

FACT SHEET

Amendments to the *Energy Savings Scheme Rule of 2009 (ESS Rule)*

8 April 2016

This fact sheet should be read by all Accredited Certificate Providers (**ACPs**) and members of the ESS Audit Panel (**Auditors**)

Amendments to the ESS Rule were gazetted on 8 April 2016 and will commence on 15 April 2016.¹ This fact sheet provides important information to ACPs and Auditors about the amendments. This fact sheet is not a comprehensive list of every amendment and you should ensure that you are familiar with the ESS Rule.²

The Office of Environment and Heritage (**OEH**) and the Department of Industry (**DoI**) are responsible for developing the policy behind the ESS. DoI is responsible for the ESS legislation, including the ESS Rule, which is the legal framework of the scheme.

If you have any questions about the *General amendments* (section 1 below) or *Method specific amendments* (section 2) described in this fact sheet, please contact DoI at energysavings.scheme@industry.nsw.gov.au.

If you have any questions about the *Administrative updates* (section 3) described in this fact sheet, please contact IPART at ess_compliance@ipart.nsw.gov.au.

1 General amendments

1.1 Clause 11 – Savings and transitional arrangements

All activities **implemented on or after 15 April 2016** must comply with the requirements of the amended ESS Rule, which commence on that day.

¹ Except clause 5.3A(b) which applies to implementations with an implementation date on or after 15 May 2016.

² Available at: <http://www.resourcesandenergy.nsw.gov.au/energy-consumers/sustainable-energy/efficiency/scheme>

Clause 11.1 does, however, allow ACPs extra time to implement the required systems to calculate energy savings using the amended ESS Rule. From 15 April 2016, ACPs may **calculate energy savings** in accordance with the previous rule (ie, the ESS Rule prior to the amended ESS Rule commencing on 15 April 2016) if the following conditions are met:

- ▼ the implementation date is before 15 April 2016
- ▼ no previous applications to register energy savings certificates (ESCs) from the relevant implementation have been made prior to 15 April 2016, and
- ▼ an application to register ESCs is made on or before 30 June 2016.

In addition to the transitional arrangements in clause 11, the amended clause 5.3A(b) only applies to implementations with an implementation date on or after 15 May 2016.

1.2 Clause 5.3A(b)(i) – Recycling of mercury

If the postcode of an implementation is in the Metropolitan Levy Area, as listed in Table A25 of the ESS Rule, all lighting equipment containing mercury must be recycled in accordance with the recycling requirements of a product stewardship scheme such as 'Fluorocycle' or equivalent.³

This requirement applies to all projects with an implementation date on or after 15 May 2016.

1.3 Clause 10 – Purchaser

The definition of 'Purchaser' has been amended as follows:

“Purchaser” for the purposes of clause 7, 7A and 9, means the person who purchases or leases the goods or services that enable the relevant Energy Savings to be made; except where:

- (a) the person is an Accredited Certificate Provider and is not the owner, occupier or operator of the Site; or*
- (b) the person purchases or leases the goods or services for the purpose of reselling the End-User Equipment, unless the resale will be an inclusion in a contract for the sale of land, or in a strata scheme, the sale of a lot.*

More information about this amendment can be found in the summary of the ESS Rule change consultation process available here:

<http://www.resourcesandenergy.nsw.gov.au/energy-consumers/sustainable-energy/efficiency/scheme>.

³ Information about 'Fluorocycle' is available at: <http://www.fluorocycle.org.au/>

1.4 Regional Network Factor

Many equations in the ESS Rule used to calculate **electricity savings** from 15 April 2016 include a Regional Network Factor (**RNF**).⁴ The RNF is the value from Table A24 of the ESS Rule corresponding to the postcode of the address of the site where the implementation occurred. The value will be either 1.03 for specified postcodes, or 1 for all other postcodes.

1.5 Calculating gas savings

Gas savings from implementations can be calculated from 15 April 2016 using the Metered Baseline Method (**MBM**),⁵ Project Impact Assessment with Measurement & Verification (**PIAM&V**) method,⁶ or the Home Energy Efficiency Retrofits (**HEER**) method.⁷ Further information about amendments to each of these methods is provided below.

Gaseous fuels that are eligible in the ESS are set out in the definition of 'Gas' in clause 10 of the ESS Rule.

1.5.1 Administrative amendment for calculating gas savings

Under MBM and PIAM&V, measurements of gas must be made in accordance with the requirements set out in either:

- ▼ the *National Greenhouse and Energy Reporting (Measurement) Determination 2008*,⁸ or
- ▼ the National Measurement Institute standard for gas meters *NMI R 137 Gas Meters*.⁹

If you are currently accredited to calculate energy savings using any of the above methods, you will need to apply for an amendment to your accreditation conditions to enable you to calculate energy savings from activities that save gas. Please contact ess_compliance@ipart.nsw.gov.au for further information.

1.6 Fuel switching activities

Under MBM or the PIAM&V method, fuel switching from electricity to gas, or gas to electricity, may be an eligible activity if the activity:¹⁰

⁴ This does not apply to the calculation of energy savings using clause 7.

⁵ *ESS Rule*, cl 8

⁶ *ESS Rule*, cl 7A

⁷ *ESS Rule*, cl 9.8

⁸ Available at: www.legislation.gov.au/Details/F2013C00661

⁹ Available at: www.measurement.gov.au

¹⁰ *ESS Rule*, cl 5.3 and 5.4

- ▼ increases the efficiency of the overall energy consumption at a site, and
- ▼ does not increase greenhouse gas emissions.

Clause 5.4 of the ESS Rule defines specific circumstances in which fuel switching projects are not eligible activities.

2 Method specific amendments

2.1 Clause 7 – Project Impact Assessment Method

Forward creation

ACPs accredited to calculate energy savings and create ESCs using ‘Forward Creation’¹¹ and ‘Top up’¹² under the Project Impact Assessment Method (PIAM) may continue to use that method in the following circumstances:

- ▼ the implementation date of the implementation was **on or before 30 October 2015**, and
- ▼ the end date of the total period of energy savings (ie, the sum of all periods of ‘Forward Creation’ and ‘Top up’) for which ESCs are created is **not later than 10 years after the Implementation Date**.¹³

Alternatively, ACPs may choose to apply for an amendment to their conditions of accreditation to calculate energy savings using the PIAM&V method. Use of the PIAM&V method to calculate energy savings from such implementations must comply with all requirements of that method.

Annual creation

ACPs accredited to calculate energy savings and create ESCs using ‘Annual Creation’¹⁴ under PIAM may continue to calculate energy savings and create ESCs under that method in the following circumstances:

- ▼ the implementation date of the implementation was **on or before 15 April 2016**, and
- ▼ energy savings are calculated for a **maximum period of 10 years after the Implementation Date**.

¹¹ ESS Rule, cl 7.4

¹² ESS Rule, cl 7.4.6

¹³ Implementation Date is defined in clause 7.5 of the ESS Rule

¹⁴ ESS Rule, cl 7.1 Equation 2

2.2 Clause 7A – PIAM&V method

Sampling sub-method (clause 7A.2(a)(iv))

ACPs may only use the ‘sampling sub-method’ of PIAM&V to calculate energy savings if their accreditation date is:¹⁵

- ▼ on or before 15 April 2016, or
- ▼ on or after 1 October 2016.

OEH is currently further developing the sampling sub-method. This amendment was made to temporarily ‘pause’ this sub-method until 1 October 2016, without adversely impacting those ACPs already accredited to calculate energy savings using the sampling sub-method.

More information about this amendment can be found in the summary of the ESS Rule change consultation process available here:

<http://www.resourcesandenergy.nsw.gov.au/energy-consumers/sustainable-energy/efficiency/scheme>.

Greenhouse gas emissions (clause 5.4(j))

Where a project involves a fuel switching activity, greenhouse gas emissions must be calculated using electricity savings, gas savings and full fuel cycle emissions factors and equations from the current version of the National Greenhouse Accounts Factors.¹⁶

Other amendments

There have been a number of other amendments to the PIAM&V method to:

- ▼ include the calculation of gas savings, and
- ▼ improve the usability of the method.

ACPs accredited to use the PIAM&V method, and Auditors approved to undertake audits of PIAM&V activities, should ensure they are familiar with all amendments to clause 7A of the ESS Rule.

2.3 Clause 8 – Metered Baseline Method

Net energy savings (clauses 8.5.1(e), 8.6.1(c) and 8.7.1(c))

ESCs can only be created for implementations where the **net energy savings** are greater than zero. If an implementation **reduces electricity** use and **increases gas**

¹⁵ ESS Rule, cl 7A.1(c)

¹⁶ Available here: <http://www.environment.gov.au/>

use, or **reduces gas** use and **increases electricity** use, **you must calculate both** electricity savings and gas savings.¹⁷ The energy savings calculated from each individual measurement may be positive or negative and must be combined to determine the net energy savings.

Greenhouse gas emissions (clause 5.4(j))

Where energy savings are calculated using clauses 8.5, 8.6 or 8.7 of the ESS Rule and the activity involves fuel switching, greenhouse gas emissions must be calculated using electricity savings, gas savings and full fuel cycle emissions factors and equations from the current version of the National Greenhouse Accounts Factors.¹⁸

Baseline lifespan (clause 8.3A)

A new clause 8.3A limits the period for which energy savings may be calculated using clauses 8.5, 8.6 and 8.7 of the ESS Rule as follows:

- ▼ where the ACP's accreditation date with respect to a Recognised Energy Saving Activity (**RESA**) is **on or after** 15 April 2016, energy savings from an implementation may be calculated for a maximum of 10 years from the end date of the baseline measurement period
- ▼ where the ACP's accreditation date with respect to a RESA is **before** 15 April 2016:
 - if the end of the baseline measurement period is **less than or equal to** 10 years before 15 April 2016, energy savings from an implementation may be calculated for up to a maximum of 10 years from the end date of the baseline measurement period, and
 - if the end date of the baseline measurement period is **more than** 10 years before 15 April 2016, the maximum period for which energy savings may be calculated is the period from the end date of the baseline measurement period to 15 April 2016.

2.4 Deemed methods (clause 9)

Many of the tables and schedules relating to the deemed methods have been updated with new and amended factors. ACPs should ensure they have reviewed the tables and schedules relevant to their activities in detail prior to calculating energy savings using the amended ESS Rule.

¹⁷ ESS Rule, cl 8.5.1(e), 8.6.1(c) and 8.7.1(c)

¹⁸ Available here: <http://www.environment.gov.au/>

Commercial Lighting method (clause 9.4)

There have been amendments to the Control Multipliers in the Commercial Lighting method.¹⁹

Public Lighting method (clause 9.4A)

The new Public Lighting method can be used to calculate energy savings from an upgrade of Lighting for Roads and Public Spaces or Traffic Signals provided that the luminaire is an asset owned or maintained by a Distributor²⁰ or Roads and Maritime Services.

More information about this amendment can be found in the summary of the ESS Rule consultation process available here:

<http://www.resourcesandenergy.nsw.gov.au/energy-consumers/sustainable-energy/efficiency/scheme>.

High Efficiency Motors method (clause 9.5)

Persons can no longer apply for accreditation under the High Efficiency Motors (**HEM**) method and this method has been transitioned to Activity Definition F7 of the Business Appliances method.²¹ Existing ACPs already accredited to calculate energy savings using the HEM method can continue to implement activities and calculate energy savings using the HEM method.

HEER method (clause 9.8)

The HEER method has been amended as follows:

- ▼ The 'bundling' requirement²² has been amended to require that a minimum of four ESCs can be created from an implementation, rather than requiring that a minimum percentage of the total potential energy savings from a site is achieved from an implementation.
- ▼ The requirement to use a Home Energy Assessment Tool (**HEAT**) has been removed.
- ▼ There is a new requirement to identify, record and report the activities that make up an implementation to the Scheme Administrator in a manner and form determined by the Scheme Administrator.
- ▼ Additional activities have been added to Schedules D and E.
- ▼ Existing activities in Schedules D and E have been amended.

¹⁹ ESS Rule, tables A10.4 and A10.4A

²⁰ A 'Distributor' is a person who owns, controls or operates a distribution network.

²¹ ESS Rule, cl 9.9

²² ESS Rule, cl 9.8.1(f)

Business Appliances method (clause 9.9)

The Business Appliances method has been amended as follows:

- ▼ The requirements of the existing Activity Definition F5²³ have been updated.
- ▼ A new Activity Definition F6²⁴ has been added.
- ▼ The existing High Efficiency Motors method²⁵ has been transitioned to the Business Appliances method as the new Activity Definition F7.

3 Administrative updates

Implementation data sheet

We have amended the spreadsheet used to submit the data required under clause 6.8 of the ESS Rule (Implementation Data Sheet).

- ▼ **Version 1.4** of the Implementation Data Sheet must be used for all applications to register ESCs from energy savings calculated using the **previous Rule** (ie, the ESS Rule prior to the amended ESS Rule commencing on 15 April 2016).²⁶
- ▼ **Version 2.0** of the Implementation Data Sheet must be used for all applications to register ESCs from energy savings calculated using the amended ESS Rule (ie, for all projects with an implementation date on or after 15 April 2016 or as required).

Evidence Pack

Except for ACPs using the Commercial Lighting method,²⁷ ACPs will no longer be required to complete an Evidence Pack for each implementation. This will avoid unnecessary duplication of information between the Evidence Pack and the Implementation Data Sheet.

The requirement to complete an Evidence Pack for each implementation of the Commercial Lighting method remains in place because it is used to record key information to demonstrate compliance with the ESS Rule. The Commercial Lighting Evidence Pack will be updated with minor changes to reflect amendments to the ESS Rule. ACPs will be notified when the amended documents are published on the ESS website.

²³ Install a brushless DC motor to power a fan in an installed refrigerated display cabinet, freezer or cool room.

²⁴ Install a brushless DC motor to power a ventilation fan.

²⁵ *ESS Rule*, cl 9.5

²⁶ These applications to register ESCs must be made between 15 April 2016 and 30 June 2016.

²⁷ *ESS Rule*, cl 9.4

Guidance Documents

Except for the Commercial Lighting method, the Evidence Manual and Method Guide have been combined into a single Method Guide for each calculation method. The evidence that must be collected as a record of each implementation can now be found in the 'Required records' section of each Method Guide. The Commercial Lighting Method Guide and Evidence Pack will be updated with minor changes to reflect amendments to the ESS Rule.

Updated guidance documents will be published on the ESS website²⁸ over the coming weeks. The previous documents will be made available on the new 'document archive' page.²⁹

It remains the responsibility of all ACPs to ensure that they comply with the *Electricity Supply Act 1995*, *Electricity Supply (General) Regulation 2014* and the ESS Rule.

4 Additional resources

The amended ESS Rule and further information about the rule change process is available at: <http://www.resourcesandenergy.nsw.gov.au/energy-consumers/sustainable-energy/efficiency/scheme>.

If you have any questions about the **amended ESS Rule**, please contact energysavings.scheme@industry.nsw.gov.au.

If you have any questions about the **administrative updates**, please contact ess_compliance@ipart.nsw.gov.au.

²⁸ <http://www.ess.nsw.gov.au/Home>

²⁹ http://www.ess.nsw.gov.au/Methods_for_calculating_energy_savings/Document_archive