National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015

made under section 22XS of the

National Greenhouse and Energy Reporting Act 2007

Compilation No. 8

Compilation date: **2 October 2021**

Includes amendments up to: *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Landfill Gas Capture) Rule 2021* **(F2021L01383)**

Prepared by the Department of Industry, Science, Energy and Resources

About this compilation

This compilation

This is a compilation of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015* that shows the text of the law as amended and in force on 2 October 2021 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This is the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*.

3 Authority

This instrument is made under subsection 22XS(1) of the *National Greenhouse and Energy Reporting Act 2007*.

4 Definitions

In this instrument:

Act means the *National Greenhouse and Energy Reporting Act 2007*.

adverse conclusion has the meaning given by the *National Greenhouse and Energy Reporting (Audit) Determination 2009.*

askm means available seat kilometres.

baseline determination means:

(a) a reported-emissions baseline determination; or
(b) a calculated-emissions baseline determination; or
(c) a benchmark-emissions baseline determination; or
(d) a production-adjusted baseline determination; or
(e) a landfill baseline determination.

baseline intensity comparison year includes the following financial years:

(a) if a reported-emissions baseline determination applies to the facility in respect of a financial year the subject of an application under subsection 46(1)—the year used to determine the baseline emissions number under subsection 17(1); and
(b) if a calculated-emissions baseline determination applies to the facility in respect of a financial year the subject of an application under subsection 46(1)—first year of the calculated-emissions baseline determination; and
(c) if a production-adjusted baseline determination applies to the facility in respect of a financial year the subject of an application under subsection 46(1)—the year used to determine the baseline emissions number under subsection 44(3); and
(d) if a baseline determination has been varied in respect of a financial year under Subdivision 6 of Division 2 of Part 3—that financial year.

benchmark-emissions baseline determination means a determination under subsection 38(2).

Benchmark Emissions-Intensity Index means index of emissions intensity per unit of a production variable set out in Schedule 1.

by-product means a saleable output or other product that:

(a) results from a chemical or physical process undertaken by a facility other than for the purpose of producing the output; and

(b) will be disposed of, by sale or gift, without any further processing by the facility (other than further processing in accordance with standard industry practice); and

(c) contributes less than 10% of the facility's revenue.

calculated-emissions baseline determination means a determination under subsection 30(2).

criminal activity means any activity that the Regulator has reasonable cause to believe involves the commission of an offence by one or more persons.

Darwin to Katherine network means the local distribution systems in items 1, 2 and 5 of Schedule 2 to the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* (NT) and any transmission or distribution system which is connected to those local distribution systems.

default emissions intensity, in relation to a prescribed (annually adjusted) production variable or prescribed (fixed) production variable, means the t CO_2-e of covered emissions per unit of the production variable set out in Schedule 2 or 3.

designated electricity network means one of the following electricity networks:

(a) the interconnected national electricity system within the meaning of the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA);

(b) the South West interconnected system within the meaning of section 3 of the *Electricity Industry Act 2004* (WA);

(c) the North West interconnected system within the meaning of section 2 of the *Electricity Transmission and Distribution Systems (Access) Act 1994* (WA);

(d) the Darwin to Katherine network;

(e) the Mount Isa–Cloncurry supply network within the meaning of section 10 of the *Electricity—National Scheme (Queensland) Act 1997* (Qld).

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

(a) the type of determination or declaration; and

(b) the facility to which the determination or declaration relates; and

(c) the responsible emitter for the facility to which the determination or declaration relates; and

(d) the start and any end date of the determination or declaration; and

(e) whether the new facility criteria, significant expansion criteria, inherent emissions variability criteria, initial calculated baseline criteria or

transitional calculated baseline criteria were satisfied in relation to the making of the determination; and

(f) if the determination specifies a baseline emission number—that number; and

(fa) whether or not the baseline emissions number is dependent upon the production of a prescribed (annually adjusted) production variable in each financial year; and

(g) if a determination or declaration is being varied—the nature of that variation.

dwtnmi means dead weight tonne nautical miles.

emissions-intensity calculation criteria has the meaning given by section 6.

emissions intensity test means the test set out in section 47.

estimated emissions intensity has the meaning given by subsection 27(4).

fixed proportion includes a proportion that varies by less than 5%.

grid-connected electricity generator means a designated generation facility connected to a designated electricity network at any time during a financial year.

identifying details has the meaning given by the NGER Regulations.

identifying information has the meaning given by the NGER Regulations.

inherent emissions variability criteria means the criteria in section 25.

initial calculated baseline criteria means the criteria in section 26.

input means:

(a) if the input relates to a landfill facility—a tonne of waste received by a landfill facility; and

(b) otherwise—anything that undergoes a chemical or physical process to produce an intermediate product or an output.

intermediate product means a product that:

(a) results from a chemical or physical process undertaken by a facility using one or more inputs; and

(b) is then used as an input for the production of an output at the same facility.

inter-state transport facility means a facility:

(a) covered by regulation 2.19 of the NGER Regulations; and

(b) with activities or a series of activities in more than one State or Territory.

landfill baseline emissions formula means the formula for determining the baseline emissions number for a financial year set out in an landfill baseline determination under section 54.

landfill baseline determination means a determination under subsection 54(2).

landfill facility means a facility for the disposal of solid waste as landfill, and includes a facility that is closed for the acceptance of waste.

large new facility means a facility which:

(a) meets the new facility criteria; and

(b) has, or is likely to have, a baseline emissions number of more than 2 million t CO_2-e (assuming a 5 year baseline determination); and

(c) is not, or will not be, a grid-connected electricity generator.

legacy emissions has the meaning given by subsection 7(2).

limited assurance conclusion has the meaning given by the *National Greenhouse and Energy Reporting (Audit) Determination 2009.*

multi-year period declaration has the meaning given by subsection 65(1).

m^3km means metres cubed kilometres.

national facility definition means the requirements for a transport facility applying as a result of a nomination under subregulation 2.19A(2) of the NGER Regulations.

new facility criteria means:

(a) in relation to a calculated-emissions baseline determination—the criteria in section 23.

(b) in relation to a benchmark-emissions baseline determination—the criteria in section 33.

NGER (Measurement) Determination means the *National Greenhouse and Energy Reporting (Measurement) Determination 2008*.

NGER Regulations means the *National Greenhouse and Energy Reporting Regulations 2008.*

output means a product that is:

(a) if the output is from a transport facility—a transport service measured by service units; or

(b) if more than 25,000 megawatt hours of electricity is, or is to be, generated at the facility in a financial year—electricity generated at the facility; or

(c) otherwise—the last product resulting from a chemical or physical process undertaken by a facility using one or more inputs or intermediate products.

output variable means any of the following:

(a) if the only output for a facility is electricity generation—the quantity of electricity exported from the facility as measured in megawatt hours;

(b) if electricity generation is one of 2 or more outputs for a facility—the quantity of electricity generated at the facility as measured in megawatt hours;

(c) if the facility is a transport facility—the quantity of service units of that facility

(d) the quantity of a product that is produced or processed by a facility, if:

(i) the product is the last saleable output from a chemical or physical process undertaken by the facility; and

(ii) an increase in the quantity of the product produced or processed by the facility would result in an increase in the quantity of covered emissions from the facility; and

(iii) a decrease in the quantity of the product produced or processed by the facility would result in a decrease in the quantity of covered emissions from the facility; and

(iv) the quantity of the product can be expressed in a unit of measurement that complies with the *National Measurement Act 1960*; and

(v) the product is not an intermediate product, a by-product or a waste product.

pkm means passenger kilometres.

pnmi means passenger nautical miles.

prescribed (annually adjusted) production variable means a metric related to the production at a facility set out in Schedule 2 that is applicable to the facility in accordance with any requirements set out in that Schedule. It includes:

(a) a production variable under paragraph (a) of the definition of that term that is a prescribed (annually adjusted) production variable chosen under subsection 5(1A); and

(b) a production variable under paragraph (a) of the definition of that term that is identified under section 5, other than subsection 5(1A), that is:

(i) the same as a metric set out in Schedule 2; and

(ii) not approved by the Regulator under subsection 5(1B); and

(c) a production variable under paragraph (b) of the definition of that term that is the same as a metric set out in Schedule 2.

prescribed (fixed) production variable means a metric related to the production at a facility set out in Schedule 3 that is applicable to the facility in accordance with any requirements set out in that Schedule.

prescribed production variable means a prescribed (annually adjusted) production variable or prescribed (fixed) production variable.

primary production variable means:

(a) if there is only one production variable—that variable

(b) if there is more than one production variable—the 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.

production assessment period, in relation to a production-adjusted baseline determination, means:

(a) if paragraph 40(1)(a) applies because of the expiry of a calculated-emissions baseline determination—the period covered by that baseline determination; or

(b) if paragraph 40(1)(a) applies because of the expiry of a benchmark-emissions baseline determination—the production estimation period used in calculating the baseline emissions number for that baseline determination; or

(c) if paragraph 40(1)(aa) applies—the period covered by the calculated-emissions baseline determination or benchmark-emissions baseline determination before the production-adjusted baseline determination is to commence; or

(d) if paragraph 40(1)(ab) applies—the first three years of the production-adjusted baseline determination; or

(e) if paragraph 40(1)(b) applies—the three year period starting on 1 July of the first financial year the facility's covered emissions exceeded 100,000 t CO_2-e.

production-adjusted baseline determination means a determination under subsection 44(2).

production estimation period has the meaning given by subsection 35(4).

production variable, for a facility, means:

(a) in relation to:

(i) a calculated-emissions baseline determination either commencing before 1 July 2021 or made on the basis of the inherent emissions variability criteria; or

(ii) a production-adjusted baseline determination to follow or replace a calculated-emissions baseline determination (that commenced before 1 July 2021 or was made on the basis of the inherent emissions variability criteria); or

(iii) a variation of a baseline determination under Subdivision 6 of Division 2 of Part 3;

a prescribed production variable, an output variable, the quantity of an output, the quantity of an input or the quantity of an intermediate product identified as a production variable for the facility in accordance with section 5; and

(b) in relation to:

(i) a benchmark-emissions baseline determination; or

(ii) a production-adjusted baseline determination to follow or replace a benchmark-emissions baseline determination; or

(iii) a production-adjusted baseline determination to which paragraph 40(1)(b) applies;

a metric related to production at a facility that is applicable to the facility in accordance with any requirements set out in the Benchmark Emissions-Intensity Index; and

(c) in relation to:

(i) a calculated-emissions baseline determination commencing on or after 1 July 2021 that is not made on the basis of the inherent emissions variability criteria; or

(ii) a production-adjusted baseline determination to follow or replace a calculated-emissions baseline determination that commenced on or after 1 July 2021 and was not made on the basis of the inherent emissions variability criteria;

a prescribed production variable at a facility that is applicable to the facility in accordance with any requirements set out in Schedule 2 or 3; and

(d) in relation to a production-adjusted baseline determination to which paragraph 40(1)(ab) applies, a prescribed (annually adjusted) production variable at a facility that is applicable to the facility in accordance with any requirements set out in Schedule 2.

qualified limited assurance conclusion has the meaning given by the *National Greenhouse and Energy Reporting (Audit) Determination 2009.*

qualified reasonable assurance conclusion has the meaning given by the *National Greenhouse and Energy Reporting (Audit) Determination 2009.*

reasonable assurance conclusion has the meaning given by the *National Greenhouse and Energy Reporting (Audit) Determination 2009.*

relevant benchmark emissions intensity means the t CO_2-e of covered emissions per unit of a production variable for a kind of facility in the Benchmark Emissions-Intensity Index.

relevant earlier estimates means any of the following:

(a) an estimate included in an environmental impact assessment statement;

(b) an estimate made in an earlier application for a baseline determination in relation to the facility;

(c) an estimate published by the responsible emitter or by a person associated with the responsible emitter, such as their controlling corporation;

that:

(d) was publically available or submitted to the Regulator before the relevant application for a baseline determination; and

(e) relates to the expected covered emissions, covered emissions intensity or quantity of a production variable relied upon in an application for a baseline determination.

reported-emissions baseline determination means a determination under subsection 14(1) or (2).

Safeguard Mechanism document means the document entitled "Safeguard Mechanism: Prescribed production variables and default emissions intensities" published by the Department and as in force on the commencement of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables Update) Rule 2021*.

Note: In 2021, the document could be accessed from http://www.industry.gov.au and is included in the explanatory statement for the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables Update) Rule 2021*.

sectoral-baseline financial year means every financial year before the financial year beginning on the first 1 July after the Regulator has published a statement on its website that the total reported scope 1 emissions of all grid-connected electricity generators exceeded 198,000,000 t CO_2-e emissions in the previous financial year based upon reports submitted to the Regulator at the time of the statement. The Regulator must take all reasonable steps to publish the statement at least 4 months before the start of the financial year which is not a sectoral-baseline financial year.

Example: If the sum of reported emissions from each grid-connected electricity generator was 210,000,000 t CO_2-e in 2020-21, by 28 February 2022 the Regulator would publish a statement on its website and the financial year beginning 1 July 2022 would not be a sectoral-baseline financial year and emissions of grid-connected electricity generators would be covered emissions in that year.

service unit means a unit of measure related to a transport facility (such as askm, dwtnmi, m^3km, pkm, pnmi, tkm, tnmi or vkt) determined and measured by the responsible emitter for the facility taking into account:

(a) standard industry practice; and

(b) existing measurement systems used by the responsible emitter.

significant expansion criteria means:

(a) in relation to a calculated-emissions baseline determination—the criteria in section 24.

(b) in relation to a benchmark-emissions baseline determination—the criteria in section 34.

t CO_2-e means tonnes of carbon dioxide equivalence.

tkm means tonne kilometres.

tnmi means tonne nautical miles.

transitional calculated baseline criteria means the criteria in section 26A.

vkt means vehicle kilometres travelled.

waste product means an output or other product that:

(a) results from a chemical or physical process undertaken by a facility other than for the purpose of producing the output; and

(b) will be disposed of without any further processing by the facility (other than further processing in accordance with standard industry practice); and

(c) is not a by-product.

5 Identification of production variables

(1) The identification of a production variable in relation to a facility must meet the requirements of this section.

Note: This section is only relevant to paragraph (a) of the definition of production variable in section 4.

(1A) The responsible emitter for a facility may choose any applicable prescribed production variable if the result is that:

(a) all the production variables chosen are prescribed production variables; or

(b) all of the following apply:

(i) the facility produces outputs unrelated to the prescribed production variables and the covered emissions considered in developing those production variables;

(ii) the production variables that are not prescribed relate only to those outputs and covered emissions;

(iii) the covered emissions attributable to each production variable that is not prescribed exceed 5% of the covered emissions of the facility;

(iv) the production variables that are not prescribed are otherwise identified in accordance with this section.

(1B) If a production variable is identified under subsection (2) to (10) that is the same, in all material respects, as a prescribed production variable, the prescribed production variable must be chosen under subsection (1A) unless the Regulator approves otherwise in writing.

(2) If the facility has only one output that has an output variable, that output variable must be the production variable unless subsections (10) or (1A) apply.

(3) If the facility has more than one output that has an output variable, each of those output variables must be a production variable unless subsections (1A), (4), (5), (6), (7) or (10) apply.

Similar output variables

(4) If:

(a) 2 or more of a facility's output variables (the ***similar variables***) are measured in the same units; and

(b) the covered emissions per unit of production of all of the similar variables are materially similar;

the responsible emitter for the facility may choose the sum of the similar variables to be treated as a single production variable for the facility instead of the individual output variables.

Inputs and intermediate products

(5) If:

(a) a single input, or a single intermediate product, is used to produce all of a facility's outputs; and

(b) the input, or intermediate product, meets the requirements set out in subsection (8);

(c) no other input or intermediate product that meets the requirements set out in subsection (8) is used to produce any of the facility's outputs;

the responsible emitter for the facility may choose the quantity of the input, or the quantity of the intermediate product, to be a production variable for the facility instead of the facility's output variables.

Multiple inputs and intermediate products

(6) If:

(a) 2 or more inputs, or 2 or more intermediate products, are used to produce all of a facility's outputs; and

(b) the inputs, or intermediate products, are used in a fixed proportion to each other; and

(c) the inputs, or intermediate products, meet the requirements set out in subsection (8);

the responsible emitter for the facility may choose the quantity of one of the inputs, or the quantity of one of the intermediate products, to be a production variable for the facility instead of the facility's output variables.

Similar inputs and similar intermediate products

(7) If:

(a) 2 or more inputs, or 2 or more intermediate products, are used to produce all of a facility's outputs; and

(b) 2 or more of the inputs (the ***similar inputs***), or 2 or more of the intermediate products (the ***similar intermediate products***), can be quantified using the same unit of measurement; and

(c) the covered emissions produced by the facility per unit of each similar input, or similar intermediate product, used are materially similar; and

(d) the similar inputs, or similar intermediate products, meet the requirements set out in subsection (8);

the responsible emitter for the facility may choose the quantity of the similar inputs, or the quantity of the similar intermediate products, to be a single production variable for the facility instead of the facility's output variables.

Requirements that must be met

(8) An input, or an intermediate product, that is used by a facility to produce multiple outputs meets the requirements set out in this subsection if:

(a) one or more of the following apply:

(i) the outputs are produced in a fixed proportion to the input or intermediate product;

(ii) each output can be quantified using the same unit of measurement, and the covered emissions per unit of production of each output are materially similar;

(iii) the facility is:

(A) a petroleum refinery; or

(B) a natural gas processing or liquefaction facility; and

(b) an increase in the quantity of the input or intermediate product used by the facility to produce the outputs would result in an increase in the quantity of covered emissions from the facility; and

(c) a decrease in the quantity of the input or intermediate product used by the facility to produce the outputs would result in a decrease in the quantity of covered emissions from the facility; and

(d) either:

(i) the input or intermediate product is an essential component of the production process, and omitting it would prevent the production process working; or

(ii) omitting the input or intermediate product from the production process during a financial year would change the covered emissions of the facility by 5% or more; and

(e) the quantity of the input or intermediate product can be expressed in a unit of measurement that complies with the *National Measurement Act 1960*; and

(f) for a facility that is:

(i) a petroleum refinery; or

(ii) a natural gas processing or liquefaction facility;

—the input or intermediate product is primarily used as an input to a production process (whether or not it is also a fuel that produces energy at the facility); and

(g) for a facility that is not:

(i) a petroleum refinery; or

(ii) a natural gas processing or liquefaction facility;

—the input or intermediate product is not a fuel that produces energy at the facility.

If no discernible output

(9) If:

(a) a facility does not have a discernible output that has an output variable; and

(b) the facility has one or more inputs, intermediate products or outputs that are not saleable products, each of which satisfies the following;

(i) an increase in the quantity of the input, intermediate product or output used by or produced or processed by the facility would result in an increase in the quantity of covered emissions from the facility; and

(ii) a decrease in the quantity of the input, intermediate product or output used by or produced or processed by the facility would result in a decrease in the quantity of covered emissions from the facility; and

(iii) the quantity of the input, intermediate product or output can be expressed in a unit of measurement that complies with the *National Measurement Act 1960*;

(iv) the input, intermediate product or output is not a by-product or waste product;

then:

(c) the responsible emitter for the facility may choose to use the quantities of those inputs, intermediate products or outputs as production variables for the facility; and

(d) subsection (4) applies as if they were output variables.

If emissions-intensive trade-exposed activities conducted

(10) If the facility carries out one or more emissions-intensive trade-exposed activities (within the meaning of the *Renewable Energy (Electricity) Act 2001*) the responsible emitter for the facility may choose the quantity of all relevant products (within the meaning of Part 3A of the *Renewable Energy (Electricity) Regulations 2001*) associated with a facility to be production variables for a facility instead of the facility's output variables (other than an output variable covered by paragraph (a) or (b) of the definition of output variable in section 4).

Meaning of materially similar

(11) For the purposes of paragraph (4)(b) and subparagraph (8)(a)(ii), the covered emissions per unit of production of 2 output variables or outputs are ***materially similar*** if the average covered emissions per unit of production of one of those variables or outputs during the relevant comparison period is, or is expected to be, no more than 5% greater than the average covered emissions per unit of production of the other variable or output during that period.

(12) For the purposes of paragraph (7)(c), the covered emissions produced by a facility per unit of each similar input, or similar intermediate product, used by the facility are ***materially similar*** if the average covered emissions per unit of one of the similar inputs, or similar intermediate products, used during the relevant comparison period is, or is expected to be, no more than 5% greater than the average covered emissions per unit of any other similar input, or similar intermediate product, used during that period.

(13) In this section the relevant comparison period is:
  (a) if production variables are being identified for a calculated-emissions baseline determination—the first 3 years of that baseline determination; and
  (b) if production variables are being identified for a variation of a baseline determination under subsection 51(2)—both the financial year for which the baseline emissions number is to be varied and the most recent baseline intensity comparison year.

6 Emissions-intensity calculation criteria

(1) The calculation of the emissions-intensity of a production variable meets the emissions-intensity calculation criteria if:
  (a) the requirements of subsections (2) to (8C) are met; and
  (b) the principles in subsections (9) to (11) have been taken into account.

Requirements

(2) Only covered emissions are included in the calculation.

(3) Subject to subsection (8A), if there is only one production variable—the emissions intensity of the production variable is calculated by dividing the total covered emissions of the facility by the production variable.

(4) Subject to subsection (8A), if there are 2 or more production variables—the total covered emissions of the facility are apportioned between each production variable and then the emissions apportioned to each production variable are divided by that production variable.

(5) The emissions intensity is expressed in t CO_2-e per unit of the production variable.

(6) If a greenhouse gas other than carbon dioxide has contributed, or is reasonably likely to contribute, more than 1% of the expected covered emissions in the financial year being considered for the purpose of making of a calculated-emissions baseline determination—the emissions intensity of that gas in t CO_2-e per unit of each production variable must be separately identified.

(7) The calculation must measure and apportion covered emissions in a manner that is consistent with the NGER (Measurement) Determination.

(8) The emissions intensity of each production variable must fairly represent the actual emissions attributable to the production variable.

(8A) If the application uses an estimated emissions intensity for a prescribed production variable—the estimated emissions intensity must include only emissions that:

(a) if a default emissions intensity is specified for the production variable in Schedule 2 or 3—are emissions of a kind considered in developing the default emissions intensity; or

(b) if no default emissions intensity is specified for the production variable in Schedule 2 or 3—are of a kind that was considered as relevant to the production variable when it was included in that Schedule; or

(c) are minor emissions sources at the facility that:

(i) were not taken into account in developing a default emissions intensity for another prescribed production variable potentially applicable to the facility; and

(ii) were not considered relevant to any prescribed production variable for which a default emissions intensity is not specified in Schedule 2 or 3; and

(iii) taken together, are unlikely to exceed 10% of the covered emissions of the facility.

(8B) However, if the application uses default emissions intensities set out in Schedule 2 or 3 for some prescribed production variables and estimated emissions intensities for other production variables—the estimated emissions intensities must not include emissions of a kind considered in developing those default emissions intensities.

(8C) For the purpose of determining under subsection (8A) or (8B) whether:

(a) an emission was considered in developing the default emissions intensity for a prescribed production variable: or

(b) an emission was considered relevant to the production variable when it was included in Schedule 2 or 3;

regard must be had to the Safeguard Mechanism document.

Principles

(9) If a covered emissions source overlaps 2 or more production variables—emissions from that source are apportioned between the variables so that the sum of the covered emissions apportioned to each variable in:

(a) if production variables are being identified for a calculated-emissions baseline determination—each of the first 3 years of that baseline determination; and

(b) if production variables are being identified for a variation of a baseline determination under subsection 51(2)—both the financial year for which the baseline emissions number is to be varied and the most recent baseline intensity comparison year;

should be no more than 5% greater than the total covered emissions, or expected covered emissions, from that source during each year.

(11) The apportionment of covered emissions to individual production variables should be free of bias that may lead to an overestimate of covered emissions in:

(a) if production variables are being identified for a calculated-emissions baseline determination— the period to be covered by the baseline determination; and

(b) if production variables are being identified for a variation of a baseline determination under subsection 51(2)—the most recent baseline intensity comparison year;

due to changes in the relative mix of production variables.

Part 2—Coverage

7 Covered emissions

(1) For section 22XI of the Act, the following scope 1 emissions of one or more greenhouse gases are not covered emissions for the purposes of the safeguard mechanism:

(a) emissions of one or more greenhouse gases in circumstances where the Minister has not determined, under subsection 10(3) of the Act:

(i) methods by which the amounts of the scope 1 emissions of the greenhouse gas are to be measured; or

(ii) criteria for methods by which the amounts of the scope 1 emissions of the greenhouse gas are to be measured;

(b) legacy emissions from the operation of a landfill facility;

(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;

(d) if a facility is partly in Australia and partly in the Greater Sunrise special regime area—scope 1 emissions of greenhouse gases which occurred in the Greater Sunrise special regime area.

Note: A facility wholly in the Greater Sunrise special regime area is not subject to the safeguard provisions in accordance with subsection 6A(4) of the Act.

Legacy emissions

(2) For the purposes of subsection (1), if:

(a) an amount of greenhouse gas was emitted from the operation of a landfill facility; and

(b) waste was accepted by the landfill facility before 1 July 2016;

so much of the amount mentioned in paragraph (a) as is, under a determination under subsection 10(3) of the Act, taken to be attributable to waste accepted by the facility before 1 July 2016 is a ***legacy emission*** from the operation of the landfill facility.

8 Designated large facility threshold

For paragraph 22XJ(1)(b) of the Act, the specified number is 100,000.

Part 3—Baselines

Division 1—Baseline emissions number

9 Operation of this Division

For subsection 22XL(1) of the Act, this Division provides for the ascertainment of a baseline emissions number for a facility for a financial year.

10 Baseline emissions number

The baseline emissions number, in t CO_2-e, for a facility for a financial year is:

(a) if a baseline determination is in force in respect of the facility for a financial year—the number ascertained under that determination; and

(b) otherwise—100,000.

Division 2—Baseline determinations

Subdivision 1—Preliminary

11 Operation of this Division

This Division provides for the making, variation and expiry of baseline determinations.

12 Minimum baseline emissions number

Despite any other provision in this Division, a baseline determination must not provide that a baseline emissions number for a facility for a financial year is less than 100,000 t CO_2-e.

13 References to covered emissions

A reference to covered emissions in a financial year in this Division:

(a) is to be calculated on the assumption the financial year is not a sectoral-baseline financial year; and

(b) if used in relation to a reported-emissions baseline determination—is taken to include legacy emissions from the operation of a landfill facility.

Subdivision 2—Reported-emissions baseline determinations

14 Reported-emissions baseline determinations

General

(1) If, in relation to a facility:

(a) both:

(i) scope 1 emissions of one or more greenhouse gases from the operation of the facility were included in reports under the Act for the 5 financial years beginning 1 July 2009; and

(ii) there were more than 100,000 t CO_2-e of covered emissions reported for at least one of the 5 financial years beginning on 1 July 2009; or

(b) both:

(i) scope 1 emissions of one or more greenhouse gases from the operation of the facility were included in reports under the Act for at least 3 of the 5 financial years beginning 1 July 2009; and

(ii) there were more than 100,000 t CO_2-e of covered emissions reported for at least 3 of the 5 financial years beginning on 1 July 2009; or

(c) all of the following apply:

(i) scope 1 emissions of one or more greenhouse gases from the operation of the facility were included in at least one report under the Act for any of the 5 financial years beginning 1 July 2009; and

(ii) there were more than 100,000 t CO_2-e of covered emissions reported for at least one of the 5 financial years beginning on 1 July 2009; and

(iii) the responsible emitter for the facility had notified the Regulator in writing before 1 August 2016 that it was seeking a reported-emissions baseline determination in respect of the facility;

the Regulator must make a reported-emissions baseline determination in relation to the facility.

Inter-state transport facilities

(2) If, in relation to an inter-state transport facility:

(a) the national facility definition applies to the facility from 1 July of a financial year before the financial year beginning 1 July 2021; and

(b) subsection (1) would apply to the facility if:

(i) the national facility definition was the basis of reports under the Act for the 5 financial years beginning 1 July 2009; and

(ii) the reference to 1 August 2016 in subparagraph (1)(c)(iii) was taken to be a reference to 1 August of the financial year referred to in paragraph (a);

the Regulator must make a reported-emissions baseline determination in relation to the facility.

(3) For the purposes of subparagraphs (1)(a)(ii), (1)(b)(ii) and (1)(c)(ii):

(a) the carbon dioxide equivalence of:

(i) carbon dioxide, and

(ii) methane; and

(iii) nitrous oxide; and

(iv) perfluorocarbon emissions attributable to aluminium production;

is to be determined consistently with the global warming potential of the greenhouse gas under regulation 2.02 of the NGER Regulations as at the time the reported-emissions baseline determination is made; and

(b) the carbon dioxide equivalence of each greenhouse gas not covered by paragraph (a) is to be determined consistently with the global warming potential of the greenhouse gas assumed in the relevant report under the Act.

15 Further information

(1) The Regulator may, by written notice given to the responsible emitter, require the responsible emitter to give the Regulator, within the period specified in the notice, further information in connection with the reported-emissions baseline determination.

(2) If the responsible emitter breaches the requirement, the Regulator may, by written notice given to the responsible emitter:
   (a) refuse to take any action, or any further action, in relation to making a reported-emissions baseline determination until the information is provided; and
   (b) make any assumptions the Regulator considers appropriate about the information which was not provided.

16 Process for making a reported-emissions baseline determination

(1) The Regulator must not make a reported-emissions baseline determination in relation to a facility unless the Regulator has provided a written notice to the responsible emitter for the facility:
   (a) stating that it intends to make a reported-emissions baseline determination in relation to the facility; and
   (b) specifying the baseline emissions number that would apply under the determination; and
   (c) stating whether any covered emissions are proposed to be:
      (i) disregarded under subsection 17(2) or 17(3); or
      (ii) included under subsection 17(4); and
   (d) seeking any comments by a date specified in the notice.

(2) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to make a reported-emissions baseline determination by the later of:
   (a) the first 1 September after the proposed commencement of the determination; and
   (b) if the Regulator requires the responsible emitter to give further information under subsection 15(1) in connection with the reported-emissions baseline determination—30 days after the responsible emitter gave the Regulator the information; and
   (c) 30 days after the date specified in paragraph (1)(d).

(3) As soon as practicable after making a reported-emissions baseline determination, the Regulator must:
   (a) provide written notice of the determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the determination on its website.

(4) It is immaterial whether the written notice under subsection (1) was provided to the responsible emitter before or after the commencement of this section.

17 Determining the baseline emissions number

(1) Subject to section 12, a reported-emissions baseline determination must specify the baseline emissions number for the facility for each financial year during which the determination is in force as the highest annual number of t CO_2-e of covered emissions based on the available reports under the Act for the 5 financial years beginning on 1 July 2009.

(2) For the purposes of subsection (1), any covered emissions reported as a vertically integrated production process which were not from the operation of the facility that is the subject of the reported-emissions baseline determination are to be disregarded.

(3) For the purposes of subsection (1), the Regulator must disregard any significant covered emissions attributable to activities previously conducted at the facility (the ***original activities***) if:

(a) both:

(i) the Regulator is satisfied that activities of the same kind as the original activities are no longer conducted at the facility; and

(ii) the Regulator has reasonable evidence to consider that activities of the same kind as the original activities are unlikely to be conducted for at least the next three financial years; or

(b) the Regulator is satisfied that covered emissions of the original activities are now reported under the Act as part of another facility.

(4) Any significant covered emissions attributable to activities previously conducted at another facility are to be included in the reported covered emissions of the facility to be covered by the reported-emissions baseline determination for the purposes of subsection (1) if:

(a) those activities are now conducted as part of the facility to be covered by the reported-emissions baseline determination because the boundaries or scope of activities of that facility have changed; and

(b) the covered emissions from those activities will be reported under the Act as resulting from the operation of that facility; and

(c) the covered emissions were previously included in a report under the Act in relation to another facility.

(5) If:

(a) a reported-emissions baseline determination is being made on the basis of subsection 14(2) in relation to an inter-state transport facility; and

(b) a calculated-emissions baseline determination, benchmark-emissions baseline determination or production-adjusted baseline determination in respect of one or more state-based facilities whose activities constitute the inter-state transport facility applied in the financial year immediately

before the commencement of the reported-emissions baseline determination;

the baseline emissions number for the state-based facilities in the year immediately before the commencement of the reported-emissions baseline determination is to be used under subsection (1) in lieu of the reported emissions of the state-based facilities in the relevant financial year.

(6) For the purposes of subsection (1):

(a) the carbon dioxide equivalence of :

(i) carbon dioxide, and

(ii) methane; and

(iii) nitrous oxide; and

(iv) perfluorocarbon emissions attributable to aluminium production;

is to be determined consistently with the global warming potential of the greenhouse gas under regulation 2.02 of the NGER Regulations as at the time the reported-emissions baseline determination is made; and

(b) the carbon dioxide equivalence of each greenhouse gas not covered by paragraph (a) is to be determined:

(i) if the responsible emitter has provided sufficient data for each greenhouse gas with the intention that it is to be used by the Regulator under this section—consistently with the global warming potential of the greenhouse gas under regulation 2.02 of the NGER Regulations as at the time the reported-emissions baseline determination is made; or

(ii) if the responsible emitter has not provided sufficient data for each greenhouse gas to be used by the Regulator under this section—consistently with the global warming potential of the greenhouse gas assumed in the relevant report under the Act;

(c) in determining the baseline emissions number of the facility, if the facility's emissions had at any time previously been reported in relation to 2 or more facilities, the reported covered emissions of those separate facilities may be summed.

(7) For the purposes of subsections (3) and (4), significant covered emissions means emissions from the operation of the facility in a year exceeding 5% of the number which would otherwise be the baseline emissions number for the facility.

(8) When disregarding covered emissions under subsection (2) or (3) or including covered emissions under subsection (4), the Regulator may:

(a) take into account disaggregated emissions information provided by the responsible emitter for the facility and any audit reports associated with information; or

(b) disregard emissions on a pro rata basis using one or more reports under the Act that:

(i) if subsection (2) applies—include covered emissions from the activities previously conducted at the facility; or

(ii) if subsection (3) applies—were not aggregated as a vertically integrated production process; or

(c) include covered emissions on a pro rata basis using one or more reports under the Act that include covered emissions from the activities now conducted at the facility; or

(d) disregard covered emissions under subsection (2) or (3) or not include covered emissions under subsection (4) if the Regulator has requested that the emissions information be audited and the responsible emitter has not provided an audit report in relation to those emissions that meets any requirements notified in writing by the Regulator to the responsible emitter for the facility.

(9) The baseline emissions number is to be rounded to the nearest whole number (with a number ending in .5 being rounded up).

18 Duration of reported-emissions baseline determination

(1) A reported-emissions baseline determination made on the basis of subsection 14(1) is to come into force on 1 July 2016 unless a calculated-emissions baseline determination has been made with effect from 1 July 2016.

(2) A reported-emissions baseline determination made on the basis of subsection 14(2) is to come into force on the first 1 July that the national facility definition applies to the inter-state transport facility unless a calculated-emissions baseline determination has been made with effect from that 1 July.

(3) A reported-emissions baseline determination:

(a) ceases to be in force from the date when another baseline determination commences in relation to the facility; and

(b) if the facility is a grid-connected electricity generator—ceases to be in force at the end of the last sectoral-baseline financial year; and

(c) if the facility is not a grid-connected electricity generator—ceases to be in force on 1 July 2021; and

(d) if the facility was a grid-connected electricity generator on 1 July 2021 but ceases to be a grid-connected electricity generator after 1 July 2021—ceases to be in force at the start of the financial year during which it ceased to be a grid-connected electricity generator.

(4) A reported-emissions baseline determination made on the basis of subsection 14(2) replaces any other baseline determination which previously applied to the activities or series of activities which constitute the inter-state transport facility.

19 Variation of reported-emissions baseline determination because of reporting error or changes in activities

(1) If:

(a) a report under the Act used to establish a baseline emissions number for a reported-emissions baseline determination is resubmitted after the determination is made; or

(b) the Regulator has reasonable evidence to consider that a report under the Act used to establish a baseline emissions number for a reported-emissions baseline determination was incorrect; or

(c) all of the following apply:

(i) covered emissions attributable to one or more activities (the ***original activities***) were included in a report under the Act used to establish a baseline emissions number for a reported-emissions baseline determination;

(ii) the covered emissions attributable the original activities were significant covered emissions (within the meaning of section 17);

(iii) the Regulator is satisfied that activities of the same kind as the original activities were not conducted at the facility during a financial year;

(iv) the Regulator has reasonable evidence to consider that activities of the same kind as the original activities are unlikely to be conducted for at least the next three financial years;

the Regulator may vary the baseline emissions number in the reported-emissions baseline determination to address the issue with effect from the start of the financial year in which the decision to vary the determination is made.

(2) Before the Regulator varies a baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:

(a) stating that it intends to vary the baseline determination in relation to the facility under this section; and

(b) specifying the baseline emissions number that would apply under the determination; and

(c) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to vary, or decide not to vary, a reported-emissions baseline determination by the later of:

(a) if the Regulator requires the responsible emitter to give further information under subsection 21(1) in connection with the variation of the baseline determination—30 days after the responsible emitter gave the Regulator the information; and

(b) 30 days after the date specified in paragraph (2)(c).

(4) As soon as practicable after varying a baseline determination, the Regulator must:

(a) provide written notice of the varied determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the varied determination on its website.

(5) To avoid doubt, a decision to vary a baseline determination under this section is a reviewable decision under section 56 of the Act.

20 Variation of transport reported-emissions baseline determination where calculated-emissions baseline determination incorporated

(1) If:

(a) a baseline emissions number in a calculated-emissions baseline determination was used in determining the baseline emissions number in a reported-emissions baseline determination under subsection 17(5); and

(b) the calculated-emissions baseline determination would have expired at the end of a financial year had it not been replaced by the reported-emissions baseline determination;

the Regulator must vary the reported-emissions baseline determination with effect from the start of the next financial year.

(2) The Regulator must vary the baseline emissions number in the reported-emissions baseline determination so that it reflects:

(a) if the responsible emitter has provided the information and audit report that would be required to make a production-adjusted baseline determination for the facility covered by the calculated-emissions baseline determination no later than the first 31 October after the financial year in paragraph (1)(b)—the number that would have been the baseline emissions number under section 17 if the production-adjusted baseline determination applied to that facility in place of the calculated-emissions baseline determination; or

(b) if the responsible emitter has not provided the information and audit report that would be required to make a production-adjusted baseline determination for the facility covered by the calculated-emissions baseline determination no later than the first 31 October after the financial year in paragraph (1)(b)—the number that would have been the baseline emissions number under section 17 if the calculated-emissions baseline determination had never been made.

(3) Before the Regulator varies a baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:

(a) stating that it intends to vary the baseline determination in relation to the facility under this section; and

(b) specifying the baseline emissions number that would apply under the determination; and

(c) seeking any comments by a date specified in the notice.

(4) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to vary the reported-emissions baseline determination by the later of:

(a) if the Regulator requires the responsible emitter to give further information under subsection 21(1) in connection with the variation of the baseline determination—30 days after the responsible emitter gave the Regulator the information; and

(b) 30 days after the date specified in paragraph (3)(c).

(5) As soon as practicable after varying a baseline determination, the Regulator must:

(a) provide written notice of the varied determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the varied determination on its website.

(6) To avoid doubt, a decision to vary a baseline determination under this section is a reviewable decision under section 56 of the Act.

21 Further information

(1) The Regulator may, by written notice given to the responsible emitter, require the responsible emitter to give the Regulator, within the period specified in the notice, further information in connection with the variation of a baseline determination under section 19 or 20.

(2) If the responsible emitter breaches the requirement, the Regulator may, by written notice given to the responsible emitter:
(a) refuse to take any action, or any further action, in relation to varying the baseline determination until the information is provided; and
(b) make any assumptions the Regulator considers appropriate about the information which was not provided.

Subdivision 3—Calculated-emissions baseline determination

22 Application

(1) The responsible emitter for a facility may apply to the Regulator for a calculated-emissions baseline determination for the facility if one or more of the following are satisfied:
(a) the new facility criteria;
(b) the significant expansion criteria;
(c) the inherent emissions variability criteria;
(d) the initial calculated baseline criteria;
(e) the transitional calculated baseline criteria.

(2) An application under subsection (1) must:
(a) be given in a manner and form approved, in writing, by the Regulator; and
(b) specify the desired start date for the calculated-emissions baseline determination as 1 July of a particular year; and
(c) include information required by section 27; and
(d) be accompanied by an audit report which complies with section 28.

(3) Unless subsection (5) or (6) applies, an application under subsection (1) must be given to the Regulator:
(a) no earlier than one year before the requested start date for the calculated-emissions baseline determination; and
(b) no later than the first 31 October after the end of the first financial year to which the calculated-emissions baseline determination is to apply.

(4) The responsible emitter for the facility may, by written notice to the Regulator, withdraw an application at any time before the Regulator makes a decision on the application.

(5) If:

(a) an application which complies with subsection (2) is made within the period allowed by subsection (3); and

(b) the Regulator has refused to make the calculated-emissions baseline determination the subject of the application; and

(c) a new application would not comply with paragraph (3)(b);

the Regulator may accept a new application made no later than 1 February after the end of the first financial year to which the calculated-emissions baseline determination is to apply.

(6) If:

(a) the requested start date for the calculated-emissions baseline determination is 1 July 2018; and

(b) a monitoring period for the facility does not finish during, or at the end of, the financial year beginning on 1 July 2018;

an application may be made no later than 15 April 2020.

23 New facility criteria

(1) The new facility criteria are satisfied in relation to a facility if all of the criteria in this section are met.

(2) The facility is not covered by the criteria for making a reported-emissions baseline determination in subsection 14(1) or (2).

(3) Scope 1 emissions of one or more greenhouse gases from the operation of the facility were not included in reports under the Act for all of the 5 financial years starting on 1 July 2009.

(4) The facility has emitted, or is reasonably expected to emit, more than 100,000 t CO_2-e of covered emissions in the first year of the proposed calculated-emissions baseline determination.

Note: As the criteria in this section need to be met at the time the Regulator makes a decision on the application, expectations of exceedance are not relevant where information on actual emissions for a financial year is available.

(5) The responsible emitter for the facility:

(a) has not changed, and is not expected to change, the manner in which scope 1 emissions are reported or calculated under the Act; or

(b) has not caused, and is not expected to cause, scope 1 emissions of greenhouse gases;

for the primary purpose of meeting the threshold in subsection (4).

(6) A calculated-emissions baseline determination has never been made in relation to the facility.

(7) The calculated-emissions baseline determination to which the application relates is to commence on 1 July 2016, 1 July 2017, 1 July 2018, 1 July 2019 or 1 July 2020.

24 Significant expansion criteria

(1) The significant expansion criteria are satisfied in relation to a facility if all of the criteria in this section are met.

Significant expansion must occur

(2) For a facility that is not a landfill facility: the facility must have completed a significant expansion during a relevant expansion period where:

(a) new equipment is installed and used by the facility during a relevant expansion period to produce or process a production variable; and

(b) after the equipment is in use, and any existing equipment that is to be decommissioned has been decommissioned, either:

(i) the maximum productive capacity of the equipment used to produce one or more production variables will be more than 20% greater than the maximum productive capacity of the equipment that existed before the installation in relation to those production variables; or

(ii) one or more production variables will be produced at the facility which:

(A) were not produced before the relevant expansion period; and

(B) are not a replacement for other production variables produced before the relevant expansion period; and

(c) the production variables which meet the requirements of subparagraph (2)(b)(i) or (ii) are significant to the operation of the facility having regard to:

(i) whether one of the production variables is the primary production variable for the facility; or

(ii) whether more than 20% of the revenue expected from the facility in the financial year with the highest expected production of the primary production variable over the period to be covered by the calculated-emissions baseline determination is attributable to the new or expanded production variables; or

(iii) if the production variable is onsite electricity—whether the electricity will supply over 30% of the electricity needs of the facility in the period to be covered by the calculated-emissions baseline determination.

(3) For the purposes of this section:

(a) the installation of new equipment at a transport facility includes the addition of new or used equipment, such as trucks or planes, to carry out the activities which constitute the facility; and

(b) if a production variable for a facility is the quantity of an input, the input is taken to be produced at a facility if it is used to produce the outputs of the facility; and

(c) the production variables used for the purposes of subsection (2) need not be the same as the production variables used for the purposes of paragraph 27(1)(c).

(4) For a landfill facility: the facility must have undergone a significant expansion where during a relevant expansion period its licenced capacity has increased by more than 20% since the start of the period.

(5) For the purposes of this section, a ***relevant expansion period*** ends either:

(a) immediately before the period to be covered by the calculated-emissions baseline determination; or

(b) 30 June of the first financial year to be covered by the calculated-emissions baseline determination

and starts:

(c) if a calculated-emissions baseline determination in relation to the facility has expired, or will expire, before the start of the proposed period of the calculated-emissions baseline determination the subject of the application—on the later of:

(i) the 1 July of the last financial year of the expired, or expiring, baseline determination; and

(ii) 3 years before the end of the period; or

(d) otherwise—on the later of:

(i) 1 July 2014; and

(ii) 3 years before the end of the period.

(6) For the purposes of subparagraph (2)(c)(ii), the calculation of the expected revenue must be based upon prices related to the production variable current at the time of the application.

Other criteria

(7) The facility either:

(a) has previously emitted more than 100,000 t CO_2-e of covered emissions in a financial year; or

(b) is reasonably expected to emit more than 100,000 t CO_2-e of covered emissions in the first financial year to be covered by the calculated-emissions baseline determination.

(8) The facility has, or is reasonably expected to, emit more than the baseline emissions number that would otherwise apply to the facility in at least one financial year of the period to be covered by the calculated-emissions baseline determination.

Note: As the criteria in this section need to be met at the time the Regulator makes a decision on the application, expectations of exceedance are not relevant where information on actual emissions for a financial year is available.

(9) A calculated-emissions baseline determination in relation to the facility:

(a) has never been made; or

(b) was made but has expired, or will expire, before the start of the proposed period of the calculated-emissions baseline determination the subject of the application.

(10) The calculated-emissions baseline determination to which the application relates is to commence on 1 July 2016 or 1 July 2017.

25 Inherent emissions variability criteria

(1) The inherent emissions variability criteria are satisfied in relation to a facility if all of the criteria in this section are met.

(2) At least one of the following has been made in relation to the facility:
  (a) a reported-emissions baseline determination;
  (b) a calculated-emissions baseline determination.

(3) The facility must satisfy all of the following:
  (a) either:
    (i) the extraction of a natural resource is the principal activity which constitutes the facility; or
    (ii) the facility is a natural gas processing or liquefaction facility that is associated with the extraction of natural gas from a natural gas reserve; and
  (b) the properties of the natural resource or natural gas reserve have a direct effect on the covered emissions or covered emissions intensity of the facility; and
  (c) the facility has limited cost-effective ability to control for the covered emissions related to the natural resource or natural gas reserve.

(4) The facility's covered emissions in respect of the first financial year to be covered by the calculated-emissions baseline determination have exceeded, or are reasonably expected to exceed, the baseline emissions number which would otherwise apply to the facility in that financial year.
  Note: As the criteria in this section need to be met at the time the Regulator makes a decision on the application, expectations of exceedance are not relevant where information on actual emissions for a financial year is available.

(5) The properties of the natural resource or natural gas reserve are the primary reason for the excess in subsection (4) having regard to the differences, or expected differences, in covered emissions between the first financial year to be covered by the calculated-emissions baseline determination and the covered emissions reported under the Act for the most recent baseline comparison year.

(6) No more than one calculated-emissions baseline determination has been made in relation to the facility on the basis of one or more of the following criteria:
  (a) the new facility criteria:
  (b) the significant expansion criteria;
  (c) the inherent emissions variability criteria;
  (d) the initial calculated baseline criteria.

(7) A benchmark-emissions baseline determination has never been made in relation to the facility.

(8) The facility is not a grid-connected electricity generator.

(9) The calculated-emissions baseline determination to which the application relates is to commence on a 1 July up to and including 1 July 2024.

(10) For the purposes of this section, the properties of a natural resource or natural gas reserve include the following:

(a) grade;

(b) depth;

(c) distance from a processing plant;

(d) greenhouse gas content;

(e) other similar properties.

(11) In this section:

baseline comparison year means any of the following financial years:

(a) if a reported-emissions baseline determination has been made in relation to the facility—the financial year used to determine the baseline emissions number under subsection 17(1); and

(b) if a calculated-emissions baseline determination has been made in relation to the facility and a report under the Act has been provided in relation to the financial year determined under paragraph 27(1)(c) for that determination—that financial year; and

(c) if a calculated-emissions baseline determination has been made in relation to the facility and a report under the Act has not been provided in relation to the financial year determined under paragraph 27(1)(c) for that determination—the first financial year of the calculated-emissions baseline determination; and

(d) if a production-adjusted baseline determination has been made in relation to the facility—the financial year with the highest actual production level of the primary production variable over the production assessment period.

26 Initial calculated baseline criteria

(1) The initial calculated baseline criteria are satisfied in relation to a facility if all of the criteria in this section are met.

(2) Either:

(a) a reported-emissions baseline determination has been made in relation to the facility; or

(b) scope 1 emissions of one or more greenhouse gases from the operation of the facility were included in reports under the Act for all of the 5 financial years starting on 1 July 2009.

(3) The facility's covered emissions in respect of the financial year beginning 1 July 2016 have exceeded, or are reasonably expected to exceed, the baseline emissions number which applies to the facility in that financial year.

(4) The responsible emitter for the facility has not:

(a) changed, or is not expected to change, the manner in which scope 1 emissions are reported or calculated under the Act; or

(b) caused, or is not expected to cause, scope 1 emissions of greenhouse gases;

for the primary purpose of exceeding the baseline emissions number in subsection (3).

(5) The facility is not a grid-connected electricity generator.

(6) The calculated-emissions baseline determination to which the application relates is to commence on 1 July 2016.

26A Transitional calculated baseline criteria

(1) The transitional calculated baseline criteria are satisfied in relation to a facility if all of the criteria in this section are met.

(2) Either:

(a) no previous calculated-emissions baseline determination has been made in relation to the facility on the basis of the transitional calculated baseline criteria; or

(b) a calculated-emissions baseline determination was made in relation to the facility commencing on 1 July 2018, 1 July 2019 or 1 July 2020 and the application is for a new calculated-emissions baseline determination to commence on or after 1 July 2019 that uses one or more prescribed production variables not used in the first determination.

(3) The facility's covered emissions in respect of any of the first three financial years to be covered by the calculated-emissions baseline determination have exceeded, or are reasonably expected to exceed, 100,000 t CO_2-e.

Note: As the criteria in this section need to be met at the time the Regulator makes a decision on the application, expectations of exceedance are not relevant where information on actual emissions for a financial year is available.

(4) The responsible emitter for the facility:

(a) has not changed, and is not expected to change, the manner in which scope 1 emissions are reported or calculated under the Act; or

(b) has not caused, and is not expected to cause, scope 1 emissions of greenhouse gases;

for the primary purpose of meeting the requirements in subsection (3).

(5) If the calculated-emissions baseline determination is to commence on or after 1 July 2021—one or more prescribed production variables are applicable to the facility in accordance with any requirements in Schedule 2 or 3.

(6) If the calculated-emissions baseline determination is to commence on or after 1 July 2021—the facility:

(a) does not, and is not expected to, meet the new facility criteria in section 33 in respect of any of the first three financial years to be covered by the calculated-emissions baseline determination; and

(b) is not eligible for a production-adjusted baseline determination under paragraph 40(1)(b).

(7) The calculated-emissions baseline determination to which the application relates is to commence on 1 July 2018 or a later financial year.

(8) If the facility is a grid-connected electricity generator—the calculated-emissions baseline determination is to commence at the start of a financial year which is not a sectoral-baseline financial year.

27 Information required in applications

(1) An application for a calculated-emissions baseline determination must include the following information:

(a) an explanation and supporting evidence substantiating that one or more of the following are satisfied:

(i) the new facility criteria;

(ii) the significant expansion criteria;

(iii) the inherent emissions variability criteria;

(iv) the initial calculated baseline criteria;

(v) the transitional calculated baseline criteria;

(b) an outline of the measures to reduce greenhouse gas emissions intensity undertaken, or to be undertaken, at the facility;

(c) in accordance with subsection (3), the quantity of all production variables that are reasonably likely to be produced by the facility in:

(i) if the application is received by the Regulator before the first 31 July after the proposed commencement of the calculated-emissions baseline determination—the financial year with the highest expected production level of the primary production variable over the period to be covered by the calculated-emissions baseline determination; or

(ii) if the application is received by the Regulator before the second 31 July after the proposed commencement of the calculated-emissions baseline determination—the financial year with the highest expected production level of the primary production variable over the period to be covered by the calculated-emissions baseline determination other than the first year; or

(iii) if the application is received by the Regulator after the second 31 July after the proposed commencement of the calculated-emissions baseline determination—the financial year with the highest expected production level of the primary production variable over the period to be covered by the calculated-emissions baseline determination other than the first or second year;

(d) for each production variable outlined under paragraph (c) either:

(i) if the proposed calculated-emissions baseline determination is to commence before 1 July 2021 or is to be made on the basis of the inherent emissions variability criteria—either:

(A) the estimated emissions intensity consistent with the emissions-intensity calculation criteria; or

(B) a nomination that the default emissions intensity should apply; or

(ii) otherwise—the default emissions intensity;

(e) the expected covered emissions from the facility calculated by multiplying the quantity of each of the production variables under paragraph (c) by the estimated or default emissions intensity of that variable under paragraph (d), and summing the results;

(f) if estimated emissions intensities are calculated under subparagraph (d)(i)—copies of the most recent environmental impact assessments (if any) relating to activities at the facility which result in significant emissions of greenhouse gases;

(g) any relevant earlier estimates of the information required by:

(i) paragraph (c); and

(ii) if estimated emissions intensities are calculated under subparagraph (d)(i)—paragraph (d) and (e);

(h) if the information provided under paragraph (c), (d) or (e) is different from the relevant earlier estimates under paragraph (g)—the reasons why this is the case;

(i) historical emissions and production data that supports the estimates in:

(i) paragraph (c); and

(ii) if estimated emissions intensities are calculated under subparagraph (d)(i)—paragraph (d); and

(j) if estimated emissions intensities are calculated under subparagraph (d)(i)—a statement that the estimates are based on reporting methods that will be used to report covered emissions under the Act and an explanation of any differences in the reporting methods from those previously used for the facility;

(k) the basis upon which each production variable to be used in making the determination applies to the facility.

(2) If the significant expansion criteria are met in relation to the application, the application for a calculated-emissions baseline determination must include the following information or documents:

(a) if subparagraph 24(2)(b)(i) applies—evidence of the maximum productive capacity of the equipment at the facility before and after the significant expansion;

(b) if subparagraph 24(2)(b)(ii) applies—evidence that the new production variable was not produced before the relevant expansion period and is not a replacement production variable;

(c) if the facility is a landfill facility—evidence of the licensed capacity of the facility before and after the significant expansion.

(3) For the purposes of paragraph (1)(c) the quantity of a production variable must:

(a) if the variable is not a service unit or prescribed production variable—be calculated on the basis that the variable will be measured at a time that is as close as possible to when the variable enters, or leaves, the production or processing process or landfill facility; and

(b) if the variable is a prescribed production variable:

(i) be measured using the units specified in Schedule 2 or 3; and

(ii) meet any measurement requirements or procedures specified in Schedule 2 or 3.

(4) In this section:

estimated emissions intensity means the covered emissions per unit of the production variable to be produced in the financial year identified under paragraph 27(1)(c).

28 Audit reports

(1) An application must be accompanied by an audit report which complies with this section.

(2) The matters to be audited and covered by the audit report are whether, in all material respects:

Reasonable assurance matters

(a) if the new facility criteria, significant expansion criteria, inherent emissions variability criteria, initial calculated baseline criteria or transitional calculated baseline criteria are relied upon by the applicant—those criteria are satisfied; and

(b) the application has been

(i) prepared in accordance with section 27; and

(ii) presented fairly; and

(ba) each production variable has been correctly identified; and

Limited assurance matters

(c) the estimates of the quantity of each production variable under paragraph 27(1)(c) and any estimated emissions intensities of each production variable under sub-subparagraph 27(1)(d)(i)(A) are:

(i) based on the applicant's assumptions which provide a reasonable basis for the estimates; and

(ii) calculated on the basis of the applicant's assumptions and any historical data that is:

(A) fairly stated; and

(B) if related to emissions intensity—reasonably expected to reflect the emissions intensity of the facility in the financial year determined under paragraph 27(1)(c); and

(iii) reasonable.

(3) The audit report must include one of the following conclusions for the matters in paragraphs (2)(a), (b) and (ba):

(a) a reasonable assurance conclusion;

(b) a qualified reasonable assurance conclusion;

(c) an adverse conclusion;

(d) a conclusion that the assurance provider is unable to form an opinion about the matter being audited.

(4) The audit report must include one of the following conclusions for the matters in paragraph (2)(c):

(a) a limited assurance conclusion;

(b) a qualified limited assurance conclusion;
(c) an adverse conclusion;
(d) a conclusion that the assurance provider is unable to form an opinion about the matter being audited.

(5) An audit report under this section must be the result of an audit which:
(a) was conducted in accordance with the relevant requirements for limited assurance engagements and reasonable assurance engagements under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*; and
(b) had an audit team leader who is registered as a Category 2 auditor under subregulation 6.25(3) of the NGER Regulations; and
(c) was otherwise in accordance with subsection 75(1) of the Act.

29 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:
(a) refuse to consider the application; or
(b) refuse to take any action, or any further action, in relation to the application.

30 Making of calculated-emissions baseline determination

Scope

(1) This section applies if an application under section 22 has been made for a calculated-emissions baseline determination for a facility.

Determination

(2) The Regulator may make a calculated-emissions baseline determination for the facility if satisfied that:
(a) the audit report accompanying an application contains a reasonable assurance conclusion or qualified reasonable assurance conclusion for the matters in paragraphs 28(2)(a), (b) and (ba); and
(b) the audit report accompanying an application contains a limited assurance conclusion or qualified limited assurance conclusion for the matters in paragraph 28(2)(c); and
(c) the relevant new facility criteria, significant expansion criteria, inherent emissions variability criteria, initial calculated baseline criteria or transitional calculated baseline criteria are met at the time of the decision; and
(d) if an explanation is included under paragraph 27(1)(h)—that explanation is reasonable; and

(e) if the calculated-emissions baseline determination is to commence on or after 1 July 2021 and is not made on the basis of the inherent emissions variability criteria—only prescribed production variables and default emissions-intensities are used to calculate the baseline emissions number.

Baseline emissions number

(3) The baseline emissions number specified in the determination made under subsection (2) must be the total amount of tonnes of carbon dioxide equivalent covered emissions calculated by multiplying the quantity of each of the production variables in the financial year determined under paragraph 27(1)(c) by the estimated or default emissions intensity of that variable and summing the results.

Note: Paragraph 27(1)(d) includes requirements for when estimated emissions intensity calculations may be used, default emission intensities must be used and when applicants can choose to use default emissions intensities.

Timing

(4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:

(a) if the Regulator requires the applicant to give further information under subsection 29(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or

(b) otherwise—within 60 days after the application was made.

Notification and publication

(5) As soon as practicable after making a calculated-emissions baseline determination, the Regulator must:

(a) provide written notice of the determination to the responsible emitter for the facility covered by the determination; and

(b) publish on its website:

(i) the details of the determination; and

(ii) the information included in an application in compliance with paragraph 27(1)(b).

(6) If the Regulator decides to refuse to make a calculated-emissions baseline determination, the Regulator must give written notice of the decision to the applicant.

Rounding

(7) The baseline emissions number is to be rounded to the nearest whole number (with a number ending in .5 being rounded up).

31 Duration of calculated-emissions baseline determination

(1) If a calculated-emissions baseline determination is made within 2 years after the requested start of the determination, it must come into force on the 1 July requested in the application.

(2) A calculated-emissions baseline determination made later than specified in subsection (1) is to come into force from the earliest 1 July possible under subsection 22XQ(2) of the Act.

(3) Subject to subsections (4) and (5), a calculated-emissions baseline determination must expire:

(a) if the facility is a large new facility—5 years after the requested start of the determination; and

(b) if the facility is not a large new facility—3 years after the requested start of the determination.

Note: If subsection (2) applies and the determination's commencement is delayed from that requested in the original application, the period will be less than the 5 or 3 years in paragraph (a) and (b).

(4) If:

(a) a baseline determination was made in relation to a facility (the ***first determination***); and

(b) a calculated-emissions baseline determination is made to cover the facility in one or more years of the first determination (the ***second determination***);

the first determination expires immediately before the commencement of the second determination.

(5) If:

(a) a calculated-emissions baseline determination was made on the basis of the new facility criteria; and

(b) the covered emissions of the facility were not over 100,000 t CO_2-e in any of the 5 financial years starting on 1 July 2016;

the determination expires on 1 July 2021.

Subdivision 4—Benchmark-emissions baseline determination

32 Application

(1) The responsible emitter for a facility, other than a landfill facility, may apply to the Regulator for a benchmark-emissions baseline determination for the facility if:

(a) one or more of the following are satisfied:

(i) the new facility criteria;

(ii) the significant expansion criteria; and

(b) there is a relevant benchmark emissions intensity applicable to one or more of the production variables of the facility.

(2) An application under subsection (1) must:

(a) be given in a manner and form approved, in writing, by the Regulator; and

(b) specify the desired start date for the benchmark-emissions baseline determination as 1 July of a particular year; and

(c) include information required by section 35; and

(d) be accompanied by an audit report which complies with section 36.

(3) Unless subsection (5) applies, an application under subsection (1) must be given to the Regulator:
  (a) no earlier than one year before the requested start date for the benchmark-emissions baseline determination; and
  (b) no later than the first 31 October after the end of the first financial year to which the benchmark-emissions baseline determination is to apply.

(4) The responsible emitter for the facility may, by written notice to the Regulator, withdraw an application at any time before the Regulator makes a decision on the application.

(5) If:
  (a) an application which complies with subsection (2) is made within the period allowed by subsection (3); and
  (b) the Regulator has refused to make the benchmark-emissions baseline determination the subject of the application; and
  (c) a new application would not comply with paragraph (3)(b);

the Regulator may accept a new application made no later than 1 February after the end of the first financial year to which the benchmark-emissions baseline determination is to apply.

33 New facility criteria

(1) The new facility criteria are satisfied in relation to a facility if all of the criteria in this section are met.

(2) Unless subsection (7) applies, the facility is not covered by a baseline determination.

(3) Scope 1 emissions of one or more greenhouse gases from the operation of the facility were not required to be included in reports under the Act for any 5 or more financial years before the start of the proposed benchmark-emissions baseline determination.

(4) The facility either:
  (a) has previously emitted more than 100,000 t CO_2-e of covered emissions in a financial year; or
  (b) is reasonably expected to emit more than 100,000 t CO_2-e of covered emissions in the first year of the proposed benchmark-emissions baseline determination.

(5) Either:
  (a) a calculated-emissions baseline determination has never been made in relation to the facility; or
  (b) a calculated-emissions baseline determination was made in relation to the facility but expired under subsection 31(5).

(6) The benchmark-emissions baseline determination to which the application relates is to commence no earlier than 1 July of the first financial year after the financial

year ending on 30 June 2021 that the facility has emitted, or is reasonably expected to emit, more than 100,000 t CO_2-e of covered emissions.

(7) Despite subsection (2), a facility covered by a benchmark-emissions baseline determination made on the basis of the new facility criteria may apply for another benchmark-emissions baseline determination to apply for all or part of the same period as the original determination if a new applicable production variable for the facility has been added to the Benchmark Emissions-Intensity Index since the first determination was made.

34 Significant expansion criteria

(1) The significant expansion criteria are satisfied in relation to a facility if all of the criteria in this section are met.

Significant expansion must occur

(2) The facility must have completed a significant expansion during a relevant expansion period where:

(a) new equipment is installed and used by the facility during a relevant expansion period to produce or process a production variable (other than a prescribed (annually adjusted) production variable); and

(b) after the equipment is in use, and any existing equipment that is to be decommissioned has been decommissioned, either:

(i) the maximum productive capacity of the equipment used to produce one or more production variables (other than prescribed (annually adjusted) production variables) will be more than 20% greater than the maximum productive capacity of the equipment that existed before the installation in relation to that production variable; or

(ii) one or more production variables (other than prescribed (annually adjusted) production variables) will be produced at the facility which:

(A) were not produced before the relevant expansion period; and

(B) are not a replacement for other production variables produced before the relevant expansion period; and

(c) the production variables which meet the requirements of subparagraph (2)(b)(i) or (ii) are significant to the operation of the facility having regard to:

(i) whether one of the production variables is the primary production variable for the facility; or

(ii) whether more than 20% of the revenue expected from the facility in financial year with the highest expected production of the primary production variable over the period to be covered by the benchmark-emissions baseline determination is attributable to the new or expanded production variables; or

(iii) if the production variable is onsite electricity—whether the electricity will supply over 30% of the electricity needs of the facility in the period to be covered by the benchmark-emissions baseline determination.

(3) For the purposes of this section:

(a) the installation of new equipment at a transport facility includes the addition of new or used equipment, such as trucks or planes, to carry out the activities which constitute the facility; and

(b) if a production variable for a facility is the quantity of an input, the input is taken to be produced at a facility if it is used to produce the outputs of the facility.

(4) For the purposes of this section, a ***relevant expansion period*** ends either:

(a) immediately before the period to be covered by the benchmark-emissions baseline determination; or

(b) 30 June of the first financial year to be covered by the benchmark-emissions baseline determination;

and starts:

(c) if a calculated-emissions baseline determination or benchmark-emissions baseline determination in relation to the facility has expired, or will expire, before the start of the proposed period of the benchmark-emissions baseline determination the subject of the application—on the later of:

(i) the 1 July of the last financial year of the expired, or expiring, baseline determination; and

(ii) 3 years before the end of the period; or

(d) otherwise—3 years before the end of the period.

(5) For the purposes of subparagraph (2)(c)(ii), the calculation of the expected revenue must be based upon prices related to the production variable current at the time of the application.

Other criteria

(6) The facility either:

(a) has previously emitted more than 100,000 t CO_2-e of covered emissions in a financial year; or

(b) is reasonably expected to emit more than 100,000 t CO_2-e of covered emissions in the first financial year to be covered by the benchmark-emissions baseline determination.

(7) The facility has emitted, or is reasonably expected to emit, more than the baseline emissions number that would otherwise apply to the facility in at least one financial year of the period to be covered by the benchmark-emissions baseline determination.

Note: As the criteria in this section need to be met at the time the Regulator makes a decision on the application, expectations of exceedance are not relevant where information on actual emissions for a financial year is available.

(8) A calculated-emissions baseline determination or benchmark-emissions baseline determination in relation to the facility:

(a) has never been made; or

(b) was made but has expired, or will expire, before the start of the proposed period of the benchmark-emissions baseline determination the subject of the application.

(9) The benchmark-emissions baseline determination to which the application relates is to commence on or after 1 July 2021.

(10) If the facility is a grid-connected electricity generator—the benchmark-emissions baseline determination is to commence at the start of a financial year which is not a sectoral-baseline financial year.

35 Information required in applications

New facility applications

(1) If the new facility criteria are met in relation to the application, an application for a benchmark-emissions baseline determination must include the following information:

(a) an explanation and supporting evidence substantiating that the new facility criteria are satisfied;

(b) in accordance with subsection (3), the quantity of all production variables that have been, or are reasonably likely to be, produced by the facility in the financial year with the highest expected production level of the primary production variable over the production estimation period;

(c) the emissions intensity per unit of production for each production variable outlined under paragraph (b) consistent with its relevant benchmark emissions intensity;

(d) the expected covered emissions from the facility calculated by multiplying the quantity of each of the production variables under paragraph (b) by the expected emissions intensity of that variable under paragraph (c), and summing the results;

(e) any relevant earlier estimates of the information required by paragraph (b);

(f) if the information provided under paragraph (b) is different from the relevant earlier estimates under paragraph (e)—the reasons why this is the case;

(g) the basis upon which each production variable to be used in making the determination applies to the facility.

Significant expansion applications

(2) If the significant expansion criteria are met in relation to the application, the application for a benchmark-emissions baseline determination must include the following information or documents:

(a) an explanation and supporting evidence substantiating that the significant expansion criteria are satisfied;

(b) in accordance with subsection (3), the quantity of all production variables (other than prescribed (annually adjusted) production variables) that have been, or are reasonably likely to be, produced by the facility in the financial year with the highest expected production level of the primary production variable over the production estimation period;

(c) in accordance with subsection (3), the quantity of all production variables (other than prescribed (annually adjusted) production variables) produced by the facility in the financial year with the highest production of the

primary production variable out of the 3 financial years before the financial year during which the new equipment began to be installed at the facility;

(d) the change in production for each production variable (other than a prescribed (annually adjusted) production variable) calculated by subtracting the quantity of each production variable identified under paragraph (b) from the quantity of that production variable under paragraph (c);

(e) the emissions intensity per unit of production for each production variable outlined under paragraph (b) consistent with its relevant benchmark emissions intensity;

(f) the expected additional covered emissions from the facility calculated by multiplying the change in production for each production variable under paragraph (d) by the emissions intensity of that variable under paragraph (e), and summing the results;

(g) if subparagraph 34(2)(b)(i) applies—evidence of the maximum productive capacity of the equipment at the facility before and after the significant expansion;

(h) if subparagraph 34(2)(b)(ii) applies—evidence that the new production variable was not produced before the relevant expansion period and is not a replacement production variable;

(i) if a baseline emissions number applies to the facility because of paragraph 10(b)—the covered emissions of the facility in the financial year used for the purpose of paragraph (c);

(j) any relevant earlier estimates of the information required by paragraph (b) and (c);

(k) if the information provided under paragraph (b) or (c) is different from the relevant earlier estimates under paragraph (i)—the reasons why this is the case;

(l) the basis upon which each production variable to be used in making the determination applies to the facility.

(3) The quantity of a production variable must:

(a) be measured using the units specified in the Benchmark Emissions-Intensity Index; and

(b) meet any measurement requirements or procedures specified in the Benchmark Emissions-Intensity Index.

(4) For the purposes of this section, the ***production estimation period*** is 3 or 5 financial years which would be the duration of the benchmark-emissions baseline determination if it were made to commence from the earliest 1 July possible.

Note: Under section 39 the duration of a benchmark-emissions baseline determination may be less than the maximum 3 or 5 year duration.

36 Audit reports

(1) An application must be accompanied by an audit report which complies with this section.

(2) The matters to be audited and covered by the audit report are whether, in all material respects:

Reasonable assurance matters

(a) if the significant expansion criteria are relied upon by the applicant—those criteria are satisfied; and

(b) the application has been:

(i) prepared in accordance with section 35; and

(ii) presented fairly; and

(ba) each production variable has been correctly identified; and

Limited assurance matters

(c) the estimates of the quantity of each production variable under paragraphs 35(1)(b), (2)(b) and (2)(c):

(i) meet the requirements in subsection 35(3); and

(ii) are based on the applicant's assumptions which provide a reasonable basis for the estimates; and

(iii) are calculated on the basis of the applicant's assumptions and any historical data that is fairly stated; and

(iv) are reasonable.

(3) The audit report must include one of the following conclusions for the matters in paragraphs (2)(a), (b) and (ba):

(a) a reasonable assurance conclusion;

(b) a qualified reasonable assurance conclusion;

(c) an adverse conclusion;

(d) a conclusion that the assurance provider is unable to form an opinion about the matter being audited.

(4) The audit report must include one of the following conclusions for the matters in paragraph (2)(c):

(a) a limited assurance conclusion;

(b) a qualified limited assurance conclusion;

(c) an adverse conclusion;

(d) a conclusion that the assurance provider is unable to form an opinion about the matter being audited.

(5) An audit report under this section must be the result of an audit which:

(a) was conducted in accordance with the relevant requirements for limited assurance engagements and reasonable assurance engagements under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*; and

(b) had an audit team leader who is registered as a Category 2 auditor under subregulation 6.25(3) of the NGER Regulations; and

(c) was otherwise in accordance with subsection 75(1) of the Act.

37 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:
  (a) refuse to consider the application; or
  (b) refuse to take any action, or any further action, in relation to the application.

38 Making of benchmark-emissions baseline determination

Scope

(1) This section applies if an application under section 32 has been made for a benchmark-emissions baseline determination for a facility.

Determination

(2) The Regulator may make a benchmark-emissions baseline determination for the facility if satisfied that:
  (a) the audit report accompanying an application contains a reasonable assurance conclusion or qualified reasonable assurance conclusion for the matters in paragraphs 36(2)(a), (b) and (ba); and
  (b) the audit report accompanying an application contains a limited assurance conclusion or qualified limited assurance conclusion for the matters in paragraph 36(2)(c); and
  (c) the relevant new facility criteria or significant expansion criteria are met at the time of the decision; and
  (d) the production variables used in the application:
    (i) are applicable to the facility in accordance any requirements set out in the Benchmark Emissions-Intensity Index; and
    (ii) meet the requirements of s 35(3); and
  (e) if an explanation is included under paragraph 35(1)(f) or (2)(k)—that explanation is reasonable.

Baseline emissions number

(3) The determination made under subsection (2) must specify or describe the calculation of the baseline emissions number for each financial year so that:
  (a) if the new facility criteria are met—the baseline emissions number is the total amount of t CO_2-e of covered emissions calculated by multiplying the quantity of each of the production variables in the financial year determined under paragraph 35(1)(b) by the relevant benchmark emissions intensity of that variable and summing the results; or

(b) if the significant expansion criteria are met—the baseline emissions number is the total amount of t CO_2-e of covered emissions calculated by summing:

(i) the change in production for each production variable (other than a prescribed (annually adjusted) production variable) determined under paragraph 35(2)(d) multiplied by its relevant benchmark emissions intensity; and

(ii) if a production-adjusted baseline determination would otherwise apply in the first year of the benchmark-emissions baseline determination—the baseline emissions number applicable under that determination; and

(iii) if a baseline emissions number applies because of paragraph 10(b)—the lesser of:

(A) 100,000 t CO_2-e; and

(B) the covered emissions of the facility in the financial year used in paragraph 35(2)(c).

Timing

(4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:

(a) if the Regulator requires the applicant to give further information under subsection 37(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or

(b) otherwise—within 60 days after the application was made.

Notification and publication

(5) As soon as practicable after making a benchmark-emissions baseline determination, the Regulator must:

(a) provide written notice of the determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the determination on its website.

(6) If the Regulator decides to refuse to make a benchmark-emissions baseline determination, the Regulator must give written notice of the decision to the applicant.

Rounding

(7) The baseline emissions number is to be rounded to the nearest whole number (with a number ending in .5 being rounded up).

39 Duration of benchmark-emissions baseline determination

(1) If a benchmark-emissions baseline determination is made within 2 years after the requested start of the determination, it must come into force on the 1 July requested in the application.

(2) A benchmark-emissions baseline determination made later than specified in subsection (1) is to come into force from the earliest 1 July possible under subsection 22XQ(2) of the Act.

(3) A benchmark-emissions baseline determination must expire:

(a) if the facility is a large new facility—5 years after the start of the first year the facility's covered emissions exceeded, or were expected to exceed, 100,000 t CO_2-e; and

(b) if the facility is not a large new facility and meets the new facility criteria—3 years after the start of the first year the facility's covered emissions exceeded, or were expected to exceed, 100,000 t CO_2-e; and

(c) if the facility meets the significant expansion criteria—3 years after it commences; and

(d) if replaced by a new baseline determination—immediately before the commencement of that new determination.

Subdivision 5—Production-adjusted baseline determination

40 Application

(1) The responsible emitter for a facility may apply to the Regulator for a production-adjusted baseline determination for the facility to commence:

(a) after the expiry of a calculated-emissions baseline determination or benchmark-emissions baseline determination; or

(aa) at the start of the second or a later year of a calculated-emissions baseline determination or benchmark-emissions baseline determination; or

(ab) if:

(i) the facility does not, and is not expected to, meet the new facility criteria in section 33 in respect of any of the first three financial years to be covered by the production-adjusted baseline determination; and

(ii) paragraph (b) does not apply; and

(iii) all production variables are prescribed (annually adjusted) production variables for which only default emissions-intensities are applied—

at the start of the financial year starting on 1 July 2018 or a later financial year; or

(b) if:

(i) the facility:

(A) is eligible for benchmark-emissions baseline determination on the basis of the new facility criteria; or

(B) could have been eligible for a benchmark-emissions baseline determination on the basis of the new facility criteria if an application was made in an earlier year (disregarding paragraph 32(1)(b)); and

(ii) a benchmark-emissions baseline determination was not made in relation to the facility—

no earlier than the third financial year after the facility's covered emissions first exceeded 100,000 t CO_2-e.

(2) An application under subsection (1) must:
  (a) be given in a manner and form approved, in writing, by the Regulator; and
  (b) specify the desired start date for the production-adjusted baseline determination as 1 July of a particular year; and
  (c) include information required by section 41; and
  (d) be accompanied by an audit report which complies with section 42.

(3) Unless subsection (5) or (5A) applies, an application under subsection (1) must be given to the Regulator:
  (a) no earlier than the requested start date for the production-adjusted baseline determination; and
  (b) no later than the first 31 October after the end of the first financial year to which the production-adjusted baseline determination is to apply.

(4) The responsible emitter for the facility may, by written notice to the Regulator, withdraw an application at any time before the Regulator makes a decision on the application.

(5) If:
  (a) an application which complies with subsection (2) is made within the period allowed by subsection (3); and
  (b) the Regulator has refused to make the production-adjusted baseline determination the subject of the application; and
  (c) a new application would not comply with paragraph (3)(b);

the Regulator may accept a new application made no later than 1 February after the end of the first financial year to which the production-adjusted baseline determination is to apply.

(5A) If:
  (a) the requested start date for the production-adjusted baseline determination is 1 July 2018; and
  (b) a monitoring period for the facility does not finish during, or at the end of, the financial year beginning on 1 July 2018;

an application may be made no later than 15 April 2020.

(6) Paragraph (1)(a) does not apply to a calculated-emissions baseline determination which expired under subsection 31(4) or (5).

41 Information required in applications

(1) Unless subsection (2) applies, an application for a production-adjusted baseline determination must include the following information:
  (a) in accordance with subsection (3), the quantity of all production variables (other than a prescribed (annually adjusted) production variable) that:
    (i) were produced by the facility in the financial year with the highest actual production level of the primary production variable over the production assessment period; and

(ii) if the determination is to commence after or during a calculated-emissions baseline determination—were used in making that determination; and

(iii) if the determination is to commence after or during a benchmark-emissions baseline determination or paragraph 40(1)(b) applies—are applicable to the facility in accordance with any requirements set out in the Benchmark Emissions-Intensity Index;

(b) the emissions intensity per unit of production for each production variable outlined under paragraph (a):

(i) if the determination is to commence after or during a calculated-emissions baseline determination—consistent with the emissions intensity per unit of production used in making that determination or the default emissions intensity (if elected under paragraph (d)); or

(ii) if the determination is to commence after or during a benchmark-emissions baseline determination or paragraph 40(1)(b) applies—consistent with its relevant benchmark emissions intensity;

(c) the adjusted total covered emissions from the facility calculated by multiplying the quantity of each of the production variables under paragraph (a) by the emissions intensity of that variable under paragraph (b), and summing the results;

(d) if the determination is to commence after or during a calculated-emissions baseline determination for which the emissions intensity of one or more prescribed production variables was estimated—an election for whether the production-adjusted baseline determination should use the estimated emissions intensity or the default emissions intensity;

(e) the details of any prescribed (annually adjusted) production variables applicable to the facility;

(f) the basis upon which each production variable to be used in making the determination applies to the facility.

(2) If the significant expansion criteria were met in relation to the previous benchmark-emissions baseline determination, the application for a production-adjusted baseline determination must include the following information or documents:

(a) in accordance with subsection (3), the quantity of all production variables that were produced by the facility in the financial year with the highest actual production level of the primary production variable over the period covered by the previous benchmark-emissions baseline determination;

(b) the change in production for each production variable (other than a prescribed (annually adjusted) production variable) calculated by subtracting the quantity of each production variable identified under paragraph (a) from the amount of that production variable previously provided under paragraph 35(2)(c);

(c) the emissions intensity per unit of production for each production variable outlined under paragraph (b) consistent with its relevant benchmark emissions intensity;

(d) the adjusted additional covered emissions from the facility calculated by multiplying the change in production for each production variable (other

than a prescribed (annually adjusted) production variable) under paragraph (b) by the emissions intensity of that variable under paragraph (c), and summing the results;

(e) the details of any prescribed (annually adjusted) production variables applicable to the facility;

(f) the basis upon which each production variable to be used in making the determination applies to the facility.

(3) The quantity of a production variable must:

(a) if the determination is to commence after or during a calculated-emissions baseline determination and the production variable is not a service unit or prescribed production variable—be measured at a time that is as close as possible to when the variable enters, or leaves, the production or processing process or landfill facility; and

(b) if the determination is to commence after or during a benchmark-emissions baseline determination or paragraph 40(1)(b) applies—both:

(i) be measured using the units specified in the Benchmark Emissions-Intensity Index; and

(ii) meet any measurement requirements or procedures specified in the Benchmark Emissions-Intensity Index; and

(c) if the variable is a prescribed (fixed) production variable:

(i) be measured using the units specified in Schedule 3; and

(ii) meet any measurement requirements or procedures specified in Schedule 3.

42 Audit reports

(1) An application must be accompanied by an audit report which complies with this section.

(2) The matters to be audited and covered by the audit report are whether, in all material respects:

Reasonable assurance matters

(a) the selection of the production variable for the facility:

(i) if the determination is to commence after a benchmark-emissions baseline determination or paragraph 40(1)(b) applies—is applicable to the facility in accordance with the Benchmark Emissions-Intensity Index; and

(ii) is supported by historical data that is fairly stated; and

(iii) if the production variable is a prescribed production variable—is applicable to the facility in accordance with any requirements in Schedule 2 or 3; and

(b) the application has been:

(i) prepared in accordance with section 41; and

(ii) presented fairly; and

(c) the quantities of each production variable (other than a prescribed (annually adjusted) production variable) under paragraph 41(1)(a) or (2)(a):

(i) meet the requirements in subsection 41(3); and
(ii) are supported by historical data that is fairly stated.

(3) The audit report must include one of the following conclusions for the engagement under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*:
(a) a reasonable assurance conclusion;
(b) a qualified reasonable assurance conclusion;
(c) an adverse conclusion;
(d) a conclusion that the assurance provider is unable to form an opinion about the matter being audited.

(4) An audit report under this section must be the result of an audit which:
(a) was conducted in accordance with the relevant requirements for reasonable assurance engagements under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*; and
(b) had an audit team leader who is registered as a Category 2 auditor under subregulation 6.25(3) of the NGER Regulations*;* and
(c) was otherwise in accordance with subsection 75(1) of the Act.

43 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:
(a) refuse to consider the application; or
(b) refuse to take any action, or any further action, in relation to the application.

44 Making of production-adjusted baseline determination

Scope

(1) This section applies if an application under section 40 has been made for a production-adjusted baseline determination for a facility.

Determination

(2) The Regulator may make a production-adjusted baseline determination for the facility if satisfied that:
(a) the audit report accompanying an application contains a reasonable assurance conclusion or qualified reasonable assurance conclusion; and
(aa) if paragraph 40(1)(ab) applies—the requirements in that paragraph are met; and
(b) if paragraph 40(1)(b) applies—the requirements in that paragraph are met; and

(c) the production variables used in the application:

(i) if the determination is to commence after or during a calculated-emissions baseline determination and paragraph 40(1)(ab) does not apply—were used in making that determination; and

(ii) if the determination is to commence after or during a benchmark-emissions baseline determination or paragraph 40(1)(b) applies—are applicable to the facility in accordance with any requirements set out in the Benchmark Emissions-Intensity Index; and

(iii) meet the requirements of subsection 41(3).

Baseline emissions number

(3) The determination made under subsection (2) must specify the baseline emissions number or describe the calculation of the baseline emissions number for each financial year so that:

(a) if the determination is to commence after or during a calculated-emissions baseline determination and paragraph 40(1)(ab) does not apply—the baseline emissions number is the sum of:

(i) the total amount of t CO_2-e of covered emissions calculated by multiplying the quantity of each production variable (other than a prescribed (annually adjusted) production variable) in the financial year determined under subparagraph 41(1)(a)(i) by the emissions intensity of that variable determined under subsection (3C); and

(ii) the total amount of t CO_2-e of covered emissions calculated by multiplying the quantity of each prescribed (annually adjusted) production variable reported under the Act for the financial year to which the baseline emissions number is to apply by the emissions intensity of that variable determined under subsection (3C); or

(aa) if paragraph 40(1)(ab) applies—the baseline emissions number is the total amount of t CO_2-e of covered emissions calculated by multiplying the quantity of each prescribed (annually adjusted) production variable reported under the Act for the financial year to which the baseline emissions number is to apply by its default emissions intensity and summing the results; or

(b) if the determination is to commence after or during a benchmark-emissions baseline determination made on the basis of the new facility criteria or paragraph 40(1)(b) applies—the baseline emissions number is the sum of:

(i) the total amount of t CO_2-e of covered emissions calculated by multiplying the quantity of each production variable (other than a prescribed (annually adjusted) production variable) in the financial year determined under subparagraph 41(1)(a)(i) with the relevant benchmark emissions intensity of each variable and summing the results; and

(ii) the total amount of t CO_2-e of covered emissions calculated by multiplying the quantity of each prescribed (annually adjusted) production variable reported under the Act for the financial year to which the baseline emissions number is to apply by the relevant benchmark emissions intensity of each variable and summing the results; or

(c) if the determination is to commence after or during a benchmark-emissions baseline determination made on the basis of the significant expansion criteria—the baseline emissions number is the total amount of t CO_2-e of covered emissions calculated by summing:

(i) the change in production for each production variable (other than a prescribed (annually adjusted) production variable) determined under paragraph 41(2)(b) multiplied by its relevant benchmark emissions intensity; and

(ii) if a production-adjusted baseline determination would otherwise apply after the expiry of the benchmark-emissions baseline determination—the baseline emissions number applicable under that determination; and

(iii) if a baseline emissions number applies in the first year of the proposed production-adjusted baseline determination because of paragraph 10(b)—the lesser of:

(A) 100,000 t CO_2-e; and

(B) the covered emissions of the facility in the financial year used in paragraph 35(2)(c) of the application for the previous benchmark-emissions baseline determination.

Note: When making a baseline determination for a facility the Regulator will either specify a number as the baseline emissions number or describe a formula for the annual calculation of the baseline emissions number. A determination that is a formula will allow the Regulator to annually recalculate the baseline in line with updates. Elements of formulas that may update over time include default emissions intensity values, benchmark emissions intensity values, and a facility's reported production figures for prescribed (annually adjusted) production variables. The annual calculation of a baseline emissions number is not a new baseline determination, but the Regulator can inform the responsible emitter of the new calculation under section 71.

(3A) The quantities of each prescribed (annually adjusted) production variable reported each financial year for the purposes of subparagraph (3)(a)(ii), paragraph (3)(aa) and subparagraph (3)(b)(ii) must:

(a) be measured using the units specified in Schedule 2; and

(b) meet any measurement requirements or procedures specified in Schedule 2.

(3B) If a default emissions intensity or relevant benchmark emissions intensity for a production variable changes after a production-adjusted baseline determination is made, the calculation of the baseline emissions number for a financial year under subsection (3) must use the value of the default emissions intensity or relevant benchmark emissions intensity in force at the start of the financial year to which the baseline emissions number is to apply.

Emissions intensity to apply

(3C) The emissions intensity of a production variable under subparagraph (3)(a)(i) or (ii) is:

(a) if a nomination is made under subsection (3D) or the use of the default emissions-intensities is elected in the application under paragraph 41(1)(d)—the default emissions intensity for the production variable; and

(b) otherwise—the emissions intensity of the production variable used in making the previous calculated-emissions baseline determination (taking into account any amendments to that determination or other updates under this instrument).

(3D) At any point before the end of a financial year a responsible emitter for a facility may nominate that a default emissions intensity apply instead of an estimated emissions intensity used in making the previous calculated-emissions baseline determination.

(3E) Once made, a nomination under subsection (3D) cannot be withdrawn and applies to the facility regardless of any change to the responsible emitter.

Timing

(4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:

(a) if the Regulator requires the applicant to give further information under subsection 43(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or

(b) otherwise—within 60 days after the application was made.

Notification and publication

(5) As soon as practicable after making a production-adjusted baseline determination, the Regulator must:

(a) provide written notice of the determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the determination on its website.

(6) If the Regulator decides to refuse to make a production-adjusted baseline determination, the Regulator must give written notice of the decision to the applicant.

Rounding

(7) The baseline emissions number is to be rounded to the nearest whole number (with a number ending in .5 being rounded up).

45 Duration of production-adjusted baseline determination

(1) If a production-adjusted baseline determination is made within 2 years after the requested start of the determination, it must come into force on the 1 July requested in the application.

(2) A production-adjusted baseline determination made later than specified in subsection (1) is to come into force from the earliest 1 July possible under subsection 22XQ(2) of the Act.

(3) A production-adjusted baseline determination:

(a) ceases to be in force from the date when another baseline determination commences in relation to the facility; and

(b) unless a more recent production-adjusted baseline determination has been made—comes back in force at the expiry of a calculated-emissions baseline determination or a benchmark-emissions baseline determination until replaced by another baseline determination.

Subdivision 6— Variation of baseline determination for reduction in emissions intensity

46 Application

(1) The responsible emitter for a facility may apply to the Regulator for a variation of a baseline determination which applies to the facility in respect of the financial year beginning on 1 July 2017 or 1 July 2018 if the facility meets the emissions intensity test in respect of that financial year.

(2) However, an application may not be made if:

(a) both:

(i) the responsible emitter has also applied for a multi-year period declaration such that the financial year will be the first year of a declared multi-year period; and

(ii) the Regulator has not refused to make a multi-year period declaration; or

(b) the financial year is the first year of a declared multi-year period; or

(c) a landfill baseline determination applies to the facility in respect of the financial year the subject of the application.

(3) An application under subsection (1) must:

(a) be given in a manner and form approved, in writing, by the Regulator; and

(b) specify the financial year for which the baseline emissions number is to be varied; and

(c) include information required by section 48; and

(d) be accompanied by an audit report which complies with section 49.

(4) Unless subsection (6) or (7) applies, an application under subsection (1) must be given to the Regulator no later than the first 31 October after the end of the financial year.

(5) The responsible emitter for the facility may, by written notice to the Regulator, withdraw an application at any time before the Regulator makes a decision on the application.

(6) If:

(a) an application which complies with subsection (3) is made within the period allowed by subsection (4); and

(b) the Regulator has refused to vary the baseline determination the subject of the application; and

(c) a new application would not comply with subsection (4);

the Regulator may accept a new application made no later than 1 February after the end of the financial year.

(7) If the responsible emitter provides reasons why it was impractical to meet the 31 October deadline, the Regulator may accept an application made no later than 1 February after the end of the financial year.

47 Emissions intensity test

(1) A facility, other than a landfill facility, passes the emissions intensity test in respect of a financial year if:

(a) if the facility has only one production variable identified in accordance with section 5—the emissions intensity of the production variable in the financial year the subject of the application is lower than the emissions intensity of the production variable in the most recent baseline intensity comparison year; and

(b) if the facility has 2 or more production variables identified in accordance with section 5—the result of the following formula is positive:

$$\sum_{p} (EI_{b,p} - EI_{f,p}) \times Q_{f,p}$$

where:

$EI_{b,p}$ is the emissions intensity of the production variable (p) in the most recent baseline intensity comparison year (b).

$EI_{f,p}$ is emissions intensity of the production variable (p) in the financial year the subject of the application (f).

$Q_{f,p}$ is the quantity of the production variable (p) produced in the financial year the subject of the application (f).

(3) A landfill facility passes the emissions intensity test in respect of a financial year if the percentage of landfill gas captured during the financial year is higher than the percentage of landfill gas captured in the most recent baseline intensity comparison year.

Calculating the emissions intensity of a production variable

(4) For the purpose of this section the emissions intensity of a production variable is the number of t CO_2-e of covered emissions per unit of the quantity of the production variable which is:

(a) if a calculated-emissions baseline determination commenced in relation to the facility in the same year as the proposed variation and the emissions intensity is being calculated for the baseline intensity comparison year—deemed to be the emissions intensity of the production variable used to determine the baseline emissions number in the calculated-emissions baseline determination; and

(b) otherwise:

(i) determined for a financial year based on the covered emissions of the facility in that financial year; and

(ii) if there is only one production variable—calculated by dividing the covered emissions for the facility by the quantity of the production variable produced in the financial year; and

(iii) if there is more than one production variable—worked out in a manner that apportions covered emissions consistently with the emissions-intensity calculation criteria; and

(v) subject to subparagraph (iv), worked out in a manner that is consistent for both apportioning covered emissions and measuring of the quantity of the production variable between all of the following:

(A) the most recent baseline intensity comparison year;

(B) the financial year the subject of the application;

(C) any previous successful application under subsection 46(1) that is based on the same production variables.

48 Information to accompany applications

(1) For a facility that is not a landfill facility, an application for a variation of a baseline determination must include the following information:

(a) in accordance with subsection (2), the quantity of all production variables that were produced by the facility in the financial year the subject of the application and the most recent baseline intensity comparison year;

(b) if there is more than one production variable—set out:

(i) the emissions intensity per unit of production for each production variable outlined under paragraph (a) in each financial year consistent with the requirements of subsection 47(4); and

(ii) the total covered emissions in the financial year calculated by multiplying the quantity of each of the production variables in the financial year the subject of the application under paragraph (a) by the emissions intensity of that variable in that financial year under subparagraph (b)(i), and summing the results;

(c) an explanation of the method used to calculate the emissions intensity of each production variable and apportion any emissions consistently with the requirements of subsection 47(4).

(2) For the purposes of subsection (1), the quantity of a production variable that is not a service unit must be measured at a time that is as close as possible to when the variable enters, or leaves, the production or processing process.

(4) For a landfill facility, an application for a variation of a baseline determination must include the following information:

(a) the amount, in t CO_2-e of landfill gas captured at the landfill facility in the financial year the subject of the application and the baseline intensity comparison year; and

(b) the amount, in t CO_2-e, of scope 1 greenhouse gas emissions of the facility in the financial year disregarding any capture of those emissions at the facility in relation to the facility and the financial year.

49 Audit reports

(1) An application must be accompanied by an audit report which complies with this section.

(2) For a facility that is not a landfill facility, the matters to be audited and covered by the audit report are whether, in all material respects:

Reasonable assurance matters

(a) the emissions intensity test is satisfied; and

(b) the application has been:

(i) prepared in accordance with section 48; and

(ii) presented fairly; and

(c) that the estimates of the quantity of each production variable:

(i) meet the requirements of subsection 48(2); and

(ii) are supported by historical data that is fairly stated; and

(d) the calculation of the emissions intensity of each production variable:

(i) meets the requirements of subsection 47(4); and

(ii) is supported by historical data that is fairly stated.

(3) For a landfill facility, the matters to be audited and covered by the audit report are whether, in all material respects:

(a) the emissions intensity test is satisfied; and

(b) the information included under subsection 48(4) is:

(i) correctly stated; and

(ii) supported by historical data that is fairly stated.

(4) The audit report must include one of the following conclusions for the engagement under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*:

(a) a reasonable assurance conclusion;

(b) a qualified reasonable assurance conclusion;

(c) an adverse conclusion;

(d) a conclusion that the assurance provider is unable to form an opinion about the matter being audited.

(5) An audit report under this section must be the result of an audit which:

(a) was conducted in accordance with the relevant requirements for reasonable assurance engagements under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*; and

(b) had an audit team leader who is registered as a Category 2 auditor under subregulation 6.25(3) of the NGER Regulations; and

(c) was otherwise in accordance with subsection 75(1) of the Act.

50 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:
  (a) refuse to consider the application; or
  (b) refuse to take any action, or any further action, in relation to the application.

51 Variation of baseline determination

Scope

(1) This section applies if an application under section 46 has been made for variation of a baseline determination for a facility.

Variation

(2) The Regulator may vary the baseline determination to increase the baseline emissions number for the year so that it equals the amount of covered emissions (in t CO_2-e) for the financial year the subject of the application if satisfied that:
  (a) the audit report accompanying an application contains a reasonable assurance conclusion or qualified reasonable assurance conclusion; and
  (b) the emissions intensity test is met in relation to the financial year the subject of the application; and
  (c) if the facility is not a landfill facility—the quantity of each production variable met the requirements of subsection 48(2);
  (d) if there is more than one production variable and the facility is not a landfill facility—the emissions intensity of each production variable meets the requirements of subsection 47(4).

(3) The varied baseline emissions number is to be rounded up to the next whole number.

Timing

(4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
  (a) if the Regulator requires the applicant to give further information under subsection 50(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or
  (b) otherwise—within 60 days after the application was made.

Notification and publication

(5) As soon as practicable after varying a baseline determination, the Regulator must:

(a) provide written notice of the variation to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the variation of the baseline determination on its website.

(6) If the Regulator decides to refuse to vary a baseline determination, the Regulator must give written notice of the decision to the applicant.

(7) To avoid doubt, a decision to vary, or refuse to vary, a baseline determination under this section is a reviewable decision under section 56 of the Act.

Subdivision 7—Landfill baseline determination

52 Application

(1) The responsible emitter for a landfill facility may apply to the Regulator for a landfill baseline determination for the facility if the landfill facility:

(a) has previously emitted more than 100,000 t CO_2-e of covered emissions in a financial year; or

(b) is reasonably expected to emit more than 100,000 t CO_2-e of covered emissions in the first financial year to be covered by the landfill baseline determination.

(2) An application under subsection (1) must:

(a) be given in a manner and form approved, in writing, by the Regulator; and

(b) specify the desired start date for the landfill baseline determination as 1 July of a particular year; and

(c) include information establishing that the facility is a landfill facility.

(3) An application under subsection (1) must be given to the Regulator no later than the first 31 October after the end of the first financial year to which the landfill baseline determination is to apply.

53 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:

(a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

54 Making of landfill baseline determination

Scope

(1) This section applies if an application under section 52 has been made for a landfill baseline determination for a facility.

Determination

(2) The Regulator may make a landfill baseline determination for the facility if satisfied that the facility is a landfill facility that:
  (a) has previously emitted more than 100,000 t CO_2-e of covered emissions in a financial year; or
  (b) is reasonably expected to emit more than 100,000 t CO_2-e of covered emissions in the first financial year to be covered by the landfill baseline determination.

(3) Subject to section 12, a landfill baseline determination must specify the landfill baseline emissions formula for the facility for each financial year during which the determination is in force as:

$$B_t = NLCH_{4t} \times (1 - CER) \times (1 - OF)$$

where:

B_t is the baseline emissions number for the facility for the financial year (t).

$NLCH_{4t}$ is the amount, in t CO_2-e, of non-legacy scope 1 greenhouse gas emissions of the facility in the financial year disregarding any capture of those emissions at the facility included in a report under the Act in relation to the facility and the financial year.

CER is 0.372, representing the capture efficiency rate for non-legacy greenhouse gas emissions.

OF is the oxidisation factor in the near surface conditions of the landfill in subsection 5.4(1) of the NGER (Measurement) Determination as in force at the start of the financial year.

Timing

(4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
  (a) if the Regulator requires the applicant to give further information under subsection 53(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or
  (b) otherwise—within 60 days after the application was made.

Notification

(5) As soon as practicable after making a landfill baseline determination, the Regulator must:

(a) provide written notice of the determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the determination on its website.

(6) If the Regulator decides to refuse to make a landfill baseline determination, the Regulator must give written notice of the decision to the applicant.

Rounding

(7) The baseline emissions number is to be rounded to the nearest whole number (with a number ending in .5 being rounded up).

55 Duration of landfill baseline determination

(1) If a landfill baseline determination is made within 2 years after the requested start of the determination, it must come into force on the 1 July requested in the application.

(2) A landfill baseline determination made later than specified in subsection (1) is to come into force from the earliest 1 July possible under subsection 22XQ(2) of the Act.

(3) A landfill baseline determination:

(a) replaces another baseline determination in force in relation to the facility; and

(b) ceases to be in force from:

(i) the date when another baseline determination commences in relation to the facility; or

(ii) a 30 June notified to the Regulator in writing by the responsible emitter for the facility.

Subdivision 8—General variation and remaking of baseline determinations

56 Variation relating to changes in carbon dioxide equivalence

(1) If:

(a) the carbon dioxide equivalence of one or more greenhouse gases changes at the start of, or during a, financial year; and

(b) one of the following determinations for a facility is in force (the ***relevant determination***):

(i) a reported-emissions baseline determination;

(ii) a calculated-emissions baseline determination which was based upon an emissions-intensity per unit of a production variable identified by greenhouse gas under subsection 6(6) or a default emissions intensity;

(iii) a benchmark-emissions baseline determination;

(iv) a production-adjusted baseline determination which was based upon:

(A) an emissions intensity per unit of a production variable identified by greenhouse gas in an application for a

calculated-emissions baseline determination under subsection 6(6); or

(B) an emissions intensity per unit of production consistent with the Benchmark Emissions-Intensity Index;

the Regulator must vary the relevant determination to reflect the changed carbon dioxide equivalence of the baseline emissions number with effect from the start of that financial year.

(2) For the purposes of subsection (1):

(a) the baseline emissions number in reported-emissions baseline determination need only be varied in relation to carbon dioxide, methane, nitrous oxide, perfluorocarbon emissions attributable to aluminium production and other greenhouse gases identified under subparagraph 17(6)(b)(i); and

(b) greenhouse gas emissions included in the baseline emissions number of a calculated-emissions baseline determination or production-adjusted baseline determination without an identified emissions intensity of non-carbon dioxide greenhouse gas per unit of a production variable under subsection 6(6) are assumed to be emissions of carbon dioxide; and

(c) the changed carbon dioxide equivalence of a baseline emissions number derived from the Benchmark Emissions-Intensity Index must be determined consistently with the changed emissions intensity of the relevant production variable in that Index; and

(d) the changed carbon dioxide equivalence of a baseline emissions number derived from a default emissions intensity must be determined consistently with the changed default emissions intensity of the relevant production variable in Schedule 2 or 3.

(3) The baseline emissions number is to be rounded to the nearest whole number (with a number ending in .5 being rounded up).

(4) Before the Regulator varies a baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:

(a) stating that it intends to vary the baseline determination in relation to the facility under this section; and

(b) specifying the baseline emissions number that would apply under the determination; and

(c) seeking any comments by a date specified in the notice.

(5) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to vary the baseline determination by the later of:

(a) if the Regulator requires the responsible emitter to give further information under subsection 58(1) in connection with the variation of the baseline determination—30 days after the responsible emitter gave the Regulator the information; and

(b) 30 days after the date specified in paragraph (4)(c).

(6) As soon as practicable after varying a baseline determination, the Regulator must:

(a) provide written notice of the varied determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the varied determination on its website.

(7) To avoid doubt, a decision to vary a baseline determination under this section is a reviewable decision under section 56 of the Act.

56A Variation of production-adjusted baseline determinations because of new prescribed (annually adjusted) production variable

(1) If all of the following apply:

(a) a production-adjusted baseline determination applies to a facility;

(b) a prescribed (annually adjusted) production variable;

(i) is applicable to the facility; and

(ii) relates to activities and covered emissions not taken into account in determining the baseline emissions number under the production-adjusted baseline determination; and

(iii) the covered emissions relating to the prescribed (annually adjusted) production variable are at least 5% of the baseline emissions number applicable to the facility;

(c) the responsible emitter for the facility has provided evidence of paragraph (b) in a form approved by the Regulator;

the Regulator must vary the production-adjusted baseline determination to include the new prescribed (annually adjusted) production variable and its default emissions intensity with effect from the start of the financial year in which the decision to vary the determination is made.

(2) Before the Regulator varies a baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:

(a) stating that it intends to vary the baseline determination in relation to the facility under this section; and

(b) describing how to calculate the baseline emissions number for a financial year under the proposed determination; and

(c) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to vary the baseline determination by the later of:

(a) if the Regulator requires the responsible emitter to give further information under subsection 58(1) in connection with the variation of the baseline determination—30 days after the responsible emitter gave the Regulator the information; and

(b) 30 days after the date specified in paragraph (2)(c).

(4) As soon as practicable after varying a baseline determination, the Regulator must:

(a) provide written notice of the varied determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the varied determination on its website.

(5) To avoid doubt, a decision to vary a baseline determination under this section is a reviewable decision under section 56 of the Act.

56B Variation of certain calculated-emissions baseline determinations and production-adjusted baseline determinations because of changes in activities

(1) If all of the following apply:

(a) covered emissions attributable to one or more activities (the ***original activities***) relate to the emissions intensity of a production variable (other than a prescribed (annually adjusted) production variable) used in making a calculated-emissions baseline determination or a production-adjusted baseline determination;

(b) the covered emissions attributable to the original activities were responsible for at least 5% of the baseline emissions number applicable to the facility;

(c) the Regulator is satisfied that either:

(i) activities of the same kind as the original activities were not, or will not be, conducted at the facility during a financial year; or

(ii) the quantity of the production variable produced at the facility during a financial year is, or will be, less than half of the quantity used in establishing the baseline emissions number in the baseline determination;

(d) the Regulator has reasonable evidence to consider that either:

(i) activities of the same kind as the original activities are unlikely to be conducted during the next financial year; or

(ii) the quantity of the production variable produced at the facility is likely to be less than half of the quantity used in establishing the baseline emissions number in the baseline determination during the next financial year;

the Regulator may vary the baseline determination to remove some or all of the emissions associated with the original activities with effect from the start of the financial year in which the decision to vary the determination is made.

(2) Before the Regulator varies a baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:

(a) stating that it intends to vary the baseline determination in relation to the facility under this section; and

(b) specifying the baseline emissions number, or describing how to calculate the baseline emissions number for a financial year, under the proposed varied baseline determination; and

(c) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to vary, or decide not to vary, the baseline determination by the later of:

(a) if the Regulator requires the responsible emitter to give further information under subsection 58(1) in connection with the variation of the baseline determination—30 days after the responsible emitter gave the Regulator the information; and

(b) 30 days after the date specified in paragraph (2)(c).

(4) As soon as practicable after varying a baseline determination, the Regulator must:

(a) provide written notice of the varied determination to the responsible emitter for the facility covered by the determination; and

(b) publish the details of the varied determination on its website.

(5) To avoid doubt, a decision to vary a baseline determination under this section is a reviewable decision under section 56 of the Act.

56C Making of replacement baseline determinations if facilities restructured

(1) If any of the following apply:

(a) activities included in a facility to which a baseline determination applies are now included in 2 or more facilities;

(b) activities included in 2 or more facilities to which baseline determinations apply are now included in a single facility;

the Regulator may revoke the existing baseline determinations and make replacement baseline determinations for the facilities which now include the activities with effect no earlier than the start of the financial year in which the decision to act under this section is made.

(2) Before the Regulator revokes an existing baseline determination and makes a replacement baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:

(a) stating that it intends to revoke the existing baseline determination and make one or more replacement baseline determinations under this section; and

(b) specifying the baseline emissions number, or describing how to calculate the baseline emissions number for a financial year, under the proposed replacement baseline determinations; and

(c) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to make a decision under subsection (1) by the later of:

(a) if the Regulator requires the responsible emitter to give further information under subsection 58(1) in connection with the decision—30 days after the responsible emitter gave the Regulator the information; and

(b) 30 days after the date specified in paragraph (2)(c).

(4) As soon as practicable after revoking an existing baseline determination and making replacement baseline determinations, the Regulator must:
  (a) provide written notice of the replacement baseline determination to the responsible emitter for the facility covered by the determination; and
  (b) publish the details of the replacement baseline determination on its website.

(5) To avoid doubt, a decision to act under this section is a reviewable decision under section 56 of the Act.

57 Remaking of baseline determinations because of error

(1) If the Regulator is satisfied that:
  (a) a baseline determination or purported baseline determination has incorrectly calculated the baseline emissions number for a facility; or
  (b) the making of a baseline determination or purported baseline determination was subject to jurisdictional error by the Regulator; or
  (c) information provided to the Regulator by the responsible emitter in connection with the making of the baseline determination was false or misleading in a material particular;

the Regulator may remake the decision to make or refuse to make the baseline determination with effect from the start of that financial year in which the decision is remade.

(2) Before the Regulator remakes a decision to make or refuse to make a baseline determination for a facility under this section, the Regulator must provide a written notice to the responsible emitter for the facility:
  (a) stating that it intends to remake the decision in relation to the facility under this section; and
  (b) if a baseline determination is to be remade—specifying the baseline emissions number that would apply under that determination; and
  (c) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to make or refuse to make the baseline determination by the later of:
  (a) if the Regulator requires the responsible emitter to give further information under subsection 58(1) in connection with the remaking of a decision to make or refuse to make the baseline determination—30 days after the responsible emitter gave the Regulator the information; and
  (b) 30 days after the date specified in paragraph (2)(c).

(4) As soon as practicable after remaking or refusing to make a baseline determination, the Regulator must:
  (a) provide written notice of the decision to the responsible emitter for the facility covered by the baseline determination; and
  (b) publish the details of any remade baseline determination on its website.

(5) Despite subsection (1), the baseline emissions number for a facility in a financial year before the start of the remade baseline determination or decision to refuse to

make the baseline determination is the baseline emissions number calculated in accordance with the original baseline determination or purported baseline determination.

(6) To avoid doubt, a decision to remake or refuse to make a baseline determination under this section is a reviewable decision under section 56 of the Act.

58 Further information

(1) The Regulator may, by written notice given to the responsible emitter, require the responsible emitter to give the Regulator, within the period specified in the notice, further information in connection with the variation of a baseline determination under section 56, 56A or 56B, a decision under section 56C or remaking of a decision to make or refuse to make baseline determination under section 57.

(2) If the responsible emitter breaches the requirement, the Regulator may, by written notice given to the responsible emitter:

(a) refuse to take any action, or any further action, in relation to the relevant decision until the information is provided; and

(b) make any assumptions the Regulator considers appropriate about the information which was not provided.

Part 4—Compliance

Division 1—Exemption declarations

59 Operation of this Division

For subsections 22XE(2), (3) and (4) of the Act, this Division provides for an exemption declaration to be issued in relation to a facility for a monitoring period.

60 Application

(1) The responsible emitter for a facility may apply to the Regulator for an exemption declaration for the facility for a monitoring period.

(2) The application must:
  (a) be given in a manner and form approved, in writing, by the Regulator; and
  (b) specify the facility and monitoring period for which an exemption declaration is sought; and
  (c) include information and documents substantiating:
    (i) why an exemption declaration should be made; and
    (ii) if the application relates to criminal activity—the reasonableness of the steps the responsible emitter took:
      (A) before the criminal activity occurred, to mitigate risks that criminal activity could result in an excess; and
      (B) after the criminal activity occurred, to mitigate the likelihood of an excess as a result of the criminal activity; and
    (iii) if the application relates to a natural disaster—the reasonableness of the steps the responsible emitter took:
      (A) before the natural disaster occurred, to mitigate risks that a natural disaster could result in an excess; and
      (B) after the natural disaster occurred, to mitigate the likelihood of an excess as a result of the natural disaster; and
    (iv) any other factors that have significantly impacted the covered emissions of the facility over the monitoring period.

(3) An application under subsection (1) must be given to the Regulator no later than the first 31 October after the end of a monitoring period for which the exemption declaration is sought.

(4) The responsible emitter for the facility may, by written notice to the Regulator, withdraw an application at any time before the Regulator makes a decision on the application.

61 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:
  (a) refuse to consider the application; or
  (b) refuse to take any action, or any further action, in relation to the application.

62 Issue of exemption declaration

Scope

(1) This section applies if an application under section 60 has been made for an exemption declaration for a facility for a monitoring period.

Issue of exemption declaration

(2) If the Regulator is satisfied that:
  (a) disregarding subsections 22XK(2) and (3) of the Act, the net emissions number for the facility for the monitoring period exceeds the baseline emissions number for the facility for the monitoring period; and
  (b) that excess is the direct result of either or both of the following:
    (i) a natural disaster;
    (ii) criminal activity; and
  (c) if the excess relates to criminal activity—the responsible emitter:
    (i) had, before the criminal activity occurred, taken reasonable steps to mitigate risks that criminal activity could result in an excess; and
    (ii) has, after the criminal activity occurred, taken reasonable steps to mitigate the likelihood of an excess as a result of the criminal activity; and
    (iii) the responsible emitter was not complicit in the criminal activity; and
  (d) if the excess relates to a natural disaster—the responsible emitter:
    (i) had, before the natural disaster occurred, taken reasonable steps to mitigate risks that a natural disaster could result in an excess; and
    (ii) has, after the natural disaster occurred, taken reasonable steps to mitigate the likelihood of an excess as a result of the natural disaster;

the Regulator must issue an exemption declaration for the facility for the monitoring period.

Timing

(3) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
  (a) if the Regulator requires the applicant to give further information under subsection 61(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or
  (b) otherwise—within 60 days after the application was made.

Notification

(4) As soon as practicable after making an exemption declaration, the Regulator must:
  (a) provide written notice of the declaration to the responsible emitter for the facility covered by the declaration; and
  (b) publish the details of the declaration on its website.

Refusal

(5) If the Regulator decides to refuse to issue an exemption declaration, the Regulator must give written notice of the decision to the applicant.

63 Revocation of exemption declaration because of false or misleading information

(1) If the Regulator is satisfied that:
  (a) information provided to the Regulator by the responsible emitter in connection with the making of an exemption declaration was false or misleading in a material particular; and
  (b) the Regulator would not have been satisfied of the matters set out in subsection 62(2) if the false or misleading information had not been provided;

the Regulator may revoke the exemption declaration with effect from at least 30 days after the notification of a decision under this section.

(2) Before the Regulator revokes an exemption declaration, the Regulator must provide a written notice to the responsible emitter for the facility for the monitoring period covered by the exemption declaration:
  (a) stating that it intends to revoke the exemption declaration in relation to the facility under this section; and
  (b) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to revoke or decide not to revoke the exemption declaration no later than 30 days after the date specified in the notice.

(4) As soon as practicable after revoking an exemption declaration, the Regulator must:
  (a) provide written notice of the decision to the responsible emitter for the facility for the monitoring period covered by the exemption declaration; and
  (b) publish the details of the revocation of the exemption declaration on its website.

(5) To avoid doubt, a decision to revoke an exemption declaration under this section is a reviewable decision under section 56 of the Act.

Division 2—Declared multi-year periods

64 Operation of this Division

For subsection 22XG(5) of the Act, this Division provides for the declaration of a specified period as a declared multi-year period for a facility.

65 Application

(1) The responsible emitter for a facility may apply to the Regulator for declaration of a specified period as a declared multi-year period for a facility (a ***multi-year period declaration***).

(2) However, an application may not be made if the proposed declared multi-year period would overlap with an existing declared multi-year period for the facility.

(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 CO_2-e) emitted, or reasonably likely to be emitted, for the proposed first financial year of the declared multi-year period; and
  (d) if the responsible emitter considers that Australian carbon credit units are likely to be used in respect of the declared multi-year period to reduce the net emissions number for the facility—set out an estimate of the number of Australian carbon credit units likely to be used; and
  (e) provide an explanation of why the responsible emitter considers that they are unlikely to breach section 22XF of the Act after the end of the declared multi-year period; and
  (f) 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.

(4) An application under subsection (1) must be given to the Regulator no later than the first 1 February after the end of the proposed first financial year of the declared multi-year period.

(5) The responsible emitter for the facility may, by written notice to the Regulator, withdraw an application at any time before the Regulator makes a decision on the application.

66 Further information

(1) The Regulator may, by written notice given to an applicant, require the applicant to give the Regulator, within the period specified in the notice, further information in connection with the application.

(2) If the applicant breaches the requirement, the Regulator may, by written notice given to the applicant:
  (a) refuse to consider the application; or

(b) refuse to take any action, or any further action, in relation to the application.

67 Making of multi-year period declaration

Scope

(1) This section applies if an application under section 64 has been made for a multi-year period declaration for a facility.

Making of multi-year period declaration

(2) If the Regulator is satisfied the facility's covered emissions (in t CO_2-e) for the proposed first financial year of the declared multi-year period are reasonably likely to be greater than the baseline emissions number with respect to that facility, it may make a multi-year period declaration for the facility having regard to:
   (a) whether the responsible emitter has previously breached section 22XF of the Act; and
   (b) whether the Regulator considers that there is a significant risk the responsible emitter will breach section 22XF of the Act after the end of the declared multi-year period; and
   (c) whether the Regulator considers that the responsible emitter is likely to experience financial stress in, or immediately after, the declared multi-year period; and
   (d) such other matters (if any) as the Regulator considers relevant.

(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 either:
   (a) 2 financial years; or
   (b) 3 financial years.

Timing

(4) The Regulator must take all reasonable steps to ensure that a decision is made on the application:
   (a) before 28 February after the end of the proposed first financial year of the declared multi-year period; and
   (a) either:
      (i) if the Regulator requires the applicant to give further information under subsection 65(1) in relation to the application—within 60 days after the applicant gave the Regulator the information; or
      (ii) otherwise—within 60 days after the application was made.

Notification

(5) As soon as practicable after making a multi-year period declaration, the Regulator must:
   (a) provide written notice of the declaration to each responsible emitter for the facility in the period covered by the declaration; and

(b) publish the details of the declaration on its website.

Refusal

(6) If the Regulator decides not to make a multi-year period declaration, the Regulator must give written notice of the decision to the applicant.

68 Variation or revocation of multi-year period declaration on request

(1) The responsible emitter for a facility may apply to the Regulator:
  (a) to vary the length of the declared multi-year period in a multi-year period declaration:
    (i) from 3 year to 2 years; or
    (ii) from 2 years to 3 years; or
  (aa) to extend by 1 year the end date for a declared multi-year period ending on 30 June 2020; or
  (b) to revoke the multi-year period declaration.

(2) The application must:
  (a) be given in a manner and form approved, in writing, by the Regulator; and
  (b) specify the facility and multi-year period declaration to be varied or revoked; and
  (c) include the reasons for the proposed variation or revocation; and
  (d) if the variation or revocation would impact the length of a monitoring period for a person other than the applicant—include the written consent of that person to the making of the application.

(3) After considering an application which complies with subsection (1) and (2), the Regulator may vary or revoke the multi-year period declaration as requested by the applicant.

Notification

(4) As soon as practicable after varying or revoking a multi-year period declaration, the Regulator must:
  (a) provide written notice of the decision to the responsible emitter for the facility for the declared multi-year period covered by the multi-year period declaration; and
  (b) publish the details of the variation or revocation of the multi-year period declaration on its website.

Refusal

(5) If the Regulator decides not to vary or revoke a multi-year period declaration, the Regulator must give written notice of the decision to the applicant.

(6) To avoid doubt, a decision to decide to vary or revoke, or decide not to vary or revoke, a multi-year period declaration under this section is a reviewable decision under section 56 of the Act.

69 Revocation of multi-year period declaration because of false or misleading information

(1) If, during a declared multi-year period, the Regulator becomes satisfied that:
  (a) information provided to the Regulator by the responsible emitter in connection with the making of the multi-year period declaration for the declared multi-year period was false or misleading in a material particular; and
  (b) the Regulator would not have made the multi-year period declaration if the false or misleading information had not been provided;

the Regulator may revoke the multi-year period declaration with effect from at least 30 days after the notification of the decision under this section.

(2) Before the Regulator revokes the multi-year period declaration, the Regulator must provide a written notice to each responsible emitter for the facility for the declared multi-year period:
  (a) stating that it intends to revoke the multi-year period declaration in relation to the facility under this section; and
  (b) seeking any comments by a date specified in the notice.

(3) The Regulator must consider any comments received by the date specified in the notice and use all reasonable endeavours to revoke or decide not to revoke the multi-year period declaration no later than 30 days after the date specified in the notice.

(4) As soon as practicable after revoking a multi-year period declaration, the Regulator must:
  (a) provide written notice of the decision to each responsible emitter for the facility for the declared multi-year period; and
  (b) publish the details of the revocation of the multi-year period declaration on its website.

(5) To avoid doubt, a decision to revoke a multi-year period declaration under this section is a reviewable decision under section 56 of the Act.

Division 3—Notification and publication requirements

70 Operation of this Division

For subsection 22XP(2) and paragraph 22XS(1)(b) of the Act, this Division provides for the issue of advisory notices and other information publication requirements.

71 Advisory notices

(1) The Regulator must notify the responsible emitter for a designated large facility as soon as practicable after:
  (a) the net emissions number for the facility is increased under subsection 22XK(4) of the Act; or
  (b) deemed surrender occurs under subsection 22XN(6) of the Act in relation to the facility.

(2) A notification under paragraph (1)(a) must include the unique identification numbers for each Australian carbon credit unit that has resulted in the increase in the net emissions number for the facility.

(3) The Regulator may notify the responsible emitter for a facility of any of the following:
  (a) the number that the Regulator considers is the net emissions number of the facility;
  (b) that an offsets report has been submitted which attributes abatement to the facility;
  (c) that a baseline emissions number applies to the facility:
    (i) because of paragraph 10(b); or
    (ii) because of a landfill baseline emissions formula in a landfill baseline determination; or
    (iii) because the baseline determination does not specify a baseline emissions number but describes its calculation for a year;
  (d) any other matters relating to the safeguard provisions that the Regulator considers appropriate to provide notification.

(4) At the request of the responsible emitter for a facility, the Regulator may provide the responsible emitter with any reports relating to the facility under the Act relevant to the making or variation of a baseline determination under this instrument.

72 Publication

(1) The Regulator must publish on its website and keep up-to-date the following information relating to the safeguard mechanism:
  (a) in respect of each facility that is a designated large facility:
    (i) the responsible emitter for the facility; and
    (ii) whether or not the facility is a grid-connected electricity generator; and
    (iii) the current baseline emissions number for the facility; and
    (iv) the baseline emissions number for each financial year that the facility is a designated large facility; and
    (v) the covered emissions of the facility for each financial year that the facility is a designated large facility; and
    (vi) if the facility is a grid-connected electricity generator—the covered emissions for each financial year after 1 July 2016 calculated on the basis that no financial year is a sectoral-baseline financial year; and
    (vii) the net emissions number for each monitoring period that applies to the facility; and
    (viii) the number of prescribed carbon units surrendered under subsection 22XN(1) of the Act for each monitoring period that applies to the facility; and
    (ix) if a multi-year period declaration applies to the facility—the start date and end date of the declared multi-year period for the facility; and
    (x) the start date and end date of any monitoring period for which an exemption declaration has been made in relation to the facility; and

(xi) any increase in the net emissions number under subsection 22XK(4) of the Act or deemed surrender under subsection 22XN(6);

(b) in respect of any excess emissions situations resulting in a breach of section 22XF of the Act:

(i) the responsible emitter for the excess emissions situation; and

(ii) when the excess emissions situation started; and

(iii) if the excess emissions situation no longer exists—the date when the excess emissions situation ended;

(c) the covered emissions of each grid-connected electricity generator for each financial year after 1 July 2016 calculated on the basis that no financial year is a sectoral-baseline financial year;

(d) an estimate of the total number of Australian carbon credit units likely to be surrendered under subsection 22XN(1) of the Act during the next three years in relation to all facilities with a declared multi-year period;

(e) such other aggregated information related to the future surrender of Australian carbon credit units under subsection 22XN(1) of the Act that the Regulator considers appropriate.

Note: The publication of certain types of information is subject to section 25 of the Act.

(2) The information required to be published under paragraph (1)(c) and subparagraphs (1)(a)(v) and (vi) need not be published until information is published in respect of the relevant financial year under section 24 of the Act.

(3) The information required to be published under subparagraphs (1)(a)(vii) and (viii) need not be published until after the first 1 March following the end of the relevant monitoring period.

Division 4—Excess surrender situations

72A Carry forward of excess surrenders

(1) For subparagraph 22XK(3)(b)(i) of the Act, an excess surrender situation exists for a person in relation to a facility for a period if:

(a) the person surrendered Australian carbon credit units on the basis that the facility would, without the surrender, be in an excess emissions situation for the period; and

(b) after the surrender more Australian carbon credit units were surrendered than necessary to avoid an excess emission situation for the period.

(2) For subparagraph 22XK(3)(b)(ii) of the Act, any units above the amount necessary to avoid an excess emissions situation for the period are covered by the excess surrender situation.

(3) For paragraph 22XK(3)(c) of the Act, the units covered by subsection (2) are taken not to be surrendered for the period mentioned in subsection (1).

(4) For paragraph 22XK(3)(d) of the Act, the person may nominate, by written notice to the Regulator, that some or all of the units covered by the excess emissions situation are taken to be surrendered for the purpose of reducing the net emissions number for the facility for a later period specified in the nomination and ending no later than 30 June 2030.

(5) Nominations under subsection (4) may be made for different periods, but the total number of units for all nominations must not exceed the number of units covered by subsection (2).

Part 5—Registration, reporting and record-keeping

Division 1—Registration

73 Operation of this Division

For paragraph 15B(4)(c) of the Act, this Division provides for information to accompany an application to register under section 15B of the Act.

74 Application requirements

(1) An application under section 15B of the Act must set out the following information:
  (a) the applicant's name and trading name (if any);
  (b) which section of the Act the applicant is applying under;
  (c) the year for which the applicant is first required to register;
  (d) if a personal identification number has been issued by the Regulator to the applicant—the applicant's personal identification number;
  (e) if the applicant is a subsidiary of a controlling corporation registered under the Act—a statement to that effect, and the identifying details of the controlling corporation.

(2) The application must also set out the identifying information for the applicant if that information has not previously been given to the Regulator.

Division 2—Reporting

75 Operation of this Division

For paragraph 22XB(2)(b) of the Act, this Division provides for information to be set out in a report under section 22XB of the Act.

76 Required information

A report under section 22XB of the Act must set out:
  (a) the identifying information for the responsible emitter providing the report; and
  (b) the information required by Subdivisions 4.4.2 and 4.4.3 and regulations 4.04A and 4.27 of the NGER Regulations as if the person was a corporation to which those subdivisions and regulations 4.04A and 4.27 applied; and
  (c) the covered emissions from the operation of the facility, in t CO_2-e; and
  (d) any information required under section 77.

77 Reporting a change in principal activity for facility

(1) This section applies in relation to a report provided to the Regulator under section 22XB of the Act if the principal activity for a facility that has been

included in a report under the Act stops being the principal activity for the facility for a period of at least 24 months.

(2) The responsible emitter for the facility must identify a new principal activity for the facility and the industry sector to which the principal activity is attributable in accordance with Subdivisions 2.4.2 and 2.4.3 of the NGER Regulations.

(3) The report for the reporting year that includes the last day of the period mentioned in subsection (1) must include the industry sector to which the new principal activity is attributable.

(4) The responsible emitter must record the new principal activity and the date that the principal activity changed.

(5) In this regulation, ***principal activity***, in relation to a facility, means the activity that:

(a) results in the production of a product or service that is produced for sale on the market; and

(b) produces the most value for the facility out of any of the activities forming part of the facility.

Division 3—Record-keeping

78 Form of records

(1) This section applies to records mentioned in subsection 22XC(1) of the Act.

(2) For paragraph 22XC(3)(b) of the Act, the records must be kept in a form that is easily and quickly accessible for inspection and audit.

Note: This may be in an electronic or hard copy format.

Part 6—Application and transitional provisions

Division 1—Application and transitional provisions relating to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment Rule (No. 1) 2019*

79 Applications for calculated-emissions baseline determination before commencement

Unless the applicant elects otherwise in writing, an application under section 22 received before the commencement of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment Rule (No. 1) 2019* (the ***amendment rule***) must be determined as if the amendment rule had not commenced.

80 Applications for declared multi-year period before commencement

Unless the applicant elects otherwise in writing, an application under section 65 received before the commencement of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment Rule (No. 1) 2019* (the ***amendment rule***) must be determined as if the amendment rule had not commenced.

Division 2—Application and transitional provisions relating to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Extended Transition) Rule 2020*

81 Baseline emissions number if calculated-emissions baseline determination expired on 30 June 2019

If a calculated-emissions baseline determination for a facility expired on 30 June 2019 and no other baseline determination applies to the financial year beginning on 1 July 2019, the baseline emissions number for the facility for the financial year beginning on 1 July 2019 is taken to be the baseline emissions number of the calculated-emissions baseline determination.

Division 3—Application and transitional provisions relating to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Additional Prescribed Production Variables) Rule 2020*

82 Default emissions intensities for financial year beginning on 1 July 2019

If a default emissions intensity is being used in relation to a baseline emissions number for the financial year beginning on 1 July 2019, the default emissions intensity is to be determined as the value in force immediately before the commencement of Schedule 2 of the *National Greenhouse and Energy Reporting*

(Safeguard Mechanism) Amendment (Additional Prescribed Production Variables) Rule 2020.

83 Default emissions intensities and calculated-emissions baseline determinations for financial year beginning on 1 July 2020

(1) If a default emissions intensity is being used in relation to a baseline emissions number for the financial year beginning on 1 July 2020, the default emissions intensity is to be determined as the value in force immediately after the commencement of Schedule 2 of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Additional Prescribed Production Variables) Rule 2020.*

Note: This applies instead of subsection 44(3B) for the financial year beginning on 1 July 2020.

(2) If a calculated-emissions baseline determination is in force for the financial year beginning 1 July 2020 and was not updated under section 56 to reflect the change in carbon dioxide equivalence, the Regulator must update that determination under section 56 based on the values of any relevant default emissions intensities in force immediately after the commencement of Schedule 2 of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Additional Prescribed Production Variables) Rule 2020*.

84 Calculated-emissions baseline determinations applying from 1 July 2019

(1) If a calculated-emissions baseline determination for a facility is made commencing from 1 July 2019 using the carbon dioxide equivalence of greenhouse gases in force on 1 July 2020 for an estimated emissions intensity, the responsible emitter for the facility may apply to the Regulator to adjust the baseline emissions number for the financial year beginning on 1 July 2019 to apply the carbon dioxide equivalence of the relevant greenhouse gases as in force on 1 July 2019.

(2) After considering an application under subsection (1), the Regulator may amend the determination in respect of the financial year beginning on 1 July 2019.

(3) An application under subsection (1) must be given in a manner and form approved, in writing, by the Regulator and can be made before the making of the determination.

Division 4—Application and transitional provisions relating to the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables Update) Rule 2021*

85 Determination of estimated emission intensity and production variable

(1) If a calculated-emissions baseline determination for a facility is made using one or more estimated emissions intensities for one or more production variables, the

responsible emitter for the facility may apply to the Regulator to determine the equivalent estimated emissions-intensities and prescribed (annually adjusted) production variables from Schedule 2 for the facility.

(2) After considering an application under subsection (1), the Regulator may make a determination of the equivalent estimated emissions-intensities and prescribed (annually adjusted) production variables from Schedule 2 for the facility if it is practicable to do so.

(3) If the Regulator makes a determination under subsection (2):
  (a) that estimated emissions-intensity and prescribed (annually adjusted) production variable must be used in place of the original estimated emissions-intensity and production variable in making a production-adjusted baseline determination;
  (b) if a production-adjusted baseline determination has already been made at the time of the determination under subsection (2), update that determination to reflect the new estimated emissions-intensity and prescribed (annually adjusted) production variable with effect from the start of the financial year during which the determination under subsection (2) is made.

(4) An application under subsection (1) must be:
  (a) given in a manner and form approved, in writing, by the Regulator; and
  (b) made before 1 July 2024.

(5) As soon as practicable after making a determination or amending a determination under paragraph (3)(b), the Regulator must:
  (a) provide written notice of the decision to the responsible emitter for the facility of the determination; and
  (b) publish the details of the determination on its website.

(6) If the Regulator decides not to make a determination under subsection (2), the Regulator must give written notice of the decision to the applicant.

(7) A decision to make, or refuse to make, a determination under this section is a reviewable decision under section 56 of the Act.

86 Updated emissions intensity for certain changes to NGER (Measurement) Determination

(1) This section applies to a calculated-emissions baseline determination or production-adjusted baseline determination for a facility that:
  (a) is made using one or more estimated emissions intensities for one or more production variables; and
  (b) the estimated emissions-intensities take into account emissions reported, or to be reported, under Division 3.3 of the NGER (Measurement) Determination as in force before 1 July 2021; and
  (c) the Regulator considers that amendments made by the *National Greenhouse and Energy Reporting (2021 Update) Determination 2021* impact the estimated emissions intensity by more than 1%.

(2) After consulting with the responsible emitter for the facility to which a determination covered by this section applies, the Regulator must amend the determination to take account of the *National Greenhouse and Energy Reporting (2021 Update) Determination 2021* (with effect from no earlier than 1 July 2021).

(3) For subsection (2), the Regulator must take into account the use of method 2 under subsection 2.27 if satisfied that method will be used on an ongoing basis to report emissions from the facility.

(4) As soon as practicable after amending a determination, the Regulator must:
   (a) provide written notice of the decision to the responsible emitter for the facility of the determination; and
   (b) publish the details of the determination on its website.

Schedule 1—Benchmark Emissions-Intensity Index

Note: See the definition of ***Benchmark Emissions-Intensity Index*** in section 4.

1 Benchmark Emissions-Intensity Index

This Schedule will set out benchmark levels of emissions intensity per unit of a production variable for certain kinds of facilities.

Schedule 2—Prescribed (Annually Adjusted) Production Variables

Part 1—Preliminary

1 Purpose

This Schedule sets out prescribed (annually adjusted) production variables.

2 Structure

(1) Each Part of the Schedule sets out:
  (a) one or more metrics, each of which is a prescribed (annually adjusted) production variable; and
  (b) the units relevant to those metrics; and
  (c) the circumstances in which they are applicable to a facility.

(2) The default emissions intensity is specified in t CO_2-e per unit of the production variable.

(3) A Part may also set out:
  (a) measurement requirements or procedures relevant to the application of the metrics; and
  (b) for paragraphs 4.23C(2)(b) and 4.23D(3)(b) of the NGER Regulations, requirements for supporting information to be included in a report under the Act about the calculation of the amount of the prescribed (annually adjusted) production variables for a financial year.

(4) The emissions relevant to the development of each production variable and the calculation of its default emissions intensity are explained in the Safeguard Mechanism document.

3 Definitions

In this Schedule:

ANZSIC industry classification and code means an industry classification and code for that classification published in the Australian and New Zealand Standard Industrial Classification (ANZSIC), 2006 and as in force on the commencement of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables) Rule 2020*.

Note: In 2020, the classification and code could be accessed from http://www.abs.gov.au.

ASTM followed by a number (for example, ASTM D6347/D6347M-99) means a standard of that number issued by ASTM International and, if a date is included, of that date.

Note: ASTM means the American Society for Testing and Materials, see http://www.astm.org.

AS or ***Australian standard*** followed by a number (for example, AS 4323.1—1995) means a standard of that number issued by Standards Australia Limited and, if a date is included, of that date.

saleable quality—see section 4 of Schedule 2.

4 Meaning of *saleable quality*

(1) In this Schedule, ***saleable quality*** is intended to have its ordinary meaning as understood by participants in the relevant market, subject to subsections (2) to (5).

(2) A product is taken to be of saleable quality if it is produced to a level at which it would ordinarily be considered by participants in the relevant market:

(a) to be the output of a process carried on as part of the relevant activity the constitutes the facility; and

(b) to have a commercial value as that output.

Note: On this basis, the output may meet particular industry standards or specifications (either general specifications or those set by particular customers). It may also meet internal standards by which it can be used by the firm as part of another process conducted by the firm.

Note: Outputs that are of saleable quality do not need to be sold in the year of production. Therefore, an output that is produced and entered on an inventory can be of saleable quality.

(3) A sub-standard product that is discarded is taken not to be of saleable quality.

(4) A product that is recycled back into the same activity at a facility to produce a new output is taken to be of saleable quality only once.

Examples:

Metal that is re-melted in the same equipment in which it was produced.

Paper that is re-inputted into a paper making process.

(5) Material that is scrapped or lost before it is packaged as a product that is of saleable quality:

(a) is taken not to be of saleable quality; and

(b) is taken not to be included in an amount of product that is of saleable quality that is to be counted for the purpose of calculating the amount of a production variable produced in a financial year.

Part 2—Bulk flat glass

5 Bulk flat glass

(1) Tonnes of bulk flat glass that:

(a) is produced as part of carrying on the bulk flat glass activity at the facility; and

(b) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing bulk flat glass through the physical and chemical transformation of silica (silicon dioxide (SiO_2)) and other raw and recycled materials (such as cullet) to produce bulk flat glass products, including wired glass and patterned glass, by controlled melting and forming in a contiguous process (the ***bulk flat glass activity***).

(3) The default emissions intensity is 0.774 t CO_2-e per tonne of bulk flat glass.

Part 3—Glass containers

6 Glass containers

(1) Tonnes of blown and pressed glass containers that:

(a) are produced as part of carrying on the glass containers activity at the facility; and

(b) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing glass containers through the physical and chemical transformation of silica (silicon dioxide (SiO_2)) and other raw and recycled materials (such as cullet) to produce blown or pressed glass containers, by controlled melting and forming in a contiguous process (the ***glass containers activity***).

(3) The default emissions intensity is 0.521 t CO_2-e per tonne of glass containers.

Part 4—Aluminium

7 Aluminium

(1) Tonnes of primary aluminium (Al) that:

(a) has a concentration of aluminium equal to or greater than 98%; and

(b) is produced as part of carrying on the aluminium smelting activity at the facility; and

(c) is weighed after electrolysis but before casting.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of aluminium smelting through the physical and chemical transformation of alumina (aluminium oxide (Al_2O_3)) into saleable aluminium metal (Al) (the ***aluminium smelting activity***).

(3) The default emissions intensity is 1.85 t CO_2-e per tonne of primary aluminium.

Part 5—Alumina

8 Alumina

(1) Combined:

(a) tonnes of alumina (aluminium oxide (Al_2O_3)) that:

(i) has a concentration of aluminium oxide equal to or greater than 95%; and

(ii) is produced as part of carrying on the alumina refining activity at the facility; and

(iii) is of saleable quality; and

(b) alumina equivalent tonnes of alumina trihydrate ($Al(OH)_3$) that:

(i) is produced as part of carrying on the alumina refining activity at the facility; and

(ii) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of alumina refining through the physical and chemical transformation of bauxite (which is an ore containing mineralised aluminium compounds) into either or both of alumina (aluminium oxide (Al_2O_3)) with a concentration of aluminium oxide equal to or greater than 95% and alumina trihydrate ($Al(OH)_3$) (the ***alumina refining activity***).

(3) The default emissions intensity is 0.545 t CO_2-e per tonne of alumina and alumina equivalent tonnes of alumina trihydrate.

Part 6—Ammonia production

9 Ammonia production

(1) Tonnes of 100% equivalent anhydrous ammonia (NH_3) contained within anhydrous ammonia that:

(a) has a concentration of ammonia equal to or greater than 98%; and

(b) is produced as part of carrying on the ammonia production activity at the facility; and

(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing ammonia through the chemical transformation of hydrocarbons (or other hydrogen feedstock) to hydrogen (H_2) that is subsequently reacted with nitrogen (N_2) to produce anhydrous ammonia (NH_3) that has a concentration of ammonia (NH_3) equal to or greater than 98% (the ***ammonia production activity***).

(3) The default emissions intensity is 1.87 t CO_2-e per tonne of 100% equivalent anhydrous ammonia.

Part 7—Ammonium nitrate production

10 Ammonium nitrate

(1) Tonnes of 100% equivalent ammonium nitrate (NH_4NO_3) contained within ammonium nitrate solution ($NH_4NO_{3(aq)}$) that:

(a) has a concentration of ammonium nitrate (NH_4NO_3) equal to or greater than 60%; and

(b) is produced as part of carrying on the ammonium nitrate production activity at the facility; and

(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing ammonium nitrate through the chemical transformation of anhydrous ammonia (NH_3) to ammonium nitrate solution ($NH_4NO_{3(aq)}$) that has a concentration of ammonium nitrate (NH_4NO_3) equal to or greater than 60% (the ***ammonium nitrate production activity***).

(3) The default emissions intensity is 0.315 t CO_2-e per tonne of 100% equivalent ammonium nitrate.

Part 8—Urea production

11 Carbamide (urea)

(1) Tonnes of 100% equivalent carbamide (urea ($CO(NH_2)_2$)) on a dry weight basis that is:

(a) contained within either of the following products:

(i) carbamide solutions (urea ($CO(NH_2)_{2(aq)}$));

(ii) saleable, granulated, prilled or other solid forms of carbamide (urea ($CO(NH_2)_{2(s)}$)); and

(b) produced as part of carrying on the urea production activity at the facility; and

(c) contained within products of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing carbamide (urea ($CO(NH_2)_2$)) through the chemical transformation of carbon dioxide (CO_2) and anhydrous ammonia (NH_3) to produce carbamide solution (urea ($CO(NH_2)_{2(aq)}$)) that:

(a) has a concentration of carbamide (urea ($CO(NH_2)_2$)) equal to or greater than 80%; and

(b) is subsequently used to produce either or both of:

(i) carbamide solutions (urea ($CO(NH_2)_{2(aq)}$)); and

(ii) saleable granulated, prilled or other solid forms of carbamide (urea ($CO(NH_2)_{2(s)}$)).

(3) The activity in subsection (2) is the ***urea production activity***.

(4) The default emissions intensity is 0.566 t CO_2-e per tonne of 100% equivalent carbamide.

Part 9—Ammonium phosphate production

12 Diammonium phosphate and monoammonium phosphate

(1) Tonnes of diammonium phosphate ($(NH_4)_2HPO_4$) products and monoammonium phosphate ($(NH_4)H_2PO_4$) products that:
  (a) have a concentration of diammonium phosphate or monoammonium phosphate equal to or greater than 70%; and
  (b) are produced as part of carrying on the ammonium phosphate production activity at the facility; and
  (c) have a free moisture content less than 2.5%; and
  (d) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing either or both of diammonium phosphate and monoammonium phosphate through:
  (a) the chemical transformation of phosphate rock to phosphoric acid (H_3PO_4); and
  (b) the chemical transformation of that phosphoric acid and anhydrous ammonia (NH_3) to produce either or both of diammonium phosphate ($(NH_4)_2H_2PO_4$) and monoammonium phosphate ($(NH_4)H_2PO_4$).

(3) The activity in subsection (2) is the ***ammonium phosphate production activity***.

(4) The default emissions intensity is:
  (a) 0.078 t CO_2-e per tonne of diammonium phosphate products; and
  (b) 0.088 t CO_2-e per tonne of monoammonium phosphate products.

Part 10— Sodium cyanide

13 Sodium cyanide

(1) Tonnes of 100% equivalent sodium cyanide (NaCN) on a dry weight basis that is contained within sodium cyanide products:
  (a) produced as part of carrying on the sodium cyanide production activity at the facility; and
  (b) of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing sodium cyanide through all of the following processes:
  (a) the chemical transformation of methane, anhydrous ammonia (NH_3) and air to produce hydrogen isocyanine (HCN);

(b) electrolysis of sodium chloride (NaCl) solution to produce caustic soda (NaOH);
(c) the chemical transformation of hydrogen isocyanine (HCN) and caustic soda produce sodium cyanide (NaCN).

(3) The activity in subsection (2) is the ***sodium cyanide production activity***.

(4) The default emissions intensity is 0.899 t CO_2-e per tonne of 100% equivalent sodium cyanide.

Part 11—Synthetic rutile

14 Synthetic rutile

(1) Tonnes of synthetic rutile that:
(a) has a titanium dioxide (TiO_2) concentration equal to or greater than 88% and less than 95.5%; and
(b) has an iron (Fe) concentration greater than 0.5%; and
(c) are produced as part of carrying on the synthetic rutile production activity at the facility; and
(d) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing synthetic rutile through the chemical transformation of ilmenite ore (ore containing $FeTiO_3$) through the reduction of iron oxides in order to increase the titanium dioxide (TiO_2) concentration to produce synthetic rutile that:
(a) has a titanium dioxide (TiO_2) concentration equal to or greater than 88% and less than 95.5%; and
(b) has an iron (Fe) concentration greater than 0.5%.
Note: The transformation described in subsection (2) is known as the Becher process.

(3) The activity in subsection (2) is the ***synthetic rutile production activity***.

(4) The default emissions intensity is 1.15 t CO_2-e per tonne of synthetic rutile.

Part 12—White titanium dioxide pigment

15 White titanium dioxide pigment

(1) Tonnes of white titanium dioxide (TiO_2) pigment that:
(a) conforms with ASTM classification D476-00 (2011); and
(b) have an iron (Fe) concentration less than or equal to 0.5%; and
(c) are produced as part of carrying on the white titanium dioxide pigment production activity at the facility; and
(d) are of saleable quality.
Note: In 2020, the standard could be accessed from http://www.astm.org.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing white titanium dioxide (TiO_2) pigment through the chemical transformation of 1 or more of the following:

(a) rutile (TiO_2);

(b) synthetic rutile (TiO_2);

(c) ilmenite ($FeTiO_3$);

(d) leucoxene;

(e) titanium slag that has an iron (Fe) concentration of greater than or equal to 7%;

to produce white titanium dioxide (TiO_2) pigment.

(3) The white titanium dioxide (TiO_2) pigment produced under subsection (2) must:

(a) conform with ASTM classification D476-00 (2011); and

(b) have an iron (Fe) concentration of less than or equal to 0.5%.

Note: In 2020, the standard could be accessed from http://www.astm.org.

(4) The activity in subsection (2) is the ***white titanium dioxide pigment production activity***.

(5) The default emissions intensity is 1.68 t CO_2-e per tonne of white titanium dioxide pigment.

Part 13—Production variables related to coal mining

Division 1—Definitions

16 Definitions

(1) In this Part, the activity of ***coal mining*** is the physical extraction of coal in an open-cut or underground coal mine and includes activities to enable the extraction of coal and post-mining activities.

(2) In this Part:

coal mine waste gas means a substance that:

(a) consists of:

(i) naturally occurring hydrocarbons; or

(ii) a naturally occurring mixture of hydrocarbons and non-hydrocarbons; and

(b) is:

(i) drained from:

(A) an underground coal mine that is covered by a lease (however described) that authorises coal mining; or

(B) a closed underground coal mine that is, or was, covered by a lease (however described) that authorises, or authorised, coal mining; or

(ii) conveyed in a ventilation air shaft or duct to the surface of a mine mentioned in subparagraph (i).

decommissioned underground mine means an underground coal mine where the following activities have ceased to occur and are not expected to occur in the future:

(a) coal production;

(b) active mine ventilation, including the operation of ventilation fans at the mine.

Division 2— Run-of-mine coal

17 Run-of-mine coal

(1) Tonnes of run-of-mine coal that is produced as part of carrying on the coal mining activity at the facility.

Note: The coal may be sold with or without beneficiation.

(2) The metric in subsection (1) is applicable to a facility that:

(a) conducts the coal mining activity; and

(b) if it includes an underground coal mine—uses the coal mine waste gas production variable in section 18 of Schedule 2.

(3) The default emissions intensity is:

(a) for a tonne of run-of-mine coal from an underground coal mine—the sum of:

(i) 0.0137 t CO2-e; and

(ii) if section 3.4(6) of the NGER Measurement Determination applies to the coal mine—the factor EF_j given by subsection 3.17(2) of the NGER Measurement Determination for the coal mine;

per tonne of run-of-mine coal; and

(b) for a tonne of run-of-mine coal from an open cut coal mine—the sum of:

(i) 0.0137 t CO2-e; and

(ii) the emissions, in t CO2-e, calculated under section 3.20, 3.21 or 3.26 of the NGER Measurement Determination for the coal mine in the relevant report under the Act for the financial year divided by the tonnes of run-of-mine coal for the same year;

per tonne of run-of-mine coal.

Division 3—Coal mine waste gas

18 Coal mine waste gas

(1) Tonnes of CO_2-e of unmitigated coal mine waste gas:

(a) generated at the facility as part of carrying on the coal mining activity at the facility; and

(b) not from a decommissioned underground mine.

Note: This includes pre-mine drainage, mining phase activities and post mining activities creating coal mine waste gas in the relevant reporting period.

(2) The metric in subsection (1) is applicable to a facility that:

(a) conducts the coal mining activity at an underground coal mine; and

(b) uses the run-of-mine coal production variable in section 17 of Schedule 2.

(3) The default emissions intensity is 0.564 t CO_2-e per tonne of unmitigated coal mine waste gas.

(4) The t of CO_2-e of unmitigated coal mine waste gas generated must be measured consistently with the NGER (Measurement) Determination.

Division 4—Decommissioned underground mines

19 Fugitive emissions from decommissioned underground mines

(1) Tonnes of CO_2-e emissions reported under Division 3.2.4 of the NGER (Measurement) Determination for the facility.

(2) The metric in subsection (1) is applicable to a facility that is a decommissioned underground mine.

(3) The default emissions intensity is 1 t CO_2-e per t CO_2-e of reported emissions.

(4) The t of CO_2-e of emissions must be measured consistently with the NGER (Measurement) Determination.

Part 14—Iron ore

20 Iron ore

(1) Tonnes of iron ore, on a wet basis, that:

(a) is produced as part of carrying on the iron ore mining activity at the facility; and

(b) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of mining iron ore through:

(a) the physical extraction of mineral ores that contain iron ore metal; and

(b) the processing of the extracted ores to produce an iron ore product of saleable quality.

Note: The processes may include crushing, screening, grinding, separation, concentrating, filtration and waste to tailings.

(3) The activity in subsection (2) is the ***iron ore mining activity***.

(4) The default emissions intensity is 0.00476 t CO_2-e per tonne of iron ore.

Part 15—Manganese ore

21 Manganese ore

(1) Tonnes of manganese ore product, on a wet basis, that:
  (a) is produced as part of carrying on the manganese ore mining activity at the facility; and
  (b) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of mining manganese ore through:
  (a) the physical extraction of mineral ores that contain manganese metal; and
  (b) the processing of the extracted ores by crushing and separation into a manganese ore product.

(3) The activity in subsection (2) is the ***manganese ore mining activity***.
Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Part 16—Bauxite

22 Bauxite

(1) Tonnes of bauxite product that:
  (a) is produced as part of carrying on the bauxite mining activity at the facility; and
  (b) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of mining bauxite through:
  (a) the physical extraction of aluminium ores such as gibbsite ($Al(OH)_3$), boehmite (γ-Aloo(OH)) and diaspore (α-AlO(OH)); and
  (b) the processing of the extracted ores into a bauxite product.

(3) The activity in subsection (2) is the ***bauxite mining activity***.

(4) The default emissions intensity is 0.00401 t CO_2-e per tonne of bauxite.

Part 17—Heavy metal concentrate (mineral sands mining)

23 Heavy metal concentrate

(1) Tonnes of heavy metal concentrate, on a wet basis, that:

(a) is suitable as a feedstock for a mineral separation process; and
(b) is produced as part of carrying on the mineral sands mining activity at the facility; and
(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of mining mineral sands through:
(a) the physical extraction of mineral sands such as ilmenite, zircon, rutile, leucoxene and monazite; and
(b) the processing of the extracted mineral sands by crushing and separation into a heavy metal concentrate.

(3) The activity in subsection (2) is the ***mineral sands mining activity***.
Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Part 18—Run-of-mine metal ore

24 Run-of-mine metal ore

(1) Tonnes of run-of-mine metal ore that:
(a) contains 1 or more metals; and
(b) is produced as part of carrying on the metal ore mining and processing activity at the facility; and
(c) is of saleable quality; and
(d) has not been counted, in whole or part, for another production variable at the facility; and
(e) is not eligible to be the bauxite, manganese ore or iron ore prescribed production variable.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of mining and processing metal ore through:
(a) the physical extraction of mineral ores containing metals; and
(b) the processing of the extracted ores to produce a metal product or feedstock material.

(3) The activity in subsection (2) is the ***metal ore mining and processing activity***.

(4) The default emissions intensity is 0.00859 t CO_2-e per tonne of run-of-mine metal ore.

Part 19—Production variables related to the oil and gas industry

Division 1—Definitions

25 Definitions

(1) In this Part:

liquefied petroleum gas means:

(a) liquid propane; or

(b) liquid butane; or

(c) a liquid mixture of propane and butane; or

(d) a liquid mixture of propane and other hydrocarbons that consists mainly of propane; or

(e) a liquid mixture of butane and other hydrocarbons that consists mainly of butane; or

(f) a liquid mixture of propane, butane and other hydrocarbons that consists mainly of propane and butane.

processed natural gas means a substance that:

(a) is in a gaseous state at standard temperature and pressure; and

(b) consists of:

(i) naturally occurring hydrocarbons; or

(ii) a naturally occurring mixture of hydrocarbons and non-hydrocarbons; and

(c) is mainly methane; and

(d) has been:

(i) injected into a natural gas transmission pipeline; or

(ii) supplied to a third party for injection into a natural gas transmission pipeline; or

(iii) supplied to a downstream user after processing the substance to an agreed specification, such that the gas has at least the following qualities:

(A) water content of 150 mg/Sm^3 or less;

(B) inert gases (including carbon dioxide) of 12 molar per cent or less;

(C) hydrocarbon cricondentherm of 10 °C or lower;

(D) sulphur content (including any sulphur from odourant) of 60 mg/Sm^3 or less.

Division 2—Oil and gas extraction

26 Extracted oil and gas

(1) Total gigajoules of the following products that meet the requirements of subsection (2):

(a) unprocessed natural gas;

(b) unstabilised crude oil and condensate.

(2) The requirements for products to be included in subsection (1) are that the products:

(a) consist of:

(i) naturally occurring hydrocarbons; or

(ii) a naturally occurring mixture of hydrocarbons and non-hydrocarbons; and

(b) are extracted from a naturally occurring petroleum reservoir as part of carrying on the oil and gas extraction activity at the facility; and

(c) at the time of measurement for the production variable, have undergone minimal or partial processing that is either:

(i) sufficient only to allow efficient transportation of the product to processing facilities; or

(ii) less than required to be considered processed natural gas or saleable crude oil or condensate; and

(d) are not consumed in carrying on the oil and gas extraction activity.

(3) The metric in subsection (1) is applicable to a facility that conducts the activity of oil and gas extraction through the production of a hydrocarbon stream from a naturally occurring petroleum reservoir and either:

(a) transports the produced stream of products covered by subsection (1) to the upstream boundary of a separate facility that conducts one or more of the following activities:

(i) natural gas processing,

(ii) processed or unprocessed natural gas liquefaction;

(iii) crude oil or condensate stabilisation; or

(b) transfers the products covered by subsection (1) to downstream processes within the same facility to produce multiple products.

(4) The activity in subsection (3) is the ***oil and gas extraction activity***.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 3—Stabilisation of crude oil and condensates

27 Stabilised crude oil or condensate (stabilisation only)

(1) Total gigajoules of the crude oil and condensate that:

(a) are a mixture of hydrocarbons that are liquid at atmospheric pressure (101.325 kilopascals) and ambient temperature; and
(b) can be safely stored and transported at atmospheric pressure and ambient temperature; and
(c) are produced as part of carrying on the crude oil or condensate stabilisation activity at the facility; and
(d) are not consumed in carrying on the crude oil or condensate stabilisation activity; and
(e) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of crude oil or condensate stabilisation through the physical transformation of either or both of unstabilised crude oil and condensate, which may be a mixture of liquids and gases, into stabilised crude oil and condensate that:
(a) is in a liquid state; and
(b) has a vapour pressure of less than 101.325 kilopascals; and
(c) is safe to store and transport at atmospheric pressure and ambient temperature.

(3) The activity in subsection (2) is the ***crude oil or condensate stabilisation activity***.
Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 4—Integrated extraction and stabilisation of crude oil

28 Stabilised crude oil (integrated extraction and stabilisation)

(1) Total gigajoules of the crude oil that:
(a) are a mixture of hydrocarbons that are liquid at atmospheric pressure (101.325 kilopascals) and ambient temperature; and
(b) can be safely stored and transported at atmospheric pressure and ambient temperature; and
(c) are produced as part of carrying on the integrated crude oil extraction and stabilisation activity at the facility; and
(d) are not consumed in carrying on the integrated crude oil extraction and stabilisation activity; and
(e) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:
(a) conducts both of the following activities:
(i) the extraction of a hydrocarbon stream from a naturally occurring petroleum reservoir;
(ii) the crude oil or condensate stabilisation activity; and
(b) has stabilised crude oil as its only saleable hydrocarbon product.

(3) The activity in subsection (2) is the ***integrated crude oil extraction and stabilisation activity***.

(4) However, the metric in subsection (1) is not applicable to a facility using another production variable in this Part (other than the reservoir CO_2 production variable).

(5) The default emissions intensity is 0.00384 t CO_2-e per gigajoule of crude oil.

Division 5—Natural gas processing

29 Processed natural gas (processing only)

(1) Gigajoules of the processed natural gas that:
  (a) are produced as part of carrying on the natural gas processing activity at the facility; and
  (b) are not consumed in carrying on the natural gas processing activity; and
  (c) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of processing natural gas through the physical transformation of unprocessed natural gas, which may be a mixture of gases and liquids, into processed natural gas (the ***natural gas processing activity***).
  Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 6—Integrated natural gas extraction and processing

30 Processed natural gas (integrated extraction and processing)

(1) Gigajoules of the processed natural gas that:
  (a) are produced as part of carrying on the integrated natural gas extraction and processing activity at the facility; and
  (b) are not consumed in carrying on the integrated natural gas extraction and processing activity; and
  (c) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) conducts both of the following activities:
    (i) the extraction of a hydrocarbon stream that is predominantly gas from a naturally occurring petroleum reservoir;
    (ii) the natural gas processing activity; and
  (b) has processed natural gas as its only saleable hydrocarbon product.

(3) The activity in subsection (2) is the ***integrated natural gas extraction and processing activity***.

(4) However, the metric in subsection (1) is not applicable to a facility using another production variable in this Part (other than the reservoir CO_2 production variable).

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 7—Liquefied natural gas from unprocessed natural gas

31 Liquefied natural gas (from unprocessed natural gas)

(1) Gigajoules of the liquefied natural gas that:

(a) have a methane content by mass of 70% or more; and

(b) are produced as part of carrying on the unprocessed natural gas liquefaction activity at the facility; and

(c) are in a liquid state; and

(d) have been loaded onto a transport vessel, tanker or other transportation system; and

(e) are of saleable quality; and

(f) have not been counted as part of the liquefied natural gas production variable in section 32 of Schedule 2.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of liquefying unprocessed natural gas through the physical transformation of unprocessed natural gas into liquefied natural gas that:

(a) has a methane content by mass of 70% or more; and

(b) is in a liquid state on leaving the facility.

(3) The activity in subsection (2) is the ***unprocessed natural gas liquefaction activity***.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

(5) The quantity of the metric in subsection (1) may be evidenced by a bill of lading relating to the transport of liquefied natural gas from the facility.

Division 8—Liquefied natural gas from processed natural gas

32 Liquefied natural gas (from processed natural gas)

(1) Gigajoules of the liquefied natural gas that:

(a) have a methane content by mass of 70% or more; and

(b) are produced as part of carrying on the processed natural gas liquefaction activity at the facility; and

(c) are in a liquid state; and

(d) have been loaded onto a transport vessel, tanker or other transportation system; and

(e) are of saleable quality; and

(f) have not been counted as part of the liquefied natural gas production variable in section 31 of Schedule 2.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of liquefying processed natural gas through the physical transformation of processed natural gas into liquefied natural gas that:

(a) has a methane content by mass of 70% or more; and

(b) is in a liquid state on leaving the facility.

(3) The activity in subsection (2) is the ***processed natural gas liquefaction activity***.

(4) The default emissions intensity is 0.00401 t CO_2-e per gigajoule of liquefied natural gas.

(5) The quantity of the metric in subsection (1) may be evidenced by a bill of lading relating to the transport of liquefied natural gas from the facility.

Division 9—Ethane

33 Ethane

(1) Gigajoules of the ethane that:

(a) has an ethane content by mass of 95% or more; and

(b) is in a gaseous state; and

(c) is produced as part of carrying on the ethane production activity at the facility; and

(d) is not consumed in carrying on the ethane production activity; and

(e) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of ethane production through the separation of ethane from a mixture of hydrocarbons to produce ethane that:

(a) has an ethane content by mass of 95% or more; and

(b) is in a gaseous state.

(3) The activity in subsection (2) is the ***ethane production activity***.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 10—Liquefied petroleum gas

34 Liquefied petroleum gas

(1) Gigajoules of the liquefied petroleum gas that:

(a) is in a liquid state;

(b) is produced as part of carrying on the liquefied petroleum gas production activity at the facility; and

(c) is not consumed in carrying on the liquefied petroleum gas production activity; and

(d) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:

(a) conducts the activity of liquefied petroleum gas production through the separation of propane and butane fractions from a mixture of hydrocarbons to produce liquefied petroleum gas that is in a liquid state (the ***liquefied petroleum gas production activity***); and

(b) includes another activity covered by this Part.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 11—Reservoir carbon dioxide

35 Reservoir carbon dioxide

(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 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 (CO_2) 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.

(3) The default emissions intensity is given by the following equation:

EI, reservoir carbon dioxide = 1 – storage rate

where:

EI, reservoir carbon dioxide is the default emissions intensity, in t CO_2-e per tonne of reservoir carbon dioxide.

storage rate is the fraction of the separated reservoir carbon dioxide that is injected into geological storage using a carbon capture and storage, enhanced oil recovery or other petroleum reservoir management purpose, as determined by the Regulator for the facility and included in the baseline determination applicable to the facility.

Part 20—Production variables related to steel manufacturing

Division 1—Definitions

36 Definitions

(1) In this Part, the activity of ***integrated iron and steel manufacturing*** is the chemical and physical transformation of iron ore into crude carbon steel products and hot-rolled carbon steel products involving all of the following processes:

(a) the carbonisation of coal (principally coking coal) into coke oven coke;

(b) the chemical and physical transformation of either or both of limestone or dolomite, into lime (including burnt lime and burnt dolomite);

(c) the chemical and physical transformation of iron ore into iron ore sinter or iron ore pellets;

(d) the chemical and physical transformation of iron ore feed, including iron ore sinter and iron ore pellets, into molten iron that includes the reduction of oxides of iron using carbon as the predominant reducing agent;

(e) the chemical and physical transformation of molten iron and cold ferrous feed, such as pig iron, flat iron and ferrous scrap, into 1 or more of the following:

(i) continuously cast carbon steel products;

(ii) ingots of carbon steel;

(iii) hot-rolled carbon steel products, which commenced hot-rolling at a temperature above 800 °C.

(2) In this Part, the activity of ***manufacture of carbon steel from cold ferrous feed*** is the physical and chemical transformation of cold ferrous feed (such as ferrous scrap, pig iron and flat iron) by heating and melting into liquid steel and the subsequent casting of the liquid steel to produce 1 or more of the following:

(a) continuously cast carbon steel products;

(b) ingots of carbon steel;

(c) hot-rolled carbon steel products, which commenced hot-rolling at a temperature above 800 °C.

(3) In this Part, the activity of ***hot-rolled long products*** is the hot-rolling of continuously cast carbon steel products (originally produced from an integrated iron and steel manufacturing activity or manufacture of carbon steel from cold ferrous feed activity) into carbon steel long products that:

(a) are in coils or straight lengths; and

(b) are generally produced in rod, bar and structural (section) mills; and

(c) generally have a cross sectional shape such as I, T, Y, U, V, H, C, L, square, rectangular, round, flat, hexagonal, angle, channel, structural beam profile or rail profile.

(4) In this Part, the activity of ***hot-rolled flat products*** is the hot-rolling of continuously cast carbon steel products (originally produced from an integrated iron and steel manufacturing activity or manufacture of carbon steel from cold ferrous feed activity) into carbon steel flat products that:

(a) are flat in profile, such as plate and hot rolled coil; and

(b) are generally produced in hot strip mills and plate mills; and

(c) are generally greater than 600 mm in width; and

(d) are generally less than 150 mm in thickness.

(5) In this Part:

carbon steel means material that:

(a) contains by mass more iron (Fe) than any other single element; and

(b) has a carbon (C) concentration less than 2%.

coke oven coke means the solid product obtained from the carbonisation of coal (principally coking coal) at a high temperature and includes coke breeze and foundry coke.

Division 2—Coke oven coke from integrated iron and steel manufacturing

37 Coke oven coke (integrated iron and steel manufacturing)

(1) Tonnes of coke oven coke on a dry weight basis that:

(a) are produced as part of carrying on the integrated iron and steel manufacturing activity at the facility; and

(b) meet the necessary requirements for use in the integrated iron and steel manufacturing activity.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of integrated iron and steel manufacturing.

(3) The default emissions intensity is 0.467 t CO_2-e per tonne of coke oven coke.

Division 3—Lime from integrated iron and steel manufacturing

38 Lime (integrated iron and steel manufacturing)

(1) Tonnes of lime on a dry weight basis that:

(a) are produced as part of carrying on the integrated iron and steel manufacturing activity at the facility; and

(b) meet the necessary requirements for use in the integrated iron and steel manufacturing activity.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of integrated iron and steel manufacturing.

(3) The default emissions intensity is 0.780 t CO_2-e per tonne of lime.

Division 4—Iron ore sinter from integrated iron and steel manufacturing

39 Iron ore sinter (integrated iron and steel manufacturing)

(1) Tonnes of iron ore sinter on a dry weight basis that:

(a) are produced as part of carrying on the integrated iron and steel manufacturing activity at the facility; and

(b) meet the necessary requirements for use in the integrated iron and steel manufacturing activity.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of integrated iron and steel manufacturing.

(3) The default emissions intensity is 0.233 t CO_2-e per tonne of iron ore sinter.

Division 5—Iron ore pellets from integrated iron and steel manufacturing

40 Iron ore pellets (integrated iron and steel manufacturing)

(1) Tonnes of iron ore pellets on a dry weight basis that:

(a) are produced as part of carrying on the integrated iron and steel manufacturing activity at the facility; and

(b) meet the necessary requirements for use in the integrated iron and steel manufacturing activity.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of integrated iron and steel manufacturing.

(3) The default emissions intensity is 0.0586 t CO_2-e per tonne of iron ore pellets.

Division 6—Continuously cast carbon steel products and ingots of carbon steel from integrated iron and steel manufacturing

41 Continuously cast carbon steel products and ingots of carbon steel (integrated iron and steel manufacturing)

(1) Tonnes of continuously cast carbon steel products and ingots of carbon steel that:
  (a) are produced as part of carrying on the integrated iron and steel manufacturing activity at the facility; and
  (b) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of integrated iron and steel manufacturing.

(3) The default emissions intensity is 1.50 t CO_2-e per tonne of continuously cast carbon steel products and ingots of carbon steel.

Division 7—Hot-rolled long products produced at integrated iron and steel manufacturing facilities

42 Hot-rolled long products

(1) Tonnes of hot-rolled carbon steel long products that:
  (a) are produced as part of carrying on the hot-rolled carbon steel long products activity at the facility; and
  (b) are in coils or straight lengths; and
  (c) are generally produced in rod, bar and structural (section) mills; and
  (d) generally have a cross sectional shape such as I, T, Y, U, V, H, C, L, square, rectangular, round, flat, hexagonal, angle, channel, structural beam profile or rail profile; and
  (e) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts:
  (a) the hot-rolled long products activity; and
  (b) the integrated iron and steel manufacturing activity.

(3) The default emissions intensity is 0.101 t CO_2-e per tonne of long products.

Division 8—Hot-rolled flat products produced at integrated iron and steel manufacturing facilities

43 Hot-rolled flat products

(1) Tonnes of hot-rolled carbon steel flat products that:
  (a) are produced as part of carrying on the hot-rolled carbon steel flat products activity at the facility; and

(b) are flat in profile, such as plate and hot rolled coil; and
(c) are generally produced in hot strip mills and plate mills; and
(d) are generally greater than 600 mm in width; and
(e) are generally less than 150 mm in thickness; and
(f) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts:
(a) the hot-rolled flat products activity; and
(b) the integrated iron and steel manufacturing activity.

. (3) The activity in subsection (2) is the ***hot-rolled carbon steel flat products activity***.

(4) The default emissions intensity is 0.000358 t CO_2-e per tonne of flat products.

Division 9—Continuously cast carbon steel products and ingots of carbon steel from manufacture of carbon steel products from cold ferrous feed

44 Continuously cast carbon steel products and ingots of carbon steel (manufacture of carbon steel products from cold ferrous feed)

(1) Tonnes of continuously cast carbon steel products and ingots of carbon steel that:
(a) are produced as part of carrying on the manufacture of carbon steel products from cold ferrous feed activity at the facility; and
(b) are not produced as part of carrying on the integrated iron and steel manufacturing activity at the facility; and
(c) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of the manufacture of carbon steel products from cold ferrous feed.

(3) The default emissions intensity is 0.0981 t CO_2-e per tonne of continuously cast carbon steel products and ingots of carbon steel.

Division 10—Hot-rolled long products not produced at integrated iron and steel manufacturing facilities

45 Hot-rolled long products

(1) Tonnes of hot-rolled carbon steel long products that:
(a) are produced as part of carrying on the hot-rolled carbon steel long products activity at the facility; and
(b) are in coils or straight lengths; and
(c) are generally produced in rod, bar and structural (section) mills; and

(d) generally have a cross sectional shape such as I, T, Y, U, V, H, C, L, square, rectangular, round, flat, hexagonal, angle, channel, structural beam profile or rail profile; and
(e) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:
(a) conducts the hot-rolled long products activity; and
(b) does not conduct the integrated iron and steel manufacturing activity.

(3) The default emissions intensity is 0.0750 t CO_2-e per tonne of long products.

Division 11—Hot-rolled flat products not produced at integrated iron and steel manufacturing facilities

46 Hot-rolled flat products

(1) Tonnes of hot-rolled carbon steel flat products that:
(a) are produced as part of carrying on the hot-rolled carbon steel flat products activity at the facility; and
(b) are flat in profile, such as plate and hot rolled coil; and
(c) are generally produced in hot strip mills and plate mills; and
(d) are generally greater than 600 mm in width; and
(e) are generally less than 150 mm in thickness; and
(f) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:
(a) conducts the hot-rolled flat products activity; and
(b) does not conduct the integrated iron and steel manufacturing activity.

. (3) The activity in subsection (2) is the ***hot-rolled carbon steel flat products activity***.
Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Division 12—Iron ore pellets not from integrated iron and steel manufacturing

47 Iron ore pellets

(1) Tonnes of iron ore pellets on a dry weight basis that:
(a) are produced as part of carrying on the iron ore pellet production activity at the facility; and
(b) have a concentration of iron (Fe) equal to or greater than 63%; and
(c) have a concentration of alumina (aluminium oxide (Al_2O_3)) equal to or less than 2%; and
(d) have a concentration of silicon dioxide (silica (SiO_2)) equal to or less than 7%; and

(e) have an average diameter of between 9 and 16 millimetres; and
(f) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing iron ore pellets through the physical and chemical transformation of iron ore into saleable iron ore pellets that are for the production of steel and that have:
(a) a concentration of iron (Fe) equal to or greater than 63%; and
(b) a concentration of alumina (aluminium oxide (Al_2O_3)) equal to or less than 2%; and
(c) a concentration of silicon dioxide (silica (SiO_2)) equal to or less than 7%; and
(d) an average diameter of between 9 and 16 millimetres.

(3) However, the metric in subsection (1) is not applicable to a facility that includes the integrated iron and steel manufacturing activity.

(4) The activity in subsection (2) is the ***iron ore pellets production activity***.

(5) The default emissions intensity is 0.0517 t CO_2-e per tonne of iron ore pellets.

(6) In this section:

iron ore means any form of iron ore product that has not been semi-processed into iron ore balls or exposed to a hardening process by the application of heat or pressure and includes:
(a) magnetite ore that has been concentrated; and
(b) hematite ore that has been crushed to varying extents.

Division 13—Treated steel flat products

47A Treated steel flat products

(1) Tonnes of treated steel flat products that:
(a) are produced as part of carrying on the treated steel flat products activity at the facility; and
(b) are flat in profile, such as plate and coil; and
(c) have not previously been included as a tonne of treated steel flat products under this section; and
(d) have involved the pickling and cold-rolling of hot-rolled steel coil; and
(e) have been treated with one or a combination of the following processes:
(i) annealing;
(ii) metal coating;
(iii) painting; and
(f) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of transforming hot-rolled steel coil, using a combination of physical or chemical processes, into treated steel flat products that:

(a) are flat in profile, such as plate and coil; and

(b) have involved the pickling and cold-rolling of hot-rolled steel coil; and

(c) have been treated with one or a combination of the following processes:

(i) annealing;

(ii) metal coating;

(iii) painting.

(3) The activity in subsection (2) is the ***treated steel flat products activity***.

(4) The default emissions intensity is 0.144 t CO_2-e per tonne of treated steel flat products.

Part 21—Production variables related to rail transport

Division 1—Definitions

48 Definitions

(1) In this Part, the activity of ***rail transport*** is the use of rolling stock that combusts fuels on-board for propulsion and transports passengers or freight on a rail system.

Note: Fuel may be combusted by a drive train or used to generate electricity that runs the drive train.

(2) In this Part:

bulk freight includes goods that consist of large quantities of homogenous product that is generally non-containerised and conveyed in wagons, such as iron ore, coal and grain.

dedicated line includes:

(a) a line that only services the rail transport needs of a single business enterprise or corporate group; and

(b) a vertically integrated rail system:

(i) where the rail infrastructure manager and the user of the rail system is under common control or part of a common corporate group; and

(ii) that wholly or predominantly serves the rail transport needs of a single business enterprise or corporate group.

freight includes a saleable good.

net-tonne-kilometre means the unit of measure representing the movement over a distance of one kilometre of one tonne of freight. The weight of the rolling stock (such as tractive vehicle and rail car) is excluded.

passenger-kilometre means the unit of measure representing the movement over a distance of one kilometre of one passenger.

Division 2—Rail transport of bulk freight on a dedicated line

49 Net-tonne-kilometres of bulk freight on a dedicated line

(1) Net-tonne-kilometres of bulk freight that:
  (a) result from carrying on the rail transport activity at the facility; and
  (b) is transported by rail:
    (i) only using a dedicated line; or
    (ii) using a dedicated line for over 70% of the journey.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) conducts the activity of rail transport; and
  (b) transports bulk freight by rail wholly or partly on one or more dedicated lines; and
  (c) is in the rail freight transport ANZSIC industry classification and code 471.

(3) The default emissions intensity is 5.29×10^{-6} t CO_2-e per net-tonne-kilometre of bulk freight.

(4) The net-tonne-kilometres must be measured consistently with relevant industry practice.

Division 3—Rail transport of bulk freight on a non-dedicated line

50 Net-tonne-kilometres of bulk freight on a non-dedicated line

(1) Net-tonne-kilometres of bulk freight that:
  (a) result from carrying on the rail transport activity at the facility; and
  (b) is transported by rail; and
  (c) either:
    (i) does not use a dedicated line; or
    (ii) uses a dedicated line for 70% or less of the journey.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) conducts the activity of rail transport; and
  (b) transports bulk freight by rail wholly or partly on one or more non-dedicated lines; and
  (c) is in the rail freight transport ANZSIC industry classification and code 471.

(3) The default emissions intensity is 1.63×10^{-5} t CO_2-e per net-tonne-kilometre of bulk freight.

(4) The net-tonne-kilometres must be measured consistently with relevant industry practice.

Division 4—Rail transport of non-bulk freight

51 Net-tonne-kilometres of non-bulk freight

(1) Net-tonne-kilometres of freight that:
  (a) result from carrying on the rail transport activity at the facility; and
  (b) is transported by rail; and
  (c) is not bulk freight.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) conducts the activity of rail transport; and
  (b) transports freight that is not bulk freight; and
  (c) is in the rail freight transport ANZSIC industry classification and code 471.

(3) The default emissions intensity is 2.05×10^{-5} t CO_2-e per net-tonne-kilometre of freight.

(4) The net-tonne-kilometres must be measured consistently with relevant industry practice.

Division 5—Rail passenger transport

52 Passenger-kilometres of rail passenger transport

(1) Passenger-kilometres that result from carrying on the rail transport activity at the facility.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) conducts the activity of rail transport; and
  (b) transports passengers; and
  (c) is in the rail passenger transport ANZSIC industry classification and code 472.

(3) The default emissions intensity is 7.12×10^{-5} t CO_2-e per passenger-kilometre.

(4) The passenger-kilometres must be measured consistently with relevant industry practice.

Part 22—Air transport

53 Revenue-tonne-kilometres of air transport

(1) Revenue-tonne-kilometres of air transport that:
  (a) result from carrying on the air transport activity at the facility; and
  (b) relate to the covered emissions of the facility.

(2) The metric in subsection (1) is applicable to a facility that:

(a) transports passengers and freight by air (the ***air transport activity***); and
(b) is in the air and space transport ANZSIC industry classification and code 490.

(3) The default emissions intensity is 0.00112 t CO_2-e per revenue-tonne-kilometre.

(4) In this section:

freight-tonne-kilometre means the unit of measure representing the movement of a tonne of freight over the distance of one kilometre calculated by multiplying the total tonnes of freight on a flight by the distance flown.

passenger-tonne-kilometre means the unit of measure representing the movement of a revenue-generating passenger over the distance of one kilometre calculated by assuming each passenger and baggage on a flight total 90 kilograms and multiplying by the distance flown.

revenue-tonne-kilometre means the sum of passenger-tonne-kilometres and freight-tonne-kilometres.

Part 23—Production variables related to road transport

Division 1AA—Definitions

53A Definitions

In this Part:

bulk freight is the transport of goods that:
(a) consist of one or more of:
(i) large quantities of a homogenous product; and
(ii) product in shipping containers; and
(iii) uniform types of packaged goods such as bags, pallets and drums; and
(b) are conveyed in road tankers (including ISO tankers), side tipping vehicles, skeletal and flat top trailers, and other road registered vehicles used for carrying bulk materials; and
(c) are generally charged on a weight basis.

cubic tonne is the volume of the freight item (generally height × width × depth) multiplied by a cubic conversion factor (for nominal or actual density) to derive an equivalent net weight.

cubic-tonne-kilometre means the unit of measure representing the movement over a distance of one kilometre of one cubic tonne of freight.

deadweight tonne is a tonne of the carrying capacity of the vehicle including fuel, driver and passengers, provisions and freight, but not including the weight of the prime mover and trailer.

deadweight-tonne-kilometre means the unit of measure representing the movement of a deadweight tonne over a distance of one kilometre.

freight includes a saleable good or transported service (such as crane hire) transported in a road-registered vehicle.

net-tonne-kilometre means the unit of measure representing the movement over a distance of one kilometre of one net tonne of freight.

net tonne, of freight, is the mass of the freighted goods, excluding the mass of the prime mover, trailer, fuel, driver, passengers and provisions**.**

non-bulk freight is the transport of packaged and pallet loads of freight, that is not bulk freight or specialised and heavy haulage, in vehicles with carrying capacity greater than 4.5 tonnes.

non-bulk (temperature-controlled) freight is the transport of non-bulk freight in temperature controlled conditions, such as by refrigeration, in vehicles with carrying capacity greater than 4.5 tonnes where the power for the temperature control equipment is derived from the drive train.

specialised and heavy haulage is the transportation of either or both of specialised equipment and loads in excess of 200 tonnes on road-registered vehicles that is not bulk freight.

specialised equipment includes:

(a) platform low loaders and trailing equipment capable of carrying loads in excess of 200 tonnes; and
(b) crane and rigging services and lift and shift operations; and
(c) custom engineered trailers for off the road tyre transport; and
(d) equipment for port discharge; and
(e) machines for sleeper transport and positioning; and
(f) equipment and machinery used for transferring freight between the road transport vehicle and another form of transport (such as rail or shipping); and
(g) other similar equipment.

Division 1—Passenger road transport

54 Vehicle-kilometres of passenger road transport

(1) Vehicle-kilometres of passenger road transport that result from carrying on the road passenger transport activity at the facility.

(2) The metric in subsection (1) is applicable to a facility that:
(a) transports passengers by road in registered vehicles (the ***road passenger transport activity***); and
(b) is in the passenger road transport ANZSIC industry classification and code 462.

(3) The default emissions intensity is 0.00164 t CO_2-e per vehicle-kilometre.

(4) In this section:

vehicle-kilometre means the unit of measure representing the movement of a vehicle over the distance of one kilometre.

Division 2—Non-bulk freight road transport

54A Cubic-tonne-kilometres of non-bulk freight

(1) Cubic-tonne-kilometres of non-bulk freight that:
  (a) result from carrying on the non-bulk freight road transport activity at the facility; and
  (b) are not counted for another production variable in this Part.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) transports non-bulk freight by road in registered vehicles that do not control the temperature of the freight (the ***non-bulk freight road transport activity***); and
  (b) is in the road freight transport ANZSIC industry classification and code 461.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

(4) The cubic-tonne-kilometres must be measured consistently with relevant industry practice.

Division 3—Non-bulk (temperature controlled) freight road transport

54B Cubic-tonne-kilometres of non-bulk freight

(1) Cubic-tonne-kilometres of non-bulk (temperature controlled) freight that:
  (a) result from carrying on the non-bulk (temperature controlled) freight road transport activity at the facility; and
  (b) are not counted for another production variable in this Part.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) transports non-bulk (temperature controlled) freight by road in registered vehicles that control the temperature of the freight (the ***non-bulk (temperature controlled) freight road transport activity***); and
  (b) is in the road freight transport ANZSIC industry classification and code 461.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

(4) The cubic-tonne-kilometres must be measured consistently with relevant industry practice.

Division 4—Specialised and heavy haulage road transport

54C Deadweight-tonne-kilometres of specialised and heavy haulage

(1) Deadweight-tonne-kilometres of specialised and heavy haulage that:
  (a) result from carrying on the specialised and heavy haulage road transport activity at the facility; and
  (b) are not counted for another production variable in this Part.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) transports specialised and heavy haulage by road in registered vehicles (the ***specialised and heavy haulage road transport activity***); and
  (b) is in the road freight transport ANZSIC industry classification and code 461.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

(4) The deadweight-tonne-kilometres must be measured consistently with relevant industry practice.

Division 5—Bulk freight road transport

54D Net-tonne-kilometres of bulk freight

(1) Net-tonne-kilometres of bulk freight that:
  (a) result from carrying on the bulk freight road transport activity at the facility; and
  (b) are not counted for another production variable in this Part.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) transports bulk freight by road in registered vehicles (the ***bulk freight transport activity***); and
  (b) is in the road freight transport ANZSIC industry classification and code 461.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

(4) The net-tonne-kilometres must be measured consistently with relevant industry practice.

Part 24—Production variables related to water transport

Division 1—Mixed passenger and freight water transport

55 Deadweight-tonne-kilometres of mixed passenger and freight water transport

(1) Deadweight-tonne-kilometres of water transport that:
  (a) result from carrying on the mixed passenger and freight water transport activity at the facility; and
  (b) relate to the covered emissions of the facility.

(2) The metric in subsection (1) is applicable to a facility that:
  (a) transports passengers and freight by water (the ***mixed passenger and freight water transport activity***); and
  (b) is in the water freight transport or water passenger transport ANZSIC industry classification and codes 481 or 482.

(3) The default emissions intensity is 1.04×10^{-4} t CO_2-e per operational deadweight-tonne-kilometre.

(4) The relevant kilometres must be measured:
  (a) using the actual distance travelled and recorded on a ship for a voyage; or
  (b) by using an internationally accepted standard distance between the two ports on a voyage

(5) In this section:

operational deadweight tonne is a tonne of the cargo, passengers, fuel, dry provisions, supplies and other things carried on board a ship for a voyage, but not including the ship itself.

deadweight-tonne-kilometre means the unit of measure representing the movement of an operational deadweight tonne over the distance of one kilometre.

Division 2—Bulk freight water transport

55A Net-tonne-kilometres of bulk freight water transport

(1) Net-tonne-kilometres of bulk freight water transport that:
  (a) result from carrying on the bulk freight water transport activity at the facility; and
  (b) relate to the covered emissions of the facility; and
  (c) are not counted for the mixed passenger and freight water transport production variable in section 55 of Schedule 2.

(2) The metric in subsection (1) is applicable to a facility that:

(a) transports bulk freight by water (the ***bulk freight water transport activity***); and

(b) is in the water freight transport ANZSIC industry classification and code 481.

(3) The default emissions intensity is 5.39×10^{-6} t CO_2-e per net tonne-kilometre.

(4) The relevant kilometres must be measured:

(a) using the actual distance travelled and recorded on a ship for a voyage; or

(b) by using an internationally accepted standard distance between the two ports on a voyage.

(5) In this section:

net-tonne-kilometres, of bulk freight water transport, are the tonnes of the bulk freight carried on board a ship for a voyage multiplied by the kilometres of the laden voyage.

Part 25—Wastewater handling (domestic and commercial)

56 Wastewater handling (domestic and commercial)

(1) Tonnes of the following:

(a) COD removed, calculated in accordance with subsection (4); and

(b) nitrogen removed, calculated in accordance with subsection (5).

(2) The metric in subsection (1) is applicable to a facility whose primary activity is the handling of either or both of domestic or commercial wastewater and reports emissions under Division 5.3 of the NGER (Measurement) Determination.

(3) The default emissions intensity is:

(a) 0.513 t CO_2-e per tonne of COD removed; and

(b) 4.48 t CO_2-e per tonne of Nitrogen removed.

(4) For paragraph (1)(a), COD removed is given by the following equation:

$$\text{COD removed} = \text{COD}_{\text{measured entering}} - (\text{COD}_{\text{in effluent leaving site}} + \text{COD}_{\text{in sludge leaving site}})$$

where:

$\boldsymbol{COD}_{\textit{measured entering}}$ is the COD entering the site measured consistently with the requirements in Division 5.3 of the NGER (Measurement) Determination.

$\boldsymbol{COD}_{\textit{in effluent leaving site}}$ is the COD leaving the site measured consistently with the requirements in Division 5.3 of the NGER (Measurement) Determination.

$\boldsymbol{COD}_{\textit{in sludge leaving site}}$ is COD in sludge leaving the site measured consistently with the requirements in Division 5.3 of the NGER (Measurement) Determination.

(5) For paragraph (1)(b), Nitrogen removed is given by the following equation:

nitrogen removed $= N_{\text{measured entering}} - (N_{\text{in effluent leaving site}} + N_{\text{in sludge leaving site}})$
where:

$N_{measured\ entering}$ is the nitrogen entering the site measured consistently with the requirements in Division 5.3 of the NGER (Measurement) Determination.

$N_{in\ effluent\ leaving\ site}$ is the nitrogen leaving the site measured consistently with the requirements in Division 5.3 of the NGER (Measurement) Determination.

$N_{in\ sludge\ leaving\ site}$ is the nitrogen in sludge leaving the site measured consistently with the requirements in Division 5.3 of the NGER (Measurement) Determination.

(6) In this section:

COD or ***chemical oxygen demand*** means the total material available for chemical oxidation (both biodegradable and non-biodegradable) measured in tonnes.

Part 26—Electricity generation

57 Electricity generation

(1) Megawatt hours of electricity that:
  (a) are produced as part of carrying on the electricity generation activity at the facility; and
  (b) if electricity generation is the only production variable applicable to the facility—are exported from the facility; and
  (c) if the electricity generation occurs on a vehicle:
    (i) are not used by the vehicle's propulsion system; or
    (ii) are not both generated by a vehicle's propulsion system and used by or on the vehicle for purposes unrelated to propulsion.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of electricity generation (the ***electricity generation activity***).

(3) The default emissions intensity is 0.539 t CO_2-e:
  (a) if paragraph (1)(b) does not apply—per megawatt hour of electricity generated; and
  (b) if paragraph (1)(b) applies—per megawatt hour of electricity exported from the facility.

(4) The megawatt hours of electricity under subsections (1) and (3) must:
  (a) if a meter is available to measure the electricity—be metered; and
  (b) if a meter is not available to measure the electricity—be calculated in a verifiable way in accordance with industry practice; and

(c) if some or all of the electricity is exported to a designated electricity network—be measured consistently with the requirements applicable to the designated electricity network; and

(d) if paragraph (b) applies and the electricity is exported to a designated electricity network—be measured in accordance with the requirements for the export of electricity into the designated electricity network.

Part 27—Natural gas distribution

58 Petajoule-kilometres of natural gas distribution

(1) Petajoule-kilometres of natural gas:

(a) delivered to customers as part of carrying on the natural gas distribution activity at the facility; and

(b) that is not lost or consumed as part of carrying on the natural gas distribution activity; and

(c) that is only counted once.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of transporting natural gas through natural gas distribution pipelines to customers (the ***natural gas distribution activity***) and reports emissions under Division 3.3.8 of the NGER (Measurement) Determination.

(3) The default emissions intensity is 0.254 t CO_2-e per petajoule-kilometre.

(4) The energy content of natural gas:

(a) must be measured as the higher heating value energy content; and

(b) may include the energy content of hydrogen included in the natural gas so long as the natural gas mixture meets applicable standards for gas within the network (such as Australian Standard 4564:2020).

Note: In 2020, AS 4564 was available from http://www.standards.org.au.

(5) In this section:

natural gas has the meaning given by the NGER Regulations.

natural gas distribution pipelines mean pipelines for the conveyance of natural gas that report emissions under Division 3.3.8 of the NGER (Measurement) Determination.

petajoule-kilometre means the multiplication of:

(a) the total energy content, in petajoules, of natural gas delivered to customers by means of a natural gas distribution pipelines which are part of the facility; and

(b) the total length, in kilometres, of the natural gas distribution pipelines used to deliver natural gas to customers as part of the facility as at the end of the relevant financial year.

Note: Natural gas distribution pipelines not used in the delivery of natural gas to customers are not included in these kilometres.

Part 28—Natural gas transmission

Division 1—Definitions

59 Definitions

(1) In this Part:

natural gas has the meaning given by the NGER Regulations.

natural gas transmission pipeline means a pipeline for the conveyance of natural gas or plant condensate that reports emissions under Division 3.3.7 of the NGER (Measurement) Determination.

(2) In this Part the activity of ***natural gas transmission*** is the transport of natural gas or plant condensate through natural gas transmission pipelines to customers or distribution networks**.**

Note: Customers could include large industrial facilities, liquefied natural gas stations or natural gas processing stations.

Division 2—Natural gas transmission production variables

60 Kilometres of natural gas transmission pipelines

(1) Kilometres of natural gas transmission pipelines used to deliver natural gas or plant condensate to customers or distribution networks as part of carrying on the natural gas transmission activity at the facility.

(2) The metric in subsection (1) is applicable to a facility that conducts the natural gas transmission activity and reports emissions under Division 3.3.7 of the NGER (Measurement) Determination.

(3) The default emissions intensity is 11.62 t CO_2-e per kilometre.

(4) The kilometres of the natural gas transmission pipelines must not be greater than the kilometres of pipelines reported under section 3.76 of the NGER (Measurement) Determination for the same financial year.

Note: A further natural gas transmission production variable is being developed and is intended to be section 61 of this Schedule.

61 Work of compression applied to natural gas or plant condensate

(1) Work of compression, in gigajoules, from the energy transferred to natural gas or plant concentrate by compressing it with compressors to assist its delivery to customers or distribution networks as part of carrying on the natural gas transmission activity at the facility.

Note: Compressors used for other purposes, such as natural gas processing, are not included.

(2) The metric in subsection (1) is applicable to a facility that conducts the natural gas transmission activity and reports emissions under Division 3.3.7 of the NGER (Measurement) Determination.

(3) The default emissions intensity is 0.253 t CO_2-e per gigajoule.

(4) For subsection (1) and (3), the work of compression, in megawatt hours, is calculated for each compressor or compressor station (i) over each time increment (h) and summed in accordance with the following equation:

$$\Sigma_i \frac{Z_{av} R_u T_1}{M_W (k-1)/k} \left(\left(\frac{P_2}{P_1} \right)^{\frac{k-1}{k}} - 1 \right) \times m' \times h_i$$

where:

Z_{av} is the gas compressibility derived from gas compressibility charts or calculated by computer software, at the inlet and outlet conditions averaged over the time increment h (by dividing inlet and outlet results by 2).

R_u is the universal gas constant equal to 8.314 kJ/kmol·K.

T_1 is the temperature of the gas, in degrees Kelvin (K), at the compressor suction flange or inlet to the compressor station (as relevant to (i)), averaged over the time increment h.

M_W is the gas molecular weight, calculated from the average gas composition over the time increment h.

k is the heat capacity ratio, derived from gas heat capacity charts or calculated by computer software, for the average gas composition over the time increment h.

P_1 is the absolute pressure at the compressor suction flange or inlet to the compressor station (as relevant to (i)), measured and averaged over the time increment h, in the same units as P_2.

P_2 is the absolute pressure at the compressor discharge flange or outlet to the compressor station (as relevant to (i)), measured and averaged over the time increment h, in the same units as P_1.

m' is the average gas mass flowrate, in units of mass per second, as measured for time increment h (or as converted from a volumetric flowrate measurement if required using the average gas composition over the time increment h).

h_i is the time increment for compressor or compressor station i, selected on the basis of reducing the calculation load while still having sufficient granularity to capture changes in compressor or compressor station work as operating conditions change over time.

Note: An initial time increment of one hour is suggested, to be adjusted with justification based on the variability of the pipeline operating conditions.

Part 29—Clinker, lime and cement production

Division 1—Definitions

62 Definitions

(1) In this Part:

cement means any hydraulic cement, including general purpose and blended cements, meeting the minimum requirements for such cements set out in AS 3972—2010 or any other specific contract and export specifications.

Note: In 2020, AS 3972—2010 was available from http://www.standards.org.au.

Portland cement clinker means the Portland cement clinker resulting from clinker production which:

(a) has a concentration of calcium silicates equal to or greater than 60% by mass; and

(b) has a concentration of magnesium oxide (MgO) equal to or less than 4.5% by mass; and

(c) is useable in the making of Portland cement.

(2) In this Part the activity of ***clinker production*** is the physical and chemical transformation of:

(a) either or both of calcium carbonate compounds (limestone ($CaCO_3$)) and other calcium carbonate ($CaCO_3$) feedstocks; and

(b) any of the following:

(i) clay;

(ii) clay mixed with 1 or more feedstocks that contain 1 or more of the following:

(A) silicon dioxide (SiO_2);

(B) iron (Fe);

(C) aluminium oxide (alumina (Al_2O_3));

(iii) 1 or more feedstocks that, when combined, contain all of the following:

(A) silicon dioxide (SiO_2);

(B) iron (Fe);

(C) aluminium oxide (alumina (Al_2O_3));

that are fused together at a temperature above 1000 °C into Portland cement clinker.

Division 2—Clinker and cement production variables

63 Clinker not used by facility to make cement

(1) Tonnes of Portland cement clinker on a dry weight basis that:

(a) is produced as part of carrying on the clinker production activity at the facility; and

(b) is exported from the facility or allocated for export from the facility (whether the export will occur within or after the reporting year); and

(c) is not used to make cement at the facility; and

(d) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:

(a) conducts the clinker production activity at the facility; and

(b) if the metric in section 64 of this Schedule is applicable to the facility—also uses that prescribed production variable.

(3) The default emissions intensity is 0.841 t CO_2-e per tonne of Portland cement clinker.

64 Cement produced from clinker at a facility

(1) Tonnes of cement on a dry weight basis that:

(a) is produced as part of carrying out the cement production activity at the facility; and

(b) is attributable to Portland cement clinker produced as part of carrying on the clinker production activity at the facility in accordance with subsection (4); and

(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that:

(a) conducts the clinker production activity at the facility; and

(b) conducts the activity of producing cement through the physical transformation of Portland cement clinker into cement through a process of comminution with gypsum or other additives (the ***cement production activity***); and

(c) if the metric in section 63 is applicable to the facility—also uses that prescribed production variable.

(3) The default emissions intensity is 0.708 t CO_2-e per tonne of cement.

(4) For subsection (1) cement is attributable to Portland cement clinker produced as part of carrying on the clinker production activity at the facility in accordance with the following equation:

$$\mathrm{Ce_a} = \mathrm{Ce_f} \times \frac{\mathrm{Cl_f}}{\mathrm{Cl_f} + \mathrm{Cl_i}}$$

where:

$\boldsymbol{Ce_a}$ is the cement attributable to Portland cement clinker produced as part of carrying on the clinker production activity at the facility, in tonnes.

$\boldsymbol{Ce_f}$ is the total amount of cement produced at the facility (f) in the reporting year, in tonnes, that is of saleable quality.

Cl_f is the amount of Portland cement clinker, in tonnes, produced as part of carrying on the clinker production activity at the facility (f) in the reporting year and used, or intended to be used, to produce cement at the facility, not including any tonnes of Portland cement clinker counted for the metric in section 63 of this Schedule.

Cl_i is the amount of Portland cement clinker, in tonnes, not covered by Cl_f and imported in the reporting year to produce cement at the facility (whether or not the Portland cement clinker was produced in or outside of Australia).

(5) For paragraphs 4.23C(2)(b) and 4.23D(3)(b) of the NGER Regulations, the following information must be included in a report under the Act in calculating the amount of the prescribed (annually adjusted) production variable for a reporting year:

(a) the total amount of Portland cement clinker produced at a facility in the reporting year (whether or not it is used, exported from the facility or stockpiled); and

(b) the value of each variable in the equation in subsection (4).

Division 3—Lime

65 Lime

(1) Tonnes of lime on a dry weight basis that:

(a) is produced as part of carrying on the lime production activity at the facility; and

(b) has a concentration of either or both of calcium oxide (CaO) and magnesium oxide (MgO) equal to or greater than 60% by mass; and

(c) is not counted for another production variable in this Schedule; and

(d) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing lime through the physical and chemical transformation, through the calcining process, of calcium and magnesium sources (such as calcium carbonate ($CaCO_3$) and magnesium carbonate ($MgCO_3$)) into lime that has a concentration of either or both of calcium oxide (CaO) and magnesium oxide (MgO) equal to or greater than 60% by mass (the ***lime production activity***).

(3) The default emissions intensity is 1.13 t CO_2-e per tonne of lime.

Part 30—Non-metallic mineral quarrying

66 Quarried rock

(1) Tonnes of quarried rock that:

(a) contains 1 or more minerals that are not metals; and

(b) is produced as part of carrying on the non-metallic mineral quarrying activity at the facility; and

(c) is either:

(i) of saleable quality at the mine; or

(ii) suitable as a feed source of 1 or more non-metallic minerals for production of other processed products; and

(d) has not been counted for another production variable at the facility; and

(e) is not eligible to be a production variable mentioned in Parts 13 to 18 of this Schedule.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of quarrying non-metallic minerals through:

(a) the physical extraction of non-metallic rock containing 1 or more minerals that are not metals; and

(b) the processing of the extracted rock to produce a non-metallic mineral product or feedstock material, such as aggregates for the construction industry.

(3) The activity in subsection (2) is the ***non-metallic mineral quarrying activity***.

Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Part 31—Silicon

67 Silicon

(1) Tonnes of silicon (Si) that:

(a) has a concentration of silicon equal to or greater than 98% by mass; and

(b) is produced as part of carrying on the silicon production activity at the facility; and

(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing silicon through the chemical transformation of silica (silicon dioxide (SiO_2)) to produce silicon with a concentration of silicon equal to or greater than 98% by mass, conducted in accordance with the overall chemical equation:

$$SiO_2(s) + 2C(s) \rightarrow Si(s) + 2CO(g)$$

(3) The activity in subsection (2) is the ***silicon production activity***.

(4) The default emissions intensity is 1.92 t CO_2-e per tonne of silicon.

Part 32—Lead bullion

68 Lead bullion

(1) Tonnes of lead bullion that:
  (a) has a concentration of lead (pb) equal to or greater than 99% by mass; and
  (b) is produced as part of carrying on the lead bullion production activity at the facility; and
  (c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing lead bullion through the chemical transformation of concentrated mineralised lead compounds, with or without additional lead bearing secondary materials, into lead bullion (the ***lead bullion production activity***).
  Note: The default emissions intensity for this prescribed production variable is yet to be calculated and specified in the Schedule.

Part 33—Refined lead

69 Refined lead

(1) Tonnes of refined lead that:
  (a) has a concentration of lead (pb) equal to or greater than 99.97% by mass; and
  (b) is produced as part of carrying on the refined lead production activity at the facility; and
  (c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing refined lead through the chemical transformation of concentrated mineralised lead compounds, with or without additional lead bearing secondary materials, into refined lead (the ***refined lead production activity***).
  Note: The blasting and sintering processes used in the activity may also treat either or both of concentrated mineralised zinc compounds and zinc bearing secondary materials.

(3) The default emissions intensity is 1.21 t CO_2-e per tonne of refined lead.

Part 34—Zinc in fume

70 Zinc in fume

(1) Tonnes of zinc in fume that:
  (a) has a concentration of zinc (Zn) equal to or greater than 60% by mass; and
  (b) is produced as part of carrying on the zinc in fume production activity at the facility; and

(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing zinc in fume through the chemical transformation in a slag fumer of zinc-containing residues and wastes to produce zinc in fume (the ***zinc in fume production activity***).

(3) The default emissions intensity is 3.34 t CO_2-e per tonne of zinc in fume.

Part 35—Caustic calcined magnesia

71 Caustic calcined magnesia

(1) Tonnes of caustic calcined magnesia that:

(a) has a minimum magnesium oxide (MgO) content of 75% by mass; and

(b) is burned between 650°C and 1200°C; and

(c) is produced as part of carrying on the magnesia production activity at the facility; and

(d) is of saleable quality.

Note: Due to the definition of saleable quality, inputs that are transformed into saleable magnesia which is then re-calcined are only counted once.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing caustic calcined magnesia through the physical and chemical transformation of magnesite (magnesium carbonate ($MgCO_3$)) in a furnace into caustic calcined magnesia (the ***magnesia production activity***).

Note: Caustic calcined magnesia may also be transformed into deadburned magnesia and electrofused magnesia at the facility, which involves burning or fusing at higher temperatures than in paragraph (1)(b).

(3) The default emissions intensity is 1.51 t CO_2-e per tonne of caustic calcined magnesia.

Part 36—Copper anode

72 Copper anode

(1) Tonnes of copper anode that:

(a) has a concentration of copper (Cu) between 99% and 99.9% by mass; and

(b) is produced as part of carrying on the copper anode production activity at the facility; and

(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing copper anode through the physical and chemical transformation of copper sulphide concentrates in a smelter to produce copper anodes (the ***copper anode production activity***).

Note: Copper anode is often an input into the production of copper cathode at the same facility.

(3) The default emissions intensity is 0.677 t CO_2-e per tonne of copper anode.

Part 37—Manganese sinter

73 Manganese sinter

(1) Tonnes of manganese sinter that:
  (a) has a minimum concentration of manganese (Mn) of 40% by mass; and
  (b) is produced as part of carrying on the manganese sinter production activity at the facility; and
  (c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing manganese sinter through the physical and chemical transformation of small particles of manganese ore by sintering into manganese sinter (the ***manganese sinter production activity***).
Note: Manganese sinter is often an input into an electric arc furnace.

(3) The default emissions intensity is 0.242 t CO_2-e per tonne of manganese sinter.

Part 38—Ferromanganese alloy

74 Ferromanganese alloy

(1) Tonnes of ferromanganese alloy that:
  (a) has a minimum concentration of manganese (Mn) of 67% by mass; and
  (b) is produced as part of carrying on the ferromanganese production activity at the facility; and
  (c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing ferromanganese through the physical and chemical transformation of manganese ore or sinter into ferromanganese alloy (the ***ferromanganese production activity***).

(3) The default emissions intensity is 1.30 t CO_2-e per tonne of ferromanganese alloy.

Part 39—Silicomanganese alloy

75 Silicomanganese alloy

(1) Tonnes of silicomanganese alloy that:
  (a) has a minimum concentration of manganese (Mn) of 60% by mass; and

(b) has a minimum concentration of silicon (Si) of 12% by mass; and
(c) is produced as part of carrying on the silicomanganese production activity at the facility; and
(d) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing silicomanganese through the physical and chemical transformation of one or more of manganese ore, manganese sinter and ferromanganese slag produced at the facility into silicomanganese alloy (the ***silicomanganese production activity***).

(3) The default emissions intensity is 1.70 t CO_2-e per tonne of silicomanganese alloy.

Part 40—Nickel manufacturing

Division 1—Definitions

76 Definitions

(1) In this Part:

intermediate nickel products means any of the following:
(a) nickel matte;
(b) mixed nickel-cobalt hydroxide precipitate that has a concentration of nickel between 35% and 47% (inclusive) by mass;
(c) mixed nickel-cobalt sulphide precipitate that has a concentration of nickel between 43 and 57% (inclusive) by mass;
(d) basic nickel carbonate ($Ni_3(CO_3)(OH)_4$) that has a concentration of nickel between 40% and 45% (inclusive) by mass;
(e) crude nickel sulphate that has a concentration of nickel equal to or greater than 21% by mass.

imported intermediate nickel products, for a facility, means an intermediate nickel product not produced at the facility.

nickel bearing inputs means any of the following:
(a) mineralised nickel ores (including laterite or sulphide ores);
(b) nickel sulphide concentrates;
(c) other nickel containing concentrates that have not undergone secondary processing;
(d) low grade nickel waste products that require equivalent processing to mineralised nickel ores.

primary nickel products means any of the following:
(a) basic nickel carbonate ($Ni_3(CO_3)(OH)_4$) that has a concentration of nickel equal to or greater than 50% by mass;

(b) nickel oxide (NiO) that has a concentration of nickel equal to or greater than 78% by mass;

(c) nickel sulphate hexahydrate ($NiSO_4.6H_2O$) that has a concentration of nickel equal to or greater than 22% by mass;

(d) other nickel products that have a concentration of nickel equal to or greater than 98% by mass.

(2) In this Part the activity of ***nickel manufacturing*** is the physical and chemical transformation of either or both of:

(a) nickel bearing inputs into intermediate nickel products or primary nickel products; and

(b) intermediate nickel products into primary nickel products.

Division 2—Nickel production variables

77 Primary nickel products from nickel bearing inputs

(1) Tonnes of 100% equivalent nickel that:

(a) is contained within primary nickel products that:

(i) are produced from nickel bearing inputs as part of carrying on the nickel manufacturing activity at the facility; and

(ii) are of saleable quality; and

(b) has not been counted in relation to the intermediate nickel product production variable at the facility.

(2) The metric in subsection (1) is applicable to a facility that conducts the nickel manufacturing activity

(3) The default emissions intensity is 8.78 t CO_2-e per tonne of 100% equivalent nickel.

78 Primary nickel products from imported intermediate nickel products

(1) Tonnes of 100% equivalent nickel contained within primary nickel products that:

(a) are produced from imported intermediate nickel products as part of carrying on the nickel manufacturing activity at the facility; and

(b) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the nickel manufacturing activity.

(3) The default emissions intensity is 2.52 t CO_2-e per tonne of 100% equivalent nickel.

79 Intermediate nickel products from nickel bearing inputs

(1) Tonnes of 100% equivalent nickel contained within intermediate nickel products that:

(a) are produced from nickel bearing inputs as part of carrying on the nickel manufacturing activity at the facility; and
(b) are not, and are not intended to be, transformed into primary nickel products at the facility; and
(c) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the nickel manufacturing activity.

(3) The default emissions intensity is 1.76 t CO_2-e per tonne of 100% equivalent nickel.

Part 41—Pulp and paper production

Division 1—Definitions

80 Definitions

In this Part:

newsprint manufacturing activity—see section 84.

packaging and industrial paper manufacturing activity—see section 82.

printing and writing paper manufacturing activity—see section 83.

pulp production activity—see section 85.

tissue paper manufacturing activity—see section 81.

Division 2—Tissue paper

81 Tissue paper

(1) Tonnes of rolls of uncoated tissue paper that:
(a) has a grammage range of 13 g/m^2 to 75 g/m^2; and
(b) has a moisture content in the range of 4% to 11% by mass; and
(c) is generally useable in sanitary products such as facial tissue, paper towel, bathroom tissue and napkins; and
(d) has not been counted for another production variable at the facility; and
(e) is produced as part of carrying on the tissue paper manufacturing activity at the facility; and
(f) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing rolls of uncoated tissue paper through the physical or chemical transformation of pulp into rolls of uncoated tissue paper that:
(a) has a grammage range of 13 g/m^2 to 75 g/m^2; and

(b) has a moisture content in the range of 4% to 11% by mass; and
(c) is generally useable in sanitary products such as facial tissue, paper towel, bathroom tissue and napkins; and
(d) is of saleable quality.

(3) The activity in subsection (2) is the ***tissue paper manufacturing activity***.

(4) The default emissions intensity is 0.448 t CO_2-e per tonne of rolls of uncoated tissue paper.

Division 3—Packaging and industrial paper

82 Packaging and industrial paper

(1) Tonnes of rolls of packaging and industrial paper that:
(a) is produced from wholly or partially unbleached input fibre; and
(b) has a grammage range of 30 g/m^2 to 500 g/m^2; and
(c) has a moisture content in the range of 4% to 11% by mass; and
(d) is uncoated; and
(e) is generally useable as a packaging or industrial paper, including products such as kraft liner, recycled or multiply liner, medium, sack and bag paper, wrapping paper, plasterboard liner, horticultural paper and building paper; and
(f) has not been counted for another production variable at the facility; and
(g) is produced as part of carrying on the packaging and industrial paper manufacturing activity at the facility; and
(h) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing rolls of packaging and industrial paper through physical or chemical transformation of pulp into packaging and industrial paper that:
(a) is produced from wholly or partially unbleached input fibre; and
(b) has a grammage range of 30 g/m^2 to 500 g/m^2; and
(c) has a moisture content in the range of 4% to 11% by mass; and
(d) is uncoated; and
(e) is generally useable as a packaging or industrial paper, including products such as kraft liner, recycled or multiply liner, medium, sack and bag paper, wrapping paper, plasterboard liner, horticultural paper and building paper; and
(f) is of saleable quality.

(3) The activity in subsection (2) is the ***packaging and industrial paper manufacturing activity***.

(4) The default emissions intensity is 0.166 t CO_2-e per tonne of rolls of packaging and industrial paper.

Division 4—Printing and writing paper

83 Printing and writing paper

(1) Tonnes of rolls of coated or uncoated printing and writing paper that:
  (a) is produced from 100% bleached or brightened input fibre; and
  (b) has a grammage range of 42 g/m^2 to 350 g/m^2; and
  (c) has a moisture content in the range of 4% to 11% by mass; and
  (d) is generally useable as a printing and writing paper product, including products such as offset paper, copy paper, laser printing paper, magazine paper, filing card paper, manilla, book printing paper, envelope paper, forms paper, scholastic paper, cheque paper and security paper; and
  (e) has not been counted for another production variable at the facility; and
  (f) is produced as part of carrying on the printing and writing paper manufacturing activity at the facility; and
  (g) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing rolls of coated or uncoated printing and writing paper through physical or chemical transformation of pulp into rolls of coated or uncoated printing and writing paper that:
  (a) is produced from 100% bleached or brightened input fibre; and
  (b) has a grammage range of 42 g/m^2 to 350 g/m^2; and
  (c) has a moisture content in the range of 4% to 11% by mass; and
  (d) is generally useable as a printing and writing paper product, including products such as offset paper, copy paper, laser printing paper, magazine paper, filing card paper, manilla, book printing paper, envelope paper, forms paper, scholastic paper, cheque paper and security paper; and
  (e) is of saleable quality.

(3) The activity in subsection (2) is the ***printing and writing paper manufacturing activity***.

(4) The default emissions intensity is 0.443 t CO_2-e per tonne of rolls of coated or uncoated printing and writing paper.

Division 5—Newsprint

84 Newsprint

(1) Tonnes of rolls of coated or uncoated newsprint that:
  (a) has a grammage range of 30 g/m^2 to 80 g/m^2; and
  (b) has a moisture content range of 4% to 11% by mass; and

(c) is generally usable for newspaper or publication products; and
(d) has not been counted for another production variable at the facility;
(e) is produced as part of carrying on the newsprint manufacturing activity at the facility.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing rolls of coated or uncoated newsprint through the chemical and physical transformation, using an integrated process, of any or all of woodchips, sawdust, wood pulp and recovered paper into rolls of coated or uncoated newsprint that:
(a) has a grammage range of 30 g/m^2 to 80 g/m^2; and
(b) has a moisture content range of 4% to 11% by mass; and
(c) is generally usable for newspaper or publication products.

(3) The activity in subsection (2) is the ***newsprint manufacturing activity***.

(4) The default emissions intensity is 0.464 t CO_2-e per tonne of rolls of coated or uncoated newsprint.

Division 6—Pulp

85 Pulp

(1) Tonnes of wet or dry pulp that:
(a) is generally useable in one or more of:
(i) paper manufacturing;
(ii) packaging and cardboard manufacturing;
(iii) newsprint manufacturing;
(iv) tissue paper manufacturing;
(v) the production of sanitary products (such as a fluff pulp layer in sanitary products); and
(b) is measured according to ordinary measurement rules applicable in the industry; and
(c) if wet pulp—is converted to an air dried basis; and
(d) is produced as part of carrying on the pulp production activity at the facility; and
(e) is not used in the newsprint manufacturing activity at the same facility.

Note: The quantity of pulp is generally converted to an air dried basis by adjusting the relevant tonnes to their mass with a moisture content of 10% (without drying the relevant wet pulp product).

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing pulp through the physical or chemical transformation of any or all of wood chips, sawdust, wood pulp and recovered paper into wet or dry pulp that is generally usable in one or more of the following:
(a) paper manufacturing;

(b) packaging and cardboard manufacturing;
(c) newsprint manufacturing;
(d) tissue paper manufacturing;
(e) the production of sanitary products (such as a fluff pulp layer in sanitary products).

(3) The activity in subsection (2) is the ***pulp production activity***.

(4) The default emissions intensity is 0.0501 t CO_2-e per tonne wet or dry pulp.

Part 42—Ethylene and polyethylene production

86 Ethene (ethylene)

(1) Tonnes of 100% equivalent ethene (ethylene (C_2H_4)) that is contained within ethene that:
(a) has a concentration of ethene equal to or greater than 99% by mass; and
(b) is produced as part of carrying on the ethene production activity at the facility; and
(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing ethene (ethylene (C_2H_4)) through the chemical transformation of hydrocarbons to produce ethene that has a concentration of ethene equal to or greater than 99% by mass (the ***ethene production activity***).

(3) The default emissions intensity is 1.96 t CO_2-e per tonne of 100% equivalent ethene.

87 Polyethylene

(1) Tonnes of pelletised polyethylene that:
(a) has a standard density equal to or greater than 0.910 g/cm^3; and
(b) is produced as part of carrying on the polyethylene production activity at the facility; and
(c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing polyethylene through the chemical transformation ethene (ethylene (C_2H_4)) to produce polyethylene with a standard density equal to or greater than 0.910 g/cm^3 (the ***polyethylene production activity***).

(3) The default emissions intensity is 0.136 t CO_2-e per tonne of pelletised polyethylene.

(4) In this section:

standard density, for polyethylene, means the density of polyethylene moulded to a thickness of 1.9 mm using Procedure C of Annex A1 to ASTM D4703-16 (2016).

Note: In 2021, the standard could be accessed from http://www.astm.org.

Part 43—Wheat based products

88 Wheat protein products (dried gluten)

(1) Tonnes of the following products produced as part of carrying on the wheat protein products production activity at the facility that meet the requirements of subsection (2):

(a) vital wheat gluten;

(b) devitalised wheat gluten;

(c) solubilised wheat proteins.

(2) The requirements for products to be included in subsection (1) are that the products:

(a) do not have a moisture content that exceeds 10% (as a gravimetric water content); and

(b) for vital and devitalised wheat gluten, have at least 80% crude protein (on a dry solids basis, where nitrogen content is multiplied by 6.25); and

(c) for solubilised wheat proteins, have at least 60% crude protein (on a dry solids basis, where nitrogen content is multiplied by 6.25); and

(d) exclude added vitamins, minerals, amino acids and optional ingredients on a dry weight basis; and

(e) are of saleable quality.

(3) The metric in subsection (1) is applicable to a facility that conducts the activity of producing wheat protein products by the physical and chemical transformation of wheat into one or more of the products listed in subsection (1) that meet the requirements in subsection (2).

(4) The activity in subsection (3) is the ***wheat protein products production activity***.

89 Dried wheat starch

(1) Tonnes of the following products produced as part of carrying on the dried wheat starch production activity at the facility that meet the requirements of subsection (2):

(a) dried wheat starch;

(b) modified and resistant starches.

(2) The requirements for products to be included in subsection (1) are that the products:

(a) have a moisture content of no more than 13% (as a gravimetric water content); and

(b) have a protein content of no more than 0.35% (on a dry solids basis, where nitrogen content is multiplied by 5.7); and

(c) for unmodified dried wheat starch covered by paragraph (1)(a), have a Brabender peak viscosity of no less than 500 Brabender units at 8% solids (on a dry solids basis) when measured in accordance with standard industry practices; and

(d) are of saleable quality.

(3) The metric in subsection (1) is applicable to a facility that conducts the activity of producing dried wheat starch through the removal of non-starch fractions of the wheat flour by physical and chemical transformation of wheat into one of the products listed in subsection (1) that meet the requirements in subsection (2).

(4) The activity in subsection (3) is the ***dried wheat starch production activity***.

90 Wheat based glucose

(1) Tonnes of the following products produced as part of carrying on the wheat based glucose production activity at the facility that meet the requirements of subsection (2):

(a) wheat based glucose syrup;

(b) maltodextrin.

(2) The requirements for products to be included in subsection (1) are that the products:

(a) for wheat based glucose syrup, is produced from wheat to a total solids percentage of between 67% to 84%; and

(b) for wheat based glucose syrup, has a dextrose equivalent content of not less than 20% (expressed as D-glucose on a dry weight basis); and

(c) for maltodextrin:

(i) may be dried to a moisture content that does not exceed 10% (as a gravimetric water content); and

(ii) has a dextrose equivalent content of between 10% and 20% (expressed as D-glucose on a dry weight basis); and

(d) are of saleable quality.

(3) The metric in subsection (1) is applicable to a facility that conducts the activity of producing wheat based glucose through the physical and chemical transformation of wheat starch into one of the products listed in subsection (1) that meet the requirements in subsection (2).

(4) The activity in subsection (2) is the ***wheat based glucose production activity***.

91 Wheat based dried distillers grain

(1) Tonnes of wheat based dried distillers grain that are produced as part of carrying on the wheat based dried distillers grain production activity at the facility to meet the following requirements:

(a) are a minimum of 88% dry matter on a dry solids basis; and
(b) are a minimum of 20% crude protein (on a dry solids basis, where nitrogen is multiplied by 6.25); and
(c) are of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of producing wheat based dried distillers grain through the physical and chemical transformation of the non-fermentable residues of wheat starch products from the production of ethanol, where the residues are dried under heat, into wheat based dried distillers grain.

(3) The activity in subsection (2) is the ***wheat based dried distillers grain production activity.***

Part 44—Ethanol

92 Ethanol—95

(1) Kilolitres of ethanol produced as part of carrying on the ethanol—95 production activity at the facility that meet the requirements of subsection (2).

(2) The requirements for ethanol to be included in subsection (1) are the ethanol:
(a) is produced with a minimum 95% ethanol content by volume; and
(b) is not further processed into ethanol—absolute or beverage grade ethanol covered by sections 93 and 94 or otherwise included in those production variables; and
(c) is of saleable quality.

(3) The metric in subsection (1) is applicable to a facility that conducts the activity of producing ethanol through the physical and chemical transformation of feedstocks into ethanol that meet the requirements in subsection (2).

(4) The activity in subsection (3) is the ***ethanol—95 production activity***.

93 Ethanol—absolute

(1) Kilolitres of ethanol produced as part of carrying on the ethanol—absolute production activity at the facility that meet the requirements of subsection (2).

(2) The requirements for ethanol to be included in subsection (1) are that the ethanol:
(a) is produced with a minimum 99% ethanol content by volume; and
(b) is not further processed into beverage grade ethanol covered by section 94 or otherwise included in the ethanol production variables under sections 92 or 94; and
(c) is of saleable quality.

(3) The metric in subsection (1) is applicable to a facility that conducts the activity of producing ethanol through the physical and chemical transformation of feedstocks into ethanol that meet the requirements in subsection (2).

(4) The activity in subsection (3) is the ***ethanol—absolute production activity***.

94 Beverage grade ethanol

(1) Kilolitres of ethanol produced as part of carrying on the beverage grade ethanol production activity at the facility that meet the requirements of subsection (2).

(2) The requirements for ethanol to be included in subsection (1) are that the ethanol:
  (a) would otherwise be eligible as ethanol—95 or ethanol—absolute, but is not included in the tonnes of those products under section 92 or 93; and
  (b) has been processed to a higher degree of purity than ordinarily required for ethanol—95 or ethanol—absolute, to a standard for use in beverages and other forms of human consumption; and
  (c) is of saleable quality.

(3) The metric in subsection (1) is applicable to a facility that produces beverage grade ethanol through the physical and chemical transformation of feedstocks into ethanol that meets the requirements in subsection (2).

(4) The activity in subsection (3) is the ***beverage grade ethanol production activity***.

Part 45—Production variables related to sugar production

95 Raw sugar

(1) Tonnes of raw sugar that:
  (a) is produced as part of carrying on the raw sugar manufacturing activity at the facility; and
  (b) is generally useable in sugar refining activities; and
  (c) is of saleable quality.

(2) The metric in subsection (1) is applicable to a facility that conducts the activity of manufacturing raw sugar through the physical or chemical transformation of sugar cane or other plant matter into raw sugar that:
  (a) is generally useable in sugar refining activities; and
  (b) is of saleable quality.

(3) The activity in subsection (2) is the ***raw sugar manufacturing activity***.

(4) The default emissions intensity is 0.0311 t CO_2-e per tonne of raw sugar.

96 Exported steam related to the raw sugar manufacturing activity

(1) Gigajoules of steam that:

(a) is generated at a sugar mill by heating water; and
(b) is transferred or exported to another facility for use at that facility.

(2) The metric in subsection (1) is applicable to a facility that:
(a) conducts the raw sugar manufacturing activity; and
(b) is structured such that energy (including steam and with or without the export of electricity) is intended to be the only output from the facility for a portion of the year under ordinary operating conditions, such as a facility with a seasonal output which exports energy year-round.

(3) The gigajoules of steam exported must be:
(a) measured consistently with the NGER (Measurement) Determination, including the principles in section 1.13 and reporting requirements under the NGER Regulations; and
(b) calculated as total steam exported for a reporting period; and
(c) unless in conflict with paragraph (a), measured consistently at the facility over time.

(4) The default emissions intensity is 0.0490 t CO_2-e per gigajoule of steam.

Schedule 3—Prescribed (Fixed) Production Variables

Part 1—Preliminary

1 Purpose

This Schedule sets out prescribed (fixed) production variables

2 Structure

(1) Each Part of the Schedule sets out:
  (a) one or more metrics, each of which is a prescribed (fixed) production variable; and
  (b) the units relevant to those metrics; and
  (c) the circumstances in which they are applicable to a facility.

(2) The default emissions intensity is specified in t CO_2-e per unit of the production variable.

(3) A Part may also set out measurement requirements or procedures relevant to the application of the metrics.

(4) The emissions relevant to the development of each production variable and the calculation of its default emissions intensity are explained in the Safeguard Mechanism document.

3 Definitions

In this Schedule:

Saleable quality has the meaning given by section 4 of Schedule 2.

Part 2—Petroleum refining

4 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 (1)(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 CO_2-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 reformate 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 2020, 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.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015	8 October 2015 (F2015L01637)	1 July 2016 (s 2)	
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment Rule (No. 1) 2019	6 March 2019 (F2019L00258)	7 March 2019 (s 2)	ss 79 and 80 of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment Rule (No. 2) 2019	25 September 2019 (F2019L01259)	26 September 2019 (s 2)	
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables) Rule 2020	3 March 2020 (F2020L00210)	4 March 2020 (s 2)	
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Extended Transition) Rule 2020	11 May 2020 (F2020L00566)	12 May 2020 (s 2)	s 81 of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Additional Prescribed Production Variables) Rule 2020	1 October 2020 (F2020L01275)	Sch 1: 2 October 2020 (s 2) Sch 2: 3 October 2020 (s 2)	ss 82, 83 and 84 of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Prescribed Production Variables Update) Rule 2021	16 July 2021 (F2021L00991)	17 July 2021 (s 2)	ss 85 and 86 of the *National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015*
National Greenhouse and Energy Reporting (Safeguard Mechanism) Amendment (Landfill Gas Capture) Rule 2021	1 October 2021 (F2021L01383)	2 October 2021 (s 2)	

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	am F2019L00258, am F2020L00210, am F2020L00566, am F2020L01275 , am F2021L00991, am F2021L01383
s 5	am F2019L00258
s 6	am F2019L00258, am F2020L00210
Part 2	
Division 1	
s 7	am F2020L01275
Divisions 2	
s 13	am F2019L00258
s 14	am F2019L00258, am F2020L00566
s 18	am F2019L00258, am F2020L00566
s 20	am F2019L00258
s 22	am F2019L00258, am F2019L01259
s 23	am F2019L00258, am F2020L00566
s 24	am F2019L00258
s 25	am F2019L00258, am F2020L00210
s 26A	ad F2019L00258, am F2019L01259, am F2020L00566
s 27	am F2019L00258, am F2020L00566
s 28	am F2019L00258
s 30	am F2019L00258, am F2020L00566
s 31	am F2019L00258, am F2020L00566
s 33	am F2020L00566
s 34	am F2019L00258, am F2020L00566
s 35	am F2019L00258
s 36	am F2019L00258
s 38	am F2019L00258
s 38	am F2019L00258
s 39	am F2019L00258
s 40	am F2019L00258, am F2019L01259
s 41	rs F2019L00258
s 42	am F2019L00258
s 44	am F2019L00258, am F2021L00991
s 46	am F2019L00258
s 47	am F2019L00258
s 48	am F2019L00258

Provision affected	How affected
s 49	am F2019L00258
s 51	am F2019L00258
s 52	am F2019L00258
s 54	am F2019L00258, am F2021L01383
s 55	am F2019L00258
s 56	am F2020L01275
s 56A	ad F2019L00258
s 56B	ad F2019L00258
s 56C	ad F2019L00258
s 58	am F2019L00258
Part 4	
Division 2	
s 65	am F2019L00258
s 67	am F2019L00258
s 68	am F2020L00566
Division 3	
s 71	am F2019L00258
s 72	am F2019L00258
Division 4	
s 72A	ad F2021L00991
Part 6	ad F2019L00258
Division 1	ad F2019L00258
s 79	ad F2019L00258
s 80	ad F2019L00258
Division 2	ad F2020L00566
s 81	ad F2020L00566
Division 3	
s 82	ad F2020L01275
s 83	ad F2020L01275
s 84	ad F2020L01275
Division 4	
s 85	ad F2021L00991
s 86	ad F2021L00991
Schedule 1	
s 1	am F2019L00258, am F2021L01383
Schedule 2	ad F2019L00258, rs F2020L00210
s 1	ad F2019L00258, rs F2020L00210
s 2	am F2020L01275
s 3	am F2020L01275
s 7	am F2020L01275

Provision affected	How affected
s 9	am F2020L01275
s 10	am F2020L01275
s 12	am F2020L01275
s 13	am F2020L01275, am F2021L00991
s 15	am F2021L00991
s 16	am F2020L01275
s 17	am F2020L01275
s 18	am F2020L01275
s 20	am F2020L01275
s 22	am F2020L01275 , am F2020L01275
s 24	am F2020L01275
s 28	am F2021L00991
s 32	am F2021L00991
s 47A	ad F2021L00991
s 49	am F2020L01275
s 50	am F2020L01275
s 51	am F2020L01275
s 52	am F2020L01275
s 53A	ad F2020L01275
s 54A	ad F2020L01275
s 54B	ad F2020L01275
s 54C	ad F2020L01275
s 54D	ad F2020L01275
s 55	am F2020L01275
s 55A	ad F2020L01275 ; am F2020L01275
s 56	am F2020L01275
s 57	am F2020L01275
s 58	ad F2020L01275 ; am F2020L01275
s 59	ad F2020L01275
s 60	ad F2020L01275 ; am F2020L01275
s 61	ad F2021L00991
s 62	ad F2020L01275
s 63	ad F2020L01275
s 64	ad F2020L01275
s 65	ad F2020L01275
s 66	ad F2020L01275
s 67	ad F2020L01275
s 68	ad F2020L01275
s 69	ad F2020L01275
s 70	ad F2020L01275

Provision affected	How affected
s 71	ad F2020L01275
s 72	ad F2020L01275
s 73	ad F2020L01275
s 74	ad F2020L01275
s 75	ad F2020L01275
s 76	ad F2020L01275
s 77	ad F2020L01275
s 78	ad F2020L01275
s 79	ad F2020L01275
s 80	ad F2020L01275
s 81	ad F2020L01275, am F2021L00991
s 82	ad F2020L01275. am F2021L00991
s 83	ad F2020L01275, F2021L00991
s 84	ad F2020L01275, F2021L00991
s 85	ad F2020L01275, F2021L00991
s 86	ad F2021L00991
s 87	ad F2021L00991
s 88	ad F2021L00991
s 89	ad F2021L00991
s 90	ad F2021L00991
s 91	ad F2021L00991
s 92	ad F2021L00991
s 93	ad F2021L00991
s 94	ad F2021L00991
s 95	ad F2021L00991
s 96	ad F2021L00991
Schedule 3	ad F2019L00258, rs F2020L00210
s 1	ad F2019L00258, rs F2020L00210
s 4	am F2020L01275