



# **National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 17 October 2019

David Hurley  
Governor-General

By His Excellency's Command

Angus Taylor  
Minister for Energy and Emissions Reduction

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## 1 Name

This instrument is the *National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	22 October 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *National Greenhouse and Energy Reporting Act 2007*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Safeguard mechanism amendments

### *National Greenhouse and Energy Reporting Regulations 2008*

#### 1 Regulation 1.03

Insert:

*benchmark-emissions baseline determination* has the same meaning as in the Safeguard Mechanism Rule.

#### 2 Regulation 1.03 (definition of *grid-connected electricity generator*)

Omit “*National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*”, substitute “Safeguard Mechanism Rule”.

#### 3 Regulation 1.03 (definition of *legacy emissions*)

Omit “*National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*”, substitute “Safeguard Mechanism Rule”.

#### 4 Regulation 1.03

Insert:

*prescribed (annually adjusted) production variable* has the same meaning as in the Safeguard Mechanism Rule.

*production-adjusted baseline determination* has the same meaning as in the Safeguard Mechanism Rule.

*Safeguard Mechanism Rule* means the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*.

#### 5 After Division 4.4 of Part 4

Insert:

### Division 4.4A—Reporting quantities of certain production variables

#### 4.23B Purpose and application of this Division

For the purposes of paragraphs 19(6)(c), 22G(2)(c) and 22X(4)(c) of the Act, this Division specifies information that must be set out in a report provided by a corporation to the Regulator under section 19, 22G or 22X of the Act for a reporting year, or part of a reporting year, in relation to one or more facilities of the corporation.

#### 4.23C Reporting quantities of prescribed (annually adjusted) production variables used to calculate baseline emission number

- (1) This regulation applies in relation to a facility to which the report relates if:
  - (a) there is in force for the facility a production-adjusted baseline determination or a benchmark-emissions baseline determination; and

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- (b) the baseline emissions number for the reporting year ascertained in accordance with the determination is calculated by reference to:
    - (i) for a production-adjusted baseline determination—one or more prescribed (annually adjusted) production variables; or
    - (ii) for a benchmark-emissions baseline determination—a baseline emissions number ascertained in accordance with a production-adjusted baseline determination, that is calculated by reference to one or more prescribed (annually adjusted) production variables.
  - (2) The report must include, for each prescribed (annually adjusted) production variable that is to be referred to in calculating the baseline emissions number for the facility for the reporting year:
    - (a) the quantity of the prescribed (annually adjusted) production variable produced by the facility in the reporting year, or part of the reporting year, to which the report relates; and
    - (b) any supporting information specified in Schedule 2 to the Safeguard Mechanism Rule that applies to the calculation of that quantity.
  - (3) The quantity of a prescribed (annually adjusted) production variable included in the report under paragraph (2)(a) must:
    - (a) be measured using the units specified in Schedule 2 to the Safeguard Mechanism Rule that apply in relation to the variable; and
    - (b) meet any measurement requirements or procedures specified in that Schedule that apply in relation to the variable.

#### **4.23D Electing to report quantities of prescribed (annually adjusted) production variables**

- (1) This regulation applies in relation to a facility to which the report relates if:
  - (a) the facility produces one or more prescribed (annually adjusted) production variables in a reporting year; and
  - (b) the report is not required under regulation 4.23C to include the quantity of one or more of the prescribed (annually adjusted) production variables (the *non-reportable variables*).
- (2) The report may include one of the following statements in relation to the non-reportable variables:
  - (a) a statement that the corporation has elected to provide information in the report about the quantity of each non-reportable variable;
  - (b) a statement that the corporation has elected to provide information in the report about the quantity of one or more, but not all, of the non-reportable variables.
- (3) If the report includes the statement referred to in paragraph (2)(a), the report must include:
  - (a) the quantity of each non-reportable variable produced by the facility in the reporting year, or part of the reporting year, to which the report relates; and
  - (b) any supporting information specified in Schedule 2 to the Safeguard Mechanism Rule that applies to the calculation of the quantity.

- (4) If the report includes the statement referred to in paragraph (2)(b), the report must include:
  - (a) the quantity of one or more of the non-reportable variables produced by the facility in the reporting year, or part of the reporting year, to which the report relates; and
  - (b) any supporting information specified in Schedule 2 to the Safeguard Mechanism Rule that applies to the calculation of the quantity.
- (5) The quantity of a non-reportable variable included in the report under subregulation (3) or (4) must:
  - (a) be measured using the units specified in Schedule 2 to the Safeguard Mechanism Rule that apply in relation to the variable; and
  - (b) meet any measurement requirements or procedures specified in that Schedule that apply in relation to the variable.

## 6 In the appropriate position in Part 7

Insert:

### **Division 7.4—Application provisions relating to the National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019**

#### **Subdivision 7.4.1—Preliminary**

##### **7.10 Definitions**

In this Division:

*amending regulations* means the *National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019*.

*commencement day* means the day the amending regulations commence.

#### **Subdivision 7.4.2—Amendments made by Schedule 1 to the National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019**

##### **7.11 Application—reports under the Act**

The amendments of these Regulations made by Schedule 1 to the amending regulations apply in relation to a report provided under Part 3, 3E or 3F of the Act on or after the commencement day.



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## **Schedule 2—Audit framework amendments**

### *National Greenhouse and Energy Reporting Regulations 2008*

#### **1 Regulation 1.03 (definition of *alternative audit*)**

After “the Act”, insert “or the CFI Act”.

#### **2 Regulation 1.03 (at the end of the definition of *NGER legislation*)**

Add:

; (f) the Safeguard Mechanism Rule.

#### **3 Regulation 1.03**

Insert:

*renewable energy legislation* means:

- (a) the *Renewable Energy (Electricity) Act 2000*; or
- (b) the *Renewable Energy (Electricity) Regulations 2001*.

#### **4 Regulation 6.06**

Before “The register”, insert “(1)”.

#### **5 After paragraph 6.06(g)**

Insert:

- (ga) if any conditions have been imposed on the individual’s registration—details of the conditions;

#### **6 At the end of regulation 6.06**

Add:

- (2) The register of greenhouse and energy auditors must contain the following information in relation to each individual who has ceased to be registered:
  - (a) the information referred to in subregulation (1) that relates to the individual or the individual’s registration that has ceased;
  - (b) the date the registration ceased;
  - (c) if the individual’s registration ceased because the registration is suspended (see subregulation 6.07(2))—details of the suspension;
  - (d) if the individual’s registration ceased because of deregistration—details of the deregistration.

#### **7 At the end of subregulation 6.07(1)**

Add:

- ; (e) if any conditions that have been imposed on the individual’s registration are in effect—details of the conditions.

#### **8 Subregulation 6.07(2)**

Omit “subregulation (1)”, substitute “the purposes of this Subdivision”.

## 9 At the end of subregulation 6.09(1)

Add:

Note: Applications for registration as a Category 1 auditor may no longer be made (see subregulation 6.23(1A)).

## 10 After subregulation 6.12(2)

Insert:

- (2A) In determining whether the applicant is a fit and proper person, the Regulator may also have regard to the following:
- (a) whether the applicant has been subject to disciplinary action by a relevant professional body, and the outcomes of any such action;
  - (b) if the applicant is, or has been, registered as an auditor under another law of the Commonwealth or a law of a State or Territory—whether the applicant has been the subject of disciplinary action in relation to that registration, and the outcomes of any such action (including deregistration);
  - (c) any other relevant matter.

## 11 Regulations 6.14 and 6.14A

Repeal the regulations, substitute:

### 6.14 Legislation knowledge

- (1) The applicant must have knowledge of the following legislation relevant to the role of a registered greenhouse and energy auditor:
- (a) the NGER legislation;
  - (b) the CFI legislation;
  - (c) the renewable energy legislation.
- (2) To demonstrate that knowledge, the applicant must provide the Regulator with appropriate evidence.

Note: The Auditor Registration Instrument sets out the ways in which the requirements of this subregulation may be met.

- (3) However:
- (a) paragraph (1)(b) does not apply if the applicant does not intend to carry out audits, as a registered greenhouse and energy auditor, under the CFI legislation; and
  - (b) paragraph (1)(c) does not apply if the applicant does not intend to carry out audits, as a registered greenhouse and energy auditor, under the renewable energy legislation.

Note 1: If the applicant does not intend to carry out audits under the CFI legislation or the renewable energy legislation, this must be stated in the application (see subregulation 6.23(2)).

Note 2: A condition may be imposed on an auditor's registration to limit the types of audits that may be carried out if the auditor does not have the required knowledge of the CFI legislation or the renewable energy legislation (see regulation 6.61).

## 12 After subregulation 6.23(1)

Insert:

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- (1A) An application for registration as a Category 1 auditor must not be made on or after the day this subregulation commences.

**13 After paragraph 6.23(2)(g)**

Insert:

- (ga) if the applicant does not intend to carry out, as a registered greenhouse and energy auditor, audits under the CFI legislation—a statement to that effect;
- (gb) if the applicant does not intend to carry out, as a registered greenhouse and energy auditor, audits under the renewable energy legislation—a statement to that effect;

**14 At the end of subregulation 6.23(2)**

Add:

- Note: If an applicant intends not to carry out certain types of audits as referred to in paragraph (ga) or (gb), knowledge of the legislation relevant to those audits is not required (see subregulation 6.14(3)). However the applicant's registration may be subject to a condition not to carry out those types of audits (see regulation 6.61).

**15 At the end of subregulation 6.37(2)**

Add:

- ; (d) if the auditor is registered as both a Category 1 auditor and a Category 2 auditor—whether the application relates to the auditor's deregistration as a Category 1 auditor only, deregistration as a Category 2 auditor only or deregistration as both categories of auditor.

**16 Subregulation 6.37(3)**

After “this regulation”, insert “in accordance with the application”.

**17 Subregulations 6.60(1) and (2)**

Repeal the subregulations, substitute:

- (1) The audit team leader in relation to a Part 6 audit must have adequate and appropriate professional indemnity insurance that complies with the requirements of this regulation while preparing for and undertaking the audit and in preparing the report on the audit.
- (2) The insurance policy must provide for an insured amount that is sufficient to cover claims reasonably anticipated to arise from Part 6 audits carried out by the audit team leader, with a minimum insured amount worked out as follows:
  - (a) if the fee for an audit is estimated to be \$100,000 or less—the insured amount must be at least \$2 million;
  - (b) if the fee for an audit is estimated to be more than \$100,000 but less than \$300,000—the insured amount must be at least \$5 million;
  - (c) if the fee for an audit is estimated to be \$300,000 or more—the insured amount must be at least \$10 million.

**18 Subregulation 6.61(3)**

After “only if”, insert “subregulation (3A) applies or”.

**19 After subregulation 6.61(3)**

Insert:

- (3A) For the purposes of subregulation (3), this subregulation applies if:
- (a) the application for the auditor's registration includes a statement referred to in paragraph 6.23(2)(ga) or (gb); or
  - (b) the Regulator is not satisfied that the auditor meets the requirements in paragraph 6.14(1)(b) or (c).

**20 At the end of subregulation 6.61(4)**

Add:

- ; (d) a condition that the auditor may not carry out, as a registered greenhouse and energy auditor, specified types of audits under the CFI legislation;
- (e) a condition that the auditor may not carry out, as a registered greenhouse and energy auditor, specified types of audits under the renewable energy legislation.

**21 At the end of regulation 6.64**

Add:

- (3) In determining whether a registered greenhouse and energy auditor has ceased to be a fit and proper person, the Regulator may also have regard to the following:
  - (a) whether the auditor has been subject to disciplinary action by a relevant professional body, and the outcomes of any such action;
  - (b) if the auditor is, or has been, registered as an auditor under another law of the Commonwealth or a law of a State or Territory—whether the auditor has been the subject of disciplinary action in relation to that registration, and the outcomes of any such action (including deregistration);
  - (c) any other relevant matter.

**22 Subregulation 6.66(1)**

Repeal the subregulation, substitute:

- (1) A registered greenhouse and energy auditor must participate in a substantial way in at least 3 Part 6 audits or alternative audits in every 3 year period following registration.

**23 At the end of subregulation 6.67(3)**

Add “or paragraph 6.64(3)(a) or (b)”.

**24 Regulation 6.68**

Repeal the regulation.

**25 Subregulation 6.71(4)**

Omit “he or she”, substitute “the Regulator”.

**26 At the end of Division 7.4 of Part 7**

Add:

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**Subdivision 7.4.3—Amendments made by Schedule 2 to the National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019****7.12 Application—legislation knowledge**

The amendments of these Regulations made by items 11, 13, 14, 18, 19 and 20 of Schedule 2 to the amending regulations apply in relation to:

- (a) an application for registration made on or after the commencement day; and
- (b) a registration made on or after the commencement day resulting from such an application.

**7.13 Application—determining fit and proper person**

- (1) The amendment of these Regulations made by item 10 of Schedule 2 to the amending regulations applies in relation to an application for registration if:
  - (a) the application is made on or after the commencement day; or
  - (b) the application is made, but not decided, before the commencement day.
- (2) The amendment of these Regulations made by item 21 of Schedule 2 to the amending regulations applies in relation to a registered greenhouse and energy auditor regardless of whether the auditor was registered before, on or after the commencement day.

**7.14 Application—increased minimum participation in audits**

- (1) If a person is a registered greenhouse and energy auditor immediately before the commencement day, the amendment of regulation 6.66 by Schedule 2 to the amending regulations applies to the auditor in relation to:
  - (a) the 3 year period following the auditor's registration during which the commencement day occurs (the *current 3 year period*); and
  - (b) each subsequent 3 year period following the auditor's registration.
- (2) However, if the auditor's current 3 year period will end within 12 months after the commencement day, paragraph (1)(a) does not apply to the auditor.

## **Schedule 3—Other amendments**

### **Part 1—Decommissioned mines**

#### *National Greenhouse and Energy Reporting Regulations 2008*

**1 Source 3 of Part 1 of Schedule 3 (table item 1, column headed “Matters to be identified”, paragraph (c))**

Omit “full year of production”, substitute “12 month period before the mine became a decommissioned underground coal mine”.

**2 Source 3 of Part 1 of Schedule 3 (table item 1, column headed “Matters to be identified”, paragraph (d))**

Omit “closed”, substitute “decommissioned”.

## **Part 2—Unaccounted for gas**

### *National Greenhouse and Energy Reporting Regulations 2008*

#### **3 Source 7 of Part 2 of Schedule 3 (after table item 2)**

Insert:

- |   |  |  |
|---|--|--|
| 3 | Method 3 for the source, as set out in the Measurement Determination | (a) terajoules of utility sales<br>(b) location of the natural gas distribution<br>(c) the facility specific unaccounted for gas factor as a percentage<br>(d) whether the facility specific unaccounted for gas factor is the percentage calculated or determined for the reporting year or for a previous period |
|---|--|--|

## **Part 3—Application provisions**

### ***National Greenhouse and Energy Reporting Regulations 2008***

#### **4 At the end of Division 7.4 of Part 7**

Add:

#### **Subdivision 7.4.4—Amendments made by Schedule 3 to the National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019**

##### **7.15 Application—reports under the Act**

The amendments of these Regulations made by Schedule 3 to the amending regulations apply in relation to a report required under Part 3, 3E or 3F of the Act for:

- (a) the financial year beginning on 1 July 2019; and
- (b) each later financial year.