

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination Variation 2014 (No.1)

Purpose

The *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination Variation 2014 (No.1)* (the **Variation**) amends the *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination 2013* (the **Engineered Biodigesters Determination**). The amendment ensures that the Engineered Biodigesters Determination applies to offsets projects involving engineered biodigesters that were replaced or installed at a conventional piggery before 1 July 2010.

Legislative provisions

The Engineered Biodigesters Determination is made under subsection 106(1) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act).

The Variation amends the Engineered Biodigesters Determination. It is made under subsection 114(1) of the Act which empowers the Minister to vary, by legislative instrument, a methodology determination.

Background

The Act enables the crediting of greenhouse gas abatement in the land sector. Greenhouse gas abatement is achieved either by reducing or avoiding emissions or by removing carbon from the atmosphere and storing it in soil or trees.

Carbon sequestration and emissions reduction activities are undertaken as offsets projects. The process involved in establishing an offsets project is set out in Part 3 of the Act. An offsets project must be covered by, and undertaken in accordance with, a methodology determination.

The purpose of a methodology determination is to establish procedures for estimating abatement (emissions reductions and sequestration) and project rules for monitoring, record keeping and reporting on abatement.

The Engineered Biodigesters Determination sets out the detailed rules for implementing and monitoring an agricultural emissions avoidance project under the Carbon Farming Initiative (CFI) to reduce methane generated from manure in conventional piggeries.

The abatement activity involves the capture and combustion of biogas that would otherwise be released into the atmosphere, by directing piggery manure into an engineered biodigester. The abatement activity requires the installation and operation of engineered biodigesters, and gas capture and combustion equipment, which are to be used instead of a conventional

manure lagoon system. Under the Engineered Biodigesters Determination the engineered biodigesters must be installed after 1 July 2010.

On 19 April 2013 a proposal to vary the Engineered Biodigesters Determination was submitted.

A varied determination must meet the offsets integrity standards set out in section 133 of the Act and the other eligibility criteria set out in section 114 of the Act. The Minister cannot vary a methodology determination unless the Domestic Offsets Integrity Committee (DOIC) has endorsed the proposal for the variation under section 120 of the Act.

On 20 June 2013 the DOIC decided not to endorse the variation proposal, and the reasons for the DOIC's decision were published on the Department's website. The proponent appealed the DOIC's decision to the Administrative Appeals Tribunal (the AAT). On 24 January 2014 the AAT set aside the DOIC's decision and substituted a decision endorsing the variation proposal.

Operation

The Variation amends section 2.3 of the Engineered Biodigesters Determination by removing the requirement that engineered biodigesters must be installed after 1 July 2010.

Public consultation

The methodology proposal on which the Engineered Biodigesters Determination is based was developed jointly by the Department and Sunpork Commercial Piggeries Pty Ltd.

The methodology proposal was published on the Department's website for public consultation from 2 May 2012 to 11 June 2012. Stakeholders and members of the public who asked to be listed on the mailing list maintained by the Department were notified of the public consultation period. No public submissions relating to the proposal were received.

The variation proposal was developed by Charles IFE Pty Ltd and published on the Department's website.

The variation proposal was endorsed by the AAT on 24 January 2014. The AAT's decision was published on the Department's website.

Determination details

The Variation is a legislative instrument within the meaning of the *Legislative Instruments Act 2003*.

The Variation commences when it is made.

Details of the Variation are at [Attachment A](#).

A Statement of Compatibility prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011* is at [Attachment B](#).

Details of the Variation

1. Name

Section 1 provides that the name of the Variation is the *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination Variation 2014 (No.1)*.

2. Commencement

Section 2 provides that the Variation commences when it is made.

Subsection 12(2) of the *Legislative Instruments Act 2003* provides that, for a legislative instrument to have effect before the date it is registered on the Federal Register of Legislative Instruments, it must not operate so as to affect the rights of a person in a way that would disadvantage the person as at the date of registration.

The Variation is consistent with these requirements. Retrospective application confers a benefit in that it allows persons to apply for and generate ACCUs in circumstances where they would not normally be eligible to apply.

3. Authority

Section 3 provides that the Variation is made under subsection 114(1) of the Act.

4. Amendment of *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination 2013*

Section 4 provides that Schedule 1 of the Variation amends the *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination 2013*.

Schedule 1 Amendments

[1] Section 2.3

Item [1] amends section 2.3 of the Engineered Biodigesters Determination by repealing the section and substituting a revised section. This ensures that the Engineered Biodigesters Determination applies to offsets projects involving engineered biodigesters that were replaced or installed at a conventional piggery before 1 July 2010.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination Variation 2014 (No.1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination Variation 2014 (No.1)* (the **Variation**) amends the *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Biodigesters) Methodology Determination 2013* (the **Engineered Biodigesters Determination**).

The Variation ensures that the Engineered Biodigesters Determination applies to offsets projects involving engineered biodigesters that were replaced or installed at a conventional piggery before 1 July 2010.

The Engineered Biodigesters Determination sets out the detailed rules for implementing and monitoring projects under the Carbon Farming Initiative (CFI) to reduce the methane generated from manure in conventional piggeries by directing manure to an engineered biodigester.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Greg Hunt, Minister for the Environment