



Renewable Energy (Electricity) Amendment Regulation 2012 (No. 3)¹

Select Legislative Instrument 2012 No. 15

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Renewable Energy (Electricity) Act 2000*.

Dated 22 February 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

GREG COMBET
Minister for Climate Change and Energy Efficiency

1 Name of regulation

This regulation is the *Renewable Energy (Electricity) Amendment Regulation 2012 (No. 3)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Renewable Energy (Electricity) Regulations 2001*

Schedule 1 amends the *Renewable Energy (Electricity) Regulations 2001*.

Schedule 1 Amendments

(section 3)

[1] Before regulation 4

insert

3S Final day for including eligible WCMG in application

For subsection 13 (2A) of the Act, 1 April 2012 is prescribed as the day after which an application that lists eligible WCMG as an eligible energy source cannot be made.

[2] After regulation 5

insert

5A 2008 WCMG limit

For subsection 14 (4) of the Act, the guidelines for determining the 2008 WCMG limit for a power station are set out in Schedule 3A.

Note See section 30G of the Act and Division 2.7 of these Regulations in relation to varying the 2008 WCMG limit for an accredited power station.

[3] After Division 2.6

insert

Division 2.7 Varying 2008 WCMG limit for an accredited power station

20FA Guidelines for varying 2008 WCMG limit

This Division prescribes guidelines for subsection 30G (2) of the Act.

20FB Circumstances for varying 2008 WCMG limit for an accredited power station

On application to Regulator

- (1) The Regulator may vary the 2008 WCMG limit for an accredited power station if:
 - (a) the nominated person for the power station:
 - (i) becomes aware that information used to determine the 2008 WCMG limit was inaccurate, misleading or incomplete; or
 - (ii) becomes aware of an error in the determination of the 2008 WCMG limit; and
 - (b) the nominated person makes an application to the Regulator, in the manner set out in subregulation (3), to vary the 2008 WCMG limit; and
 - (c) after considering the application, the Regulator considers that the 2008 WCMG limit should be varied.

On Regulator's own initiative

- (2) The Regulator may, on his or her own initiative, vary the 2008 WCMG limit for an accredited power station if:
 - (a) the Regulator becomes aware that:
 - (i) information used to determine the 2008 WCMG limit was inaccurate, misleading or incomplete; or

- (ii) there is an error in the determination of the 2008 WCMG limit; and
- (b) the Regulator gives the nominated person written notice stating:
 - (i) that the Regulator is considering whether to vary the 2008 WCMG limit; and
 - (ii) the reasons for the possible variation; and
 - (iii) that the nominated person may give to the Regulator, by the date and in the form (if any) specified in the notice, any information that may assist the Regulator in deciding whether to vary the 2008 WCMG limit; and
- (c) the Regulator, having become aware of the situation and having taken into account any information provided by the nominated person in response to a notice under paragraph (b), considers that the 2008 WCMG limit should be varied.

Form of application

- (3) An application by a nominated person for an accredited power station for a variation of the 2008 WCMG limit for the power station:
 - (a) must be in writing in a form approved by the Regulator; and
 - (b) must state the circumstance in paragraph (1) (a) on the basis of which the request is made; and
 - (c) must include, or be accompanied by, a statement explaining the reasons why the variation should be made and setting out any other information the nominated person considers relevant; and
 - (d) must include, or be accompanied by, any other information or document required by the approved form.

**20FC Redistribution of 2008 WCMG limits between
 accredited power stations**

- (1) The Regulator may vary the 2008 WCMG limit for a year for 2 or more accredited power stations if:
 - (a) the nominated person for each power station makes an application to the Regulator, in the manner set out in subregulation (3), to vary the 2008 WCMG limits for the power stations; and
 - (b) at least one certificate has been created in relation to electricity generated by each power station using waste coal mine gas; and
 - (c) after considering the applications, the Regulator considers that the 2008 WCMG limits should be varied for the year.
- (2) However, the variation must not increase the combined total of the 2008 WCMG limits of the power stations.
- (3) Each application for the variation of the 2008 WCMG limit of 2 or more power stations for a year:
 - (a) must be in writing in a form approved by the Regulator; and
 - (b) must be given to the Regulator by the nominated person no later than 30 September in the previous year; and
 - (c) must identify the power stations and the proposed change to the 2008 WCMG limit for each power station; and
 - (d) must include, or be accompanied by, any other information or document required by the approved form.
- (4) The Regulator must not make a variation unless each application identifies the same power stations and the same proposed change to the 2008 WCMG limit for each power station.

20FD Notification of determination

- (1) If the Regulator makes a determination under regulation 20FB or 20FC varying the 2008 WCMG limit for an accredited power station (whether at the request of the nominated person for the power station or on his or her own initiative), the Regulator must, as soon as practicable after making the determination, give to the nominated person:
 - (a) a copy of the determination; and
 - (b) a statement of the reasons for the determination.
- (2) If, after considering a request from a nominated person under regulation 20FB or 20FC for an accredited power station, the Regulator makes a determination not to vary the 2008 WCMG limit for the power station, the Regulator must, as soon as practicable after making the determination, give to the nominated person:
 - (a) a copy of the determination; and
 - (b) a statement of the reasons for the determination.

Note A determination varying the 2008 WCMG limit for an accredited power station is a reviewable decision under section 66 of the Act.

[4] Schedule 1, after clause 10

insert

11 Waste coal mine gas

- 11.1 The following components of an electricity generation system that uses waste coal mine gas may be taken to be part of a power station for the Act:
 - (a) combustion turbine or engine;
 - (b) compressor;
 - (c) control system;
 - (d) waste coal mine gas cleaning system;
 - (e) waste coal mine gas pumping or extraction system;
 - (f) waste coal mine gas treatment or conditioner;
 - (g) generator;
 - (h) heat recovery system;

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- (i) pumping equipment;
 - (j) switchyard and transformer;
 - (k) oxygen supply system;
 - (l) water supply system;
 - (m) mechanical cleaner;
 - (n) particulate removal system.

[5] Schedule 3, before clause 1

insert

Note For power stations generating electricity using waste coal mine gas, the gas is treated as an eligible energy source — see clause 7.

[6] Schedule 3, after clause 6

insert

7 Treatment of waste coal mine gas as eligible energy source

- 7.1 In this Schedule (including calculations in accordance with Subdivision 2.3.1), electricity generated using waste coal mine gas is taken to have been generated using an eligible energy source, even though waste coal mine gas was not an eligible energy source at the time the electricity was generated.

[7] After Schedule 3*insert***Schedule 3A Guidelines for determining
2008 WCMG limit**

(regulation 5A)

1 Meaning of *WCMG power station*

- 1.1 A power station is a ***WCMG power station*** if the power station:
- (a) was generating electricity using waste coal mine gas during May 2009; or
 - (b) if paragraph (a) does not apply — had generated electricity from waste coal mine gas before May 2009, and, as at the end of May 2009, the owner or operator of the power station had a plan for the power station to resume generating electricity from waste coal mine gas before the end of September 2009.

2 Overall 2008 WCMG limit

- 2.1 The total of the 2008 WCMG limits for all WCMG power stations during a year mentioned in column 1 of the following table must not exceed the total amount of electricity set out in column 2 for the year.

Year	Total amount of electricity (GWh)
2012	425
2013	850
2014	850
2015	850
2016	850
2017	850

Year	Total amount of electricity (GWh)
2018	850
2019	850
2020	850

3 2008 WCMG limit — general

- 3.1 Subject to clauses 4 and 5, the 2008 WCMG limit for a WCMG power station is the amount of electricity generated in 2008, worked out in accordance with Subdivision 2.3.1, less the amount of the 1997 eligible renewable power baseline (if any) for the power station.
- 3.2 However, for 2012:
- (a) the 2008 WCMG limit for a WCMG power station is half of the limit mentioned in subclause 3.1 for the power station; and
 - (b) the 1997 eligible renewable power baseline for the WCMG power station is taken to be half of the baseline determined for the power station.
- 3.3 If the amount of electricity generated using waste coal mine gas was not measured in the manner provided for by these Regulations, the amount is to be estimated from the measurements that were made and worked out in accordance with Subdivision 2.3.1.
- 3.4 For the purpose of working out an amount of electricity generated in accordance with Subdivision 2.3.1, waste coal mine gas is to be treated as if it was an eligible energy source in 2008.

4 2008 WCMG limit — special circumstances

- 4.1 The Regulator may determine that the 2008 WCMG limit for a WCMG power station is greater than the limit mentioned in clause 3 if the nominated person for the power station provides satisfactory evidence to the Regulator that during 2008:
- (a) the power station did not generate electricity continuously because:
 - (i) there was an unplanned plant outage affecting the power station; or
 - (ii) the power station did not commence operating until after the beginning of 2008; or
 - (b) the power station's capacity to generate electricity using waste coal mine gas was reduced because of unplanned operating constraints beyond the control of the power station operator; or
 - (c) the power station increased its capacity to generate electricity as a result of enhanced waste coal mine gas fuel supply, additional plant capacity, or generation efficiency; or
 - (d) construction occurred to enhance the power station's capacity to generate electricity through additional plant capacity or generation efficiency, but was not yet completed.
- 4.2 If the Regulator is satisfied as provided in paragraph 4.1 (a) or (b), the Regulator may determine the 2008 WCMG limit for the power station by extrapolating the amount of electricity generated by the power station during 2008 to establish the amount of electricity that would have been generated by the power station had the occurrence mentioned in paragraph 4.1 (a) or (b) not occurred.
- 4.3 If the Regulator is satisfied as provided in paragraph 4.1 (c) or (d), the Regulator may, in consultation with the nominated person for the power station, determine the 2008 WCMG limit for the power station by modelling the output of the power station to establish the amount of electricity that would have been generated by the power station had the power station operated for the whole of 2008 with the increased capacity to generate electricity.

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- 4.4 The 1997 eligible renewable power baseline (if any) for the power station must be subtracted from the amount determined under subclause 4.2 or 4.3.
- 4.5 However, for 2012:
- (a) the 2008 WCMG limit for a WCMG power station is half of the limit determined under subclause 4.2 or 4.3, as appropriate, for the power station; and
 - (b) the 1997 eligible renewable power baseline for the WCMG power station is taken to be half of the baseline determined for the power station.

5 Moderating 2008 WCMG limits

- 5.1 If the total of the 2008 WCMG limits for all WCMG power stations worked out in accordance with clauses 3 and 4 for a year exceeds the amount of electricity specified in the table in subclause 2.1 for the year, then the 2008 WCMG limit for a power station for that year is to be worked out in accordance with the following formula, expressed in GWh:

$$\left(\frac{\text{year total}}{\text{2008 WCMG total}} \right) \times \text{station total}$$

where:

year total, for a year, is the amount of electricity specified in subclause 2.1 for the year.

2008 WCMG total, for a year, is the sum of all station total amounts for the year.

station total, for a power station for a year, is the amount of electricity worked out in accordance with clause 3 or 4 for the station for the year.

- 5.2 The result worked out under subclause 5.1 is to be rounded down to the nearest MWh.
- 5.3 The 2008 WCMG limit for a power station for a year is not to be increased if the 2008 WCMG limit for all WCMG power stations for a year is less than the amount specified in the table in subclause 2.1 for the year.

[8] Further amendments — energy

The following provisions are amended by omitting each mention of ‘renewable energy’ and inserting ‘energy’.

- Schedule 3, paragraphs 1.1 (a) and (b)
- Schedule 3, subclauses 2.1 to 2.4
- Schedule 3, subclauses 3.1, 3.2 and 3.3.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.