



# **Energy Efficiency Opportunities Regulations 2006**

**Select Legislative Instrument No. 160, 2006 as amended**

made under the

*Energy Efficiency Opportunities Act 2006*

**Compilation start date:** 18 June 2013

**Includes amendments up to:** SLI No. 121, 2013

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### The compiled instrument

This is a compilation of the *Energy Efficiency Opportunities Regulations 2006* as amended and in force on 18 June 2013. It includes any amendment affecting the compiled instrument to that date.

This compilation was prepared on 28 June 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending Acts and instruments and the amendment history of each amended provision.

### Uncommenced provisions and amendments

If a provision of the compiled instrument is affected by an uncommenced amendment, the text of the uncommenced amendment is set out in the endnotes.

### Application, saving and transitional provisions for amendments

If the operation of an amendment is affected by an application, saving or transitional provision, the provision is identified in the endnotes.

### Modifications

If a provision of the compiled instrument is affected by a textual modification that is in force, the text of the modifying provision is set out in the endnotes.

### Provision ceasing to have effect

If a provision of the compiled instrument has expired or otherwise ceased to have effect in accordance with a provision of the instrument, details of the provision are set out in the endnotes.

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## **Part 1—Preliminary**

### **1.1 Name of Regulations**

These Regulations are the *Energy Efficiency Opportunities Regulations 2006*.

### **1.2 Commencement**

These Regulations commence on the day after they are registered.

### **1.3 Definitions**

In these Regulations:

**Act** means the *Energy Efficiency Opportunities Act 2006*.

**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.

**business unit** means a group member, or associated group members within a group, that:

- (a) is made responsible by the controlling corporation for a function that is significant to the overall business of the group; and
- (b) has a significant degree of autonomy and responsibility.

Note: A business unit may be:

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- (a) a group member or members; or
- (b) a part of a group member or members; or
- (c) a combination of group members and parts of group members;

that operate a large site, or a group of sites, or a team of group members providing specialist services across a business.

**capacity factor** means the energy generated by a generating unit over a period of time, expressed as a percentage of the maximum energy that the unit could generate, if it operated continuously, at maximum capacity, over the same period.

**combustible fuel** means an energy source that is combusted to create energy.

**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*.

**GJ** means gigajoules.

**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.

Example 1: GJ per tonne of product produced.

Example 2: GJ per square metre of floor space.

Example 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.

**key activity**, in relation to a group member or members, means a function that is:

- (a) related to a distinct product or service; and
- (b) designated as significant by the controlling corporation.

*Examples of distinct products or services that might comprise a "key activity"*

1 Cement.

2 Alumina.



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- 3 Supermarket/retail.
- 4 Open cut coal mining.
- 5 Aluminium smelting.

Key activities should be grouped at an appropriate level to allow meaningful comparison of key energy use and savings statistics. The activities will vary depending on the particular structure of the business.

**liability transfer certificate** has the meaning given by section 5 of the *Clean Energy Act 2011*.

**operational control** has the meaning given by regulation 1.3A.

**payback period**, for an opportunity, unless the contrary intention appears, is the period expressed in years, worked out in accordance with the formula:

$$\frac{A}{B}$$

where:

**A** is an amount equal to the initial capital cost of implementation; and

**B** is an amount equal to the net annual savings over the first 4 years after implementation, and not including any amount that is included in **A**.

**PJ** means petajoules.

**reporting transfer certificate** has the meaning given by section 7 of the *National Greenhouse and Energy Reporting Act 2007*.

**service factor** means the total operating hours of an electricity generating unit, expressed as a percentage of the total hours the electricity generating unit was available for operation.

Example of **service factor**:

If an electricity generating unit was available for operation for 8 760 hours in a year and operated for 672 hours, its service factor would be 7.7%.

**significant opportunity**, for a corporation, means a potential change or modification to equipment, or to a system or activity, that:

- (a) is identified through an energy efficiency opportunities assessment; and
- (b) the corporation reasonably considers could:

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- (i) result in a material reduction in energy use of a site or process; or
- (ii) result in a material improvement in energy efficiency of a site or process; or
- (iii) generate materially significant financial savings for a site or business.

**site** means a physical location (or a series of physical locations in close proximity to one another) on which is carried out a business activity or a number of business activities by 1 or more members of a controlling corporation's group.

Examples of **sites**:

A factory, mine or mill.

### 1.3A Operational control

- (1) A person has **operational control** of a facility if the person has the authority to introduce and implement one or more of the following policies for the facility:
  - (a) operating policies;
  - (b) health and safety policies;
  - (c) environmental policies.
- (2) If more than one person could have operational control of a facility at the same time, the person who has the greatest authority to introduce and implement operating and environmental policies is taken to have operational control of the facility.
- (3) However, if the Clean Energy Regulator has made a declaration under section 55 of the *National Greenhouse Energy Act 2007* that a controlling corporation has operational control of a facility, that corporation is taken to have operational control of the facility.

### 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.

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- (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—liability transfer or reporting transfer certificate issued**

- (1) An entity to which a liability transfer certificate or reporting transfer certificate has been issued may ask the Secretary, in writing, to treat the entity as the user of energy to which the liability transfer certificate or 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 certificate ceases to be in effect:
  - (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—liability transfer or 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 liability transfer certificate or reporting transfer certificate has not been issued;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.

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- (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
  - (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.

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- (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—liability transfer or reporting transfer certificate 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 liability transfer certificate or reporting transfer certificate has not been issued;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 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.

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- (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.

### 1.5 Energy use threshold—meaning of energy used

- (1) For subsection 10(3) of the Act, this regulation explains the meaning of the ***energy used*** by an entity.

#### *General meaning*

- (2) The ***energy used*** by an entity is the total of:
  - (a) all energy; and
  - (b) all energy sources;used by the entity, reduced by any amount mentioned in this regulation.

#### *Kinds of energy*

- (3) The meaning of ***energy used*** by an entity is to be determined by reference to energy and energy sources mentioned in Schedule 1 of the *National Greenhouse and Energy Reporting Regulations 2008*.

Note: Schedule 1 of the *National Greenhouse and Energy Reporting Regulations 2008* specifies fuels and other energy commodities for the

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purposes of the definition of energy in section 7 of the *National Greenhouse and Energy Reporting Act 2007*.

*Reduction of total of all energy*

- (4) For subregulations (2) and (3), the total of all energy used by the entity, mentioned in subregulation (2), does not include:
- (a) the use of energy or energy sources described in Part 2 of Schedule 1; and
  - (b) energy sources, to the extent that the sources were used to produce energy used by the entity.

Note: Paragraph (b) is intended to prevent “double counting”: where an entity uses an energy source to create energy that the entity then uses, it is only the latter use of energy that counts.

*Conversion factors*

- (5) If an energy source is to be converted to an amount of energy, the conversion is to be done using the energy content factors mentioned in the *National Greenhouse and Energy Reporting (Measurement) Determination 2008*.

Note: These conversion factors are included in order to set out a method for measuring the energy use of an entity where the only available measure of the entity’s energy consumption is by reference to the energy source they have acquired.

- (6) If, in a particular case, an entity responsible for making a report under Part 7 of the Act is aware that another conversion method would provide more accurate information, the entity may use that conversion method in that case only if the entity states:
- (a) in a public report mentioned in section 22, 22A or 22B of the Act—whether the conversion factors used were factors:
    - (i) mentioned in subregulation (5); or
    - (ii) accepted by industry; or
    - (iii) a combination of factors mentioned in subparagraphs (i) and (ii); and
  - (b) in a report to the Secretary mentioned in Division 2 of Part 7:
    - (i) a statement that complies with paragraph (a); and
    - (ii) the factors actually used.

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- (7) If, in a particular case, an entity responsible for making a report under Part 7 of the Act is aware that the use of energy by the entity would be more accurately described by an alternative method, the entity may use that method to describe its use of energy only if:
  - (a) the entity states the detail of the alternative method in:
    - (i) a public report mentioned in section 22, 22A or 22B of the Act; and
    - (ii) in a report to the Secretary mentioned in section 23 of the Act; and
  - (b) the Secretary approves the method in writing.
- (8) An approval by the Secretary mentioned in paragraph (7)(b) may be included in the Secretary's approval of:
  - (a) an assessment plan; or
  - (b) a variation to an assessment plan.

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

#### *Accuracy of calculations*

- (1) Subject to subregulation (1A), the entity responsible for making the relevant report or meeting the relevant requirement must apply the principles in the table, relating to the accuracy of its calculations, when working out the calculation.

Item	For the purpose of ...	that shows data about ...	the calculations ...
1	preparing an assessment plan to be given to the Secretary under Part 5 of the Act	estimations of energy use	(a) should achieve the best available level of accuracy, ideally to within $\pm 10\%$ ; and (b) must show the margin of error used in the calculations
2	meeting a requirement of the Assessment Framework mentioned	energy use	must achieve a level of accuracy to within $\pm 5\%$ , unless another level of



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<b>Item</b>	<b>For the purpose of ...</b>	<b>that shows data about ...</b>	<b>the calculations ...</b>
	in regulation 6.1		accuracy has been approved in the group's assessment plan
3	meeting a requirement of the Assessment Framework mentioned in regulation 6.1	(a) financial costs and financial benefits of opportunities; and (b) energy savings of opportunities	must achieve a level of accuracy to within $\pm 30\%$
4	preparing a public report, or a report to the Secretary under Part 7 of the Act	energy use of assessed parts of the group	must achieve a level of accuracy to within $\pm 5\%$ , unless another level of accuracy has been approved in the group's assessment plan
			Note: If another level has been approved, the actual level achieved must be stated.
5	preparing a public report, or a report to the Secretary under Part 7 of the Act	(a) financial costs and financial benefits of opportunities; and (b) energy savings of opportunities	(a) must show the level of accuracy to which the data, or each range of data, has been calculated; and (b) must show the level at the level of aggregation required for the report

*When entity is taken to have satisfied calculation requirements*

- (1A) If the data mentioned in items 1, 2 and 4 of the table in subregulation (1) satisfies the methods and criteria for the measurement of the consumption of energy provided in the *National Greenhouse and Energy Reporting (Measurement) Determination 2008*, the entity responsible for the preparation of

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that data is taken to have satisfied the calculation requirements in the fourth column of the table.

### *Energy use for a changed group—reporting period*

- (2) If the members of a group change during a reporting period, the energy used by the group is taken to be the total of all energy used by the members of the group that are members on the last day of the reporting period.

Note: A group may voluntarily report on energy used by members who have left the group, as long as the report complies with this subregulation by identifying the energy used by those who are group members on the last day of the reporting period.

## **1.7 Controlling corporation to ensure regulations are fulfilled**

If, under these Regulations, an obligation is imposed on a controlling corporation by reference to a person, entity, group or part of a group:

- (a) the person, entity, group or part of the group must fulfil the obligation; and
- (b) if the obligation is not fulfilled—the controlling corporation is responsible.

## **Part 2—Definitions relating to groups**

### **2.1 Controlling corporation—general**

- (1) For paragraph 7(2)(b) of the Act, the class of corporations mentioned in this regulation is specified.

Note: Subsection 7(2) of the Act identifies corporations that are not to be treated as **controlling corporations** for the purposes of the Act. The corporation must be in a class of corporations specified in the regulations.

- (2) The class is each corporation:
- (a) whose main business is:
    - (i) the transmission of either or both of natural gas and electricity; or
    - (ii) the distribution of either or both of natural gas and electricity; or
    - (iii) the transmission and distribution of either or both of natural gas and electricity; and
  - (b) for which the total energy used in its activities (other than the transmission and distribution of natural gas and electricity) does not exceed 0.5 PJ in a year; and
  - (c) for which each of its subsidiaries, and joint ventures and partnerships for which it is the responsible entity, satisfies the requirements mentioned in paragraphs (a) and (b).

### **2.2 Group and members of a group—general**

- (1) For paragraph 8(4)(b) of the Act, the class of corporations mentioned in this regulation is specified.

Note: Subsection 8(4) of the Act identifies subsidiaries of controlling corporations that are not to be treated as part of a **group** for the purposes of the Act. The subsidiary must be in a class of entities specified in the regulations.

- (2) The class is each corporation:
- (a) that is a subsidiary of a controlling corporation; and
  - (b) whose main business is:
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- (i) the transmission of either or both of natural gas and electricity; or
    - (ii) the distribution of either or both of natural gas and electricity; or
    - (iii) the transmission and distribution of either or both of natural gas and electricity; and
  - (c) for which the total energy used in its activities (other than the transmission and distribution of natural gas and electricity) does not exceed 0.5 PJ in a year; and
  - (d) for which each of its subsidiaries, and joint ventures and partnerships for which it is the responsible entity, satisfies the requirements mentioned in paragraphs (b) and (c).
- (3) This regulation ceases to have effect at the end of 30 June 2013.

### 2.3 Responsible entity—rules for making a nomination

- (1) For subsection 8(7) of the Act, this regulation sets out rules under which:
- (a) participants in a joint venture may make a nomination of a member of a group as the responsible entity for the joint venture for subsection 8(5) of the Act; and
  - (b) partners in a partnership may make a nomination of a member of a group as the responsible entity for the partnership for subsection 8(6) of the Act.
- (2) The nomination must:
- (a) be in writing; and
  - (b) be signed for the member of the group (the *nominee*) that is being nominated as the responsible entity for the joint venture or partnership; and
  - (c) include a statement to the effect that the nominee is being nominated as the responsible entity for the joint venture or partnership for the purposes of the Act; and
  - (d) include a statement to the effect that all of the other participants or partners have been informed of the nomination; and
  - (e) state:

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- (i) the nominee's full name, address and Australian Business Number; and
- (ii) the name and either the address or Australian Business Number of each participant or partner; and
- (iii) the full name, address and Australian Business Number of the joint venture or partnership; and
- (f) include a declaration by an employee signing for the nominee that the information included in the nomination is, to the best of the officer's knowledge, correct and in accordance with the requirements of the Act and these Regulations.

Note: For a joint venture to which the *National Greenhouse and Energy Reporting Regulations 2008* applies, it is recommended that a person nominated as a responsible entity under this regulation be the same person nominated under regulation 2.08 of the *National Greenhouse and Energy Reporting Regulations 2008* for the joint venture.

#### **2.4 Group and members of a group—revocation of nomination by responsible entity**

- (1) The nomination of a member of a group as:
  - (a) the responsible entity for a joint venture for subsection 8(5) of the Act; or
  - (b) the responsible entity for a partnership for subsection 8(6) of the Act;may be revoked only in accordance with this regulation.
- (2) The responsible entity must give a notice (a ***notice of intention***) to each participant in the joint venture, or to each partner, stating that the responsible entity:
  - (a) intends to revoke its nomination as a responsible entity for the joint venture or partnership; and
  - (b) will give the Secretary a notice, revoking its nomination as responsible entity, at least 28 days after the notice of intention has been given to each of the participants or partners.
- (3) If the responsible entity wishes to seek the revocation of its nomination as the responsible entity after giving the notice of intention to each of the participants or partners, the responsible

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entity must give a notice to the Secretary, at least 28 days after the notice of intention has been given to each of the participants or partners, stating that the responsible entity:

- (a) has complied with subregulation (2); and
  - (b) does not propose to withdraw the notice of intention; and
  - (c) revokes its nomination as a responsible entity for the joint venture or partnership.
- (4) If the responsible entity:
- (a) does not comply with subregulation (2) when giving a notice to each of the participants or partners; or
  - (b) does not comply with subregulation (3) when giving a notice to the Secretary;
- the notice is taken to have no effect.

Note: The requirement to give a notice of intention, followed by a 28 day period, before a notice of revocation may be given to the Secretary is intended to allow participants or partners time to resolve any issues between them and the responsible entity (including a resolution through proceedings for injunctions to prevent the filing of a notice of revocation) and time to organise a replacement responsible entity.

### **2.5 Group and members of a group—revocation of nomination otherwise than by responsible entity**

- (1) For subsection 8(7) of the Act, this regulation sets out rules under which:
- (a) participants in a joint venture may revoke the nomination of a member of a group as the responsible entity for the joint venture for subsection 8(5) of the Act; and
  - (b) partners in a partnership may revoke the nomination of a member of a group as the responsible entity for the partnership for subsection 8(6) of the Act; and
  - (c) participants and partners may nominate a replacement responsible entity; and
  - (d) nominations are automatically revoked.

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Regulation 2.5

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*Revocation (automatic)*

- (2) The nomination is taken to be revoked on the day on which any of the following happens:
- (a) the responsible entity ceases to be a participant in the joint venture or a partner of the partnership;
  - (b) a liquidator is appointed to the responsible entity;
  - (c) if the responsible entity is incorporated under the *Corporations Act 2001*—the responsible entity is deregistered in accordance with that Act;
  - (d) if the responsible entity is a body corporate established otherwise than under the *Corporations Act 2001*—the responsible entity ceases to be a body corporate entitled to conduct its affairs.

*Revocation with replacement entity—participants*

- (3) If a participant (the ***new entity***):
- (a) is not the responsible entity; and
  - (b) gives the Secretary:
    - (i) a nomination of the participant that complies with regulation 2.3; and
    - (ii) evidence of the consent of the current responsible entity to its replacement by the new entity;
- the nomination of the current responsible entity is taken to be revoked on the later of the day on which the Secretary receives the nomination and the evidence and the day (if any) on which the nomination of the new entity is expressed to take effect.

*Revocation with replacement entity—partners*

- (4) If a partner (the ***new entity***):
- (a) is not the responsible entity; and
  - (b) gives the Secretary:
    - (i) a nomination of the partner that complies with regulation 2.3; and
    - (ii) evidence of the consent of the current responsible entity to its replacement by the new entity;

## Regulation 2.5

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the nomination of the current responsible entity is taken to be revoked on the later of the day on which the Secretary receives the nomination and the evidence and the day (if any) on which the nomination of the new entity is expressed to take effect.

### *Revocation (no replacement entity)*

(5) If:

- (a) all of the participants or partners (other than the participant or partner that is the responsible entity) decide in writing to revoke the nomination of a participant or partner as the responsible entity; and
- (b) the joint venture or partnership gives the Secretary:
  - (i) notice of the decision that complies with subregulation (6); and
  - (ii) evidence of the decision;

the nomination of the responsible entity is taken to be revoked on the later of the day on which the Secretary receives the notice and the evidence and the day (if any) on which the revocation is expressed to take effect.

(6) For subparagraph (5)(b)(i):

- (a) a notice must:
  - (i) be signed by or for all of the participants or partners; and
  - (ii) state that it has been signed by or for each of the persons that were participants or partners at the date on which the notice is signed; and
- (b) the date on which the notice was signed must be not more than 28 days before the day on which the notice is given to the Secretary.

Note: If the nomination of a participant or partner is revoked, and there is no nomination of a replacement responsible entity, the revocation will impose obligations under the Act on each of the participants or partners.



## **Part 3—Corporations required to register**

### **3.1 Obligation to apply to register—content of application**

- (1) For paragraph 9(5)(b) of the Act, an application for registration must include the information set out in Schedule 2.
- (2) If the applicant for registration proposes to define its energy use in accordance with a liability transfer certificate or reporting transfer certificate that has been issued to the applicant, the application must also include the following information and documents:
  - (a) a certified copy of the certificate;
  - (b) 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 certificate relates has agreed to the transfer;
  - (c) 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 certificate relates has agreed to the transfer.

### **3.2 Obligation to apply to register—form of application**

- (1) An application for registration must be:
  - (a) in writing as hard copy; or
  - (b) in electronic form.
- (2) An application in hard copy must be:
  - (a) signed by:
    - (i) the chair of the board of directors; or
    - (ii) the chief executive officer; or
    - (iii) the managing director or an equivalent officer of the controlling corporation; or
    - (iv) an authorised representative of a person mentioned in subparagraph (i), (ii) or (iii); and

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- (b) given to the Secretary by sending it to the address nominated in writing by the Secretary.

Note: The address will be listed on the Department's website.

- (3) An application in electronic form must be given to the Secretary in a format approved by the Secretary and notified in the *Gazette*.

### **3.3 Exemption from registration on application by corporation— content of application**

For paragraph 11(4)(a) of the Act, an application for an exemption from the requirement to be registered under Part 4 of the Act must:

- (a) be signed by the chair of the board of directors, the chief executive officer, the managing director or an equivalent officer of the controlling corporation, or his or her authorised representative; and
- (b) include a statement that the total of all energy used by the controlling corporation's group in the financial year after the trigger year is unlikely to exceed 0.5 PJ; and
- (c) include information to support the statement; and
- (d) include a declaration by an employee 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 requirements of the Act and these Regulations.

*Examples of information for paragraph (c)*

- 1 Evidence of the group's energy use for the trigger year and the preceding 2 years.
- 2 Information that defines the group for the relevant period.
- 3 Other information that explains why the controlling corporation believes that its energy use in the year following the trigger year will not reach the 0.5 PJ threshold.

The evidence may include detailed explanations of circumstances such as a changed corporate group structure, commercial changes such as the cessation of a contract, or a change in production capacity due to plant closures.

**3.4 Exemption from registration on application by corporation—  
form of application**

- (1) For paragraph 11(4)(b) of the Act, an application for an exemption from the requirement to be registered under Part 4 of the Act must be:
  - (a) in writing as hard copy; or
  - (b) in electronic form.
- (2) An application in hard copy must be:
  - (a) in a format that the Secretary notifies in the *Gazette*; and
  - (b) signed by:
    - (i) the chair of the board of directors; or
    - (ii) the chief executive officer; or
    - (iii) the managing director or an equivalent officer of the controlling corporation; or
    - (iv) an authorised representative of a person mentioned in subparagraph (i), (ii) or (iii); and
  - (c) given to the Secretary by sending it to the address nominated in writing by the Secretary.

Note:       The address will be listed on the Department's website.
- (3) An application in electronic form must be given to the Secretary in a format approved by the Secretary and notified in the *Gazette*.

## Part 4—Registration

### 4.1 The Register—matters to be entered on Register

- (1) For paragraph 12(4)(b) of the Act, the following matters are specified:
- (a) details of the controlling corporation, including:
    - (i) its name; and
    - (ii) its trading name (if any); and
    - (iii) its Australian Business Number (ABN); and
    - (iv) the address of its head office;
  - (b) for each affected group member:
    - (i) its name; and
    - (ii) its trading name (if any); and
    - (iii) if the member has an Australian Business Number (ABN)—its ABN; and
    - (iv) if the member does not have an ABN—the address of its head office;described either for each group member or grouped by kinds of activity;
  - (c) the same description of the group's corporate structure as described in item 4 of Schedule 2;
  - (d) information about the controlling corporation's compliance with the Act, including information about:
    - (i) whether it has lodged an assessment plan; and
    - (ii) whether it has completed assessments of all or part of the group; and
    - (iii) whether it has published a report to the public about its compliance; and
    - (iv) whether it has provided a report to the Secretary about its compliance;

Note: Energy use information may be published only:  
(a) if:

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- (i) individual groups or entities are not identified or identifiable; and
    - (ii) it is not information that is provided in the course of registration; or
  - (b) if the controlling corporation or the person providing the information has given consent to the publication.
- (2) If any of the matters mentioned in subregulation (1) changes in a financial year:
- (a) the controlling corporation must tell the Secretary of the change as soon as practicable, but not later than 3 months after the end of the financial year; and
  - (b) the changed matter is specified for paragraph 12(4)(b) of the Act.
- (3) In this regulation:
- affected group member*** means a member of the group that the controlling corporation reasonably considers likely to be assessed under these Regulations.

#### **4.2 Corporation may apply for deregistration—content of application**

- (1) For paragraph 14(2)(a) of the Act, an application to be deregistered must:
- (a) be signed by the chair of the board of directors, the chief executive officer, the managing director or an equivalent officer of the controlling corporation, or his or her authorised representative; and
  - (b) include a statement that the total of all energy used by the registered corporation's group in:
    - (i) the first financial year to which the application relates; and
    - (ii) the 2 subsequent financial years; is unlikely to exceed 0.5 PJ; and
  - (c) include information to support the statement; and
  - (d) include a declaration by the officer mentioned in paragraph (a) that the information included in the application is, to the best of the officer's knowledge, correct and in

### Regulation 4.3

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accordance with the requirements of the Act and these Regulations.

*Examples of information for paragraph (c)*

- 1 Information relating to the group's energy use for the preceding 3 years.
- 2 Information that identifies the group for the period to which the application relates.
- 3 Other information that explains why the registered corporation believes that its energy use in the 2 years following the current financial year will not reach the 0.5 PJ threshold.

The information may contain detailed explanations of circumstances such as a changed corporate group structure, commercial changes such as the cessation of a contract, or a change in production capacity due to plant closures.

- (2) If the applicant for deregistration proposes to define its energy use in accordance with a liability transfer certificate or reporting transfer certificate that has been issued to the applicant, the application must also include the following information and documents:
  - (a) a certified copy of the certificate;
  - (b) 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 certificate relates has agreed to the transfer;
  - (c) 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 certificate relates has agreed to the transfer;
  - (d) a statement from each of those controlling corporations that the agreement to transfer the obligation to assess and report the energy use will remain in effect until either of the controlling corporations applies to the Secretary to terminate the agreement.

### **4.3 Corporation may apply for deregistration—form of application**

- (1) For paragraph 14(2)(b) of the Act, an application to be deregistered must be:
    - (a) in writing as hard copy; or
    - (b) in electronic form.
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- (2) An application in hard copy must be:
  - (a) in a format that the Secretary notifies in the *Gazette*; and
  - (b) given to the Secretary by sending it to the address nominated in writing by the Secretary.

Note: The address will be listed on the Department's website.

- (3) An application in electronic form must be given to the Secretary in a format approved by the Secretary and notified in the *Gazette*.

## Part 5—Assessment plan

### 5.1 Requirements for an assessment plan—form of plan

- (1) For subsection 18(3) of the Act, an assessment plan must be set out as:
  - (a) a single plan addressing the whole of the controlling corporation's group; or
  - (b) separate plans addressing specified parts of the controlling corporation's group.
- (2) A controlling corporation may authorise a member or members of its group to prepare and submit a plan that relates to part of the group, as agent of the controlling corporation.
- (3) For subsection 18(3) of the Act, a plan must be:
  - (a) in writing as hard copy; or
  - (b) in electronic form.
- (4) A plan in hard copy must be given to the Secretary by sending it to the address nominated in writing by the Secretary.

Note: The address will be listed on the Department's website.
- (5) An assessment plan in electronic form must be given to the Secretary in a format approved by the Secretary and notified in the *Gazette*.
- (6) If a separate assessment plan mentioned in paragraph (1)(b) is to be prepared by a member of the controlling corporation's group on behalf of the controlling corporation:
  - (a) the separate assessment plan is taken to have been prepared by the member of the group, as the agent of the controlling corporation; and
  - (b) the controlling corporation remains responsible for preparing the assessment plan; and
  - (c) the controlling corporation is taken not to have given the Secretary an assessment plan in compliance with



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subsection 15(1) of the Act until the Secretary has been given all of the separate plans that address the whole of the controlling corporation's group.

**5.2 Requirements for an assessment plan—content of plan**

For paragraph 18(8)(b) of the Act, an assessment plan must:

- (a) include the information set out in Schedule 3; and
- (b) relate:
  - (i) to the controlling corporation's group as a whole; or
  - (ii) if the controlling corporation has authorised members of the group to submit parts of the plan—to all of the group, when the parts are combined.

**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

### Regulation 5.3

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- (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) Subject to subregulation (8A), the controlling corporation may omit from an assessment plan any electricity generating unit that:
  - (a) consumed less than 0.5 PJ during the baseline year; and
  - (b) has a capacity factor that is less than 10% for a year; and
  - (c) has a service factor that is less than 20% for a year.
- (8A) Subregulation (8) does not apply if the total energy that would be omitted under that subregulation in relation to electricity generating units is more than 50% of the total energy use for the controlling corporation for the baseline 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.

**5.4 Aggregation of information**

- (1) The Secretary must aggregate the information contained in all the plans that relate to parts of a controlling corporation's group, to form an overall total assessment plan for the controlling corporation's group.
- (2) For subregulation (1):
  - (a) the controlling corporation remains responsible for ensuring that:
    - (i) all information is provided to the Secretary; and

## Regulation 5.5

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- (ii) assessment plans are submitted for all parts of the controlling corporation's group; and
- (b) the Secretary is responsible for the information that is produced as a result of the aggregation.

### **5.5 Documents that registered corporation must give Secretary— liability transfer or 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 liability transfer certificate or reporting transfer certificate issued to the registered corporation.
- (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 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 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 certificate relates has agreed to the transfer

### **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

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- (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);
  - (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.
    - 5 Information about, or documents relating to, circumstances of hardship that inhibit the corporation from undertaking rigorous and comprehensive assessment.
    - 6 Information about, or documents relating to, any electricity generating units omitted under subregulation 5.3(8).
- (4) The Secretary is not required to accept the proposed percentage as part of making a decision on the proposed variation.

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### **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; or
    - (ii) each business unit for which an assessment is planned to be undertaken; or
    - (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.

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- (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.

Regulation 6.1

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**Part 6—Energy efficiency opportunities assessments**

**6.1 Requirement to carry out energy efficiency opportunities assessments**

- (1) For paragraphs 20(3)(a), (b), (c) and (d) of the Act, the requirements for the carrying out of a proposal for assessing the opportunities for improving energy efficiency are set out in the Assessment Framework in Schedule 7.
- (2) A controlling corporation must complete energy efficiency opportunities assessments, or arrange for the completion of energy efficiency opportunities assessments, in accordance with subregulation (1).



## **Part 7—Reporting about energy efficiency opportunities assessments**

### **Division 1—Reporting to the public**

#### **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.

## Regulation 7.2

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### 7.2 Information in report

- (1) For paragraph 22(3)(d) of the Act, the other information required to be contained in a report under section 22 of the Act is set out in Schedule 4.
- (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.

### 7.3 Form of report

For paragraph 22(4)(a) of the Act, a report under section 22 of the Act must be:

- (a) in writing and in English; and
- (b) in an easily-readable font and point size.

### 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.

## Regulation 7.5

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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.

Regulation 7.6

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## **Division 2—Reporting to the Secretary**

### **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.

### **7.7 Information in report**

- (1) For paragraph 23(3)(b) of the Act, the other information required to be contained in a report under section 23 of the Act is:
- (a) a list of all assessments of opportunities for improving the energy efficiency of the registered corporation's group, including the amount of energy assessed in each assessment, detailed by the kinds of energy or energy sources referred to in subregulation 1.5(3); and
  - (b) an explanation, for each group member or each business unit or each key activity relating to the group (as appropriate), of the outcomes of, and responses to, assessments by the kind of

Regulation 7.7

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energy and the amount and value, expressed in both net monetary terms and in terms of the net savings of energy, of the kind of energy, identified by the number of opportunities that have been identified in total and, of these, the number of opportunities that:

- (i) are proposed to be implemented; or
  - (ii) are being implemented; or
  - (iii) have been implemented; or
  - (iv) are under investigation; or
  - (v) will not be implemented; and
- (c) the information that the registered corporation was required to provide in the first public report for the period; and
- (d) if the registered corporation publishes a subsequent public report in the reporting period:
- (i) a copy of the report; or
  - (ii) an explanation of where the report can be obtained or accessed; and
- (e) the total energy use and production, in each year, of as many of the following as are relevant:
- (i) corporations;
  - (ii) joint ventures and partnerships;
  - (iii) business units;
  - (iv) key activities;
  - (v) sites for which the energy use in the baseline year was over 0.5 PJ; and
- (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

## Regulation 7.8

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- (g) a declaration by the responsible officer signing for the registered corporation that the information included in the report is, to the best of the officer's knowledge, correct and in accordance with the Act and these Regulations.

Note 1: If an entity departs from standard conversion methods in calculating the amount of energy derived from an energy source, the entity must mention in its report the conversion factors that were used.

Note 2: Energy use information may be published only:

- (a) if:
    - (i) individual groups or entities are not identified or identifiable; and
    - (ii) it is not information that is provided in the course of registration; or
  - (b) if the controlling corporation or the person providing the information has given consent to the publication.
- (2) For subregulation (1), the reporting of energy use in the report to the Secretary is to include energy sources that were used to produce energy used by the entity.

Note: It is intended that the report to the Secretary will include details of gross energy use.

### 7.8 Form of report

For subsection 23(4) of the Act, the form of a report under section 23 of the Act must be:

- (a) in writing and in English; and
- (b) in any of the following formats:
  - (i) Microsoft Word;
  - (ii) Microsoft Excel;
  - (iii) another electronic system approved by the Secretary.

### 7.9 Time of giving report

- (1) For paragraph 23(5)(a) of the Act, the times at which a registered corporation must give reports to the Secretary are set out in this regulation.
  - (2) For the first report, the time is no later than 30 months after the commencement of the first assessment cycle.
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## Regulation 7.10

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

- (3) For each subsequent report, the time is the day that is 6 months after the end of the period to which the report relates.

### 7.10 Manner of giving report

- (1) For paragraph 23(5)(b) of the Act, a report under section 23 of the Act must be given to the Secretary by a registered corporation:
- (a) in writing as hard copy; or
  - (b) in electronic form.
- (2) A report in hard copy must be:
- (a) in a format that the Secretary notifies in the *Gazette*; and
  - (b) given to the Secretary by sending it to the address nominated in writing by the Secretary.

Note: The address will be listed on the Department's website.

- (3) A report in electronic form must be given to the Secretary in a format approved by the Secretary and notified in the *Gazette*.

Note: Arrangements for giving a report online may be publicised to the industry in other appropriate ways.

## **Part 8—Powers of inspection**

### **8.1 Identity cards**

For subsection 26(1) of the Act, the form of an identity card is set out in Schedule 5.



## **Part 9—Miscellaneous**

### **Division 1—Verification of compliance with the Energy Efficiency Opportunities Program**

#### **9.1 Verification of compliance**

A controlling corporation must:

- (a) make and keep records of its compliance with these Regulations and the Act for at least 7 years; and
- (b) make its records available for inspection in accordance with Part 8 of the Act.

**Note:** Verification incorporates a range of approaches designed to encourage willing compliance by providing assistance to controlling corporations to meet program requirements, while balancing the need for the Minister to review businesses actions regarding Energy Efficiency Opportunities.

The Department will provide information and assistance about the verification process, including advice about best practices and the operation of Part 8 of the Act.

**Part 9** Miscellaneous

**Division 2** Transfer of obligation to assess and report energy use under reporting transfer certificate

Regulation 9.2

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**Division 2—Transfer of obligation to assess and report energy use under reporting transfer certificate**

**9.2 Agreement to transfer obligation**

- (1) For subregulations 3.1(2) and 4.2(2) and regulation 5.5, if:
  - (a) 1 or more parties to an agreement to transfer the obligation to assess and report the energy use of a group or part of a group, to which a liability transfer certificate or reporting transfer certificate relates, applies to the Secretary for the termination of the agreement; and
  - (b) the application includes evidence that each party to the agreement has agreed to the termination of the agreement;the Secretary must approve the termination of the agreement as soon as practicable.
- (2) The agreement is terminated on the day on which the Secretary approves the termination.
- (3) The Secretary must notify each party, in writing, of his or her approval of the termination as soon as practicable.

## **Part 10—Transitional**

### **10.1 Application**

- (1) This Part applies to an entity that:
  - (a) is a controlling corporation; and
  - (b) applied for registration in accordance with section 9 of the Act before 1 July 2008.
- (2) A provision of this Part applies until:
  - (a) the end of the last day of the first five year assessment cycle that applies to the entity; or
  - (b) another date specified in this Part.

Note: The five year assessment period is mentioned in paragraph 15(2)(b) of the Act.

### **10.2 Definitions**

In this Part:

***amended Regulations*** means these Regulations as in force after the commencement of this regulation.

***old Regulations*** means these Regulations as in force immediately before the commencement of this regulation.

Note: These Regulations were amended by the *Energy Efficiency Opportunities Amendment Regulations 2008 (No. 1)* to include new arrangements relating to measuring energy use, and to insert the transitional provisions in this Part.

### **10.3 User of energy**

- (1) An entity is taken to satisfy the requirements of the amended Regulations relating to an assessment plan if the entity satisfies the requirements of the old Regulations.

Note: Section 15 of the Act relates to the requirement to submit an assessment plan every 5 years.

## Regulation 10.4

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- (2) An entity is taken to satisfy the requirements of the amended Regulations relating to undertaking an assessment if the entity satisfies the requirements of the old Regulations.

Note: Section 20 of the Act relates to the requirement to carry out an assessment.

- (3) An entity is taken to satisfy the requirements of the amended Regulations relating to the preparation of a report if the entity satisfies the requirements of the old Regulations.

Note: Sections 22 and 23 of the Act relate to the preparation of reports.

- (4) An entity is taken to satisfy the requirements of the amended Regulations relating to making a report available if the entity satisfies the requirements of the old Regulations.

Note: Section 22 of the Act relates to making a report available to the public.  
Section 23 of the Act relates to making a report available to the Secretary.

### 10.4 Energy use threshold—meaning of *energy used*

- (1) This regulation applies if an entity would experience a significant increase or decrease in the energy use attributed to its group as a result of the amendment of subregulation 1.5(3) by the *Energy Efficiency Opportunities Amendment Regulations 2008 (No. 1)*.
- (2) The entity may work out the amount of energy it has used by applying the meaning of ***energy used*** given by:
- (a) subregulation 1.5(3) of the old Regulations; or
  - (b) subregulation 1.5(3) of the amended Regulations.
- (3) If the entity has applied the meaning of energy used given by subregulation 1.5(3) of the amended Regulations, it may no longer apply the meaning of energy used given by subregulation 1.5(3) of the old Regulations.
- (4) If the entity decides to work out the amount of energy it has used by applying the meaning of ***energy used*** given by subregulation 1.5(3) of the old Regulations, subregulation 1.5(3) of the amended Regulations is taken not to apply in relation to the entity.

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Regulation 10.5

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- (5) For this regulation, a ***significant increase or decrease*** in the energy use attributed to the entities group will occur if, and only if:
- (a) energy use at a site is increased from below 0.5 PJ to more than 0.5 PJ, or decreased from more than 0.5 PJ to below 0.5PJ; or
  - (b) energy use for the group or part of the group is increased or decreased to the extent that the entity would no longer meet the requirement that it would have met under the old Regulations, to assess at least 80% of the energy use of the group in the first five year assessment cycle.

**10.5 Conversion factors**

- (1) If an entity was using the conversion factors specified in subregulation 1.5(5) of the old Regulations immediately before the commencement of this regulation, the entity may:
- (a) use the conversion factors specified in subregulation 1.5(5) of the amended Regulations; or
  - (b) continue to use the conversion factors specified in subregulation 1.5(5) of the old Regulations.

Note: Under subregulation 1.5(5) of the old Regulations, the factors were mentioned in the publication *Energy in Australia 2005*, ISSN 1833-038X, published by the Department of Industry, Tourism and Resources on 9 December 2005.

- (2) If the entity decides to use the conversion factors specified in subregulation 1.5(5) of the old Regulations, subregulation 1.5(5) of the new Regulations is taken not to apply in relation to the entity.

## Schedule 1—Energy use

(subregulations 1.5(3) and (4))

### Part 2—Energy that is not treated as energy used by an entity

Note: Under subregulation 1.5(2), the **energy used** by an entity is the total of:

- (a) all energy; and
- (b) all energy sources;

used by the entity, reduced by any amount mentioned in that regulation.

Under subregulation 1.5(4), the total of all energy used by the entity does not include:

- (a) the use of energy or energy sources described in this Part; and
- (b) energy sources, to the extent that the sources were used to produce energy used by the entity.

Paragraph (b) is intended to prevent “double counting”. If an entity uses an energy source to create energy that the entity then uses, it is only the latter use of energy that counts.

This Part identifies energy and energy sources that are not to be counted.

#### 201 Energy or energy sources sold by the entity.

Example: Electricity or steam produced at a site but exported from the site to a purchaser.

#### 202 Energy and energy sources:

- (a) produced and stored without being used; or
- (b) purchased and stored without being used.

Example: Fuel stored in tanks. If the stored energy is then used, it would be counted as energy use.

#### 203 Material that is a potential energy source, but is disposed of as a waste product.

Example 1: Bagasse that is burned for a purpose other than as an energy source.

Example 2: Waste gas that is vented or flared.

#### 204 Material that is a potential energy source, but is used for another purpose.

Example 1: Gas or liquid hydrocarbons used as chemical feedstock in plastics manufacture.

Example 2: LPG used as a propellant in aerosols.

Example 3: Hydrocarbons used as a solvent.

Example 4: Ethanol used in consumer goods or lubricants.

Example 5: Base oils used in lubricants.

Example 6: Energy used as a reductant in an endothermic reaction.

However, if:

- (a) the material is used to provide or produce energy and for another purpose; and
- (b) the amount that is used to provide or produce energy cannot be differentiated from the amount that is used for the other purpose;

the entire amount is to be treated as having been used to provide or produce energy, and counts as part of the energy use of the group.

## **Schedule 2—Application to register—content of application**

(regulation 3.1)

- 1 For the controlling corporation:
    - (a) its name; and
    - (b) its trading name (if any); and
    - (c) its Australian Business Number (ABN); and
    - (d) the address of its head office; and
    - (e) the name of a contact person for the controlling corporation; and
    - (f) the contact person's full name, position, telephone number, email address and postal address; and
    - (g) if a Global Industry Classification Standard is applicable to the controlling corporation—the classification of the controlling corporation under the Standard; and
    - (h) if an Australian and New Zealand Standard Industrial Classification is applicable to the controlling corporation—the classification.
  - 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.
  - 3 For each member of the group that the chair of the board of directors, the chief executive officer, the managing director or an equivalent officer of the controlling corporation reasonably considers may be likely to be assessed:
    - (a) its name; and
    - (b) its trading name (if any); and
    - (c) if the member has an Australian Business Number (ABN)—the ABN; and
    - (d) if the member does not have an ABN—the address of its head office;
- described either for each group member or grouped by kinds of activity.



- 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.

## Schedule 3—Content of assessment plan

(regulation 5.2)

### Part 1—Corporate structure

101 The baseline year.

102 For the controlling corporation:

- (a) its name; and
- (b) its trading name (if any); and
- (c) its Australian Business Number (ABN); and
- (d) the address of its head office; and
- (e) the name of a contact person for the controlling corporation; and
- (f) the contact person's full name, position, telephone number, email address and postal address; and
- (g) if a Global Industry Classification Standard is applicable to the controlling corporation—the classification of the controlling corporation under the Standard; and
- (h) if an Australian and New Zealand Standard Industrial Classification is applicable to the controlling corporation—the classification.

103 (1) For each group member, key activity, business unit or site to be assessed under the assessment plan:

- (a) its name; and
- (b) its relationship to the controlling corporation; and
- (c) its Australian Business Number (ABN), except if information is to be identified for the key activities subset mentioned in paragraph (2)(b); and
- (d) if the group member does not have an ABN, and information is not to be identified for the key activities subset mentioned in paragraph (2)(b)—the address of its head office; and
- (e) if a Global Industry Classification Standard is applicable—the classification under the Standard; and
- (f) if an Australian and New Zealand Standard Industrial Classification is applicable—the classification.

- (2) The information in subitem (1) must be identified for one of the following:
- (a) all members of the group;
  - (b) all key activities;
  - (c) all business units;
  - (d) all sites.
- 104 A declaration by the employee signing for the controlling corporation or group member that the information included in the plan is, to the best of the officer's knowledge, correct and in accordance with the Act and these Regulations.
- 105 If a plan is submitted as a separate assessment plan mentioned in paragraph 5.1(1)(b):
- (a) the part of the controlling corporation's group authorised to submit the plan does not need to provide the information in item 102, but must provide the information in item 103 and also provide contact details for the part of the group; and
  - (b) the controlling corporation must include the information in item 102 for the assessment plan (if any) that it submits.
- 107 (1) A diagrammatic representation of the structure of the controlling corporation's group:
- (a) showing the links between the controlling corporation and members of the group, key activities, business units or sites that are intended to be assessed; and
  - (b) identifying any group member that is to submit separate assessment plans; and
  - (c) providing for a brief summary of each group member, key activity, business unit or site that is not intended to be assessed.
- (2) The information in subitem (1) must be identified for the group, and for one of the following:
- (a) all members of the group;
  - (b) all key activities;
  - (c) all business units;
  - (d) all sites.
- 108 If a nomination of a responsible entity was made under regulation 2.3 for a joint venture or partnership in which the
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**Schedule 3** Content of assessment plan

**Part 1** Corporate structure

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controlling corporation or a group member had an interest—a statement of the outcome of the nomination process.

Note: If a group member within the group, other than the controlling corporation, completes an individual assessment plan in relation to energy use within its control, that assessment plan will be taken to form part of the group's assessment plan.

## **Part 2—Current energy use and savings data**

- 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.
- 202 (1) The assessment plan must state the accuracy of the energy use data.
- (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.
  - 203 (1) For each assessment cycle, the total of all energy efficiency opportunities that:
    - (a) were identified before the preparation of the assessment plan; and
    - (b) have not been implemented; and
    - (c) may be implemented before the final year of the assessment cycle.
  - (2) The information in subitem (1) must be identified:
      - (a) for the group; and
      - (b) for one of the following:
        - (i) all members of the group;
        - (ii) all key activities;
        - (iii) all business units;
        - (iv) all sites.
  - 204 (1) For the energy efficiency opportunities mentioned in subitem 203(1):
    - (a) an estimate of the per annum net energy savings and per annum net financial savings based on energy use and production levels in the year before the commencement of the assessment cycle; and
    - (b) an estimate of the per annum net energy savings and per annum net financial savings based on forecast production levels in the final year of the first five-year assessment cycle.
  - (2) The information in subitem (1) must be identified:
      - (a) for the group; and
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- (b) for one of the following:
  - (i) all members of the group;
  - (ii) all key activities;
  - (iii) all business units;
  - (iv) all sites.

## Part 3—Assessment schedule

- 303 A statement of when each corporation, joint venture or partnership intends to undertake the assessment or assessments for which it is responsible.

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.

- 304 A statement:

- (a) stating whether the controlling corporation proposes, for sites, technologies or processes for which the annual use of energy is less than 0.5 PJ, to undertake assessments that can be shown to be reasonably representative of other sites, technologies and processes; and
- (b) if the controlling corporation intends to undertake a representative assessment:
  - (i) the entities or sites for which the representative assessment will be conducted; and
  - (ii) information showing that the manner of undertaking a representative assessment will not diminish the accuracy and comprehensiveness of the assessment.

Example 1: Assessing a sample of retail outlets that is representative of a larger population of outlets.

Example 2: Assessing a sample of vehicles that is representative of a larger fleet of vehicles.

Example 3: Assessing a machine or technology that is used in an identical fashion at other sites or within a site.

Example 4: Assessing a commercial building that is representative of a population of commercial buildings.

- 305 A summary:

- (a) stating how the controlling corporation intends to undertake its assessments in order to meet the requirements of the Assessment Framework; and
- (b) stating:



- (i) that the controlling corporation believes that it is likely to be able to measure its energy use, for the purpose of meeting the requirements of the Assessment Framework, at a level of accuracy to within  $\pm 5\%$ ; or
  - (ii) that the controlling corporation believes that it would be unreasonable for it to measure its energy use, for the purpose of meeting the requirements of the Assessment Framework, at a level of accuracy to within  $\pm 5\%$ ; and
- (c) if subparagraph (b)(ii) applies—setting out:
  - (i) evidence explaining why it would be unreasonable to require a greater level of accuracy; and
  - (ii) a proposed level of accuracy; and
- (d) stating how the controlling corporation intends to use existing energy assessment practices; and
- (e) stating what additional activities the controlling corporation intends to undertake, in addition to its existing practices.

## Part 4—Reporting schedule

- 401 An explanation of how the group proposes to meet its public reporting obligations, including:
- (b) details of the proposed means of publication; and
  - (c) if the controlling corporation intends to rely on section 22A of the Act in order to comply with its obligations under subsection 22(1) of the Act:
    - (i) a statement of that intention; and
    - (ii) details of the other members of the group that are intended to prepare a report in accordance with section 22A of the Act; and
    - (iii) a statement whether each member of the group that is intended to prepare a report prepares annual financial reports or otherwise produces reports; and
    - (iv) if a group member is a public company, a statement that its report will be published widely; and
  - (d) if the controlling corporation intends to rely on section 22B of the Act in order to comply with its obligations under subsection 22(1) of the Act:
    - (i) a statement of that intention; and
    - (ii) details of the corporation that is intended to prepare a report in accordance with section 22B of the Act.

Note: Section 22A of the Act authorises decentralised public reporting by members of a controlling corporation's group. Section 22B of the Act authorises public reporting by the manager of a joint venture.

- 402 If the controlling corporation proposes to publicly report in the energy bandwidths mentioned in the table in item 2 of Schedule 4:
- (a) a statement of the proposal; and
  - (b) an explanation of why reporting actual total energy use is unreasonable in terms of the company's reasonable commercial interests.

Note: Factors that will be considered in such a request would include:

- (a) the total percentage of energy to operating costs and variable costs; and
- (b) how generic the use of energy is within the industry sector (including the range of types of energy used); and

- (c) whether or not the total energy used by other companies in the sector will be disclosed in item 2 of Schedule 4, or is otherwise publicly disclosed.

403 If a plan is a separate assessment plan mentioned in paragraph 5.1(1)(b), prepared by a group member or members, on behalf of the controlling corporation:

- (a) a statement that the plan is a separate assessment plan; and
- (b) a description of the group member or members.

***General notes to Schedule 3***

1. For a corporation to determine which entities in its corporate group need to be assessed, and what type of assessment to undertake, the controlling corporation needs to apply the “coverage rule” explained in Part 5 of these Regulations to its corporate structure.

While the controlling corporation is obliged to ensure that assessments are undertaken, it does not have to undertake all or any assessments itself. The assessments may be completed by subsidiary entities, and may use resources and expertise that are internal or external to the group.

2. The controlling corporation should also prepare an analysis of how its existing practices align with the requirements of the Assessment Framework (mentioned in regulation 6.1). The analysis should focus on the accuracy of energy data available to the controlling corporation, as this will impact upon the corporation’s capacity to undertake assessments.

The controlling corporation is not required to provide the analysis to the Secretary with the Assessment Schedule, but it should be retained by the corporation. The Secretary may request the analysis when reviewing the corporation’s Assessment Schedule.

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## **Schedule 4—Information in reports to the public about energy efficiency opportunities assessments**

(regulation 7.2)

- 1 A summary of each assessment of opportunities for improving the energy efficiency of the registered corporation's group that have been undertaken.

The summary must include as many of the following details as are relevant:

- (a) the names of:
    - (i) corporations; and
    - (ii) joint ventures and partnerships; and
    - (iii) business units; and
    - (iv) key activities; and
    - (v) sites for which the energy use in the baseline year was over 0.5 PJ;
  - (b) the energy use of the relevant part of the group that has been assessed, expressed as a percentage of the energy use of the total energy use of the group or the part of the group covered by the report.
- 2 A statement of the total energy use covered by all assessments to which the report relates, reported:
    - (a) as an actual total of the energy used; or
    - (b) with the approval of the Secretary, given in an assessment plan—in accordance with the table.

The statement must include the energy use of each group member, or each business unit, or each key activity, that has been assessed, reported as:

- (a) an actual total; or
- (b) with the approval of the Secretary, given in relation to an assessment plan—in accordance with the table.

Item	Total energy used, in PJ, falls within the range...		Reported, in PJ, as....
	<i>Bottom of range</i>	<i>Top of range</i>	
1	0.1	25	<p>reported as a bandwidth that:</p> <ul style="list-style-type: none"> <li>(a) is no greater than 20% of the total energy used; and</li> <li>(b) is expressed as a <b><i>bottom number</i></b> and the <b><i>top number</i></b>, where:</li> </ul> <p><b><i>bottom number</i></b> is a number that is:</p> <ul style="list-style-type: none"> <li>(a) no greater than the total energy used; and</li> <li>(b) no less than the total energy used minus 20%; and</li> </ul> <p><b><i>top number</i></b> is a number that is:</p> <ul style="list-style-type: none"> <li>(a) no less than the total energy used; and</li> <li>(b) no more than the total energy used plus 20%</li> </ul>
2	greater than 25	(unlimited)	<p>reported as a bandwidth that:</p> <ul style="list-style-type: none"> <li>(a) is no greater than 5 PJ; and</li> <li>(b) is expressed as a <b><i>bottom number</i></b> and the <b><i>top number</i></b>, where:</li> </ul> <p><b><i>bottom number</i></b> is a number that is:</p> <ul style="list-style-type: none"> <li>(a) no greater than the total energy used; and</li> <li>(b) no less than the total energy used minus 5 PJ; and</li> </ul>

**Schedule 4** Information in reports to the public about energy efficiency opportunities assessments

Item	Total energy used, in PJ, falls within the range...	Reported, in PJ, as....
	Bottom of range	Top of range
		<i>top number</i> is a number that is: (a) no less than the total energy used; and (b) no more than the total energy used plus 5 PJ
Note:	If a proposal to report in a bandwidth of energy use has been approved in an assessment plan, the methodology in the table must be applied. The table sets out the rules to be used to calculate what reporting bandwidth may be used for a level of actual energy use.  A reporting entity should identify the row of the table that corresponds to the relevant actual energy use by identifying the range, specified in the first 2 columns of the table, into which the actual energy use falls. The entity can then calculate the bandwidth of energy use which it may report, using the rules in the third column of that row.	
3	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 (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.	
	The statement must identify the amounts of energy savings according to whether an opportunity for the group member, or business unit, or key activity: (a) has been identified through an assessment; and (b) either: (i) is under current investigation; or (ii) has been implemented; or	

- (iii) is being implemented; or
- (iv) is proposed to be implemented; or
- (v) will not be implemented.

The statement may also include the number of, and the amounts of energy savings for, opportunities for the group member, or business unit, or key activity, that:

- (a) are under current investigation; but
- (b) have not been evaluated to an accuracy to within  $\pm 30\%$ .

4 The number of opportunities mentioned in item 3.

5 For a statement of energy use provided in accordance with item 1 or 2 that does not certify a level of accuracy to within  $\pm 5\%$ , a statement:

- (a) concerning the level or range of accuracy achieved for each entity, key activity or business unit; and
- (b) stating the reasons for failing to achieve a level of accuracy to within  $\pm 5\%$ .

Note: Item 305 of Schedule 3 requires that this information be included in an Assessment Schedule.

6 For a statement of energy savings provided in accordance with item 3, the level or range of accuracy for each category of opportunity.

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;
    - (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.
  - 8 A declaration by the person mentioned in paragraph 22(4)(b) of the Act in relation to the corporation that the information included in the report is, to the best of the person's knowledge, correct and in accordance with the Act and these Regulations.
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9 The period to which the report relates.

- 10 Cumulative information for each year, starting at the beginning of the assessment cycle, mentioning changes caused by an event including (for example):
- (a) the addition of opportunities due to the completion of further assessments; or
  - (b) progress in the business response to assessments; or
  - (c) a change in estimates due to improved accuracy arising from further investigation or implementation; or
  - (d) a change to original estimates due to changes in productivity, production and product mix; or
  - (e) the disposal or acquisition of:
    - (i) members of the group; or
    - (ii) a business unit; or
    - (iii) a site; or
  - (f) a merger or demerger; or
  - (g) significant variations in energy use and energy savings resulting from a change mentioned in this item.

*Example for paragraph (b)*

The progress of an opportunity from “identified” to “implemented”.

- Note 1: If an entity departs from standard conversion methods in calculating the amount of energy derived from an energy source, the entity must mention in its report the conversion factors that were used.
- Note 2: The reporting requirements outlined in the Act and this Schedule should be considered as minimum reporting requirements. Registered corporations are encouraged to present additional contextual information such as:
- (a) the result of voluntary verification activities; and
  - (b) energy use data, expressed using an indicator; and
  - (c) prior energy savings; and
  - (d) past and future energy and greenhouse savings.

## Schedule 5—Identity cards

(regulation 8.1)

An identity card must:

- (a) display the Australian coat of arms; and
- (b) incorporate a recent photograph of the authorised officer of sufficient quality to identify the officer accurately; and
- (c) include a statement that the officer is an authorised officer; and
- (d) state the name of the authorised officer; and
- (e) show the date on which the card was signed by the Secretary or a delegate of the Secretary; and
- (f) show an expiry date that is not more than 60 months after the date on which the card is signed.

*The following is a sample form of the identity card, and is provided for information only*



**COMMONWEALTH OF AUSTRALIA**

*Energy Efficiency Opportunities Act 2006*

**IDENTITY CARD—AUTHORISED OFFICER**

I, \* the Secretary of the Department of *[name]* /  
 \*delegate of the Secretary of the Department of  
*[name]*, acting under subsection 26(1) of the  
*Energy Efficiency Opportunities Act 2006*,  
 certify that the person whose name,  
 photograph and signature appear on this card  
 is an authorised officer for the purposes of the  
 Act.

(Photograph)

Dated: *[date]*

(Name of authorised officer)

The officer's authorisation ceases on: *[date]*

\* Secretary

(Signature of authorised  
 officer)

\* Delegate of the Secretary

\* *Omit if inapplicable*

## 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
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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.	<p>Evidence showing the existence and communication of energy assessment and energy performance objectives, e.g.:</p> <ul style="list-style-type: none"> <li>• policy documents containing energy objectives approved by senior management (e.g. specific energy policies, environment policies); and</li> <li>• strategic plans signed off by senior management that contain either energy performance or energy assessment objectives; and</li> <li>• assessment objectives signed off by senior or operational management; and</li> <li>• meeting minutes, emails, memos and presentations showing communication of objectives, including details of the recipients and senders.</li> </ul>
1.2	Resources (people, time and money) are made available to meet energy assessment and energy performance objectives.	<p>Evidence that identifies the appropriate personnel, e.g.:</p> <ul style="list-style-type: none"> <li>• an organisational chart (clearly identifying senior management and personnel responsible for energy use).</li> </ul> <p>Evidence showing allocation of people, time and money, e.g.:</p> <ul style="list-style-type: none"> <li>• an internal plan with a budget detailing people, time and costs; and</li> <li>• budgets showing allocations and expenditures.</li> </ul>

## 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"> <li>• a schedule of participant roles, skills and experience.</li> </ul>
2.2	<p>The energy efficiency opportunity identification, evaluation and business case development process involves a broad cross-section of people, including:</p> <p>(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</p> <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.</p>	Evidence showing the involvement of people in the opportunity identification and evaluation process, e.g.: <ul style="list-style-type: none"> <li>• meeting minutes, emails, memos, presentations, and organisational map or list of those involved.</li> </ul>

No.	Key Requirements	Evidence/supporting documentation
	operators from other sites, corporate expert groups, internal or external engineering experts, academics, PhD students).	
2.3	Clear roles, responsibilities and accountabilities are attributed to people involved in the assessment and the business response.	<p data-bbox="997 465 1262 651">Evidence showing the allocation of roles and responsibilities for people involved in the assessment and the business response, e.g.:</p> <ul data-bbox="997 678 1262 913" style="list-style-type: none"> <li data-bbox="997 678 1262 808">• planning documents with roles and responsibilities outlined; and</li> <li data-bbox="997 813 1262 913">• a copy of action plans, project plans and budget proposals.</li> </ul>

### 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"> <li>(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</li> <li>(b) the key site processes and activities that use energy; and</li> <li>(c) other external factors affecting investment returns, if applicable (e.g. rising energy prices, interest rates).</li> </ul>	<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"> <li>• a background paper, series of reports or presentations summarising the analysis for consideration during the assessment.</li> </ul>
3.2	<p>Data collection processes are identified, documented and implemented to provide:</p> <ul style="list-style-type: none"> <li>(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 <math>\pm 5\%</math>. A less accurate level may be used only if it was approved as part of the assessment schedule.</li> <li>(b) energy consumption data for each of the key site processes, systems and activities.</li> <li>(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.</li> <li>(d) information about the impact of the operating profile of the site or fleet on energy use.</li> <li>(e) data on other process parameters that impact on energy use (e.g. ambient temperature, geology (mining) and production inputs.</li> <li>(f) information about the energy and material</li> </ul>	<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"> <li>• a data inventory that includes production, energy cost and energy consumption data based on billing data; and</li> <li>• an energy-mass balance or equivalent; and</li> <li>• operating and production logs tracked against energy use.</li> </ul> <p>Evidence showing the measures undertaken to improve the accuracy and completeness of data, and to reduce data gaps and</p>

No.	Key Requirements	Evidence/supporting documentation
	<p>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).</p> <p>(g) information about measures being undertaken to ensure the accuracy and completeness of the energy data.</p> <p>(h) information about measures being undertaken to identify and resolve material data gaps and anomalies.</p> <p>(i) information about assumptions used in the data collection process and their associated uncertainty.</p>	<p>uncertainties, e.g.:</p> <ul style="list-style-type: none"> <li>• copies of action plans, project plans or budgets.</li> </ul>
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> <p>(a) energy use performance indicators, established at the appropriate level, with consideration of variations over time and major factors that affect energy performance; and</p> <p>(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</p> <p>(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> <p>Note: Theoretical benchmarking may include engineering calculations or simulations based on thermodynamic and heat transfer analysis, fluid mechanics or combustion analysis.</p>	<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"> <li>• a background paper, series of reports or presentations summarising the analysis for consideration during the assessment.</li> </ul>
	<p>(d) if appropriate, other detailed analysis, comparative techniques or experimental</p>	

No.	Key Requirements	Evidence/supporting documentation
	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).	

## 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	A process to identify ideas is implemented and documented.  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	Evidence showing the implementation of a process to identify opportunities, e.g.: <ul style="list-style-type: none"> <li>• a comprehensive list of ideas to improve energy efficiency; and</li> <li>• a summary linking the process used to the personnel involved, the time period, and the level of the business at</li> </ul>

No.	Key Requirements	Evidence/supporting documentation
	<p>appropriate people as stipulated in Key Element 2.</p> <p>The process as implemented should result in a comprehensive list of ideas.</p>	<p>which it was carried out; and</p> <ul style="list-style-type: none"> <li>meeting agendas or minutes involving the identification of opportunities, and a list of the people who attended; and</li> <li>correspondence related to opportunity identification (e.g. emails); and</li> <li>external reports used to assist in the identification of opportunities (e.g. energy audit reports); and</li> <li>working papers or summaries of assumptions made about implementing the process.</li> </ul>
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"> <li>a list of ideas for implementation or further investigation, including business criteria used to determine feasibility; and</li> <li>documentation of reasons for not further investigating ideas (if relevant).</li> </ul>
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 <math>\pm 30\%</math><sup>1</sup>.</p> <p>If <math>\pm 30\%</math> cannot be achieved,</p>	<p>A list of opportunities and associated recommendations, including criteria used to make recommendations.</p>

No.	Key Requirements	Evidence/supporting documentation
	<p>providing an indication in 5.3 of how the accuracy level will be achieved, including further investigation and sub-metering.</p> <p>A <b>whole-of-business</b> 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>Note: Where an opportunity will require approval for significant capital expenditure, the costs and benefits should be evaluated to within <math>\pm 10\%</math>, or to the level of accuracy required by the corporation's existing capital expenditure process.</p>	
1	<p>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 <math>\pm 30\%</math>. 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 <math>\pm 30\%</math>, if they are believed to have immediate business benefits or do not warrant detailed investigation. Detailed investigation to reach an accuracy of <math>\pm 30\%</math> 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>	

No.	Key Requirements	Evidence/supporting documentation
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>	<p>Evidence showing presentation of required information to management, e.g.:</p> <ul style="list-style-type: none"> <li>• reports or presentations</li> </ul>

No.	Key Requirements	Evidence/supporting documentation
	(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).	to management.
5.2	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.	Evidence showing decisions by management, e.g.: <ul style="list-style-type: none"> <li>• reports to management which also record the decisions.</li> </ul>
5.3	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.	Evidence of allocation of timelines, resources and accountabilities, e.g.: <ul style="list-style-type: none"> <li>• A copy of action plans, strategies, project plans, budget proposals.</li> <li>• Monitoring and feedback mechanisms.</li> </ul>

## 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	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:	Evidence of presentation to the board.
	(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	
	(b) total energy savings identified, and the business's response relative to the energy performance objectives set out in Key Element 1; and	
	(c) total whole-of-business costs and benefits of the opportunities identified, and the business's response; and	
	(d) recommendations for major investments; and	
	(e) all information that will be included in the public report when it is released.	
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"> <li>• meeting minutes; and</li> </ul>



No.	Key Requirements	Evidence/supporting documentation
		<ul style="list-style-type: none"> <li>board agendas and reports; and</li> <li>a statement by the signer of the public report.</li> </ul>
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.	<p data-bbox="975 551 1257 842">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.:</p> <ul style="list-style-type: none"> <li>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</li> <li>presentations of outcomes, including meeting invitees, attendees and presenters.</li> </ul>

## Endnotes

### Endnote 1—Legislation history

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## Endnotes

### Endnote 1—Legislation history

This endnote sets out details of the legislation history of the *Energy Efficiency Opportunities Regulations 2006*.

Number and year	FRLI registration date	Commencement date	Application, saving and transitional provisions
2006 No. 160	26 June 2006 ( <i>see</i> F2006L01895)	27 June 2006	
2006 No. 201	28 July 2006 ( <i>see</i> F2006L02382)	29 July 2006	—
2008 No. 129	26 June 2008 ( <i>see</i> F2008L02208)	1 July 2008	—
2009 No. 119	22 June 2009 ( <i>see</i> F2009L02397)	23 June 2009	—
2009 No. 312	16 Nov 2009 ( <i>see</i> F2009L04166)	17 Nov 2009	—
2011 No. 78	7 June 2011 ( <i>see</i> F2011L00964)	1 July 2011	—
2011 No. 156	19 Aug 2011 ( <i>see</i> F2011L01695)	20 Aug 2011	—
2012 No. 108	19 June 2012 ( <i>see</i> F2012L01249)	rr. 1–3 and Schedule 1: 20 June 2012 Schedule 2: [ <i>see</i> r. 2(b) and Endnote 3]	—
121, 2013	17 June 2013 ( <i>see</i> F2013L01024)	Schedule 1: 18 June 2013 Schedule 2: [ <i>see</i> Endnote 3]	—

## Endnote 2—Amendment history

**Endnote 2—Amendment history**

This endnote sets out the amendment history of the *Energy Efficiency Opportunities Regulations 2006*.

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ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted  
exp. = expired or ceased to have effect

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Provision affected	How affected
<b>Part 1</b>	
r. 1.3 .....	am. 2008 No. 129; 2011 No. 156; 2012 No. 108
r. 1.3A .....	ad. 2012 No. 108
r. 1.4 .....	rs. 2008 No. 129; 2009 No. 312; 2011 No. 156
Heading to r. 1.4A .....	rs. 2012 No. 108
r. 1.4A .....	ad. 2011 No. 156
	am. 2012 No. 108
Heading to r. 1.4B .....	rs. 2012 No. 108
r. 1.4B .....	ad. 2011 No. 156
	am. 2012 No. 108
Heading to r. 1.4C .....	rs. 2012 No. 108
r. 1.4C .....	ad. 2011 No. 156
	am. 2012 No. 108
r. 1.5 .....	am. 2008 No. 129
Heading to r. 1.6 .....	rs. 2011 No. 156
Subhead. to r. 1.6(1A) .....	ad. 2011 No. 156
r. 1.6 .....	am. 2008 No. 129; 2011 No. 156
<b>Part 2</b>	
r. 2.1 .....	am. 2009 No. 119; 2011 No. 78; No. 121, 2013
r. 2.2 .....	am. 2009 No. 119; 2011 No. 78
Note to r. 2.3(2) .....	ad. 2012 No. 108
<b>Part 3</b>	
r. 3.1 .....	am. 2009 No. 312; 2011 No. 156; 2012 No. 108
r. 3.2 .....	am. 2008 No. 129
r. 3.4 .....	am. 2008 No. 129

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## Endnotes

### Endnote 2—Amendment history

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ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted  
exp. = expired or ceased to have effect

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Provision affected	How affected
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**Part 4**

r. 4.1 .....	am. 2011 No. 156
r. 4.2 .....	am. 2009 No. 312; 2012 No. 108
r. 4.3 .....	am. 2008 No. 129

**Part 5**

r. 5.1 .....	am. 2008 No. 129
r. 5.3 .....	am. 2008 No. 129
	rs. 2011 No. 156
	am. 2012 No. 108
Heading to r. 5.5 .....	rs. 2012 No. 108
r. 5.5 .....	ad. 2009 No. 312
	rs. 2011 No. 156
	am. 2012 No. 108
r. 5.6 .....	ad. 2011 No. 156
	am. 2012 No. 108
r. 5.7 .....	ad. 2011 No. 156
	am. 2012 No. 108

**Part 6**

r. 6.1 .....	am. 2006 No. 201; 2011 No. 156
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**Part 7**

r. 7.1 .....	am. 2008 No. 129
	rs. 2011 No. 156
r. 7.2 .....	am. 2011 No. 156
r. 7.4 .....	am. 2008 No. 129
	rs. 2011 No. 156
r. 7.5 .....	am. 2009 No. 312
	rs. 2011 No. 156
r. 7.6 .....	rs. 2011 No. 156
r. 7.7 .....	am. 2008 No. 129; 2011 No. 156
r. 7.9 .....	am. 2011 No. 156

## Endnote 2—Amendment history

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ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted  
exp. = expired or ceased to have effect

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Provision affected	How affected
r. 7.10 .....	am. 2008 No. 129

**Part 9****Division 2**

Div. 2 of Part 9 .....	ad. 2009 No. 312
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r. 9.2 .....	ad. 2009 No. 312
	am. 2012 No. 108

**Part 10**

Part 10 .....	ad. 2008 No. 129
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r. 10. 1 .....	ad. 2008 No. 129
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r. 10. 2 .....	ad. 2008 No. 129
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r. 10. 3 .....	ad. 2008 No. 129
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r. 10. 4 .....	ad. 2008 No. 129
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r. 10. 5 .....	ad. 2008 No. 129
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**Schedule 1**

Schedule 1 .....	am. 2008 No. 129
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**Schedule 2**

Schedule 2 .....	am. 2011 No. 156
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**Schedule 3**

Schedule 3 .....	am. 2008 No. 129; 2011 No. 156
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**Schedule 4**

Schedule 4 .....	am. 2011 No. 156
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Schedule 6 .....	rep. 2011 No. 156
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**Schedule 7**

Schedule 7 .....	rs. 2011 No. 156
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## Endnotes

### Endnote 3—Uncommenced amendments

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#### Endnote 3—Uncommenced amendments

This endnote sets out amendments of the *Energy Efficiency Opportunities Regulations 2006* that have not yet commenced.

#### Energy Efficiency Opportunities Amendment Regulation 2012 (No. 1) (2012 No. 108)

#### Schedule 2

##### [1] Regulation 1.3

*omit*

In these Regulations:

*insert*

(1) In these Regulations:

##### [2] Regulation 1.3

*insert*

**commercial operation** has the meaning given by subregulation (2).

##### [3] Regulation 1.3

*insert*

**expansion** has the meaning given by subregulation (3).

##### [4] Regulation 1.3

*insert*

**future energy use** means the energy that a new development or expansion will use, on average and calculated on an annual basis, after commercial operation has commenced.

##### [5] Regulation 1.3

*insert*

**multiple new developments or expansions** means any of the following:

- (a) 2 or more new developments;
- (b) 2 or more expansions;

Endnote 3—Uncommenced amendments

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(c) any combination of new developments and expansions.

**[6] Regulation 1.3**

*insert*

**network losses** has the meaning given by subregulation (4)

**[7] Regulation 1.3**

*insert*

**new development** has the meaning given by subregulation (5).

**[8] Regulation 1.3**

*insert*

**project** includes a set of activities.

**[9] Regulation 1.3**

*insert*

- (2) In these Regulations, a new development or expansion is taken to have commenced **commercial operation** if:
- (a) minor operational issues have been finalised; and
  - (b) the operation of the new development or expansion has been optimised.

*Examples that may indicate that commercial operation has commenced*

- 1 Any plant or piece of equipment installed as part of the new development or expansion is producing a constant amount of product.
- 2 Any plant or piece of equipment installed as part of the new development or expansion has reached the level of production that the plant or equipment was designed to produce.
- 3 The board of the controlling corporation has formally agreed that the capital investment in the new development or expansion is operating as intended.
- 4 The board of the controlling corporation has indicated that the new development or expansion is operating as intended.

*Example of optimised operation of equipment*

After a piece of equipment has first been turned on, there will be small adjustments to the equipment that need to be made to make sure that the operation of the equipment is optimised. An example of this might be if a pump is pumping water to a piece of plant to keep it cool. The plant needs to be kept below 50 °C.

## Endnotes

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The pump was designed and installed to pump 150 L/s of water, which is keeping the plant at 35 °C. The pump could be adjusted, to pump a lesser amount than 150 L/s, which would use less energy and increase the plant temperature to 45 °C, which would still be below the critical temperature of 50 °C.

- (3) A project is an **expansion** if:
  - (a) it relates to an existing facility; and
  - (b) it is expected that additional energy use will be required by the facility when the project has commenced commercial operation; and
  - (c) there is an opportunity, in the design, commissioning or equivalent process for the project, to improve energy efficiency.
- (4) The **network losses** of an entity are the difference between the amount of electricity or gas measured as entering the network of the entity and the electricity or gas measured as leaving the network of the entity:
  - (a) for consumption; or
  - (b) to enter another network.
- (5) A project is a **new development** if:
  - (a) it is a project to construct a new facility or facilities; and
  - (b) there is an opportunity, in the design, commissioning or equivalent process for the project, to improve energy efficiency.

### [10] Subregulation 1.5(2)

*substitute*

*General meaning*

- (2) The **energy used** by an entity is worked out by:
  - (a) identifying the amount of all energy used by the entity, treating any network losses that result from the transmission and distribution of electricity and gas as energy used by the entity; and
  - (b) then adding the amount of estimated future use of energy by new developments or expansions mentioned in subregulations 5.3A(2) and (4); and



Endnote 3—Uncommenced amendments

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- (c) then reducing the result by any amount calculated under subregulation (4).

**[11] After regulation 5.3**

*insert*

**5.3A Assessments for new developments and expansions**

- (1) This regulation sets out principles relating to assessment plans for new developments and expansions.

*Sites that use 0.5 PJ or more*

- (2) If the future energy use of a new development or expansion will be 0.5 PJ or more, the controlling corporation must prepare an assessment plan that includes a plan to assess the future energy use of the new development or expansion.
- (3) Subregulation (2) ceases to apply to a new development or expansion if:
- (a) the new development or expansion is discontinued; or
  - (b) the controlling corporation determines that the future energy use of the new development or expansion will not be 0.5 PJ or more.

Note: For this regulation, ***discontinued*** includes any new development or expansion that is no longer being actively progressed. This includes projects that are on hold.

*Multiple new developments and expansions with future energy use of 0.25 PJ or more, but less than 0.5 PJ etc.*

- (4) A controlling corporation must prepare an assessment plan that includes a plan to assess the future energy use of multiple new developments or expansions:
- (a) if:
    - (i) the plan refers to a new development or expansion (the ***first new development or expansion***) whose design is not substantially the same as the design for previous

## Endnotes

### Endnote 3—Uncommenced amendments

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new developments or expansions undertaken by the controlling corporation; and

- (ii) the controlling corporation expects the design for one or more other new developments or expansions to be substantially the same as the design for the first new development or expansion; and
- (iii) the future energy use of each new development or expansion will be 0.1 PJ or more, but less than 0.5 PJ; and
- (iv) the total future energy use of the multiple new developments or expansions will be 0.5 PJ or more; or

Note: The design of the first new development or expansion would be one that the controlling corporation:

- (a) has not previously used; and
- (b) proposes to use as a model or template for future new developments or expansions.

A design for a future new development or expansion is likely to be treated as ‘substantially the same as’ the design for the first new development or expansion if the difference in the design of the first new development or expansion and the future new development or expansion is less than 5%, measured by the cost of the changes to the design of the first new development or expansion.

(b) if:

- (i) paragraph (a) does not apply; and
- (ii) the future energy use of each new development or expansion will be 0.25 PJ or more but less than 0.5 PJ; and
- (iii) the total future energy use of the multiple new developments or expansions will be 0.5 PJ or more.

(5) Subregulation (4) ceases to apply to multiple new developments or expansions if:

- (a) one or more of the new developments or expansions is discontinued; and
- (b) the controlling corporation determines that the total future energy use of the remaining multiple new developments or expansions will be less than 0.5 PJ.

Note: For this regulation, *discontinued* includes any new development or expansion that is no longer being actively progressed. This includes projects that are on hold. *Discontinued* does not mean completed. It is

Endnote 3—Uncommenced amendments

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intended that if a new development or expansion is completed, a controlling corporation would continue to assess any remaining new developments or expansions that constitute the multiple new developments or expansions, even if the sum of the remaining new developments or expansions would be less than 0.5 PJ.

- (6) Subregulation (4) ceases to apply to multiple new developments or expansions if the controlling corporation determines that:
- (a) the future energy use of one or more of the new developments or expansions will be less than the future energy use that was estimated; and
  - (b) the total future energy use of the multiple new developments or expansions will be less than 0.5 PJ.

**Energy Efficiency Opportunities Amendment (Continuation of Networks Exemption) Regulation 2013 (No. 121, 2013)**

**Schedule 2**

**1 Subregulation 1.3(1) (definition of *network losses*)**

Repeal the definition.

**2 Subregulation 1.3(4)**

Repeal the subregulation.

**3 Paragraph 1.5(2)(a)**

Omit “, treating any network losses that result from the transmission and distribution of electricity and gas as energy used by the entity”.

## Endnotes

Endnote 4—Misdescribed amendments [none]

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### **Endnote 4—Misdescribed amendments [none]**

There are no misdescribed amendments.