

NATIONAL GREENHOUSE AND ENERGY REPORTING BILL

To:	Ogilvy PR Australia clients	From:	Parker & Partners
Re:	National Greenhouse and Energy Reporting Bill 2007	Cc:	
Date:	24/08/07	Status:	Confidential

COMMENTS:

This document has been prepared to brief you on the implications of the introduction of the *National Greenhouse and Energy Reporting Bill* into Federal Parliament on 15 August 2007. The document consists of:

- General overview of the new legislation;
- Potential implications;
- Notice of the upcoming industry consultation commencing on Monday, August 27, and;
- Detailed outline of the new legislation – including legislative objectives, implementation timeframe, and reporting requirements for companies,

Overview

As we move closer to a Federal Election increasingly dominated by industrial relations issues, the price of petrol and interest rates, you could be forgiven for thinking that the necessary detail around how the proposed Australian Emissions Trading Scheme (AETS) would operate had been set aside until after the poll. This is however definitely not the case.

With the relative luxury of quasi bi-partisan support for the introduction of the AETS, and an expected implementation date of 2011-12, the Department of Prime Minister & Cabinet, in conjunction with the Departments of Treasury, Environment and Industry, have continued to forge ahead.

Last week, Federal Environment Minister Malcolm Turnbull introduced the *National Greenhouse and Energy Reporting Bill 2007* (NGER) into the House of Representatives.



Although it received minimal media coverage at the time, it is the first piece of significant legislation to support the AETS. The ultimate purpose of the Bill is to establish a single, national framework for reporting greenhouse gas emissions, abatement actions and energy consumption and production by corporations from 1 July 2008.

The Bill lays the foundation for the AETS and is core to the scheme providing certainty and transparency to Australian industry. Importantly, the data reported will go on to form the basis of determining emissions liabilities under the AETS, and will also inform decision-making around permit allocation and incentives for any early abatement activities, eg, establishment of the “cap” for the “cap and trade” to come.

Seeking consistency of reporting across Australia, this Commonwealth-based legislation has incorporated a clause to enable the Commonwealth to over-ride existing State and Territory legislation. Even though NSW is the only state who has had a mandatory reporting scheme to date – all other state schemes have been voluntary – this clause may well be welcomed by companies which operate across multiple jurisdictions.

What is most crucial for companies to understand is the following: While the Bill has been introduced, the regulatory detail supporting it is still subject to further industry consultation. The first phase of the public consultative process will commence next Monday 27 August. Based on various criticisms thus far about the scheme's level of rigour and transparency, and its potential effectiveness in encouraging emissions reductions, we anticipate the scheme will be subject to further change.

Parker & Partners recommends that any Australian company likely to be required to report under this new scheme (expected to be around 900 large and medium-sized companies) treat this consultation period as a vital part of its strategic business planning. It is a key opportunity to ensure company interests are adequately addressed under the new scheme.

Potential Implications

The implications of the legislation will vary according to industry and facility type, and they remain somewhat unclear until the final design of the AETS is established. Yet as the NGER is legislation set to underpin and support the AETS, it will be pivotal for affected businesses to participate in public and industry consultations scheduled for this year. In these consultations, questions of both a strategic and operational nature may need to be posed by business at large

For example, what **strategic** impacts will flow from NGER on aspects such as:

- ❑ Potential exposure of carbon risk / liability to investment markets;
- ❑ Potential exposure of competitive information (e.g, energy usage / costs in production);
- ❑ Capacity to develop industry benchmarks and compare individual company performance;
- ❑ Some likelihood that non-quantitative information gathering – such as action plans, abatement data, energy efficiency savings, emissions and energy projections, performance/intensity indicators, benchmarks and standards, and standardisation of verification procedures – may also become compulsory;
- ❑ Transitional aspects for companies currently participating in NSW GGAS or Commonwealth Greenhouse Friendly scheme;
- ❑ Participation in voluntary disclosure schemes such as the Carbon Disclosure Project.

Or, what **operational** impacts will flow from NGER in terms of:

- ❑ Companies' energy and greenhouse measurement and monitoring procedures and systems;
- ❑ Companies' integration of NGER reporting with other company reporting activity in environmental areas, such as National Pollutant Inventory or National Packaging Covenant;
- ❑ Compliance costs;
- ❑ Possible sanctions from failure to comply; and
- ❑ Managing company-wide reporting versus facility-specific reporting.

Industry consultation

The Department of Prime Minister and Cabinet will host a series of half-day consultations focused on the NGER and the emissions trading scheme in capital cities across Australia, and commencing next Monday. To RSVP your attendance contact emissionstrading@pmc.gov.au or phone 02 6271 5215

LOCATION	DATE
Canberra	Monday 27 August 2007, 9.00am - 12.30pm at the Hyatt Hotel Canberra, Commonwealth Avenue, Yarralumla
Melbourne	Tuesday 28 August 2007, 9.00am - 12.30pm at the Sofitel Melbourne, 25 Collins St, Melbourne
Adelaide	Wednesday 29 August 2007, 9.00am - 12.30pm at the Adelaide Convention Centre, North Terrace, Adelaide

Sydney	Thursday 30 August 2007, 9.00am - 12.30pm at the Sydney Marriott Hotel, 36 College Street, Sydney
Perth	Thursday 30 August 2007, 9.00am - 12.30pm at the Duxton Hotel Perth, 1 St George's Terrace, Perth
Brisbane	Friday 31 August 2007, 9.00am - 12.30pm at the Brisbane Convention & Exhibition Centre, Cnr Merivale and Glenelg Streets, South Bank

Objectives of the legislation

The legislation provides for **mandatory reporting** of greenhouse and energy data by business through a single, online entry point.

An online reporting tool – which will be publicly accessible - will be developed in parallel to the development of the legislation. It will be based on the Greenhouse Challenge Plus Programme's *Online System for Challenge Activity Reporting*, but to ensure it is purpose-fit for the AETS, it will require significant modification.

The intention is to **streamline** reporting between Commonwealth, State and Territory jurisdictions by merging all mandatory and non-mandatory company-level information including: action plans, abatement data, energy efficiency savings, emissions and energy projections, performance/intensity indicators, benchmarks and standards, and standardisation of verification procedures.



Existing greenhouse and energy programs operating in various States and Territories will be rationalised, so companies currently involved with these programs will need to seek clarification on transitional arrangements.

Timeframe for legislative framework

It is envisaged mandatory reporting would begin on 1 July 2008, with submissions of first reports due by the end of October 2009. Companies are encouraged to participate, on a voluntary basis, in a trial reporting period in 2007-08, with submission of reports submitted by the end of October 2008.

Thresholds for reporting

The overarching concern is to achieve the balance between reporting thresholds that will deliver a clear picture of emissions, energy consumption and production in Australia by state/territory and industry, whilst not significantly increasing the cost to business.

The proposed approach to thresholds includes:

1. A company-level threshold (as opposed to subsidiary based) to be phased in during the first three years following the commencement of the legislation (ie 2008-2010) set at:
 - (a) 125 kilotonnes (kt) of carbon dioxide equivalent (CO₂-e) or 500 terajoules (TJ) of energy annually for the first year;
 - (b) 87.5 kt CO₂-e or 350 TJ of energy annually for the second year; and
 - (c) 50 kt CO₂-e or 200 TJ of energy annually for the third and subsequent years.

In other words, those companies who are the greatest emitters/users will be required to report in Year 1, then progressively lower emitters/users in the subsequent years. There is also room to review these thresholds after the lodgement of (c) above to ensure they do not impact significantly on small enterprises.

2. A facility-level threshold of 25kt CO₂-e or 100 TJ of energy annually to apply from the commencement of the AETS;
3. Reporting of company-wide emissions/energy data by all companies triggering the above thresholds. (One area TBC subject to industry consultation is whether companies triggering only the facility threshold are required to report only on data relating to facilities above this threshold).

Companies that fall below the thresholds could still participate in the national reporting system on a voluntary basis.

Data subject to mandatory reporting

From the outset, the legislation will apply to all companies in all sectors of the economy with the exception of agriculture, land use change and forestry, although the Australian Greenhouse Office and COAG are currently working to develop appropriate methodologies to ultimately bring these sectors in under the AETS.

The key data to be provided through the proposed national mandatory reporting system would be:

- Fuel and energy produced/consumed by fuel type and equipment type (one of the areas to be further refined as a result of consultation);
- Emissions of each of the six Kyoto Protocol classes of gases; and
- Total emissions of the six classes of greenhouse gases in carbon dioxide equivalent.

In addition, companies will also be able to report offsets acquitted under government programs in participating jurisdictions, although at this stage this is not intended to be mandatory (again, subject to further consultation).

Methodologies

As a default, companies would report using existing methodologies from ABARE Fuel and Electricity Survey (FES) and the Australian Greenhouse Office (AGO).

Company-specific factors and methods, or direct emissions measurements could also be approved, in conjunction with participating jurisdictions where these were considered more accurate than the default methods specified in ABARE FES and AGO and as long as they are consistent with the National Greenhouse Gas Inventory methodology.

Aggregation level for data collection

The intention is for companies to report data on individual facilities, but with the apparent option of aggregating smaller facilities (ie those below the thresholds outlined above) in order to maximise cost-effectiveness of reporting.

For those businesses with multiple sites, commercial premises, retail outlets or machinery plants, statistically valid site sampling could also be undertaken, and the results extrapolated across smaller sites.

Frequency of reporting

Companies would be required to submit reports once annually, due no more than four months after the end of the reporting period. The default reporting period would be the Australian financial year, although companies are able to nominate a calendar year reporting period when they register as a reporting entity under the legislation.

Definition of company boundaries

The company at the top of the corporate hierarchy will be defined as the reporting entity rather than a subsidiary. This is to ensure reporting includes all emissions and energy data relating to facilities/sites over which the company has *operational* control. This is distinct from equity share or financial control.

One of the areas identified as requiring further refinement includes those relating to leased buildings and contracting out.

Independent verification

An independent verification system would be established and companies would be required to keep adequate records to allow independent verification of reports. It is anticipated that companies would aim for best-practice reporting and continuous improvement in ascertaining the company's emissions and thus opportunities to reduce emissions and the management of greenhouse risks.

Public disclosure

It is proposed that company-level data be made publicly available online by the national reporting system. For greenhouse gas emissions, the basic level of disclosure would be a single aggregated total of gross emissions in CO₂-e. Only total energy consumed and produced would be required for public disclosure. (In a communications sense, companies should consider the implications of being revealed as a higher end emitter/consumer and factor this in to their broader sustainability messaging.)

Under the legislation, it may also be possible for a company to apply for any confidential data to be exempt from public disclosure however this would be determined on a case-by-case basis against set criteria.

Compliance

The key compliance steps would likely include:

1. Registration by companies likely to exceed the reporting threshold, during the first six months of the first reporting period
2. Submission of the report within the required timeframe
3. Verification that the report is to the required standard

Failure to comply would escalate gradually, from a co-operative approach (verbal advice) through to legal action, with penalties sought.

For your consideration.

