



# Energy Efficiency Opportunities Amendment Regulations 2009 (No. 2)<sup>1</sup>

## Select Legislative Instrument 2009 No. 312

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

Dated 12 November 2009

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

MARTIN FERGUSON  
Minister for Resources and Energy

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**1 Name of Regulations**

These Regulations are the *Energy Efficiency Opportunities Amendment Regulations 2009 (No. 2)*.

**2 Commencement**

These Regulations commence on the day after they are registered.

**3 Amendment of *Energy Efficiency Opportunities Regulations 2006***

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

**Schedule 1 Amendments**

(regulation 3)

**[1] Regulation 1.4**

*substitute*

**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*.

**[2] Regulation 3.1**

*omit*

For paragraph 9 (5) (b)

*insert*

- (1) For paragraph 9 (5) (b)

**[3] Regulation 3.1**

*insert*

- (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.

**[4] Regulation 4.2**

*omit*

For paragraph 14 (2) (a)

*insert*

- (1) For paragraph 14 (2) (a)

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**[5] Regulation 4.2**

*insert*

- (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.

**[6] After regulation 5.4**

*insert*

**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;



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- (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.

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**Note**

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