

EXPLANATORY STATEMENT

Issued by authority of the Minister for Energy and Emissions Reduction

National Greenhouse and Energy Reporting Act 2007

*National Greenhouse and Energy Reporting Amendment (2021 Measures No.1) Regulations
2021*

Background

The *National Greenhouse and Energy Reporting Act 2007* (the Act) provides a framework for the reporting of greenhouse gas emissions, energy production and consumption and other information in Australia. Section 77 of the Act 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 Regulations) have previously been made under this section.

The *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (the Measurement Determination), made under section 10(3) of the Act, specifies the methods by which the amounts of emissions and energy production and consumption are to be measured for the purposes of the Act.

Purpose and Operation

The purpose of the *National Greenhouse and Energy Reporting Amendment (2021 Measures No. 1) Regulations 2021* (the amending Regulations) is to:

- Update definitions in NGER Regulation 1.03 to ensure they continue to support NGER Scheme reporting; and
- Simplify interpretation of NGER Scheme reporting requirements, and reduce procedural complexity, by relocating through contemporaneous amendments to the Measurement Determination technical matters currently reported under the Regulations and included in Schedule 3.

Details of the amending Regulations are outlined in [Attachment A](#).

A statement of the amending Regulations' compatibility with human rights is set out in [Attachment B](#).

Consultation

The substance of the amendments made by the amending Regulations was released for public consultation from 4 May to 21 May 2021. No concerns were raised about the proposals included in the amendments.

Regulatory Impact

The regulatory impacts of these amendments have been assessed as not requiring a Regulation Impact Statement by the Office of Best Practice Regulation (ref 44070).

Details of the *National Greenhouse and Energy Reporting Amendment (2021 Measures No. 1) Regulations 2021*

Section 1—Name

This section provides that the title of the Regulations is the *National Greenhouse and Energy Reporting Amendment (2021 Measures No. 1) Regulations 2021*.

Section 2—Commencement

This section provides that the amending Regulations commence on 1 July 2021.

Section 3—Authority

This section provides that the amending Regulations are made under the *National Greenhouse and Energy Reporting Act 2007*. The power to make regulations under section 77 of the Act includes the power to amend or revoke regulations that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Section 4—Schedules

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

Schedule 1—Amendments

Part 1—Main amendments

Item 1 – Regulation 1.03

This item inserts a definition of the abbreviation *CO₂-e* for clarity. See the definition of *carbon dioxide equivalence* in NGER Regulation 1.03 for further detail. The term *CO₂-e* is a common abbreviation used in emissions accounting.

Item 2 - Regulation 1.03 (at the end of the definition of *coal mine waste gas*)

This item amends the definition of *coal mine waste gas* to clarify the distinction between *coal mine waste gas* and *natural gas* by specifying that the term *coal mine waste gas* refers only to gas that has not been injected into a natural gas supply pipeline or natural gas transmission pipeline.

Item 3 - Regulation 1.03 (paragraph (e) of the definition of *coal seam methane*)

This item amends the definition of coal seam methane as a consequence of the repeal of the definition of *natural gas supply pipeline* by item 11.

Item 4 - Regulation 1.03

This item inserts a definition of *crude oil* which includes *field condensates*. See items 5 and 6.

Item 5 - Regulation 1.03 (definition of *crude oil condensates*)

Repeals the definition of *crude oil condensates*. See items 4 and 6.

Item 6 - Regulation 1.03

This item inserts a definition of the term *field condensate* based on guidance notes to the Australian Petroleum Statistics (available at <https://www.energy.gov.au/publications/field-production>), as feedback from industry has indicated that *crude oil condensates* is not a commonly understood term. The concept of field condensate is now defined consistent with its usage in the industry. See items 4 and 5.

This item also inserts a new definition of *liquefied natural gas* (commonly known as LNG), adding a note for clarity describing the conditions in which this substance exists. This better reflects the nature of the liquefied natural gas product.

Further, this item inserts a definition of *liquefied petroleum gas* within the NGER Regulations, which includes products consisting solely or mainly of butane or propane. This ensures that specifications of *liquefied petroleum gas* are not inadvertently excluded from the accounting framework.

Item 7 - Regulation 1.03 (definition of *liquid petroleum fuel*)

This item repeals:

- the unused definition of liquid petroleum fuel;
- the definition of *LNG* or *liquefied natural gas* (see the new definition of *liquefied natural gas* inserted by item 6); and
- the definition of *LPG* or *liquefied petroleum gas* (see the new definition of *liquefied petroleum gas* inserted by item 6).

Item 8 - Regulation 1.03 (paragraph (c) of the definition of *natural gas*)

This item makes an editorial change to Regulation 1.03 as a consequence of the repeal of paragraph (d) of the definition of *natural gas* by item 9.

Item 9 - Regulation 1.03 (paragraph (d) of the definition of *natural gas*)

This item removes paragraph (d) of the definition of *natural gas*, which is substantively replaced by the new definition of *natural gas transmitted or distributed in a pipeline* inserted by item 12 below.

Item 10 - Regulation 1.03 (definition of *natural gas liquids*)

This item repeals and substitute the definition of *natural gas liquids* in Regulation 1.03. The new definition better reflects industry understanding of this fuel type.

Item 11 - Regulation 1.03 (definition of *natural gas supply pipeline*)

This item repeals the definition of *natural gas supply pipeline*, which is no longer required following repeal of legislation implementing the Carbon Pricing Mechanism. The concept of *natural gas transmitted or distributed in a pipeline* replaces the need for this term (see item 12).

Item 12 – Regulation 1.03

The current item 17 in Schedule 1 of the NGER Regulations is overly narrow and should explicitly cover natural gas which is transmitted in a pipeline as well as natural gas distributed in a pipeline. This item inserts a definition for the term *natural gas transmitted or distributed in a pipeline*; item 28 below broadens item 17 of Schedule 1 of the NGER Regulations by replacing the phrase ‘natural gas distributed in a pipeline’ where it is used in that item with the term ‘natural gas transmitted or distributed in a pipeline’. The concepts of transmission and distribution pipelines are intended to reflect the meaning of those terms as they are used in the Measurement Determination.

This item inserts a definition of *plant condensate*, as distinguished from *field condensate* in item 6 above, based on Australian Petroleum Statistics guidance notes (available at <https://www.energy.gov.au/publications/plant-production>). This definition reflects industry usage of the term.

Item 13 - Regulation 1.03 (paragraph (d) of the definition of *unprocessed natural gas*)

This item amends unprocessed natural gas as a consequence of item 11.

Item 14 - Subregulation 4.10(1)

Schedule 3 of the NGER Regulations contains a list of matters which are relevant to calculations required by the methods for emissions estimation set out in the Measurement Determination.

Item 30 below repeals Schedule 3, as it will be moved to a new Schedule 4 to the Measurement Determination by contemporaneous amendments to that instrument. This will simplify interpretation of both instruments and remove procedural complexity required for updating the Schedule in conjunction with regular updates to estimation methods in the Measurement Determination, without diminishing transparency. The Measurement Determination is a disallowable legislative instrument made under section 10 of the Act. It is available at www.legislation.gov.au and incorporated by items below as in force from time to time consistent with paragraph 14(1)(a) of the *Legislation Act 2003*.

Items 14 to 26 update references to Schedule 3 within the NGER Regulations accordingly.

Items 15, 17, 19 and 21 also make editorial changes for clarity.

Item 15 – Paragraph 4.10(3)(c)

See item 14.

Item 16 - Subregulation 4.11(1)

See item 14. Items 16 and 17 amends matters to be identified for emissions sources related to oil and gas required by regulation 4.11. These matters are included in Part 2 of Schedule 4 of the Measurement Determination at the commencement of this amendment. They include updates to the sources for oil and gas emissions.

Item 17 - Paragraph 4.11(2)(c)

See items 14 and 16.

Item 18 - Subregulation 4.13(1)

See item 14. Items 18 and 19 amend matters to be identified for emissions sources related to mineral products required by regulation 4.13. These matters are included in Part 3 of Schedule 4 of the Measurement Determination at the commencement of this amendment.

Item 19 - Paragraph 4.13(2)(d)

See items 14 and 18.

Item 20 - Subregulation 4.14(1)

See item 14. Items 20 and 21 amend matters to be identified for emissions sources related to chemical products required by regulation 4.14. These matters are included in Part 4 of Schedule 4 of the Measurement Determination at the commencement of this amendment.

Item 21 - Paragraph 4.14(2)(d)

See items 14 and 20.

Item 22 - Subregulation 4.14(3)

See item 14. Subregulation 4.14(3) is no longer needed and is repealed. It was previously included on the assumption that carbide and adipic acid production do not have methods included in the Measurement Determination. Upon commencement of contemporaneous amendments to the Measurement Determination, Part 4 of Schedule 4 to the Measurement Determination lists the relevant sections and methods which apply to the calculation of emissions such that the matters in Schedule 4 will be required by paragraph 4.14(2)(d) without reliance on existing subregulation 4.14(3).

Item 23 - Subregulation 4.15(1)

See item 14. Items 23 and 24 amends matters to be identified for emissions sources related to metal products required by regulation 4.15. These matters are included in Part 5 of Schedule 4 of the Measurement Determination at the commencement of this amendment.

Item 24 - Paragraph 4.15(2)(d)

See items 14 and 23.

Item 25 - Subregulation 4.17(1)

See item 14. Items 25 and 26 amend matters to be identified for emissions sources related to waste required by regulation 4.17. These matters are included in Part 6 of Schedule 4 of the Measurement Determination at the commencement of this amendment.

Item 26 - Paragraph 4.17(2)(d)

See items 14 and 25.

Item 27 - Schedule 1A

This item repeals Schedule 1A of the NGER Regulations (Things that are not natural gas supply pipelines). The schedule is replaced by the more general reference to being transmitted in natural gas transmission and distribution pipelines in relevant definitions.

Item 28 – Schedule 1 (table item 17)

See item 15. This removes any doubt that natural gas may be conveyed in a transmission pipeline as well as a distribution pipeline.

Item 29 – Schedule 1 (table items 33 and 34)

See items 4, 5, 6 and 12. This clarifies the reporting of crude oil which includes field condensates under item 33 of the NGER Regulations as opposed to plant condensates and other natural gas liquids covered by item 34 of the NGER Regulations.

Item 30 – Schedule 3

See item 14. After the amendments in items 14 to 26 of the amending Regulations, Schedule 1A of the NGER Regulations is no longer be referred to in the NGER Regulations and is repealed.

Part 2—Application provisions

Item 31 – In the appropriate position in Part 7

This item inserts an application provision into Division 7.6 of the NGER Regulations which provides that amendments made by the amending Regulations apply in relation to reports under Part 3, 3E, 3F or 3G of the Act for the financial year beginning 1 July 2021 and subsequent financial years. They do not apply to reports for the 1 July 2020 financial year due by 31 October 2021.

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 (2021 Measures No. 1) Regulations 2021

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 (2021 Measures No. 1) Regulations 2021* (the amending Regulations) amends the *National Greenhouse and Energy Reporting Regulations 2008* (the Regulations) to:

- Update definitions in NGER Regulation 1.03 to ensure they continue to support NGER Scheme reporting; and
- Simplify interpretation of NGER Scheme reporting requirements, and reduce procedural complexity, by relocating through contemporaneous amendments to the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* technical matters currently reported under the Regulations and included in Schedule 3.

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 Angus Taylor MP
Minister for Energy and Emissions Reduction**