



Australian Network of Environmental Defender's Offices

Submission on the *National Greenhouse and Energy Reporting System Regulations Discussion Paper 2007*

16th November 2007

Contact Us

The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

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This submission is on behalf of the Australian Network of Environmental Defender's Offices Inc (ANEDO).

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27 November 2007

Submitted to:

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Submission on the National Greenhouse and Energy Reporting System Regulations Discussion Paper

The Australian Network of Environmental Defender's Offices (ANEDO) welcomes the opportunity to provide comment on the *National Greenhouse and Energy Reporting System Regulations Discussion Paper*. ANEDO is a network of 9 community legal centres specialising in public interest environmental law.

We refer to our previous submission on the *Greenhouse Gas and Energy Reporting Bill 2007*.¹ The recommendations made in our submission relating to meaningful and comprehensive public disclosure of facility level information, apply to the drafting of effective regulations to implement the Act. We also refer to our comments made to the Senate Committee Hearing on September 3rd 2007 in Canberra.²

In addition to the issues we have already noted, we make the following brief comment on the Regulations Discussion Paper. We note that the consultation process would be greatly enhanced by making draft clauses available for comment. It is difficult to comment on general topics that the regulations are intended to address without seeing the specific regulatory detail.

Our brief comments relate to each chapter of the Discussion Paper.

1. Introduction

The Discussion Paper notes a key goal is to “minimize or eliminate duplication of similar reporting requirements across Australia in order to reduce the reporting burden on business’ (1.4). As noted in our submission on the Bill and comments to the Senate Committee hearing, the regulations must not function so as to hamstring current state initiatives and result in a ‘lowest common denominator’ reporting standard.

The EDO would be interested in information concerning further consultation (1.6).

¹ See Australian Network of Environmental Defenders Offices Inc (ANEDO) *Submission on the National Greenhouse and Energy Reporting Bill 2007* - 27 August 2007; available at: http://www.edo.org.au/policy/ghg_reporting_bill070827.pdf.

² See ECITA Report *National Greenhouse and Energy Reporting Bill 2007 [Provisions]*, September 2007; and the Hansard transcript is available at: http://www.aph.gov.au/senate/committee/ecita_ctte/greenhouse/hearings/index.htm.

2. Interpreting the Act

We understand that global warming potential (GWP) values for each greenhouse gas will be based on the *IPCC 1995 Second Assessment Report*, consistent with international inventory reporting obligations under the UNFCCC (2.1.1). It is noted that these values have been updated in the subsequent *IPCC 2001 Third Assessment Report*. The EDO submits that reporting should be based on the latest and best available estimates of global warming potential.

In relation to methods and criteria for calculating greenhouse gas emissions, reductions, removals and offsets (2.2.1), ANEDO submits that the amended *AGO Factors and Methods Workbook* should be available for public comment prior to being finalized. This is an essential element of the proposed consultation on calculation methods. ANEDO would be interested in receiving information on this separate consultation process.

In relation to energy definitions (2.3), it is unclear what energy definitions will be included in the Regulation as it is stated that “energy definitions and reporting methodologies will require detailed discussion beyond the scope of this paper” (page 10). Again, the paper refers to detail that will be addressed in a separate consultation process. While it is important that issues be analysed and discussed in detail, it is unclear how the separate processes will feed in to the Regulation. The number of issues delegated to further discussion limit the usefulness of the Discussion Paper in explaining what exactly will be addressed in the regulation, and how.

Regarding the reporting of aggregated data from small facilities (2.5.2), ANEDO reiterates our previous comments on the importance of transparent and accurate facility-level reporting to satisfy the community’s “right to know”. The publicly reported information should not be limited to aggregated totals of corporate groups. Publication of accurate information at the facility level and data on offsets should be mandatory.

3. Registration

ANEDO supports full disclosure of corporate detail for registration (3.1) and would support additional contact detail at the facility level. In relation to disclosure of Register information (3.2), ANEDO supports all contents of the register being accessible by the public. As noted in our previous submission and comment, it is essential that comprehensive and accurate information be made publicly available.

4. Reporting obligations

In relation to the situations where companies may enter their own emissions factors (instead of using OSCAR standard emissions factors) (4.2), ANEDO submits that the Regulation should establish an independent verification process for non-standard factors.

Similarly, further clarification is needed regarding whether information supplied directly to the GEDO by a contractor rather than via a registered corporation (4.5) (where it may be commercially sensitive) will be made publicly available.

It is proposed that registered corporations may only be required to report data related to specific thresholds exceeded (*Question 17*). As noted, ANEDO supports comprehensive and accurate

reporting which does not allow companies to avoid reporting requirements by dividing activities to ensure thresholds are not exceeded.

5. Greenhouse gas projects

As noted above, it is difficult to comment on the proposed regulation without seeing specific draft definitions (5). This applies for the additional definitions related to greenhouse gas projects, as foreshadowed in the Act. Will the Regulations list specific types of projects and/or what actions will not qualify?

In relation to offset credits (5.1), ANEDO is making separate comment on the Early Abatement Measures Discussion Paper. Our comments, once finalized will be available at <http://www.edo.org.au/edonsw/site/policy.php>. Verification and transparent reporting of offsets is vital to the credibility of an emissions trading scheme (ETS). Corporations potentially stand to gain significant benefits (ie, allocation of permits) when the ETS commences, so it is essential to have accurate public data on the activities in the lead up to scheme commencement.

6. Disclosure of information

The EDO is a strong supporter of comprehensive public disclosure on issues of public interest such as greenhouse gas emissions. The current discussion on regulations leaves the public disclosure to the discretion of the GEDO. The regulations should include mandatory public disclosure at the facility level, including all details of the registered corporation. The EDO strongly supports mandatory publication of scope 1 and scope 2 separately (6.1.1).

The commercial confidentiality exemptions are at the discretion of the GEDO under section 25 of the Act. The regulations should clearly set out that the public interest is a relevant and overarching consideration in exercising discretion. As previously noted, ANEDO opposes reporting within a range of values (6.1).

7. Compliance assurance framework

ANEDO strongly supports the professional expertise and qualifications requirements for external auditors. The regulations should provide for an accreditation process for auditors. Furthermore, the regulations should clearly ensure independence of auditing processes.

In addition, similar expertise and independence criteria should be included for the appointment of the GEDO.

We understand that during the initial stages emphasis will be on encouraging compliance rather than taking punitive action (7.4.1). We submit that an exception to this approach would be necessary in the event of a company deliberately providing false or misleading information.

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