



Australian Government

Department of the Environment and Energy

Amendments to the Emissions Reduction Fund Safeguard Mechanism

Final Assessment

Regulation Impact Statement

November 2018



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Introduction

This Regulation Impact Statement (RIS) for final assessment seeks to analyse options for refining the Safeguard Mechanism to make it fairer and simpler. Drawing on public consultation conducted in 2018, it has been prepared to inform consideration of the final design for refining the Safeguard Mechanism. In accordance with the *Australian Government Guide to Regulation* (2014), it addresses each of the seven RIS elements and includes a quantification of regulatory costs.

A RIS for early assessment was submitted to the Office of Best Practice Regulation in November 2017. It was approved ahead of the Government's agreement to consult on changes to the Safeguard Mechanism.

This RIS for final assessment builds on the original RIS prepared in 2015 for establishing the Safeguard Mechanism—drawing on the same approach and assumptions.¹ Since the 2015 RIS was developed, new data has become available, including data from the Safeguard Mechanism's first year of operation (2016-17). This has been an important input for completing this RIS for final assessment.

Policy context

The Safeguard Mechanism was established as part of the Emissions Reduction Fund (ERF)—the centrepiece of the Government's Direct Action Plan. The ERF is securing emissions reductions that will count towards meeting Australia's international climate commitments. The Safeguard Mechanism complements the emissions reduction elements of the ERF by sending a signal to businesses to avoid large unconstrained increases in emissions beyond business-as-usual levels. The Safeguard Mechanism is intended to accommodate economic growth and allow businesses to continue normal operations.

The Safeguard Mechanism is part of the *National Greenhouse and Energy Reporting Act 2007*.² Together with the emissions reporting obligations under the Act, the Safeguard Mechanism provides a framework for Australia's largest emitters to measure, report and manage their emissions. The Safeguard Mechanism places a legislated obligation on Australia's largest greenhouse gas emitters to keep net emissions below their emissions limit (or baseline). This obligation implements the second object of the Act (subsection 3(2)):

The second object of this Act is to ensure that net covered emissions of greenhouse gases from the operation of a designated large facility do not exceed the baseline applicable to the facility.

¹ Certified RIS available at OBPR's website: <https://ris.pmc.gov.au/2016/01/15/safeguard-mechanism-emissions-reduction-fund>

² The Safeguard Mechanism was established through amendments to the *National Greenhouse and Energy Reporting Act 2007*. The detailed design is set out in the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*. The design and operation of the Safeguard Mechanism was developed through extensive consultation with affected businesses. Its operation was outlined in the Emissions Reduction Fund White Paper released in April 2014 and refined through a consultation paper released in March 2015. It was legislated in November 2014, with the Rule released in September 2015. The Safeguard Mechanism commenced on 1 July 2016.

This legislated obligation ensures that each facility's net emissions remain at or below its individual baseline level. As a result, the total of all net emissions covered by the Safeguard Mechanism will not exceed the aggregate emissions limit, reflected as the sum of all baselines.

Without this framework, there would be inadequate policy signals in the industrial sector for businesses to manage their emissions. This could lead to a higher cost investment environment, limiting incentives for efficiency improvements, and locking-in a higher emissions pathway making it harder for Australia to meet future climate change commitments.

The Safeguard Mechanism applies to facilities with more than 100,000 tonnes of carbon dioxide equivalent emissions each year, and includes facilities in the electricity, mining, oil and gas, manufacturing, transport and waste sectors. In the first compliance year (2016-17), 203 facilities were covered by the Safeguard Mechanism across the industrial sector. Additionally, a single electricity sectoral baseline applies to grid-connected electricity generators. Individual electricity generators do not have an obligation to keep their emissions below their own individual baselines unless emissions from the sector exceeds this sectoral baseline. This is unlikely to occur.

Current policy settings

Baselines are initially set with reference to historical emissions (the high point of emissions between 2009-10 and 2013-14). Historical baselines (known as 'reported' baselines) recognise past business circumstances but can quickly become out-of-date. Given that the Safeguard Mechanism is intended to allow businesses to continue normal operations, (including normal operations that may lead to business-as-usual emissions growth), options are available for a facility to increase its baseline under certain circumstances.

Facilities can apply for a baseline increase (known as a 'calculated' baseline) if the following criteria are met:

- Initial calculated: emissions exceeded the baseline in 2016-17; or
- Significant expansion: production capacity expands by more than 20 per cent within three years, causing increased emissions; or
- Inherent emissions variability: natural variability in resource grades at mining, oil and gas facilities occurs, causing increased emissions.

Applications for calculated baselines require audited forecasts of:

- annual production (e.g. tonnes of alumina); and
- emissions intensity of that production (e.g. tonnes of emissions per tonne of alumina).

Following the calculated baseline period of three or five years, facilities must apply for a 'production adjusted baseline' to avoid returning to the historical baseline. The production adjusted baseline updates the calculated baseline according to actual production levels during the calculated baseline period. Once made, this baseline update is permanent.

Businesses are also able to access a temporary baseline increase using the emissions intensity test. This option allows a facility experiencing business-as-usual emissions growth to have its baseline adjusted for one year, so long as it can demonstrate improved emissions-intensity.

In addition to the above options for baseline adjustments, facilities can access flexible compliance arrangements, including multi-year monitoring which allows a facility to average its net emissions over an extended two or three year multi-year period. The facility must demonstrate its averaged emissions will be lower than emissions from the first year. Alternatively, a facility can use Australian Carbon Credit Units (ACCUs) to reduce net emissions (that is, offsetting emissions above its baseline).

A summary of application requirements for the various baseline adjustment options is provided in [Table 1](#).

Table 1. Summary of current application requirements for baseline increase options

Baseline increase option	Number of times available	Application requirements
Permanent increase options³		
<u>Calculated baseline:</u> 1. Initial calculated 2. Significant expansion 3. Inherent emissions variability	1. Once for 2016-17 2. Unlimited 3. Up to two opportunities before 2025.	All calculated baseline applications require <u>audited forecasts</u> of: <ul style="list-style-type: none"> • production; and • emissions intensity
<u>Production adjusted baseline</u>	Following a calculated baseline (typically once)	<u>Audited historical</u> production data
Temporary increase option (single-year duration)		
<u>Emissions intensity test</u>	Unlimited	The facility must demonstrate emissions intensity has continuously improved. <u>Audited historical:</u> <ul style="list-style-type: none"> • production data; and • emissions intensity data⁴

Question 1: What is the policy problem?

The Government reviewed Australia’s climate change policies—including the Emissions Reduction Fund and the Safeguard Mechanism—in 2017 to ensure they remain effective in achieving Australia’s emissions reduction targets.

Following the release of the Climate Change Policy Review consultation paper in March 2017, the Department received more than 350 submissions and met with around 270 stakeholders, including more than 40 businesses and industry groups directly affected by the Safeguard Mechanism.

³ A calculated baseline applies for three years (or five years for large facilities). While a calculated baseline is temporary, it can be subsequently replaced by a permanent production adjusted baseline.

⁴ This is only required in the case a facility reports the production of more than one type of output. Otherwise non-audited reported emissions data for the whole facility can be used.

Businesses told Government through the Climate Change Policy Review that they support the Safeguard Mechanism, but there are opportunities to improve it. The focus of suggested improvements was on making the Safeguard Mechanism fairer and simpler:

- fairer, to more evenly apply the incentive to manage emissions within and across sectors and avoid arbitrarily placing costs on business growth; and
- simpler to lower administrative costs by reducing the number of baseline applications and the cost of those applications.

Fairness

The Safeguard Mechanism is intended to send a signal to businesses to avoid large unconstrained increases in emissions beyond business-as-usual levels. It is intended to encourage businesses to manage their emissions, while also accommodating economic growth and allowing businesses to continue normal operations.

Feedback suggests current baseline settings are providing an uneven incentive on businesses to manage emissions. This is a result of:

- inequities in eligibility for baseline adjustments—they are available to many, but not all facilities; and
- baselines becoming out-of-date—recalibrating them to bring them closer to actual emissions would encourage all facilities to manage their emissions.

Baselines are initially set with reference to historical emissions. These baselines reflect the operations of a facility at a point in time and are not updated to reflect changes to the operating environment. Current arrangements allow baselines to be increased under certain circumstances. These baseline increases are available to many, but not all, facilities. Some facilities without access to a baseline adjustment (typically growing facilities) are expected to exceed their baselines in coming years.

Feedback suggests that growing businesses are the most likely to face costs.

With the exception of one area, the Safeguard Mechanism is working well. Some facilities are currently running close to their allocated baselines due to incremental growth in output. Ongoing consultation is required to provide sufficient flexibility in baseline determination.⁵

— Minerals Council of Australia, 2017

[Safeguard Mechanism] historical baselines will eventually see more and more growing businesses face a penalty, somewhat randomly and arbitrarily.⁶

— Australian Industry Group, 2017

⁵ Minerals Council of Australia, *Submission to the Climate Change Policy Review discussion paper*, 2017.

⁶ Australian Industry Group, *Submission to the Climate Change Policy Review discussion paper*, 2017.

...AIGN urges the Government to consider the cases of entities whose requirements to remain competitive and meet demand may include incremental increases in production that will result in commensurate increases in emissions growth. This would impose significant costs on businesses making rational decisions – and therefore conflict with the intention of the policy not to impose costs or negatively impact productive economic activity.⁷

— Australian Industry Greenhouse Network, 2017

Data from the first year of the Safeguard Mechanism supports this. In 2016-17, all facilities whose emissions exceeded their baseline could apply for a baseline increase. Around a third of the 203 covered facilities received a calculated baseline increase. The majority of these facilities used the ‘initial calculated’ baseline criteria. Most of those would not have been eligible for a baseline increase using other criteria,⁸ and indicated that increasing production was the primary cause of their baseline exceedance.

During consultations, a number of facilities provided empirical and anecdotal evidence demonstrating that they will face costs—now or in future—as a result of increasing production, including to meet global demand. Some are among Australia’s best performers from an emissions-intensity perspective. Many high-performing facilities have already implemented emissions reduction projects, so have limited scope for further improvements.

Accordingly, growing facilities that may be among the best performers could face higher compliance costs than their competitors⁹. While the objective of the policy is to allow for business-as-usual growth, current settings could result in best performers facing additional costs on growth, even when their emissions-intensity is being maintained. An illustrative example is provided in Box 1.

⁷ Australian Industry Greenhouse Network, *Submission to the Climate Change Policy Review discussion paper*, 2017.

⁸ Namely, the ‘significant expansion’ or ‘inherent emissions variability’ criteria.

⁹ Costs include sourcing and purchasing Australian Carbon Credit Units and costs associated with continually applying for flexible arrangements, such as the emissions-intensity test and multi-year monitoring periods.

Box 1: Illustrative example

OzWidgets is Australia's cleanest manufacturer of widgets. It is also among the world's best performers. It emits less than 0.5 tonnes of emissions for each tonne of widgets produced. This compares with an Australian average of around 1.3 tonnes per widget.

Widget demand is forecast to grow by up to 7 per cent each year. The best emissions outcome would see additional widget production occur at OzWidgets.

OzWidgets plans to increase production by a total of 10 per cent over the next three years. If output growth meets expectations, OzWidgets's emissions will exceed its fixed baseline this year. Under current arrangements, OzWidgets can apply for a temporary baseline increase in years where its emissions intensity continuously improves. However, OzWidgets is already a top performer, having undertaken a number of projects to improve its efficiency, so has limited capacity to further improve its emissions intensity.

OzWidgets plans to purchase ACCUs to bring its net emissions in line with its baseline. OzWidgets will incur a cost for increasing its production despite having the best efficiency performance in the sector. It may need to purchase ACCUs on an ongoing basis to remain compliant.

At the same time, using historical emissions to initially set baselines means that many facilities have baselines that are significantly higher than their current emissions. Data from the Safeguard Mechanism's first year of operation (2016-17) shows that around a third of safeguard facilities have emissions that are more than 20 per cent below their baseline. These facilities have little incentive to actively manage emissions.

Simplicity

During the Climate Change Policy Review, businesses suggested the administration of the Safeguard Mechanism should be simplified.

Under current policy settings, businesses who meet the eligibility criteria must repeatedly apply for baseline increases to ensure they keep pace with business growth. Some baseline increases are temporary, so businesses must reapply as required.

The Cement Industry Federation would welcome the opportunity to investigate potential framework changes and address further simplification around baseline adjustments....¹⁰

— Cement Industry Federation, 2017

Baseline applications typically require audited forecasts of emissions-intensity and production. Auditing these forecasts can be costly.

¹⁰ Cement Industry Federation, *Submission to the Climate Change Policy Review discussion paper*, 2017.

While the process for establishing reported baselines was straightforward, the process of obtaining a calculated baseline is more complex and bureaucratic requiring firms to invest significant resource[s] in preparing applications, having the application audited and then reviewed by the Clean Energy Regulator.¹¹

— Chevron, 2017

The Safeguard Mechanism baseline application process can be simplified to reduce these administrative costs.

Question 2: Why is Government action necessary?

Government action is needed to better align the Safeguard Mechanism with the objective to incentivise businesses to avoid large unconstrained increases in emissions beyond business-as-usual levels, while allowing businesses to continue normal operations and accommodate business growth. Addressing this misalignment will be important to improve the operation of the Safeguard Mechanism, helping it to remain a credible and enduring policy.

The identified problems cannot be self-corrected. The legislative framework underpinning the Safeguard Mechanism must be amended to avoid arbitrarily placing costs on growing businesses and to reduce the ongoing costs of baseline applications.

Question 3: What are the policy options?

The proposal explores options to make the Safeguard Mechanism simpler and fairer. This RIS considers three options:

- Option 1: Maintain the status quo
- Option 2: Bring baselines up-to-date
- Option 3: Bring baselines up-to-date and allow for automatic updates

Option 1: Maintain the status quo

Under Option 1, no changes would be made to the legislative framework underpinning the Safeguard Mechanism.

¹¹ Chevron, *Submission to the Climate Change Policy Review discussion paper*, 2017.

Option 2: Bring baselines up-to-date

Option 2 would build on current arrangements to bring baselines up-to-date with current circumstances and reduce the cost of baseline applications.

This option has two main elements:

1. Bring baselines up-to-date by transitioning all facilities to new baselines in 2018-19 and 2019-20.
 - a. Allow all facilities to apply for a new baseline starting from the 2018-19 compliance year.
 - b. Expire historically-derived 'reported' baselines on 30 June 2020.¹² Reported baselines would be up to a decade out-of-date by the time they expire.
2. Simplify baseline applications by giving businesses the option to use Government-determined production variables and default emissions intensity values for calculating baselines.
 - a. The default emissions-intensity values would be set at a level that is representative of the median performance in a sector¹³. This means the best performing facilities are the most likely to use the default emissions-intensity values. Further information on the framework for developing defaults can be found in Appendix A of the [Explanatory Document for exposure draft amendments to the Rule](#).¹⁴
 - b. Using default values would reduce the cost of making a baseline application, particularly by avoiding auditing costs associated with forecasting emissions intensity.

Option 2 also includes improved access to multi-year monitoring periods so that all facilities will be able to use multi-year averaging.

Option 3: Bring baselines up-to-date and allow for automatic updates

Option 3 builds on Option 2—it includes the two elements from Option 2 (bringing baselines up-to-date and simplifying baseline applications) and includes a third element, which allows baselines to automatically update.

Option 3 would prevent baselines from becoming out-of-date in the future by enabling baselines to update annually with production. This means a facility's baseline would automatically increase when production grows and decrease when production falls. This

¹² All reported baselines expire except for those facilities covered by the electricity sectoral baseline. Grid-connected electricity generators are covered by a sectoral baseline. The sectoral baseline is based on the historical high point of the aggregate of generator emissions. The sectoral baseline would expire if exceeded, but this is unlikely to occur.

¹³ The approach for calculating the default emissions intensity value will protect data confidentiality and will produce values that fairly represent the performance of businesses in the sector.

¹⁴ The Department will continue to consult on default production variables and emissions-intensity values. Priority production variables are intended to be published in the Safeguard Mechanism Rule in 2019, for use from the 2018-19 reporting and compliance year.

approach would support business growth and provide a continuous signal to manage emissions.

With this approach, most baselines would update annually.¹⁵ Annual updates would start once a facility moves to a production adjusted baseline.¹⁶ This approach will reduce the need for ongoing baseline applications.

The introduction of automatically updated baselines would make other baseline increase provisions largely redundant. Under this option, facilities will have limited access to the emissions-intensity-test and the significant expansion criteria. They are not needed when baselines automatically update for changes in production.

While automatically updated baselines avoid these application costs, they require facilities to report production figures every year. This reporting would occur as part of broader reporting requirements under the *National Greenhouse and Energy Reporting Act 2007*, using the existing Emissions and Energy Reporting System administered by the Clean Energy Regulator. Around 60 per cent of facilities covered by the Safeguard Mechanism already have experience reporting their production under legislated schemes—either through the National Greenhouse and Energy Reporting Scheme or through the Renewable Energy Target exemption applications. For the remaining facilities, this new reporting requirement would generate some additional regulatory costs. It is anticipated that these costs will be small as the production data required would already be collected for existing business reporting or contractual arrangements.

Question 4: What is the likely net benefit of each option?

Summary

This RIS presents three options. Option 1 would result in no change. Option 2 is fairer because all facilities could access an updated baseline before 2020. The number of baseline applications would increase in the short term, but applications would be simpler and less costly as facilities have the option to use Government-published default values in place of site-specific forecasts.

Under Option 3, baselines automatically adjust to keep pace with business growth. This would ‘future-proof’ the baseline setting process, giving all facilities an ongoing incentive to manage their emissions.

Table 2 below summarises the net benefits of Options 1, 2, and 3.

¹⁵ Under Option 3, it is intended that most (if not all) facilities would have baselines that update with production. Consultation revealed that annually updated baselines may not be suitable for all industries. In these cases, it may be necessary for facilities in these industries to retain a ‘fixed’ baseline, which would be in line with the existing regulatory framework (and the framework outlined for Option 2).

¹⁶ As with the current approach, the baseline would be fixed during the calculated baseline period. But once a facility moves to a production adjusted baseline, instead of remaining fixed, the baseline would be updated annually for production.

Table 2. Expected outcomes against policy refinement objectives

	Policy refinements	Option 1	Option 2	Option 3
Fairness	Even incentive to manage emissions within and across sectors	No change	Incentive to manage emissions more evenly dispersed	Incentive to manage emissions more evenly dispersed. Clear incentive to manage emissions intensity regardless of changing production
	Avoid arbitrary costs	No change	Reduces arbitrary costs on growing businesses in short term	Removes arbitrary costs on growing businesses on ongoing basis
Simplicity	Reduce number of applications	No change	Short term increase in applications	Short term increase in applications but the need for future applications is reduced. Fewer applications than Option 2
	Reduce cost of applications	No change	Reduced cost (internal and audit)	Reduced cost (internal and audit). Further reduced from Option 2
Emissions	Reduce aggregate emissions limit	No change—current levels of exceedance expected to continue. Many facilities have baselines that are well above their emissions, giving them little incentive to actively manage their emissions.	Aggregate emissions limits expected to be lower than Option 1. The level of exceedance is expected to be similar to Option 1, but more evenly distributed as baselines move closer to emissions. Some baselines will be higher and some will be lower.	Similar to Option 2, but facility baselines rise and fall <i>each year with production</i> , so more facilities encouraged to actively manage their emissions. Exceedance shifts away from growing facilities to the most emissions-intensive facilities.

Option 1: Maintain the status quo

Under Option 1, baseline updates would continue to only be available to some facilities experiencing business-as-usual emissions growth. These facilities would need to continue to apply on an ongoing basis to ensure their baseline reflects current circumstances. Growing facilities that are not eligible for baseline updates or other flexibility arrangements would face higher compliance costs.

Likely emissions outcomes

Under all options, the Safeguard Mechanism would continue to provide a framework for Australia’s largest emitters to measure, report and manage their emissions. All covered emissions would remain at or below the emissions limit of the total of all baselines.

Under Option 1, baselines would not consistently reflect business-as-usual circumstances, so the scale of the incentive to manage emissions would differ arbitrarily among facilities. In any

given year, some businesses would be incentivised to actively manage emissions, some businesses would have little incentive to actively manage emissions, and some businesses that may be among the best performers would be penalised for business-as-usual emissions growth. In order to actively manage their emissions, businesses would need to assess whether they undertake emissions reduction activities on-site, make use of Safeguard Mechanism compliance options, or purchase ACCUs to offset any baseline exceedance.

Regulatory costs

Average net regulatory costs under current policy arrangements (business-as-usual) are **\$0** a year over ten years.

Option 2: Bring baselines up-to-date

Option 2 makes the Safeguard Mechanism fairer by recalibrating all baselines. By bringing baselines up-to-date, Option 2 would rebalance all baselines in line with the current operating environment. It is expected that this will generally minimise the gap between facility emissions and facility baselines—the total aggregate of baselines for 2020-21 (after all facilities have transitioned) is expected to be lower than the aggregate baselines for 2016-17 under this option.

This recalibration better distributes the incentive between and within industries to actively manage emissions. It does this by removing excessively high baselines and preventing arbitrary baseline exceedances in the short term. However, because Option 2 continues to have fixed baselines, it does not resolve these issues on an ongoing basis. The gap between baselines and business-as-usual emissions levels would be expected to re-emerge over time.

As with the business-as-usual option, growing facilities could arbitrarily face higher compliance costs than other facilities, even if they are among the least emissions-intensive performers in their sector. While the objective of the policy is to allow for business-as-usual growth, Option 2 could result in best performers being penalised for growth, even when their efficiency has been maintained.

Option 2 would make the Safeguard Mechanism simpler by reducing the number of ongoing applications for baseline adjustments and other flexible compliance provisions. However, Option 2 would still require facilities that meet the eligibility criteria to re-apply in the future in order for baselines to reflect up-to-date circumstances.

Option 2 would make the Safeguard simpler by giving businesses the option to select default production variables and emissions intensity values. This would reduce the cost of applications and, importantly, reduce the need for, and cost of, audits.

Likely emissions outcomes

Bringing baselines up-to-date would minimise the gap between facility emissions and baselines. At an aggregate level, the total of all baselines is expected to be lower relative to 2016-17. This is because a third of safeguard facilities have emissions that are more than 20 per cent below their baseline. Total covered emissions would remain at or below the total emissions limit of all baselines.

By introducing default emissions intensity values into the Rule, Option 2 would provide Safeguard businesses with information on the average emissions intensity for their industry.

This would allow them to compare their emissions intensity with the industry average, potentially encouraging efficiency improvements that deliver improved emissions outcomes.

Under Option 2, the number of facilities exceeding their baseline would be expected to reduce in the short term.

Regulatory Costs

The average net **regulatory savings for Option 2 are estimated to be approximately \$19,000** a year over ten years, compared with the business-as-usual scenario. This is based on:

- An increase in application costs for facilities that would not have otherwise needed to apply for a calculated baseline. Under Option 2, reported baselines expire on 1 July 2020. This means covered facilities wishing to avoid a default baseline of 100,000 must apply for a calculated baseline.
- A lower compliance cost for those facilities that would have otherwise exceeded their baseline.
- Fewer baseline applications after the transition period.
- Reduced applications costs (particularly audit costs) for those facilities using the default production variables and emissions intensity values.¹⁷
- Reducing the number and cost of applications for other flexible compliance arrangements, including the emissions-intensity test and multi-year monitoring periods.¹⁸

Option 3: Bring baselines up-to-date and allow for automatic updates

Option 3 includes the same elements as Option 2 but also allows baselines to automatically update with actual production.

As a result, Option 3 shares some of the benefits with Option 2:

- Option 3 would make the Safeguard Mechanism fairer by recalibrating all baselines with up-to-date data, which better distributes the incentive to actively manage emissions between and within industries.
- Option 3 would make the Safeguard Mechanism simpler by reducing the cost of application by giving businesses the option to use default production variables and emissions-intensity values.

By introducing baselines that automatically update for production, Option 3 changes the incentive framework to focus on emissions-intensity. Under this option, baseline exceedance would no longer occur as a result of increasing production. Rather, exceedance would indicate a deterioration in emissions-intensity. Therefore, growing businesses would no longer face costs arbitrarily. As a result, Option 3 provides a framework to encourage businesses to maintain and improve efficiency while supporting business growth. This

¹⁷ Preliminary estimates of emissions intensities at a facility level suggest around a third of all Safeguard facilities applying for calculated baselines could be expected to use the default values and benefit from a less costly application process.

¹⁸ By streamlining and simplifying the multi-year monitoring period application process, applications would be less costly. Further, by allowing all facilities to use multi-year averaging, facilities would also be better able to manage the cost of compliance.

provides a more equitable incentive to manage emissions on an ongoing basis, and is consistent with the policy objective of allowing business-as-usual emissions.

Like Option 2, Option 3 brings baselines up-to-date, but by allowing baselines to adjust with production, Option 3 ensures baselines continue to reflect current operating circumstances. This would prevent the problem of under- and over-allocation of emissions limits from re-emerging. By aligning baselines with production, all businesses would be continually encouraged to actively monitor and manage their emissions, and to maintain their efficiency. This option would continue to provide an even incentive to manage emissions across facilities over the long term, regardless of changes in production.

In line with the policy objective, Option 3 would incentivise businesses to manage their emissions on an ongoing basis, while also accommodating economic growth and allowing businesses to continue normal operations.

Option 3 further simplifies the Safeguard Mechanism, compared to Option 2. Because baselines automatically update with production, facilities would no longer have to re-apply to ensure baselines reflect current operating circumstances. As a result, there would be few ongoing baseline applications under Option 3, compared to Option 2.

Likely emissions outcomes

As with Option 2, by transitioning facilities to up-to-date baselines, Option 3 would minimise the gap between facility emissions and baselines. At an aggregate level, the total of all baselines is expected to be lower (than Option 1) and total covered emissions would not exceed this aggregated emissions limit.

The automatic baseline updates for production under Option 3 would mean that baselines both increase *and* decrease in any given year based on individual facility circumstances. For this reason, the overall outcome on aggregate baselines is expected to be similar to Option 2.

Although baselines are expected to be similar to Option 2 on an aggregate level, on an individual facility basis, baselines would more closely track business-as-usual emissions levels over the long term. This would provide a more even incentive on facilities to manage their emissions. Additionally, compared to Options 1 or 2, Option 3 specifically sends a signal to businesses to avoid more emissions intensive production. Allowing baselines to update each year for production changes would shift the incentive to managing emissions intensity performance, rather than absolute emissions. This contrasts with Option 2 where production growth could cause a facility to exceed its baseline. By allowing baselines to increase in response to increasing production so long as efficiency does not worsen, Option 3 better supports business growth while incentivising efficient operations.

Similar to Option 2, Option 3 would introduce default emissions intensity values reflecting average industry performance. This would be expected to have a similar outcome to Option 2 in helping businesses understand how their emissions intensity relates to the rest of their industry.

Under Option 3, some baseline exceedances would continue to occur in any given year, requiring some facilities to use ACCUs to manage net emissions. However it is expected that those exceedances would generally be smaller than exceedances under Option 2 because baselines would remain up-to-date, and exceedances would occur only as a result of worsening emissions intensity.

Regulatory costs

The average net **regulatory savings for Option 3 are estimated to be approximately \$117,000** a year over ten years, compared with the business-as-usual scenario. This is based on similar elements to Option 2, including:

- An increase in application costs for facilities that would not have otherwise needed to apply for a calculated baseline.
- A lower compliance cost for those facilities that would have otherwise exceeded their baseline.
- Fewer baseline applications after the transition period.
- Reduced applications costs (particularly audit costs) for those facilities using default production variables and emissions intensity values.

However, compared to Option 2, the regulatory costs of Option 3 include:

- Fewer applications for calculated baselines under the inherent emissions variability criteria, and fewer applications for multi-year monitoring periods.
- Zero applications for a temporary baseline increase using the emissions intensity test (this provision would no longer be required).
- Reduced need for businesses to supply audited historical production data for production-adjusted baseline applications. This requirement has been reduced because facilities can move to baselines that automatically update with actual production, which is not audited.
- Higher ongoing reporting costs because all facilities with baselines that automatically update with production would be required to report production data. This would be a new regulatory cost for many facilities.

Question 5: Consultation

Consultation to date

The Department of the Environment and Energy has undertaken extensive consultation on the best approach to improve the Safeguard Mechanism. Consultation efforts have particularly focused on the most affected stakeholders, including facilities in the resources, manufacturing, transport and waste sectors.

An outline of consultation efforts follows. [Figure 1](#) provides a summary of the key consultation activities undertaken.

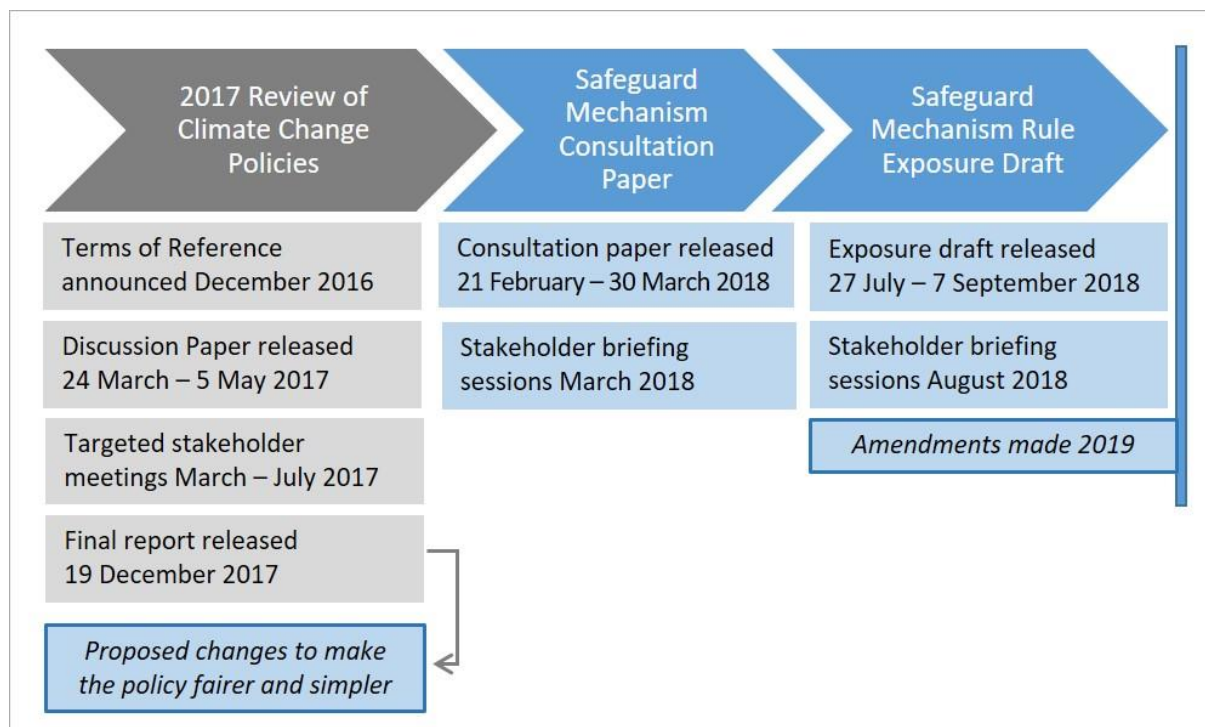


Figure 1: Summary of key consultation activities

Climate Change Policy Review

Stakeholders were initially invited to comment on the effectiveness of the Safeguard Mechanism—along with the Government’s other climate change policies—upon the release of the Government’s 2017 Review of Climate Change Policies discussion paper in March 2017.

Over the course of 2017, the Department consulted widely with businesses across all sectors of the economy and with the community. The discussion paper generated over 350 public submissions (105 from individuals and 252 from organisations). The Department met with more than 270 stakeholders and the then Minister for the Environment and Energy hosted two roundtables, attended by representatives from 42 business, community, environmental and Indigenous organisations.

During review consultations, businesses told the Government they support the Safeguard Mechanism framework, but identified opportunities to improve its operation.

On 19 December 2017, the Government released the [final report](#) for the 2017 Review of Climate Change Policies. In the final report, the Government committed to consult with businesses and work with the Clean Energy Regulator on ways to bring baselines up-to-date with current circumstances, and make the Safeguard Mechanism fairer and simpler, with the view to have any changes take effect for the 2018–19 compliance year.

Safeguard Mechanism consultation paper

In line with its December 2017 commitment, on 21 February 2018, the Government released a [consultation paper](#) on proposed options to improve the Safeguard Mechanism. Comments closed five weeks later on 30 March 2018. By this time the Safeguard Mechanism had been in operation for more than a year and covered businesses had completed their first compliance period cycle.

The consultation paper outlined a proposed approach with three main elements:

1. Bring baselines up-to-date by transitioning all facilities to calculated baselines over 2018-19 and 2019-20.
2. Simplify applications by giving businesses the option to use Government-determined 'production variables' and default emissions-intensity values for calculating baselines.
3. Update baselines annually for actual production, so they continue to reflect facility circumstances and enable growth. This would require businesses to report production.

In March 2018, the Department met with over 60 organisations through a series of group briefing sessions. Attendees included businesses with facilities covered by the Safeguard Mechanism, their industry bodies, and industry consultants including auditors and lawyers. Officers from the Clean Energy Regulator and Department of Industry, Innovation and Science also attended the sessions.

The Department also met bilaterally with 11 Safeguard businesses and three industry groups and their members. The bilateral meetings with businesses enabled the Department to test the practical implications of policy options and allow representatives to speak in confidence.

The Department received 57 submissions from individuals, businesses, local councils and peak bodies in response to the consultation paper. Submissions were generally supportive of the approach proposed in the consultation paper.

Our industry supports the Government's intent to bring baselines under the Safeguard Mechanism up-to-date and to make it fairer and simpler.¹⁹

– Australian Aluminium Council

[The Business Council] welcomes the government's proposal to bring Safeguard Mechanism baselines 'up-to-date' to reflect current circumstances, account for business growth and reduce administrative burdens by making it a simpler and fairer process.²⁰

– The Business Council of Australia

¹⁹ Australian Aluminium Council, *Submission to the Emissions Reduction Fund Safeguard Mechanism Consultation Paper*, 2018.

²⁰ The Business Council of Australia, *Submission to the Emissions Reduction Fund Safeguard Mechanism Consultation Paper*, 2018.

Safeguard Mechanism draft legislative amendments

On 27 July 2018, the Government released [exposure draft amendments](#) to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*. Comments closed six weeks later on 7 September 2018. Accompanying documents were also released:

- an [explanatory document](#) to support understanding of the draft amendments
- a [consultation outcomes paper](#) explaining how stakeholder comments on the preceding consultation paper had been considered (included at [Attachment A](#)).

The Department again met with over 60 organisations through a series of group briefing sessions, and met bilaterally with four Safeguard businesses and three industry groups and their members. 26 submissions were received from the public consultation process.

A number of stakeholders provided overarching comments on the proposed amendments and these were generally positive. Businesses generally agreed with the approach for bringing baselines up-to-date (Option 2 and Option 3 relates).

Businesses were supportive of the introduction of default production variables and emissions intensity values. Support was often given on the understanding that defaults would be optional rather than mandatory, and developed in consultation with industry. Most businesses communicated strong support for the introduction of annually-updating baselines (Option 3 relates).

Some businesses, while noting support for annually-updating baselines, also suggested that updating baselines annually may not be suitable for certain industries.

These points will be further explored through targeted consultation with specific industries, and drawing on independent expertise, during the development of default production variables and emissions intensity values.

A summary of stakeholder comments on the exposure draft amendments is provided at [Attachment B](#). A summary of changes to be incorporated in the final Rule amendment as a result of stakeholder feedback is provided at [Attachment C](#).

A list of stakeholders that submitted non-confidential submissions on the Safeguard Mechanism consultation paper and the exposure draft amendments to the Rule is provided at [Attachment D](#).

The Department consulted with relevant Commonwealth agencies, including the Clean Energy Regulator and Department of Industry, Innovation and Science, on the development of the policy details and this RIS.

Future consultation

Further consultation will be required to finalise outstanding details of the proposed amendments, summarised below.

Defining defaults

The proposed approach includes the addition of two new schedules to the Rule. The schedules will define the default production variables and their corresponding emissions intensity values in the Rule. The proposed framework for developing the default production variables and emissions intensity values was publicly released for comment during the most recent consultation round (refer to Appendix A of the [Explanatory Document for exposure draft amendments to the Rule](#)).

The Government will develop the default production variables and emissions intensity values in consultation with businesses and supported by independent technical advice. Targeted consultation with businesses has begun. During the August 2018 briefing sessions, the Department invited businesses to engage in this consultation process. A number of businesses have since advised the Department that they wish to be involved in the development of defaults. The Government will release draft production variables for public comment, with the aim of publishing priority production variables in 2019, for use in the 2018-19 reporting and compliance year.

Reporting production data

The exposure draft amendment Rule requires some facilities to report additional production data under the National Greenhouse and Energy Reporting Scheme. The new reporting requirement will be established through amendments to the *National Greenhouse and Energy Reporting Regulations 2008*. The Government will release an exposure draft of the proposed regulation amendments in 2019.

Question 6: Recommended option

Option 3—bring baselines up-to-date and allow automatic updates—is the preferred option. Refer to [Table 3](#) below for a summary of the net benefits.

Table 3. Summary of net benefits

Option	Regulatory impact summary	Net Benefits	Estimated annual average regulatory costs (compared to BAU)
<p>Option 1 Maintain the status quo</p>	<ul style="list-style-type: none"> • Ongoing applications for eligible facilities • Emissions more likely to exceed baselines for those not eligible for a baseline update • High number of facilities applying for other flexibility provisions. • Baseline exceedance can result from an increase in production, regardless of efficiency or emissions performance • The incentive to manage emissions in not applied equitably across all facilities 	<p>N/A</p>	<p>\$0</p>
<p>Option 2 Bring baselines up-to-date</p>	<ul style="list-style-type: none"> • All facilities must apply for new baselines • Options to reduce cost of baseline applications 	<ul style="list-style-type: none"> • Incentive to manage emissions more evenly dispersed • Reduces arbitrary costs, including on growing businesses • Short term increase in applications • Reduced cost (internal and audit) • Aggregate of baselines likely to be lower than Option 1 	<p>-\$19,000</p>
<p>Option 3 Bring baselines up-to-date and allow for automatic updates</p>	<ul style="list-style-type: none"> • All facilities must apply for new baselines • Options to reduce cost of baseline applications • Baselines automatically adjust with production to better reflect business-as-usual. • Additional reporting for those not already reporting production. • Baseline exceedance reflects degrading emissions-intensity, rather than an increase in production. 	<ul style="list-style-type: none"> • Incentive to manage emissions more evenly dispersed. Clear incentive to manage emissions intensity regardless of changing production. But requires reporting of production. • Removes arbitrary costs on growing businesses 	<p>-\$117,000</p>

Option	Regulatory impact summary	Net Benefits	Estimated annual average regulatory costs (compared to BAU)
		<ul style="list-style-type: none"> • Short term increase in applications but less need for future applications. Fewer applications than Option 2 • Reduced cost (internal and audit). Further reduced from Option 2 • Similar aggregate baselines to Option 2 	

Option 1—maintain the status quo—would result in continued arbitrary costs on growing businesses and continual administrative costs. These costs would continue to be unevenly dispersed.

Option 2—bring baselines up-to-date—would address the objectives of refining the Safeguard Mechanism but may only provide a short term solution. It would make the policy fairer by bringing all baselines to up-to-date. It includes an element of simplification by allowing the use of Government determined defaults. The introduction of default emissions intensity values could help businesses and shareholders assess their emissions performance relative to competitors, potentially encouraging performance improvements.

Option 3 retains and builds on the benefits of Option 2. It is the preferred option for improving the Safeguard Mechanism by bringing baselines up-to-date and making the Safeguard Mechanism fairer and simpler.

Option 3 would result in reduced administrative costs compared with Option 1 and Option 2 (refer [Table 4](#) below).

Table 4. Summary of available options for reducing application costs

RIS option:	Option to avoid costs of identifying production variables?	Option to avoid costs of providing audited emissions intensity data?	Option to avoid costs of providing audited production data?
Option 1	✘	✘	✘
Option 2	✔	✔	✘
Option 3	✔	✔	✔

Option 3 allows baselines to be set in a way that reflects business-as-usual emissions levels on an ongoing basis, while also supporting business growth and encouraging businesses to maintain their efficiency. Unlike Option 2, it prevents the identified problems from re-emerging. Option 3 applies a more equitable incentive for facilities to manage emissions on an ongoing basis. Option 3 would most effectively achieve the objective of sending a signal to businesses to avoid large unconstrained increases in emissions beyond business-as-usual levels, while allowing for business growth.

Option 3 would not penalise business growth, and is expected to result in smaller individual exceedances than with Option 1 and 2. Businesses that manage their efficiency would be better supported to grow, potentially leading to improved economic returns for these businesses compared to Option 1 or 2, while encouraging efficient operations.

Importantly, the three elements underpinning Option 3 are broadly supported by businesses with facilities covered by the Safeguard Mechanism.

Question 7: Implementation and evaluation

Implementation approach

The Clean Energy Regulator administers the *National Greenhouse and Energy Reporting Act 2007* and the Safeguard Mechanism, which is legislated through this Act. The proposed changes to the Safeguard Mechanism would be delivered through amendments to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*. The changes are intended to be in place in 2019, for use from the 2018-19 reporting and compliance year, noting the baseline application deadline for the 2018-19 compliance year is by the end of October 2019.

The Department and Clean Energy Regulator will work together to ensure the existing compliance systems and frameworks are updated in line with the amendments to the Rule to facilitate a successful transition. This includes:

- updating online guidance resources on the operation of the Safeguard Mechanism, including providing new guidance material on changed aspects of the policy;
- updating the online Emissions and Energy Reporting System; and
- ensuring affected businesses understand the additional production reporting requirements, additional data collection and reporting requirements and deadlines

The Clean Energy Regulator will undertake an outreach program for affected businesses, including face-to-face information sessions on the practical implications of the changes.

The Department will continue to work with businesses on developing default production variables and emissions intensity values, prioritising industries requiring access to default values for the 2018-19 compliance year.

Implementation risks

Default production variables and emissions intensity values delayed: Undue delay to the development of default production variables and emissions intensity values would mean all businesses applying for a calculated baseline for the 2018-19 compliance year would need to use a site-specific production variable and emissions intensity value. This delay would mean that businesses intending to use the simpler application process of using default production variables and emissions intensity values would instead incur higher costs.

To mitigate this risk, the Department is working with industry to prioritise the sectors requiring defaults for 2018-19. The Department is also prioritising production variables that may be applicable across multiple industry groups.

Introduction of annually updating baselines increases complexity: The introduction of annually updating baselines may increase the difficulty of interpreting the legislation. As indicated above, new guidance material will be provided to help affected businesses understand the policy changes, including the introduction of annually updating baselines. The proposed outreach program will further help businesses understand this new element and explore how it relates to their facilities.

Delay to new reporting requirements: Amendments to the *National Greenhouse and Energy Reporting Act Regulations 2008* will clarify production data reporting requirements. Delay to making the amendments could result in some confusion among businesses of their new

production data reporting requirements. The Regulations are intended to be amended several months before 2018-19 reports are due (the due date is 31 October 2019).

To mitigate this risk, the Department will work with the Clean Energy Regulator to ensure existing systems (such as the Emissions and Energy Reporting System) can be updated quickly and/or short-term alternatives be put in place to ensure the necessary production data can be reported in the required format.

Evaluation

The final report of the 2017 Review of Climate Change Policies established that an evaluation of the operation of the Safeguard Mechanism will be undertaken by 2020. This review will consider any updates to the Rule and Regulations in the context of progress toward Australia's 2030 emissions reduction target. The terms of reference and other details of this next review are yet to be announced.

This review could provide an opportunity to consider the impact of the changes proposed in Option 3 of this RIS, drawing on data from the first two or three years of the operation of the Safeguard Mechanism.

Attachments

Attachment A - Consultation Outcomes Paper



Australian Government

Department of the Environment and Energy

Emissions Reduction Fund: Safeguard Mechanism

Consultation outcomes

July 2018

1. INTRODUCTION

As an outcome of the 2017 review of climate change policies, the Government committed to consult with businesses on ways to bring Safeguard Mechanism baselines up-to-date with current circumstances and make the Safeguard Mechanism fairer and simpler. A consultation paper was released for public comment on 21 February 2018, outlining a proposed approach with three main elements:

1. Bring baselines up-to-date by transitioning all facilities to calculated baselines over 2018-19 and 2019-20.
2. Simplify applications by giving businesses the option to use Government-determined 'production variables' and default emissions-intensity values for calculating baselines.
3. Update baselines annually for actual production, so they continue to reflect facility circumstances and enable growth. This would require businesses to report production.

The consultation paper can be found on the Department of the Environment and Energy's website at: <https://www.environment.gov.au/climate-change/government/emissions-reduction-fund/consultation/safeguard-mechanism>

The Department met with over 60 organisations through a series of workshops and meetings and received 57 submissions from individuals, businesses, local councils and peak bodies in response to the consultation paper. The submissions were generally supportive of the approach proposed in the consultation paper.

Our industry supports the Government's intent to bring baselines under the Safeguard Mechanism up-to-date and to make it fairer and simpler.

– Australian Aluminium Council

The Business Council...welcomes the government's proposal to bring Safeguard Mechanism baselines 'up-to-date' to reflect current circumstances, account for business growth and reduce administrative burdens by making it a simpler and fairer process.

– Business Council of Australia

1.1 This paper

This paper sets out the approach for updating the Safeguard Mechanism, taking into account the views expressed in submissions in response to the consultation paper. It should be read in conjunction with the exposure draft amendments to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015* which has been released for public comment, and the accompanying explanatory document: <http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/consultation/safeguard-mechanism-legislative-amendments-2018>

2. FEEDBACK AND FORWARD APPROACH

2.1 Transitioning to calculated baselines

The consultation paper outlined an approach to transition all facilities to calculated baselines, which use more up-to-date data, noting that existing baselines use data that could be a decade out of date. The paper proposed all facilities on a reported (historical) baseline could

apply for a calculated baseline in 2018-19 or 2019-20, and reported baselines would expire on 1 July 2020. Facilities that already have a calculated baseline could not reapply.

2.1.1 Feedback from submissions

The majority of submissions were in favour of the proposal to transition to calculated baselines. Many stated that facilities already on a calculated baseline should be permitted to apply.

The MCA specifically welcomes the Consultation Paper's proposed transition to calculated baselines as a means of ensuring all business have baselines which reflect recent activity.

– Minerals Council of Australia

For facilities that have applied for a calculated baseline in 2016-17, Origin believes that all corporations should have the ability to review and assess at the same time as all other entities... This will provide an equal opportunity for all participants under the Safeguard Mechanism and establish a fair baseline standard.

– Origin Energy

2.1.2 Approach for transitioning to calculated baselines

The Government will allow all facilities to apply for a new calculated baseline in 2018-19 or 2019-20, including those already with calculated baselines. This promotes consistency in how baselines are set and ensures all facilities can access baselines that are set using up-to-date data. Existing reported baselines will expire on 30 June 2020, except for those facilities covered by the electricity sectoral baseline.

The Government will publish default production variables and emissions-intensity values to help lower the cost of baseline applications (see section 2.2 below).

In line with the approach outlined in the consultation paper, landfill facilities will transition to baselines using gas capture rates similar to the current baseline setting approach for new landfills. As with production variables, a default capture rate will be set following targeted consultation.

2.2 Simplifying calculated baselines

In the consultation paper, the Government sought views on introducing an option to use Government determined default production variables and emissions-intensity values for calculated baseline applications in order to simplify application and audit processes and help lower administrative costs for businesses.

2.2.1 Feedback from submissions

There was broad support for giving businesses the option to use default production variables and emissions intensity values.

AIP welcomes the approach to allow the use of default production variable and default emissions intensity values while also allowing for the use of site specific factors should a facility prefer that approach. Default values have the capacity to significantly simplify and streamline the administrative process, including audit the requirements.

– Australian Institute of Petroleum

Many submissions highlighted the importance of further consultation.

...our industry is looking forward to further, industry-specific consultations to discuss the development of the emissions intensity value, including discussions around appropriate production metrics.

– Cement Industry Federation

AIGN and its members look forward to ongoing consultation and detailed workshops on the development of production variables and associated emissions-intensity factors.

– Australian Industry Greenhouse Network

2.2.2 Approach for simplifying calculated baselines

The Government will give facilities the option to use default production variables and emissions-intensity values in place of site-specific forecasts. These will be developed by the Department, in consultation with businesses and supported by independent technical advice.

To allow sufficient time for consultation, default values will be published by the Government in the first half of 2019. The published values will be available in time to be used for 2018-19 baseline applications.

A facility with a calculated baseline will be able to choose to move to default emissions-intensity values at any time, but once it is using the default value it would not be able to move back to a site-specific value.

2.3 Annually updating baselines for actual production

The consultation paper outlined an approach to allow baselines to be updated annually for production in order to help prevent baselines becoming out-of-date in the future. This approach would require businesses to report production data.

The consultation paper sought views on whether baselines that are updated annually for production should apply to emissions-intensive trade exposed facilities only, or more broadly. The consultation paper also sought views on whether there is a need to standardise the basis for determining annually-updated production adjusted baselines, for example through the use of commonly-defined production variables.

2.3.1 Feedback from submissions

The majority of submissions supported the concept of annually-updated baselines, generally for all facilities or a broader set of facilities.

Some submissions suggested that updating baselines annually may not be suitable for certain industries.

The Department needs to address the varying impact of this proposed approach on different entities and the specific industries/sectors in which they operate.

– Australian Industry Group

Businesses that supported annually-updated baselines were generally comfortable with reporting new production data under the National Greenhouse and Energy Reporting Scheme. The majority also support updating baselines based on actual production, so the baseline would be updated after the compliance year.

Rio Tinto supports the proposed approach for annually updated production-adjusted baselines to be made available to all facilities. Additionally, we support the proposal for updating baselines to be based on actual production data for the compliance year.

– Rio Tinto

Some businesses highlighted the benefits of using commonly-defined production variables, while others said it would depend on how they are defined.

There needs to be transparency around what production variables are being defined by each applicant. The use of commonly defined 'production variables' would be one way to achieve this.

– Peabody Australia

Some businesses recognised the approach in the consultation paper would make some existing provisions for baseline adjustments redundant (for example, the significant expansion criteria and the emissions-intensity test). However, businesses supported retaining multi-year monitoring periods.

There will be a continued need for some flexibility mechanisms to deal with natural background variations in emissions-intensity. The multi-year averaging mechanism is particularly relevant for this purpose. The current emissions-intensity test, however, would be redundant once all facilities had transitioned to calculated baselines.

– Australian Aluminium Council

2.3.2 Approach for annually updating baselines for actual production

Baselines will be updated annually for changes in production for facilities using eligible, commonly-defined production variables. Using commonly-defined production variables will promote transparency and consistency among facilities.

The Department will work with businesses to define production variables eligible for annually-adjusted baselines. However, the existing calculated baseline arrangements will be used in cases where facilities do not use an eligible production variable. That is, for these facilities baselines will be updated once for actual production at the end of the calculated baseline period, then remain fixed.

The Government will identify which default production variables will be used for annually-adjusted baselines, in consultation with businesses and supported by independent technical advice. Eligible production variables will be as closely aligned to outputs as possible.

Following consultation, the Government will publish two schedules in the first half of 2019 with:

1. Prescribed (fixed) production variables that facilities can use for baselines that update **once** for actual production (the current approach); and
2. Prescribed (annually adjusted) production variables that facilities can use for baselines that update **annually** with actual production.

To assist the transition to the new approach, facilities will be able to move to a production-adjusted baseline following the first, second or third year of a calculated baseline period. This allows a facility to transition to production-adjusted baselines earlier than the current framework, where a facility must wait until the end of the calculated baseline period (i.e. following the third year). In addition, those facilities electing to use only default emissions intensity values can move directly to annually-adjusted baselines. This means that no calculated baseline application is required in these cases.

Aligning reporting for businesses

Facilities with annually-updated production-adjusted baselines will report production through the National Greenhouse and Energy Reporting Scheme in the same way they currently report greenhouse gas emissions and energy information.

Baselines will be set based on actual annual production reported by 31 October each year, to coincide with emissions reporting.

Existing baseline adjustments

In response to industry feedback, the Government will improve access to multi-year monitoring periods. By streamlining the application process, all facilities will be able to use multi-year averaging, so long as the Clean Energy Regulator is satisfied there are no compliance risks. The deadline for applications has also been extended until 1 February in the year following the first year of the multi-year monitoring period. These changes will allow facilities exceeding their baseline to manage variations in their emissions, for example due to production cycles or maintenance requirements.

The Government will remove the emissions-intensity-test and the significant expansion criteria for calculated baselines, as these flexibility mechanisms are not necessary where facilities can access calculated baselines and/or annually-updated production-adjusted baselines. The inherent emissions variability provision will be retained.

3. NEXT STEPS

The exposure draft amendments to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015* has been released for public comment. Amendments to the *National Energy and Greenhouse Reporting Regulations 2008* will also be required to enable annually-adjusted baselines. These amendments will be drafted following the current consultation on the draft amendments to the Safeguard Mechanism Rule.

Consultation on the exposure draft amendments closes on 7 September 2018.

The Government is working towards making amendments to the Safeguard Mechanism Rule by the end of 2018 to allow the changes to be in place for baseline applications for the 2018-19 compliance year, which are due by the end of October 2019.

The Government will continue to consult over coming months on default production variables and emissions-intensity values. These will be published in the Safeguard Mechanism Rule in the first half of 2019.

Attachment B - Summary of stakeholder responses to exposure draft amendments, 2018

Feedback	Example quotes from non-confidential submissions
Transition from reported to calculated baselines (Option 2 and 3 relates)	
<p>Businesses generally agreed with the approach for bringing baselines up-to-date.</p>	<p><i>Rio Tinto supports the Government’s efforts to improve the existing Safeguard Mechanism Rule design to “...accommodate business growth and allow business to continue normal operations”.... Building on the current baseline setting framework to provide policy certainty and stability will in turn help to better support business planning and investment.</i></p> <p style="text-align: right;">-Rio Tinto</p> <p><i>Origin is pleased with the Government’s intention for all facilities access to calculated baselines, including those already on a calculated baseline. We believe this is important to establish a fair baseline standard and provide equal opportunity for all participants under the scheme.</i></p> <p style="text-align: right;">- Origin</p> <p><i>BHP supports the concept of transitioning all large designated facilities to calculated baselines in the interests of placing facilities on an even footing.</i></p> <p style="text-align: right;">- BHP</p> <p><i>APPEA welcomes the addition of the transitional calculated baseline criteria in the amendments. This will allow all project proponents to apply for adjustments to the baselines that better reflect the business conditions prevailing during the period between 2017-18 and 2019-2020.</i></p> <p style="text-align: right;">- Australian Petroleum Production and Exploration Association</p>
Introduction of default values (Option 2 and 3 relates)	

Feedback	Example quotes from non-confidential submissions
<p>Businesses were supportive of the introduction of default production variables and emissions intensity values. Support was often given on the understanding that defaults would be optional rather than mandatory, and developed in consultation with industry.</p>	<p><i>Given the complexity involved in determining these values for LNG facilities due to the bespoke nature of their construction and multiple variables, COPA supports in concept the development of default emissions-intensities, provided it remains an optional approach for facilities to set site-specific emissions intensities and adequate consultation with industry is undertaken.</i></p> <p style="text-align: right;">- ConocoPhillips Australia</p> <p><i>It... may be problematic to determine production variables and defaults for standalone or small numbers of like-for-like facilities. AIGN appreciates the Department's consultative approach to date and notes that this will be essential in the implementation of the proposed amendments.</i></p> <p style="text-align: right;">- Australian Industry Greenhouse Network</p> <p><i>We welcome the Department's consultation approach to date and recognition that further engagement with business and industry will be required before these changes are implemented.</i></p> <p><i>Close consultation with business is particularly important in relation to defining the government determined default production variables and emissions intensity values.</i></p> <p style="text-align: right;">- Business Council of Australia</p> <p><i>The CIF remains supportive of any options that lead to a simplification of the application process and avoids the need to audit site-specific emissions intensity forecasts, provided caution is exercised to ensure that the chosen data sources are a true representation of the sector in question.</i></p> <p style="text-align: right;">Cement Industry Foundation</p>

Feedback	Example quotes from non-confidential submissions
Introduction of annually-updated baselines (Option 3 relates)	
<p>Most businesses communicated strong support for the introduction of annually-updating baselines.</p>	<p><i>...the Business Council welcomes the government's proposal to move to annually updated production-adjusted baselines as a flexible, workable approach to business growth.</i> - Business Council of Australia</p> <p><i>AIP supports a revision of the methodology for determining Safeguard Baselines in a manner that takes account of changes in annual production to better reflect actual business activity while also delivering administrative simplicity.</i> - Australian Institute of Petroleum</p> <p><i>APPEA supports the amendments to allow baselines to be updated to reflect actual production growth and change within an industry and allow for future growth in production.</i> - Australian Petroleum Production and Exploration Association</p> <p><i>Annually updated production-adjusted baselines are likely to provide flexibility and accommodate business growth for trade exposed industries such as cement manufacturing.</i> - Cement Industry Foundation</p>
<p>Some submissions suggested annually-updating baselines would not prevent baseline exceedances entirely because emissions variability will not always correlate with production.</p>	<p><i>The proposed amendment of updating baselines to reflect actual production variables is supported conceptually, however it should be highlighted that there may still be emissions variability that does not correlate with production. In instances of outages or shut-downs, a gas facility may be required to increase safety flaring and therefore cause a higher than expected emissions level.</i> - Origin Energy</p>
<p>Some facilities were concerned that emissions can occur at their facility even without production.</p>	<p><i>Unlike other covered facilities, fugitive emissions from coal mines are not always linked to production... As such, flexibility in setting and adjusting baselines is critical.</i> - The Minerals Council of Australia</p>

Feedback	Example quotes from non-confidential submissions
<p>Some businesses suggested industry specific characteristics could make it difficult to identify a common production variable or appropriate default emissions intensity value across like facilities in a sector without disadvantaging some facilities.</p>	<p><i>It is important to recognise using default emissions intensity values may be difficult for certain facilities, businesses and industries. For instance, in the rail freight industry emissions intensity will vary for train operators due to a wide range of factors including rail network constraints and customer requirements.</i></p> <p>- Pacific National</p>

Attachment C - Summary of revisions to the amendments to the Safeguard Mechanism Rule following comments on the Exposure Draft Amendments

Description	Legislative Reference	Revision
<p>Minor issues raised in relation to amended definitions:</p> <ul style="list-style-type: none"> a. The definition of baseline intensity comparison year incorrectly refers to part 3 not part 2. b. Production assessment period should refer to 'period' in definition not 'years.' c. Reasonably expected to exceed is an unnecessary definition. 	s.4	Minor changes made to definitions to address comments raised.
Existing subsection 6(10) may limit ability to change production variables for the purposes of calculated baseline applications.	s. 6(10)	Subsection 6(10) deleted. This subsection relates to facilities continuing to access the emissions intensity test. From 2019-20 the emissions intensity test is no longer an ongoing flexibility option and the provision can be removed. This ensures facilities can select production variables suitable for their calculated baseline applications at the time of application.
Landfill facilities have indicated a possibility of applying for a calculated baseline, which could include incorporating both covered and uncovered emissions from a landfill.	s. 13	<p>The policy intent has been clear that landfill facilities will transition to baselines based on landfill gas capture rates. This type of baseline recognises the unique circumstances of how emissions from waste are generated.</p> <p>Landfill facilities will be eligible to apply for either a calculated baseline or a baseline using a landfill gas capture rate. However, revisions have been made to ensure only 'covered' emissions can be included when calculating a baseline. This is consistent with any obligations, which only relate to 'covered' emissions.</p> <p>This approach has been communicated with waste industry associations.</p>

Description	Legislative Reference	Revision
The heading of s. 20 ('Variation of transport reported-emissions baseline determination where calculated-emissions baseline determination incorporated') in the Exposure Draft is not consistent with the amended text of the section.	s. 20	Typographical error corrected: 'Benchmark-emissions baseline determination' is removed from the heading to reflect its removal throughout section 20.
The 'baseline comparison year' for those with a calculated baseline should be defined as the baseline-setting year as per paragraph 27(1)(c) (i.e. the year of highest forecasted production).	s. 25(5), s. 25(11)	<p>Revisions have been made to promote consistency with other calculated baseline eligibility criteria. Where a calculated-emissions baseline determination applies, the baseline comparison year is taken to be the same year used to set the baseline (as per s. 27(1)(c)). But if that year has not yet occurred, the baseline comparison year is taken to be the first year of the calculated baseline.</p> <p>This approach ensures the baseline comparison year is not a year in the future, meaning a facility does not have to compare forecast data with actual data to demonstrate a change in properties of the natural resource.</p>
Allow facilities that may have applied for a calculated baseline before amendments are made to apply for a 'transitional' calculated baseline.	s. 26A	All facilities are able to apply for a calculated baseline using the transitional calculated baseline criteria once.
Concern that drafting will not provide the Clean Energy Regulator with sufficient information to assess a production-adjusted baseline application.	41(1)(a) , 41(1)(e), 41(2)(b), 41(2)(e), 42(2)(c)	An application must include the details of the production variable applicable to the facility and the basis upon which it is applicable to the facility. This revision ensures the Clean Energy Regulator has sufficient information to assess a production-adjusted baseline application.

Description	Legislative Reference	Revision
Allow the emissions intensity test to remain until 2018-19 to assist with transition.	s. 46(1)	Revisions allow facilities to apply for an emissions intensity variation for 2018-19. This allows for adjustments reflecting emissions intensity improvements to be available as a transitional arrangement ahead of access to baselines that automatically adjust with changes to production. The emissions intensity test will not be available for 2019-20 or future years.
The Clean Energy Regulator should make a decision on multi-year monitoring applications before the compliance deadline.	s. 67(4)	Revisions require the Clean Energy Regulator make a decision before 28 February.
Concern that the provisions may intentionally (or unintentionally) disclose commercial information about ACCU holdings.	s.72(1)(d)	Minor revisions make it clear that only aggregate details are published. No facility-level detail of ACCU demand or holding will be published.

Attachment D - List of non-confidential submissions to 2018 public consultation

Emissions Reduction Safeguard Mechanism Consultation Paper

56 submissions were received in total, [38 non-confidential](#) and 18 confidential.

Australian Aluminium Council
AGL Energy
AusNet Services
Australian Forest Products Association
Australian Gas Infrastructure Group
Australian Industry Greenhouse Network
Australian Industry Group
Australian Institute of Petroleum
Australian Landfill Owners Association
Australian Petroleum Production and Exploration Association
Australian Pipeline and Gas Association
BHP
Brisbane City Council
Business Council of Australia
Carbon Market Institute
Cement Industry Federation
ConocoPhillips
Corporate Carbon Advisory
Derek Bolton
Eastern Alliance for Greenhouse Action
Energy Networks Australia
Gary Ellett
Glencore
Investor Group on Climate Change
Mackay Sugar
Minerals Council of Australia
National Waste and Recycling Industry Council
Northern Alliance for Greenhouse Action
Origin Energy
Peabody Australia
Qenos
Rio Tinto
Thiess and Jellinbah
Virgin Australia
Waste Management Associated of Australia
Western Alliance for Greenhouse Action
Western Australia Local Government Association
Woodside

Exposure draft amendments to the National Greenhouse and Energy Report (Safeguard Mechanism) Rule 2015.

26 submissions were received in total, 19 non-confidential and 7 confidential.

Australian Industry Greenhouse Network
Australian Landfill Owners Association
Australian Petroleum Production and Exploration Association
AusNet
Australian Aluminium Council
Australian Institute of Petroleum
BHP
Business Council of Australia
Carbon Market Institute
Cement Industry Federation
ConocoPhillips
Energy Queensland
Greenbase
Minerals Council of Australia
National Waste and Recycling Industry Council
Origin Energy
Pacific National
Rio Tinto
Virgin Australia