

To: Northern Territory Environmental Protection Authority

**Re: Environmental Factor Guidance: Atmospheric Processes,
Greenhouse Gas**

13 July 2022

Introduction

AMEC appreciates the opportunity to provide this submission to the Northern Territory Environmental Protection Authority regarding the Environmental Factor Guidance: Atmospheric processes, greenhouse gas.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 500 member companies across Australia, with 30 companies invested in the Northern Territory. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2020/21 Industry generated a record high \$301 billion in mining exports, invested \$3.2 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$39.3 billion in royalties and taxes.

Guidance

General Comments

AMEC supports the intention of this document to increase the transparency of the Northern Territory Environmental Protection Authority (NT EPA)'s decision making processes. However, the drafting of this document does not currently achieve that outcome. The commentary below identifies key improvements that we consider will make it a more useful document for Industry.

Hierarchy of Documents

The inclusion of details in the table at the beginning of the Guidance, perhaps under the section 'Document versions', that clarifies that the document is not to be considered statutory guidance is needed. It is important that the Guidance details what its comparative priority is to the legislation. Doing so will remove future possibilities of ambiguity or legal challenge. AMEC considers that this document is non-statutory guidance, this should be made explicit.

The ambiguity of whether this Guidance is statutory or not creates uncertainty as to whether proponents are bound by the text. If a proponent is bound by the text, then the choice of language is crucial.

Decision making process intention

It is pleasing that this guidance seeks to be consistent with the 'Greenhouse Gas Emissions Management for New and Expanding Large Emitters' guidance published in September 2021 as per page 5.

Application of the Guideline: Thresholds

The Guidance lacks clarity on thresholds. The thresholds underpin the entire operation of the Guidance. This lack of clarity is a critical flaw that erodes the guidelines value and allows the NT EPA the ability to pick thresholds for any project that falls within its purview. This ambiguous discretion is not supported by any detail, making it difficult for proponent to ascertain how it will be applied.

AMEC is opposed to this discretion and requests that NT EPA adhere to the thresholds listed on page 8 and only consider these matters if the thresholds are exceeded.

Specifically this discretion appears twice in the Guidance, The second paragraph in subsection 5 includes the sentence "*if a proposed action does not meet the threshold identified in this document and a proponent is required to refer the proposed action*". As a result of being drawn under consideration by a different environmental factor, the project proponent can expect to have to provide a significant amount of information related to atmospheric processes, even though they have not triggered a threshold.

Section 6, on page 8, concludes "*These thresholds are provided as a guide to when a referral is required. A proponent should consider referring a proposed action if the emissions from a proposed action are below but close to the thresholds, and the NT EPA may decide to call-in a proposed action that has emissions below the guiding thresholds.*" There is a lack of detail as to what is "close" to the threshold, and what the decision making process is for the NT EPA to decide to call a matter in. This Guidance should, and does not, clarify this opaque process.

Furthermore, it would seem these two paragraphs extend beyond the legislated powers of the NT EPA and the legislative framework.

Commentary v Guidance?

The Guidance document includes a mix of guidance for proponents as how to satisfy the NT EPA's requirements (notwithstanding the ambiguity of the NT EPA's discretion) and the commentary. The purpose of the Section "Supporting Information- the NT emissions profile" appears to be purely commentary to state that the NT should reduce its GHG emissions. This is not guidance and does not aid a proponent seeking to satisfy the NT EPA's requirements. This section should be removed from the guidance as commentary will date quickly and it does not provide any guidance.

Section 7: Information required by the NT EPA

These two pages are crux of the document, and greater detail is required to support proponents satisfying the requirements of the NT EPA. Consideration should be given to outlining the required details, quantification of formatting, data types and presentation of the data, the level of analysis required and extend preferably to the provision of templates or "best practices", so that proponents can see what is anticipated.

The brevity of the NT EPA's Guidance means that what is listed are little more than touchstones that a proponent will have to factor into their consideration before meeting with NT EPA staff to get further clarification on what is actually sought. It would ultimately reduce the administrative burden of both the NT EPA and Industry if greater detail and examples were provided in a lengthier and more fulsome Guidance document.

Offset framework

Industry notes that the offset framework is referred to on page 12 (the final page) of the document. The Government's Offsets Framework Administrative Guidelines and Northern Territory Offsets Register need to be finalised. We ask that the NT EPA prioritise the development of these documents.

Formatting

The document includes a range of colours, such as text in red. It is unclear why some text is in red, and other parts are not in red. It would be preferable that the document is formatted consistently.

Final comments

This Guidance document provides leeway for the NT EPA to arbitrarily decide which projects are considered by failing to define clear thresholds and a clear process for what information is necessary to receive an NT EPA approval. A reading of the current draft would suggest that the NT EPA will manage each matter in an ad hoc manner. We ask that the Guidance be thoroughly revised and further detail provided.

For further information contact:

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