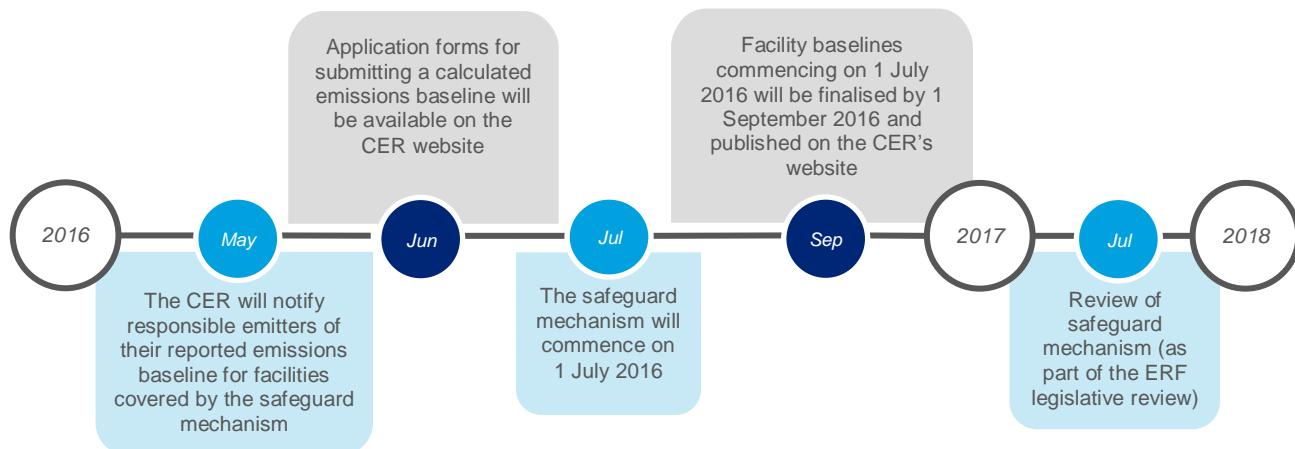


## The Safeguard Mechanism

### What these requirements mean for your business

The safeguard mechanism is set to commence on 1 July 2016. It is administered by the Clean Energy Regulator through the existing *National Greenhouse and Energy Reporting Act 2007* (NGER) and associated legislative instruments. The safeguard mechanism forms part of the Government's Emissions Reduction Fund<sup>1</sup> (ERF) and has been designed to manage Australia's emissions such that any emissions reductions purchased through the ERF are not displaced by increases elsewhere in our economy. Specifically, the safeguard mechanism seeks to impose limits on large greenhouse gas emitting facilities to ensure that net emissions are kept below a determined baseline.

-  Facilities with scope 1 covered emissions greater than **100,000 tCO<sub>2</sub>-e** will trigger the coverage threshold under the safeguard mechanism. Organisations with operational control over such facilities – responsible emitters – will be required to comply with the legislation.
-  Facilities covered by the safeguard mechanism will be required to keep **net scope 1 emissions** (i.e. direct emissions less eligible offsets) at or below determined facility baselines.



#### Know your baseline

Emissions baselines will set the maximum permissible scope 1 covered emissions for facilities. In most cases, the CER will determine a facility's reported emissions baseline using the highest level of scope 1 covered emissions historically reported under the NGER scheme during the 5 year baseline setting period (2009/10 – 2013/14). Where less than 5 years of historical NGER data is available, there are other approaches that can be used to determine a facility baseline. Where no emissions baseline determination is made, a default baseline of 100,000 tCO<sub>2</sub>-e will apply – the minimum level that a facility baseline can be.

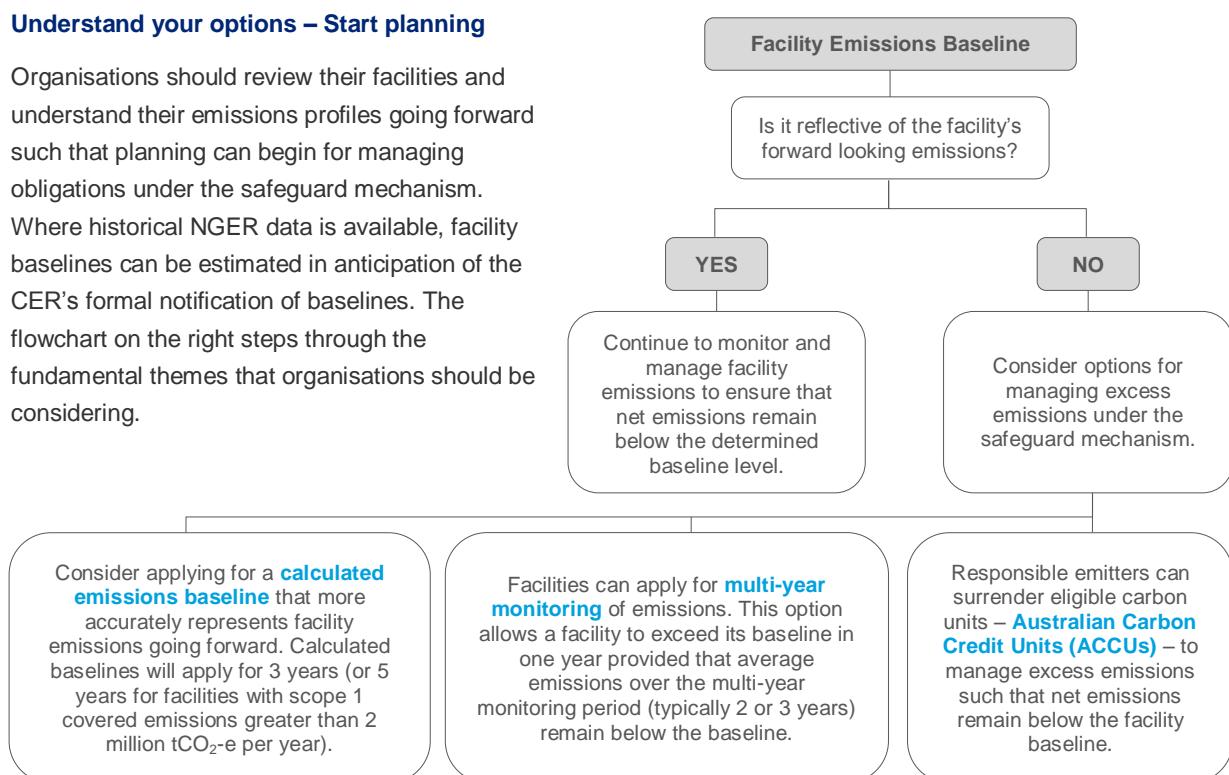
#### Sector specific matters

-  **Electricity generators.** A sectoral baseline of 198 million tCO<sub>2</sub>-e will apply to the electricity sector. Designated grid-connected electricity generation facilities under the NGER scheme will be captured by this sectoral baseline. Individual facility baselines will only apply if this sectoral baseline is exceeded by the sector.
-  **Transport.** Organisations that operate transport facilities across different states and territories can elect to 'opt-in' as a national transport facility. Baselines are determined using an aggregated approach based on historical NGER data for separate facilities.
-  **Landfills.** Only landfill emissions from waste deposited after 1 July 2016 (namely non-legacy emissions) will be covered by the safeguard mechanism.

<sup>1</sup> The Emission Reduction Fund is enacted through the *Carbon Credits (Carbon Farming Initiative) Act 2011*, the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* and the *Carbon Credits (Carbon Farming Initiative) Rule 2015*.

## Understand your options – Start planning

Organisations should review their facilities and understand their emissions profiles going forward such that planning can begin for managing obligations under the safeguard mechanism. Where historical NGER data is available, facility baselines can be estimated in anticipation of the CER's formal notification of baselines. The flowchart on the right steps through the fundamental themes that organisations should be considering.



## Calculated Emissions Baseline Determination

Responsible emitters have the opportunity to submit an application for a calculated emissions baseline where the CER's reported emissions baseline is not reflective of a facility's future emissions. This approach also applies to facilities where sufficient historical NGER data is not available. Calculated Emissions Baselines are determined using only forecast information – that is, the baseline setting year must be in the future and actual information cannot be used to influence the emissions baseline.

Based on individual facility circumstances, there are a number of applicable criteria under which facilities can apply for a calculated emissions baseline. When determining the most suitable criteria for calculating an emissions baseline, responsible emitters should assess their ability to comply with the selected criteria.

Key considerations before applying for a calculated baseline include:

- New facilities
- Major capital projects and expansions
- Variability of natural resources
- Planned operational shutdowns
- Production forecasts
- Business improvement projects
- Acquisitions and de-mergers

### Submission window

A key factor in applying for a calculated emissions baseline in respect of a facility is the timing at which the application is submitted. This timing determines which years can be used to estimate the calculated emissions baseline – the safeguard mechanism requires that only forecast information is used to calculate the emissions baseline.

STARTING DATE	APPLICATION WINDOW <small>Section 22(3) of the Safeguard Mechanism Rule</small>
Calculated baseline to apply from <b>1 July 2016</b>	1 July 2015 – 31 October 2017
Calculated baseline to apply from <b>1 July 2017</b>	1 July 2016 – 31 October 2018
Calculated baseline to apply from <b>1 July 2018</b>	1 July 2017 – 31 October 2019

Application forms for calculated emissions baselines will be available on the CER's website in June 2016. Importantly, each application must be accompanied by an **audit report** undertaken by a Registered Category 2 NGER auditor.

## Legislative enforcement

If a facility exceeds its determined emissions baseline in any financial year, the CER has at its discretion a number of graduated enforcement options which can be applied. As of 1 March in the year following an excess emissions situation (i.e. a facility has exceeded its baseline), the Regulator may consider enforcement options as appropriate for a facility, ranging from issuing an infringement notice through to a civil penalty which can be up to \$18,000 per day.

Notably, responsible emitters are required to rectify an excess emissions situation which occurs at a facility in order to comply with the safeguard mechanism.

In exceptional circumstances, such as natural disasters or criminal activity being the cause of increased emissions, **exemptions** would apply.

### What next?

In order to prepare for the safeguard mechanism, organisations should review their facilities to identify those likely to be covered under the mechanism.

If a facility is covered under the safeguard mechanism, organisations should:

- Consider the options available for managing individual facility obligations
- Ensure NGER reporting data, systems and record keeping practices are robust
- Review operational plans to understand the impact on future facility emissions.

### How Deloitte can help

Deloitte can assist organisations navigate the complexities of the legislation in preparation for complying with the safeguard mechanism.

We can:

- Provide strategic advice in relation to the legislative compliance options
- Support the application process for preparing a calculated emissions baseline
- Perform mandatory audits required over calculated emissions baseline applications as Registered Category 2 NGER auditors.

### Contact us

For more information or to discuss how we can assist you please contact:



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