EXPLANATORY STATEMENT

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

NGER (Measurement) Amendment (Energy) Determination 2017

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 (Measurement) Determination 2008* was made under section 10 (3) of the Act, which provides for the Minister to determine methods, or criteria for methods, for the measurement of (a) greenhouse gas emissions; (b) the production of energy; and (c) the consumption of energy.

The *NGER (Measurement) Amendment (Energy) Determination 2017* (the Instrument) will amend the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* to assist NGER scheme reporters by introducing routine updates and improving the clarity and relevance of guidance on emissions and energy reporting. The proposed amendments are restricted in scope to:

- updated emission factors used to report Scope 2 emission estimations, based on the latest available data; and,
- responses to reporter requests to clarify the application of methods for the estimation of Scope 2 emissions and energy production and consumption of the energy commodities hydrogen, uranium and sulphur.

The Instrument will commence on 1 July 2017 and apply to the 2017-18 financial year. It will affect NGER reports submitted by corporations in October 2018.

Details of the amendments to the *NGER (Measurement) Determination 2008* and a Statement of Compatibility with Human Rights are included in the Attachments.

The Instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Overview of the National Greenhouse and Energy Reporting (Measurement) Determination 2008

The *NGER (Measurement) Determination 2008* provides the methods for the estimation of greenhouse gas emissions and the production and consumption of energy.

The scope of the Determination follows international classification systems and includes emissions from:

- the combustion of fuel for energy;

- the extraction, production, flaring, processing and distribution of fossil fuels and carbon capture and storage;
- industrial processes where a mineral, chemical or metal product is formed using a chemical reaction that generates greenhouse gases as a by-product as well as emissions of hydrofluorocarbons and sulphur hexafluoride resulting from their use by certain industries; and
- waste disposal – either in landfill, as management of wastewater or from waste incineration .

The most significant source of emissions in Australia is from fuel combustion, which accounts for over 70 per cent of the emissions reported in the national greenhouse gas inventory.

The scope of the Determination does not include land based emissions covered by the Intergovernmental Panel on Climate Change (IPCC) categories 'Agriculture' and 'Land Use, Land Use Change and Forestry'. Emissions from fuel combustion by land based industries are, nonetheless, covered by this Determination.

Methods of measurement

The framework supporting the emissions estimation methods specified in the Determination reflects the approaches of the IPCC guidelines governing the estimation of national greenhouse gas inventories, as adopted by the Parties to the UN Framework Convention on Climate Change and its Kyoto Protocol.

The Determination provides four different classes of methods for the estimation of emissions for most emissions sources.

NGER Method 1: is the *National Greenhouse Accounts* default method and specifies the use of default emission factors in the estimation of emissions. This is the simplest method available and, in general, emissions may be estimated by reference to activity data such as fossil fuel consumption, evidenced by invoices, and the use of specified emission factors provided in the Determination.

NGER Method 2: is a facility-specific method using industry sampling and Australian or international standards to provide more accurate estimates of emissions at facility level. Method 2 enables corporations to undertake additional measurements – for example, the qualities of fuels consumed at a particular facility – in order to gain more accurate estimates for emissions for that particular facility.

NGER Method 3: is a facility-specific method using Australian or international standards for both sampling and analysis of fuels and raw materials. Method 3 is very similar to Method 2, except that reporters must use Australian or equivalent documentary standards for sampling (of fuels or raw materials) as well as for the analysis of fuels.

NGER Method 4: direct monitoring of emission systems, either on a continuous or periodic basis. Rather than providing for the analysis of the chemical properties of inputs (or in some case, products), Method 4 aims to directly monitor greenhouse emissions arising from an activity. This

approach can provide a higher level of accuracy in certain circumstances, depending on the type of emissions process; however, it is more likely to be more data intensive than other approaches.

As for Methods 2 and 3, there is a substantial body of documented procedures on monitoring practices and state and territory government regulatory experience that provide the principal sources of guidance for the establishment of such systems.

More generally, the *NGER (Measurement) Determination 2008* draws on existing estimation practices wherever possible, including the use of data collected for commercial, taxation or other regulatory purposes, with the aim of maximising the use of readily validated data and minimising administrative burdens on reporters.

Consultation

A consultation draft of this Instrument was released for public comment on 30 May 2017. The Department received three submissions from stakeholders, which did not require any change to the Instrument.

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

ATTACHMENT A

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

Item 1 – Name of Determination

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

Item 2 – Commencement

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

Item 3 – Authority

This item outlines that the *National Greenhouse and Energy Reporting (Measurement) Amendment (Energy) Determination 2017* is made under subsection 10(3) of the *National Greenhouse and Energy Reporting Act 2007.*

Item 4 – Schedules

Schedule 1— Amendments

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

Chapter 6: Energy

Item	NGER (Measurement) Determination Reference	Commentary
1	6.2(1)(a)	Improves clarity by naming the energy commodities (sulphur, hydrogen and uranium) to which the Part relates.
2	6.3(1)	Editorial restructuring to clearly identify the method parameters to be used in relation to sulphur, hydrogen and uranium production energy content estimation.
3	At the end of 6.3	For clarity, sets out in a new subsection the method that applies to the estimation of the energy content of sulphur, hydrogen and

Item	NGER (Measurement) Determination Reference	Commentary
		uranium produced from the operation of a facility.
4	6.5(1)	Editorial restructuring to clearly identify the method parameters to be used in relation to sulphur, hydrogen and uranium consumption energy content estimation.
5	6.5(1) (subparagraphs (a)(i), (b)(i) and (d)(i) and (ii) of the definition of EC1)	As above.
6	At the end of 6.5	For clarity, sets out in a new subsection the method that applies to the estimation of the energy content of sulphur, hydrogen and uranium consumed from the operation of a facility.

Chapter 7—Scope 2 emissions

Item	NGER (Measurement) Determination Reference	Commentary
7	7.1(1)	Creates internal consistency, and improves clarity by expressly stating that the methods also apply to the loss of electricity from an electricity transmission network or distribution network.
8	7.1(3)	Repeals superfluous subsection.
9	7.2	For clarity, revises heading to expressly reference the application to electricity losses.
10	7.2(1)	Editorial revision to accommodate item 11.
11	7.2(2)	Replaces previous subsection to make clear that the method in subsection 7.2(1) applies to facilities constituted by an electricity transmission network or distribution network that is, or is part of,

Item	NGER (Measurement) Determination Reference	Commentary
		the main electricity grid in a State or Territory, and the quantity of electricity losses for that network during a year.
12	7.3	As for item 9, to improve clarity by revising heading to expressly reference the application to electricity losses.
13	7.3(1)	Editorial revision to accommodate item 14.
14	7.3(2)	Replaces previous subsection to make clear that the method in subsection 7.3(1) applies to facilities constituted by an electricity transmission network or distribution network that is not, and is not part of, the main electricity grid in a State or Territory, and the quantity of electricity losses for that network during a year.

Chapter 9 – Application and transitional provisions

Item	NGER (Measurement) Determination Reference	Commentary
15	In the appropriate position in Chapter 9	Clarifies that the amendments apply in relation to the financial year starting on 1 July 2017 and later financial years.

Schedule 1: Energy content factors and emission factors

Item	NGER (Measurement) Determination Reference	Commentary
16	Note to the heading	To reflect the above amendments, this item updates cross references to which the Schedule relates.

Schedule 1: Part 6 - Indirect (scope 2) emission factors from consumption of electricity purchased or lost from grid

Item	NGER (Measurement) Determination Reference	Commentary
17	Part 6	For clarity, revises heading to expressly reference the application to electricity losses. Incorporates annual update of scope 2 emission factors reflecting changes within the National Electricity Market in the last financial year.

Schedule 1: Part 7 – Energy commodities

Item	NGER (Measurement) Determination Reference	Commentary
18	Part 7 – Fuel combustion – other fuels	Revises heading for consistency with the chapter (6) to which it relates.
19	Table in Part 7 – Fuel combustion – other fuels	Revises heading of second column for consistency with the chapter (6) to which it relates.

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 (Measurement) Amendment (Energy) 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 *National Greenhouse and Energy Reporting (Measurement) Amendment (Energy) Determination 2017* amends the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (the Determination). The Determination is made under section 7B and subsection 10 of the *National Greenhouse and Energy Reporting Act 2007*, which provides for the Minister to determine methods, or criteria for methods, for the measurement of (a) greenhouse gas emissions, (b) the production of energy, (c) the consumption of energy.

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