Energetics / Submission

SUBMISSION - NATIONAL GREENHOUSE AND ENERGY REPORTING SYSTEM REGULATIONS POLICY PAPER

NATIONAL GREENHOUSE AND ENERGY REPORTING TASKFORCE

Australian Greenhouse Office - Department of the Environment and Water Resources

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Energetics thanks the Greenhouse and Energy Reporting Taskforce for the opportunity to comment on the Regulations Policy Paper for the National Greenhouse and Energy Reporting System.

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Introduction

THE NATIONAL GREENHOUSE AND ENERGY REPORTING ACT 2007

The *National Greenhouse and Energy Reporting Act 2007* (the Act) establishes the legislative framework for a national greenhouse gas (GHG) and energy reporting system. The intention of the Act is to provide a reporting system that will ensure:

- Robust and transparent emissions and energy reporting for the Australian Emissions Trading Scheme (AETS) and entities providing emissions offsets;
- A single streamlined national reporting point for greenhouse gas emissions and energy data to assist Commonwealth, State and Territory government programmes and activities; and
- Australia's international reporting obligations are met.

THE POLICY PAPER

The *National Greenhouse and Energy Reporting System Regulations Policy Paper*, October 2007, outlined issues and proposals for content to be included in the regulations under the Act. This *National Greenhouse and Energy Reporting System Regulations Policy Paper,* February 2007 (the Paper) is based on the earlier paper, and responses to that paper, and provides a basis for final drafting of the regulations in early 2008. It does so by identifying areas in the Act that call for regulations, outlines relevant issues and in some cases proposes potential regulation design features.

ENERGETICS' EXPERIENCE

Energetics is the leading Australian energy and greenhouse consultancy with over 24 years of experience in assisting some of Australia's largest organisations to reduce energy consumption and greenhouse emissions. We have also worked extensively to support government entities with the development of policy frameworks.

Energetics endorses, as a minimum, policy development that seeks reductions in national greenhouse gas (GHG) emissions to 60% of 1990 levels by the middle of the 21st century. We recognise the critical role that public reporting must play to achieve this goal.

This submission to the Greenhouse and Energy Reporting Taskforce ('the Taskforce') is based on our experience and specifically the information and data related difficulties we recognise which can significantly hinder the advancement of reporting initiatives.

Chapter 1 – Interpreting the Act

1.1.1 CARBON DIOXIDE EQUIVALENCE

Review of global warming potentials

Energetics supports the review of global warming potential (GWP) values prior to the 2012-13 reporting year.

Energetics proposes however that reviews should be carried out when updated data becomes available through the IPCC and not when only when international agreements come to an end as is suggested. International agreements subsequent to the Kyoto Protocol may last for longer time frames, but the science may move on. This is consistent with the approach taken by the European Union Emissions Trading Scheme which updated its list of reference emission factors for Phase II of the scheme in accordance with GWPs provided in the IPCC third assessment report released in 2006. For Australia not to take such an approach would be:

- Inconsistent with international practice; and
- In instances where GWPs have increased significantly, be inconsistent with leading scientific advice.

Energetics proposes review of GWPs when the science is updated (by means of IPCC Assessment Reports) and not when international agreements come to an end.

Review of Hydrofluorocarbons

Energetics is concerned that refrigerants which pre-date HFC 23 have not been included for reporting in the *Technical Guidelines* or in Table 2 of the Paper. Many companies have significant inventories of HFC22, in addition to older gases. Whilst the production of these gases is being phased out under the Montreal Protocol, the gases will remain in the economy for a significant period of time. For this reason, we strongly recommend that the National Greenhouse and Energy Reporting System (NGER) include, as a minimum, HFC22; and that the stock of other HFCs in Australia be reviewed prior to finalisation of a list of synthetic gases.

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1.1.3 EXTERNAL AUDITOR

Energetics wishes to highlight that the conflict of interest elements for the Australian Government's Greenhouse Challenge Plus Program are prohibitive. As a consequence, the pool of auditors who can respond to audit requests is severely limited.

NGER will have a significantly greater number of participants than Greenhouse Challenge Plus. Given this, it is unlikely that a satisfactory number of auditors will be available to conduct the work and to service NGER needs should similar conflict of interest requirements be implemented in a legislative

instrument under s75 of the Act. Accordingly, NGER should consider less restrictive conflict of interest requirements.

In addition, it is noted that external auditors are required to possess educational or professional qualifications in a relevant discipline. Clarification is not however provided as to the level of qualification required. As the data reported through NGER will feed into the AETS, and therefore has financial implications, Energetics proposes formal certification requirements for all auditors.

As the pool of auditors is limited, NGER should consider less restrictive conflict of interest requirements than those currently in existence under the Greenhouse Challenge Plus Program.

As the data reported through NGER will feed into the AETS, and therefore has financial implications, Energetics proposes formal certification requirements for all auditors.

1.2.1 JOINT VENTURES AND PARTNERSHIPS

Energetics notes that in instances where a responsible entity has not been nominated, the provisions for reporting under Joint Ventures (JV) and Partnerships have changed. It was previously proposed that only one member of the JV (the responsible entity) should report and, where a responsible entity had not been nominated, that the Greenhouse and Energy Data Officer (GEDO) would make the nomination. This has now been altered such that, in the instance where no responsible entity is nominated, all members of a JV will be required to report. This however is problematic for the following reasons:

- Such reporting will inevitably result in conflicting data, thereby rendering an audit inevitable;
- It is unclear how double counting in the national inventory will be avoided under such a scenario and this requires explanation by the Taskforce; and
- It is unclear how the conflicting data would be used under an emissions trading scheme.

Energetics finds the proposed changes requiring all parties of JVs and Partnerships to report, where no responsible entity has been elected, to be problematic. Instead, determination of a responsible entity should be rest with the GEDO.

1.3.2 A SINGLE PHYSICAL AREA OR LOCATION

Energetics notes that reporting of transport data will be aggregated to a single facility at the State level, but that this may not align with the individual operating entities within an organisation. If an organisation has separate entities within a State, with operational control under different companies, then they need the option to register and report these as separate facilities.

Energetics proposes that, as a minimum, NGER require that fleets be reported at the State level. However, where company's reports on separate business units within these States, they should be allowed to register and report these as separate facilities (given that they are under the operational control of different companies).

1.3.3 ASSIGNING ACTIVITIES TO AN INDUSTRY SECTOR

Changes to the principal activity that affect industry sector classification

Energetics notes that the ANZSIC 2006 rules are proposed for facilities that change industry sector classifications on a frequent basis and, as a consequence, a two-year limit on the reporting required under one ANZSIC code prior to the uptake of a new code.

The wording in the ANZSIC 2006 rules would appear to refer to one business only, but Energetics seeks clarification on this matter. If the ANZSIC 2006 rules are interpreted as applying to two separate corporations, then the proposed use of these rules is highly problematic. This is particularly true for those facilities where the emissions resulting from activities undertaken by a corporation that has operational control over that facility continue many years after that corporation has quit the facility. Under the above proposal, corporations such as landfill gas generators (who fulfil an environmental benefit) by mitigating the greater global warming potential of methane, would be liable for the emissions resulting from the activity of the landfill operator.

The ANZSIC 2006 rules should be expanded to cover all emission sources arising out of activities undertaken by a corporation that had operational control over a facility, irrespective as to when those emissions occur.

1.4.2 PRODUCTION AND CONSUMPTION OF ENERGY

Energetics finds the definition for consumption of energy to problematic in that it requires that raw materials that could otherwise be considered as a fuel source to be reported as energy consumption. As an example, this would mean that livestock feed may be required to be reported under consumption of energy as a biomass fuel.

The definition for consumption of energy to problematic in that it requires that raw materials that could otherwise be considered as a fuel source to be reported as energy consumption. Alternative categories for reporting such fuels should be considered.

1.5 OPERATIONAL CONTROL

Commercial facilities

Energetics endorses the guidance provided for allocation of reporting liability under commercial arrangements. This approach aligns with EEO and considerably reduces complexity in reporting for commercial enterprises.

Mining sector – contractor mining

It is currently proposed that where the contractor and mining company present their contracts to the GEDO, the GEDO will, from these, determine operational control. On balance, it is argued, this will generally fall to the operator of a facility in preference to the mine site owner.

This approach is inconsistent with industry preference. For example, it would be preferable that a mine site (under the control of the operator) be declared as a single facility to be reported by the contractor, and that the wash plant (under the control of the mining company) be declared as a separate facility to be reported by the mine owner. This does not conflict with the vertical

integration rules, or the primary product rules. It is also an extension of the discussion on facilities with sub contractors (p.36 of the Paper).

Energetics suggests that the issue of different operational control of separate facilities at one mine site may be resolved through allowing separate registration of these facilities.

Chapter 2: Registration

Energetics has no comments to make to this Chapter.

Chapter 3: Reporting obligations

3.1.4 MATERIALITY

Energetics supports the guidance provided for materiality at both the facility level and also in the coverage of emission sources. However, as many organisations have not previously been required to report on emission sources previously, a phased approach may be more practical.

Based on our experience, organisations may find it difficult to install measuring and monitoring equipment and systems prior to 1 July 2008 where they have not previously been required.

In addition, verification of emissions sources where no materiality threshold exists will be difficult where there is a low level of accuracy in the measurement and monitoring systems.

Energetics support the guidance provided for materiality at both the facility level and also in the coverage of emission sources. However, phased entry of these thresholds may be required.

3.2 DIFFERENT REPORTING REQUIREMENTS FOR DIFFERENT THRESHOLDS

Corporate Group thresholds

Energetics endorses the approach taken that requires corporations to report on all energy and emissions data, irrespective as to whether they trip one or more thresholds in a reporting year.

Facility thresholds

Energetics similarly supports the reporting of facility data only by a corporation that does not meet the corporate threshold, but has operational control over that facility.

Chapter 4: Disclosure of information

Energetics has no comments to make to this Chapter.

Chapter 5: Enforcement

Energetics has no comments to make to this Chapter.

Chapter 6: Administration

Energetics has no comments to make to this Chapter.

Chapter 7: Greenhouse gas projects

7.1.1 GREENHOUSE GAS REDUCTIONS AND REMOVALS

Energetics seek clarification on the type of projects that fall under the categories of greenhouse gas reduction and / removals. Whilst there does not appear to be any differentiation between the reporting requirements for these two categories, organisations need to be provided with guidance as to which category as to report under.

Other matters for consideration

Throughout the Paper, reference is made to the development of guidelines and case studies to assist corporations in determining aspects of requirements under NGER (examples discussed include determination of operational control and identification of activities that cross different ANZSIC divisions). Energetics would be please to provide advice in the development of these given our experience and exposure to multiple sectors and client types. Energetics has been involved in the development of similar case studies with the Department of Transport and Regional Services in providing clarification under the *Energy Efficiency Opportunities Act, 2006.*