

# **EXPLANATORY STATEMENT**

Issued by authority of the Minister for Climate Change and Energy

*National Greenhouse and Energy Reporting Act 2007*

*National Greenhouse and Energy Reporting Amendment (Biomethane and Tyre Fuel Types) Regulations 2022*

## **Background**

The National Greenhouse and Energy Reporting (NGER) Scheme provides a framework for the reporting of greenhouse gas emissions, energy production and consumption and other information in Australia. Section 77 of *National Greenhouse and Energy Reporting Act 2007* (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 NGER 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 (Biomethane and Tyre Fuel Types) Regulations 2022* (the amending Regulations) is to support simultaneous amendments to be made to the Measurement Determination allowing NGER reports to better reflect reduced emissions from consumption of natural gas with a blended biomethane component, and from the use of end-of-life tyres as fuel.

Details of the amending Regulations are outlined in Attachment A.

## **Consultation**

The substance of the amendments made by the amending Regulations was released for public consultation from 4 April to 29 April 2022. No concerns were raised about the proposals included in these 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 (OBPR) (ref OBPR22-02245).

A statement of the amending Regulations' compatibility with human rights is set out in Attachment B.

**Details of the National Greenhouse and Energy Reporting Amendment (Biomethane and Tyre Fuel Types) Regulations 2022**

**Section 1—Name**

This section provides that the title of the Regulations is the *National Greenhouse and Energy Reporting Amendment (Biomethane and Tyre Fuel Types) Regulations 2022*.

**Section 2—Commencement**

This section provides that the amending Regulations commence on 1 July 2022.

**Section 3—Authority**

This section provides that the amending Regulations are made under the Act. 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 definitions of *biogas upgrading* and *biomethane* to support the inclusion of biomethane as a fuel type within the NGER Scheme. These definitions are consistent with corresponding definitions in methodology determinations made for the purposes of the Emissions Reduction Fund under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

**Item 2 - In the appropriate position in Part 7**

This item inserts a transitional provision to provide that the amendments made by the amending Regulations apply in relation to reports under Part 3, 3E, 3F or 3G of the Act for the 2022-23 and subsequent financial years. This ensures reports for the 2021-22 financial year to be submitted by 31 October 2022 are not impacted by the changes.

**Item 3 - Schedule 1 (table item 8)**

Schedule 1 of the NGER Regulations ('Fuels and other energy commodities') lists fuels and other energy commodities consumption of which is reportable within the NGER Scheme.

The consumption of end-of-life tyres as fuel is currently reportable under existing item 8 of that Schedule (*Industrial materials and tyres that are derived from fossil fuels, if recycled and combusted to produce heat or electricity*).

This item amends item 8 of the Schedule to remove the reference to tyres, and instead create two stand-alone fuel types for end-of-life tyres: *Passenger car tyres, if recycled and combusted to produce heat or electricity* (item 8A), and *Truck and off road tyres, if recycled and combusted to produce heat or electricity* (item 8B). Technical parameters applicable to these new fuel types are specified by simultaneous amendments to Schedule 1 of the Measurement Determination in order to more accurately reflect emissions from their consumption.

**Item 4 - Schedule 1 (heading titled “*Biogas captured for combustion*” before table item 28)**

This item makes a minor amendment to the title before item 28 (*Biogas captured for combustion*) of Schedule 1 of the NGER Regulations (‘Fuels and other energy commodities’) for clarity: the words ‘captured for combustion’ do not serve a useful purpose and are removed.

**Item 5 - Schedule 1 (table item 30)**

This item inserts a new fuel type *biomethane*, as defined by item 1 of the amending Regulations, as item 29A of Schedule 1 of the NGER Regulations (‘Fuels and other energy commodities’). Technical parameters applicable to this fuel type are specified by simultaneous amendments to Schedule 1 of the Measurement Determination, together with amendments to that instrument allowing the reporting of consumption of natural gas with a blended biomethane component.

## **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 (Biomethane and Tyre Fuel Types) Regulations 2022***

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 (NGER) Scheme provides a framework for the reporting of greenhouse gas emissions, energy production and consumption and other information in Australia.

The *National Greenhouse and Energy Reporting Amendment (Biomethane and Tyre Fuel Types) Regulations 2022* amend the *National Greenhouse and Energy Reporting Regulations 2008* to support simultaneous amendments to be made to the *National Greenhouse and Energy (Measurement) Determination 2008* allowing NGER reports to better reflect reduced emissions from consumption of natural gas with a blended biomethane component, and from the use of end-of-life tyres as fuel.

#### **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 Chris Bowen MP  
Minister for Climate Change and Energy**