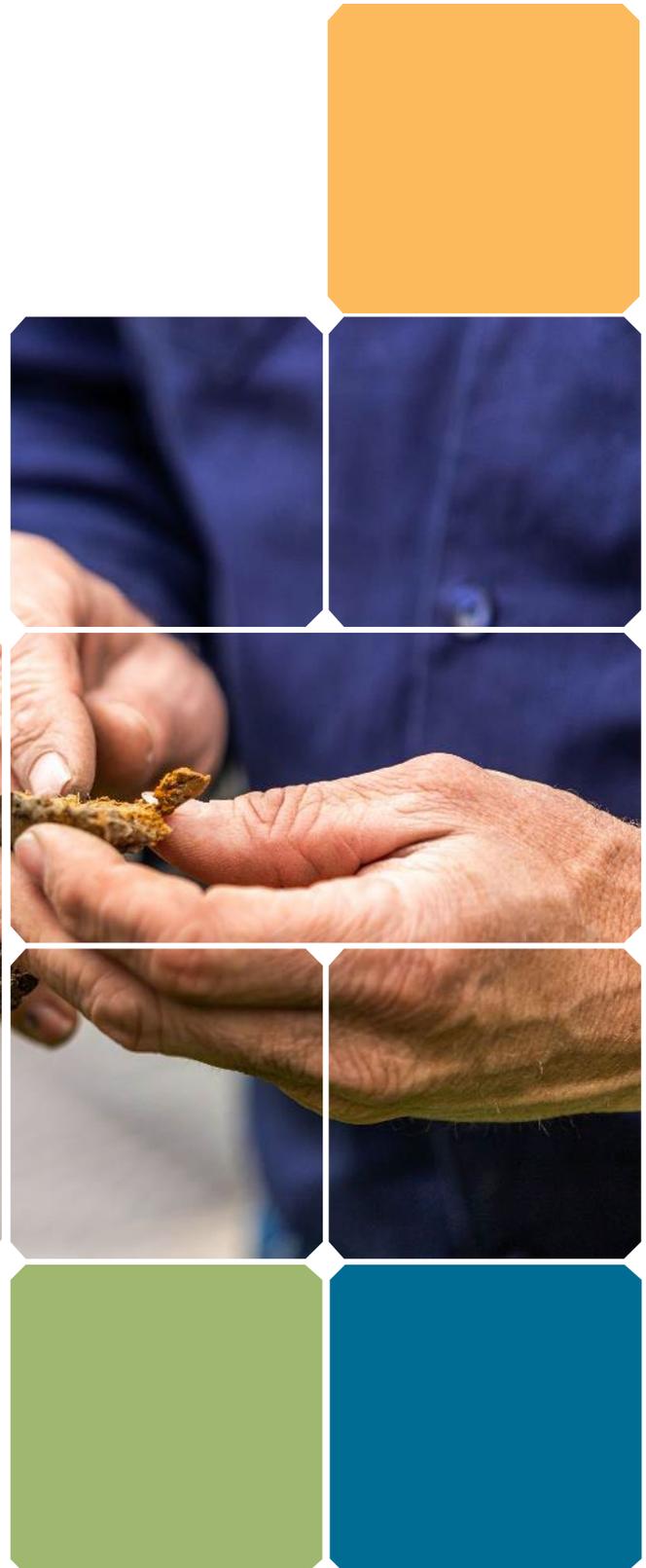
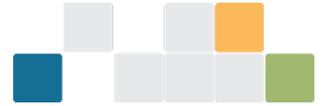




Safeguard Mechanism  
**Multi-year  
monitoring period  
application  
guideline**

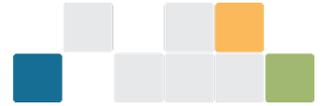
Version 1.0 – 20 October 2023





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## Disclaimer

This guidance has been developed by the Clean Energy Regulator (CER) to assist responsible emitters to apply for a multi-year monitoring period (MYMP) declaration under the [National Greenhouse and Energy Reporting \(Safeguard Mechanism\) Rule 2015](#)<sup>1</sup> (the Safeguard Rule). This guidance must be read in conjunction with the [National Greenhouse and Energy Reporting Act 2007](#)<sup>2</sup> (the NGER Act), Safeguard Rule and any other legislative instrument referenced in this document in their current form at the time of reading.

Changes to the legislation may affect the information in this document. It is intended that this document will be updated in light of any legislative changes or if further clarity on a particular issue is required.

The information contained in this document is provided as guidance only.

This document is general in nature and does not cover every situation that may arise in relation to MYMPs or the Safeguard Mechanism broadly.

Responsible emitters are responsible for determining their obligations under the Safeguard Rule, and the NGER Act and for applying the legislation to their individual circumstances. They should seek professional advice relevant to their particular circumstances if they have any concerns.

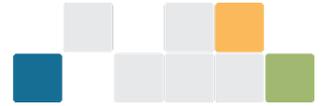
This document does not contain legal advice and is not a substitute for independent legal advice.

The CER and the Commonwealth of Australia will not be liable for any loss or damage from any cause (including negligence) whether arising directly, incidentally, or as consequential loss or damage, out of or in connection with, any use of this guideline or reliance on it, for any purpose.

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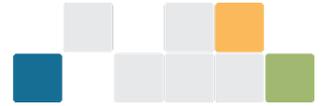
<sup>1</sup> <https://www.legislation.gov.au/Series/F2015L01637>

<sup>2</sup> <https://www.legislation.gov.au/Series/C2007A00175>

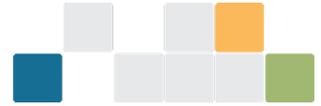


## Definitions and abbreviations

Term	Meaning
<b>Australian carbon credit unit (ACCU)</b>	Each ACCU represents one tonne of carbon dioxide equivalent (tCO <sub>2</sub> -e) emissions stored or avoided by an eligible offsets project.
<b>Borrowing adjustment</b>	<p>To help manage compliance obligations a facility can ‘borrow’ from its future baseline.</p> <p>The responsible emitter for a facility may borrow up to 10% of a facility’s baseline for a financial year with an adjustment made to the baseline for the following year that is initially 102% of the initial borrowing amount, increasing to 110% from 1 July 2026.</p>
<b>Covered emissions</b>	<p>Covered emissions are defined as scope 1 emissions, including direct emissions from fugitive emissions and emissions from fuel combustion, waste disposal and industrial process such as cement and steel making.</p> <p>Some scope 1 emissions are not covered by the Safeguard Mechanism such as emissions from landfills associated with pre 1 July 2016 waste and emissions associated with the generation of electricity at a designated generation facility that is connected to a designated electricity network.</p>
<b>Emissions-intensity (EI)</b>	Emissions-intensity for a production variable means the emissions released, in tCO <sub>2</sub> -e, per unit of the production variable; production variables are set out in Schedule 1 of the Safeguard Rule.
<b>Excess emissions situation</b>	Where the net emissions number for a facility for a financial year or MYMP exceeds the facility’s baseline emissions number for that financial year or MYMP.
<b>Executive officer (EO)</b>	<p>An executive officer is defined as a:</p> <ul style="list-style-type: none"><li>• Director</li><li>• Chief Executive Officer (however described)</li><li>• Chief Financial Officer (however described)</li><li>• Company Secretary.</li></ul>
<b>Facility</b>	<p>Under section 9 of the NGER Act, a facility is an activity, or a series of activities (including ancillary activities), that involves greenhouse gas emissions, the production of energy or the consumption of energy and that:</p> <ul style="list-style-type: none"><li>• form a single undertaking or enterprise and meet the requirements of the NGER Regulations, or</li><li>• are declared to be a facility under section 54, 54A or 54B of the NGER Act.</li></ul>

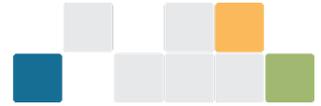


<b>Net emissions number</b>	The net emissions number for a facility for a period is the total amount of covered emissions in tCO <sub>2</sub> -e for the facility during the period <b>plus</b> any ACCU issued in relation to the facility during that period <b>minus</b> any ACCUs and/or SMCs surrendered for the facility for that period.
<b>NGER Report</b>	An NGER report is a submission of energy and emissions information required under the NGER Act.
<b>Operational control</b>	<p>A person is considered to have operational control over a facility if that person has authority to introduce and implement operating, health and safety, and/or environmental policies, or if the CER declares the person has operational control over the facility under section 55 or 55A of the NGER Act.</p> <p>If there is uncertainty about which person has operational control over a facility and the agency has not made a declaration under section 55 or 55A of the NGER Act, the person having operational control over the facility will be the one with the greatest authority to introduce and implement operating and environmental policies in relation to the facility.</p> <p>If among 2 or more persons neither has the greatest authority to introduce and implement operating and environmental policies in relation to a facility, and the agency has not made a declaration under section 55 or 55A of the NGER Act nor have those persons nominated one of themselves, each of those persons will be taken to have operational control over the facility.</p>
<b>Prescribed carbon unit</b>	For the purposes of the NGER Act a prescribed carbon unit means: <ul style="list-style-type: none"><li>• an Australian carbon credit unit, or</li><li>• a Safeguard mechanism credit unit.</li></ul>
<b>Production variable</b>	<p>A production variable is a metric that generally represent the productive output of the facility. In some cases, the output may be an intermediate product or waste product.</p> <p>Only production variables listed in Schedule 1 of the Safeguard Rule (previously known as ‘prescribed’ production variables listed in Schedule 2 and 3) can be used in an emissions-intensity determination application for financial years commencing on or after 1 July 2023.</p>



<p><b>Responsible Financial Officer (RFO)</b></p>	<p>A responsible financial officer, of a responsible emitter for a facility, means any of the following:</p> <ul style="list-style-type: none"> <li>• if the person with operational control of the facility is an individual—that person</li> <li>• a person who holds or performs the duties of the position of the chief executive officer, chief financial officer or chief operating officer for the person with operational control of the facility</li> <li>• a person who holds or performs the duties of a position with equivalent or similar responsibilities to a person with a position listed above, or</li> <li>• an individual employed by the person with operational control of the facility who: <ul style="list-style-type: none"> <li>» makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or affairs of the person, or</li> <li>» has the capacity to significantly affect the person’s financial standing.</li> </ul> </li> </ul>
<p><b>Responsible emitter</b></p>	<p>The person with operational control of a Safeguard facility. The responsible emitter is responsible for meeting the Safeguard Mechanism requirements if the facility exceeds its safeguard threshold for a financial year.</p> <p>The responsible emitter may be an individual, a body corporate, a trust, a corporation sole, a body politic or a local governing body.</p>
<p><b>Safeguard threshold</b></p>	<p>The number beyond which covered emissions produced by a facility in a financial year would cause it to be covered by the Safeguard Mechanism (100,000 tonnes of CO<sub>2</sub>-e in a financial year).</p>
<p><b>Safeguard mechanism credit unit (SMC)</b></p>	<p>SMCs are a type of credit that may be issued for each tonne of emissions (CO<sub>2</sub>-e) that a facility’s covered emissions are below its baseline. These credits can be surrendered to meet Safeguard compliance obligations, sold, or retained for future use.</p> <p>SMCs incentivise facilities to reduce their emissions when cost-effective emissions reduction opportunities exist. SMC generation creates a financial incentive for all facilities to reduce the emissions-intensity of their product, not just those facilities above their baseline.</p>
<p><b>Scope 1 emissions</b></p>	<p><u><a href="#">Scope 1 emissions</a></u><sup>3</sup> are emissions released into the atmosphere as a direct result of the activity or activities at a facility level such as fuel combustion for electricity generation or cement production.</p>

<sup>3</sup> <http://www.cleanenergyregulator.gov.au/NGER/About-the-National-Greenhouse-and-Energy-Reporting-scheme/Greenhouse-gases-and-energy#n2>



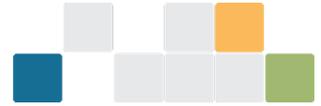
## Who is this guideline for?

This document provides guidelines about applying for an MYMP declaration under section 65 of the Safeguard Rule for a Safeguard facility that is in an excess emissions situation after 1 July 2023.

The Clean Energy Regulator (CER) recommends that parties involved in an MYMP declaration process consider this guideline document. In particular, this guideline is for:

- responsible emitters for Safeguard facilities including the responsible financial officer for the responsible emitter signing the application
- any other parties assisting a responsible emitter in preparing an application.

All references to legislative provisions in this guideline document relate to Safeguard Rule unless otherwise indicated.



## Part 1 Introduction

### 1.1 Overview of the 2023 Safeguard Mechanism reforms

The Safeguard Mechanism has been reformed following legislative changes and a consultation process undertaken by the Department of Climate Change, Energy, the Environment and Water. New obligations and reporting requirements apply to Safeguard facilities for financial years commencing on or after 1 July 2023.

The reformed Safeguard Mechanism scheme includes new baselines, flexible mechanisms to manage net emissions (including an MYMP declaration) and additional publication requirements. Baselines will decline each year in line with Australia's legislated commitments to reduce net greenhouse gas emissions by 43 percent below 2005 levels by 2030 and to achieve net-zero by 2050.

Safeguard facilities that exceed their annual baseline for financial years commencing on or after 1 July 2023 must manage their emissions before 1 April following the end of the relevant financial year by using the available options for managing excess emissions.

### 1.2 What is a multi-year monitoring period (MYMP)?

MYMPs can provide responsible emitters with time to implement emissions-intensity reduction activities to avoid an excess emissions situation. This may be particularly relevant where investment required to reduce in situ emissions will take time to implement.

The MYMP excess emissions management option previously available up until 30 June 2023 has been amended following reforms to the Safeguard Mechanism.

The amendments to the MYMP arrangements apply to MYMP declarations that result from applications submitted after 1 July 2023 and will apply to MYMPs that start in a financial year commencing on or after 1 July 2022.

To be eligible, the responsible emitter must demonstrate that it will conduct one or more activities to reduce the emissions-intensity of the facility's production variable(s), which is reasonably likely to reduce the facility's covered emissions during the MYMP below the facility's baseline emissions number for the MYMP.

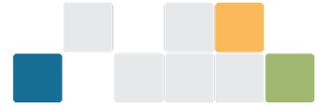
The responsible emitter can specify the length of the MYMP they are applying for (up to 5 years). All MYMPs must conclude by no later than 30 June 2030.

#### 1.1.1 Application requirements and CER decision making criteria

Applications for MYMPs must be received by the CER no later than the **15 November** immediately following the first financial year of the proposed MYMP.

A range of information needs to be provided in an application including:

- a declaration that the responsible emitter for the facility:
  - » **will** conduct an activity(s) during the MYMP to reduce the emissions-intensity of production variables for the facility, and
  - » as a result of conducting the activity(s) be **reasonably likely** to prevent an excess emissions situation from existing in relation to the facility for the MYMP.
- a plan setting out how the emissions-intensity reduction activity(s) is reasonably likely to reduce the net emissions number for the facility for the MYMP including:



- » a description and status of the activity(s)
- » implementation timeframes
- » expected facility covered emissions reductions
- » estimates of facility covered emissions and annual baseline emissions numbers
- » known risks and mitigation strategies.

The application must be signed by a [responsible financial officer](#) of the responsible emitter. By signing the application the responsible financial officer will be making the declaration noted above on behalf of the responsible emitter.

Therefore, to apply for an MYMP the responsible emitter needs to have a high degree of confidence that the activity(s) will be conducted during the MYMP and be successful in preventing an excess emissions situation. The responsible emitter also needs to be able to demonstrate and evidence the sufficient likelihood of the activity(s) being successful in the MYMP application.

If the CER approves an MYMP application, a summary of the plan provided in the application will be published on the CER website. At the conclusion of an MYMP, the responsible emitter has an obligation to provide a written explanation of the facility's performance against the plan.

**Prior to applying for an MYMP declaration, the responsible emitter should consider if the public release of the information will affect any of the company's current or future public reporting, information disclosure and or/other legal obligations.**

For further information see [Part 2.2.2 Application requirements](#), [Part 3 Detailed application requirements](#), [Part 4.2.3 Decision to make a multi-year monitoring period declaration](#).

### **1.1.2 MYMP variation and revocation**

Responsible emitters may apply to reduce or extend the duration of an approved MYMP (to a minimum of 2 years or a maximum of 5 years), or to revoke an MYMP.

Additionally, the CER may vary or revoke an MYMP declaration under certain circumstances, including if the CER is satisfied that the emissions-intensity reduction activity(s) described in the MYMP application are not, or cannot be implemented by the responsible emitter.

For further information see [Part 4.1 Variation and revocation to an MYMP](#).

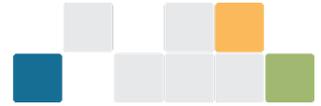
### **1.1.3 MYMPs and impact on SMCs and other emissions management options**

Note that:

- For a MYMP commencing on or after 1 July 2023, a facility may be eligible for SMCs at the conclusion of the multi-year monitoring period if facility's covered emissions are below its baseline emissions number.
- For a MYMP commencing before 1 July 2023, a facility **will not** be eligible for SMCs at the conclusion of a multi-year monitoring period.

Note that if an MYMP is approved, the responsible emitter will be unable to apply:

- for a determination that it is a trade-exposed baseline-adjusted facility, if the determination would commence in a year covered by the MYMP, or
- for a borrowing adjustment determination for any financial year covered by the MYMP.
- any borrowing adjustments made prior to approval of the MYMP which apply to a financial year covered by the MYMP must be revoked by the CER.



## Part 2 Application requirements

### 2.1 Eligibility and application deadlines

The responsible emitter for a facility can apply for an MYMP declaration, using [Online Services](#)<sup>4</sup>.

#### 2.1.1 Eligibility

The responsible emitter must be able to satisfy the CER that:

- the amount of covered emissions the facility has emitted, or is likely to emit, during the first financial year of the proposed MYMP exceeds the baseline emissions number for that financial year
- it will conduct one or more activity(s) to reduce the emissions-intensity of the facility's production variable(s)
- the emissions-intensity reduction activity(s) outlined in the plan **will** be conducted during the MYMP
- the planned activity(s) is **reasonably likely** to reduce the facility's net emissions number for the MYMP below the facility's baseline emissions number for the MYMP (that is, to prevent an excess emissions situation).

#### 2.1.2 Application deadlines

Applications must be received no later than the **15 November** immediately following the end of the first financial year of the proposed MYMP. For example, 15 November 2024 is the deadline for an MYMP proposed to commence on 1 July 2023.

### 2.2 Preparing and submitting the application

An application for an MYMP is submitted online by the responsible emitter for a facility. It must be signed by, or by a person authorised by, a responsible financial officer (RFO) for the responsible emitter and an executive officer for the responsible emitter. For more information on this requirement see [Part 2.24 Authorisation to submit an application](#).

#### 2.2.1 Accessing the application form

The application form is accessed through [Online Services](#).

An Online Services user with any of the access roles listed below linked to the responsible emitter will be able to prepare and edit a draft of the application form before it is submitted:

- NGER Contact Person
- NGER Executive Officer
- NGER Coordinator
- NGER Data Provider

For information on these roles and how to update user access and roles please see the [NGER Client Portal User Guide](#)<sup>5</sup>.

The application form can be saved at any point and a copy of the application form can be saved as a PDF and printed at any stage.

<sup>4</sup> <https://www.cleanenergyregulator.gov.au/OSR/client-portal-beta>

<sup>5</sup> <https://www.cleanenergyregulator.gov.au/OSR/CP/Pages/default.aspx>



## 2.2.2 Application requirements

A summary of the application requirements are listed in the following table while [Part 3 Detailed application requirements](#) provides further details on each application requirement.

### Summary of application requirements

The applicant is required to provide the following information in the online application form.

- Responsible emitter for the facility

The application will be pre-filled with responsible emitter details. If an applicant needs to change to a different responsible emitter, see [Part 3.2 Responsible emitter](#) for more information.

- Facility name

If a facility isn't listed, first check that the correct responsible emitter has been selected. Contact the CER if the relevant facility is not listed.

- First financial year for the MYMP to commence (for example, 2022-23)

- Duration of the MYMP (between 2 and 5 years)

- Covered emissions amount in the first financial year of the proposed MYMP (actual or estimated if actual amount is not yet calculated)

- Declaration

The application requires a declaration stating that the responsible emitter for the facility:

- » will conduct an activity(s) during the MYMP to reduce the emissions-intensity of production variables for the facility, and
- » as a result of conducting the activity(s), be reasonably likely to prevent an excess emissions situation from existing in relation to the facility for the MYMP.

- Detailed plan

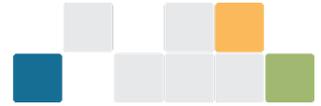
A detailed plan setting out how the activity(s) described in the declaration are reasonably likely to enable the responsible emitter to reduce the net emissions number for the facility for the MYMP to below the baseline emissions number. This must be uploaded as a document, or multiple of documents, in the application form (supported file types include .pdf, .doc, .docx or .xlsx). See [Part 4 Detailed plan requirements](#) for further information.

- A summary of the emissions-intensity reduction plan

If the MYMP is approved, this summary will be published on the CER website.

- Explanation of any risks that the facility will be in an excess emissions situation after the compliance deadline for the last year of the MYMP (see section 22XF of the NGER Act).

- Responsible financial officer signature



### 2.2.3 Submitting the application

Once all sections of the application are complete including attaching the detailed and summary plan documents along with any required supporting information and authorisations, a [responsible financial officer](#) (RFO) of the responsible emitter (or a person authorised by a responsible financial officer) who is also an executive officer of the responsible emitter (or a person authorised by an executive officer) is required to acknowledge and sign the declaration that, among other things, the information supplied is true and not misleading.

There are 2 options to sign and submit the application form:

- A responsible financial officer (or a person authorised by the responsible financial officer) for the responsible emitter with Online Services access can log in to [Online Services](#),<sup>6</sup> open a draft version of the application, review the application, then complete any outstanding fields, sign the declaration and submit the application directly.
- An Online Services user who holds a suitable access role for the responsible emitter can open the draft form and print a copy of the application. A responsible financial officer can then sign the form and the Online Services user can scan and attach the signed PDF to the online application form when submitting it as evidence of responsible financial officer signature.

If you are having difficulty accessing, completing or submitting the online form please contact the CER.

#### 2.2.3.1 Authorisation to submit the application and evidence of position

The person signing an MYMP application must be:

- a [responsible financial officer](#) of the applicant, as defined under section 4 of the Safeguard Rule, **or** a person authorised by the responsible financial officer, **and**
- an [executive officer](#) of the applicant as defined under section 7 the NGER Act, **or** a person authorised by an executive officer.

A person who holds the position of chief executive officer (however described) or chief financial officer (however described) of the responsible emitter meets the definition of both a responsible financial officer and an executive officer.

A person who holds the position of a Director or Secretary meets the definition of an executive officer and may meet the definition of a responsible financial officer if they:

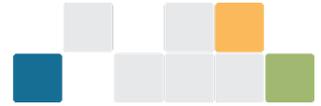
- make, or participate in making, decisions that affect the whole, or a substantial part, of the business or affairs of the responsible emitter, or
- have the capacity to significantly affect the responsible emitter's financial standing.

Evidence must be provided in the application to show that:

- the person signing the application meets the definition of a responsible financial officer under section 4 of the Safeguard Rule and, or has been authorised to sign the application by a responsible financial officer, and
- the person signing the application meets the definition of an executive officer under section 7 of the NGER Act, or has been authorised to sign the application by an executive officer.

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<sup>6</sup> <https://www.cleanenergyregulator.gov.au/OSR/client-portal-beta>



### Evidence of position

Evidence that the person signing the application meets the definition of a responsible financial officer and/or executive officer should include the person's position title(s) with the responsible emitter, and an explanation how that position meets the relevant definitions in the Safeguard Rule and/or NGER Act. This evidence may take the form of, for example, an excerpt of an organisational structure diagram and/or a written explanation of the person's role. In the case of a responsible financial officer, it may be relevant for this explanation to include the person's duties, responsibilities, role in decision making, and/or capacity to significantly affect the responsible emitter's financial standing.

### If the person signing the application has been authorised by a responsible financial officer and/or an executive officer

If the application is being signed by a person who is authorised by a RFO and/or executive officer, the form needs to be accompanied by evidence to demonstrate the RFO and/or executive officer has authorised the signatory to sign this application on their behalf. The application must also include evidence that the RFO and/or executive officer meets the definition of their role in the Safeguard Rule and/or NGER Act.

Evidence that an RFO and/or executive officer has authorised another person to sign the application may be in the form of an email or written document from the RFO and/or executive officer authorising the person to sign the application. The document must provide the following information:

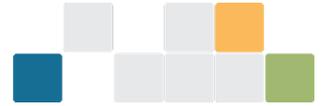
- first and last name and position of the responsible financial officer and/or executive officer
- first and last name and position of the authorised person
- name of the responsible emitter and facility for which the MYMP application is being lodged
- explicit authorisation from the responsible financial officer and/or executive officer to the authorised person to sign the MYMP application
- evidence confirming the responsible financial officer and/or executive officer meets the definition under the Safeguard Rule.

The online form contains an upload document section to provide relevant evidence.

#### Example of email to meet evidence requirements in the online form.

Dear [signatory's name]

In my power as the *chief financial officer* of [responsible emitter's name] I [responsible financial officer's full name] hereby authorise you, [signatory' full name], to sign a multi-year monitoring period application for [facility name] commencing on the financial year beginning on 1 July [first financial year applied for], on behalf of [responsible emitter's name].



## Part 3 Detailed application requirements

### 3.1 Responsible emitter

The application must be submitted by the current responsible emitter for the facility. The responsible emitter for a facility is the person (individual, body corporate, trust, corporation sole, body politic or local governing body) with [operational control](#)<sup>7</sup> of the facility.

The application form will be pre-filled with responsible emitter's details based on the organisation identified in the user and organisation profile icon in top right-hand corner of the Client Portal page. If an applicant needs to change to a different responsible emitter, click on the user profile icon and select 'Switch Organisations'. If the required responsible emitter doesn't appear, contact someone in the organisation that already has access, they can give access (see [NGER client portal user guide](#)<sup>8</sup> for more information).

If a responsible emitter is not already registered under the NGER Act, and it is not a controlling corporation, it must apply to register under section 15B of the NGER Act. For more information on how to identify the responsible emitter for a facility and apply for registration please see [Registration](#)<sup>9</sup>.

### 3.2 Facility

The application form will provide a list of safeguard facilities under the selected responsible emitter for the facility to choose from. If you need to make an application for a facility that is not listed, please contact the CER.

### 3.3 Financial year of commencement

The application must specify the first financial year for the MYMP to commence.

### 3.4 Duration of the MYMP

The application must specify the duration of the MYMP, which can be between two and five financial years. MYMPs cannot be made for a part of a financial year. However, more than one responsible emitter may be responsible for a facility throughout the duration of an MYMP.

An MYMP cannot have an end date later than 30 June 2030. For example, an MYMP that starts on 1 July 2026 can be up to four years long. It cannot be 5 years, as that would put the end date past 30 June 2030.

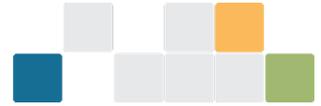
Responsible emitters may apply to reduce or extend the duration of an approved MYMP (to a minimum of 2 years or a maximum of 5 years), or to revoke an MYMP.

Note that the CER may also reduce the duration of an MYMP so that it ceases to be in force at the end of the current financial year, if satisfied that the responsible emitter is not implementing, or is unable to implement, the emissions intensity reduction plan and that the facility's covered emissions during the MYMP are likely to exceed its baseline emissions number for the MYMP.

<sup>7</sup> <https://www.cleanenergyregulator.gov.au/NGER/Reporting-cycle/Assess-your-obligations/Reporting-thresholds#n3-2>

<sup>8</sup> <https://www.cleanenergyregulator.gov.au/DocumentAssets/Pages/NGER-Client-Portal-User-Guide.aspx>

<sup>9</sup> <https://www.cleanenergyregulator.gov.au/NGER/Reporting-cycle/Register-and-deregister>



The CER may also revoke an MYMP if the application included false or misleading information, without which the MYMP would not have been declared.

See [Part 5.1 Variations and revocation to an MYMP](#) for more information.

### 3.5 Covered emissions

The application must specify the amount of covered emissions emitted, or reasonably likely to be emitted, from the operation of the facility during the first financial year of the proposed MYMP.

If the NGER report for the facility has been submitted, the amount of covered emissions from that report should be used. Otherwise provide an estimate of covered emissions reasonably likely to be emitted at the facility during the first financial year.

Note that before deciding whether to approve an MYMP application the CER must be satisfied that the facility's covered emissions for the first financial year of the proposed MYMP are greater than the facility's baseline emissions number for that financial year. When deciding if this criterion is satisfied, the CER can rely on the amount of covered emissions reported in an NGER report, even if that information was not available at the time the application was submitted.

### 3.6 Declaration

The application requires a declaration stating that the responsible emitter:

- **will** conduct an activity(s) to reduce the emissions-intensity of production variables for the facility, and
- as a result of conducting the activity(s), **be reasonably likely** to prevent an excess emissions situation from existing in relation to the facility for the MYMP.

The declaration is included in the application form in a 'tick-box' format.

The application needs to provide information and evidence substantiating the above declaration and this is provided in the detailed plan – see below.

The application must be signed by a [responsible financial officer](#) of the responsible emitter and in signing the application the responsible financial officer will be making the declaration noted above on behalf of the responsible emitter.

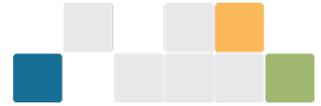
Therefore, to apply for an MYMP the responsible emitter must have a high degree of confidence that the activity(s) will be conducted during the MYMP and be successful in preventing an excess emissions situation.

### 3.7 Detailed plan requirements

#### 3.7.1 Overview

An MYMP application must include a detailed plan setting out how conducting the activity(s) is reasonably likely to enable the responsible emitter to reduce the net emissions number for the facility for the MYMP.

In deciding whether to approve an MYMP application, the CER must be satisfied that the plan is **likely** to reduce the facility's covered emissions below the facility's baseline emissions number for the MYMP (that is to avoid an excess emissions situation). For further information see [Part 4.2.3 Decision to make a multi-year monitoring period declaration](#).



The CER recommends that the detailed plan covers (at a minimum) each of the following matters:

- a description of the activity(s) including current status and evidence the activity(s) will be conducted during the MYMP
- the expected timeframe, including milestones, to deliver the activity(s)
- an explanation of how the planned activity(s) is reasonably likely to reduce the net emissions number for the facility during the MYMP
- estimates of the impact of the activity(s) on the emissions-intensity of the relevant production variable(s) and covered emissions for each financial year in the MYMP
- organisational capacity to deliver the activities in the specified timeframes
- activity(s) risks and mitigation measures.

**The obligation lies with the applicant to provide enough information and evidence to enable the CER to make an informed decision on the application.** Additional information is encouraged especially where aspects of the activity(s) and/or the emissions outcomes are not appropriately evidenced via the above points.

To assist in preparing the detailed plan see [Part 3.7.2 Recommended information and evidence to include in detailed plan](#), which describes the type of information and evidence required in further detail.

### **3.7.2 Recommended information and evidence to include in detailed plan**

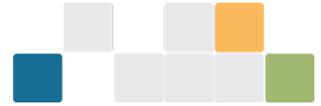
#### **3.7.2.1 Description of activity(s)**

The plan must include a description of each activity, how and when it will be implemented, the production variable(s) to which it is applicable, and the manner and estimated amount of the activity's impact on the emissions-intensity of the production variable and on the net emissions number for the facility during the MYMP.

The description should include the status of the activity(s), and evidence that the activity will be conducted during the MYMP. Note that the declaration being made in the application asserts that the responsible emitter **will conduct** an activity(s) during the MYMP to reduce the emissions-intensity of production variables for the facility. Therefore, the CER requires a high degree of confidence that the activity(s) will be conducted during the MYMP.

Examples of evidence demonstrating the activity(s) will be conducted during the MYMP includes, but is not limited to, evidence demonstrating that the responsible emitter has:

- made funding and/or planning commitment for the activity(s) to take place (for example, internal documents (or extracts of those documents) showing that the responsible emitter's decision-making body has approved the activity(s) to proceed)
- secured, or will secure, funding for the activity(s) (particularly evidence of any third-party funding that has been sought or secured). This may include Government funding for the activity(s) (for example, via Powering the Regions or the Clean Energy Finance Corporation)
- secured or progressed any required Government approvals
- entered into contractual agreements required to implement the activity(s)
- the ability to secure the required the workforce for the activity(s) and any related tasks/projects.



- secured or can secure the materials to enable the activity(s) to take place.

### 3.7.2.2 Timeline and milestones

The CER needs to be satisfied the activity(s) will reduce the facility's covered emissions below its baseline emissions number during the MYMP.

Therefore, the detailed plan should include timelines indicating when the activity(s) will be implemented. The timelines should provide a high-level overview of the timing and duration of each milestone required to be actioned to set up and conduct the activity(s).

An application should provide evidence, such as an approved project plan and/or project schedule, to support the timeline and planned date the activity(s) will be operational.

Note the CER may reduce the duration of an MYMP so that it ceases to be in force at the end of the current financial year, if satisfied that the activity(s) contained in the plan are not being implemented and the facility's covered emissions are likely to exceed its baseline emissions number for the MYMP. For more see [Part 4.1.2 Variation by the CER](#).

### 3.7.2.3 Relevant estimates

The detailed plan should include estimates of the following figures for each financial year of the MYMP:

- the amount of covered emissions from the facility
- the annual baseline emissions number for the facility
- the impact of each activity on the emissions-intensity and covered emissions of each relevant production variable.

The detailed plan should also explain how the estimates were prepared, including:

- a summary of the material assumptions that provide a reasonable basis for all forecasts,
- a description of any calculations that were used to develop the forecasts
- evidence of the reasonableness of the forecasts (for example, excerpts from capital plans/engineering reports from which the forecasts have been derived).

The estimates should take into account any expected changes resulting from implementation of the activity(s) such as changes to production.

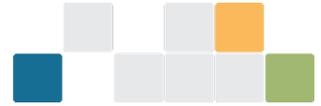
This information can be provided in a spreadsheet or within the detailed plan document.

The CER will use the estimate data to assess whether the plan is reasonably likely to reduce the amount of the facility's covered emissions below the facility's baseline emissions number for the MYMP.

The estimates should clearly show the financial year during which the aggregate covered emissions for the MYMP are expected to first fall below the baseline emissions number for the MYMP period.

If an applicant has a range of estimates under different scenarios with different underlying assumptions, each set of estimates should be provided with an explanation of why the estimate value selected was chosen over other values.

If there is a large range in the estimate values and/or a high degree of uncertainty associated with the forecasts, timing, or predicted effectiveness of the activity(s) in reducing emissions intensity and covered



emissions, then the plan should include an explanation of why an excess emissions situation is nonetheless likely to be prevented because of conducting the activity(s) during the MYMP.

Calculations and modelling used to derive the forecasts should be transparent, repeatable and based on internal standard procedures where available. If the applicant has previously applied for a calculated baseline for the facility, covered emissions estimates should be prepared in a consistent manner unless an alternate method can be justified.

Forecasts of covered emissions, production variable quantities, and emissions-intensity values must be calculated in accordance with the relevant methods specified in the NGER legislation. This includes the specific requirements for attributing covered emissions to production variables under the Safeguard Rule.

Note that if an MYMP application is submitted before approval of an emissions-intensity determination for an existing facility, the estimate of the annual baseline emissions numbers for the facility should be supported with evidence to substantiate the facility-specific emissions-intensity value used as part of the calculation of the annual baseline emissions number. This evidence should include the calculations made to determine the facility-specific emissions-intensity value for each production variable.

Also, note that when preparing annual baseline number estimates for an existing facility where an activity is planned to reduce the amount of covered emissions by moving to a higher order method of reporting the emissions source in the relevant NGER report, the CER can vary the facility-specific emissions-intensity value for the relevant production variable in an emissions-intensity determination to reflect the change in covered emissions resulting from the move to a higher order method.

#### **3.7.2.4 Organisational capacity**

The detailed plan should include information demonstrating the responsible emitter has the capacity to implement the activity(s) at the facility within the timeframe required to ensure that the facility is reasonably likely to reduce the amount of the facility's covered emissions below its baseline emissions number for the MYMP.

This should include information on the applicant's:

- resources (financial and personnel), including relevant expertise and qualifications of personnel
- experience in delivery of activities/projects of a similar scale
- access to necessary equipment and technology.

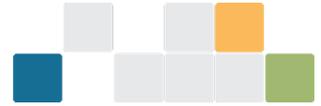
#### **3.7.2.5 Risks and mitigation strategy**

The detailed plan should provide information on all risks the responsible emitter is aware of that may result in the activity(s) not being implemented, or being delayed such that the amount of the facility's covered emissions reductions are not adequate to avoid an excess emissions situation on conclusion of the MYMP.

Risks may include (but are not limited to):

- activity(s) risks – which may cause the activity(s) to not be implemented
- timeline risks – which could impact whether the activity(s) is completed on time
- performance risks – which could cause the activity(s) to not meet the forecast covered emissions reductions.

The information provided should include a brief description of each risk, the likelihood and severity of each risk, how the responsible emitter plans to mitigate the risk, and the expected outcome of the mitigation activities.



**Note:** The applicant is also required to provide an explanation of all risks the responsible emitter is aware of that may cause the responsible emitter to breach section 22XF of the NGER Act. For further information see [Part 3.8 Explanation of risks of breaching section 22XF of the NGER Act](#).

### 3.7.3 Plan Summary

The application must include a summary of the detailed plan. If the application is approved, the CER is required to publish this summary on its website.

**Prior to applying for an MYMP declaration, the responsible emitter should consider if the public release of the information will affect any of the company's current or future public reporting, information disclosure and or/other legal obligations.**

The plan summary should include the following:

- a description of the activity(s) and how they will reduce the facility's net emissions
- financial year(s) the activity(s) is expected to start
- the expected net emissions amount for the MYMP, if the activity(s) proceed as planned, including the financial year in which the amount of the facility's covered emissions is expected to be below the baseline emissions number.

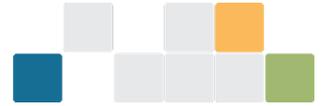
The summary should be no more than 1,000 words.

## 3.8 Explanation of risks of breaching section 22XF of the NGER Act

Under section 22XF of the NGER Act, a responsible emitter for the facility has an obligation to ensure the facility is not in an excess emissions situation after the conclusion of the MYMP. The relevant date by which an excess emissions situation must not exist for an MYMP in force on, or commencing on or after 1 July 2023 is the first 1 April following the end of the MYMP.

The MYMP application must identify whether the responsible emitter is aware of any risks that they will breach section 22XF of the NGER Act at the end of the MYMP, if declared. The application should also include an explanation of how the responsible emitter proposes to mitigate each risk.

The application form allows these risks to be provided in text, via an attached file or as part of the detailed plan.



## Part 4 Other matters

### 4.1 Variations and revocation to an MYMP

#### 4.1.1 Variation and revocation by the responsible emitter

Once an MYMP declaration has been approved by the CER, the responsible emitter may apply to vary the MYMP to extend or reduce the length of the MYMP (between the minimum of 2 and the maximum of 5 years' total duration for the MYMP), or revoke the MYMP.

An application must include reasons for the proposed variation or revocation and, if the variation would affect the length of a monitoring period for any person other than the applicant, include the written consent of that person. The CER will assess the application and either make the requested variation or revocation, or supply written notice of a decision not to grant the request.

Please contact the CER if you wish to apply for an MYMP variation or revocation.

#### 4.1.2 Variation by the CER

The CER may unilaterally reduce the duration of an MYMP if satisfied that:

- the responsible emitter is not implementing, or is unable to implement, the emissions-intensity reduction plan
- the amount of the facility's covered emissions is likely to exceed its baseline emissions number for the MYMP.

A variation for this reason will result in the MYMP ceasing to be in force at the end of the financial year in which the CER becomes satisfied of the two matters noted above.

As noted above, the CER expects the summary plan published on the CER website contains sufficient information to enable identification of what financial year the activity(s) will commence, the expected emissions reductions, and in what financial year the amount of the facility's covered emissions is expected to be below the baseline emissions number.

If the CER is considering varying an MYMP, the CER will provide a notice of intent to the responsible emitter, which will include an opportunity for the responsible emitter for the facility to comment prior to the finalisation of this decision.

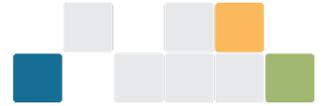
While not mandatory, it is recommended that a responsible emitter notify the CER if there are changes to the planned activity(s) at a facility with an MYMP, including timeframes, where as a result of the changes the facility's covered emissions are likely to exceed its baseline emissions number for the MYMP.

#### 4.1.3 Revocation by the CER

The CER may unilaterally revoke an MYMP if any material contained in the application or otherwise provided to the CER in connection with the making of an MYMP declaration included false or misleading information, without which the declaration would not have been approved.

This includes the content of estimates, figures or any other supporting information in the detailed plan or summary plan.

If the CER is considering revoking an MYMP on this basis, the CER will provide a notice of intent to the responsible emitter, which will include an opportunity for comment by the responsible emitter prior to the finalisation of this decision.



## 4.2 Processing, decision-making and publication

### 4.2.1 Application receipt and processing timeframes

On receipt of the application, the CER will then check the application to ensure that it is complete. If the application is not complete, the CER may give the responsible emitter a notice to provide further information, so that a formal assessment of the application can begin (See [Part 5.2.2 Requests for further information](#)).

Once the application is complete, CER will take all reasonable steps to ensure a decision is made by the later of:

- 31 January after the end of the first financial year of the proposed MYMP, or
- 60 days after the applicant provides information in accordance with a request for further information (see below).

Note that a responsible emitter may, by written notice to CER, withdraw an application at any time before a decision is made on the application.

### 4.2.2 Requests for further information

If additional information is required at any point to inform the decision-making process, the CER may request more information. The request may be made through an informal request or, if the information required is substantial, through a more formal request made under section 66 of the Safeguard Rule. The request will specify the period in which the information must be provided and – this is typically within 14 days.

If the requested information is not provided within the specified period, CER may refuse to consider the application or refuse to take any action, or any further action, in relation to the application.

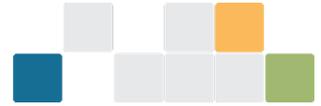
### 4.2.3 Decision to make a multi-year monitoring period declaration

If the CER is satisfied the facility's covered emissions for the proposed first financial year of the MYMP are greater than the facility's baseline emissions number for that financial year, the CER may make a declaration having regard to the following matters:

- whether the responsible emitter has previously been in an excess emissions situation after the compliance deadline specified under section 22XF of the NGER Act
- whether the CER considers that there is a significant risk the responsible emitter will be in an excess emissions situation after the compliance deadline specified under section 22XF of the NGER Act after the end of the MYMP
- whether the CER considers that the responsible emitter is likely to experience financial stress in, or immediately after, the MYMP
- whether the CER considers that the plan is **likely** to reduce facility's covered emissions below its baseline emissions number for the MYMP
- any other matters the Regulator considers relevant including whether the information included in the application is correct.

If the CER decides to declare the MYMP, the responsible emitter will be notified by email shortly after the decision has been made. The notification will include the following details of the declaration:

- the first financial year in which the MYMP will commence
- duration of the MYMP.



The notification will also explain what information about the MYMP will be published on CER's website (see below).

#### **4.2.4 Decision to refuse to make a multi-year monitoring period declaration**

Before deciding to refuse to make an MYMP declaration, the CER will notify the responsible emitter of its intention and provide reasons for the proposed decision. The responsible emitter will have an opportunity to respond to the proposed reasons. If CER subsequently decides to refuse to make an MYMP declaration, it will provide written notice of the decision to the responsible emitter.

#### **4.2.5 Review rights**

A person whose interests are affected by a decision of CER to make, or refuse to make, an MYMP declaration and is not satisfied with the decision may apply to the Administrative Appeals Tribunal for review of the decision.

CER will notify the responsible emitter of their review rights when making a decision (refer to section 56 of the NGER Act for more details).

#### **4.2.6 Publication of details of the determination**

The CER is required under section 67(5)(b) of the Safeguard Rule to publish the details of the MYMP declaration on its website. Details of the MYMP declaration will be published as soon as practical to do so and will include the following information:

- the type of declaration
- the facility name
- the responsible emitter for the facility
- the start and end date of the declaration
- the plan summary provided by the responsible emitter in the MYMP application.

If the MYMP declaration is varied or revoked, details of the variation will also be published.

The CER must also publish a range of information about facilities under section 72 of the Safeguard Rule, including the annual baseline emissions number, covered emissions, and information on units issued or surrendered under the scheme.

##### **4.2.6.1 Request not to publish details of an MYMP declaration**

Under specific circumstances responsible emitters can apply under section 25 of the NGER Act to request some details of an MYMP declaration not be published.

A request can only be made in relation to information which reveals or could be capable of revealing:

- trade secrets, or
- any other matter having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed about a specific facility, technology or corporate initiative relating to the corporation or person.

In assessing an application, CER will consider whether the applicant has demonstrated that there are real and substantial grounds to find that publishing the information will (or could reasonably) reveal a trade secret or affect the commercial value of a specific facility, technology, or corporate initiative. Grounds that are speculative, hypothetical, or theoretical will not be sufficient.



For more information about how to make a request for information not to be published see [application for information not to be published](#)<sup>10</sup>.

#### **4.2.7 After the conclusion of the MYMP**

By the first 31 October after the end of the final financial year of the MYMP, the responsible emitter for the facility must submit a statement explaining how the facility performed against the plan provided in the application. This statement will be published on the CER website.

This statement should include:

- an explanation of any variations from the activity(s), timeframes, and other details described in the detailed plan
- a description of the actual emissions-intensity reductions compared to forecasts provided in the application
- an explanation of the resulting impact on the amount of the facility's covered emissions
- an explanation of whether the net emissions number for the facility for the multi-year period was reduced by the amount forecast in the plan, and if not, why that is the case
- if relevant – an explanation as to why the amount of the facility's covered emissions exceeded its baseline emissions number on conclusion of the MYMP.

The summary should be no more than 1,000 words.

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<sup>10</sup> <https://www.cleanenergyregulator.gov.au/NGER/Forms-and-resources/Forms#Application-for-information-not-to-be-published>