



**Arid
Lands
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Centre**

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‘Draft Environmental factor guidance: atmospheric processes’ submission

1. Introduction

The Arid Lands Environment Centre (ALEC) is Central Australia’s peak community environmental organisation that has been advocating for the protection of nature and growing sustainable communities in the arid lands since 1980. ALEC actively contributes to the development of climate and greenhouse gas emissions policy through regulatory reform, written submissions, community education and advocacy.

ALEC welcomes the opportunity to provide comment on Northern Territory Environment Protection Authority’s (NTEPA) Draft ‘Environmental factor guidance: atmospheric processes. Greenhouse gas emission’ (Atmospheric Processes Guidance).

First, we consider the Commonwealth Government legislative context around greenhouse gas emissions which may provide a relevant context that the Atmospheric Processes Guidance has been constructed within. Then, we comment on the greenhouse gas emission thresholds and referral guidance. Finally, we outline the positive contributions within the Atmospheric Processes Guidance.

2. Background context

The National Greenhouse and Energy Reporting Act 2007 (NGER) and the Safeguard Mechanism are the existing Commonwealth Government legislative instruments to account for and manage greenhouse gas emissions. In the Northern Territory, these mechanisms may be important in informing policy framing.

a. National Greenhouse and Energy Reporting Act 2007 (Cth)

The NGER provides a single national framework for reporting and providing obligations around greenhouse gas emissions, energy production, energy consumption as well as other information. The framework was developed to address both domestic and international obligations to reduce greenhouse gas emissions.

S 3 outline the objects of the NGER Act which is useful in understanding its scope and purpose.

- (1) The first object of this Act is to introduce a single national reporting framework for the reporting and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production of corporations to:

- (b) inform government policy formulation and the Australian public; and
- (c) meet Australia's international reporting obligations; and
- (d) assist Commonwealth, State and Territory government programs and activities;
- (e) avoid the duplication of similar reporting requirements in the States and

Territories.

- (2) The second object of this Act is to ensure that net covered emissions of greenhouse gases from the operation of a designated large facility do not exceed the baseline applicable to the facility. [Safeguard Mechanism]

The NGER sets reporting requirements with facility thresholds for greenhouse gas emissions of 25,000t, or corporate group thresholds of 50,000 tCO₂-e¹. We discuss obligations that are required in the Safeguard Mechanism below.

b. Safeguard Mechanism

Information relating to the Safeguard Mechanism is outlined in S 3H of the NEGR Act. The Safeguard Mechanism goes further than just requiring corporations to report on greenhouse gas emissions, by providing obligations for greenhouse gas emitters. This mechanism is administered by the Clean Energy Regulator (CER) and covers around half of Australia's greenhouse gas emissions².

Approximately 61% of emissions covered by the Safeguard Mechanism are from mining, oil and gas activities³. The Safeguard Mechanism applies to facilities that emit more than 100,000 tonnes of carbon dioxide equivalent (tCO₂-e) Scope 1 emissions per year (excluding electricity emissions). Each facility that exceeds this threshold has a baseline (or limit) that is then applied. This baseline was based on historical data from each facility, not actual emissions that are produced. If the limit is breached, facilities are supposed to pay a penalty or offset their emissions by purchasing an Australian Carbon Credit Unit.

S 9 of the NGER defines a facility as an 'activity, or a series of activities (including ancillary activities), that involve greenhouse gas emissions, the production of energy or the consumption of energy'⁴. A facility forms a single undertaking or enterprise, or can be declared at the Regulator's discretion.

The CER publishes information relating to :

- Facilities that have obligations
- The obligations and timeframes that are set for particular facilities
- Baseline emission numbers
- The quantity of emissions covered
- The number of Australian Carbon Credit Units used and surrendered under the scheme.

¹ Clean Energy Regulator. 'National Greenhouse and Energy Reporting: Reporting Thresholds'.

<http://www.cleanenergyregulator.gov.au/NGER/Reporting-cycle/Assess-your-obligations/Reporting-thresholds>

² Department of Industry, Science and Resources. 'Safeguard Mechanism'.

³ Reputex, 2022. Analysis: What's next for Safeguard Mechanism under Albanese. Renew Economy.

⁴ National Greenhouse and Energy Reporting Act 2007 (Cth)

i. Issues with the Safeguard Mechanism

The Safeguard Mechanism has evolved since its inception in 2014. However it has been plagued by issues, current issues include:

- By basing emission baselines upon historical data, the majority of facilities can increase their emissions by 10 per cent before breaching their baseline, with some facilities able to double their emissions⁵;
- Industrial sectors emissions have continued to grow nationally and are projected to have increased by 26 percent above 2005 level by 2030⁶;
- The mechanism is designed ‘to allow emission baseline to be adjusted to accommodate most foreseeable activities that could give rise to an increase in emissions’⁷
- Despite the flexible baselines, it has been found that 1 in 5 fossil fuel companies ‘significantly exceeded approved emissions’⁸.

The new Commonwealth Government has outlined plans to overhaul the Safeguard Mechanism and transition it towards a ‘baseline and credit’ system. This scheme would use the net-zero target as a clear goal for long-term emission reductions, requiring greater internal emissions reductions or the use of offsets. This places greater emphasis on Australian Carbon Credit Units (ACCUs), whose integrity has been increasingly questioned⁹.

3. Greenhouse gas emission thresholds and referral guidance

ALEC understands the alignment the adopted industrial threshold has with the Commonwealth’s Safeguard Mechanism. However, as stated previously in ALEC’s submission on the Northern Territory Government’s Large Emitters Policy, we disagree with the thresholds that were outlined then, and have been adopted here by the NT EPA. We take particular issue with the 500,000 tCO₂-e threshold that has been adopted for land-use changes.

It is confounding that the NT EPA as a regulator is prejudicing the operations of one sector (industrial) over the impact of another (land-use change/ agriculture), when the common issue in focus is greenhouse gas emissions (GHG). ALEC disagrees with the justifications that have been stated to substantiate the 500% difference between industrial and land-use change thresholds. The Atmospheric Guideline states ‘as a greenhouse gas emission, CO₂ has less warming potential than other types of greenhouse gas emissions, such as methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride (associated with energy consumption and industrial processes) and the proposed threshold level reflects this difference’¹⁰. This is irrelevant since the global warming potential (GWP) of different gases is already addressed through the use of CO₂-e¹¹.

⁵ Reputex, 2022. Analysis: What’s next for Safeguard Mechanism under Albanese. Renew Economy.

⁶ Reputex, 2022. Analysis: What’s next for Safeguard Mechanism under Albanese. Renew Economy.

⁷ Grattan Institute, 2015, p.1. ‘Submission to the Department of the Environment’s Consultation paper, “Emissions Reduction Fund: Safeguard mechanism.”

⁸ Australian Conservation Foundation, 2022. Emissions Exposé: Australia’s biggest polluters are emitting more than approved and getting away with it.

⁹ Morton, A, 2022. ‘Australia’s carbon credit scheme ‘largely a sham’, says whistleblower who tried to rein it in’. The Guardian.

¹⁰ Northern Territory Environment Protection Authority, 2022. ‘Environmental factor guidance: atmospheric processes. Greenhouse gas emission’.

¹¹ Climate Analytics. ‘Why using 20-year Global Warming Potentials (GWPs) for emission targets is a very bad idea for climate policy. Accessed 27th June 2022.

This appears to be a major oversight and incorrect conclusion that is stated in the Atmospheric Processes Guidance.

Further, ALEC does not understand the reasoning for why land use change emissions for industrial actions are to be ignored. It is detached from the issue which is GHG emissions.

It is deeply concerning that the NT EPA is giving a green light to large-scale and widespread land-clearing across the Northern Territory, which is what these thresholds will support. The mistakes of other jurisdictions around Australia and other parts of the world are not being heeded by the regulator. It is inadequate that the NT EPA 'reviewed the NT Government's policy and acknowledges the justification for the chosen threshold levels stated in the Policy. The NT EPA is of the view that the thresholds established in the Large Emitters Policy provide a reasonable position for when the emissions from a proposed action have the potential to have a significant impact on the environment'¹². This justification is vague and uncritical. The Large Emitters Policy states that 'the land use project threshold has been determined in consideration of historical and predicted land clearing activities in the Territory, and in recognition of the potential avoidance and mitigation techniques available to different types of projects and the timeframes over which emissions are generated by a project'¹³. CO₂-e is CO₂-e. It is unclear why industries associated with land-use change will be given in effect a public subsidy to not reduce emissions. It is even more unclear why the NT EPA is promoting this position.

The objectives enshrined in the NT EPA Act are to:

- promote ecologically sustainable development
- protect the environment, having regard to the need to enable ecologically sustainable development
- promote effective waste management and waste minimisation strategies
- enhance community and business confidence in the environmental protection regime of the Territory.

Promoting the interests of one sector above the other is not within the remit of the NT EPA. Notions of ecologically sustainable development also do not discriminate one sector above another. Has the Northern Territory learnt nothing from the Commonwealth Government's conduct at the Kyoto Protocol in 1997. Carbon accounting tricks do not result in actual emission reductions.

Recommendation 1: Adopt a consistent threshold for referral guidance for both industrial and land-use change sectors. The 100,000 tCO₂-e threshold should not be exceeded.

Recommendation 2: Land-use change emissions for industrial stakeholders are included and accounted for.

¹² p.9

¹³ p.6

4. Positive contributions

ALEC welcomes the reporting requirements for

- Scope 1, 2 and 3 emissions over the life of the action;
- Breakdown of Scope 1, 2 and 3 emissions according to the emission source locations;
- Comparison of estimated emissions;
- Demonstrating how a proponent has applied the decision-making hierarchy;
- Public reporting upon actions on Greenhouse Gas Abatement Plan;

These are important commitments that will provide clarity to the regulator and the public, the GHG emission potential an action may have.

It is welcome that a Greenhouse Gas Abatement Plan is required once a project is to undergo an environmental assessment.

In a similar way to the proposed changes to the Safeguard Mechanism, the Atmospheric Processes Guidance is shaped by the net-zero by 2050 commitment. Despite net-zero by 2050 not going far enough to avoid climate crisis, the adoption of net-zero by 2050 in this Guidance is better than if it was not there.

5. Other comments

ALEC considers it important that information pertaining to Scope 1, 2 and 3 are used to determine 'significance'.

Recommendation 3: Scope 1, 2 and 3 emissions are used to determine 'significance'.

Kind regards,



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