

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 147
Hearing: Supplementary Budget Estimates
Outcome: Outcome 1
Programme: Emissions Reduction Fund
Topic: EMISSIONS REDUCTION FUND
Hansard Page: N/A
Question Date: 29 October 2014
Question Type: Written

Senator Urquhart asked:

From a legal and technical perspective, if the ERF is legislated and the safeguard mechanism in place, how could the baseline and the penalties be amended? Would this be by legislative instrument? Have you provided advice to the Minister on this issue?

Answer:

Under the amendment tabled by Senator Xenophon giving effect to the safeguard mechanism, now enacted through the *Carbon Farming Initiative Amendment Act 2014*, legislative rules would specify how the Clean Energy Regulator would determine a facility's baseline. Legislative rules are legislative instruments made by the Minister for the Environment.

The safeguard amendment establishes civil penalties for non-compliance, with the maximum amount of the penalties to be set via regulations. Regulations are legislative instruments made by the Governor-General at a meeting of the Federal Executive Council.

The Department regularly provides advice to the Minister on areas for which it has portfolio responsibility, including the Emissions Reduction Fund.