

EXPOSURE DRAFT



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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

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules	2
Schedule 1—Amendments relating to the National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023		3
	<i>National Greenhouse and Energy Reporting Regulations 2008</i>	3
Schedule 2—Amendments relating to the Safeguard Mechanism (Crediting) Amendment Act 2023		5
	<i>Australian National Registry of Emissions Units Regulations 2011</i>	5
	<i>National Greenhouse and Energy Reporting Regulations 2008</i>	5

EXPOSURE DRAFT

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 <i>National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023</i> 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 <i>Safeguard Mechanism (Crediting) Amendment Act 2023</i> . 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Note: This table relates only to the provisions of this instrument as originally made.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*.

EXPOSURE DRAFT

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.

EXPOSURE DRAFT

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

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

EXPOSURE DRAFT

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

- (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.

EXPOSURE DRAFT

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

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.