

3 September, 2018

Climate Change Authority
GPO Box 787
CANBERRA ACT 2601

Dear Sir,

REVIEW OF THE NATIONAL GREENHOUSE AND ENERGY REPORTING LEGISLATION

Introduction

Each year Greenbase Pty Ltd (Greenbase) assists more than fifty clients in Australia with the preparation and submission of section 19 reports under the National Greenhouse and Energy Reporting Act. We also assist a number of our clients with reporting and managing obligations under the Safeguard Mechanism which arise because one or more of their facilities exceed the emission threshold.

Generally speaking, we believe that the National Greenhouse and Energy legislation works well. The following comments describe some of our observations over the twenty years during which we have been assisting clients with environmental accounting and emissions reporting.

Item 2.2.2 EMISSIONS SOURCES

Since the introduction of the Carbon Farming Initiative it has appeared to us to be an anomaly that the land sector is able to generate and claim carbon credits but has no mandatory obligations in relation to reporting their greenhouse gas emissions. It seems the land sector can claim benefits without any commensurate obligation or accountability.

We believe, as a minimum, a person who is registered under the Carbon Farming Initiative legislation should also be required to register under the National Greenhouse & Energy Reporting Act. We also believe that Section 21 of the NGER Act should be amended to include the mandatory reporting of emissions, reductions and removals of greenhouse gases rather than just the voluntary reporting of only reductions and removals as is the case currently.

Item 2.5 MEASURING EMISSIONS AND ENERGY

Greenbase believes that, generally speaking, the Measurement Determination is 'fit for purpose'. However, the application of measurement criteria is confusing and is one aspect requiring attention.

We understand the need to indicate the quality of NGER data and we support the general principle. Nonetheless, the way it has been implemented in the Measurement Determination can be contradictory and therefore confusing.

Textual data quality coding, like the NGER Criteria codes, is an area fraught with potential misinterpretation. A textual coding schema is not intrinsically meaningful: rather it is only meaningful when accompanied by a definition for each code. In addition,

the codes are subjective and their application requires judgement. Consequently, there is no guarantee of consistency.

The current criteria codes attempt to indicate five data quality attributes, namely:

1. Data collection method or source (e.g. Invoices);
2. Data derivation method (e.g. Estimated);
3. Transaction type (e.g. Commercial);
4. Default uncertainty (e.g. BBB = $\pm 7.5\%$);
5. Calibration of measuring devices.

Because these five attributes are encapsulated in a single code they are contradictory more often than not.

For example: on a mine site where diesel is used extensively to operate plant and equipment the total diesel is determined from supplier invoices. This value would be allocated a criterion 'A' because it is from commercial transactions based on calibrated measuring devices. This would then be allocated a default uncertainty of $\pm 1.5\%$ in accordance with the Measurement Determination.

However, the total invoiced number is not reported through the EERS online system. Instead three values are reported representing diesel combusted by: power generators; transport vehicles; and everything else on site. These three values are usually determined from non-commercial transactions through uncalibrated devices and often contain estimates. By strictly following the Measurement Determination these values would be allocated a 'BBB' criterion indicating an uncertainty of $\pm 7.5\%$ but it is more the norm that 'A' is allocated because the total is derived from invoices. This is a source of confusion and continual debate amongst the reporting fraternity and auditors.

We believe that the criteria coding schema should be amended to have only one attribute per code, each with an unambiguous definition such that reporters and users of the data are able to interpret the codes with the minimum of training.

Item 2.6 HOW AND WHEN COMPANIES REPORT

The Emissions and Energy Reporting System (EERS) requires all data to be entered manually.

For reports from large corporations involving many facilities there is a genuine risk of transcription errors. Consequently, additional time must be spent by reporters to check every detail after entering to EERS. The time spent entering data and then checking the data entry could be significantly reduced by having an electronic upload mechanism to EERS.

Item 2.7 STREAMLINING EMISSIONS AND ENERGY REPORTING

Greenbase has been assisting clients to meet their emissions reporting obligations since the advent of the National Pollutant Inventory in 1998. With the subsequent implementation of the National Greenhouse & Energy Reporting scheme in 2008, it became obvious that our clients would benefit from a single emissions reporting system because a large proportion of the data they collected was common to both reporting schemes.

With the development of the Greenbase Environmental Accounting System and the "Greenbase Way"[®] report preparation process we have demonstrated the benefits of having one set of validated data being used for multiple reports. Currently in Australia we prepare NPI and NGER reports for over 50 clients with another 40 clients requiring only NPI reports. We have also extended the system and process to encompass reporting under schemes such as the Global Reporting Initiative (GRI), Climate Disclosure Project (CDP), Tertiary Education Facilities Management Association (TEFMA) and Sustainability Accounting Standards Board (SASB) to name just a few.

There are some significant issues that arise however.

The most fundamental issue is that NPI and NGER each have very different definitions of a facility. The NPI facility is primarily a geographic object with the Facility Occupier being held responsible for the emissions occurring within the physical facility boundary irrespective of who or what caused those emissions. Conversely, the NGER facility is primarily a set of activities under the control of a single Controlling Corporation with only emissions of those activities being reported. Put simply: NPI is about where emissions occur irrespective of who did the emitting; whereas NGER is about who did the emitting irrespective of where the emissions occurred. Because of this issue, we have had to develop means to reconcile the two reporting frameworks.

The next significant issue is related to the level of detail needed for each reporting scheme. The NPI framework expects that Facility Occupiers will disaggregate their annual emissions into a number of physical emission sources depending upon the classification of the object on the ground and then apply separate emission factors for each. For example: diesel emissions of a track type dozer must be measured separately from diesel emissions of a wheel type dozer. Greenbase uses a standard list of 248 categories for NPI reporting. NGER on the other hand, requires emissions to be reported for a significantly smaller set of categories – currently Greenbase uses a list of 13 categories. This results in a much more granular dataset for NPI than that required for NGER. However, the chief benefit of the Greenbase Way approach is that we use the more granular NPI dataset to compile emissions for the NGER report; thus making reconciliation easier, improving the uncertainties of the NGER emissions and enhancing the comparability of the two reports.

The third significant issue relates to the means by which reports are submitted through the respective online systems. The NPI Online system requires reporters to enter only the final result for each substance with the implicit assumption that the Facility Occupier can present an auditable dataset of base data and commensurate calculations in the event of an audit. EERS on the other hand, requires reporters to enter base data for some activities (e.g. natural gas usage) and the final emission numbers for other activities (e.g. solid waste to landfill). To streamline these two systems will require significant changes to the underlying philosophy of each approach.

Even though there are some significant implementation challenges, we still believe that streamlining the two reporting schemes will result in benefits to our clients and other reporters.

Item 2.8 DOES REPORTING HELP COMPANIES MANAGE THEIR EMISSIONS AND ENERGY?

Our observations are that the act of reporting greenhouse gas emissions in itself does not help companies manage their emissions and energy. The management of energy consumption in particular, and to a lesser extent emissions, is more often driven by

economic and commercial imperatives. At most, greenhouse gas emission numbers serve as a broad annual indicator of operational performance.

Even so, a small number of our clients have used the previously mentioned more granular NPI emissions data as a basis for their environmental management plans. Without the analyses needed to characterise emissions, it is likely that those environmental management plans would have been based on less than objective information.

Item CHAPTER 3. SAFEGUARD MECHANISM

We see two unaddressed issues in relation to the Safeguard Mechanism, namely: emissions uncertainty; and availability of ACCUs.

Emissions Uncertainty

Under Section 22XF the Responsible Emitter of a facility has a duty to ensure that an excess emissions situation does not exist at 1st March. NGER Regulation 4A.01 then prescribes a civil penalty for non-compliance of 100 penalty units per day up to a maximum of 10,000 penalty units. Currently that civil penalty amounts to a maximum of \$2.1 million.

It appears from the way Section 22XF has been drafted that the Regulator has no discretion in applying this penalty. As a consequence, a Responsible Emitter is liable for the civil penalty if there exists an excess emissions situation of 1 tCO₂e or any other number greater than zero. The Responsible Emitter is then required to acquire and surrender the equivalent number of Australian carbon credit units (ACCUs) to make good the excess emissions situation.

The issue here is that it is likely to be more difficult to acquire a small number of ACCUs (say 10 for example) than a large number of ACCUs (say 10,000 for example). This is simply because the transaction cost of acquiring a small number of ACCUs will likely outweigh the financial value of those ACCUs.

In addition, it could be argued that a small excess emission number is within the reported uncertainty of the total emission for the facility. In such a case it could then be argued that the excess does not actually exist and therefore the penalty should not be applied. Neither the Act, the Regulations nor the Rules give any indication of how such a situation would be treated. Our opinion is that when assessing liability under Section 22XF the Regulator should assess whether the excess emission number is within the reported uncertainty of the facility emissions.

Availability of ACCUs

An excess emissions situation is made good by surrendering a number of ACCUs equal to the number of tonnes of greenhouse gas emissions by which the facility exceeds the baseline number. Eligible ACCUs are generated by proponents conducting eligible offset projects.

Currently there are three types of eligible offset project proponents.

The majority of proponents are persons conducting approved projects contracted under the Emissions Reduction Fund scheme through which ACCUs are generated by the proponent and immediately purchased by the Commonwealth Government.

A small number of proponents are persons conducting approved eligible offset projects for which there is no contract under the Emissions Reduction Fund scheme. Generally

speaking, uncontracted projects are strategic initiatives by a resource extraction or industrial proponent to accumulate ACCUs as a hedge against their own potential future excess emissions. These ACCUs are unlikely to be available for transfer to other parties because to transfer the ACCUs would deplete their capacity to meet an unforeseen excess emissions situation and therefore contradict the strategic objective.

A very small number of proponents are persons who have a speculative objective. ACCUs generated by these proponents are likely to be the only ones available for transfer to other parties. Currently, the exact quantity of these ACCUs is not known, but, of the 50.1 million Kyoto ACCUs issued since 2012, it is thought likely that uncontracted speculative ACCUs amounts to less than 1 million.

In view of the fact that around 450 thousand ACCUs were surrendered by Responsible Emitters for FY2016-17 and the likelihood that this number will increase over the coming years, it appears to us that the availability of uncontracted speculative ACCUs will not meet the demand from Responsible Emitters who need to make good an unforeseen excess emissions situation.

Item 4.1.1 NGER REGISTER AND REPORTING DATA

A number of our clients fall into the subset of companies whose emissions are below the 50 ktCO₂e threshold but their energy consumption is above the 200 TJ threshold. This situation seems to contradict the notion that publication might identify smaller companies and raise confidentiality concerns. There seems to be no such concern with publication of other reported emissions data.

In accordance with the 'Community Right to Know' principle inherent in the National Pollutant Inventory all of the above mentioned clients have their NPI emissions data published. Because a number of the NPI substances are related to fuel combustion, reported NPI emissions data can be used to infer carbon emissions: this happens regularly. We believe that inaccurately inferring carbon emissions from published NPI emissions is a greater risk to a company than any confidentiality issues arising from publishing NGER data. Consequently we believe that the NGER publication thresholds should be removed and the 'Community Right to Know' principle be applied.

There is another publication anomaly which we believe should be addressed. NGER s19 data are published at the corporation level whereas Safeguard emissions data are published at the facility level. Given that NPI data are published at the facility level and the community has an expectation that NGER and NPI data should be comparable, we believe all NGER data should be published at the facility level, and the reporting date aligned.

Item Q. 35 Are there any other matters relevant to this review?

Greenbase specialises in environmental accounting and each year assists around 80 clients to meet their statutory emissions reporting obligations. In doing, so we perform a role we like to call 'Reporting Agent'. As such, the Reporting Agent role in relation to the emissions reporting process is analogous to the role performed by tax agents in relation to the income tax reporting process. It is a role separate from but complementary to the role of auditors. As a result we have developed considerable expertise in the relevant legislation and its interpretation to a similar extent as that expected of registered auditors.

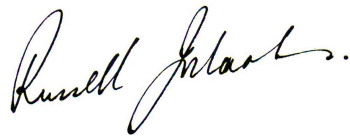
Each year we are involved in a number of client audits whereby we support our clients in dealing with auditor queries. In each case, our role is to work with the client to demonstrate the reliability of the reported emissions and thereby satisfy the audit requirements. This requires us to also understand the audit process.

The expectation inherent in the current system is that each person preparing NGER reports, and all other emissions reports, is familiar with the various pieces of legislation. This expectation is becoming less and less realistic in the same way that it is unrealistic to expect every working person in Australia to be familiar with the Tax Act. The majority of our clients use Greenbase reporting agent services because they do not currently have, nor intend to ever have, the resources to become familiar with the NGER legislation

Whereas the tax agent role is recognised in the tax accounting industry, the reporting agent role is not recognised in the environmental accounting industry. We believe this should be rectified. As a first step we believe that reporting agents should be included in the auditor education programme.

Thank you for the opportunity to make a submission in relation to the review of the National Greenhouse and Energy Reporting legislation.

Yours sincerely,



Russell J Marks
Chairman
Greenbase Pty Ltd