



## EXPLANATORY DOCUMENT

### Exposure draft amendments to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*

#### Background

This document explains the exposure draft amendments to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015* (Safeguard Rule). It is intended to be read in conjunction with the exposure draft *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables) Rule 2020*, and the *Safeguard Mechanism: Prescribed production variables and default emissions intensities* document<sup>1</sup>.

The Safeguard Mechanism commenced on 1 July 2016. It applies to facilities with more than 100,000 tonnes of carbon dioxide equivalent emissions each year. Covered facilities must keep their emissions below a legislated baseline or purchase Australian carbon credit units to make up the difference. Baselines are intended to accommodate business growth and allow businesses to continue normal operations.

The Safeguard Mechanism was amended in March 2019 to make it fairer and simpler.<sup>2</sup> Those amendments:

1. allow facilities to update baselines using more up-to-date information;
2. give businesses the option of using standardised Government-determined prescribed 'production variables' (which define what is produced at Safeguard facilities) and associated default emissions-intensity values for calculating baselines; and
3. allow baselines to adjust annually with production so they keep pace with business growth.

The March 2019 amendments established a transition period that covers the 2018-19 and 2019-20 compliance years. All facilities can apply for a transitional calculated baseline during this period and they have the option to use either:

- **default values:** Government-determined prescribed production variables and default emissions intensity values (collectively referred to as 'default values'); or

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<sup>1</sup> Which is referred to as the "*Safeguard Mechanism document*" in the exposure draft of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables) Rule 2020*.

<sup>2</sup> Explanatory information for the March 2019 Rule amendment is available at: <https://www.environment.gov.au/climate-change/government/emissions-reduction-fund/consultation/safeguard-mechanism-legislative-amendments-2018>

- **estimated (site-specific) values:** which take account of individual facility circumstances, either as a site-specific production variable or a site-specific 'estimated' emissions intensity value.

At the end of the transition period, reported (historical) baselines will expire for all facilities except grid-connected electricity generators. If a facility (other than a grid-connected generator) does not apply for a new baseline, it will receive a default baseline of 100,000 tonnes of CO<sub>2</sub>-e from 2020-21.

It is not intended that facilities will apply for a transitional calculated baseline from 2020-21. The legislation does not prevent them for doing so, but if they do, they must use Government-determined prescribed production variables and default emissions intensity values.

Amendments made to the Safeguard Rule in September 2019 extend the application deadline for calculated-emissions baselines starting in the 2018-19 compliance year.<sup>3</sup> The deadline extension is available to facilities on a multi-year monitoring period that includes the 2018-19 and 2019-20 compliance years. The September 2019 amendments also allows facilities to access the transitional calculated baseline criteria a second time from the 2019-20 year in order to adopt one or more additional prescribed production variables.

In October 2019, the *National Greenhouse and Energy Reporting Regulations 2008* were amended to support the March 2019 amendments to the Safeguard Rule, to allow facilities whose baseline depends upon annual production levels to report the relevant production as part of their standard annual reporting. Although the requirement to report annual production for certain baselines is already a feature of the Safeguard Rule, this helps ensure that all information necessary for the annual calculation of a facility's baseline is included in their annual report provided to the Clean Energy Regulator.

### **Safeguard Rule amendments**

These draft amendments insert the Government-determined prescribed production variables and corresponding default emissions intensity values into Schedules 2 and 3 of the Safeguard Rule. They also contain minor changes to provide guidance on how to prepare an estimated-emissions intensity calculation under the amendments, and amend the inherent emissions variability criteria to allow up to two calculated emissions baseline determinations to have been made before the inherent emissions variability criteria is used.

The default values have been developed by the Department of the Environment and Energy in close consultation with industry. They have been developed in line with *The Framework for developing default production variables and emissions intensity values*

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<sup>3</sup> Explanatory information for the September 2019 Rule amendment is available at: <https://www.environment.gov.au/climate-change/government/emissions-reduction-fund/consultation/safeguard-mechanism-rule-amendment-extension>

(the Framework), which was publicly consulted on as part of the consultation for the March 2019 amendments to the Safeguard Rule.<sup>4</sup>

Default values can simplify baseline applications, reduce auditing costs, and allow baselines to adjust annually with a facility's level of production, ensuring baselines keep pace with business growth.

Production variables have been prepared for the majority of Safeguard Mechanism facilities. The remaining production variables will be defined over the coming months with a view to publishing them in the second quarter of 2019 for use in 2019-20 applications, which are due on 31 October 2020. Some prescribed production variables in the mining, oil and gas sectors are included without a corresponding default emissions intensity value. Default emissions intensity values for these sectors will be developed in consultation with industry as data becomes available, for later inclusion in the Safeguard Rule.

The default values for each sector have been assessed by independent technical experts, and reviewed by an external consultant to ensure the Framework principles have been applied consistently within and between sectors.

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<sup>4</sup> Defaults Framework available at Appendix A of this document:  
<https://www.environment.gov.au/system/files/consultations/56b64cc6-6455-4aa1-9b72-d00b7e09bfb3/files/safeguard-mechanism-rule-amendment-explanatory-document.pdf>

**Table 1: indicative timeline and important dates**

Date(s)	Item description	Safeguard Rule legislative reference (if applicable)
20 December 2019 – 28 January 2020	Consultation on draft Safeguard Amendment Rule.	<a href="#">Exposure draft</a>
February 2020*	Amendment Rule made, takes effect 1 day after Rule is registered. Post-amendments, facilities can apply for a production-adjusted baseline providing they use both prescribed (annually adjusted) production variables and default emissions-intensities.	40 (1) (ab)
15 April 2020	Deadline for applications for a transitional calculated emissions baseline commencing financial year 2018/19, for facilities on a multi-year monitoring period that covers at a minimum the 2018-19 and 2019-20 compliance years.	22 (6)
Current - to mid 2020*	Development and consultation of remaining prescribed production variables and default emissions intensity values in consultation with industry, for inclusion in Rule through second Amendment Rule.	N/A
31 October 2020	Deadline for transitional calculated-emissions baseline applications commencing financial year 2019/20.	22 (3) (b)

\*Indicative date

### Exposure draft package

This exposure draft package includes three documents:

- [Exposure draft \*National Greenhouse and Energy Reporting \(Safeguard Mechanism\) Amendment \(Prescribed Production Variables\) Rule 2020\*](#);
- [Safeguard Mechanism: Prescribed production variables and default emissions intensities document](#); and
- this explanatory document.

The *Safeguard Mechanism: Prescribed production variables and default emissions intensities* document defines the scope of each production variable. It provides detailed information on the types of emissions included in and excluded from the default emissions intensity calculations. Businesses can use it to understand which emissions sources can and cannot be used in the preparation of an estimated (site-specific) emissions intensity value for a prescribed production variable. The inclusions and exclusions document contains the same prescribed production variable definition information as in Schedules 2 and 3 to the Safeguard Rule.

## Submissions

The draft legislative amendments have been released for public comment for a six week period, until 28 January 2020.

Submissions are invited from interested stakeholders. Where possible, submissions should be lodged electronically using the [coversheet](#) on the Department's website to the email address below. The submission and coversheet should be provided as separate files.

**Submissions may be made publicly available.** If a stakeholder wishes their submission (or extracts of a submission) to be kept confidential, this should be indicated in the submission.

Submissions should be sent to:

Email: [Safeguard.Mechanism@environment.gov.au](mailto:Safeguard.Mechanism@environment.gov.au)

By 28 January 2020 at 5pm AEDT.

## Summary of draft amendments

### Schedule 1 – Amendments

#### *Guidance on estimated (site-specific) emissions intensity calculations*

This Part amends the emissions-intensity calculation criteria to provide guidance on how an estimated (site-specific) emissions intensity must be prepared. It is intended to prevent the double counting of emissions in cases where a facility uses a combination of default and estimated (site-specific) values.

Paragraph 6(1)(a) is amended to refer to the modified subsection 6(8A) and the new subsection 6(8B), which together specify which emissions can be included in the calculation of an estimated (site-specific) emissions-intensity value.

Where an estimated (site-specific) emissions intensity value is paired with a prescribed production variable in a baseline application, the estimated (site-specific) emissions-intensity value can use either:

- the same sources of emissions included in the default emissions-intensity value for the prescribed production variable; or
- if there is no default emissions intensity for the prescribed production variable, the sources of emissions used to calculate the estimated (site-specific) emissions intensity value are limited to those considered relevant to the prescribed production variable. These sources of emissions are set out in the

*Safeguard Mechanism: Prescribed production variables and default emissions intensities* document.

The estimated (site-specific) emissions intensity value can also include minor emissions sources that were not considered in the development of the default emissions intensity value, or considered in the development of the prescribed production variable, and that together are unlikely to exceed 10 per cent of the covered emissions of the facility.

New subsection 6(8B) sets out that where a baseline application combines default emissions intensities and estimated (site-specific) emissions intensities, the emissions sources used to develop the emissions intensity values must not overlap.

*Inherent emissions variability criteria*

The amendment to paragraph 25(6) would ensure that applying for a transitional calculated baseline will not affect future eligibility under the inherent emissions variability criteria.

Section 25(6) specifies that a facility cannot access the inherent emissions variability criteria if it has had more than one calculation-emissions baseline determination. This amendment clarifies that this section does not apply to baseline determinations made on the basis of the transitional calculated baseline criteria. It does this by listing the calculated baseline criteria that are relevant to this section. It refers to 'one or more of the following criteria' because a single calculated baseline application can satisfy more than one set of criteria.

## **Schedule 2 – Prescribed (Annually Adjusted) Production Variables**

Schedule 2 contains prescribed (annually adjusted) production variables. A baseline set using prescribed (annually adjusted) production variables can update automatically for annual production changes.

This will occur after a calculated-emissions baseline is replaced with a production-adjusted baseline<sup>5</sup>. In most cases, a facility's baseline will be entirely comprised of annually adjusted (Schedule 2) production variables, so the whole baseline will adjust annually with production.

However, there may be circumstances where a facility's baseline is comprised of:

- a mix of annually adjusted (published in Schedule 2) and fixed (published in Schedule 3 or a site-specific production variable that is not materially the same<sup>6</sup> as a *prescribed (annually-adjusted) production variable*) production variables; or
- entirely fixed production variables (published in Schedule 3).

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<sup>5</sup> Or if a facility applies for a production adjusted baseline that exclusively uses Schedule 2 prescribed production variables and default emissions intensity values.

<sup>6</sup> Unless the Regulator approves otherwise in writing (refer subsection 5 (1B) of the Safeguard Rule).

In these cases, only the component of the baseline that is formed using prescribed (annually adjusted) production variables (published in Schedule 2) will adjust with actual production.

A responsible emitter can apply to the Clean Energy Regulator for a production-adjusted baseline that uses prescribed (annually adjusted) production variables starting from the 2018-19 compliance year, depending on the nature of the production variables and emissions intensity values used.

### ***Part 1 – Preliminary***

This Part explains that the purpose of Schedule 2 is to set out the prescribed (annually adjusted) production variables.

The common structure of the remaining parts is described. The prescribed (annually adjusted) production variables are described using a defined metric. The metric could contain a standard volume, mass or energy unit (e.g. kilolitres, tonnes, gigajoules) and may specify minimum chemical or physical properties, or other conditions that must be met to be considered to be producing that production variable.

In order to use a prescribed (annually adjusted) production variable, that production variable must be applicable to a facility—i.e. the facility must produce the product or undertake the service represented by the production variable.

The default emissions intensity for the production variable metric is specified in tonnes of carbon dioxide equivalent (t CO<sub>2</sub>-e) for every unit of the production variable metric.

Where necessary, the remaining parts include specific measurement requirements or requirements for supporting information to be provided that are relevant to a prescribed (annually adjusted) production variable.

Responsible emitters are referred to the *Safeguard Mechanism: Prescribed production variables and default emissions intensities* document for an explanation of the relevant emissions sources included in the default emissions intensity calculation.

New definitions are included for terms used in the Schedule.

### ***Parts 2 to 26 – Prescribed production variables***

The remaining parts of Schedule 2 contain the prescribed (annually adjusted) production variables. Some are grouped into a set of prescribed production variables relating to a particular industry using Divisions. For example, Part 7 contains 10 Divisions relating to production variables from steel manufacturing. Others have a separate part for each production variable, for example Part 3 Aluminium and Part 4 Alumina.

The metric for each prescribed (annually adjusted) production variable is defined.

Default emissions intensity values accompany many of the production variables, with the exception of those in the mining, chemicals, oil and gas sectors. The remaining default emissions intensities will be included in an amendment at a later date.

Placeholder text ('XX') is included in the exposure draft amendment instrument for default emissions intensities that are to be included in the Safeguard Rule at a later date (for the mining, chemicals, oil and gas sectors). This is to signify the location of the default emissions intensity values for these prescribed production variables. This placeholder text will be removed before the amendment instrument is made.

### **Schedule 3 - Prescribed (Fixed) Production Variables**

Schedule 3 contains prescribed (fixed) production variables. A production adjusted baseline set using prescribed (fixed) production variables remains fixed into the future.

A production-adjusted baseline replaces and updates a calculated-emissions baseline with actual production levels. In the case of prescribed (fixed) production variables, this is a once-off true up for the highest level of production over the forecast period and the baseline remains fixed thereafter.

A baseline may be comprised of entirely prescribed (fixed) production variables, or some mix of prescribed (fixed) and prescribed (annually adjusted) production variables. Only the component of the baseline that is formed using prescribed (fixed) production variables will remain fixed and not change into the future.

Similar to Schedule 2, the common structure of the remaining part is described. The prescribed (fixed) production variable is described using a defined metric. The metric could contain a standard volume, mass or energy unit (e.g. kilolitres, tonnes, gigajoules) and may specify minimum chemical or physical properties, or other conditions that must be met to be considered to be producing that production variable.

In order to use a prescribed (fixed) production variable, that production variable must be applicable to a facility—i.e. the facility must produce the product or undertake the service represented by the production variable.

The default emissions intensity for the production variable metric is specified in tonnes of carbon dioxide equivalent (t CO<sub>2</sub>-e) for every unit of the production variable metric.

The remaining parts may include specific measurement requirements or requirements for supporting information to be provided that are relevant to a prescribed (fixed) production variable.

Responsible emitters are referred to the *Safeguard Mechanism: Prescribed production variables and default emissions intensities* document for an explanation of the relevant emissions sources included in the default emissions intensity calculation.

New definitions are included for terms used in the Schedule.



## Worked examples

The March 2019 amendments provide responsible emitters with a number of options when preparing a calculated baseline application using the transitional calculated baseline criteria. The following examples are included for guidance purposes, they are indicative and are not exhaustive.

### ***Example 1: Baseline comprising multiple prescribed production variables and default emissions intensity values***

Facility A produces three outputs: Output 1, Output 2 and Output 3. Each of these is a prescribed (annually adjusted) production variable listed in Schedule 2.

Facility A chooses to use the three prescribed (annually adjusted) production variables and their default emissions intensity values. This combination of electing to use only prescribed (annually adjusted) production variables and their default emissions intensity values means Facility A can move directly onto a production adjusted (annually adjusted) baseline (refer subparagraph 40(1)(ab)(iii)).

Facility A makes an application for a production adjusted (annually adjusted) baseline as follows:

$$\text{Baseline}_t = Q_{(1,t)} \times EI_1 + Q_{(2,t)} \times EI_2 + Q_{(3,t)} \times EI_3$$

Where:

- $\text{Baseline}_t$  is the production adjusted baseline for Facility A in any year  $t$
- $Q_{(1,t)}$  is the quantity of prescribed (annually adjusted) production variable Output 1 in year  $t$
- $EI_1$  is the default emissions intensity for Output 1
- $Q_{(2,t)}$  is the quantity of prescribed (annually adjusted) production variable Output 2 in year  $t$
- $EI_2$  is the default emissions intensity for Output 2
- $Q_{(3,t)}$  is the quantity of prescribed (annually adjusted) production variable Output 3 in year  $t$
- $EI_3$  is the default emissions intensity for Output 3

**Example 2: Baseline comprising a prescribed production variable and an estimated emissions intensity**

Facility B produces two outputs: B1 and B2. The prescribed production variables for outputs B1 and B2 are Schedule 2 annually adjusted production variables.

Facility B prepares a calculated baseline application under the transitional calculated baseline criteria. Facility B applies for the calculated emissions baseline to start on 1 July 2019, meaning they have the option under subparagraph 27(1)(d)(i)(A) of using an estimated emissions intensity.

Facility B chooses to adopt the default emissions intensity value for B1, and prepare an estimated (site specific) emissions intensity for B2.

Facility B's calculated emissions baseline would be prepared based on:

$$\text{Calculated emissions baseline} = Q_{(B1,f)} \times EI_{B1} + Q_{(B2,f)} \times EI_{(B2,f)}$$

Where:

- Calculated emissions baseline is the calculated emissions baseline for Facility B
- $Q_{(B1,f)}$  is a forecast of the highest production quantity of prescribed (annually adjusted) production variable B1 over the three year calculated emissions baseline period<sup>7</sup>
- $EI_{B1}$  is the default emissions intensity for B1
- $Q_{(B2,f)}$  is a forecast of the highest production quantity of prescribed (annually adjusted) production variable B2 over the three year calculated emissions baseline period
- $EI_{B2}$  is Facility B's estimated emissions intensity for B2 for the forecast year of highest production

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<sup>7</sup> Some facilities may be eligible for a five year baseline period.

**Example 3: Baseline comprising a site specific production variable and estimated emissions intensity**

***(Hypothetical example: there are no Safeguard facilities producing kelp or sea lettuce. This is illustrative only, there is no prescribed production variable for the output of 'kelp'.)***

Facility C produces two outputs: kelp and sea lettuce.

A prescribed production variable has been made for the commercial production of kelp, however there is no prescribed production variable for sea lettuce. Facility C is the only Australian producer of sea lettuce.

In any one year, the production of sea lettuce contributes between 10 to 20 per cent of Facility C's total emissions.

Facility C prepares a calculated baseline application using the transitional calculated baseline criteria. Facility C applies for the calculated emissions baseline to start on 1 July 2019, meaning they have the option under paragraph 26A(5) of using a production variable that is not a prescribed production variable.

Facility C refers to the *Safeguard Mechanism: Prescribed production variables and default emissions intensities* document to understand the emissions sources included in the default emissions intensity value for kelp. Facility C apportions its total facility emissions between the production of kelp and the production of sea lettuce. Facility C takes care to ensure the only emissions attributed to the production of sea lettuce are emissions that are relevant to the production of sea lettuce and are not counted in the default emissions intensity value for the production of kelp.

Facility C's calculated emissions baseline is prepared as follows:

$$\text{Calculated emissions baseline} = Q_{(\text{kelp},f)} \times EI_{\text{kelp}} + Q_{(\text{sea lettuce},f)} \times EI_{(\text{sea lettuce},f)}$$

Where:

- Calculated emissions baseline is the calculated emissions baseline for Facility C
- $Q_{(\text{kelp},f)}$  is a forecast of the highest production quantity of prescribed (annually adjusted) production variable kelp over the three year calculated emissions baseline period
- $EI_{\text{kelp}}$  is the default emissions intensity for kelp
- $Q_{(\text{sea lettuce},f)}$  is a forecast of the highest production quantity of the site specific production variable of sea lettuce over the three year calculated emissions baseline period
- $EI_{\text{sea lettuce}}$  is Facility C's estimated emissions intensity for sea lettuce for the forecast year of highest production

**Example 4: Baseline comprising Schedule 2 and 3 production variables**

**(Hypothetical example: there are no Safeguard facilities producing staticum. This is illustrative only, there is no prescribed production variable for the output of 'staticum'.)**

Facility D manufactures staticum and also generates electricity on-site. It currently has a reported baseline, and is applying for a calculated emissions baseline for the 2019-20 compliance year using one estimated (site-specific) and one default emissions intensity value. The prescribed production variables applicable to Facility D are staticum which is a fixed (Schedule 3) production variable and electricity generation (which is a Schedule 2 production variable).

Facility D estimates its highest production of its primary production variable, staticum, will occur in 2020-21. It estimates the production level will be 200,000 tonnes, and the estimated emissions intensity is 0.6 t CO<sub>2</sub>-e/tonne of staticum. It also estimates it will generate 100 MWh of electricity in 2020-21. The default emissions intensity for electricity generation is 0.538 t CO<sub>2</sub>-e/MWh. The facility's calculated baseline will be 120,054 t CO<sub>2</sub>-e, calculated below:

$$\begin{array}{lclcl} \text{Calculated baseline} & = & \text{staticum} & + & \text{electricity generation} \\ 120,054 \text{ t CO}_2\text{-e} & = & (200,000 \times 0.6) & & (100 \times 0.538) \end{array}$$

After the three year calculated baseline period of 2019-20 to 2021-22, Facility D's actual highest production of staticum was 250,000 tonnes, with an electricity generation level of 120 megawatts.

Facility D applies for a production-adjusted baseline to start from 1 July 2022. Facility D elects to continue to use its estimated emissions intensity value for staticum. Facility D's baseline will be a combination of a fixed component from staticum, and an annually-adjusting component from electricity generation.

In 2022-23, Facility D generated 120 MWh of electricity. Its production-adjusted baseline was 150,065 t CO<sub>2</sub>-e:

$$\begin{array}{lclcl} \text{Production-adjusted baseline} & = & \text{staticum} & + & \text{electricity generation} \\ 150,065 \text{ t CO}_2\text{-e} & = & (250,000 \times 0.6) & & (120 \times 0.538) \end{array}$$

In 2023-24, Facility D generated 105 MWh of electricity. Its production-adjusted baseline was 150,058 t CO<sub>2</sub>-e:

$$\begin{array}{lclcl} \text{Production-adjusted baseline} & = & \text{staticum} & + & \text{electricity generation} \\ 150,056 \text{ t CO}_2\text{-e} & = & (250,000 \times 0.6) & & (105 \times 0.538) \end{array}$$