

EXPLANATORY STATEMENT

Select Legislative Instrument No. 44, 2015

Issued by authority of the Minister for the Environment

National Greenhouse and Energy Reporting Act 2007

*National Greenhouse and Energy Reporting Amendment (2015 Measures No. 1)
Regulation 2015*

Section 77 of the *National Greenhouse and Energy Reporting Act 2007* provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The *National Greenhouse and Energy Reporting Regulations 2008* (the “NGER Regulations”) have previously been made under this section.

The *National Greenhouse and Energy Reporting Amendment (2015 Measures No. 1) Regulation 2015* (the “Regulation”) makes minor amendments to the NGER Regulations, primarily to update the values specified for determining the carbon dioxide equivalence of greenhouse gases. It also clarifies that, in the context of carbon capture and storage activities, it is greenhouse gas substances that must be identified and measured. Further details of the Regulation are outlined in [Attachment A](#).

A statement of the Regulation’s compatibility with human rights is set out in [Attachment B](#).

There are no statutory pre-conditions that need to be satisfied before the power to make the Regulation may be exercised.

The updates to the values specified for determining the carbon dioxide equivalence of greenhouse gases were canvassed for public consultation as part of an exposure draft of the associated *National Greenhouse and Energy Reporting (Measurement) Amendment Determination 2015 (No. 1)* (the “Measurement Amendment Determination”), which was released for public consultation on 17 December 2014. Four submissions were received, which did not result in any changes being made to the Measurement Amendment Determination or the Regulation.

ATTACHMENT A

Details of the *National Greenhouse and Energy Reporting Amendment (2015 Measures No. 1) Regulation 2015* (the “Regulation”)

Section 1 – Name of regulation

Section 1 provides that the title of the Regulation is the *National Greenhouse and Energy Reporting Amendment (2015 Measures No. 1) Regulation 2015*.

Section 2 – Commencement

Section 2 provides that the Regulation commences on 1 July 2015.

Section 3 – Authority

Section 3 provides that the Regulation is made under the *National Greenhouse and Energy Reporting Act 2007* (the “NGER Act”).

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to the Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulation has effect according to its terms.

Amendments

Schedule 1 – Amendments

Item 1 inserts a new definition of “greenhouse gas substance” into regulation 1.03 of the *National Greenhouse and Energy Reporting Regulations 2008* (the “NGER Regulations”). This reflects changes being made separately to the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (the “NGER Measurement Determination”). Once amended, the NGER Measurement Determination will clarify that, in the context of carbon capture and storage activities, it is greenhouse gas “substances” (rather than mere carbon dioxide) that must be identified and measured.¹ Items 3-6 below update the NGER Regulations to effect this change; item 1 supports them.

Item 2 updates regulation 2.02 of the NGER Regulations to reflect the latest Global Warming Potential (“GWP”) values published by the Intergovernmental Panel on Climate Change (the “IPCC”). Under sections 12-13 of the NGER Act, a controlling corporation must apply to be registered on the National Greenhouse and Energy Register if (amongst other things) the quantity of greenhouse gases emitted by its corporate group exceeds a specified carbon dioxide equivalence threshold. For the purposes of these provisions, greenhouse gases are converted into carbon dioxide equivalence through multiplication by the GWP values set out in reg 2.02 of the NGER Regulations. Regulation 2.02 currently uses the GWP values published by the

¹ This reflects the fact that, in this area, the relevant material may be in a gaseous form, a liquid form or a mixture of the two.

IPCC in its 1995 report; item 2 updates it with the values published by the IPCC in its 2007 report. In addition, it removes a note suggesting that this update process would occur on 1 July 2017.

Items 3-6 amend regulation 4.12 of the NGER Regulations to reflect changes being made separately to the NGER Measurement Determination. As discussed at item 1 above, the amended NGER Measurement Determination will clarify that, in the context of carbon capture and storage activities, it is greenhouse gas substances that must be identified and measured. Items 3-6 update the NGER Regulations to effect this change.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Greenhouse and Energy Reporting Amendment (2015 Measures No. 1) Regulation 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *National Greenhouse and Energy Reporting Amendment (2015 Measures No. 1) Regulation 2015* amends the *National Greenhouse and Energy Reporting Regulations 2008* to update the values specified for determining the carbon dioxide equivalence of greenhouse gases. It also clarifies that, in the context of carbon capture and storage activities, it is greenhouse gas substances that must be identified and measured.

Human rights implications

This Legislative Instrument does not engage any of the applicable human rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Greg Hunt MP
Minister for the Environment