



Australian Government

**Department of Resources
Energy and Tourism**

Energy Efficiency Opportunities

Industry Guidelines Update

**Changes to better streamline reporting requirements with
the National Greenhouse and Energy Reporting System**

July 2008

Energy Efficiency
Opportunities

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For further information about the National Greenhouse and Energy Reporting System, please contact:

Telephone: 1800 018 831

Email: reporting@climatechange.gov.au

Website: www.climatechange.gov.au/reporting

Links to the legislation and guidance material for the National Greenhouse and Energy Reporting System are available on the NGER System website.

PART 1: INTRODUCTION

1.1 The purpose of this guidelines update material

The purpose of the guidelines update is to help corporations understand the changes to their obligations under the Energy Efficiency Opportunities program (the EEO program), following commencement of the *Energy Efficiency Opportunities Amendment Regulations 2006* (the EEO Amendment Regulations).

1.2 The EEO Amendment Regulations

The *Energy Efficiency Opportunities Amendment Regulations 2008* amend the *Energy Efficiency Opportunities Regulations 2006* (the EEO Regulations) to better streamline energy data reporting requirements with the National Greenhouse and Energy Reporting (NGER) System. These amendments commence on 1 July 2008, to coincide with the commencement of the NGER System.

Under the EEO program, if a controlling corporation's group uses more than 0.5PJ of energy in a financial year and the controlling corporation is not already registered, that corporation must register under the EEO Act. Registered corporations must assess and report on the energy use of their groups and opportunities to improve the energy efficiency of those groups.

The NGER System is a national framework for corporations to report greenhouse gas emissions and energy consumption and production. Reporting under the NGER System is mandatory for corporations whose energy production, energy use or greenhouse gas emissions meet specified thresholds. The NGER System is established under the *National Greenhouse and Energy Reporting Act 2007* (the NGER Act).

Under the NGER System, responsibility for energy use (in the form of energy produced and consumed) is attributed to the entity that has operational control over a facility at which that energy is used. This differed from the 2006 EEO Regulations, which attributed responsibility for energy use to the final purchaser or producer of energy.

Streamlining EEO program energy use reporting with the NGER System

While in many cases the user of energy under both definitions is the same, the EEO Amendment Regulations have amended the definition to be used for the EEO program to align with that used for the NGER System. This will ensure that responsibility for energy use may be the same in all cases for both schemes.

Further amendments to the Regulations also ensure that reporting requirements are better streamlined. These amendments:

- align energy sources and energy conversion factors used for the purposes of each scheme;
- allow EEO program corporations to report gross energy production and consumption, in line with the NGER System; and

- clarify that by meeting technical requirements for energy use measurement required by the NGER System, corporations will satisfy accuracy requirements for the EEO program.

Guidance material for companies to apply these amendments is provided in Parts 2 and 3.

Transitional provisions to provide flexibility

The EEO Amendment Regulations also make transitional provisions, for the use of corporations already participating in the EEO program. These corporations may have submitted Assessment and Reporting Schedules (ARSs) and commenced assessments and reporting based on the previous EEO Regulations. Participating corporations may elect to use these provisions to minimise the impact the amendments might otherwise have in the current program cycle.

However, using the transitional provisions would mean that EEO program and NGER reporting would not be streamlined, and separate EEO and NGER reporting would be required.

Guidance material relating to the transitional provisions is provided in Part 4.

Minor administrative changes

The EEO Amendment Regulations also make minor administrative amendments to the EEO Regulations. These include:

- the postal address for sending required documentation to the Department
- clarifying assessment requirements for newly built or acquired sites
- a definition for 'energy-mass balance'.

These administrative amendments are explained in Part 5.

The OSCAR Online Reporting System

Using OSCAR for online reporting is an important part of streamlining reporting to Government under the EEO program and the NGER System. An EEO reporting module has been developed for OSCAR which is expected to be available for use by September 2008.

Corporations may continue to use EEO reporting templates (available on the EEO website) to report to the Government about their EEO program assessments either in hard copy or by email. Corporations are still obliged to report publicly for the EEO program.

2.1 Responsibility for energy use

The EEO Amendment Regulations align responsibility for energy use under the EEO program with the NGER System. Under the NGER System, corporations will be responsible for energy use at facilities over which they have operational control. Comprehensive guidance on determining operational control is available from the NGER website at <http://www.climatechange.gov.au/reporting/>.

The following rules outline which entity is responsible for energy use:

- For electricity, compressed air, steam, or energy derived from a source that is a combustible fuel – the entity that has ***operational control*** over the facility in which the energy is consumed or produced for consumption.
- For energy derived from a reductant – the entity that has ***operational control*** over the facility in which the reductant is used to produce energy or combustible fuel.

The concepts of "operational control", "facility", "energy production" and "energy consumption" are the same as those used for the purposes of the NGER System.

An entity is considered to have operational control over a facility if the entity has authority to introduce and implement operating, health and safety and environmental policies (section 11 of the NGER Act refers). Only one corporation can have operational control of a facility at any time. If there is uncertainty about which corporation has operational control over a facility, the corporation deemed to have operational control will be the one with the greatest authority to introduce and implement operating and environmental policies.

A facility is an activities or series of activities, that involves the production of greenhouse gas emissions or the production or consumption of energy, are part of a single production process, occur at a single site, and are attributable to a single industry sector (section 9 of the NGER Act refers).

Energy consumption refers to the use or disposal of energy from the operation of a facility, including own-use and losses in extraction, production or transmission (defined in Regulation 2.23 of the NGER Regulations).

Energy production (defined in Regulation 2.23 of the NGER Regulations) refers to either:

- The extraction or capture of energy from natural sources for final consumption by or from the operation of a facility or use other than in the operation of a facility
- The manufacture of energy by the conversion of energy from one form to another form for final consumption by or from the operation of a facility or for use other than in the operation of a facility.

Examples

As discussed in Part 1.2, the NGER System rules to attribute responsibility for energy use replace the rule used in the EEO Regulations prior to 1 July 2008, which attributed responsibility for energy use to the final purchaser or producer of energy.

In most cases the user of energy under both definitions is the same.

For example, Fizzy Delights Pty Ltd manufactures soft drinks. Fizzy Delights Pty Ltd pays for the energy used to produce the soft drinks, and therefore were responsible for the energy use under the EEO program prior to 1 July 2008.

Fizzy Delights Pty Ltd also introduces and implements the operating, health and safety, and environmental policies at their factories. Following the amendments to the EEO Regulations, they remain responsible for the energy used at the factories, as they have operational control over those factories.

However, there will also be cases when the entity with operational control over an energy consuming or producing facility and the entity that last purchased or produced that energy differ. This may particularly be the case for mining sites where contractors operate or for commercial property where tenancy arrangements are in place.

For example, at a mine site, Golden Horizons Pty Ltd has employed a contractor, Mineral Extractors Pty Ltd, to undertake contract mining services. Mineral Extractors Pty Ltd pays for all of the fuel that it uses in its operations, but Golden Horizons Pty Ltd retains control over the main operating and environmental policies at the site.

Prior to 1 July 2008, Mineral Extractors Pty Ltd would have been the user of energy for the purposes of the EEO program, as the final purchaser of the energy used at the mine site. Following the amendments to the EEO Regulations, Golden Horizons Pty Ltd will be required to account for that same energy use, as the entity with operational control over the mine site at which the energy is used.

Energy use in trust situations

The situation where there is a trust has been clarified. In a situation in which there is a trustee who is a user of energy, and that trustee is trustee of a trust on behalf of which the trustee may be using the energy, it is the trustee who will have responsibility for energy use under the EEO program, not the trust or beneficiaries of the trust.

For example, Trustee Pty Ltd owns a commercial office building. Trustee Pty Ltd introduces and implements operating and environmental policies in the building. Trustee Pty Ltd is trustee of the Commercial Property Trust and holds the title subject to the trust. The beneficiaries of the Commercial Property Trust are passive investors.

Trustee Pty Ltd is responsible for the energy use in the operation of the building, because it has operational control over the building in which the energy is used.

2.2 Energy Sources used to Calculate Energy Use

The EEO Amendment Regulations align the energy sources used to calculate energy use for the EEO program with those used under the NGER System. Therefore, in calculating energy use for the purposes of determining participation in and conducting assessments for the EEO program, corporations must include the energy and energy sources listed in Schedule 1 of the *National Greenhouse and Energy Reporting Regulations 2008*, available from the NGER website at <http://www.climatechange.gov.au/reporting/>.

The energy sources used by the NGER System replace the list provided in the EEO Regulations prior to amendment. While the lists are expressed differently, corporations will find there is little practical difference. But they will be confident that they have only one list to refer to.

2.3 Conversion factors used

The EEO Amendment Regulations align the energy conversion factors used to determine the energy content of particular energy sources for the EEO program with those used under the NGER System. The conversion factors to be used to determine the energy content of the energy sources used to calculate energy use (see Part 2.2) are the energy content factors mentioned in the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (the NGER Determination), 2008, available from the NGER website at <http://www.climatechange.gov.au/reporting/>.

The energy content factors used by the NGER System replace the factors published in "Energy in Australia 2005".

Corporations may still use alternative conversion factors or processes where they can show that their use will improve the accuracy of energy data, and that the relevant factor or approach is accepted by industry. The alternative conversion factor used, and the reason for its use, must be stated when reporting publicly and to the Department for the EEO program.

PART 3: STREAMLINING WITH THE NGER SYSTEM – REPORTING

3.1 Reports to the Department - reporting gross energy production and consumption

The EEO program will now require reporting of energy consumption and energy production data separately, to align with the NGER System. However, net energy use will still determine energy use for calculating energy use threshold under the EEO program.

Reports to the Department for the EEO program are required to include the total energy use for each group member, business unit or key activity in the corporate group, and all sites for which the energy use in the trigger year was over 0.5 PJ.

The NGER System requires reporting of energy consumption and energy production data separately. Therefore, following the commencement of the EEO Amendment Regulations to streamline the two schemes, corporations must also provide energy production data, as well as energy use data, for each of the entities mentioned above in reports to the Department for the EEO program.

Under the NGER System, corporations are required to report *gross* energy consumption and *gross* energy production, rather than net energy production and consumption. "Gross energy use" includes all energy used by an entity, including energy used to produce other energy used by the entity.

"Net energy use", by contrast, does not count energy used by an entity to produce other energy, where that produced energy is also used by the entity.

For the purposes of reporting to the Department, corporations will be able to report gross energy use. This aligns energy use data reported to the Department with energy use data to be reported for the NGER System.

Corporations are still required to consider net energy use for the purposes of:

- determining whether a group exceeds the energy use threshold in s10 of the *Energy Efficiency Opportunities Act 2006*;
- determining the amount of energy use that is required to be assessed for the purposes of the EEO program; and
- determining the energy use that must be reported to the public.

This ensures that while reporting energy data to government is aligned, the changes do not affect obligations determined by energy use thresholds under the EEO program.

3.2 Reports to the Department - reporting of energy sources

Reports to the Department for the EEO program are required to include, among other information, information about the assessments undertaken to identify energy efficiency opportunities for the corporation's group, including the amount of energy assessed in each assessment, detailed by kinds of energy and energy sources.

The energy and energy sources referred to should be those listed in Schedule 1 of the NGER Regulations (which are also the energy sources used to determine energy use – see Part 2.2).

3.3 Accuracy of energy use data

Using the methods and criteria outlined in the NGER Technical Measurement Determination to measure energy use will be taken to have met EEO program energy accuracy standards.

The EEO program requires that energy use data be accurate to a certain standard, as listed below:

- estimations of energy use in an Assessment and Reporting Schedule (ARS) – the best available level of accuracy, ideally to within +/-10%.
- Undertaking an assessment, energy use data must be accurate to within +/-5%, unless another level of accuracy has been approved in the corporation's ARS.
- In a public report, or a report to the Secretary, data about the energy use of assessed parts of the group must achieve a level of accuracy to within +/-5%, unless another level of accuracy has been approved in the corporation's ARS.

The NGER Determination outlines methods and criteria for measurement of energy use, to be used for the purposes of the NGER System. These methods and criteria can also be used to satisfy the accuracy requirements of the EEO program. Corporations who use the methods and criteria outlined in the NGER Determination to measure energy use will be taken to have met the energy accuracy standards listed above.

3.4 Reporting publicly – timing of public reports

Corporations can align their public reporting due dates with reporting due dates for the NGER System.

Participants must first report to the public within 15 months of the completion of the first five Key Elements of the Assessment Framework, or within two and a half years of the commencement of each assessment cycle (for example, by 31 December 2008 for corporations with a 2005/2006 trigger year), whichever is earlier. Participants must also publish annual updates to their initial public report, with details of any further assessments that they have completed and updates to their business response to the outcomes of all assessments conducted to date.

Public reports include information about the energy use for parts of the corporate group that have been assessed, and also expressed as a percentage of the total energy use of the group.

The first report for the purposes of the NGER System is due by 31 October 2009 for all corporate groups participating in that scheme. Corporations may wish to use energy data provided for the NGER System in their second and subsequent public reports. To make this easier for corporations, those who publish their first public report prior to 31 October 2008 may extend the due date for their second report to 31 October 2009.

Subsequent reports are then due on the anniversary of the date on which the second report was submitted.

For example, Company A publishes their first public report for the EEO program on 31 August 2008, which is 15 months after they have completed the first five Key Elements of the Assessment Framework. Before the EEO Regulations were amended, Company A's next report would have been due on 31 August 2009. Company A wishes to use data from their NGER System report in their EEO program public report, but will not finalise their report for the NGER System until 30 September 2009 (ready to be submitted by 31 October 2009).

Company A therefore decide not to publish their second EEO report until October 2009. They publish the report on 16 October 2009. Company A's subsequent reports are due on 16 October in each following year.

The decision whether to extend the deadline for publication of the second and subsequent public reports is at the discretion of the corporation, if it considers the alignment with the NGER System would be convenient.

3.5 Reporting publicly – period to which reports relate

Corporations can align their public reporting periods with reporting due dates for the NGER System.

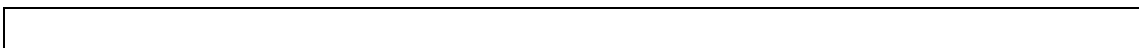
The first reporting period for reports to the public under the EEO program begins on the day following the end of the trigger year, unless the corporation includes assessments that commenced prior to the end of the trigger year. In that case, the first reporting period begins on the earliest start date of those assessments.

The first reporting period ends no earlier than the day on which the first assessment for the part of the group that is covered by the report is completed. Participants may use a later end date, up to and including the day on which the first report is due, if they wish.

Subsequent reporting periods cover the 12 months from the end of the previous reporting period.

Reports for the purposes of the NGER System will refer to a reporting period that is a financial year, beginning with the 2008/2009 financial year. Corporations may wish to align the reporting periods for their EEO program public reports with NGER System reporting periods. The EEO Amendment Regulations allow corporations to elect to have the second reporting period for their public reports end at the end of the financial year.

Subsequent reporting periods would then also end at the end of each financial year.



For example, Company B registered for the EEO program for a 2005/2006 trigger year. Company B's first reporting period commences on 1 July 2006, and ends on 31 August 2008, when they publish their first public report. Before the EEO Regulations were amended, Company B's next reporting period would have commenced on 1 September 2008, and ended on 31 August 2009.

Company B is also required to report for the NGER System, and is required to provide a report for the purposes of that scheme that covers the period 1 July 2008 to 30 June 2009. Company B would like to use the information in this report for their EEO program public reports. They therefore elect to have their second reporting period for EEO program public reports end at the end of the financial year (i.e. 30 June 2009).

Company B's subsequent reporting periods would end on 30 June in each following year, as for their NGER System reports.

The decision whether to end second and subsequent reporting periods for public reports for the EEO program at the end of the financial year is at the discretion of the corporation, if it considers the alignment with the NGER System would be convenient.

PART 4: TRANSITIONAL**PROVISIONS**

Before the amendments to the EEO Regulations came into effect, many corporations would already have committed to and commenced energy efficiency opportunities assessments on the basis of the EEO Regulations in their previous form. These corporations may have collected data and undertaken assessments on the basis of the financial control model of responsibility for energy use. For some of these corporations, the attribution of responsibility for energy use may change with the amendments to the EEO Regulations.

Transitional provisions have been put in place to ensure that changes to the attribution of responsibility for energy use do not unduly burden registered corporations.

Note that using the transitional provisions to continue to follow previous EEO program requirements would mean that EEO program and NGER System reporting would not be streamlined, and separate EEO and NGER reporting would be required.

4.1 Applies to those who applied to register for EEO before 1 July 2008

The transitional provisions apply to corporations that applied for registration for the EEO program prior to 1 July 2008. Corporations that apply to register for the program after this date will be required to follow the EEO Regulations as amended (in accordance with guidance material provided above).

The transitional provisions apply until the end of the first five year cycle that applies to the affected entity. For example, for a company that registered for the 2006/2007 trigger year, the transitional provisions may be used until 30 June 2012. Following the end of the assessment cycle, the EEO Regulations as amended will apply to the corporation.

4.2 Transition for the first assessment cycle only

As discussed in Part 2, the method used to determine responsibility for the use of energy has been aligned with the method used for the purposes of the NGER System. This may change the attribution of energy use that applies to some corporations.

If that is the case, affected corporations may elect, for the first assessment cycle, to continue to apply the requirements of the EEO Regulations before they were amended on 1 July 2008.

Therefore, if the corporation's ARS would satisfy the requirements of the EEO Regulations prior to 1 July 2008, that plan is deemed to satisfy the amended EEO Regulations. For example, the plan will be deemed to continue to satisfy the coverage rule, and the requirements for the contents of ARSs.

In addition, if assessments done under that ARS would satisfy the requirements of the EEO Regulations prior to 1 July 2008, those assessments are deemed to satisfy the amended EEO Regulations, and if reports (either public reports or reports to the Department) made in accordance with the ARS would satisfy the requirements of the EEO Regulations prior to 1 July 2008, those reports are deemed to satisfy the amended EEO Regulations.

If a corporation elects to continue to participate in the EEO program in accordance with the EEO Regulations in place prior to 1 July 2008, they will still be required to record 2008/2009 energy use data for NGER System registration and reporting obligations in 2009 in accordance with the NGER System definitions of responsibility for energy use, and to report energy use to the NGER System on an operational control basis.

A decision to use the transitional provisions is at the discretion of the corporation. The corporation may elect instead to comply with the requirements of the amended EEO Regulations. Corporations who do so will be required to vary their corporate group ARS, to conduct assessments and report in accordance with the amended EEO Regulations.

A corporation that chooses to vary its ARS to comply with the amended Regulations would be expected to report accordingly. These corporations would report energy used in facilities over which its group members have operational control (following the guidance material supplied above).

4.3 Energy sources – if there is a significant change in energy use

As discussed in Part 2.2, the EEO Regulations have been amended to replace the energy sources formerly used to calculate energy use with the energy sources used under the NGER System.

Using the NGER System list of energy sources may lead to a significant increase or decrease in the energy use of a corporate group, compared with the total amount of energy use under the EEO Regulations prior to 1 July 2008. A significant increase or decrease occurs if:

- 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 0.5 PJ; or
- Energy use for the corporate group, or part of the corporate group, is increased or decreased so that the corporation would no longer meet the requirement to assess 80% of baseline energy use, which it would have met under the EEO Regulations prior to 1 July 2008.

If this occurs, the affected corporation may elect to apply the energy sources listed in the EEO Regulations prior to 1 July 2008 to calculate energy use for the purposes of the program. If the corporation does elect to apply the energy sources from the EEO Regulations prior to 1 July 2008, the NGER System list of energy sources will be taken not to apply to the corporation for the purposes of the EEO program for the first five year assessment cycle. However, the corporation may elect to apply the NGER System list of energy sources at any time within the assessment cycle, to align with the NGER System.

If the corporation chooses to apply the NGER System list of energy sources, they may no longer apply the set of energy sources listed in the EEO Regulations prior to 1 July 2008.

Note that using the previous EEO energy sources would mean that EEO program and NGER System reporting would not be streamlined, and separate EEO and NGER reporting would be required.

4.4 Conversion factors

A corporation may elect to continue to use the conversion factors that were specified in the EEO Regulations prior to 1 July 2008 to determine the energy content of energy sources (i.e. those taken from the publication "Energy in Australia 2005"), rather than the energy content factors specified in the NGER Determination (see Part 2.3).

If the corporation decides to use the old conversion factors, the energy content factors in the NGER Determination will not be required to be used by the corporation for the purposes of the EEO program, for the first five year assessment cycle. However, corporations may elect to change their decision, and apply the energy content factors specified in the NGER Determination at any time during the assessment cycle.

Note that using the previous EEO program conversion factors would mean that EEO program and NGER System reporting would not be streamlined, and separate EEO and NGER reporting would be required.

PART 5: ADMINISTRATIVE AMENDMENTS

5.1 Postal address for submission of documents to the Department

Under the EEO program, the following documentation is or may be required to be submitted to the Department:

- Application to register to participate in the program;
- Application for an exemption from the requirement to register for the EEO program;
- Application to deregister from the EEO program;
- An ARS for the corporate group; and
- Reports to the Department about energy use and the results of assessments.

Following the creation of the new Department of Resources, Energy and Tourism, the postal address for the submission of documents to the Department has changed. Corporations should now submit the required documents to the following postal address:

Energy Efficiency Opportunities
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601

This address will also be provided on the EEO Program website:
www.energyefficiencyopportunities.gov.au.

5.2 Assessment of newly built or acquired sites

Since its inception, the EEO program has applied a coverage rule to determine that a corporation's planned assessments will meet the program's requirements for the coverage of energy use. The amendments have clarified that the coverage rule uses the baseline energy use of the corporate group.

Corporations must ensure that at least 80% of the *baseline energy use* of their corporate group, and all sites using greater than 0.5 PJ in a financial year, is assessed in the first 5 year assessment cycles. In subsequent assessment cycles, at least 90% of the *baseline energy use* of the corporate group must be assessed.

"*Baseline energy use*" refers to the total amount of corporate group energy use that is identified for a particular 12 month period in a corporation's ARS.

In addition, the EEO Amendment Regulations clarify that corporations must plan to assess a site if a member of the corporate group has built or acquired the site more than 18 months before the end of the 5 year assessment cycle, and if this site uses more than 0.5 PJ of energy in a financial year. This reflects the guidance set out in the EEO Industry Guidelines.

For newly built sites, the assessment may be an assessment undertaken during the design phase of the construction of the site.

5.3 Energy-mass balance definition

A definition for the term "*energy-mass balance*", which is referred to in Key Requirements 3.2 and 3.3 of the Assessment Framework, has been inserted into the EEO Regulations. *Energy-mass balance* was not defined in the Regulations. Defining the term does not change any EEO program obligations and does not oblige corporations to follow the Energy Mass Balance methodology described in the definition.

The new definition is as follows:

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

Note 1: To enable appropriate coverage, an energy-mass balance should define, to an accuracy of +/-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 systems and processes, and items of equipment including items such as pipes and ducts;
 - b) the specific services and products the energy use delivers;
 - c) the energy conversion processes within a system, and identification of conversions that are efficient and essential; and
 - d) the identification of energy waste and energy efficiency opportunities.
-