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| **EXPOSURE DRAFT** |

Safeguard Mechanism Legislation Amendment (2023 Measures No. 1) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2023

David Hurley

Governor‑General

By His Excellency’s Command

Chris Bowen **[DRAFT ONLY—NOT FOR SIGNATURE]**

Minister for Climate Change and Energy

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1 Name

This instrument is the *Safeguard Mechanism Legislation Amendment (2023 Measures No. 1) Regulations 2023*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. |  |
| 2. Schedule 1 | The later of:  (a) the day after this instrument is registered; and  (b) at the same time as the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023* commences.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. |  |
| 3. Schedule 2 | The later of:  (a) the day after this instrument is registered; and  (b) immediately after the commencement of the *Safeguard Mechanism (Crediting) Amendment Act 2023*.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. |  |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following Acts:

(a) the *Australian National Registry of Emissions Units Act 2011*;

(b) the *National Greenhouse and Energy Reporting Act 2007*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments relating to the National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023

National Greenhouse and Energy Reporting Regulations 2008

1 Regulation 1.03 (definition of *benchmark‑emissions baseline determination*)

Repeal the definition.

2 Regulation 1.03

Insert:

***eligible facility*** has the same meaning as in the Safeguard Mechanism Rule.

3 Regulation 1.03

Repeal the following definitions:

(a) definition of ***prescribed (annually adjusted) production variable***;

(b) definition of ***production‑adjusted baseline determination***.

4 Regulation 1.03

Insert:

***production variable***, for a facility, has the same meaning as in the Safeguard Mechanism Rule.

5 Regulations 4.23C and 4.23D

Repeal the regulations, substitute:

4.23C Reporting quantities of production variables used to calculate baseline emissions number

(1) This regulation applies in relation to a designated large facility or an eligible facility, other than a landfill facility, to which the report relates.

(2) The report must include, for each production variable that is to be referred to in calculating the baseline emissions number for the facility for the reporting year:

(a) the quantity of the production variable produced by the facility in the reporting year, or part of the reporting year, to which the report relates; and

(b) any supporting information specified in Schedule 1 to the Safeguard Mechanism Rule that applies to the calculation of that quantity.

(3) The quantity of a production variable included in the report under paragraph (2)(a) must:

(a) be measured using the units specified in Schedule 1 to the Safeguard Mechanism Rule that apply in relation to the variable; and

(b) meet any measurement requirements or procedures specified in that Schedule that apply in relation to the variable.

6 In the appropriate position in Part 7

Insert:

Division 7.8—Application provisions relating to the Safeguard Mechanism Legislation Amendment (2023 Measures No. 1) Regulations 2023

7.19 Application

Despite the amendments of regulations 4.23C and 4.23D made by the *Safeguard Mechanism Legislation Amendment (2023 Measures No. 1) Regulations 2023*, those regulations, as in force immediately before the commencement of this Division, continue to apply in relation to a report under Part 3, 3E or 3F of the Act for a financial year that ends on or before 30 June 2023.

Schedule 2—Amendments relating to the Safeguard Mechanism (Crediting) Amendment Act 2023

Australian National Registry of Emissions Units Regulations 2011

1 At the end of subregulation 27(1)

Add:

; and (d) there are no entries for any safeguard mechanism credit units in the account.

2 Paragraph 28(3)(b)

Omit “(4) and (5)”, substitute “(4), (5) and (7)”.

3 At the end of subregulation 28(3)

Add:

; and (c) setting out the effect of any legislative rules made for the purposes of subsection 16(5) of the Act.

National Greenhouse and Energy Reporting Regulations 2008

4 Part 4A

Repeal the Part.