.
- (2) If an entity:
 - (a) is the user of energy; and
 - (b) is a trustee of a trust on behalf of which the trustee may, or may be considered to be, using the energy;the user of energy is taken to be the trustee, and not the trust or the beneficiaries of the trust.

1.4A User of energy — reporting transfer certificate issued

- (1) An entity to which a reporting transfer certificate has been issued under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007* may ask the Secretary, in writing, to treat the entity as the user of energy to which the reporting transfer certificate relates at a facility.
- (2) The Secretary must accept the request as soon as practicable.
- (3) The entity becomes the user of the energy at the facility, in accordance with the request, when the request is accepted.
- (4) If the reporting transfer certificate ceases to be in effect in accordance with the *National Greenhouse and Energy Reporting Act 2007*:
 - (a) the entity ceases to be the user of energy at that time; and
 - (b) the entity that has operational control over the facility becomes the user of energy.

1.4B User of energy — reporting transfer certificate not issued (registered corporation or member of registered corporation's group)

- (1) An entity (the *second entity*):
 - (a) that is a registered corporation or a member of a registered corporation's group; and
 - (b) for which a reporting transfer certificate has not been issued under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007*;
may ask the Secretary, in writing, to treat the second entity as the user of energy to which the request relates at the facility to which the request relates.
- (2) The second entity must have financial control over the facility.
- (3) The second entity must make the request as part of:
 - (a) the submission of an assessment plan; or
 - (b) the submission of a variation to an approved assessment plan.
- (4) The second entity must make the request no later than 18 months before the end of the current five year assessment cycle that applies to the second entity.
Note The five year assessment cycle is mentioned in paragraph 15 (2) (b) of the Act.
- (5) The request must be accompanied by a statement, in writing, that:
 - (a) the entity that has operational control over the facility; or
 - (b) if that entity is a member of a group — the controlling corporation of the group;agrees to the request.
- (6) If:
 - (a) the second entity complies with subregulations (1) and (2); and
 - (b) the request complies with subregulations (3) to (5); and

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- (c) the Secretary is satisfied that the second entity would be required to be registered under Part 4 of the Act if it became the user of the energy;

the Secretary must accept the request as soon as practicable.

- (7) If the Secretary accepts a request in relation to a facility, the entity becomes the user of the energy to which the request relates when the request is accepted.
- (8) If the entity that has operational control over the facility notifies the Secretary, in writing, that it no longer wants the second entity to be the user of energy:
- (a) the second entity ceases to be the user of energy when the Secretary receives the notice; and
- (b) the entity that has operational control over the facility becomes the user of energy.
- (9) If the second entity notifies the Secretary, in writing, that it no longer wants to be the user of energy:
- (a) the second entity ceases to be the user of energy when the Secretary receives the notice; and
- (b) the entity that has operational control over the facility becomes the user of energy.

1.4C User of energy — reporting transfer certificate not issued (not registered corporation or member of registered corporation's group)

- (1) An entity (the *second entity*):
- (a) that is not a registered corporation or a member of a registered corporation's group; and
- (b) for which a reporting transfer certificate has not been issued under subsection 22L(2) of the *National Greenhouse and Energy Reporting Act 2007*;
- may ask the Secretary, in writing, to treat the second entity as the user of energy to which the request relates at the facility to which the request relates.
- (2) The second entity must have financial control over the facility.

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- (3) The second entity must make the request as part of an application under section 9 of the Act to be registered in relation to the facility.
 - (4) The request must be accompanied by a statement, in writing, that:
 - (a) the entity that has operational control over the facility; or
 - (b) if that entity is a member of a group — the controlling corporation of the group;agrees to the request.
 - (5) If:
 - (a) the second entity complies with subregulations (1) and (2); and
 - (b) the request complies with subregulations (3) and (4); and
 - (c) the Secretary is satisfied that the second entity would be required to be registered under Part 4 of the Act if it became the user of the energy;the Secretary must accept the request as soon as practicable.
 - (6) If the Secretary accepts a request in relation to a facility, the entity becomes the user of the energy to which the request relates when the request is accepted.
 - (7) If the entity that has operational control over the facility notifies the Secretary, in writing, that it no longer wants the second entity to be the user of energy:
 - (a) the second entity ceases to be the user of energy when the Secretary receives the notice; and
 - (b) the entity that has operational control over the facility becomes the user of energy.
 - (8) If the second entity notifies the Secretary, in writing, that it no longer wants to be the user of energy:
 - (a) the second entity ceases to be the user of energy when the Secretary receives the notice; and
 - (b) the entity that has operational control over the facility becomes the user of energy.

[6] Regulation 1.6, heading

substitute

1.6 Energy use — accuracy, calculation requirements and changed group members

[7] Before subregulation 1.6 (1A)

insert

When entity is taken to have satisfied calculation requirements

[8] Subregulation 1.6 (1A)

omit

at subregulation 1.6 (1)

insert

in subregulation (1)

[9] Paragraph 3.1 (2) (c)

omit

transfer;

insert

transfer.

[10] Paragraph 3.1 (2) (d)

omit

[11] Paragraph 4.1 (1) (e), excluding the note

omit

[12] Regulation 5.3

substitute

5.3 Identifying parts of a group that must be planned to be assessed

- (1) This regulation sets out principles relating to:
 - (a) how an assessment plan is to provide for the assessment of the baseline energy of the parts of the controlling corporation's group to which the plan applies; or
 - (b) if there are parts of an assessment plan — how each part is to provide for the assessment of the baseline energy of the parts of the controlling corporation's group to which the part applies.
- (2) For the first assessment cycle:
 - (a) the assessment plan must include a plan to assess at least 80% of the baseline energy of the controlling corporation's group; or
 - (b) each part of the assessment plan must include a plan to assess at least 80% of the baseline energy of the parts of the controlling corporation's group to which the part applies.
- (3) For each assessment cycle after the first assessment cycle:
 - (a) the assessment plan must include a plan to assess at least 90% of the baseline energy of the controlling corporation's group; or
 - (b) each part of the assessment plan must include a plan to assess at least 90% of the baseline energy of the parts of the controlling corporation's group to which the part applies.
- (4) If energy use exceeded 0.5 PJ at a site during the baseline year:
 - (a) the controlling corporation's group must assess the site; and
 - (b) subregulation (5) or (7) applies.

- (5) If the controlling corporation does not act under subregulation (7), it may omit from the assessment of the site a maximum of 0.01 PJ of energy (*non-integral energy*) used at the site for the purposes of a process, system or activity that is not part of, or integral to, the main energy-using activity or activities conducted at the site.

Examples of processes, systems and activities that are not part of, or integral to, the main business activity or activities that are conducted at a site

- 1 The operation of lights, information and communication technology or heating, ventilation and air conditioning systems in an on-site office of a mining or manufacturing site.
- 2 The operation of an on-site kitchen or bathroom.
- 3 The operation of an appliance in an on-site kitchen or bathroom.

- (6) Subregulation (7) applies if the controlling corporation reasonably believes that the estimated cost of assessing the amount of non-integral energy for its processes, systems and activities is likely to be greater than the savings that would be derived from opportunities for improving energy efficiency that would be identified in the assessment in relation to the use of that energy.

- (7) For subregulation (6), the controlling corporation:

- (a) does not have to consider that use of energy in the assessment of the site; and
- (b) may omit from the assessment of the site the lowest of:
 - (i) the amount of non-integral energy used at the site during the period mentioned in item 202 of Schedule 3; and
 - (ii) 2% of the amount of energy used at the site during the period mentioned in item 202 of Schedule 3; and
 - (iii) 0.1 PJ of energy; and

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- (c) must include in the assessment plan that relates to the relevant part of the controlling corporation's group:
- (i) a statement the controlling corporation reasonably believes that the estimated cost of assessing the amount of non-integral energy is likely to be greater than the savings that would be derived from opportunities for improving energy efficiency that would be identified in the assessment in relation to the use of that energy; and
 - (ii) information explaining how it formed the belief.

Note Comparing amounts of energy in accordance with paragraph (b) to work out the lowest amount ensures that all of the energy that may be omitted from an assessment will be non-integral energy.

- (8) In addition to subregulation (4), the controlling corporation must assess a site if:
- (a) a member of the group has built or acquired the site up to 18 months before the end of the assessment cycle; and
 - (b) the site uses more than 0.5 PJ during a financial year.
- (9) An assessment of a site mentioned in subregulation (8) may be an assessment undertaken during the design phase of the construction of the site.

[13] Regulation 5.5

substitute

5.5 Documents that registered corporation must give Secretary — reporting transfer certificate

- (1) This regulation applies if:
- (a) a registered corporation gives the Secretary:
 - (i) an assessment plan under section 15 of the Act; or
 - (ii) a proposed variation to an approved assessment plan under subsection 19 (1) of the Act; and

(b) the plan or proposed variation includes a proposal to define the energy use of the registered corporation in accordance with a reporting transfer certificate issued to the registered corporation in accordance with section 22L of the *National Greenhouse and Energy Reporting Act 2007*.

(2) The registered corporation must give the Secretary the information and documents included in the table.

Item Information and documents

- | | |
|---|---|
| 1 | A certified copy of the reporting transfer certificate |
| 2 | Evidence that the controlling corporation that is to transfer the obligation to assess and report the energy use of the group or part of the group to which the reporting transfer certificate relates has agreed to the transfer |
| 3 | Evidence that the controlling corporation that is assuming the obligation to assess and report the energy use of the group or part of the group to which the reporting transfer certificate relates has agreed to the transfer |
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5.6 Variation of percentage of baseline energy to be assessed

- (1) This regulation applies if a controlling corporation wants:
- (a) to assess a different percentage of the baseline energy for the first assessment cycle than the percentage mentioned in subregulation 5.3 (2); or
 - (b) to assess a different percentage of the baseline energy for a subsequent assessment cycle than the percentage mentioned in subregulation 5.3 (3).
- (2) The controlling corporation must include the proposed percentage in a proposed variation to the approved assessment plan or the relevant part of the assessment plan.
- (3) The controlling corporation must also give the Secretary the following information:
- (a) an explanation of why it is not reasonable or appropriate in the circumstances of the group, or the part of the group, to use the percentage mentioned in subregulation (2) or (3);

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- (b) an explanation of the proposed percentage that the controlling corporation proposes to use, and why it is reasonable and appropriate in the circumstances of the group;
 - (c) other information or documents relating to the proposed percentage.

Examples for paragraph (c)

1 Information about, or documents relating to, the divestiture of a group member, site, business unit or key activity, and any assessments that have already been undertaken in relation to the divested member, site, unit or activity.

2 Information about, or documents relating to, the acquisition of a new group member, site, business unit or key activity.

3 Information about, or documents relating to, operational requirements (including health and safety requirements) that prevent the assessment of a particular part of a group.

4 Information about, or documents relating to, an assessment that has already been undertaken by the controlling corporation during the assessment cycle that is consistent with the Assessment Framework requirements.

- (4) The Secretary is not required to accept the proposed percentage as part of making a decision on the proposed variation.

5.7 Proposal for assessing opportunities for improving energy efficiency of controlling corporation's group

- (1) For paragraph 18 (8) (a) of the Act, this regulation sets out requirements relating to a proposal under section 18 of the Act for assessing the opportunities for improving the energy efficiency of a controlling corporation's group.

Note The proposal must be set out in the controlling corporation's assessment plan.

- (2) The proposal must include a timeframe for assessments that requires the completion of:
 - (a) at least one assessment of opportunities for improving energy efficiency for:
 - (i) each member of the controlling corporation's group for which an assessment is planned to be undertaken; and

- (ii) each business unit for which an assessment is planned to be undertaken; and
 - (iii) each key activity for which an assessment is planned to be undertaken;before the end of the first 2 years of the assessment cycle;
or
 - (b) an assessment or assessments of opportunities for improving energy efficiency for at least 40% of the energy use of the controlling corporation's group before the end of the first 2 years of the assessment cycle.
- (3) The controlling corporation may apply to the Secretary for an extension of time for the completion of the assessment or assessments mentioned in the proposal.
- (4) An application under subregulation (3) must be made in the form of a variation to the controlling corporation's assessment plan.
- (5) The Secretary may grant an extension of time if the Secretary is satisfied that it is appropriate, having regard to:
- (a) the length of the extension; and
 - (b) the details of the plans to complete the assessment or assessments within the extended time; and
 - (c) the objectives of the Act.
- (6) If the proposal states that an assessment is intended to be completed within the first 2 years of the first assessment cycle:
- (a) the assessment may commence before the commencement of the first assessment cycle; but
 - (b) the proposal is not satisfactory for the purposes of the approval of the assessment plan if the assessment commenced more than 2 years before the commencement of the first assessment cycle.

Note The central component of the Energy Efficiency Opportunities program is the undertaking of a comprehensive and rigorous assessment of energy use across a controlling corporation and its group members, to identify cost-effective energy saving and efficiency opportunities with a payback period of up to 4 years.

Companies will need to meet the intent and requirements of the key elements that form the basis of a comprehensive and rigorous assessment. The key elements are set out in Schedule 7.

Companies will also be required to keep evidence that they have done so for verification purposes.

[14] Subregulations 6.1 (3) to (7)

omit

[15] Regulation 7.1

substitute

7.1 Period to which report relates

- (1) For subsection 22 (2) of the Act, this regulation sets out reporting periods for a registered corporation.

Note A registered corporation must make reports available to the public after the end of its reporting periods. There are a number of reporting periods within an assessment cycle

First reporting period

- (2) Unless subregulation (3) or (5) applies, the first reporting period in the first assessment cycle for the registered corporation:
- (a) commences when the first assessment cycle commences; and
 - (b) ends 2 years after the first assessment cycle commences.
- (3) The registered corporation may elect to have a first reporting period in the first assessment cycle that:
- (a) commences 2 years before the first assessment cycle commences; and
 - (b) ends 2 years after the first assessment cycle commences.
- (4) If the registered corporation makes an election under subregulation (3), the first reporting period in the first assessment cycle commences and ends in accordance with the election.

Subsequent reporting periods

- (5) The period of 12 months that commences at the end of the registered corporation's first reporting period is a reporting period.
- (6) Each period of 12 months that commences on an anniversary of the end of the registered corporation's first reporting period is a reporting period.

[16] Regulation 7.2

omit

For paragraph 22 (3) (d)

insert

- (1) For paragraph 22 (3) (d)

[17] Regulation 7.2

insert

- (2) For Schedule 4, if, under regulation 7.4, the time at which a report is to be made available to the public is after the end of the assessment cycle to which it relates (the **completed cycle**):
 - (a) the report must include updated information that relates to activities that have been undertaken in accordance with the assessment plan for the completed cycle; and
 - (b) it is not necessary for the report to include information relating to activities undertaken for the purposes of an assessment plan (if any) relating to an assessment cycle after the completed cycle.

Note The first reporting period in the first assessment cycle is identified using subregulations 7.1 (2) to (5). The period is at least 2 years. All subsequent reporting periods in the first assessment cycle are one year.

Reports for periods towards the end of an assessment cycle may be made available to the public after the end of that assessment cycle. They will be part of a cumulative reporting process covering that assessment cycle, with each new public report replacing the previous one, and are not intended to deal with matters for any other reporting period.

[18] Regulations 7.4 and 7.5

substitute

7.4 Time of making report available

- (1) For paragraph 22 (5) (a) of the Act, a first report under section 22 of the Act must be made available to the public by a registered corporation, or a member or a group, no later than 30 months after the commencement of the first assessment cycle.

Note The first assessment of opportunities for improving the energy efficiency of the registered corporation's group must be conducted in accordance with the requirements of the Assessment Framework mentioned in regulation 6.1. The requirements will include an explanation of when the first assessment will be completed.

- (2) For paragraph 22 (5) (a) of the Act, each report subsequent to the first report must be made available to the public by a registered corporation, or a member or a group, no later than 12 months after the previous report was made available to the public.

7.5 Manner of making report available

- (1) For paragraph 22 (5) (b) of the Act, a registered corporation must make a report under section 22 of the Act available to the public in a manner that ensures that the report is:
 - (a) readily available to the public; and
 - (b) accessible by the public.
- (2) The registered corporation may also make a summary of the report available in a form that is directed particularly to investors, shareholders and other key stakeholders.

Note Reports should be readily available to investors, shareholders, other key stakeholders, and interested members of the public. Registered corporations are encouraged to publish these reports in existing public reports published in Australia, such as an annual report, a sustainability report or an environment report.

If the registered corporation does not publish reports of those kinds in Australia, it should publish the report on its website or in other suitable media.

In some cases, space requirements may not allow a registered corporation to meet the minimum reporting requirements of the Energy Efficiency Opportunities Program in an annual report, a sustainability report or an environment report. In those cases, the corporation is encouraged to make a short statement in that report that summarises its involvement in the Program and refers readers to another publication or its own website for a complete public report.

[19] Regulation 7.6

substitute

7.6 Period to which report relates

- (1) For subsection 23 (2) of the Act, this regulation sets out reporting periods for a registered corporation in an assessment cycle.

Note A registered corporation must give reports to the Secretary after the end of its reporting periods. The reports must be given to the Secretary in accordance with regulation 7.9.

First reporting period

- (2) Unless subregulation (3) applies, the first reporting period in the assessment cycle for the registered corporation:
- (a) commences when the assessment cycle commences; and
 - (b) ends 2 years after the assessment cycle commences.
- (3) If the registered corporation proposes to include an assessment or assessments that commenced before the commencement of the assessment cycle, the first reporting period in the assessment cycle:
- (a) commences 2 years before the first assessment cycle commences; and
 - (b) ends 2 years after the assessment cycle commences.

Subsequent reporting period

- (4) The full period of the assessment cycle is a reporting period.

[20] Subparagraph 7.7 (1) (e) (v)

omit

trigger year

insert

baseline year

[21] Paragraph 7.7 (1) (f)

substitute

(f) the energy use of the relevant group or part of the group, presented as follows:

- (i) the use may be expressed using the indicator used in the summary of energy use mentioned in paragraph 201 (1) (c) of Schedule 3;
- (ii) if the energy use of the relevant group or part of the group is expressed using another indicator, the information must be accompanied by the energy use for the baseline year, expressed using the other indicator; and

[22] Subregulations 7.9 (2) and (3)

substitute

- (2) For the first report, the time is no later than 30 months after the commencement of the first assessment cycle.

Note This is the same as the time specified in subregulation 7.4 (1) for providing the first report to the public.

[23] Subregulation 7.9 (4)

renumber as subregulation 7.9 (3)

[24] Schedule 2, item 2

substitute

- 2 A statement that:
- (a) identifies the trigger year; and

- (b) says that the controlling corporation's group used more than 0.5 PJ of energy in the trigger year.

[25] Schedule 2, items 4 to 8

substitute

- 4 A declaration by the Chief Executive Officer (or equivalent officer) or authorised representative, signing for the controlling corporation, that the information included in the application is, to the best of the officer's knowledge, correct and in accordance with the Act and these Regulations.
- 5 For a controlling corporation in respect of which the contact or corporate structure information has changed — a statement at any time providing the amended information.

[26] Schedule 3, item 101

substitute

- 101 The baseline year.

[27] Schedule 3, item 201

substitute

- 201 (1) A summary of:
 - (a) total energy use; and
 - (b) total energy use, having regard to the kinds of energy and energy sources mentioned in subregulation 1.5 (3); and
 - (c) energy use, expressed using an indicator.

[28] Schedule 3, item 202

substitute

- 202 (1) The assessment plan must state the accuracy of the energy use data.

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- (2) The data about energy use that is to be provided for item 201 must relate to a period of 12 months chosen by the controlling corporation, and identified in its assessment plan, as the baseline year for the assessment cycle.
- (3) The period chosen by the controlling corporation must occur within the period:
- (a) commencing 24 months before the commencement of the assessment cycle; and
 - (b) ending 12 months after the commencement of the assessment cycle.
- (4) The period chosen by the controlling corporation must also be a period:
- (a) that is reasonably representative of the normal annual energy use of the controlling corporation's group; and
 - (b) that has ended before the time when the controlling corporation submits its assessment plan; and
 - (c) for which energy use data is able to be identified and supplied by the controlling corporation at an appropriate level of disaggregation to allow meaningful comparison of key energy use and energy efficiency statistics.
- (5) However, if the controlling corporation believes that there is no period of 12 months available in accordance with subitems (2) to (4) that would be reasonably representative of the normal annual energy use of the controlling corporation's group:
- (a) the energy use data provided for the first assessment cycle must relate to a period:
 - (i) commencing 36 months before the commencement of the assessment cycle; and
 - (ii) ending 12 months after the commencement of the assessment cycle; and
 - (b) the controlling corporation must include in its assessment plan:
 - (i) an explanation of why it is appropriate for that period to be the corporation's baseline year; and

- (ii) any other information that would explain why that period is reasonably representative of the normal annual energy use of the controlling corporation's group.

[29] Schedule 3, item 203

omit

The total

insert

For each assessment cycle, the total

[30] Schedule 3, paragraph 203 (1) (c)

omit

the final year of the first five year assessment cycle

insert

the final year of the assessment cycle

[31] Schedule 3, paragraph 204 (1) (a)

omit

trigger year energy use and production levels

insert

energy use and production levels in the year before the commencement of the assessment cycle

[32] Schedule 3, item 303, note

substitute

Note Regulation 5.6 provides that a controlling corporation must include in its assessment plan a proposal for assessing the opportunities for improving the energy efficiency of a controlling corporation's group. The proposal must include a timeframe for the assessment of opportunities that requires the completion of at least one of the activities mentioned in the regulation before the end of the first 2 years of the assessment cycle.

[33] Schedule 3, paragraph 401 (a)

omit

[34] Schedule 3, subparagraph 401 (d) (ii)

omit

Act; and

insert

Act.

[35] Schedule 3, paragraph 401 (e)

omit

[36] Schedule 4, item 1, subparagraph (a) (v)

omit

trigger year

insert

baseline year

[37] Schedule 4, item 3

omit

A statement of the amounts of energy savings (in the form mentioned in Schedule 6, expressed in GJ), for each group member, or each business unit, or each key activity, according to the time periods set out in the table in Schedule 6, that:

- (a) have been identified by the corporation; and
- (b) that have been evaluated using costs and benefits, including energy savings, that are certain to an accuracy to within $\pm 30\%$.

insert

A statement of the amounts of energy savings, expressed in GJ, for each group member, or each business unit, or each key activity, that:

- (a) have been identified by the corporation; and
- (b) are identified per annum by a payback period of less than 2 years; and

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- (c) are identified per annum by a payback period of at least 2 years and less than 4 years; and
 - (d) have been evaluated using costs and benefits, including energy savings, that are certain to an accuracy to within $\pm 30\%$.

Note If energy savings are identified per annum by a payback period of more than 4 years, and are cost-effective to the registered corporation's group, those savings should also be reported.

[38] Schedule 4, item 7

substitute

- 7 (1) Either:
- (a) for the part of the controlling corporation's group to which the report relates — at least 3 examples of significant opportunities for improving the energy efficiency of the group that have been mentioned in the assessment of energy efficiency opportunities; or
 - (b) for each group member, or business unit, or key activity to which the report relates — at least one example of a significant opportunity for improving energy efficiency that has been identified in the report, to a total of at least 3 examples.

Note For paragraph (b), if a report relates to only 2 group members, business units or key activities, at least 3 examples of significant opportunities will be required (if 3 or more significant opportunities have been mentioned in the energy efficiency opportunities assessment). See also subitem (4).

(2) For each example, the report must include a brief description of the opportunity, using commonly understood terminology.

(3) For each example, the report may also include any of the following:

- (a) a description of the type of equipment involved in the significant opportunity, using commonly understood terminology;

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- (b) a statement of the energy use before the significant opportunity was implemented, expressed as a total, using an indicator, or both;
 - (c) a statement of:
 - (i) the energy saved by the implementation of the significant opportunity; and
 - (ii) the effect of the saving on the indicators used to assess the significant opportunity;
 - (d) the cost of implementing the significant opportunity and the amount of money saved by the implementation of the significant opportunity;
 - (e) the payback period (if any) for the implementation of the significant opportunity, the net present value of the implementation of the significant opportunity, or both;
 - (f) the reduction in the volume of greenhouse gases achieved by the implementation of the significant opportunity;
 - (g) any opinions or comments expressed by the relevant business or industry about the implementation of the significant opportunity.
- (4) Despite subitem (1):
- (a) if fewer than 3 significant opportunities have been mentioned in the energy efficiency opportunities assessment, each significant opportunity must be identified in the way mentioned in subitems (2) and (3); and
 - (b) if no significant opportunities have been mentioned in the energy efficiency opportunities assessment, the report must include a statement to that effect.

[39] Schedule 4, item 10, note 2, paragraph (b)

substitute

- (b) energy use data, expressed using an indicator; and

[40] Schedules 6 and 7

substitute

Schedule 7 Assessment Framework

(regulation 6.1)

1 In this Schedule:

energy-mass balance means a method of accounting for:

- (a) the materials and energy entering and leaving a site or fleet and its processes, systems and equipment; and
- (b) the energy and material flows, energy conversions and energy use within the site or fleet and its processes, systems and equipment.

Note 1 To enable an appropriate coverage, generally an energy-mass balance should define, to an accuracy of $\pm 5\%$, at least 80% of a site's energy use and all processes not already included in the 80% that use at least 0.1 PJ of energy per year.

Note 2 There is scope for error margins wider than $\pm 5\%$ for some flows or items of equipment at a site, provided the overall assessment data accuracy requirement is met. Wider error margins will typically apply for those energy and material flows that cannot be accurately measured and therefore may require engineering calculations or estimates. For example, data on the heat released from furnaces, grinding mills and boilers might have higher error margins. Accuracy requirements should not be seen as a disincentive to detailed investigation of processes in the energy-mass balance or similar technique.

Note 3 An energy-mass balance should provide a thorough understanding of:

- (a) the material flows and energy use through a site, its processes and systems, and items of equipment including items such as pipes, ducts and heat transfers through the building envelope; and
- (b) the specific services and products the energy use delivers; and
- (c) the energy conversion processes within a system, and identification of conversions that are essential and efficient; and
- (d) the identification of energy waste and energy efficiency opportunities.

energy efficiency opportunity, or **opportunity**, means a potential change to a system, process, activity, technology or piece of equipment that may result in improvements in energy performance with a payback period of 4 years or less.

Note Energy efficiency opportunities are not intended to include potential changes that would be in breach of relevant legal obligations that relate to the system, process, activity, technology or piece of equipment, including (but not limited to) building regulations and occupational health and safety requirements.

energy performance means measurable results related to energy efficiency, use and consumption, in a form that enables comparisons against a corporation's energy policy, objectives, targets and other energy performance requirements.

idea means an idea for a potential change to a system, process, activity, technology or piece of equipment that:

- (a) is intended to improve energy performance; and
- (b) has not yet undergone technical or whole-of-business evaluation.

whole-of-business evaluation means the financial evaluation of an energy efficiency opportunity to consider all relevant quantifiable business costs and benefits, including:

- (a) direct energy-related costs and savings; and
- (b) other quantifiable financial costs and benefits, for example:
 - (i) capital costs or avoided capital investment; or
 - (ii) reductions or increases in costs of maintenance, waste disposal, water usage or occupational health and safety; or
 - (iii) changes in productivity, the quality of outputs or the quantity of outputs.

Note A whole-of-business evaluation is used to determine net costs and benefits in order to calculate payback periods for energy efficiency ideas and opportunities.

Key Element 1

Leadership

Intent

- ❖ Visible leadership and commitment from senior management provides clear direction and purpose to the assessment by:
 - setting and communicating energy performance objectives; and
 - ensuring that assessment objectives are aligned with business priorities.
- ❖ Senior management support, motivate and value the efforts of staff and other stakeholders involved in the identification and implementation of energy efficiency opportunities.

No.	Key Requirements	Evidence/supporting documentation
1.1	Senior management and operational management establish and communicate energy assessment and energy performance objectives to all personnel who are responsible for, or have an influence on, energy use and the energy assessment.	Evidence showing the existence and communication of energy assessment and energy performance objectives, e.g.: <ul style="list-style-type: none"> • policy documents containing energy objectives approved by senior management (e.g. specific energy policies, environment policies); and • strategic plans signed off by senior management that contain either energy performance or energy assessment objectives; and • assessment objectives signed off by senior or operational management; and • meeting minutes, emails, memos and presentations showing communication of objectives, including details of the recipients and senders.
1.2	Resources (people, time and money) are made available to meet energy assessment and energy performance objectives.	Evidence that identifies the appropriate personnel, e.g.: <ul style="list-style-type: none"> • an organisational chart (clearly identifying senior management and personnel responsible for energy use). Evidence showing allocation of people, time and money, e.g.: <ul style="list-style-type: none"> • an internal plan with a budget detailing people, time and costs; and • budgets showing allocations and expenditures.

Key Element 2

People

Intent

- ❖ Skilled and knowledgeable people, and people with direct and indirect influence on energy use, are involved in the assessment to effectively collect and analyse energy and process data, identify and evaluate energy efficiency opportunities, provide fresh perspectives and make the business case for identified energy efficiency opportunities.
- ❖ Responsibilities and accountabilities are suitably allocated and team diversity is encouraged.

No.	Key Requirements	Evidence/supporting documentation
2.1	Personnel with appropriate skills and expertise are involved in the collection and analysis of energy and process data.	Evidence showing the involvement of appropriately skilled personnel in the analysis of data, e.g.: <ul style="list-style-type: none"> • a schedule of participant roles, skills and experience.
2.2	The energy efficiency opportunity identification, evaluation and business case development process involves a broad cross-section of people, including: <ol style="list-style-type: none"> (a) people from various levels of the site or business unit who have a direct or indirect influence on energy use (e.g. site or fleet managers, operators, sub-contractors, tenants and people responsible for equipment procurement, maintenance, finance, marketing, production); and 	Evidence showing the involvement of people in the opportunity identification and evaluation process, e.g.: <ul style="list-style-type: none"> • meeting minutes, emails, memos, presentations, and organisational map or list of those involved.

No.	Key Requirements	Evidence/supporting documentation
	<p>(b) people from within the corporation (internal or external to the site) who can integrate energy productivity into business productivity objectives and assist with making a business case for identified opportunities (e.g. chief financial officer, business case analysts, business or process improvement managers and people responsible for procurement, corporate and operations management, public relations, strategic planning, operational excellence); and</p> <p>(c) internal and external people with energy, technology and process expertise (e.g. suppliers of current and alternative equipment and technologies, systems modelling experts, engineers); and</p> <p>(d) people external to the site who can provide alternative perspectives, question assumptions and practices, and encourage innovation (e.g. operators from other sites, corporate expert groups, internal or external engineering experts, academics, PhD students).</p>	
2.3	<p>Clear roles, responsibilities and accountabilities are attributed to people involved in the assessment and the business response.</p>	<p>Evidence showing the allocation of roles and responsibilities for people involved in the assessment and the business response, e.g.:</p> <ul style="list-style-type: none"> • planning documents with roles and responsibilities outlined; and • a copy of action plans, project plans and budget proposals.

Key Element 3

Information, data and analysis

Intent

- ❖ Sufficient data, in suitable forms, is used to quantify and understand energy use, identify and quantify energy saving opportunities, and track performance and outcomes (where actions are implemented).
- ❖ Energy data is analysed from different perspectives to understand relationships between activity and consumption, and identify energy efficiency opportunities.

No.	Key Requirements	Evidence/supporting documentation
3.1	<p>Business contextual information that influences energy use and returns on energy efficiency investments is analysed for its impact on current and future energy use during the assessment, including:</p> <ul style="list-style-type: none"> (a) the key business priorities and plans (e.g. relocation, expansion, site and equipment replacement, maintenance and shutdown schedules affecting investment timing and returns); and (b) the key site processes and activities that use energy; and (c) other external factors affecting investment returns, if applicable (e.g. rising energy prices, interest rates). 	<p>Evidence showing that key background information has been collected and analysed for its impact on energy use, e.g.:</p> <ul style="list-style-type: none"> • a background paper, series of reports or presentations summarising the analysis for consideration during the assessment.

No.	Key Requirements	Evidence/supporting documentation
3.2	<p>Data collection processes are identified, documented and implemented to provide:</p> <ul style="list-style-type: none"> (a) energy consumption and cost data for each energy source. Data should be entered at the frequency that bills and other records are received (typically monthly) for a total of 24 months. The accuracy of data must be within $\pm 5\%$. A less accurate level may be used only if it was approved as part of the assessment schedule. (b) energy consumption data for each of the key site processes, systems and activities. (c) production (or output or service) data for a total of 24 months. Data should be entered at the same frequency and timing as the energy consumption and cost data. (d) information about the impact of the operating profile of the site or fleet on energy use. (e) data on other process parameters that impact on energy use (e.g. ambient temperature, geology (mining) and production inputs). (f) information about the energy and material flows through the site or fleet and its processes, systems and equipment (e.g. using an energy-mass balance or similar technique appropriate to the type of activity). (g) information about measures being undertaken to ensure the accuracy and completeness of the energy data. (h) information about measures being undertaken to identify and resolve material data gaps and anomalies. (i) information about assumptions used in the data collection process and their associated uncertainty. 	<p>A documented data collection process, including assumptions and uncertainties.</p> <p>Evidence of the implementation of the data collection process, e.g.:</p> <ul style="list-style-type: none"> • a data inventory that includes production, energy cost and energy consumption data based on billing data; and • an energy-mass balance or equivalent; and • operating and production logs tracked against energy use. <p>Evidence showing the measures undertaken to improve the accuracy and completeness of data, and to reduce data gaps and uncertainties, e.g.:</p> <ul style="list-style-type: none"> • copies of action plans, project plans or budgets.

No.	Key Requirements	Evidence/supporting documentation
3.3	<p>An energy analysis process to assist in the identification, quantification and evaluation of energy efficiency opportunities, using data from Key Requirement 3.2, is undertaken and documented, including:</p> <ul style="list-style-type: none"> (a) energy use performance indicators, established at the appropriate level, with consideration of variations over time and major factors that affect energy performance; and (b) application of a range of analysis methods to explore relationships between energy use and variables (e.g. output or climatic factors) that may influence energy use, using data collected at appropriate times (e.g. review of graphs and charts, regression analysis); and (c) a comparison of performance to actual and theoretical energy use benchmarks, at the relevant level (process, technology, activity or site) to identify and quantify opportunities; and <p><i>Note</i> Theoretical benchmarking may include engineering calculations or simulations based on thermodynamic and heat transfer analysis, fluid mechanics or combustion analysis.</p> <ul style="list-style-type: none"> (d) if appropriate, other detailed analysis, comparative techniques or experimental approaches (e.g. engineering, vehicle trials, pilot studies, logistical approaches or thermographic imaging) are used to fully understand energy consumption; and (e) analysis of the energy and material flows through the site or fleet, and the processes, systems and equipment at the site or of the fleet, to systematically quantify if energy is being used, wasted or lost, compared with the amount of energy required by the specific products and services that the energy use delivers (e.g. energy-mass balance or similar). 	<p>A documented energy analysis process.</p> <p>Evidence of the implementation of an energy analysis process, e.g.:</p> <ul style="list-style-type: none"> • a background paper, series of reports or presentations summarising the analysis for consideration during the assessment.

Key Element 4

Opportunity identification and evaluation

Intent

- ❖ An effective process is undertaken to identify all potential cost-effective energy efficiency opportunities. The process is informed by accurate data and rigorous analysis undertaken in Key Element 3 and involves the relevant people identified in Key Element 2. This process is broad, open-minded and encourages innovation.
- ❖ Ideas are filtered to identify a documented list of potential opportunities that can then be analysed to a level sufficient for informed evaluation with a payback period of 4 years or less.
- ❖ A whole-of-business evaluation is undertaken to enable decision-makers to make informed business decisions about energy efficiency opportunities.

No.	Key Requirements	Evidence/supporting documentation
4.1	<p>A process to identify ideas is implemented and documented.</p> <p>The process should involve a review of the contextual information and data that are collected and analysed as part of Key Element 3 and include the appropriate people as stipulated in Key Element 2.</p> <p>The process as implemented should result in a comprehensive list of ideas.</p>	<p>Evidence showing the implementation of a process to identify opportunities, e.g.:</p> <ul style="list-style-type: none"> • a comprehensive list of ideas to improve energy efficiency; and • a summary linking the process used to the personnel involved, the time period, and the level of the business at which it was carried out; and • meeting agendas or minutes involving the identification of opportunities, and a list of the people who attended; and • correspondence related to opportunity identification (e.g. emails); and • external reports used to assist in the identification of opportunities (e.g. energy audit reports); and • working papers or summaries of assumptions made about implementing the process.

No.	Key Requirements	Evidence/supporting documentation
4.2	<p>Ideas are examined to determine if they are feasible and have a potential payback of less than 4 years.</p> <p>The examination process should result in the feasible ideas with a potential 4 year payback being categorised as either ‘for implementation’ or ‘for further investigation’. These are potential opportunities.</p> <p>Reasons why ideas will not be further investigated are documented.</p>	<p>Evidence showing the outcomes of a process, including:</p> <ul style="list-style-type: none"> • a list of ideas for implementation or further investigation, including business criteria used to determine feasibility; and • documentation of reasons for not further investigating ideas (if relevant).
4.3	<p>Detailed investigation is undertaken (including sub-metering or real time metering) to quantify the energy use, and energy and financial costs and savings of potential opportunities, to an accuracy of within $\pm 30\%$¹.</p> <p>If $\pm 30\%$ cannot be achieved, providing an indication in 5.3 of how the accuracy level will be achieved, including further investigation and sub-metering.</p> <p>A whole-of-business evaluation (informed by the detailed investigation) is undertaken to quantify costs and benefits of each potential opportunity in order to calculate a payback period, to identify a list of opportunities with a payback of 4 years or less.</p> <p><i>Note</i> Where an opportunity will require approval for significant capital expenditure, the costs and benefits should be evaluated to within $\pm 10\%$, or to the level of accuracy required by the corporation’s existing capital expenditure process.</p>	<p>A list of opportunities and associated recommendations, including criteria used to make recommendations.</p>

No.	Key Requirements	Evidence/supporting documentation
	<p>¹ Opportunities that have immediate business benefits (low costs and immediate paybacks), or for which the cost of achieving accuracy is greater than the benefit, may be implemented or scheduled for implementation without being evaluated to within $\pm 30\%$. If practicable, data on these opportunities should be monitored following implementation, to evaluate and report on savings. If a series of small opportunities has been identified, they can be grouped together to facilitate post-implementation performance monitoring and reporting.</p> <p>The costs and benefits for those ideas categorised in 4.2 as ‘for implementation’ need not be evaluated to within $\pm 30\%$, if they are believed to have immediate business benefits or do not warrant detailed investigation. Detailed investigation to reach an accuracy of $\pm 30\%$ is also not required for those ideas for which it can be shown that a payback period of 4 years or less is not possible, or those that prove to be infeasible for technical, safety or other genuine reasons.</p>	
4.4	<p>For all opportunities with a payback period of 4 years or less, recommendations, based on appropriate business criteria, are made to the decision-maker/s responsible for resource allocation and investment.</p> <p>Recommendations should include whether the opportunities should undergo further investigation, be implemented, or not be implemented.</p> <p>Reasons for not pursuing opportunities are documented.</p>	<p>A list of opportunities and associated recommendations, including criteria used to make recommendations.</p>

Key Element 5

Decision making

Intent

- ❖ Management responsible for resource allocation for opportunities identified by the assessments make informed decisions on the assessment based on investment quality information.
- ❖ Corporations develop clear lines of accountability, appropriate resources and timeframes for all energy efficiency opportunities that a corporation decides to implement or investigate further.
- ❖ Mechanisms for reviewing, monitoring and reporting on outcomes are established to learn from experience and enable public reporting.

No.	Key Requirements	Evidence/supporting documentation
5.1	<p>Management responsible for decisions about investment and resource allocation is presented with key background information and the relevant outcomes of the assessment. Information presented to management includes:</p> <ul style="list-style-type: none"> (a) total energy use and energy cost relative to variable operating costs and profit for the manager's area of responsibility; and (b) energy savings identified for each opportunity; and (c) the costs and benefits based on a whole-of-business evaluation, including a payback period for each opportunity; and (d) the business recommendation for each opportunity; and (e) recommendations to improve data and evaluation accuracy (if necessary). 	<p>Evidence showing presentation of required information to management, e.g.:</p> <ul style="list-style-type: none"> • reports or presentations to management.
5.2	<p>Management responsible for decisions about investment and resource allocation decide the business response, including the opportunities that are to be implemented, to be further investigated (including improvements in data and evaluation accuracy), or not to be implemented.</p>	<p>Evidence showing decisions by management, e.g.:</p> <ul style="list-style-type: none"> • reports to management which also record the decisions.
5.3	<p>The appropriate decision-maker allocates timelines, resources and accountabilities for the business response to the assessment, covering all energy efficiency opportunities that the corporation decides to implement or investigate further (including improvements in data and evaluation accuracy). This includes processes for reviewing and monitoring to learn from experience and support public reporting.</p>	<p>Evidence of allocation of timelines, resources and accountabilities, e.g.:</p> <ul style="list-style-type: none"> • A copy of action plans, strategies, project plans, budget proposals. • Monitoring and feedback mechanisms.

Key Element 6

Communicating outcomes

Intent

- ❖ Senior management and the members of the board are aware of the outcomes of the assessment in a strategic business context (including the corporation's risk management, corporate social responsibility and major investment decisions).
- ❖ The board reviews and notes the public report in the context of relevant business information.
- ❖ Recognition and awareness within the corporation of the benefits of improved energy efficiency and the outcomes achieved by the assessment, including recognition and awareness of people who contributed to its success.

No.	Key Requirements	Evidence/supporting documentation
6.1	<p>For each relevant business unit or key activity, the board and the senior officer responsible for signing the public report are presented with the public report and:</p> <p>(a) total energy use and energy cost, relative to variable operating costs and profit, and other relevant business information (e.g. projected future energy use); and</p> <p>(b) total energy savings identified, and the business's response relative to the energy performance objectives set out in Key Element 1; and</p> <p>(c) total whole-of-business costs and benefits of the opportunities identified, and the business's response; and</p> <p>(d) recommendations for major investments; and</p> <p>(e) all information that will be included in the public report when it is released.</p>	Evidence of presentation to the board.

No. Key Requirements	Evidence/supporting documentation
6.2 The board reviews and notes the information to be included in the public report.	Evidence of board review and noting, e.g.: <ul style="list-style-type: none"> • meeting minutes; and • board agendas and reports; and • a statement by the signer of the public report.
6.3 A clear message about the outcomes of the assessments, in the context of the objectives set by the organisation's leadership, is to be communicated by senior management and operational management to relevant staff in the organisation.	Evidence of the communication of the outcomes of assessments and progress against objectives, including who has provided the information and to whom the information has been provided, e.g.: <ul style="list-style-type: none"> • correspondence to relevant staff of documents containing the relevant information (e.g. emails about the sustainability report or other reports that may contain the information); and • presentations of outcomes, including meeting invitees, attendees and presenters.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.