

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment, the Honourable Josh Frydenberg
MP

National Greenhouse and Energy Reporting (Audit) Amendment (Auditors) Determination 2017

Purpose

The *National Greenhouse and Energy Reporting Act 2007 (Cwlth)* established the National Greenhouse and Energy Reporting (NGER) scheme, which is a national system for reporting greenhouse gas emissions, energy consumption and energy production by Australian corporations.

The *National Greenhouse and Energy Reporting (Audit) Determination 2009* (the Audit Determination) was made under section 75(1) of the NGER Act, which provides for the Minister to make a legislative instrument prescribing requirements to be met by audit team leaders in preparing for and carrying out greenhouse and energy audits and in preparing audit reports.

The *NGER (Audit) Amendment (Auditors) Determination 2017* (the Amendment Audit Determination) will amend the *NGER (Audit) Determination 2009* to bring current legislation in line with audit standards and practices. The Amendment Audit Determination will strengthen the Clean Energy Regulator audit framework to support the integrity of audits and good regulatory practice.

The Amendment Audit Determination revises a provision to limit who can be engaged as a peer reviewer on audits. This amendment will provide additional confidence in the system of quality control over audits and ensure that only those appropriately qualified can undertake the evaluation. Registered company auditors and Category 2 registered greenhouse and energy auditors are appropriate as peer reviewers as they have the relevant training and qualifications, as well as extensive knowledge of the conduct of an audit. However, the amendment does not alter the requirement that peer reviewers must have sufficient and appropriate qualifications, experience and authority to undertake the evaluation. Peer reviewers must still have an understanding of the subject matter of the audit in order to undertake the peer review.

In the majority of audits under the framework undertaken between 2010 and 2017, audit team leaders have used a registered company auditor or Category 2 registered greenhouse and energy auditor to conduct the peer review. This change should only affect a small number of audits where another type of peer reviewer is used.

The Amendment Audit Determination also inserts a new provision requiring auditors to perform audits in accordance with relevant Australian auditing standards. The amendment supports quality audits by ensuring consistency across audit practices and providing auditors with structure and guidance when conducting audits under the Audit Determination. This aligns with standard practice by greenhouse and energy auditors to use relevant national standards in conducting audits under the Audit Determination.

When undertaking any assurance engagement required under the schemes the Clean Energy Regulator administers, auditors are now required to comply with the Standard on Assurance

Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. This standard also requires the audit team leader to apply, in the conduct of their audits, Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, Other Assurance Engagements and Related Services Engagements* as well as any specific ASAEs relevant to the engagement. These may include the following:

- the Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*;
- the Standard on Assurance Engagements ASAE 3410 *Assurance Engagements on Greenhouse Gas Statements*; and
- the Standard on Assurance Engagements ASAE 3450 *Assurance Engagements involving Corporate Fundraisings and/or Prospective Financial Information*.

Following consultation with the public, this provision was clarified to require that auditors meet only relevant ASAEs, rather than the suite of broader auditing standards made under the *Corporations Act 2001*.

The Amendment Audit Determination introduces a requirement for auditors to report audit fees and other fees generated by the audited body, and paid to the audit team leader or audit firm, in the 12 months prior to the signature of the audit report. The amendment also requires an explanation for any potential conflicts that might arise from the other fees disclosed.

This amendment will provide the Regulator with indicators to better target risk. It supports compliance management by allowing the Regulator to identify trends to detect and address potential issues early.

Reporting on audit fees and hours will provide the Regulator with an understanding of the value of audits and the volume of work undertaken. Hours of audit work have been included as they provide context around fees and as an indicator in its own right of the work undertaken for the audit. This information will enable the Regulator to monitor audit quality, and provides the Regulator with a greater understanding of the regulatory burden placed on those participating in the schemes the Clean Energy Regulator administers.

Reporting on non-audit fees supports transparency for audit users and the Regulator. It supports the integrity of the audit framework by requiring auditors to take an active role in monitoring and disclosing other fees and therefore any relationships with audited bodies outside of the audit. This assists in providing the Regulator with confidence and trust in the findings of the assurance engagement.

After receiving feedback from the public, two provisions have been included to assist auditors in complying with the amendments requiring auditors to report on fees. The first provides alternate means of reporting information to address concerns about reporting fee information on the audit coversheet. To activate this provision, auditors must seek an agreement from the Regulator. The second provides an alternative period for reporting non-audit fees to address concerns that this information may be difficult for auditors to determine or calculate. This allows those auditors who have signed the terms of engagement of an audit within four months of the start of a

financial year, to use non-audit fee information from the previous financial year instead of the 12 months prior to the signing of the terms of engagement.

The instrument will commence on 1 July 2017.

Details of the amendments to the *NGER (Audit) Determination 2009* and a Statement of Compatibility with Human Rights are included in the Attachments.

The Instruments are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

Overview of the National Greenhouse and Energy Reporting (Audit) Determination 2009

The *National Greenhouse and Energy Reporting (Audit) Determination 2009* (the Audit Determination) is part of the legislative framework for greenhouse and energy audits.

It sets out the requirements to be met by audit team leaders in preparing for and carrying out greenhouse and energy audits, and in preparing assurance engagement reports and verification engagement reports.

The Audit Determination:

- does not set a new national standard, but rather sets out specific requirements for registered greenhouse and energy auditors to follow when undertaking Part 6 audits, and
- sets out the requirements for preparing, conducting, and reporting on Part 6 audits—these audits may only be conducted by a greenhouse and energy auditor who has been registered under section 75A of the NGER Act.

Consultation

A consultation draft of this Instrument was released for public comment on 30 May 2017. The Department received eight submissions from stakeholders, which have resulted in minor drafting changes and new provisions to assist auditors with implementing the amendments to the Audit Determination.

A Regulation Impact Statement was not required, based on advice from the Office of Best Practice Regulation (ID 22487).

Details of the *National Greenhouse and Energy Reporting (Audit) Amendment (Auditors) Determination 2017*

Item 1 – Name of Determination

This item provides that the title of the Instrument is the *National Greenhouse and Energy Reporting (Audit) Amendment (Auditors) Determination 2017*

Item 2 – Commencement

This item provides that the *National Greenhouse and Energy Reporting (Audit) Amendment (Auditors) Determination 2017* commences on 1 July 2017.

Item 3 – Authority

This item outlines that the *National Greenhouse and Energy Reporting (Audit) Amendment (Auditors) Determination 2017* is made under section 75(1) of the *National Greenhouse and Energy Reporting Act 2007*.

Item 4 – Schedules

SCHEDULE 1— AMENDMENTS

The explanations of amendments provided below are grouped by part and division within the Instrument. Individual amendment items are referenced to the amendment number as stated in the Instrument.

A number of the provisions incorporate by reference other documents. The documents incorporated by reference are:

- Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*, issued by the Auditing and Assurance Standards Board, June 2014. The standard establishes requirements for undertaking and reporting on assurance engagements other than audits or reviews of historical financial information covered by Australian Auditing Standards or Standards on Review Engagements. At the time the Instrument was made the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.
- Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*, issued by the Auditing and Assurance Standards Board, reissued February 2017. This standard establishes requirements for the conduct of and reporting on assurance engagements on compliance. At the time the Instrument was made the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.

- Standard on Assurance Engagements ASAE 3410 *Assurance Engagements on Greenhouse Gas Statements*, issued by the Auditing and Assurance Standards Board, reissued June 2014. This standard establishes requirements regarding the assurance practitioner's responsibilities when accepting, conducting and reporting on an engagement to provide reasonable or limited assurance on a greenhouse gas statement. At the time the Instrument was made, the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.
- Standard on Assurance Engagements ASAE 3450 *Assurance Engagements involving Corporate Fundraising and/or Prospective Financial Information*, issued by the Auditing and Assurance Standards Board, reissued November 2012. This standard establishes requirements regarding the reporting on financial information included in, or to be included in, a public or non-public document and the reporting on prospective financial information prepared for other purposes. At the time the Instrument was made, the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.

Note: The Auditing and Assurance Standards Board provides Australian standards free of charge.

Part 1 - Preliminary

Item	NGER (Audit) Determination Reference	Commentary
1	1.3(3B)	Grammatical correction
2	1.4	Provides a definition of 'non-Part 6 service or activity'.

Part 2- Requirements on audit team leaders

Item	NGER (Audit) Determination Reference	Commentary
3	After 2.5(b)	Inserts a new provision on the performance of audits in accordance with relevant Australian auditing standards.

Part 3 – Assurance engagements

Item	NGER (Audit) Determination Reference	Commentary
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Item	NGER (Audit) Determination Reference	Commentary
4	At the end of 3.7(1)(b)	Revises provision to limit who can be engaged as a peer reviewer on audits to Category 2 Registered Greenhouse and Energy Auditors and Registered Company Auditors as defined in the Corporations Act 2001.
5	3.21(3)	Grammatical correction
6	3.21(3)(e)	Grammatical correction
7	3.21(3)	<p>Inserts new provisions requiring auditors to disclose audit and non-audit fees.</p> <p>This gives the Regulator better capacity to monitor audit quality and potential conflicts of interest, as well as providing greater transparency over the value of the audit and other services provided by the audit firm.</p>
8	At the end of 3.21	Inserts a new provision to explain who constitutes an “audit team leader” for the purposes of the section. Also provides alternate means of calculating and reporting audit and non-audit fees.

Part 5 – Transitional provisions

Item	NGER (Audit) Determination Reference	Commentary
9	At the end of the Determination	Inserts provision to explain, in a temporal sense, to which audits the amendments will apply.

ATTACHMENT B

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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 (Audit) Amendment (Auditors) Determination 2017

These Legislative Instruments are 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 *NGER (Audit) Amendment (Auditors) Determination 2017* amends the *NGER (Audit) Determination 2009*. The Determination is made under section 75(1) of the NGER Act, which provides for the Minister to make a legislative instrument prescribing requirements to be met by audit team leaders in preparing for and carrying out greenhouse and energy audits and in preparing audit reports.

Human rights implications

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

Conclusion

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

Josh Frydenberg

Minister for the Environment and Energy