

21 September 2015

Emissions Reduction Fund submissions  
Policy Frameworks Branch  
Emissions Reduction Fund Division  
Department of the Environment  
GPO Box 787  
CANBERRA ACT 2601

**Australian Forest Products Association (AFPA) submission on the Emissions Reduction Fund Safeguard Mechanism**

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment on the proposed legislative framework for the Safeguard mechanism as set out in the National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on the sustainable development and use of Australia's forest, wood and paper products.

We acknowledge that some of the policy changes reflected in the Draft Rule address a number of previous industry concerns with the White Paper, particularly in respect of additional flexibility in the setting of baselines and demonstrating compliance.

Consistent with the Government's deregulatory approach it is important that the mechanism is as administratively simple as possible, as well as being low cost, practical and flexible. These issues are outlined in further detail below.

Yours sincerely



**Ross Hampton**  
**Chief Executive Officer**



**AUSTRALIAN FOREST PRODUCTS ASSOCIATION  
SUBMISSION ON THE EMISSIONS REDUCTION FUND  
SAFEGUARD MECHANISM**

**Background**

The Australian Forest Products Association (AFPA) acknowledges the previous consultations by the Australian Government and the Department of the Environment with stakeholders on various aspects of the proposed safeguard mechanism under the Emission Reduction Fund (ERF).

AFPA also notes the consistency of the Draft Rule with the Government's policy intent that the ERF will not be revenue raising and will "allow businesses to continue ordinary operations without penalty."<sup>1</sup>

We acknowledge that some of the policy changes reflected in the Draft Rule address a number of previous industry concerns with the White Paper, particularly in respect of additional flexibility in the setting of baselines and demonstrating compliance. AFPA also notes the provision that civil penalties are to be the final step after an extensive process of considering alternate options.

Consistent with the Government's deregulatory approach it is important that the mechanism is as administratively simple as possible, as well as being low cost, practical and flexible.

AFPA provides the following comments on specific aspects of the Draft Rule.

---

<sup>1</sup> *Emission Reduction Fund Green Paper*, January 2014.

### *Publication of data*

AFPA is concerned about the intended change to the way data is published under the National Greenhouse and Energy Reporting System (NGERS). The proposal to require the publication of facility level emissions data is a risk to reporting entities because it ignores the commercially sensitive nature of this data. The Department has not presented a strong argument of the policy or public good that would be achieved by making data available at this level – the public disclosure of aggregated data, as is current practice under NGERS, amply serves the intended purpose of informing the public how Australia is tracking against its emissions reduction target. We would advocate that the Clean Energy Regulator (CER) only publishes aggregated baseline and emissions information for all facilities covered by the safeguard mechanism.

### *Establishing baselines*

AFPA acknowledges increased flexibility in the Draft Rule around the determination of baselines so that the scheme does not punish investments to improve underlying productivity and competitiveness.

It is generally acknowledged that investments are not homogenous, and range from incremental improvements to significant capital upgrades and expansion to new facilities. AFPA supports the inclusion of an emissions intensity test that would allow facilities to exceed their absolute baselines so long as the emissions intensity of production is not increasing. Providing a secondary threshold of emissions intensity better reflects the realities of business operations over the business cycle, and allows for changes in production, expansions and maintenance requirements.

However, AFPA considers that a number of the provisions do require further modification to be consistent with the policy intent. AFPA notes the provision to allow an increase in baselines on a temporary basis in any year where emissions above a baseline are accompanied by an emissions intensity improvement. However the concern with this provision is that the intensity metric requires ongoing improvement in intensity; each time a facility uses the intensity test its intensity needs to have decreased.

The risk under this provision would be that facilities which have already made investments to improve efficiency, and have limited scope to improve efficiencies as production and absolute baselines increase, would be penalised compared to facilities that have not made investments to achieve comparable levels of efficiency.

This risk could be overcome by a provision that as long as a facility has stayed at or below its initial intensity, the intensity baseline does not need to be reset every year. This proposal is similar in intent to the absolute emissions metric.

For new greenfield investments, these projects are most likely to be at best practice given the open nature of the Australian economy and the competitive international investment and operating environment. It may also be difficult to determine prescriptive ‘best practice’ approaches to manage emissions for new facilities in every case.

AFPA therefore does not consider the benchmark-emissions baseline approach as necessarily being the most suitable approach. A more effective approach could be to operate on the basis that a new investment will be at industry best practice subject to consideration by an independent agency against a set of relevant criteria highlighting that, in making an investment decision, the project proponents evaluated options to reduce emissions during the facility design stage, and/or provides evidence of energy efficiency assessments undertaken at key decision points, consistent with identifying opportunities for improved energy use.

AFPA considers further work is needed on the assessment of best practice and emission baseline levels for new investments.

#### *Impact of Government regulatory changes*

AFPA notes the inclusion of the provision to accommodate changes in emissions, and hence baselines, as a result of other federal, state or local Government regulation, including climate related policies. However there is no drafting in the regulations or rule obliging the Regulator to have regard to such circumstances or Government processes. AFPA believes that the Explanatory Statement should be clearer on any baseline adjustment resulting from the “introduction of new regulation”.

#### *Administrative requirements*

It is important that the reporting mechanism is kept as administratively simple as possible to reduce the regulatory burden on industry. There are a number of proposals in the Draft Rule that have the potential to significantly increase the reporting requirement on industry for what appear to be limited benefits, and that give rise to significant costs.

For example, with respect to the re-setting of baselines for facilities that have multiple outputs the provisions require identifying and auditing the emissions intensity across a broad range of production variables. As a result, businesses will be required to apportion emissions across all production variables and then have this audited which will increase auditing costs. A preferred approach is that the process

is simplified to focus on facility emissions rather than emissions intensity and to include greater flexibility for the Regulator to exercise discretion, to enable the use of a single rather than multiple reporting outputs.

Similarly, baseline adjustment applications require proponents to provide audited forecasts by product of production volume, greenhouse gas emissions, and greenhouse gas emissions intensity. This requirement appears overly prescriptive as actual emissions are audited for this period and the facility baseline is set at the highpoint as part of the production adjusted baseline determination process.

AFPA would recommend that the Government remove the requirement for production and emissions intensity data and require only emissions data in the three (or five) year forecasting period. The safeguard mechanism is set up to manage emissions against an absolute baseline, not against emissions intensity.

#### *Multi-year compliance and exceptional circumstances*

AFPA supports multi-year compliance, acknowledging that there will be variations in annual facility emissions. AFPA would argue that to be consistent with the existing period for establishment of historical emissions and to be reflective of the business cycle, the period of multi-year variability should be 5 years rather than 3 years.

AFPA also notes the inclusion of a suggested approach for dealing with exceptional circumstances in the Draft Rule. However, the proposed provisions around a natural disaster or criminal activity is too narrow in scope.

It would be more appropriate for exceptional circumstances to include provisions covering force majeure and other incidents outside a facility's ability to control. There still remains the need for clarity around defining what constitutes a set of exceptional circumstances and what are considered to be the reasonable steps to mitigate the risk of excess emissions.