



Energy Efficiency Opportunities Regulations 2006

Select Legislative Instrument 2006 No. 160 as amended

made under the

Energy Efficiency Opportunities Act 2006

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Part 1 Preliminary

1.1 Name of Regulations [see Note 1]

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

1.2 Commencement [see Note 1]

These Regulations commence on the day after they are registered.

1.3 Definitions

In these Regulations:

Act means the *Energy Efficiency Opportunities Act 2006*.

baseline energy means the amount of total energy use identified for the purpose of paragraph 201 (a) 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:

- (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.

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

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 or equipment; and

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

Note 1 To enable an appropriate coverage, 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 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 and ducts; 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.

GJ means gigajoules.

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.
- 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.

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

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

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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.

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:
 - (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.

1.4 User of energy

- (1) This regulation explains when an entity is the **user** of energy.
- (2) If the energy is derived from a source that is a combustible fuel, or is electricity, compressed air or steam, the user is the entity that has operational control over the facility in which the energy is consumed or is produced for consumption.
- (3) If the energy is derived from a reductant, the user is the entity that has operational control over the facility in which the reductant is used to produce energy or combustible fuel.

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- (4) Despite subregulations (2) and (3), if:
- (a) a reporting transfer certificate has been issued to an entity under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007*; and
 - (b) the entity has asked the Secretary to treat the entity as the user of energy to which the reporting transfer certificate relates;
- the entity is the user of the energy.
- (5) 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.
- (6) In this regulation:
- consumption**, of energy, has the same meaning as it has in section 10 of the *National Greenhouse and Energy Reporting Act 2007*.
- facility** has the same meaning as it has in section 9 of the *National Greenhouse and Energy Reporting Act 2007*.
- operational control** has the same meaning as it has in section 11 of the *National Greenhouse and Energy Reporting Act 2007*.
- production**, of energy, has the same meaning as it has in section 10 of the *National Greenhouse and Energy Reporting Act 2007*.

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

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- (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 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.

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- (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.
- (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.

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1.6 Energy use threshold — working out use for a group
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 in regulation 6.1	energy use	must achieve a level of accuracy to within $\pm 5\%$, unless another level of 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

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Item	For the purpose of ...	that shows data about ...	the calculations ...
			<i>Note</i> 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

- (1A) If the data mentioned in items 1, 2 and 4 of the table at subregulation 1.6 (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 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.

Regulation 1.7

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.

Regulation 2.1

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).
- (3) This regulation ceases to have effect at the end of 30 June 2013.

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.

Regulation 2.3

- (2) The class is each corporation:
 - (a) that is a subsidiary of a controlling corporation; and
 - (b) 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
 - (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

Regulation 2.4

- (d) include a statement to the effect that all of the other participants or partners have been informed of the nomination; and
- (e) state:
 - (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.

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 entity must give a notice to the Secretary, at least 28 days after

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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.

Revocation (automatic)

(2) The nomination is taken to be revoked on the day on which any of the following happens:

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- (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;

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.

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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.

Regulation 3.1

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 reporting transfer certificate that has been issued to the applicant under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007*, the application must also include the following information and documents:
 - (a) a certified copy of the reporting transfer 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 reporting transfer 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 reporting transfer 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.

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.

Regulation 3.3

- (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
 - (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.

Regulation 3.4

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;
 - (e) if the controlling corporation has stated in its application that a separate assessment plan mentioned in paragraph 5.1 (1) (b) is likely to be prepared by a part of the

Regulation 4.2

controlling corporation's group, on behalf of the controlling corporation:

- (i) that information; and
- (ii) a description of that part of the controlling corporation's group.

Note 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) 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

Regulation 4.2

- (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 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 reporting transfer certificate that has been issued to the applicant under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007*, the application must also include the following information and documents:
 - (a) a certified copy of the reporting transfer 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 reporting transfer 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 reporting transfer 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.

Regulation 4.3

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.
- (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

Regulation 5.2

- (c) the controlling corporation is taken not to have given the Secretary an assessment plan in compliance with 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) The assessment plan, or the combination of the parts of the plan, must identify all the parts of the controlling corporation's group to which the plan applies, in accordance with the following principles.
- (2) The controlling corporation must assess:
 - (a) at least 80% of its group in the first 5 year cycle, worked out, having regard to the baseline energy used by the group, in accordance with regulation 1.5; and
 - (b) at least 90% of its group in each subsequent 5 year cycle, worked out, having regard to the baseline energy used by the group, in accordance with regulation 1.5.
- (3) If an assessment plan relates to a part of a controlling corporation's group, the controlling corporation must ensure that:
 - (a) at least 80% of the part is assessed in the first 5 year cycle, worked out, having regard to the baseline energy used by the group, in accordance with regulation 1.5; and

Regulation 5.4

- (b) at least 90% of the part is assessed in each subsequent 5 year cycle, worked out, having regard to the baseline energy used by the group, in accordance with regulation 1.5.
- (4) An assessment is taken to be an assessment of the whole group if it is:
 - (a) an assessment of at least 80% of the group, conducted in accordance with paragraph (2) (a); or
 - (b) an assessment of at least 90% of the group, conducted in accordance with paragraph (2) (b).
- (5) If energy use exceeded 0.5 PJ at a site during the period mentioned in item 202 of Schedule 3:
 - (a) the site must be assessed by the controlling corporation's group; and
 - (b) a maximum of 0.01 PJ of energy may be omitted from the assessment of the site.
- (6) The controlling corporation must assess a site if:
 - (a) a member of the group has built or acquired the site up to 18 months before the end of the 5 year assessment cycle; and
 - (b) the site uses more than 0.5 PJ during a financial year.
- (7) An assessment of a site mentioned in subregulation (6) 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

- (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 Variation to approved assessment plan — content of application

For subsection 19 (1) of the Act, if a registered corporation that gives the Secretary a proposed variation to an approved assessment plan proposes to define its energy use in accordance with a reporting transfer certificate that has been issued to the registered corporation under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007*, the registered corporation must also give the Secretary the following information and documents:

- (a) a certified copy of the reporting transfer 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 reporting transfer 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 reporting transfer 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.

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).
- (3) A controlling corporation must complete, or arrange for the completion of, at least 1 assessment within 2 years after the end of the trigger year for:
 - (a) each member of the controlling corporation's group for which an assessment is planned to be undertaken; or
 - (b) each business unit for which an assessment is planned to be undertaken; or
 - (c) each key activity for which an assessment is planned to be undertaken.
- (4) A controlling corporation may apply to the Secretary for an extension of time for the completion of an assessment.
- (5) An application under subregulation (4) must be contained in:
 - (a) an assessment plan; or
 - (b) a variation to an assessment plan.
- (6) The Secretary may grant an extension of time if he or she is satisfied that it is appropriate, having regard to:
 - (a) the alternative periods proposed; and
 - (b) the details of the plans to complete an assessment within the alternative periods; and

Regulation 6.1

- (c) the objectives of the Act.
- (7) An assessment is taken to comply with the requirements of subregulation (3) if:
 - (a) the assessment:
 - (i) commenced on or after the 1 July that occurred 24 months before the end of the trigger year, and was completed after the end of the trigger year; or
 - (ii) commenced on or after the 1 July that occurred 12 months before the end of the trigger year, and was completed at or before the end of the trigger year; and
 - (b) the assessment complies with the form and content requirements of Schedule 7.

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 up to a 4 year payback.

Companies will need to meet the intent and requirements of the 6 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.

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, the first period for a registered corporation is the period:
 - (a) commencing on:
 - (i) the day after the end of the trigger year; or
 - (ii) if the corporation includes an assessment or assessments that commenced before the end of the trigger year — the commencement date, or the earliest commencement date, of that assessment or those assessments; and
 - (b) ending on:
 - (i) the day that the first assessment for the group, or part of the group, is completed; or
 - (ii) a later day, that is not later than the day on which the report is due.
- (2) For subsection 22 (2) of the Act, and subject to subregulation (3), each period of 12 months after the end of the first period is a period for the registered corporation.

Note The effect of paragraph 22 (1) (a) and subsection 22 (2) of the Act is that a registered corporation must prepare a report in accordance with section 22 for each period specified in the regulations.
- (3) A registered corporation may elect to have its reporting period end at the end of the financial year.
- (4) If the corporation elects to have a reporting period end at the end of the financial year, the subsequent periods also end at the end of each financial year.

Regulation 7.2

7.2 Information in report

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.

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, for a first report under section 22 of the Act, the report must be made available to the public by a registered corporation, or a member or a group, by the earlier of:
 - (a) 15 months after the completion of key elements 1 to 5 of the Assessment Framework in Schedule 7 for the first assessment of opportunities for the corporation or group; and
 - (b) 30 months after the end of the trigger year.

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, and subject to subregulation (3), a report other than the first report is due on the anniversary of the end of the period mentioned in subregulation (1).
- (3) If a registered corporation makes its first report available to the public on a date before 31 October 2008:
 - (a) the due date for the second report may be extended, at the discretion of the corporation, to the end of 31 October 2009; and

Regulation 7.5

- (b) if the corporation decides to extend the due date for the second report under paragraph (a), subsequent reports are due on the anniversary of the end of the period mentioned in paragraph (a).

7.5 Manner of making report available

- (1) For paragraph 22 (5) (b) of the Act, a report under section 22 of the Act must be made available to the public by a registered corporation in a manner that 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.
- (3) A summary must include as many of the following details as are relevant:
 - (a) the names of:
 - (i) corporations that have been assessed by the end of the reporting period; and
 - (ii) joint ventures and partnerships that have been assessed by the end of the reporting period; and
 - (iii) business units that have been assessed by the end of the reporting period; and
 - (iv) key activities that have been assessed by the end of the reporting period; and
 - (v) sites for which the energy use in the trigger year was over 0.5 PJ that have been assessed by the end of the reporting period;
 - (b) the period to which the summary relates;
 - (c) the period over which the assessment was undertaken;
 - (d) the percentage of total energy that has been assessed (as a percentage of what is to be assessed);
 - (e) the total energy value of opportunities mentioned in item 3 of Schedule 4 that have been identified through an energy assessment;

Regulation 7.5

- (f) the total energy value of opportunities mentioned in item 3 of Schedule 4 that are being implemented, or are proposed to be implemented;
 - (g) the total energy value of opportunities mentioned in item 3 of Schedule 4 that have been implemented (if applicable);
 - (h) the energy use of the relevant group or part of the group that has been assessed by the end of the reporting period, expressed as a percentage of the total energy use that is planned to be assessed by the controlling corporation or part of the controlling corporation to which the report relates.
- (4) If the registered corporation makes a summary available, the registered corporation must:
- (a) ensure that the full report is published:
 - (i) at a website address; or
 - (ii) by means of another medium proposed in an assessment plan and approved by the Secretary; or
 - (iii) in another publication; and
 - (b) include the entire summary in the registered corporation's annual report.

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.

Those corporations that are members of the Australian Government's Greenhouse Challenge Plus programme may use the Greenhouse Challenge Plus website to publish the complete public report.

Division 2 Reporting to the Secretary

7.6 Period to which report relates

- (1) For subsection 23 (2) of the Act, the periods for which a registered corporation must give reports are set out in this regulation.
- (2) Each of the following periods apply:
 - (a) the first period, mentioned in subregulation 7.1 (1);
 - (b) the period:
 - (i) commencing on:
 - (A) the day after the end of the trigger year; or
 - (B) if the registered corporation includes an assessment or assessments that commenced before the end of the trigger year — the commencement date, or the earliest commencement date, of that assessment or those assessments; and
 - (ii) ending 5 years after the trigger day;
 - (c) the period:
 - (i) commencing on each fifth anniversary of the day after the end of the trigger day; and
 - (ii) ending 2 years after that anniversary;
 - (d) the period:
 - (i) commencing on each fifth anniversary of the day after the end of the trigger day; and
 - (ii) ending 5 years after that anniversary.

Note For every 5 year period after the day after the trigger day, there will be:

- (a) an initial report covering the first 2 years of the period; and
- (b) an end of period report covering the 5 years of the period, including the first 2 years.

The reports must be given to the Secretary in accordance with regulation 7.9.

Regulation 7.7

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 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;

Regulation 7.8

- (v) sites for which the energy use in the trigger year was over 0.5 PJ; and
- (f) the energy use of the relevant group or part of the group relative to a unit of production or service that is reasonably relevant to the particular industry or energy use as an indicator relative to the trigger year; and
- (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.

Regulation 7.9

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 the earlier of:
 - (a) 15 months after the completion of key elements 1 to 5 of the Assessment Framework in Schedule 7 for the first assessment of opportunities for the corporation or group; and
 - (b) 30 months after the end of the trigger year.

Note These options are the same as specified in regulation 7.4 for providing reports to the public.
- (3) However, if the registered corporation:
 - (a) proposes to publish the report mentioned in regulation 7.4; and
 - (b) has not given the first report mentioned in subregulation (2) to the Secretary;

the time at which the registered corporation must give the first report to the Secretary is the time at which the registered corporation publishes the report mentioned in regulation 7.4.
- (4) 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.

Regulation 7.10

- (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.

Regulation 8.1

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.

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 reporting transfer certificate issued under subsection 22L (2) of the *National Greenhouse and Energy Reporting Act 2007* relates, applies to the Secretary for the termination of the agreement; and

Regulation 9.2

- (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

- (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:
- subregulation 1.5 (3) of the old Regulations; or
 - 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.

Regulation 10.5

- (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.

Examples

- 1 Bagasse that is burned for a purpose other than as an energy source.
- 2 Waste gas that is vented or flared.

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

Examples

- 1 Gas or liquid hydrocarbons used as chemical feedstock in plastics manufacture.
- 2 LPG used as a propellant in aerosols.
- 3 Hydrocarbons used as a solvent.
- 4 Ethanol used in consumer goods or lubricants.
- 5 Base oils used in lubricants.
- 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 the group exceeded 0.5 PJ of energy use in the trigger year, and mentioning the trigger year in respect of which the statement is made.
- 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 graphical representation of the group's corporate structure showing the relationship between those of the following entities, joint ventures, business units or sites that, in the opinion of the chair of the board of directors, the chief executive officer, the managing director or an equivalent officer of the group, are likely to be assessed:
- (a) the controlling corporation;
 - (b) each subsidiary corporation;
 - (c) any joint venture or partnership of which a member of the controlling corporation's group is a participant or partner;
 - (d) any business unit to which a member of the controlling corporation's group belongs;
 - (e) any site for which the use of energy in the trigger year exceeded 0.5 PJ;
 - (f) at the option of the chair of the board of directors, the chief executive officer, the managing director or an equivalent officer — the estimated annual energy use of the corporation, subsidiary, joint venture, partnership, business unit or site.
- 5 A list of each group member that is likely to submit a separate assessment plan for the part of the group.
- 6 If a separate assessment plan mentioned in paragraph 5.1 (1) (b) is likely to be prepared by a member or members of the controlling corporation's group, on behalf of the controlling corporation:
- (a) a statement that the separate assessment plan is likely to be prepared; and
 - (b) a description of that part of the controlling corporation's group.

- 7 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.
- 8 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 trigger 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 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 relative to a unit of production or service reasonably relevant to the particular industry.
- (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.

Note For paragraph (c) — Energy use indicators: The intention is that corporations should define their indicators at a level that will provide meaningful benchmarking information.

If reporting using energy use relative to a unit of production, corporations should transparently describe the methodology and assumptions used in presenting energy use relative to a unit of production.

- 202 For item 201:
- (a) the assessment plan must state the accuracy of the energy use data; and

- (b) the data is to be provided for a 12 month period that occurs in a period of 36 months starting 12 months before the first day of the trigger year; and
- (c) the 12 month period for paragraph (b) may be chosen at the discretion of the controlling corporation, but:
 - (i) the data must relate to a period of 12 months that has been completed at the time of preparing the assessment plan; and
 - (ii) the data should be shown at an appropriate level of disaggregation that would be meaningful for the comparison of key energy use and energy efficiency statistics.

Note As a guide, energy use values should be provided at an appropriate level of disaggregation so as to be meaningful to compare key energy use and energy efficiency statistics. That is, total energy values should be disaggregated based on business units, sites or activities, depending on the particular structure of the business.

Ideally this information should be identified for the trigger year. However, if this is not a typical year for energy usage, or the registered corporation's systems do not facilitate collecting data in that period, the registered corporation may use any continuous 12 month period from July of the year before the trigger year to June of the year after the trigger year.

- 203
- (1) 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 first five year 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 trigger year energy use and production levels; 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
 - (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 Subregulation 6.1 (3) provides that a controlling corporation must complete, or arrange for the completion of, at least 1 assessment within 2 years after the end of the trigger year for:

- (a) each member of the controlling corporation's group for which an assessment is planned to be undertaken; or
- (b) each business unit for which an assessment is planned to be undertaken; or
- (c) each key activity for which an assessment is planned to be undertaken.

- 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.

Examples

- 1 Assessing a sample of retail outlets that is representative of a larger population of outlets.
- 2 Assessing a sample of vehicles that is representative of a larger fleet of vehicles.
- 3 Assessing a machine or technology that is used in an identical fashion at other sites or within a site.
- 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

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- (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:

- (a) details of the intended dates of publication of public reports; and
- (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; and
- (e) the intended dates of submission of reports to government.

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.

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

Item	Total energy used, in PJ, falls within the range...		Reported, in PJ, as....
	Bottom of range	Top of range	

top number 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 (in the form mentioned in Schedule 6, expressed in GJ), for each group member, or each business unit, or each key activity, according to the time periods set out in the table in Schedule 6, that:
- (a) have been identified by the corporation; and
 - (b) that have been evaluated using costs and benefits, including energy savings, that are certain to an accuracy to within $\pm 30\%$.

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 At least 3 examples of significant opportunities that have been mentioned in an energy efficiency opportunities assessment by the part of the group to which the report relates.

For each example, the report must include:

- (a) a brief description of the opportunity; and
- (b) at the option of the person providing the information — a statement of the upfront and other costs of implementation, the ongoing savings having regard to energy use, and any other benefits.

If fewer than 3 significant opportunities have been mentioned in the energy efficiency opportunities assessment, each opportunity must be identified in the way mentioned above.

If no significant opportunities have been mentioned in the energy efficiency opportunities assessment, the report must include a statement to that effect.

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- 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.
- 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 using indicators such as energy use per unit product; 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]*

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

(Name of authorised officer)

* Secretary

* Delegate of the Secretary

(Signature of authorised
 officer)

* *Omit if inapplicable*

Schedule 6 Form of statement

(Schedule 4, item 3)

Outcomes of and business response to assessments

Status of opportunities		Number of opportunities	Estimated energy savings per annum by payback period		Total estimated energy savings per annum (GJ)	Accuracy range* (%)
			0 - <2 years	2 - ≤4 years		
Outcome of assessment	Identified					
Business response	Under investigation					
	To be implemented					
	Implementation commenced					
	Implemented					
	Not to be implemented					
Other categories (information that may be provided voluntarily)						
Energy efficiency opportunities prior to commencement of the program	Previously identified, not yet implemented (pre-assessment cycle)					
	Energy efficiency savings implemented (2000 to beginning of the assessment cycle)					

* The accuracy ranges for projected or actual costs, benefits and energy savings.

Schedule 7 The Assessment Framework

(regulation 6.1)

Key Element 1

Leadership

Intent

- ❖ Visible leadership and commitment from senior management provides clear direction to the assessment through the setting of energy use and assessment objectives aligned with business priorities.
- ❖ Senior management support, motivate and provide value to the efforts of staff and other stakeholders involved in the identification and implementation of energy efficiency opportunities.

No.	Key Requirements	Evidence / Supporting documentation
1.1	Energy assessment or energy use improvement objectives are established and communicated by senior and operational management to all personnel who are responsible for or have an influence on energy use and the energy assessment.	Evidence showing the existence and communication of energy assessment or energy use improvement objectives, for example: <ul style="list-style-type: none"> • Policy documents containing energy objectives approved by senior management (e.g. specific energy policies, environment policies). • Strategic plans signed-off by senior management that contain either energy use (performance) or energy assessment (management) objectives.

No.	Key Requirements	Evidence / Supporting documentation
		<ul style="list-style-type: none"> • Assessment objectives signed-off by senior and operational management. • Meeting minutes, e-mails, memos and presentations showing communication of objectives, including details of the recipients and senders.
1.2	Resources (people, time and money) are made available to meet energy assessment or energy use improvement objectives.	<p>Evidence that identifies the appropriate personnel, for example:</p> <ul style="list-style-type: none"> • An organisational chart (clearly identifying senior management and personnel responsible for energy use). <p>Evidence showing allocation of people, time and money, for example:</p> <ul style="list-style-type: none"> • An internal plan with a budget detailing people, time and costs. • Budgets showing allocations and expenditures.

Key Element 2

People

Intent

- ❖ Skilled and knowledgeable people and people with direct and indirect influence on energy use are involved in the assessment to effectively 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 analysis of energy and process data.	Evidence showing the involvement of appropriate personnel in the analysis of data, for example: <ul style="list-style-type: none"> • A schedule of participant roles, skills and experience.
2.2	The energy efficiency opportunity identification, evaluation and business case development process involves a broad cross section of people, including: <ul style="list-style-type: none"> (a) People from various levels of the site or business unit who have a direct and indirect influence on energy use (e.g. site managers, operators, sub-contractors, tenants, finance, marketing, production); 	Evidence showing the involvement of people in the opportunity identification and evaluation process, for example: <ul style="list-style-type: none"> • Meeting minutes, e-mails, memos, presentations, and organisational map or list of those involved.

No.	Key Requirements	Evidence / Supporting documentation
	<p>(b) People from within the corporation but external to the site who can integrate business objectives and assist with making a business case for identified opportunities (e.g. chief financial officer, procurement, business case analysts, senior corporate management, public relations, strategic planning, operational excellence);</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</p>	
2.3	Clear roles, responsibilities and accountabilities are attributed to people involved in the assessment and the business response.	<p>Evidence showing the allocation of roles and responsibilities for people involved in the assessment and the business response, for example:</p> <ul style="list-style-type: none"> • Planning documents with roles and responsibilities outlined. • A copy of action plans, project plans or budget proposals.

Key Element 3

Information, data and analysis

Intent

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

No.	Key Requirements	Evidence / Supporting documentation
3.1	Business contextual information that influences energy use is identified and documented, including: <ul style="list-style-type: none"> (a) The key business priorities and plans (e.g. relocation, expansion) and how these influence or impact on energy use and the energy assessment; and (b) The key site processes and activities that use energy. 	Evidence showing that key background information has been collected and analysed for its impact on energy use, for example: <ul style="list-style-type: none"> • A background paper, series of reports or presentations summarising this analysis for consideration during the assessment.

No.	Key Requirements	Evidence / Supporting documentation
3.2	<p>A data collection process is identified, documented and implemented, including:</p> <ul style="list-style-type: none"> (a) Energy consumption and cost data for each energy source. Data should be entered at the frequency that bills and other records are received (typically monthly) for a total of 24 months. The accuracy of data must be within $\pm 5\%$. A less accurate level may only be used if this was approved in the Assessment Schedule; (b) Production data for a total of 24 months. Data should be entered at the same frequency and timing as the energy consumption and cost data; (c) Data on other process parameters that impact on energy use e.g. ambient temperature, geology (mining), production inputs; (d) The energy and material flows through the site or fleet (e.g. through using an energy-mass balance or similar technique); (e) The impact of the operating profile of the site / fleet on energy use; 	<p>A documented data collection process including assumptions and uncertainties.</p> <p>Evidence of the implementation of the data collection process, for example:</p> <ul style="list-style-type: none"> • A data inventory that includes production, energy cost and energy consumption data based on billing data. <p>An energy-mass balance or equivalent.</p> <p>Operating and production logs tracked against energy use.</p> <p>Evidence showing the measures undertaken to improve the accuracy and completeness of data, and reduce data gaps and uncertainties, for example:</p> <ul style="list-style-type: none"> • A copy of action plans, project plans or budget proposals.

No.	Key Requirements	Evidence / Supporting documentation
	<p>(f) Measures being undertaken to ensure the accuracy and completeness of the energy data;</p> <p>(g) Measures being undertaken to identify and resolve material data gaps and anomalies; and</p> <p>(h) Assumptions used in the data collection process and their associated uncertainties.</p>	
3.3	<p>An energy analysis process to assist in the identification of energy efficiency opportunities is identified, documented and implemented, including:</p> <p>(a) Energy use performance indicators established by activity and energy source, considering variations over time and major factors that affect energy performance;</p> <p>(b) Application of a range of methods of data analysis (e.g. energy-mass balance, review of graphs and charts) to explore relationships between energy use and variables that may influence it, using data collected at appropriate time intervals; and</p>	<p>A documented energy analysis process.</p> <p>Evidence of the implementation of an energy analysis process, for example:</p> <ul style="list-style-type: none"> • A background paper, series of reports or presentations summarising this analysis for consideration during the assessment.

No.	Key Requirements	Evidence / Supporting documentation
	(c) A comparison of performance to theoretical and actual energy use benchmarks, at the relevant level (process, technology, site, or indicator). Where appropriate, other detailed numerical analysis or the application of indicators and other comparative techniques are used to fully understand energy consumption, including its variability.	

Key Element 4:**Opportunity identification and evaluation****Intent**

- ❖ An effective process is undertaken so that all potential energy efficiency opportunities are identified. This process is broad, open-minded and encourages innovation.
- ❖ Opportunity areas are documented and analysed to a level sufficient for informed evaluation up to a 4 year payback.
- ❖ A whole of business evaluation is undertaken to enable decision makers to make good business decisions about energy efficiency opportunities.

No.	Key Requirements	Evidence / Supporting documentation
4.1	A process to identify potential opportunities is implemented and documented. The process should involve review of information, data and analysis and use of necessary people, and result in a comprehensive list of opportunity areas.	<p>The list of opportunity areas identified and evidence showing the implementation of a process to identify opportunities, for example:</p> <ul style="list-style-type: none"> • A summary linking the process used to personnel involved, time period, and the level of the business at which it was carried out. • Meeting agendas or minutes involving the identification of opportunities, and a list of the people who attended. • Correspondence related to opportunity identification (e.g. e-mails). • External reports used to assist in the identification of opportunities (e.g. energy audit reports).

No.	Key Requirements	Evidence / Supporting documentation
4.2	<p>All the opportunity areas with potentially a 4 year payback or better are categorised into “opportunities for implementation” or “opportunities for further investigation”. The opportunity areas in each category are documented and business criteria are applied to rank them.</p> <p>Reasons for not pursuing specific opportunity areas are documented.</p>	<p>A complete list of potential opportunities for implementation or further investigation including business criteria used for ranking.</p> <p>Documentation of reasons for not pursuing specific opportunity areas (if relevant).</p>
4.3	<p>Detailed investigation is undertaken of opportunity areas to enable the credible identification, costing and evaluation of the costs and benefits of opportunities to within $\pm 30\%$. Detailed investigation includes sub-metering or real time metering to a sufficient level of detail to understand the energy use of major systems and items of equipment (see box).</p> <p>Where an opportunity cannot be evaluated to within $\pm 30\%$, an indication is given in 5.3 of how the accuracy level will be achieved, including further investigation and sub-metering.</p>	<p>List of opportunities with energy saving value and associated levels of accuracy documented.</p> <p>Evidence of detailed investigation, showing the involvement of necessary people and the process used for determining accuracy, for example:</p> <ul style="list-style-type: none"> • Correspondence regarding investigations. • Documentation including sub-metered data, quotations for equipment and calculations undertaken or advice provided by external experts. <p>Evidence of further planned action to improve accuracy of identified opportunities in action plans, project plans or budget proposals (if relevant).</p>

No.	Key Requirements	Evidence / Supporting documentation
4.4	<p>A “whole of business” evaluation is undertaken of the likely costs and benefits for each opportunity identified in order to calculate a payback period. The evaluation must:</p> <p>(a) Consider relevant business costs and benefits, including direct energy-related costs and benefits (e.g. energy savings and costs) and other quantifiable financial costs and benefits, for example avoided capital investment, OH&S costs and benefits, reduced maintenance, reduced or increased waste and water usage costs and improved productivity; and</p> <p>(b) Evaluate and investigate to a level of detail and accuracy appropriate for the size of investment and consistent with core-business investment decision making within the corporation. Where an opportunity will require approval for significant capital expenditure, the costs and benefits should be evaluated to within $\pm 10\%$.</p>	<p>List of opportunities and documentation showing all relevant quantifiable business costs and benefits, their associated levels of accuracy, and calculations for payback periods.</p> <p>Evidence of using standard evaluation methodologies for core-business investment decision making, for example:</p> <ul style="list-style-type: none"> • Documentation showing the calculations undertaken. • Procedures describing standard evaluation methodologies.

No.	Key Requirements	Evidence / Supporting documentation
4.5	For all the opportunities with up to a four year payback make recommendations based on business criteria. Recommendations should include whether the opportunities should undergo further investigation, be implemented, or not be implemented. Reasons for not pursuing opportunities are documented.	List of opportunities and associated recommendations, including criteria used to make recommendations.

Key Element 5

Decision making

Intent

- ❖ Management responsible for resource allocation make informed decisions on the assessment based on investment quality information.
- ❖ Clear lines of accountability, appropriate resources and timeframes are developed 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 allow public reporting.

No.	Key Requirements	Evidence / Supporting documentation
5.1	<p>Management responsible for investment / resource allocation decision making is presented with key background information and the outcomes of the assessment. Information presented to management includes:</p> <ul style="list-style-type: none"> (a) Total energy use and energy cost relative to variable operating costs and profit; (b) Energy savings identified for each opportunity; (c) The costs and benefits based on a whole of business evaluation including payback for each of the opportunities; (d) The business recommendation for each opportunity; and (e) Recommendations to improve data and evaluation accuracy (if required). 	<p>Evidence showing presentation of required information to management, for example:</p> <ul style="list-style-type: none"> • Reports or presentations to management.

No.	Key Requirements	Evidence / Supporting documentation
5.2	Management responsible for investment / resource allocation determine the business response including which opportunities are to be implemented, which are to be further investigated (including improvements in data and evaluation accuracy) and which are not to be implemented.	Evidence showing the decisions of management, for example: <ul style="list-style-type: none"> • Reports to management with documented decisions.
5.3	Timelines, resources and accountabilities are allocated for the business response to the assessment, including: <ol style="list-style-type: none"> (a) All energy efficiency opportunities that a corporation decides to implement or investigate further (including improvements in data and evaluation accuracy); and (b) Reviewing and monitoring to learn from experience and support public reporting. 	Evidence of allocation of timelines, resources and accountabilities, for example: <ul style="list-style-type: none"> • A copy of action plans, strategies, project plans, budget proposals. • Monitoring and feedback mechanisms.

Key Element 6

Communicating outcomes

Intent

- ❖ Senior management and the members of the board are aware of the outcomes of the assessment in a strategic business context (risk management, corporate social responsibility and major investment decisions).
- ❖ The board reviews and notes the public report in the context of relevant business information.
- ❖ Increased awareness of the benefits of improved energy efficiency and the outcomes achieved by the assessment within an organisation.

No.	Key Requirements	Evidence / Supporting documentation
6.1	<p>For each relevant business unit or key activity, the board and the senior officer responsible for signing the public report are presented with:</p> <ul style="list-style-type: none"> (a) Total energy use and energy cost relative to variable operating costs and profit; (b) Total energy savings identified and business's response; (c) Total whole of business costs and benefits of the opportunities identified and business's response; (d) Recommendations for major investments; and (e) The information to be included in the public report prior to public release. 	Evidence of presentation to the board.

No.	Key Requirements	Evidence / Supporting documentation
6.2	The board reviews and notes the information to be included in the public report.	Evidence of board review and noting, for example: <ul style="list-style-type: none"> • Meeting minutes. • Board agendas and reports. • Statement by signer of the public report.
6.3	A clear message on the outcomes of the assessments, in the context of the objectives set in leadership is communicated from senior management and operational management to relevant staff in the organisation.	Evidence of communication of the outcomes of assessments and progress against objectives, including who has provided and been provided the information, for example: <ul style="list-style-type: none"> • Correspondence to relevant staff of documents containing the relevant information (e.g. email of sustainability report or other reports that may contain the information). • Presentations of outcomes, including meeting invitees, attendees and presenters.

Notes to the *Energy Efficiency Opportunities Regulations 2006*

Note 1

The *Energy Efficiency Opportunities Regulations 2006* (in force under the *Energy Efficiency Opportunities Act 2006*) as shown in this compilation comprise Select Legislative Instrument 2006 No. 160 amended as indicated in the Tables below.

Table of Instruments

Year and Number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
2006 No. 160	26 June 2006 (see F2006L01895)	27 June 2006	
2006 No. 201	28 July 2006 (see F2006L02382)	29 July 2006	—
2008 No. 129	26 June 2008 (see F2008L02208)	1 July 2008	—
2009 No. 119	22 June 2009 (see F2009L02397)	23 June 2009	—
2009 No. 312	16 Nov 2009 (see F2009L04166)	17 Nov 2009	—
2011 No. 78	7 June 2011 (see F2011L00964)	1 July 2011	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
R. 1.3	am. 2008 No. 129
R. 1.4	rs. 2008 No. 129; 2009 No. 312
R. 1.5	am. 2008 No. 129
R. 1.6	am. 2008 No. 129
Part 2	
R. 2.1	am. 2009 No. 119; 2011 No. 78
R. 2.2	am. 2009 No. 119; 2011 No. 78
Part 3	
R. 3.1	am. 2009 No. 312
R. 3.2	am. 2008 No. 129
R. 3.4	am. 2008 No. 129
Part 4	
R. 4.2	am. 2009 No. 312
R. 4.3	am. 2008 No. 129
Part 5	
R. 5.1	am. 2008 No. 129
R. 5.3	am. 2008 No. 129
R. 5.5	ad. 2009 No. 312
Part 6	
R. 6.1	am. 2006 No. 201
Part 7	
R. 7.1	am. 2008 No. 129
R. 7.4	am. 2008 No. 129
R. 7.5	am. 2009 No. 312
R. 7.7	am. 2008 No. 129
R. 7.10	am. 2008 No. 129
Part 9	
Division 2	
Div. 2 of Part 9	ad. 2009 No. 312
R. 9.2	ad. 2009 No. 312
Part 10	
Part 10	ad. 2008 No. 129
R. 10. 1	ad. 2008 No. 129
R. 10. 2	ad. 2008 No. 129

Table of Amendments

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Provision affected	How affected
R. 10. 3	ad. 2008 No. 129
R. 10. 4	ad. 2008 No. 129
R. 10. 5	ad. 2008 No. 129
Schedule 1	
Schedule 1	am. 2008 No. 129
Schedule 3	
Schedule 3	am. 2008 No. 129
