

**Senate Standing Committee on the Environment and Communications
Legislation Committee**

Budget Estimates 2013–14, May 2013

Answers to Questions on Notice

**Climate Change
Environment Portfolio**

Outcome:	4	Question:	5
Program:	Clean Energy Regulator		
Division:	Clean Energy Regulator		
Topic:	RET SGU Inspection Program		
Hansard Page EC:	29-31		

Senator BIRMINGHAM: Of the targeted inspections, how many of those have been undertaken?

Mr Livingston: I do not have that number on me right now. These are very small numbers. We are talking 50 or so.

Senator BIRMINGHAM: Fifty or so of the targeted inspections?

Mr Livingston: I do not have that. I will find out.

Answer:

51 targeted inspections were completed by 30 June 2013.

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**Climate Change
Environment Portfolio**

Outcome: 4

Question: 6

Program: Clean Energy Regulator

Division: Clean Energy Regulator

Topic: Liable entities

Hansard Page EC: Pages 35-36

Senator BIRMINGHAM: Let us turn to those who have to be the auction participants. How many liable entities have now been registered?

Mr Carter: As of Friday, we had 378 liable entities on the Liable Entities Public Information Database.

Senator BIRMINGHAM: Are there any entities that the regulator believes to be liable entities that have not completed their registration?

Mr Carter: A small handful of entities are still sorting out the point of liability within their commercial arrangements. That means between, for example, the subsidiary that has operational control of a facility versus a controlling corporation. So we have a couple that are still working that through. We are hoping to have those resolved in the next few days.

Senator BIRMINGHAM: But there are none where you are not aware of what the issues are and why there is a delay in that regard.

Mr Carter: That is correct.

Senator BIRMINGHAM: Do you have a breakdown now of how many of those entities are public entities, private companies et cetera?

Mr Carter: I do not have it broken down to that extent. We have 41 local councils that are liable entities. But, in terms of whether there are public utilities or other categories, we have not broken that number down. We can certainly take that on notice.

Senator BIRMINGHAM: Okay.

Answer:

The Clean Energy Regulator does not collect information pertaining to a company's status as a public or private company, as this has no effect on a liable entity's obligations under the *Clean Energy Act 2011*.

Information about a company's status as a public or private company can be found on the Australian Business Register at: www.abr.business.gov.au/Index.aspx.

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**Climate Change
Environment Portfolio**

Outcome:	4	Question:	18
Program:	Clean Energy Regulator		
Division:	Clean Energy Regulator		
Topic:	NGER system		
Hansard Page EC:	Pages 83-84		

Senator IAN MACDONALD: I took a trailer load of tree clippings down to the dump, but nobody weighed me; nobody measured the trailer. So how do councils do it? Do they just look at it and say, 'That is about a tonne of green waste'?

Ms Thompson: That is right. They generally have reporting for a range of reasons, including to the state government, about the waste that is going into their landfills. They are generally well placed to estimate the types of waste that go into the landfill. The NGERs approach that Mr Sturgiss is outlining has different calculation factors for the different amounts of waste that go into the landfill.

Senator IAN MACDONALD: So there is a calculation for green fill that I have used, but for ordinary household rubbish—rotten tins of cat food or something—there is another—

Ms Thompson: Absolutely. So all of those different types of waste streams are laid out in the NGER measurement determination and there are methods for estimating what the different compositions of waste deliver in terms of the emissions that go into the atmosphere.

Senator IAN MACDONALD: I assume this is a computer program—is that right? They key in: today, so many tonnes of green fill, so many tonnes of household waste, so many tonnes of carpets et cetera.

Ms Thompson: The calculator is a web based tool where people can enter their waste tonnes and do the estimation about what their emissions will be, and thereby work out to the extent they could be liable under the carbon price.

Senator IAN MACDONALD: You rely on them looking at my waste and everybody else's and saying, 'That's about 10 tonnes today, but because I know it is my rates we might make it five tonnes.'

Ms Thompson: The NGER system does rely on people self-assessing as to whether or not they are going to be liable. As I said, both the Clean Energy Regulator and the officers from my division have done some quite extensive outreach with local government over the last two years. We have had roundtables in every state capital in which we have invited people from local government and hear about how the carbon price liability and the benefits from the Carbon Farming Initiative and the renewable energy target could be made available to them. We have put them in touch with the Clean Energy Regulator officers, who have also been operating these sorts of outreach activities to assist local government.

Senator IAN MACDONALD: If they get it wrong, what is the fine? Are they penalised? Who audits their assessments?

Ms Thompson: That is probably a question that is best posed to the Clean Energy Regulator because they are the body that is charged with assessing who is liable.

Senator IAN MACDONALD: We are still living in an Australian democracy we know who is liable, there must be legislation that says this.

Ms Thompson: There is and there is a database that the Clean Energy Regulator—

Senator IAN MACDONALD: I am sure I voted for it—well, voted against it—but I am sure I made an informed decision as it went through. I do not remember the section of the act and which act it was that actually provided for this. There are penalties for inaccuracies?

Ms Thompson: As I am endeavouring to explain, the Clean Energy Regulator assesses the liability of liable parties and then considers whether any compliance activity is necessary. I am sure that we would be very happy to forward the committee's question on to the Clean Energy Regulator for a response.

Senator IAN MACDONALD: Unfortunately, I missed him. I had the impression he was coming back at this time. All right, if he could provide that written response.

Answer:

The *Clean Energy Act 2011* defines who will be a liable entity. In the case of a person responsible for a landfill facility, the direct emitter responsible for the facility will be a liable entity if the facility gives rise to covered plus legacy emissions with a carbon dioxide equivalence of 25,000 tonnes or more.

The *National Greenhouse and Energy Reporting (Measurement) Determination 2008* sets out the methods that a person should use when measuring these emissions. While it is each person's responsibility to apply the legislation to their own circumstances, the Clean Energy Regulator's approach to administering the legislation it is responsible for, is to encourage liable entities to voluntarily comply with legislative requirements. This includes:

- assisting liable entities to understand their rights and obligations through education and training programs of both a targeted and general nature,
- using intelligence analysis where possible to inform regulatory response decisions, and
- actively pursuing those who opportunistically or deliberately contravene the law.

For example, the Clean Energy Regulator has conducted a number of workshops targeted to help local governments determine whether they are a liable entity, and to assist them in meeting their legislative obligations. Further support will be provided to all liable entities in the lead up to the next reporting deadline.

If the Clean Energy Regulator has concerns about a person's assessment of their status as a liable entity, or about information contained in a liable entity's report under the *National Greenhouse and Energy Reporting Act 2007*, the Clean Energy Regulator has a number of compliance and enforcement tools available to the Agency, ranging from targeted education to corrective action, that may include exercise of suspension and revocation powers, infringement notices, enforceable undertakings or pecuniary penalties.

Further information about the Clean Energy Regulator's compliance position can be found in the Compliance, Education and Enforcement Policy, available on the Clean Energy Regulator's website (www.cleanenergyregulator.gov.au).

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**Climate Change
Environment Portfolio**

Outcome: 4

Question: 19

Program: Clean Energy Regulator

Division: Clean Energy Regulator

Topic: Cassowary Coast Regional Council

Hansard Page EC: Pages 84-85

Senator IAN MACDONALD: So I think you confirmed this last year that Cassowary Coast are not likely to—Darwin City is on your list, I take it?

Ms Thompson: So it is not actually the department's list; it is the Clean Energy Regulator's list.

Senator IAN MACDONALD: Okay. But someone would have that list.

Ms Thompson: Again, I am sure the committee would be very happy to take that on notice, and the regulator would be very happy to provide you with an answer.

Ms Wilkinson: We can confirm that Darwin City Council would be on the Liable Entities Public Information Database.

Senator IAN MACDONALD: Okay. Do you have there in that list what the assessed emissions from their landfill is?

Ms Wilkinson: No, I don't. But in order for them to be on this list they have annual emissions above 25 kilotons.

Senator IAN MACDONALD: So they would have made that assessment? Or the Clean Energy Regulator would have made that assessment?

Ms Wilkinson: Again, this is a question for the Clean Energy Regulator.

Senator IAN MACDONALD: No, but what does the law say; what does the act say about it?

Ms Wilkinson: The Clean Energy Regulator has to make an assessment of the likelihood that they would be liable under the scheme. But then they consulted with all of the liable parties before they placed them on the database.

Senator IAN MACDONALD: Do they have a right of appeal?

Ms Wilkinson: They certainly have engagement with a lot of liable parties through this process.

Senator IAN MACDONALD: But, if the Clean Energy Regulator makes an assessment, can the relevant council appeal that assessment?

Ms Wilkinson: In the end, the fact that you are listed on the liable entities database does not mean that you are liable. This just is the Clean Energy Regulator's assessment that you are likely to be a liable entity under the carbon pricing mechanism. The responsibility for assessing whether you actually have liabilities is left to the operator. It is based on the data which is actually available for the financial year you are talking about; whether they meet the thresholds, which in this case is being above 25 kilotons.

Senator IAN MACDONALD: So it is up to the council to say, 'I don't think we've reached that, so I am not going to put in a return'?

Ms Wilkinson: And then is a range of penalties which the Clean Energy Regulator—

Senator IAN MACDONALD: So he then comes in and makes his own assessment using the council's records, which they may or may not give him—or I guess he has got power to demand them.

Ms Wilkinson: There is a range of powers to ensure the integrity in the scheme.

Senator IAN MACDONALD: If you could let me have the answers to those questions that you have offered on those, that would be helpful.

Answer:

Under the *Clean Energy Act 2011*, the Clean Energy Regulator is required to make an entry for a person in the Liable Entities Public Information Database (LEPID) if the Clean Energy Regulator ‘has reasonable grounds to believe that a person is, or is likely to be, a liable entity for an eligible financial year’. In most cases, before an entity is published on the LEPID, they are given the opportunity to comment on their proposed entry.

The only time a person is automatically added to the LEPID is where they have confirmed their liability to the Clean Energy Regulator through some other means (for example, as the result of an application for registration as a liable entity).

The Clean Energy Regulator must remove a person from the LEPID if it has reasonable grounds to believe that the person is no longer a liable entity. A removal may be made on written application of the person, or on the Clean Energy Regulator’s own initiative. A decision by the Clean Energy Regulator, to refuse to remove a person’s name, is a reviewable decision under section 281 of the *Clean Energy Act 2011*.

Entry on the LEPID does not determine a person’s status as a liable entity. It is up to each person to apply the relevant provisions of the *Clean Energy Act 2011* to their own circumstances, to determine what, if any, obligations they have under the legislation.

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Outcome: 4

Question: 22

Program: Clean Energy Regulator

Division: Clean Energy Regulator

Topic: Waste forums

Hansard Page EC: Pages 87-88

CHAIR: The USQ—their Centre for Sustainable Business and Development—found that metropolitan and coastal councils in Queensland are more carbon ready than their smaller rural counterparts. Would that make sense given what the department has done?

Ms Thompson: I think that the degree of readiness, as you say, varies somewhat, but I am unsurprised to hear the findings of that report.

CHAIR: This is work by Associate Professor Heather Zeppel and Ms Christina James-Overheu. I certainly would like you to have a look at this work that has been done. Senator McDonald was saying the local councils do not know what is going on and have difficulty in assessing a carbon payment that they have to make. This was commissioned by the local government infrastructure services in Queensland. This is a local government initiated analysis. The survey was completed by 32 councils including city, regional, shire and Aboriginal shire councils. It is an important piece of work and I think that you should have a look at it. The survey found that 13 councils had already assessed their carbon emissions and five planned to do so. The results of the carbon survey were forwarded to all 73 Queensland councils and local government associations within Queensland, and it was presented at an LGIS waste forum in Rockhampton and Brisbane. Was the department involved in this LGIS waste forum in Rockhampton or Brisbane?

Ms Thompson: I am not sure. We would need to take that on notice.

CHAIR: Take that on notice. This carbon survey was done there, so obviously there is a recognition by local government associations in Queensland that carbon pricing is an issue. They have done surveys and they have forwarded the results to all Queensland councils, and if some Queensland councils have got no idea about what is happening and how it works then we should actually focus on those councils in Queensland. Could you advise whether there has been any contact by any individual local councils in Queensland to the department seeking advice and help?

Ms Thompson: There was some contact towards the end of 2011 and last year, but I would like to take that on notice, to provide you with a precise answer.

CHAIR: If you are a small local council, the chances of your having a liability are pretty remote, are they not?

Ms Thompson: As a very broad rule of thumb, we have estimated that local governments that serve catchments of more than 20,000 people should examine whether they might potentially have a carbon price liability. The answer is that you are correct: smaller councils are less likely to have a carbon price liability.

CHAIR: It does not matter how many six by four box trailers of green stuff go in there; they may not have a liability.

Ms Thompson: That is right.

Senator IAN MACDONALD: There would be 20,000 in my shire. But I do not think they would be liable.

CHAIR: Maybe you could have a look at this research and you could have a look at the waste forum in Rockhampton and Brisbane, and maybe you could find out for me who attended the waste forums in Rockhampton and Brisbane, so that we can identify areas that are not understanding this. I would really like to help Senator Macdonald on this issue.

Dr Kennedy: I would be happy to pass the issue through to the Clean Energy Regulator in addition to providing our own answer to the Clean Energy Regulator. As was noted earlier, they have had an extensive outreach program with local councils across Australia, so it is a shame they are not here to speak to that. We will pass that on.

Answer:

Clean Energy Regulator records indicate that the following local councils, with a liability under the *Clean Energy Act 2011*, attended the Rockhampton and Brisbane Local Government Infrastructure Services waste forums in 2012:

- Rockhampton Regional Council
- Isaac Regional Council
- Mackay Regional Council
- Logan City Council
- Gold Coast City Council/
- Sunshine Coast Regional Council
- Moreton Bay Regional Council
- Brisbane City Council
- Townsville City Council

At these workshops the Clean Energy Regulator presented an overview of the carbon pricing mechanism, including information on determining liability, determining an emissions profile, meeting obligations, and reducing liability.

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Outcome: 4

Question: 31

Program: Clean Energy Regulator

Division: Clean Energy Regulator

Topic: Biochar

Hansard Page EC: Written

1. What exemptions or rebates will the Clean Energy Regulator be providing to entities that utilise Biochar technologies for carbon sequestration?
2. Is the Clean Energy Regulator providing subsidies to support the deployment of Biochar technologies for farming, forestry and local government authority entities?

Answer:

1. None. The Clean Energy Regulator administers the *Carbon Credits (Carbon Farming Initiative) Act 2011* and its associated regulations. This legislation allows the Clean Energy Regulator to decide if a recognised person has an eligible offsets project and to issue Australian carbon credit units for that project for a period of time if requirements are met.

The Clean Energy Regulator has no authority to offer exemptions or rebates to entities that utilise biochar, or any other type of technology, for carbon sequestration.

2. No.

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Outcome: 4

Question: 32

Program: Clean Energy Regulator

Division: Clean Energy Regulator

Topic: Carbon Farming in Far North Queensland

Hansard Page EC: Written

The Carbon Farming Initiative has assisted in giving new carbon farming technologies visibility in Far North Queensland however what financial assistance has been provided to assist producers to “tool up” with these new technologies?

Answer:

No financial assistance has been provided by the Clean Energy Regulator.