

Response to

**National Greenhouse and Energy
Reporting System - Regulations
Discussion Paper**

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INTRODUCTION

HAC Consulting is an Australian company with an international network of more than 12 subsidiary and associated organisations on 3 continents.

As a national professional services company, our people deliver innovative solutions to assist private and government organisations with the challenges of a carbon constrained future.

We view the National Greenhouse and Energy Reporting Act is a critical precursor to the National Emissions Trading Scheme. It may also, depending on the how reporting obligations of corporate groups are implemented, provide a valuable source of public information that can be used to determine a corporation's carbon efficiency in a similar manner to Greenhouse Performance Indicators of the Greenhouse Challenge Plus program. This information could then be used to rate particular industries and commercial activities for the purposes of determining investment security in a carbon constrained future and to educate the public about the implications of their behaviour and purchasing decisions.

This response, where practical, follows the structure of the discussion paper. Where general comments are made they are referenced to the specific section of the discussion paper. "Questions for feedback" are addressed separately. Only those sections that are relevant to HAC specific expertise have been addressed in this response.

SECTION 2 – INTERPRETING THE ACT

General Comment. 2.6 Facilities

The Act will capture many operators that have not had to consider their emissions before and may not be aware of their pending obligations under NGER.

Initial estimates by HAC Consulting¹ indicate that the facilities threshold of energy use of greater than 100 TJ is equivalent to facilities that:

- use over 2 million litres of diesel per annum;
- use over 2.5 million litres of petrol per annum;

¹ These estimates are not actual legislated thresholds, but indicative guidelines only. The figures do not constitute professional advice.

- operate a fleet of more than 75 buses or 1500 cars;
- spend \$2m or more per annum on electricity; or
- spend \$600k or more per annum on natural gas.

Organisations with any of the above characteristics may be legally obliged to register themselves with the Australian Greenhouse Office, begin measuring their emissions and energy use, then plan for annual reporting.

While these facilities may have to report under the NGER they will not be obligated to participate directly in the National Emissions Trading Scheme (NETS) as the emissions from the combustion of the fuel by the vehicle operator or during the generation of electricity will be accounted for at the generator or fuel production facility.

In 2005/2006 3,200 million litres of diesel was used in Western Australia. This is expected to rise to over 3,500 million litres in 2006/2007 with continued growth of 3.2% until at least 2015. Over 57% of this diesel is used in the mining sector. Many mining operations in Western Australia – especially those mines in the Hamersley region – purchase their diesel through direct contracts with suppliers in Singapore². While this diesel use will be reported under the NGER Act the validity of AGO emissions factors (AGO Factor and Methods Workbook) would need to be validated. Further, it is not clear if it will be captured under the NETS given that it is refined overseas and delivered directly to the consumer in Australia.

Questions for Feedback. Q9

Are there any difficulties with the proposal for reporting emissions from diffuse sources (transport, pipelines and transmission)?

Transport organisations such as trucking, logistic, courier and taxis companies contract some of their services to vehicle owner operators. It is ambiguous whether these owner operators are considered to be individual facilities or aggregated into the higher organisations facility or corporate structure. It would seem that the intent of the Act would be to aggregate these owner operators into the controlling organisation to ensure that their emissions are counted. However it

² http://www.agric.wa.gov.au/content/SUST/BIOFUEL/Biofuels_WA_Taskforce_2007.htm

may be possible for companies to reduce their reporting obligations by structuring their business to utilise vehicle owner operators.

Each of the three methods listed under Exceptions: division I – transport, postal and warehousing would appear to permit a transport company such as a trucking or taxi company to structure their operations to maximise the use of owner operator subcontractors and minimise their reporting obligations.

In contrast, the definition for a facility under s9 of the Act (p14 of the discussion paper) would seem to include these owner operators with the facility boundary as they “form a single undertaking”. However owner operators do not seem to fit well into the first two methods for defining a facility for road freight transport (ANZSIC 461), road passenger transport (ANZSIC 462) or postal and courier pick-up and delivery services (ANZSIC 510) described on page 19 & 20. More specifically:

- Method one – the fuel for owner operator vehicles may not be supplied at the facility location (as is the case with Taxis, Light Commercial Vehicles and interstate trucking).
- Method two – the owner operator’s vehicle would not necessarily be owned by the facility or depot.

Method three may be applicable if each of the owner operators were considered as a separate business unit of the company. This would require a conscious decision by the transport company to include any owner operators but seems to be sufficiently ambiguous to enable companies to exclude owner operators if that was their intent.

The test for “Operational Control” addressed in s11 of the Act and described on p21 may address the issue but seems to be aimed at addressing a company’s operational control over several facilities.

Use of the Australian Taxation Office’s definition for difference between employees and contractors for the purpose of PAYG withholding and Superannuation Guarantee, which is based on the level of operational control, may be applicable.

SECTION 3: REGISTRATION

Questions for Feedback. Q11

Are there any additional items that should be listed on the National Greenhouse and energy Register? If so, what and why?

The inclusion of operational information such as the number of employees, revenue, profit, annual production (e.g. kWh of electricity, tonnes of aluminium etc) would facilitate the calculation of Greenhouse Performance Indicators in a similar manner to that used by the Greenhouse Challenge Plus program. Some of this information is available for publicly listed companies; providing the company ABN would make access to some of the above information more simple.

SECTION 4: REPORTING OBLIGATIONS

Questions for Feedback. Q17

It is proposed that registered corporations may only be required to report data related to specific thresholds exceeded in a given reporting year – would this cause any confusion in relation to reporting requirements?

Yes. The estimated costs of reporting under NGER are provided on page 128 of the explanatory memorandum of the National Greenhouse and Energy Reporting Bill 2007. These figures are broken down into fixed and variable costs where fixed costs are those associated with the cost of collecting the data for the site, and variable costs are the cost of preparing different reports from the same base data. The total costs for sites exceeding the facilities threshold are \$2,100 per annum. Facilities would be required to spend the fixed costs of \$1,200 to determine whether or not they have a reporting obligation and would only save the estimated \$900 if they chose not to report. Whether all of these potential savings would actually be realised is questionable given that the data collection and reporting resources would already be in place.

The advantage of reporting all energy use and CO_{2-e} emissions is that a complete and unbroken picture of the entity would be available over several years. This would support a more comprehensive comparison with similar companies and would enable the calculation of corporate carbon intensity, energy efficiency (in terms of energy consumed per product, employee or dollar of

revenue) and Greenhouse Challenge Plus Greenhouse Performance Indicators (GPI).

SECTION 6: DISCLOSURE OF INFORMATION

Questions for Feedback. Q21

Are there any reasons why scope 1 and scope 2 greenhouse gas emissions of corporations should not be published separately?

Public disclosure of separate scope 1 and scope 2 emissions would enable more accurate third party analysis of emissions data and would give a better appreciation of what emissions are directly under the control of the registered company. Separate public disclosure would also enable a level of cross checking between industries i.e. one company's scope 2 and three emissions are another company's scope 1.

SECTION 7: COMPLIANCE ASSURANCE FRAMEWORK

Questions for Feedback. Q25

What professional expertise and qualifications should external auditors possess? How would these be assessed? What arrangements would ensure consistency in the quality of external auditors?

As of December 2006 the Greenhouse Challenge Plus program had over 700 members and 19 independent verifiers or one verifier for every three to four companies. This could be used as an indication of the magnitude of the audit task for NGER.

The facility level cost-benefit analysis attached to the NGER explanatory memorandum estimates that of the 703,000 sites considered in the analysis only 576 would exceed the 25 kt CO_{2-e} per year threshold.

This analysis however excluded Agriculture, Forestry and Fishing, Construction, and Transport and Storage sectors even though "about a quarter of all employing businesses were in these sectors, which are dominated by petroleum fuels and mobile sources". The reason given for their exclusion is that "businesses in the Agriculture, Construction and Transport sectors are very poorly represented in existing greenhouse and energy reporting programmes, so little is known about the reporting characteristics of these businesses". The

analysis is focused on CO_{2-e} emissions and doesn't attempt to quantify the number of sites that would exceed the energy production and consumption thresholds.

It is difficult to estimate how many more additional facilities and companies would be captured if all industries were included and all of the energy thresholds were considered. The number is potentially significantly greater than the 576 identified in the cost-benefit analysis. This is supported by the indicative analysis provided earlier concerning what the thresholds mean for fuel volumes and fleet sizes.

If this is the case and if, as with the Greenhouse Challenge Plus, there is a requirement to have one audit company available for every four registered companies or facilities³, there will potentially be a shortage of suitably qualified and experienced people available to act as auditors. This will definitely be the case in the early stages as sectors not currently reporting energy use and emissions – such as the agriculture, forestry, fishing, construction and transport sectors – all need to undertake some preliminary auditing, even if it is only to satisfy themselves that they are not required to report under the new legislation.

The issue of auditors needs to be managed carefully to ensure an optimum balance is achieved between the need for rigorous and comprehensive audits and the risk that limited availability of auditors will cause a log jam in NGER registration and compliance.

Auditors should be 'registered' with the AGO or similar Commonwealth agency. AGO should develop a simple checklist of qualities/skills and experience that auditors should possess. The skills and experience required will be different depending on the particular sector. For example, the background knowledge and skills required to conduct an audit in the agricultural and forestry sector would be different to those required for the mining sector and the transport sector.

All auditors should be required to undertake some compulsory training (2-3 days) and pass a test.

For registration to remain current, auditors would need to undertake at least three audits for external clients per

³ It is acknowledged that this is a preliminary estimate and does not take into account the greater complexity of the audit task that may be required under the NGER or the current utilisation level of the 19 Greenhouse Challenge Plus independent verifiers.

year. Otherwise, re-training and re-testing would be required.

In the early years of the program, the AGO (or similar) should undertake to 'check' at least one audit done by each registered auditor each year. The AGO (or similar) should validate a number of audits selected on a random basis each year. In the event of a failure, the external auditor should be given the chance to rectify the work and commit to not repeating the mistake. Multiple failures will result in temporary or permanent cancellation of registration.

This suggested program is not dissimilar to that which is in place for FirstRate home energy assessors, also administered by the Australian Greenhouse Office⁴.

NB: The important factor here is that one does not need to have financial auditing qualifications to conduct comprehensive energy use and emissions audits.

⁴ http://www.actpla.act.gov.au/topics/hiring_licensing/licence_registration/energy_assessors