



National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023

I, Chris Bowen, Minister for Climate Change and Energy, make the following rules.

Dated 3 May 2023

Chris Bowen
Minister for Climate Change and Energy

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
	<i>National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015</i>	2

1 Name

This instrument is the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 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. The whole of this instrument	1 July 2023.	1 July 2023

Note: This table relates only to the provisions of this instrument as originally made.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 section 22XS of 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015

1 Section 4

Insert:

accelerated depreciation factor has the meaning given by subsection 37(6).

amount includes a nil amount.

assessed cost impact, for a facility for a financial year, has the meaning given by section 36.

Australian accounting standards means the accounting standards in force under section 334 of the *Corporations Act 2001*.

Note: In 2023, the Australian accounting standards were accessible at <http://www.aasb.gov.au>.

2 Section 4

Repeal the following definitions:

- (a) definition of ***baseline determination***;
- (b) definition of ***baseline intensity comparison year***;
- (c) definition of ***benchmark-emissions baseline determination***;
- (d) definition of ***Benchmark Emissions-Intensity Index***.

3 Section 4

Insert:

best practice emissions intensity, for a production variable for a financial year, means the best practice emissions intensity (if any) specified, in t CO₂-e per unit of the production variable, in relation to the production variable in Schedule 1 as in force at:

- (a) if the financial year is the financial year beginning on 1 July 2023—the end of the financial year; or
- (b) otherwise—the start of the financial year.

best practice emissions intensity number, for a production variable for a financial year, means the number that is equal to the best practice emissions intensity for the production variable for that financial year.

Example: If the best practice emissions intensity for a tonne of glass in the financial year beginning on 1 July 2024 is 0.6 t CO₂-e per tonne of glass, the best practice emissions intensity number for a tonne of glass in that financial year is 0.6.

borrowing adjustment, for a facility for a financial year, has the meaning given by section 47.

borrowing adjustment determination means a determination made under section 50.

borrowing adjustment number, for a facility for a financial year: see subsection 50(3).

4 Section 4 (definition of *calculated-emissions baseline determination*)

Repeal the definition.

5 Section 4

Insert:

comparative production variable, for a related production variable, has the meaning given by paragraph 19(4)(b).

decision date, for an application under Part 3, has the meaning given by subsection 52(2).

default decline rate, for a financial year, has the meaning given by section 32.

6 Section 4 (definition of *default emissions intensity*)

Repeal the definition.

7 Section 4

Insert:

default emissions intensity, for a production variable for a financial year, means the default emissions intensity specified, in t CO₂-e per unit of the production variable, in relation to the production variable in Schedule 1 as in force at the start of that financial year.

default emissions intensity number, for a production variable for a financial year, means the number that is equal to the default emissions intensity of the production variable.

Example: If the default emissions intensity for a tonne of glass in the financial year beginning on 1 July 2024 is 0.8 t CO₂-e per tonne of glass, the default emissions intensity number for a tonne of glass in that financial year is 0.8.

default emissions reduction contribution, for a financial year, has the meaning given by section 31.

designated historical information, about a historical production variable for a facility, has the meaning given by subsection 14(5).

8 Section 4 (definition of *details*)

Repeal the definition.

9 Section 4

Insert:

details, in relation to a declaration under this instrument, includes:

- (a) the type of declaration; and
- (b) the facility to which the declaration relates; and
- (c) the responsible emitter for the facility to which the declaration relates; and
- (d) the start and any end date of the declaration; and
- (e) if the declaration is being varied—the nature of that variation.

due date, for an application under Part 3, has the meaning given by subsection 52(1).

EBIT Guidelines has the meaning given by subsection 37(7).

eligible facility, for a financial year, has the meaning given by section 58B.

10 Section 4 (definition of *emissions-intensity calculation criteria*)

Repeal the definition.

11 Section 4

Insert:

emissions intensity determination means:

- (a) a determination made under section 19; or
- (b) a successor determination.

12 Section 4 (definition of *emissions intensity test*)

Repeal the definition.

13 Section 4

Insert:

emissions reduction contribution:

- (a) for a regular facility for a financial year—has the meaning given by section 33; or
- (b) for a trade-exposed baseline-adjusted facility for a financial year—has the meaning given by section 34.

14 Section 4 (definition of *estimated emissions intensity*)

Repeal the definition.

15 Section 4

Insert:

existing facility has the meaning given by subsection 12(1).

facility-specific emissions intensity number:

- (a) of a historical production variable for a facility—has the meaning given by subsection 20(1); or
- (b) of a related production variable for a facility—has the meaning given by subsection 20(5); or
- (c) of a transitional production variable for a facility—has the meaning given by subsection 20(6).

first adjusted financial year, for a facility, has the meaning given by subsection 36(6).

16 Section 4 (definition of *fixed proportion*)

Repeal the definition.

17 Section 4

Insert:

historical financial year has the meaning given by subsection 12(3).

historical production variable, for a facility, has the meaning given by subsection 12(2).

hypothetical baseline, of a facility for a financial year, has the meaning given by subsection 36(7).

18 Section 4

Repeal the following definitions:

- (a) definition of *inherent emissions variability criteria*;
- (b) definition of *initial calculated baseline criteria*;
- (c) definition of *inter-state transport facility*;
- (d) definition of *landfill baseline determination*;
- (e) definition of *landfill baseline emissions formula*;
- (f) definition of *large new facility*.

19 Section 4

Insert:

manufacturing facility: a facility is a *manufacturing facility* in a financial year if the primary production variable for the facility in the financial year is a manufacturing production variable.

manufacturing production variable means a production variable that is listed in the table in section 1 of Schedule 2.

new facility has the meaning given by subsection 29(2).

20 Section 4 (definition of new facility criteria)

Repeal the definition.

21 Section 4

Insert:

non-commercial production variable, for a facility for a financial year, has the meaning given by subsection 12(5).

22 Section 4

Repeal the following definitions:

- (a) definition of *output variable*;
- (b) definition of *prescribed (annually adjusted) production variable*;
- (c) definition of *prescribed (fixed) production variable*;
- (d) definition of *prescribed production variable*.

23 Section 4 (definition of primary production variable)

Repeal the definition, substitute:

primary production variable, for a facility, means:

- (a) if there is only one production variable for the facility—that production variable; or
- (b) if there are 2 or more production variables for the facility—the production variable that is most significant for the operation of the facility, having primary regard to the share of revenue and covered emissions directly or indirectly attributable to that production variable.

24 Section 4

Repeal the following definitions:

- (a) definition of **production-adjusted baseline determination**;
- (b) definition of **production assessment period**;
- (c) definition of **production estimation period**;
- (d) definition of **production variable**.

25 Section 4

Insert:

production variable, for a facility, means a production variable that is applicable to the facility in accordance with Schedule 1.

production variable means a metric that is set out in a Part of Schedule 1.

quantity, of a production variable for a facility for a financial year, means the number of units of the production variable for the facility for that financial year.

Example: If a facility produces 500 tonnes of glass in a financial year, the quantity of tonnes of glass for that financial year is 500.

ratio of cost impacts, for a facility for a financial year, has the meaning given by section 35.

regular facility: a facility that is not a trade-exposed baseline-adjusted facility in a financial year is a **regular facility** in that financial year.

related production variable, for a facility, has the meaning given by paragraph 19(4)(a).

26 Section 4

Repeal the following definitions:

- (a) definition of **relevant benchmark emissions intensity**;
- (b) definition of **relevant earlier estimates**.

27 Section 4

Insert:

relevant historical financial year, for a production variable, has the meaning given by subsection 20(3).

relevantly associated with has the meaning given by section 16.

28 Section 4 (definition of **reported-emissions baseline determination**)

Repeal the definition.

29 Section 4

Insert:

responsible financial officer, of a responsible emitter for a facility, means any of the following:

- (a) if the person with operational control of the facility is an individual—that person;
- (b) a person who holds or performs the duties of the position of the chief executive officer, chief financial officer or chief operating officer for the person with operational control of the facility;
- (c) a person who holds or performs the duties of a position with equivalent or similar responsibilities to a person with a position in paragraph (b);
- (d) an individual employed by the person with operational control of the facility who:
 - (i) makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or affairs of the person; or
 - (ii) has the capacity to significantly affect the person's financial standing.

Safeguard Mechanism default prescribed unit price, for a financial year, has the meaning given by section 38.

shale gas extraction facility has the meaning given by section 54.

significant cost impact threshold, for a facility, has the meaning given by subsection 35(4).

30 Section 4 (definition of *significant expansion criteria*)

Repeal the definition.

31 Section 4

Insert:

successor determination means a determination made under section 24.

trade-exposed baseline-adjusted facility: a facility is a **trade-exposed baseline-adjusted facility** in a financial year if it is determined to be a trade-exposed baseline-adjusted facility in that financial year under section 42.

trade-exposed production variable means a production variable that is listed in a table in Schedule 2.

32 Section 4 (definition of *transitional calculated baseline criteria*)

Repeal the definition.

33 Section 4

Insert:

transitional production variable, for a facility, has the meaning given by subsection 12(4).

transition proportion, for a financial year, has the meaning given by section 13.

34 Sections 5 and 6

Repeal the sections.

35 At the end of section 7

Add:

Emissions not included as emissions from grid-connected electricity generators

- (3) For the purposes of paragraph (1)(c), emissions of one or more greenhouse gases from the operation of a grid-connected electricity generator in respect of a sectoral-baseline financial year do not include:
- (a) fugitive emissions from coal mining (within the meaning of the NGER (Measurement) Determination); or
 - (b) emissions from fuel combustion for the purposes of coal mining; or
 - (c) emissions covered by Chapter 2 (fuel combustion) of the NGER (Measurement) Determination that are not for electricity generation or cogeneration.

36 Part 3

Repeal the Part, substitute:

Part 3—Baseline emissions number

Division 1—General

9 Baseline emissions number—main rule

- (1) Unless otherwise provided, the provisions of this Part are made for the purposes of subsection 22XL(1) of the Act.
- (2) The baseline emissions number for a facility for a financial year is ascertained in relation to the facility in accordance with Divisions 2 to 7 of this Part.
- (3) Subsection (2) has effect subject to section 10.

10 Baseline emissions number—special rules

Minimum baseline

- (1) The baseline emissions number for a facility for a financial year is 100,000 if:
 - (a) the baseline emissions number for the facility for the financial year that is ascertained in accordance with Divisions 2 to 7 of this Part is a number less than 100,000; and
 - (b) that number is not less than 100,000 merely because of a borrowing adjustment for the facility for the financial year.

Note: This means that the baseline emissions number for a facility for a financial year can be less than 100,000 if there is a sufficiently large borrowing adjustment for the facility for that financial year.

Zero baseline for shale gas extraction facilities

- (2) The baseline emissions number for a facility for a financial year is zero if the facility is a shale gas extraction facility.

Zero baseline from 2050

- (3) The baseline emissions number for a facility for a financial year that begins after 30 June 2049 is zero.

Division 2—Existing facilities**Subdivision A—Baseline emissions number for existing facility****11 Baseline emissions number for existing facility**

- (1) The baseline emissions number for an existing facility (other than a landfill facility) for a financial year is the number worked out using the following formula:

$$ERC \times \left(\sum_p (hEI_p + (1 - h)EI_{F,p}) \times Q_p + EI_{B,p} \times Q_{B,p} \right) + BA$$

where:

ERC is the emissions reduction contribution for the facility for the financial year.

p is a production variable for the facility for the financial year.

h is the transition proportion for the financial year.

EI, in relation to a production variable for the facility for the financial year, is the default emissions intensity number of the production variable for the financial year.

Note: The default emissions intensity number of tonnes of reservoir carbon dioxide from new gas fields is zero (see section 35A of Schedule 1).

EI_F, in relation to a production variable for the facility for the financial year, is:

- (a) if an emissions intensity determination that applies in relation to the facility for the financial year specifies a facility-specific emissions intensity number of the production variable—that number; or
- (b) otherwise—0.

Q, in relation to a production variable for the facility for the financial year, is:

- (a) if an emissions intensity determination that applies in relation to the facility for the financial year specifies a facility-specific emissions intensity number of the production variable—the quantity of the production variable for the facility for the financial year; or
- (b) otherwise—0.

EI_B, in relation to a production variable for the facility for the financial year, is:

- (a) if there is a best practice emissions intensity number for the production variable for the financial year—that number; or
- (b) otherwise—the default emissions intensity number for the production variable for the financial year.

Note: The best practice emissions intensity number of tonnes of reservoir carbon dioxide from new gas fields is zero (see section 35A of Schedule 1).

Q_B , in relation to a production variable for the facility for the financial year, is:

- (a) if an emissions intensity determination that applies in relation to the facility for the financial year specifies a facility-specific emissions intensity number of the production variable—0; or
- (b) otherwise—the quantity of the production variable for the facility for the financial year.

BA is the borrowing adjustment for the facility for the financial year.

- (2) The number worked out using the formula in subsection (1) is to be rounded to the nearest whole number (rounding up if the first decimal place is 5 or more).

12 Meaning of *existing facility*

- (1) A facility is an *existing facility* if there are one or more historical production variables or transitional production variables for the facility.
- (2) A *historical production variable*, for a facility, is a production variable that:
 - (a) was applicable to the facility, in accordance with Schedule 1, at any time during a historical financial year; and
 - (b) was not a non-commercial production variable for the facility for a historical financial year.
- (3) A *historical financial year* is:
 - (a) the financial year beginning on 1 July 2017; or
 - (b) the financial year beginning on 1 July 2018; or
 - (c) the financial year beginning on 1 July 2019; or
 - (d) the financial year beginning on 1 July 2020; or
 - (e) the financial year beginning on 1 July 2021.
- (4) A *transitional production variable*, for a facility, is a production variable that:
 - (a) was not applicable to the facility, in accordance with Schedule 1, at any time during a historical financial year; and
 - (b) was applicable to the facility, in accordance with Schedule 1, at a time during the financial year beginning on 1 July 2022; and
 - (c) was not a non-commercial production variable for the facility for the financial year beginning on 1 July 2022.
- (5) A *non-commercial production variable*, for a facility for a financial year, is a production variable that, at a time during the financial year, was applicable to the facility, in accordance with Schedule 1, merely because of testing or piloting activities undertaken at the facility.

Subdivision B—Transition proportion

13 Transition proportion

The *transition proportion* for a financial year beginning on a day specified in column 1 of an item of the following table is the number specified in column 2 of that item.

Transition proportion		
	Column 1	Column 2
Item	Financial year	Transition proportion
1	1 July 2023	0.1
2	1 July 2024	0.2
3	1 July 2025	0.3
4	1 July 2026	0.4
5	1 July 2027	0.6
6	1 July 2028	0.8
7	1 July 2029 or a later 1 July	1

Subdivision C—Emissions intensity determination

14 Application for emissions intensity determination

- (1) The responsible emitter for an existing facility may apply to the Regulator for an emissions intensity determination.
- (2) The application must be made:
 - (a) in a manner and form approved, in writing, by the Regulator; and
 - (b) before the end of the due date for the application, unless the Regulator agrees to accept the application after that date.

Note 1: For the due date for the application, see section 52.

Note 2: For withdrawal of the application, see section 53.

- (3) The application must specify:
 - (a) the first financial year in relation to which the determination would apply; and
 - (b) the historical production variables (if any) for the facility; and
 - (c) for each historical financial year—a calculation, in accordance with section 15, of the amount of covered emissions of greenhouse gases (in t CO₂-e) from the operation of the facility during the historical financial year; and
 - (d) the estimates and assumptions (if any) made in accordance with subsection 15(3); and
 - (e) the transitional production variables (if any) for the facility.
- (4) For each historical production variable for the facility, the application must, to the extent reasonably practicable, include the designated historical information about the production variable.
- (5) The following information is the **designated historical information** about a historical production variable for a facility:
 - (a) the quantity of the production variable in each historical financial year that is measured in accordance with any measurement requirements or procedures specified in Schedule 1 in relation to the production variable;

- (b) the amount of covered emissions of greenhouse gases (in t CO₂-e) relevantly associated with the production variable in each historical financial year.

Note: See the definition of *relevantly associated with* in section 16.

- (6) If the application does not include the designated historical information about a historical production variable for the facility, the application must include an explanation of why such information has not been included.
- (7) If a greenhouse gas other than carbon dioxide comprises more than 1% of the covered emissions relevantly associated with a production variable for the facility in a particular historical financial year, the application must specify the amount of that gas (in t CO₂-e).
- (8) The application may include a request for the determination to include a statement that:
 - (a) a particular production variable for the facility is a related production variable for the facility; and
 - (b) another specified production variable for the facility is the comparative production variable for that related production variable.

15 Calculating an amount of covered emissions

- (1) This section specifies requirements for the purposes of calculating an amount of covered emissions of greenhouse gases from the operation of a facility during a historical financial year.
- (2) The amount must be calculated:
 - (a) in accordance with the NGER (Measurement) Determination; and
 - (b) using the Global Warming Potentials specified for the relevant greenhouse gas in regulation 2.02 of the NGER Regulations; and
 - (c) using the same method as the method (the *most recent method*) that was used in the most recent report provided to the Regulator relating to the greenhouse gas emissions from the operation of the facility.
- (3) For the purposes of paragraph (2)(c), if:
 - (a) a report was provided to the Regulator relating to the greenhouse gas emissions from the operation of the facility during the historical financial year; and
 - (b) the report used a method other than the most recent method; estimates and assumptions may be made for the purposes of using the most recent method to calculate the amount.
- (4) In this section:

method has the same meaning as in the NGER (Measurement) Determination.

16 Covered emissions *relevantly associated with* a historical production variable

- (1) Covered emissions of greenhouse gases from the operation of a facility during a particular historical financial year are *relevantly associated with* a historical production variable for the facility in that financial year if those emissions are

attributed to the production variable for the financial year in accordance with subsection (2) or (3).

Emissions relevant to default emissions intensity

- (2) Covered emissions of greenhouse gases from the operation of a facility during a particular historical financial year that are of a particular kind are attributed to a production variable for the facility for that financial year if:
 - (a) having regard to the Safeguard Mechanism document, covered emissions of that kind are relevant to the default emissions intensity of that production variable for that financial year; and
 - (b) those emissions are not attributed to another production variable in accordance with this section.

Emissions from minor emissions sources

- (3) Covered emissions of greenhouse gases from the operation of a facility during a particular historical financial year are attributed to a production variable for the facility for that financial year if:
 - (a) the emissions come from a minor emissions source for the facility for the historical financial year; and
 - (b) the emissions fairly represent the actual emissions from the production of the production variable; and
 - (c) the emissions are apportioned to the production variable consistently with the NGER (Measurement) Determination; and
 - (d) the emissions are not apportioned to another production variable for the facility for that financial year.
- (4) In this section, a source of emissions is a **minor emissions source** for a facility in a historical financial year if the sum of the emissions from that source, and every other minor emissions source for the facility in that historical financial year, is less than 10% of the facility's total covered emissions in that financial year.

17 Application must be accompanied by safeguard audit report

- (1) This section is made for the purposes of subsection 22XQ(3) of the Act.
- (2) An application for an emissions intensity determination by the responsible emitter for an existing facility must be accompanied by an audit report that meets the requirements of this section.

Note: Under subsection 75(1) of the Act, the Minister may determine requirements to be met by registered greenhouse and energy auditors in preparing for and carrying out safeguard audits.

Reasonable assurance matters

- (3) The audit report must include a conclusion in relation to each of the following matters:
 - (a) whether, in all material respects, the application correctly specifies the historical production variables (if any) for the facility;
 - (b) if the application includes the designated historical information about a historical production variable for the facility for a historical financial year—whether, in all material respects, the application correctly specifies

- the quantity of the historical production variable in the historical financial year;
- (c) whether, in all material respects, the application correctly specifies the amount of covered emissions for the facility in each historical financial year;
- (d) whether, in all material respects, the application correctly specifies the transitional production variables (if any) for the facility.

Limited assurance matters

- (4) The audit report must include a conclusion in relation to each of the following matters:
 - (a) if the application specifies one or more historical production variables for the facility—whether, in all material respects, the application correctly specifies the amount of covered emissions of greenhouse gases from the operation of the facility that are relevantly associated with each of those production variables;
 - (b) whether, in all material respects, calculations of amounts of covered emissions of greenhouse gases from the operation of the facility that are included in the application meet the requirements specified in section 15;
 - (c) if the application includes estimates and assumptions made in accordance with subsection 15(3)—whether, in all material respects, those estimates and assumptions are reasonable.

Previously audited matters

- (5) Despite subsections (3) and (4), the audit report does not need to include a conclusion:
 - (a) about a matter in subsection (3) if the responsible emitter has previously given the Regulator an audit report that includes a reasonable assurance conclusion in relation to the matter; or
 - (b) about a matter in subsection (4) if the responsible emitter has previously given the Regulator an audit report that includes a limited assurance conclusion in relation to the matter.

18 Consideration of application

- (1) This section applies if the responsible emitter for an existing facility applies for an emissions intensity determination in accordance with this Subdivision.
- (2) Subject to subsection (4), the Regulator must take all reasonable steps to decide the application under section 19 before the end of the decision date for the application.

Note: For the decision date for the application, see section 52.

- (3) The Regulator may, by notice in writing, require the applicant to give the Regulator, within the period specified in the notice, such further information in relation to the application as the Regulator requires.
- (4) The Regulator is not required to decide the application, and may cease considering whether to decide the application, if the applicant does not provide the required information within the period specified in the notice.

19 Emissions intensity determination

- (1) If the responsible emitter for an existing facility applies for an emissions intensity determination in accordance with this Subdivision, the Regulator must decide to:
 - (a) make the determination; or
 - (b) refuse to make the determination.
- (2) The Regulator must not make the determination unless:
 - (a) the audit report that accompanies the application includes:
 - (i) a reasonable assurance conclusion, or a qualified reasonable assurance conclusion, in relation to each of the matters specified in subsection 17(3); and
 - (ii) a limited assurance conclusion, or a qualified limited assurance conclusion, in relation to each of the matters specified in subsection 17(4); and
 - (b) the Regulator is reasonably satisfied, having regard to any matter the Regulator considers relevant, that:
 - (i) the information included in the application is correct; and
 - (ii) any explanation in the application of why the designated historical information about a historical production variable for the facility has not been included in the application is reasonable; and
 - (iii) calculations of amounts of covered emissions of greenhouse gases from the operation of the facility that are included in the application meet the requirements specified in section 15; and
 - (iv) any estimates and assumptions made in accordance with subsection 15(3) and included in the application are reasonable.
- (3) The determination must be in writing and must specify:
 - (a) the facility-specific emissions intensity number of:
 - (i) any historical production variable for the facility; and
 - (ii) any transitional production variable for the facility; and
 - (iii) any related production variable for the facility; and
 - (b) the first financial year in relation to which the determination applies.
- (4) The determination may state that:
 - (a) a particular production variable for the facility is a ***related production variable*** for the facility; and
 - (b) another specified production variable for the facility is the ***comparative production variable*** for that related production variable.

Note: See Subdivision D (related production variables).
- (5) The determination:
 - (a) comes into force on the first day of the financial year specified for the purposes of paragraph (3)(b); and
 - (b) applies in relation to the facility for that financial year and each subsequent financial year.

Note: See subsection 22XQ(2) of the Act (commencement of determination).
- (6) If the Regulator makes the determination, the Regulator must:

- (a) notify the applicant for the determination that the Regulator has made the determination; and
 - (b) publish the determination on the Regulator’s website.
- (7) If the Regulator decides to refuse to make the determination, the Regulator must give the applicant for the determination a written notice of the decision that includes the Regulator’s reasons for the decision.

20 Facility-specific emissions intensity number

Historical production variables

- (1) The **facility-specific emissions intensity number**, of a historical production variable for a facility, is the number that is ascertained by dividing the total number of tonnes of carbon dioxide equivalence of covered emissions relevantly associated with the production variable in the relevant historical financial years for the production variable by the total quantity of the production variable in those financial years.
- (2) The Regulator may round the facility-specific emissions intensity number of a historical production variable for a facility to 4 or more significant figures if the Regulator considers it appropriate to do so.
- (3) If the condition specified in column 1 of an item of the following table is satisfied in relation to a historical production variable specified in an application for an emissions intensity determination, each of the historical financial years specified in column 2 of that item is a **relevant historical financial year** for that production variable.

Relevant historical financial year		
Item	Column 1 Condition	Column 2 Relevant historical financial year
1	The application includes the designated historical information about all 5 historical financial years for the historical production variable	Each of the 3 historical financial years that is not: (a) the historical financial year with the highest emissions intensity for the historical production variable; or (b) the historical financial year with the lowest emissions intensity for the historical production variable
2	The application includes the designated historical information about only 4 historical financial years for the historical production variable	Each of the 2 historical financial years that is not: (a) the historical financial year with the highest emissions intensity for the historical production variable; or (b) the historical financial year with the lowest emissions intensity for the historical production variable
3	The application includes the designated historical information about only 3 historical financial years for the historical production variable	Each of the 2 historical financial years that is not the historical financial year with the highest emissions intensity for the historical production variable

Relevant historical financial year		
Item	Column 1 Condition	Column 2 Relevant historical financial year
4	The application includes the designated historical information about only 2 historical financial years for the historical production variable	The historical financial year with the lowest emissions intensity for the historical production variable
5	The application includes the designated historical information about only 1 historical financial year for the historical production variable	That historical financial year

- (4) For the purposes of items 1, 2, 3 and 4 of the table in subsection (3), the emissions intensity of a historical production variable for a historical financial year is ascertained by dividing the emissions relevantly associated with the production variable in the historical financial year by the quantity of the production variable in that financial year.

Related production variables

- (5) The **facility-specific emissions intensity number**, of a related production variable for a facility, is:
- if the related production variable is tonnes of reservoir carbon dioxide from new gas fields—zero; or
 - otherwise—the same as the facility-specific emissions intensity number of the comparative production variable for the related production variable.

Transitional production variables

- (6) The **facility-specific emissions intensity number**, of a transitional production variable for a facility, is the number that is equal to the default emissions intensity number of the production variable:
- if the production variable was applicable to the facility at any time during a historical financial year—for that financial year; or
 - otherwise—for the financial year beginning on 1 July 2022.

Subdivision D—Related production variables

21 Statement about related production variable when emissions intensity determination is made

- (1) This section applies if:
- the Regulator decides to make an emissions intensity determination in relation to a facility; and
 - the application for the determination includes a request for the determination to state that:
 - a particular production variable for the facility is a related production variable for the facility; and
 - another specified production variable for the facility is the comparative production variable for that related production variable.

- (2) The Regulator must decide to:
 - (a) include the statement in the determination; or
 - (b) refuse to include the statement in the determination.
- (3) The Regulator must not include the statement in the determination unless satisfied that the particular production variable and the other production variable meet the requirements of section 23.

22 Statement about related production variable when emissions intensity determination is already in force

- (1) If an emissions intensity determination is in force in relation to a facility, the responsible emitter for the facility may apply, in writing, to the Regulator to vary the determination to include a statement that:
 - (a) a particular production variable for the facility is a related production variable for the facility; and
 - (b) another specified production variable for the facility is the comparative production variable for that related production variable.
- (2) The Regulator must decide to:
 - (a) make the variation; or
 - (b) refuse to make the variation.
- (3) The Regulator must not make the variation unless satisfied that the particular production variable and the other production variable meet the requirements of section 23.

Notification of decision etc.

- (4) If the Regulator makes the variation, the Regulator must notify the applicant of the variation and publish the emissions intensity determination, as varied, on the Regulator's website.
- (5) If the Regulator decides not to make the variation, the Regulator must give the applicant a written notice of the decision that includes the Regulator's reasons for the decision.

When variation applies

- (6) A variation under this section applies in relation to the financial year in which the application for the variation was made and each subsequent financial year.

23 Requirements for statement about related production variable

A particular production variable for a facility and another production variable for the facility meet the requirements of this section if:

- (a) the particular production variable:
 - (i) is not a historical production variable for the facility; or
 - (ii) is a historical production variable for the facility but it was not reasonably practicable for the application for the determination to include the designated historical information about that production variable; and

-
- (b) the particular production variable is substantially similar to the other production variable; and
 - (c) the particular production variable and the other production variable are measured using the same units or mutually convertible units; and
 - (d) the facility's production of the particular production variable does not involve the installation of new equipment that is likely to increase the facility's capacity to increase the total quantity of the particular production variable and the other production variable by more than 20% (relative to that quantity in the last financial year before the equipment is installed) in any of the years to which the determination is to apply.

Subdivision E—Successor determination

24 Successor determination for restructured facility

- (1) This section applies if an activity, or a series of activities, that constitutes a facility (the *original facility*) in relation to which an emissions intensity determination is in force:
 - (a) ceases to constitute the original facility; and
 - (b) either:
 - (i) begins to constitute one or more other facilities; or
 - (ii) becomes included in the activity, or series of activities, that constitutes another facility.
- Note: See the definition of *facility* in section 9 of the Act.
- (2) The Regulator may make a determination in relation to a facility covered by paragraph (1)(b) (a *successor facility*) in accordance with the process set out in section 25.
 - (3) The determination must be in writing and must specify:
 - (a) the facility-specific emissions intensity number of:
 - (i) any historical production variable for the successor facility that was also a historical production variable for the original facility; and
 - (ii) any related production variable for the successor facility that was also a related production variable for the original facility; and
 - (iii) any transitional production variable for the successor facility that was also a transitional production variable for the original facility; and
 - (b) the first financial year in relation to which the determination applies.
 - (4) In making the determination, the Regulator may have regard to any matter the Regulator considers relevant.
 - (5) The determination:
 - (a) comes into force on the first day of the financial year specified for the purposes of paragraph (3)(b); and
 - (b) applies in relation to the successor facility for that financial year and each subsequent financial year.

Note: See subsection 22XQ(2) of the Act (commencement of determination).

25 Process for making successor determination

- (1) If the Regulator proposes to make a successor determination in relation to a facility, the Regulator must notify the responsible emitter for the facility in writing that the Regulator proposes to do so.
- (2) The notice must:
 - (a) specify:
 - (i) the facility-specific emissions intensity number of any production variable for the facility that would be specified in the determination; and
 - (ii) the first financial year in relation to which the determination would apply; and
 - (b) invite the responsible emitter to provide a written response to the proposed determination within the period specified in the notice.
- (3) The notice may request that the responsible emitter provide the Regulator with specified information that the Regulator considers relevant to the proposed determination.
- (4) Within 30 days after the end of the period specified in the notice, the Regulator must consider the responsible emitter's response (if any) to the proposed determination and decide to:
 - (a) make the determination; or
 - (b) not make the determination.
- (5) If the Regulator makes the determination, the Regulator must:
 - (a) notify the responsible emitter that the Regulator has made the determination; and
 - (b) publish the determination on the Regulator's website.

Subdivision F—Variation by Regulator of emissions intensity determination

26 Variation by Regulator of emissions intensity determination

- (1) Subject to subsection (4), if an emissions intensity determination is in force in relation to a facility, the Regulator may vary, in accordance with the process set out in section 28, a facility-specific emissions intensity number specified in the determination if satisfied that:
 - (a) the amount of covered emissions of greenhouse gases from the operation of the facility during a historical financial year differs by at least 1% from the amount specified in the application for the determination; and
 - (b) the difference is due to:
 - (i) a relevant regulatory change that came into force after the determination was made; or
 - (ii) a different method being used, after the determination was made, to report the facility's emissions in accordance with the Act; or
 - (iii) a change of activities at the facility after the determination was made.
- (2) The variation:
 - (a) comes into force on the first day of the first financial year in which:

- (i) the relevant regulatory change came into force; or
 - (ii) the different method was used; or
 - (iii) the change of activities occurred; and
- (b) applies in relation to the facility for that financial year and each subsequent financial year.

Note: See subsection 22XQ(2) of the Act (commencement of determination).

- (3) If, under this section, the Regulator varies an emissions intensity determination that is in force in relation to a facility, the Regulator must:
- (a) notify the responsible emitter for the facility of the variation; and
 - (b) publish the determination, as varied, on the Regulator's website.
- (4) The Regulator must not vary the determination if the difference referred to in paragraph (1)(a) is due to an increase in the emissions intensity of a production variable for the facility resulting from a lower method being used instead of a higher method, after the determination was made, to report the facility's emissions in accordance with the Act.
- (5) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.
- (6) In this section:

higher method has the same meaning as in the NGER (Measurement) Determination.

lower method has the same meaning as in the NGER (Measurement) Determination.

method has the same meaning as in the NGER (Measurement) Determination.

relevant regulatory change means:

- (a) an amendment to the NGER Regulations, including a change to the Global Warming Potentials specified for a greenhouse gas in regulation 2.02 of the NGER Regulations; or
- (b) an amendment to the NGER (Measurement) Determination; or
- (c) an amendment to a fuel standard, within the meaning of the *Fuel Quality Standards Act 2000*, in force under that Act.

27 Request for information relevant to possible variation

If the Regulator is considering whether to vary a facility-specific emissions intensity number specified in an emissions intensity determination that is in force in relation to a facility, the Regulator may, by written notice given to the responsible emitter for the facility, request that the responsible emitter provide the Regulator with specified information that the Regulator considers relevant to the variation.

28 Process for making variation

- (1) If the Regulator proposes to vary a facility-specific emissions intensity number specified in an emissions intensity determination that is in force in relation to a facility, the Regulator must notify the responsible emitter for the facility in writing that the Regulator proposes to do so.

- (2) The notice must:
 - (a) specify the facility-specific emissions intensity number of any production variable for the facility that would be specified in the determination as varied; and
 - (b) invite the responsible emitter to provide a written response to the proposed variation within the period specified in the notice.
- (3) The notice may request that the responsible emitter provide the Regulator with specified information that the Regulator considers relevant to the proposed variation.
- (4) Within 30 days after the end of the period specified in the notice, the Regulator must consider the responsible emitter's response (if any) to the proposed variation, and any information obtained under section 27 that the Regulator considers relevant to the proposed variation, and decide to:
 - (a) make the variation; or
 - (b) not make the variation.
- (5) The variation must be made before the end of the first 31 January after the first financial year in relation to which the variation is to apply.
- (6) If the Regulator makes the variation, the Regulator must:
 - (a) notify the responsible emitter that the Regulator has made the variation; and
 - (b) publish the determination, as varied, on the Regulator's website.

Division 3—New facilities

29 Baseline emissions number for new facility

- (1) The baseline emissions number for a new facility (other than a landfill facility) for a financial year is the number worked out using the following formula:

$$\left(ERC \times \sum_p EI_{B,p} Q_p \right) + BA$$

where:

ERC is the emissions reduction contribution for the facility for the financial year.

p is a production variable for the facility for the financial year.

EI_B, in relation to a production variable for the facility for the financial year, is:

- (a) if there is a best practice emissions intensity number for the production variable for the financial year—that number; or
- (b) otherwise—the default emissions intensity number for the production variable for the financial year.

Q, in relation to a production variable for the facility for the financial year, is the quantity of the production variable for the facility for the financial year.

BA is the borrowing adjustment for the facility for the financial year.

Note: The baseline emissions number for a new facility for a financial year would be the same if it were worked out using the formula in section 11.

- (2) A facility is a **new facility** if there are no historical production variables or transitional production variables for the facility.
- (3) The number worked out using the formula in subsection (1) is to be rounded to the nearest whole number (rounding up if the first decimal place is 5 or more).

Division 4—Landfill facilities

30 Baseline emissions number for landfill facility

- (1) The baseline emissions number for a landfill facility for a financial year is the number worked out using the following formula:

$$ERC \times NLCH_4 \times (1 - CER) \times (1 - OF) + BA$$

where:

ERC is the emissions reduction contribution for the facility for the financial year.

NLCH₄ is the number of tonnes of carbon dioxide equivalence of scope 1 greenhouse gases that would be emitted by the facility if emissions were not captured, and oxidation did not occur, at the facility during the financial year.

CER (known as the capture efficiency rate) is 0.372.

OF is the oxidation factor specified in section 5.4 of the NGER (Measurement) Determination (as in force at the start of the financial year) for near surface methane in landfill.

BA is the borrowing adjustment for the facility for the financial year.

- (2) The number worked out using the formula in subsection (1) is to be rounded to the nearest whole number (rounding up if the first decimal place is 5 or more).

Division 5—Emissions reduction contribution

Subdivision A—Default values

31 Default emissions reduction contribution

The **default emissions reduction contribution** for a financial year beginning on a day specified in column 1 of an item of the following table is the number specified in column 2 of that item.

Default emissions reduction contribution		
	Column 1	Column 2
Item	Financial year	Default emissions reduction contribution
1	1 July 2023	0.951
2	1 July 2024	0.902
3	1 July 2025	0.853
4	1 July 2026	0.804
5	1 July 2027	0.755
6	1 July 2028	0.706

Default emissions reduction contribution		
	Column 1	Column 2
Item	Financial year	Default emissions reduction contribution
7	1 July 2029	0.657
8	1 July 2030 or a later 1 July	The greater of: (a) the default emissions reduction contribution for the previous financial year minus 0.03285; and (b) 0

Note: Until the financial year beginning on 1 July 2030, the default emissions reduction contribution in column 2 declines by 0.049 (the default decline rate).

32 Default decline rate

The *default decline rate* for a financial year beginning on a day specified in column 1 of an item of the following table is the number specified in column 2 of that item.

Default decline rate		
	Column 1	Column 2
Item	Financial year	Default decline rate
1	1 July 2023	0.049
2	1 July 2024	0.049
3	1 July 2025	0.049
4	1 July 2026	0.049
5	1 July 2027	0.049
6	1 July 2028	0.049
7	1 July 2029	0.049
8	1 July 2030 or a later 1 July	0.03285

Subdivision B—Regular facilities

33 Emissions reduction contribution for regular facility

- (1) If:
 - (a) a facility is a regular facility in a financial year; and
 - (b) the facility was not a trade-exposed baseline-adjusted facility in any previous financial year;
 the *emissions reduction contribution* for the facility for the financial year is the default emissions reduction contribution for that financial year.
- (2) If:
 - (a) a facility is a regular facility in a financial year (the *relevant financial year*); and
 - (b) the facility was a trade-exposed baseline-adjusted facility in a previous financial year;

the **emissions reduction contribution** for the facility for the relevant financial year is the number worked out using the following formula:

$$ERC_y - DR$$

where:

ERC_y is the emissions reduction contribution for the facility for the financial year ending immediately before the relevant financial year.

DR is the default decline rate for the relevant financial year.

- (3) The number worked out using the formula in subsection (2) is to be rounded to 5 decimal places (rounding up if the sixth decimal place is 5 or more).

Subdivision C—Trade-exposed baseline-adjusted facilities

34 Emissions reduction contribution for trade-exposed baseline-adjusted facility

- (1) If a facility is a trade-exposed baseline-adjusted facility in a financial year, the **emissions reduction contribution** for the facility for the financial year is the number worked out using the following formula:

$$ERC_y - DR + RCI \times (DR - DR_m)$$

where:

ERC_y is the emissions reduction contribution for the facility for the previous financial year.

DR is the default decline rate for the financial year.

RCI is the ratio of cost impacts for the facility for the financial year.

DR_m (known as the minimum decline rate) is:

- (a) if the facility is a manufacturing facility—0.01; or
- (b) otherwise—0.02.

- (2) The number worked out using the formula in subsection (1) is to be rounded to 5 decimal places (rounding up if the sixth decimal place is 5 or more).

35 Ratio of cost impacts

- (1) If a facility is a trade-exposed baseline-adjusted facility in a financial year, the **ratio of cost impacts** for the facility for the financial year is worked out in accordance with this section.
- (2) If the assessed cost impact for the facility for the financial year is equal to or greater than the significant cost impact threshold for the facility, the ratio of cost impacts for the facility for the financial year is 1.
- (3) If the assessed cost impact for the facility for the financial year is less than the significant cost impact threshold for the facility, the ratio of cost impacts for the facility for the financial year is the number worked out using the following formula:

$$\frac{CI_A - CI_M}{CI_S - CI_M}$$

where:

CI_A is the assessed cost impact for the facility for the financial year.

CI_M (known as the material cost impact threshold) is 0.03.

CI_S is the significant cost impact threshold for the facility.

- (4) The **significant cost impact threshold** for a facility is:
- (a) if the facility is a manufacturing facility—0.10; or
 - (b) otherwise—0.08.

36 Assessed cost impact

Facilities that are not manufacturing facilities

- (1) If a facility is not a manufacturing facility in a financial year, the **assessed cost impact** for the facility for the financial year is the number worked out using the following formula:

$$\frac{P_{SM} \times PE}{RF}$$

where:

P_{SM} is the number of dollars in the Safeguard Mechanism default prescribed unit price for the first adjusted financial year for the facility.

PE is the number equal to the difference between:

- (a) the number that is equal to the total number of tonnes of carbon dioxide equivalence of greenhouse gases from the operation of the facility during the first adjusted financial year for the facility; and
- (b) the hypothetical baseline of the facility for the first adjusted financial year for the facility.

RF is the number of dollars in the revenue of the facility in the first adjusted financial year for the facility.

- (2) For the purposes of calculating the revenue of the facility in the first adjusted financial year for the facility, any funding provided to the facility for that financial year under the Powering the Regions Fund must be excluded from that revenue.
- (3) However, if the number of dollars in the revenue of the facility in the first adjusted financial year for the facility is less than or equal to zero, the **assessed cost impact** for the facility for the financial year is the significant cost impact threshold for the facility.

Manufacturing facilities

- (4) If a facility is a manufacturing facility in a financial year, the **assessed cost impact** for the facility for the financial year is the number worked out using the following formula:

$$\frac{P_{SM} \times PE}{EBIT}$$

where:

P_{SM} is the number of dollars in the Safeguard Mechanism default prescribed unit price for the first adjusted financial year for the facility.

PE is the number equal to the difference between:

- (a) the number that is equal to the total number of tonnes of carbon dioxide equivalence of greenhouse gases from the operation of the facility during the first adjusted financial year for the facility; and
- (b) the hypothetical baseline of the facility for the first adjusted financial year for the facility.

$EBIT$ is the number of dollars that is equal to the earnings before interest and tax of the facility in the first adjusted financial year for the facility.

Note: See section 37 (earnings before interest and tax).

- (5) However, if the number of dollars that is equal to the earnings before interest and tax of the facility in the first adjusted financial year for the facility is less than or equal to zero, the **assessed cost impact** for the facility for the financial year is the significant cost impact threshold for the facility.

First adjusted financial year

- (6) The **first adjusted financial year**, for a facility, is:
- (a) if the assessed cost impact for the facility is being worked out for the purposes of making or considering an application under section 39 for a determination that the facility is a trade-exposed baseline-adjusted facility in a particular financial year and the next 2 financial years—that particular financial year; or
 - (b) if:
 - (i) the facility is a trade-exposed baseline-adjusted facility in a financial year because of a determination in force under section 42; and
 - (ii) the assessed cost impact for the facility is being worked out for the purposes of working out the emissions reduction contribution for the facility for the financial year;
 the first financial year in which the facility is a trade-exposed baseline-adjusted facility because of that determination.

Hypothetical baseline

- (7) The **hypothetical baseline** of a facility for a financial year is:
- (a) in the case where an application under section 39 for a determination that the facility is a trade-exposed baseline-adjusted facility in that financial year and the next 2 financial years is being made or considered—the number that is equal to what the baseline emissions number for the facility

for that financial year would be if that determination were not to be made;
or

(b) in the case where:

- (i) the facility is a trade-exposed baseline-adjusted facility in a financial year because of a determination in force under section 42; and
- (ii) the assessed cost impact for the facility is being worked out for the purposes of working out the emissions reduction contribution for the facility for the financial year;

the number that is equal to what the baseline emissions number for the facility for that financial year would be if that determination had not been made.

37 Earnings before interest and tax

- (1) The earnings before interest and tax (the **EBIT**) of a facility for a financial year are to be worked out in accordance with this section.
- (2) Subject to subsections (4) and (5), the EBIT of the facility for the financial year is to be calculated in accordance with:
 - (a) the Australian accounting standards as in force at the end of the financial year; and
 - (b) any EBIT Guidelines that are in force at that time.
- (3) For the purposes of subsection (2), EBIT Guidelines prevail over the Australian accounting standards to the extent of any inconsistency.

Revenue to exclude PRF funding

- (4) For the purposes of calculating the EBIT of the facility for the financial year, any funding provided to the facility for the financial year under the Powering the Regions Fund must be excluded from the facility's revenue for the financial year.

Accelerated depreciation

- (5) The EBIT of the facility for the financial year must be calculated using a depreciation schedule that specifies one of the following depreciation factors for each capital expense of the facility:
 - (a) 1.0;
 - (b) 1.1;
 - (c) 1.2.
- (6) The factors in paragraphs (5)(b) and (c) are **accelerated depreciation factors**.

EBIT Guidelines

- (7) The Secretary may make written guidelines that relate to working out the earnings before interest and tax of a facility for a financial year. Guidelines made under this subsection are to be known as **EBIT Guidelines**.
- (8) The EBIT Guidelines are to be published on the Department's website.

38 Safeguard Mechanism default prescribed unit price

Before the end of each financial year beginning after 30 June 2023, the Secretary must publish on the Department's website an estimate of the average price of a prescribed carbon unit during that financial year. The estimate is to be known as the *Safeguard Mechanism default prescribed unit price* for the financial year.

Subdivision D—Determination that a facility is a trade-exposed baseline-adjusted facility

39 Application for determination that a facility is a trade-exposed baseline-adjusted facility

- (1) The responsible emitter for a facility may apply to the Regulator for a determination that the facility is a trade-exposed baseline-adjusted facility in a particular financial year (the *first financial year*) and the next 2 financial years.
- (2) The application must be made:
 - (a) in a manner and form approved, in writing, by the Regulator; and
 - (b) before the end of the due date for the application, unless the Regulator agrees to accept the application after that date.

Note 1: For the due date for the application, see section 52.

Note 2: For withdrawal of the application, see section 53.

- (3) The application must include the following information:
 - (a) if the facility was not a manufacturing facility in the first financial year—both of the following:
 - (i) the revenue of the facility in the first financial year, calculated in accordance with the Australian accounting standards as in force at the end of the first financial year;
 - (ii) information about the assumptions made when working out that revenue;
 - (b) if the facility was a manufacturing facility in the first financial year—all of the following:
 - (i) the earnings before interest and tax (the *EBIT*) of the facility in the first financial year, calculated in accordance with section 37;
 - (ii) information about the assumptions made when working out the EBIT under that section;
 - (iii) each depreciation factor used in the depreciation schedule used for calculating the EBIT;
 - (iv) if the depreciation schedule used for calculating the EBIT uses an accelerated depreciation factor—an explanation for why the accelerated depreciation factor is used;
 - (c) both of the following:
 - (i) the assessed cost impact for the facility for the first financial year;
 - (ii) information about the assumptions made when working out that assessed cost impact;
 - (d) the amount of covered emissions of greenhouse gases from the operation of the facility in the first financial year;
 - (e) the hypothetical baseline for the facility for the first financial year;

- (f) the emissions reduction contribution, and the baseline emissions number, for the facility for the first financial year if:
 - (i) the determination were made; and
 - (ii) those numbers were worked out using the assessed cost impact for the facility for the first financial year;
 - (g) an estimate of the emissions reduction contribution for the facility for each of the next 2 financial years after the first financial year if the determination were made.
- (4) The application must include a declaration that the amount of covered emissions of greenhouse gases from the operation of the facility in the first financial year was not increased for the sole or substantial purpose of:
- (a) achieving the result that the Regulator makes the determination; or
 - (b) achieving the result that the emissions reduction contribution for the facility for the first financial year and the next 2 financial years is higher than it would have been but for that increase.
- (5) The application, and the declaration under subsection (4), must be signed by:
- (a) if the responsible emitter is a body corporate—the chief financial officer (however described) of the responsible emitter; or
 - (b) otherwise—a person whose duties in relation to the responsible emitter are equivalent to those of the chief financial officer of a body corporate.
- (6) The responsible emitter for a facility may make an application under this section even if the facility is already a trade-exposed baseline-adjusted facility in the first financial year.

40 Application must be accompanied by safeguard audit report

- (1) This section is made for the purposes of subsection 22XQ(3) of the Act.
- (2) An application for a determination that a facility is a trade-exposed baseline-adjusted facility must be accompanied by an audit report that meets the requirements of this section.

Note: Under subsection 75(1) of the Act, the Minister may determine requirements to be met by registered greenhouse and energy auditors in preparing for and carrying out safeguard audits.

Reasonable assurance matters

- (3) The audit report must include a conclusion in relation to each of the following matters:
 - (a) whether, in all material respects, the information included in the application is correct;
 - (b) whether, in all material respects, the facility satisfies the criteria specified in subparagraphs 42(2)(a)(vi) and (vii).

41 Consideration of application

- (1) This section applies if the responsible emitter for a facility applies for a determination, in accordance with this Subdivision, that the facility is a trade-exposed baseline-adjusted facility.

-
- (2) Subject to subsection (4), the Regulator must take all reasonable steps to decide the application before the end of the decision date for the application.

Note: For the decision date for the application, see section 52.

- (3) The Regulator may, by notice in writing, require the applicant to give the Regulator, within the period specified in the notice, such further information in relation to the application as the Regulator requires.
- (4) The Regulator is not required to decide the application, and may cease considering whether to decide the application, if the applicant does not provide the required information within the period specified in the notice.

42 Determination that a facility is a trade-exposed baseline-adjusted facility

- (1) If the responsible emitter for a facility applies for a determination, in accordance with this Subdivision, that the facility is a trade-exposed baseline-adjusted facility in a particular financial year (the *first financial year*) and the next 2 financial years, the Regulator must:
- (a) make the determination; or
 - (b) refuse to make the determination.
- (2) The Regulator must not make the determination unless:
- (a) the Regulator is reasonably satisfied, having regard to any EBIT Guidelines in force at the end of the first financial year and any other matter the Regulator considers relevant, that:
 - (i) the information included in the application is correct; and
 - (ii) the borrowing adjustment for the facility for the first financial year is zero; and
 - (iii) the first financial year is not included in a multi-year period declaration that is in force in relation to the facility; and
 - (iv) the number that is equal to the total number of tonnes of carbon dioxide equivalence of greenhouse gases from the operation of the facility during the first financial year is greater than the hypothetical baseline of the facility for that year; and
 - (v) the amount of covered emissions of greenhouse gases from the operation of the facility in the first financial year was not increased for the sole or substantial purpose of achieving a result mentioned in subsection 39(4); and
 - (vi) the primary production variable for the facility in the first financial year is a trade-exposed production variable; and
 - (vii) the assessed cost impact for the facility for the first financial year is greater than 0.03 (known as the material cost impact threshold); and
 - (b) the audit report accompanying the application includes a reasonable assurance conclusion, or a qualified reasonable assurance conclusion, in relation to each of the matters specified in subsection 40(3).
- (3) The determination must be in writing and comes into force on the first day of the first financial year.
- Note: See subsection 22XQ(2) of the Act (commencement of determination).
- (4) The determination must specify the emissions reduction contribution for the facility for the first financial year and the next 2 financial years.

Notification of decision etc.

- (5) If the Regulator makes a determination under this section, the Regulator must:
 - (a) notify the applicant for the determination that the Regulator has made the determination; and
 - (b) publish the determination on the Regulator's website.
- (6) If the Regulator decides to refuse to make a determination under this section, the Regulator must give the applicant for the determination a written notice of the decision that includes the Regulator's reasons for the decision.

Where previous determination has been revoked at request of responsible emitter

- (7) This section has effect subject to section 46 (consequence of revocation at request of responsible emitter).

43 Determination where another determination is already in force

- (1) The Regulator may make a determination under section 42 (the *new determination*) that a facility is a trade-exposed baseline-adjusted facility in a particular financial year and the next 2 financial years even if the facility is already a trade-exposed baseline-adjusted facility in that particular financial year because of another determination in force under that section.
- (2) If the Regulator makes the new determination, the Regulator must revoke the other determination.
- (3) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

Subdivision E—Variation and revocation of determination that a facility is a trade-exposed baseline-adjusted facility

44 Variation on Regulator's initiative

- (1) This section applies if a facility is a trade-exposed baseline-adjusted facility in a particular financial year (the *first financial year*) and the next 2 financial years because of a determination in force under section 42.
- (2) The Regulator may vary the determination in accordance with this section if the Regulator is satisfied that:
 - (a) the assessed cost impact for the facility for the first financial year was incorrectly calculated; or
 - (b) information provided to the Regulator in connection with the application for the determination was false or misleading in a material particular.
- (3) If the Regulator proposes to vary the determination, the Regulator must notify the responsible emitter for the facility in writing that the Regulator proposes to do so.
- (4) The notice must:
 - (a) specify what the emissions reduction contribution for the facility would be in the first financial year and the next 2 financial years if the variation were made; and

-
- (b) invite the responsible emitter to provide a written response to the proposed variation within the period specified in the notice.
 - (5) Within 30 days after the end of the period specified in the notice, the Regulator must consider the responsible emitter's response (if any) to the proposed variation and decide to:
 - (a) vary the determination; or
 - (b) not vary the determination.
 - (6) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.
Notification of decision etc.
 - (7) If the Regulator decides to vary the determination, the Regulator must:
 - (a) give the responsible emitter a written notice of the decision that includes the Regulator's reasons for the decision; and
 - (b) publish the determination, as varied, on the Regulator's website.
 - (8) If the Regulator decides not to vary the determination, the Regulator must notify the responsible emitter of that decision in writing.

45 Revocation at request of responsible emitter

- (1) This section applies if a facility is a trade-exposed baseline-adjusted facility in a particular financial year and the next 2 financial years because of a determination in force under section 42.
- (2) The responsible emitter for the facility may request that the Regulator revoke the determination.
- (3) The request must be made, in writing, before the end of the first 31 October after one of the financial years mentioned in subsection (1).
- (4) If the responsible emitter makes the request in accordance with subsection (3), the Regulator must:
 - (a) revoke the determination; and
 - (b) notify the responsible emitter, in writing, that the Regulator has done so.
- (5) The revocation takes effect at the start of the financial year in which the request was made.
- (6) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

46 Consequence of revocation at request of responsible emitter

If:

- (a) a facility is a trade-exposed baseline-adjusted facility in 3 financial years (the **TEBA years**) because of a determination in force under section 42; and
- (b) the Regulator revokes that determination under section 45; and
- (c) the responsible emitter for the facility applies under section 39 for another determination that the facility is a trade-exposed baseline-adjusted facility in a particular financial year (the **first financial year**) and the next 2 financial years;

the Regulator must not make the other determination unless the facility has been a regular facility for at least one financial year during the period:

- (d) beginning at the start of the first of the TEBA years; and
- (e) ending immediately before the start of the first financial year.

Division 6—Borrowing adjustment

47 Borrowing adjustment

Financial years ending before 1 July 2026

- (1) The **borrowing adjustment**, for a facility for a financial year that ends before 1 July 2026, is the number worked out using the following formula:

$$BD - 1.02 \times BDP$$

where:

BD is:

- (a) if a borrowing adjustment determination specifies a borrowing adjustment number for the facility for the financial year—that number; or
- (b) otherwise—0.

BDP is:

- (a) if a borrowing adjustment determination specified a borrowing adjustment number for the facility for the previous financial year—that number; or
- (b) otherwise—0.

Financial years beginning on or after 1 July 2026

- (2) The **borrowing adjustment**, for a facility for a financial year that begins on or after 1 July 2026, is the number worked out using the following formula:

$$BD - 1.1 \times BDP$$

where:

BD is:

- (a) if a borrowing adjustment determination specifies a borrowing adjustment number for the facility for the financial year—that number; or
- (b) otherwise—0.

BDP is:

- (a) if a borrowing adjustment determination specified a borrowing adjustment number for the facility for the previous financial year—that number; or
- (b) otherwise—0.

48 Application for borrowing adjustment determination

- (1) The responsible emitter for a facility may apply to the Regulator for a borrowing adjustment determination for the facility for a financial year.
- (2) The application must be made:
 - (a) in a manner and form approved, in writing, by the Regulator; and
 - (b) before the end of the due date for the application, unless the Regulator agrees to accept the application after that date.

Note 1: For the due date for the application, see section 52.

Note 2: For withdrawal of the application, see section 53.

- (3) The application must specify a number as the proposed borrowing adjustment number for the facility for the financial year.

49 Consideration of application

- (1) This section applies if the responsible emitter for an existing facility applies for a borrowing adjustment determination in accordance with section 48.
- (2) Subject to subsection (4), the Regulator must take all reasonable steps to decide the application before the end of the decision date for the application.

Note: For the decision date for the application, see section 52.

- (3) The Regulator may, by notice in writing, require the applicant to give the Regulator, within the period specified in the notice, such further information in relation to the application as the Regulator requires.
- (4) The Regulator is not required to decide the application, and may cease considering whether to decide the application, if the applicant does not provide the required information within the period specified in the notice.

50 Borrowing adjustment determination

- (1) If the responsible emitter for a facility applies in accordance with section 48 for a borrowing adjustment determination for the facility for a financial year, the Regulator must decide to:
 - (a) make the determination; or
 - (b) refuse to make the determination.
- (2) The Regulator must not make the determination unless the Regulator is satisfied that:
 - (a) the number proposed as the borrowing adjustment number in the application is not greater than 10% of the unadjusted baseline for the facility for the financial year; and
 - (b) no safeguard mechanism credit units have been issued in relation to the facility for the financial year; and
 - (c) the financial year is not included in a declared multi-year period for the facility; and
 - (d) the facility is likely to be a designated large facility in the financial year immediately following the financial year mentioned in subsection (1).
- (3) A borrowing adjustment determination for a facility for a financial year must be in writing and must specify the ***borrowing adjustment number*** for the facility for the financial year.
- (4) In this section, the ***unadjusted baseline*** for a facility for a financial year (the ***relevant financial year***) is:
 - (a) if a borrowing adjustment determination specified a borrowing adjustment number for the facility for the previous financial year—the baseline emissions number for the facility for the relevant financial year worked out using that borrowing adjustment number; or

- (b) otherwise—the baseline emissions number for the facility for the relevant financial year if the borrowing adjustment number for the facility for the relevant financial year were 0.

Notification of decision etc.

- (5) If the Regulator makes a determination under this section, the Regulator must:
- (a) notify the applicant for the determination that the Regulator has made the determination; and
 - (b) publish the determination on the Regulator’s website.
- (6) If the Regulator decides to refuse to make a determination under this section, the Regulator must give the applicant for the determination a written notice of the decision that includes the Regulator’s reasons for the decision.

51 No borrowing adjustment for year included in multi-year period declaration

- (1) The Regulator must revoke a borrowing adjustment determination if:
- (a) the determination specifies a borrowing adjustment number for a facility for a financial year; and
 - (b) the Regulator declares that, for the purposes of section 22XG of the Act, a specified period is a declared multi-year period for the facility; and
 - (c) the financial year is included in that period.
- (2) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

Division 7—Miscellaneous

Subdivision A—Applications under this Part

52 Due date and decision date for applications

- (1) The **due date** for an application under this Part that is specified in column 1 of an item of the following table is the day specified in column 2 of that item.
- (2) The **decision date** for an application under this Part that is specified in column 1 of an item of the following table is the day specified in column 3 of that item.

Due date and decision date for applications			
Item	Column 1 Application	Column 2 Due date	Column 3 Decision date
1	Application under section 14 for an emissions intensity determination that specifies the financial year beginning on 1 July 2023 as the first financial year to which the determination would apply	30 April 2024	The later of: (a) 31 January 2025; and (b) the day that is 60 days after the end of a period specified in any notice under subsection 18(3) in relation to the application
2	Application under section 14 for an emissions intensity determination that specifies a financial year beginning	The first 31 October after the end of the financial year	The day that is: (a) 60 days after the application is made; or (b) if a notice is given under

Due date and decision date for applications			
Item	Column 1 Application	Column 2 Due date	Column 3 Decision date
	on 1 July 2024 or a later 1 July as the first financial year to which the determination would apply		subsection 18(3) in relation to the application—60 days after the end of the period specified in the notice
3	Application under section 39 for a determination that a facility is a trade-exposed baseline-adjusted facility in a particular financial year (the first financial year) and the next 2 financial years	The first 31 October after the end of the first financial year	The day that is: (a) 60 days after the application is made; or (b) if a notice is given under subsection 41(3) in relation to the application—60 days after the end of the period specified in the notice
4	Application under section 48 for a borrowing adjustment determination for a facility for a financial year	The first 28 February after the end of the financial year	The day that is: (a) 30 days after the application is made; or (b) if a notice is given under subsection 49(3) in relation to the application—30 days after the end of the period specified in the notice

53 Withdrawal of applications

At any time before the Regulator decides an application mentioned in column 1 of the table in section 52, the applicant may withdraw, in writing, the application.

Subdivision B—Shale gas extraction facilities

54 Meaning of *shale gas extraction facility*

- (1) A facility is a ***shale gas extraction facility*** if:
 - (a) the activity, or the series of activities, that constitutes the facility is or includes the extraction of gas from a geological formation by means of processes that include hydraulic fracturing; and
 - (b) more than 90% of the gas extracted from the geological formation is shale gas; and
 - (c) emissions from the extraction and use of gas from the geological formation would likely exceed 100 million tonnes of carbon dioxide equivalence in total if the formation were fully exploited.
- (2) A facility is also a ***shale gas extraction facility*** if:
 - (a) the activity, or the series of activities, that constitutes the facility is the exploration of a geological formation that contains shale gas; and
 - (b) processes that include hydraulic fracturing would be needed to extract gas from the formation; and

- (c) emissions from the extraction and use of gas from the geological formation would likely exceed 100 million tonnes of carbon dioxide equivalence in total if the formation were fully exploited.

Part 3A—Safeguard mechanism credit units

Division 1—General

55 Purpose and application of Part

- (1) Unless otherwise provided, the provisions of this Part are made for the purposes of subsection 22XNA(2) of the Act.
- (2) This Part applies in relation to financial years, and declared multi-year periods, that begin after 30 June 2023.

Division 2—Issuing safeguard mechanism credit units

56 Issuing safeguard mechanism credit units for a financial year

Application for safeguard mechanism credit units

- (1) The responsible emitter for a facility may apply to the Regulator to issue safeguard mechanism credit units to the responsible emitter in relation to the facility for a particular financial year.

Issue of safeguard mechanism credit units

- (2) The Regulator must consider the application as soon as reasonably practicable after receiving it, and if the Regulator:
 - (a) is satisfied of the matters specified in subsection (3); and
 - (b) has no evidence to suggest that the quantity of a production variable for the facility for the financial year, or the covered emissions of greenhouse gases from the operation of the facility in the financial year, have been inaccurately reported to the Regulator;

the Regulator must:

- (c) determine, in accordance with:
 - (i) subsection (4); or
 - (ii) if the responsible emitter was the responsible emitter for the facility on a number of days in the financial year that is less than 365—
subsections (4) and (5);
the number of units to be issued; and
- (d) decide to issue that number of units to the responsible emitter.

Note: See also section 58A (identifying safeguard mechanism credit units with a financial year etc.).

Matters of which the Regulator must be satisfied

- (3) The following matters are specified:
 - (a) the baseline emissions number for the facility for the financial year is greater than the sum of:

- (i) the number of tonnes of carbon dioxide equivalence of covered emissions of greenhouse gases from the operation of the facility during the financial year; and
- (ii) the number of Australian carbon credit units (if any) by which the net emissions number for the facility for the financial year is increased under subsection 22XK(4) of the Act;
- (b) the facility is not a landfill facility;
- (c) the facility is a designated large facility, or an eligible facility, for the financial year;
- (d) no borrowing adjustment determination specifies a borrowing adjustment number for the facility for the financial year;
- (e) the financial year is not included in a declared multi-year period for the facility.

Number of safeguard mechanism credit units to be issued

- (4) The number of units to be issued is worked out using the following formula:

$BEN - E - \text{Increase}$

where:

BEN is the baseline emissions number for the facility for the financial year that would be ascertained in accordance with Part 3 if subsection 10(1) had not been enacted.

Note: Subsection 10(1) provides for a minimum baseline emissions number of 100,000.

E is the number of tonnes of carbon dioxide equivalence of covered emissions of greenhouse gases from the operation of the facility during the financial year.

Increase is the number of Australian carbon credit units (if any) by which the net emissions number for the facility for the financial year is increased under subsection 22XK(4) of the Act.

- (5) If the responsible emitter was the responsible emitter for the facility on a number of days (the **relevant number**) in the financial year that is less than 365, the number of units to be issued is worked out using the following formula:

$$SMC \times \frac{RN}{365}$$

where:

SMC means the number worked out using the formula in subsection (4).

RN means the relevant number.

57 Issuing safeguard mechanism credit units for a declared multi-year period

Application for safeguard mechanism credit units

- (1) The responsible emitter for a facility may apply to the Regulator to issue safeguard mechanism credit units to the responsible emitter in relation to the facility for a particular declared multi-year period for the facility.

Issue of safeguard mechanism credit units

- (2) The Regulator must consider the application as soon as reasonably practicable after receiving it, and if the Regulator:
- (a) is satisfied of the matters specified in subsection (3); and
 - (b) has no evidence to suggest that the quantity of a production variable for the facility for a financial year included in the declared multi-year period, or the covered emissions of greenhouse gases from the operation of the facility in the declared multi-year period, have been inaccurately reported to the Regulator;
- the Regulator must:
- (c) determine, in accordance with subsection (4), the number of units to be issued; and
 - (d) decide to issue that number of units to the responsible emitter.

Note: See also section 58A (identifying safeguard mechanism credit units with a financial year etc.).

Matters of which the Regulator must be satisfied

- (3) The following matters are specified:
- (a) the baseline emissions number for the facility for the declared multi-year period is greater than the sum of:
 - (i) the number of tonnes of carbon dioxide equivalence of covered emissions of greenhouse gases from the operation of the facility during each financial year included in the declared multi-year period; and
 - (ii) the number of Australian carbon credit units (if any) by which the net emissions number for the facility for the declared multi-year period is increased under subsection 22XK(4) of the Act;
 - (b) the facility is not a landfill facility;
 - (c) the facility is a designated large facility, or an eligible facility, for each of the financial years included in the declared multi-year period;
 - (d) no borrowing adjustment determination specifies a borrowing adjustment number for the facility for a financial year included in the declared multi-year period.

Number of safeguard mechanism credit units to be issued

- (4) The number of units to be issued is worked out using the following formula:

$$\sum_t \text{BEN}_t - E_t - \text{Increase}_t$$

where:

t is a financial year included in the declared multi-year period.

BEN, in relation to a financial year included in the declared multi-year period, is the baseline emissions number for the facility for the financial year that would be ascertained in accordance with Part 3 if subsection 10(1) had not been enacted.

Note: Subsection 10(1) provides for a minimum baseline emissions number of 100,000.

E, in relation to a financial year included in the declared multi-year period, is the number of tonnes of carbon dioxide equivalence of covered emissions of greenhouse gases from the operation of the facility during the financial year.

Increase, in relation to a financial year included in the declared multi-year period, is the number of Australian carbon credit units (if any) by which the net emissions number for the facility for the financial year is increased under subsection 22XK(4) of the Act.

58 Application requirements

- (1) An application for safeguard mechanism credit units by a responsible emitter under subsection 56(1) or 57(1) must be in writing and must:
 - (a) specify the Registry account kept by the responsible emitter in which, if the Regulator decides to issue the units, the Regulator must make an entry for the units; and
 - (b) include an acknowledgement that the Regulator may require the relinquishment of safeguard mechanism credit units issued on false or misleading information or as a result of fraudulent conduct.

Note: For the requirement to relinquish safeguard mechanism credit units in certain circumstances, see sections 22XNE and 22XNF of the Act.

- (2) At any time before the Regulator decides the application, the responsible emitter may, in writing, withdraw the application.

Division 3—Timing etc. of issue of safeguard mechanism credit units

58A Identifying safeguard mechanism credit units with a financial year etc.

Identifying safeguard mechanism credit units with a financial year

- (1) For the purposes of subsection 22XNC(2) of the Act:
 - (a) if the Regulator decides to issue a safeguard mechanism credit unit to a person in relation to a facility for a financial year—the Regulator must identify the unit with that financial year; or
 - (b) if the Regulator decides to issue a safeguard mechanism credit unit to a person in relation to a facility for a declared multi-year period for the facility—the Regulator must identify the unit with the most recent financial year included in that declared multi-year period.

When safeguard mechanism credit units are to be issued for financial years

- (2) If:
 - (a) the responsible emitter for a facility applies under subsection 56(1) to the Regulator to issue safeguard mechanism credit units to the responsible emitter in relation to the facility for a particular financial year; and
 - (b) the application is made before the first 31 January after the end of the financial year; and
 - (c) the Regulator decides to issue safeguard mechanism credit units to the responsible emitter in relation to the facility for the financial year;
 the Regulator must issue those units on a day that is as close to that 31 January as is reasonably practicable.

When safeguard mechanism credit units are to be issued for declared multi-year periods

- (3) If:
- (a) the responsible emitter for a facility applies under subsection 57(1) to the Regulator to issue safeguard mechanism credit units to the responsible emitter in relation to the facility for a particular declared multi-year period for the facility; and
 - (b) the application is made before the first 31 January after the end of the declared multi-year period; and
 - (c) the Regulator decides to issue safeguard mechanism credit units to the responsible emitter in relation to the facility for the declared multi-year period;

the Regulator must issue those units on a day that is as close to that 31 January as is reasonably practicable.

Division 4—Eligible facilities

58B Meaning of *eligible facility*

- (1) A facility is an ***eligible facility***, for a financial year (the ***current financial year***), if:
- (a) the facility was a designated large facility for another financial year (the ***last covered financial year***); and
 - (b) the facility has not been a designated large facility for any of the financial years beginning after the last covered financial year; and
 - (c) the current financial year is one of the 10 financial years following the last covered financial year; and
 - (d) the facility was a designated large facility in at least:
 - (i) 3 historical financial years; or
 - (ii) 2 of the financial years in the period of 4 financial years immediately preceding the last covered financial year; and
 - (e) subsection (3) applies to the facility for the current financial year.
- (2) A facility is also an ***eligible facility***, for the current financial year, if:
- (a) the current financial year begins after 30 June 2028; and
 - (b) the facility was a designated large facility for at least 3 of the financial years in the period of 5 financial years immediately preceding the current financial year; and
 - (c) subsection (3) applies to the facility for the current financial year.
- (3) This subsection applies to a facility for the current financial year if:
- (a) either:
 - (i) an emissions intensity determination applies in relation to the facility for the current financial year; or
 - (ii) the facility is a new facility; and
 - (b) no Australian carbon credit units have been issued under the *Carbon Credits (Carbon Farming Initiative) Act 2011* in respect of an eligible offsets project that reduced covered emissions of greenhouse gases from the operation of the facility during the current financial year.

37 Subsection 65(3)

Repeal the subsection, substitute:

- (3) The application must:
- (a) be given in a manner and form approved, in writing, by the Regulator; and
 - (b) specify the facility and declared multi-year period for which the declaration is sought; and
 - (c) specify the amount of covered emissions (in t CO₂-e) emitted, or reasonably likely to be emitted, for the proposed first financial year of the declared multi-year period; and
 - (d) include a declaration that the responsible emitter will:
 - (i) during the multi-year period, conduct one or more activities to reduce the emissions intensity of the production variables for the facility; and
 - (ii) as a result of conducting that activity or those activities, be reasonably likely to prevent an excess emissions situation from existing in relation to the facility for the multi-year period; and
 - (e) include a plan setting out how conducting that activity or those activities is reasonably likely to enable the responsible emitter to reduce the net emissions number for the facility for the multi-year period; and
 - (f) include a summary of the plan; and
 - (g) if the responsible emitter is aware of any risks they will breach section 22XF of the Act at the end of the declared multi-year period—provide an explanation of those risks; and
 - (h) be signed by a responsible financial officer for the responsible emitter or a person authorised by a responsible financial officer for the responsible emitter.

Note: The Regulator is required to publish a summary included in an application for the purpose of paragraph (3)(f): see paragraph 72(1)(d).

38 Subsection 65(4)

Omit “1 February”, substitute “15 November”.

39 Subsection 67(1)

Omit “64”, substitute “65”.

40 Subsection 67(2)

Omit “reasonably likely to be”.

41 After paragraph 67(2)(c)

Insert:

- (ca) whether the Regulator considers that the plan mentioned in paragraph 65(3)(e) is likely to reduce the facility’s covered emissions below the facility’s baseline emissions number for the declared multi-year period; and

42 Subsection 67(3)

Repeal the subsection, substitute:

- (3) If the Regulator decides to make a multi-year period declaration, it must specify a declared multi-year period for the facility that is:

- (a) 2 financial years; or
- (b) 3 financial years; or
- (c) 4 financial years; or
- (d) 5 financial years.

43 After subsection 67(3)

Insert:

- (3A) The Regulator must not make a multi-year period declaration with an end date later than 30 June 2030.

44 Subsection 67(4)

Repeal the subsection, substitute:

Timing

- (4) The Regulator must take all reasonable steps to ensure that a decision is made on the application by the later of:
 - (a) 31 January after the end of the proposed first financial year of the declared multi-year period; and
 - (b) if the Regulator requires the applicant to give further information under subsection 65(1) in relation to the application—60 days after the applicant gives the Regulator the information.

45 Subsection 68(1)

Repeal the subsection, substitute:

- (1) The responsible emitter for a facility may apply to the Regulator to:
 - (a) reduce the length of the declared multi-year period in a multi-year period declaration by 1 or more years, down to a minimum of 2 years; or
 - (b) extend the length of a declared multi-year period in a multi-year period declaration by 1 or more years, up to a maximum of 5 years; or
 - (c) revoke the multi-year period declaration.

46 At the end of subsection 68(3)

Add:

Note: See also section 90 (Regulator must not extend multi-year period declaration in force before 1 July 2023).

47 At the end of Division 2 of Part 4

Add:

69A Explanation of performance against plan for avoiding an excess emissions situation at end of declared multi-year period

- (1) This section applies if:
 - (a) under subsection 65(1), a responsible emitter for a facility applied for a multi-year period declaration on or after the day this section commences; and

(b) under section 67, the Regulator made a multi-year declaration for the facility.

- (2) By the first 31 October after the end of the last financial year of the declared multi-year period, the responsible emitter must submit to the Regulator a written explanation describing how the facility performed against its plan provided for the purposes of paragraph 65(3)(e).

Note: The Regulator is required to publish an explanation given under this section: see paragraph 72(1)(e).

69B Variation of multi-year period declaration where emissions are not being reduced

- (1) The Regulator may vary a multi-year period declaration that is in force in relation to a facility to reduce the number of financial years included in the declaration if the Regulator is satisfied that:
- (a) the responsible emitter for the facility is not implementing, or is unable to implement, the plan given to the Regulator in accordance with paragraph 65(3)(e); and
 - (b) the number of tonnes of carbon dioxide equivalence of covered emissions of greenhouse gases from the operation of the facility during the multi-year period is likely to exceed the baseline emissions number for the facility for the period.
- (2) If the Regulator decides to vary the declaration, the Regulator must vary the declaration so that it ceases to be in force at the end of the financial year in which the Regulator becomes satisfied of the matters in subsection (1).
- (3) If the Regulator is considering whether to vary, under this section, a multi-year period declaration that is in force in relation to a facility, the Regulator may, by written notice given to the responsible emitter for the facility, request that the responsible emitter provide, within the period specified in the notice, the Regulator with specified information that the Regulator considers relevant to the potential variation.
- (4) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

48 Paragraph 71(3)(c)

Repeal the paragraph.

49 Paragraph 72(1)(a)

After “that is a designated large facility”, insert “, or an eligible facility, for a financial year”.

50 Subparagraphs 72(1)(a)(iv) and (v)

After “designated large facility”, insert “or an eligible facility (as the case may be)”.

51 At the end of paragraph 72(1)(a)

Add:

and (xii) if there is an emissions reduction contribution for the facility for a financial year (the *facility-specific ERC*) that is different from the

- default emissions reduction contribution for that financial year—the facility-specific ERC; and
- (xiii) if there is a borrowing adjustment number for the facility for a financial year—that borrowing adjustment number; and
 - (xiv) if a number of safeguard mechanism credit units is issued to the responsible emitter for the facility for a financial year—the number of safeguard mechanism credit units issued to the responsible emitter for that financial year;

52 Paragraphs 72(1)(d) and (e)

Repeal the paragraphs, substitute:

- (d) in respect of each application for a declaration of a specified period as a declared multi-year period for a facility, the summary mentioned in paragraph 65(3)(f);
- (e) each explanation submitted to the Regulator under subsection 69A(2).

53 Subsection 72(3)

Omit “March”, substitute “April”.

54 Division 4 of Part 4 (heading)

Omit “**Excess surrender situations**”, substitute “**Net emissions number**”.

55 Section 72A

Repeal the section, substitute:

72A Excess surrender situation

- (1) This section applies if a person surrendered a number of prescribed carbon units for the purpose of reducing the net emissions number for a facility for a period (the *relevant period*).
- (2) There is taken to be an excess surrender situation of the person in relation to the facility for the relevant period if:
 - (a) the person surrendered some or all of those units because of an error on the part of the Regulator; or
 - (b) all of the following apply:
 - (i) the person surrendered some or all of those units because of an error on the part of the person or another person;
 - (ii) the error concerned the amount of covered emissions of greenhouse gases from the operation of the facility, or the quantity of a production variable for the facility, during the relevant period;
 - (iii) the Regulator required a report under the Act to be resubmitted because of the error;
 - (iv) the Regulator is satisfied that the error was made in good faith.
- (3) Units are taken to be covered by the excess surrender situation if:
 - (a) they were surrendered by the person because of an error mentioned in subsection (2); and
 - (b) the person, by written notice given to the Regulator, requests that those units be surrendered for the purpose of reducing the net emissions number

for the facility for the financial year (the *next financial year*) starting immediately after the relevant period; and

(c) the next financial year ends before 1 July 2030.

(4) For the purposes of subsection 22XK(3) of the Act, section 22XK of the Act has effect as if:

(a) the person had not surrendered the units covered by the excess surrender situation for the purpose of reducing the net emissions number for the facility for the relevant period; and

(b) the person:

(i) had surrendered those units for the purpose of reducing the net emissions number for the facility for the next financial year; and

(ii) had done so on the later of the first day of the next financial year and the day the notice was given to the Regulator.

72B Circumstances in which subsection 22XK(4) of the Act does not apply

For the purposes of subsection 22XK(5) of the Act, if a facility is a designated large facility, the net emissions number for the facility for a period is not increased under subsection 22XK(4) of the Act by a number of Australian carbon credit units if those units are not attributable to the avoidance of covered emissions of greenhouse gases from the operation of the facility during the period.

56 At the end of Part 4

Add:

Division 5—Surrender of prescribed carbon units

72C Requirements for surrender of prescribed carbon units

(1) For the purposes of paragraph 22XN(1)(b) of the Act, this section creates requirements for a surrender by a person of prescribed carbon units for the purposes of reducing the net emissions number for a facility for a period.

No ACCUs surrendered

(2) The surrender meets the requirements of this section if none of the prescribed carbon units are Australian carbon credit units.

Total number of ACCUs surrendered less than 30% of baseline emissions number

(3) The surrender also meets the requirements of this section if:

(a) some or all of the prescribed carbon units are Australian carbon credit units; and

(b) the total number of:

(i) those Australian carbon credit units; and

(ii) any Australian carbon credit units that were previously surrendered for the purposes of reducing the net emissions number for the facility for the period;

is less than 30% of the baseline emissions number for the facility for the period.

Total number of ACCUs surrendered equal to or greater than 30% of baseline emissions number (with explanation)

- (4) The surrender also meets the requirements of this section if:
- (a) some or all of the prescribed carbon units are Australian carbon credit units; and
 - (b) the surrender causes the total number of:
 - (i) those Australian carbon credit units; and
 - (ii) any Australian carbon credit units that were previously surrendered for the purposes of reducing the net emissions number for the facility for the period;to be equal to or greater than 30% of the baseline emissions number for the facility for the period; and
 - (c) the responsible emitter for the facility gives the Regulator, in accordance with subsection (5), a written explanation of why more carbon abatement was not undertaken at the facility during the period.

Explanation requirements

- (5) A written explanation of why more carbon abatement was not undertaken at a facility during a period must:
- (a) be given to the Regulator in the form approved, in writing, by the Regulator; and
 - (b) address the following matters:
 - (i) whether limitations in available technologies affected the level of carbon abatement undertaken at the facility during the period;
 - (ii) whether there are barriers, including regulatory barriers, to undertaking carbon abatement at the facility; and
 - (c) include information about future opportunities for undertaking carbon abatement at the facility; and
 - (d) identify any information included in the explanation that is commercially sensitive.

Publication of explanation

- (6) The Regulator must publish an explanation given to the Regulator in accordance with paragraph (5)(a) on the Regulator's website as soon as practicable after receiving it. The published explanation must not include any commercially sensitive information identified in accordance with paragraph (5)(d).

72D Requirements for period for which net emissions number is reduced by surrendering units

For the purposes of paragraph 22XN(1)(c) of the Act, the registered holder of one or more prescribed carbon units may surrender any or all of those units for the purposes of reducing the net emissions number for a facility for a period if the period meets the following requirements:

- (a) the period is a monitoring period for the facility in relation to the responsible emitter for the facility;

-
- (b) the period commenced before the surrender is made.

72E Circumstances in which subsection 22XN(6) of the Act does not apply

- (1) This section is made for the purposes of subsection 22XN(7) of the Act.

Contracts entered into after 30 March 2023

- (2) Subsection 22XN(6) of the Act does not apply in relation to a carbon abatement contract entered into after 30 March 2023 (otherwise than by way of novation).

Units not attributable to the avoidance of covered emissions

- (3) Australian carbon credit units are not taken under subsection 22XN(6) of the Act to have been surrendered for the purpose of reducing the net emissions number for a facility for a period if those units are not attributable to the avoidance of covered emissions of greenhouse gases from the operation of the facility during the period.

Carbon abatement contract does not refer to a particular eligible offsets project

- (4) Subsection 22XN(6) of the Act does not apply in circumstances where units that:
- (a) were issued in respect of a particular eligible offsets project; and
 - (b) are covered by paragraph 22XN(6)(c) of the Act;
- are purchased by the Commonwealth under a carbon abatement contract that does not refer to that particular project.

57 Before Division 1 of Part 5

Insert:

Division 1A—Voluntary registration

72F Registration of eligible facilities

For the purposes of paragraph 15B(3A)(a) of the Act, a person who has operational control of an eligible facility for a financial year may apply, in accordance with section 15B of the Act, to be registered under the Act.

58 Division 1 of Part 5 (at the end of the heading)

Add “**applications**”.

59 Section 76

Before “A report”, insert “(1)”.

60 At the end of section 76

Add:

Reporting quantities of production variables used to calculate baseline emissions number

- (2) A report provided under section 22XB of the Act by a person who is the responsible emitter for a facility during the whole or a part of a financial year

must also set out the information that would be required to be provided by the person under regulation 4.23C of the NGER Regulations if the person were a corporation to whom Division 4.4A of those regulations applied in relation to the facility for the financial year.

61 At the end of Part 5

Add:

Division 4—Other information about the safeguard mechanism

78A Audit of regulatory reports for facilities with high emissions

Audit required under section 74AA of the Act if emissions exceed 1 Mt CO₂-e

- (1) For the purposes of paragraph 74AA(1)(c) of the Act, the condition, in relation to a report that a person is required to provide under section 19, 22G, 22X or 22XB of the Act for a financial year in relation to one or more facilities, is that the amount of covered emissions of greenhouse gases from the operation of any of those facilities during the financial year exceeds 1 million tonnes of carbon dioxide equivalence.

Reasonable assurance conclusion for amounts exceeding 1 Mt CO₂-e

- (2) For the purposes of subsection 74AA(3) of the Act, the report for an audit, under subsection 74AA(2) of the Act, of a report (the **regulatory report**) in relation to one or more facilities must include:
 - (a) a reasonable assurance conclusion; or
 - (b) a qualified reasonable assurance conclusion;as to whether, in all material respects, the quantities specified in the regulatory report that relate to the following are correct:
 - (c) covered emissions of greenhouse gases from the operation of those facilities;
 - (d) production variables for those facilities.

62 At the end of Part 6

Add:

Division 5—Application, saving and transitional provisions relating to the National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023

87 Application provisions

- (1) The amendment of section 7 made by the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023* applies in relation to emissions of one or more greenhouse gases from the operation of a grid-connected electricity generator in respect of a sectoral-baseline financial year that begins after 30 June 2023.
- (2) Part 3, as substituted by the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023*, applies in relation to

the ascertainment of the baseline emissions number for a facility for a financial year that begins after 30 June 2023.

- (3) Sections 72B and 72D, and subsection 72E(3), as inserted by the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023*, apply in relation to a period beginning after 30 June 2022.
- (4) Section 72C, as inserted by the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023*, applies, on and after 1 July 2023, in relation to a period beginning before, on or after that day.

88 Saving provisions

- (1) Despite the repeal of Part 3 of this instrument by the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023*, that Part, as in force immediately before 1 July 2023, continues to apply, on and after that day, in relation to the ascertainment of the baseline emissions number for a facility for a financial year that ends on or before 30 June 2023.
- (2) However, for the ascertainment of the baseline emissions number for a facility for the financial year beginning on 1 July 2022, Part 3, as continued in force under subsection (1), applies as if the following were omitted:
 - (a) subsection 26A(6) (criteria for a transitional calculated baseline);
 - (b) subparagraphs 40(1)(ab)(i) and (ii) (criteria for a production-adjusted baseline determination);
 - (c) paragraph 40(1)(b) (criteria for a production-adjusted baseline determination).
- (3) Despite the repeal of Part 3 of this instrument by the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Reforms) Rules 2023*, a determination made under that Part that is in force immediately before 1 July 2023 continues to apply, on and after that day, in relation to the ascertainment of the baseline emissions number for a facility for a financial year that ends on or before 30 June 2023.

89 Updated end date for declared multi-year periods ending after 30 June 2024

- (1) This section applies to a declared multi-year period in a multi-year period declaration in force immediately before this section commences.
- (2) If the end date of the declared multi-year period is a date later than 30 June 2024, the end date is taken to be 30 June 2024.

90 Regulator must not extend multi-year period declaration in force before 1 July 2023

- (1) This section applies in relation to a declared multi-year period in a multi-year period declaration in force immediately before this section commences.
- (2) Despite subsection 68(3), the Regulator must not extend the length of the declared multi-year period.

63 Schedule 1

Repeal the Schedule.

64 Schedule 2 (heading)

Repeal the heading, substitute:

Schedule 1—Production variables

Note: See the definition of *production variable* in section 4.

65 Section 35 of Schedule 2 (at the end of the heading)

Add “from existing gas fields”.

66 Paragraph 35(1)(a) of Schedule 2

Omit “(from natural gas, crude oil mixtures or products produced from extracted hydrocarbons)”, substitute “from natural gas, crude oil mixtures or products produced from extracted hydrocarbons that are not covered extracted hydrocarbons”.

67 After section 35 of Schedule 2

Insert:

35A Reservoir carbon dioxide from new gas fields

- (1) Tonnes of reservoir carbon dioxide that:
 - (a) were separated in an acid gas removal unit from natural gas, crude oil mixtures or products produced from covered extracted hydrocarbons as part of one of the following activities:
 - (i) the oil and gas extraction activity;
 - (ii) the integrated crude oil extraction and stabilisation activity;
 - (iii) the natural gas processing activity;
 - (iv) the integrated natural gas extraction and processing activity;
 - (v) the processed natural gas liquefaction activity;
 - (vi) the unprocessed natural gas liquefaction activity; and
 - (b) when separated, consist of a mixture that is overwhelmingly carbon dioxide (CO₂) and may contain incidental associated substances derived from the source material and capture and separation processes; and
 - (c) have not previously been included as a tonne of reservoir carbon dioxide under this section; and
 - (d) were not imported as a carbon dioxide stream from another facility.
- (2) The metric in subsection (1) is applicable to a facility that separates reservoir carbon dioxide from natural gas, crude oil mixtures or products produced from extracted hydrocarbons as part of one of the following activities:
 - (a) the oil and gas extraction activity;
 - (b) the integrated crude oil extraction and stabilisation activity;
 - (c) the natural gas processing activity;
 - (d) the integrated natural gas extraction and processing activity;
 - (e) the processed natural gas liquefaction activity;
 - (f) the unprocessed natural gas liquefaction activity.

Covered extracted hydrocarbons

- (3) Extracted hydrocarbons are *covered extracted hydrocarbons* if they:

-
- (a) originate from a field (other a field that is covered by subsection (4)) in respect of which the commercial extraction of hydrocarbons was not undertaken before 1 July 2023; and
 - (b) are used as an input in the unprocessed natural gas liquefaction activity or the processed natural gas liquefaction activity (whether or not they are processed at a natural gas processing facility to produce pipeline gas beforehand); and
 - (c) are not purchased from the domestic wholesale gas market.
- (4) A field is covered by this subsection if, before 1 July 2023, the field, or part of the field, was included in an area in which the commercial extraction of hydrocarbons was occurring in accordance with a licence (however described) granted under a law of the Commonwealth, a State or a Territory.

Emissions intensities

- (5) The default emissions intensity is zero t CO₂-e per tonnes of reservoir carbon dioxide.
- (6) The best practice emissions intensity is zero t CO₂-e per tonnes of reservoir carbon dioxide.

68 At the end of Schedule 2

Add:

Part 46—Petroleum refining

97 Petroleum refinery feedstocks

- (1) Kilolitres of the following substances that are used in carrying on the activity of petroleum refining at the facility in accordance with subsection (2):
 - (a) stabilised crude petroleum oil at 15 °C and 1 atmosphere; and
 - (b) condensate at 15 °C and 1 atmosphere; and
 - (c) tallow at 15 °C and 1 atmosphere; and
 - (d) vegetable oil at 15 °C and 1 atmosphere; and
 - (e) eligible petroleum feedstocks at 15 °C and 1 atmosphere.
- (2) A substance mentioned in paragraphs (1)(a) to (e) is used in carrying on the activity of petroleum refining if the substance is, or is to be, refined:
 - (a) by 1 or both of the processes mentioned in paragraphs (3)(a) and (b); and
 - (b) into either of the following:
 - (i) 1 or more petroleum products mentioned in paragraphs (3)(c) and (d);
 - (ii) other by-products that result from carrying on the petroleum refining activity.
- (3) The metric in subsection (1) is applicable to a facility that conducts the activity of petroleum refining through the chemical and physical transformation of stabilised crude petroleum oil, which may be supplemented with 1 or more of condensate, tallow, vegetable oil, eligible petroleum feedstocks or other petroleum feedstocks, to produce a range of refined petroleum products through the following processes:

- (a) the distillation of stabilised crude petroleum oil, condensate, tallow, vegetable oil and other petroleum feedstocks;
 - (b) the adjustment of the molecular weight and structure of hydrocarbons (such as that which occurs through catalytic or hydro-cracking, steam or catalytic reforming, polymerisation, isomerisation or alkylation);
 - (c) the blending of products from distillation and adjustment of molecular weight and structure to produce Australian and international standard diesel, jet fuel and unleaded petrol;
 - (d) the production of 2 or more of the following refinery products saleable in Australian or international markets:
 - (i) hydrogen;
 - (ii) ethane;
 - (iii) propane;
 - (iv) refinery grade propylene;
 - (v) polymer grade propylene;
 - (vi) liquefied petroleum gas;
 - (vii) butane;
 - (viii) naphtha;
 - (ix) aviation gasoline;
 - (x) before oxygenate blend;
 - (xi) kerosene;
 - (xii) heating oil;
 - (xiii) solvents;
 - (xiv) lubricant base stocks;
 - (xv) leaded petrol;
 - (xvi) waxes;
 - (xvii) bitumen.
- (4) However, the metric in subsection (1) is not applicable to a facility unless:
- (a) each of the processes mentioned in paragraphs (3)(a) to (d) are conducted within the year at the facility; and
 - (b) the combined volume of diesel, jet fuel, unleaded petrol, lubricant base stocks and bitumen at 15 °C and 1 atmosphere produced from stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible petroleum feedstocks is equal to or greater than 75% of the total kilolitres of stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible petroleum feedstocks used in the year at the facility.
- (5) The activity in subsection (3) is the petroleum refining activity.
- (6) The default emissions intensity is 0.138 t CO₂-e per kilolitre of the substances mentioned in paragraphs (1)(a) to (e).
- (7) In this section:

condensate has the same meaning as in the *Excise Act 1901*.

eligible petroleum feedstocks means any 1 or more of the following that were not produced through the conduct of the petroleum refining activity carried on at another facility in Australia:

- (a) catalytic cracker feedstocks that are processed in the catalytic cracker in carrying on the petroleum refining activity and have a density of 0.84 to 0.98 kg/L at 15 °C and 1 atmosphere;
- (b) hydro-cracker unit feedstocks that are processed in the hydro-cracking unit in carrying on the petroleum refining activity and have a density of 0.84 to 0.98 kg/L at 15 °C and 1 atmosphere;
- (c) reformer unit feedstocks that are used to produce reformat in carrying on the petroleum refining activity and have a density of 0.6 to 0.80 kg/L at 15 °C and 1 atmosphere;
- (d) alkylation unit feedstocks that are used to produce alkylate in carrying on the petroleum refining activity and have a density of 0.55 to 0.62 kg/L at 15 °C and 1 atmosphere;
- (e) bitumen feedstocks that are used to produce bitumen in carrying on the petroleum refining activity and have a density greater than or equal to 0.95 kg/L at 15 °C and 1 atmosphere;
- (f) lubricant base stock feedstocks that are used to produce lubricant base stocks in carrying on the petroleum refining activity and have a density of 0.84 to 0.98 kg/L at 15 °C and 1 atmosphere.

stabilised crude petroleum oil has the meaning given in the Australian Taxation Office Interpretative Decision, ATO ID 2008/154, published on 18 November 2008.

Note: In 2023, the decision could be accessed from <http://www.ato.gov.au>.

unleaded petrol means all grades of unleaded petrol meeting Australian or international standards, including standard unleaded petrol, premium unleaded petrol and other proprietary forms of unleaded petrol.

69 Schedule 3

Repeal the Schedule, substitute:

Schedule 2—Trade-exposed production variables and manufacturing production variables

Note: See the definitions of *trade-exposed production variable* and *manufacturing production variable* in section 4.

1 Trade-exposed production variables that are also manufacturing production variables

The production variables in the following table are trade-exposed production variables and manufacturing production variables.

Trade-exposed production variables that are also manufacturing production variables	
Item	Production variable
1	Tonnes of bulk flat glass
2	Tonnes of glass containers
3	Tonnes of aluminium
4	Tonnes of alumina
5	Tonnes of ammonia

Schedule 1 Amendments

Trade-exposed production variables that are also manufacturing production variables	
Item	Production variable
6	Tonnes of ammonium nitrate
7	Tonnes of carbamide (urea)
8	Tonnes of ammonium phosphate (diammonium phosphate and monoammonium phosphate)
9	Tonnes of sodium cyanide
10	Tonnes of synthetic rutile
11	Tonnes of white titanium dioxide pigment
12	Tonnes of coke oven coke (integrated iron and steel manufacturing)
13	Tonnes of lime (integrated iron and steel manufacturing)
14	Tonnes of iron ore sinter (integrated iron and steel manufacturing)
15	Tonnes of iron ore pellets (integrated iron and steel manufacturing)
16	Tonnes of continuously cast carbon steel products and ingots of carbon steel (integrated iron and steel manufacturing)
17	Tonnes of hot rolled long products produced at integrated iron and steel manufacturing facilities
18	Tonnes of hot rolled flat products produced at integrated iron and steel manufacturing facilities
19	Tonnes of continuously cast carbon steel products and ingots of carbon steel (manufacture of carbon steel products from cold ferrous feed)
20	Tonnes of hot rolled long products not produced at integrated iron and steel manufacturing facilities
21	Tonnes of hot rolled flat products not produced at integrated iron and steel manufacturing facilities
22	Tonnes of iron ore pellets not from integrated iron and steel manufacturing
23	Tonnes of treated steel flat products
24	Tonnes of clinker not used by facility to make cement
25	Tonnes of cement produced from clinker at a facility
26	Tonnes of lime
27	Tonnes of silicon
28	Tonnes of lead bullion
29	Tonnes of refined lead
30	Tonnes of zinc in fume
31	Tonnes of caustic calcined magnesia
32	Tonnes of copper anode
33	Tonnes of manganese sinter
34	Tonnes of primary nickel products from nickel bearing inputs
35	Tonnes of primary nickel products from imported intermediate nickel products
36	Tonnes of intermediate nickel products from nickel bearing inputs
37	Tonnes of tissue paper
38	Tonnes of packaging and industrial paper
39	Tonnes of printing and writing paper
40	Tonnes of newsprint
41	Tonnes of pulp
42	Tonnes of ethene (ethylene)

Trade-exposed production variables that are also manufacturing production variables

Item	Production variable
43	Tonnes of polyethylene
44	Tonnes of wheat protein products (dried gluten)
45	Tonnes of direct wheat starch
46	Tonnes of wheat based dried distillers grain
47	Kilolitres of ethanol—95
48	Kilolitres of ethanol—absolute
49	Kilolitres of beverage grade ethanol
50	Tonnes of raw sugar
51	Kilolitres of petroleum refinery feedstocks

2 Trade-exposed production variables that are not manufacturing production variables

The production variables in the following table are trade-exposed production variables but not manufacturing production variables.

Trade-exposed production variables that are not manufacturing production variables

Item	Production variable
1	Tonnes of run-of-mine coal
2	Tonnes of iron ore
3	Tonnes of manganese ore
4	Tonnes of bauxite
5	Tonnes of run-of-mine metal ore
6	Gigajoules of extracted oil and gas
7	Gigajoules of stabilised crude oil or condensate (stabilisation only)
8	Gigajoules of stabilised crude oil (integrated extraction and stabilisation)
9	Gigajoules of processed natural gas (processing only)
10	Gigajoules of processed natural gas (integrated extraction and processing)
11	Gigajoules of liquefied natural gas (from unprocessed natural gas)
12	Gigajoules of liquefied natural gas (from processed natural gas)
13	Gigajoules of ethane
14	Gigajoules of liquefied petroleum gas

70 Amendments of listed provisions—prescribed (annually adjusted) production variables

Omit “prescribed (annually adjusted)” in the following provisions:

- (a) section 1 of Schedule 2;
- (b) paragraph 2(1)(a) of Schedule 2;
- (c) paragraph 2(3)(b) of Schedule 2;
- (d) subsection 64(5) of Schedule 2.

71 Amendments of listed provisions—Schedule 2

Omit “Schedule 2”, substitute “this Schedule” in the following provisions:

- (a) section 3 of Schedule 2 (definition of *saleable quality*);
- (b) paragraph 17(2)(b) of Schedule 2;
- (c) paragraph 18(2)(b) of Schedule 2;
- (d) paragraph 31(1)(f) of Schedule 2;
- (e) paragraph 32(1)(f) of Schedule 2;
- (f) paragraph 55A(1)(c) of Schedule 2.