

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for the Environment

*Carbon Credits (Carbon Farming Initiative) Act 2011*

*Carbon Credits (Carbon Farming Initiative—Superseded Methodology Determinations—Revocation and Transitional Provisions) Instrument 2015*

### **Purpose**

The *Carbon Credits (Carbon Farming Initiative—Superseded Methodology Determinations—Revocation and Transitional Provisions) Instrument 2015* (the **Revocation Instrument**) revokes 16 methodology determinations made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) before the commencement of the *Carbon Farming Initiative Amendment Act 2014* (the Amendment Act).

The determinations that are being revoked have been superseded by subsequent determinations. There is no change in the scope of activities that are covered by determinations made under the Act due to the revocation of these 16 determinations.

The determinations are being revoked to reduce duplication, reduce the risk of confusion over which determination should be used for a given type of project activity, and avoid uncertainty about the correct interpretation of parts of these determinations that will be inconsistent with the legislation after 1 July 2015 following changes made by the Amendment Act and associated changes to regulations and legislative rules.

### **Legislative provisions**

The methodology determinations to be revoked were made under subsection 106(1) of the Act.

The determinations are being revoked under subsection 123(1) of the Act, as set out in section 3 of the revocation instrument.

### **Background**

The Act enables the crediting of greenhouse gas abatement from emissions reduction activities across the economy. Emissions reduction activities are activities that reduce or avoid emissions, or remove carbon from the atmosphere and store it in soil or trees.

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 reduction and sequestration) from eligible projects and rules for

monitoring, record keeping and reporting. The methodologies ensure that emissions reductions are genuine—that they are both real and additional to business as usual.

In 2014, the Australian Parliament passed the Amendment Act, which establishes the Emissions Reduction Fund (ERF) and makes a number of other changes, including amending the criteria for assessing which emissions reduction activities are eligible to receive credits under the Act.

Further information on the ERF and the Amendment Act is available on the Department of the Environment website at: [www.environment.gov.au/emissions-reduction-fund](http://www.environment.gov.au/emissions-reduction-fund).

Of the methodology determinations made before the passage of the Amendment Act, 16 have now been superseded by newer determinations that cover the same project activities.

Three of the 16 superseded determinations relied on the CFI Reforestation Modelling Tool (RMT). The government has decided that given the availability and accessibility of Full Carbon Accounting Model (FullCAM) there is no longer a need to continue to update the earlier RMT model, and it is appropriate to revoke these three RMT determinations. One determination that relies on the RMT, the *Carbon Credits (Carbon Farming Initiative) (Human Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*, will be transitioned to the ERF because of material differences in the project activities covered by that determination and those covered under alternative determinations that rely on FullCAM.

The 16 superseded determinations will be revoked by the Revocation Instrument. In deciding to revoke a methodology determination the Minister has had regard to the advice of the Emissions Reduction Assurance Committee (ERAC), an independent expert panel established to advise the Minister on proposals for methodology determinations and whether the revoked determinations comply with the offsets integrity standards.

### **Impact on existing projects**

Existing projects are not affected by the Revocation Instrument. Even after a determination has been revoked, an eligible offsets project already registered can continue to use the determination in the form it was at the time the project was registered under section 127 of the Act.

New offsets projects that apply to be registered after 1 July 2015 will not be able to register under determinations that have been revoked.

ERF transitional applications made before 1 July 2015 to apply any of the revoked methodologies will also be able to rely on the revoked methodology determination as their applicable methodology determination under section 6 of the Revocation Instrument in the same manner as projects that rely on section 127.

### **Operation**

Section 5 of the Revocation Instrument revokes the following methodology determinations:

1. *Carbon Credits (Carbon Farming Initiative) (Avoided Deforestation) Methodology Determination 2013;*

2. *Carbon Credits (Carbon Farming Initiative) (Avoided Emissions from Diverting Legacy Waste from Landfill for Process Engineered Fuel Manufacture) Methodology Determination 2012;*
3. *Carbon Credits (Carbon Farming Initiative) (Avoided Emissions from Diverting Legacy Waste through a Composting Alternative Waste Technology) Methodology Determination 2013;*
4. *Carbon Credits (Carbon Farming Initiative) (Capture and Combustion of Methane in Landfill Gas from Legacy Waste: Upgrade projects) Methodology Determination 2012;*
5. *Carbon Credits (Carbon Farming Initiative) (Diversion of Legacy Waste to an Alternative Waste Treatment Facility) Methodology Determination 2013;*
6. *Carbon Credits (Carbon Farming Initiative) (Enclosed Mechanical Processing and Composting Alternative Waste Treatment) Methodology Determination 2013;*
7. *Carbon Credits (Carbon Farming Initiative) (Human Induced Regeneration of a Permanent Even-Aged Native Forest) Methodology Determination 2013;*
8. *Carbon Credits (Carbon Farming Initiative) (Quantifying Carbon Sequestration by Permanent Mallee Plantings using the Reforestation Modelling Tool) Methodology Determination 2013;*
9. *Carbon Credits (Carbon Farming Initiative) (Reduction of Greenhouse Gas Emissions through Early Dry Season Savanna Burning—1.1) Methodology Determination 2013;*
10. *Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation) Methodology Determination 2013;*
11. *Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.1) Methodology Determination 2013;*
12. *Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.2) Methodology Determination 2013;*
13. *Carbon Farming (Capture and Combustion of Methane in Landfill Gas from Legacy Waste) Methodology Determination 2012;*
14. *Carbon Farming (Destruction of Methane Generated from Manure in Piggeries) Methodology Determination 2012;*
15. *Carbon Farming (Quantifying Carbon Sequestration by Permanent Environmental Plantings of Native Species using the CFI Reforestation Modelling Tool) Methodology Determination 2012;*

16. *Carbon Farming (Reduction of Greenhouse Gas Emissions through Early Dry Season Savanna Burning) Methodology 2012.*

Section 2 of the Revocation Instrument provides that these revocations take effect from 1 July 2015.

### **Transitional provision for applications not decided at time of revocation**

Section 6 ensures that if an application is made to the Clean Energy Regulator to register a project as an eligible offset project before 1 July 2015, when the relevant determination is revoked, the determination will continue to apply in relation to that project as though it had not been revoked. This is consistent with the intent of the transitional provisions in items 382 and 398 of Schedule 1 to the Amendment Act and section 127 of the Act.

Under subitem 382(2) of Schedule 1 to the Amendment Act, if any person makes an application to have a project declared an eligible offsets project before 1 July 2015 and the project is covered by a methodology determination as it was in December 2014 they are considered to make an 'ERF transitional application'.

Item 389 of Schedule 1 to the Amendment Act states amongst other things that in assessing ERF transitional applications, the Regulator must use the additionality test contained in paragraph 27(4)(d) and section 41 of the Act as in force in December 2014, not the additionality test inserted by the Amendment Act.

As some of the ERF transitional applications may not be decided until after 1 July 2015 when the 16 determinations will have been revoked, section 6 of Revocation Instrument clarifies that the relevant determination will continue to apply to an eligible offsets project as though it had not been revoked, until project proponents apply to move to a current methodology determination under section 128 and 130 of the Act, and that application is approved by the Regulator. This means the Regulator will only need to assess the consistency of these projects with the original methodology determinations when making decisions after 1 July 2015.

### **Public consultation**

The Revocation Instrument has been developed by the Department of the Environment in consultation with the Clean Energy Regulator. The exposure draft of the Revocation Instrument was published on the Department's website for public consultation from 19 May 2015 to 02 June 2015. One submission directly addressed the revocations.

### **Determination details**

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

The Revocation Instrument commences on 1 July 2015.

The Revocation Instrument, including its transitional provision, will sunset according to the ordinary rules in the *Legislative Instruments Act 2003*.

A list of determinations being revoked and the determinations that will cover the relevant project activities after 1 July 2015 is at Attachment A.

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

**Coverage of project activities by CFI determinations after commencement of the  
Revocation Instrument**

<b>CFI Determination to be revoked from 1 July 2015</b>	<b>Determination covering relevant project activities after 1 July 2015</b>
1. Carbon Credits (Carbon Farming Initiative) (Avoided Deforestation) Methodology Determination 2013	Carbon Credits (Carbon Farming Initiative—Avoided Deforestation 1.1) Methodology Determination 2015
2. Carbon Credits (Carbon Farming Initiative) (Avoided Emissions from Diverting Legacy Waste from Landfill for Process Engineered Fuel Manufacture) Methodology Determination 2012	Carbon Credits (Carbon Farming Initiative—Alternative Waste Treatment) Methodology Determination 2015
3. Carbon Credits (Carbon Farming Initiative) (Avoided Emissions from Diverting Legacy Waste through a Composting Alternative Waste Technology) Methodology Determination 2013	Carbon Credits (Carbon Farming Initiative—Alternative Waste Treatment) Methodology Determination 2015
4. Carbon Credits (Carbon Farming Initiative) (Capture and Combustion of Methane in Landfill Gas from Legacy Waste: Upgrade projects) Methodology Determination 2012	Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015
5. Carbon Credits (Carbon Farming Initiative) (Diversion of Legacy Waste to an Alternative Waste Treatment Facility) Methodology Determination 2013	Carbon Credits (Carbon Farming Initiative—Alternative Waste Treatment) Methodology Determination 2015
6. Carbon Credits (Carbon Farming Initiative) (Enclosed Mechanical Processing and Composting Alternative Waste Treatment) Methodology Determination 2013	Carbon Credits (Carbon Farming Initiative—Alternative Waste Treatment) Methodology Determination 2015

<p>7. Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest) Methodology Determination 2013</p>	<p>Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013</p> <p>Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013</p>
<p>8. Carbon Credits (Carbon Farming Initiative) (Quantifying Carbon Sequestration by Permanent Mallee Plantings using the Reforestation Modelling Tool) Methodology Determination 2013</p>	<p>Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014</p>
<p>9. Carbon Credits (Carbon Farming Initiative) (Reduction of Greenhouse Gas Emissions through Early Dry Season Savanna Burning—1.1) Methodology Determination 2013</p>	<p>Carbon Credits (Carbon Farming Initiative – Emissions Abatement through Savanna Fire Management) Methodology Determination 2015</p>
<p>10. Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation) Methodology Determination 2013</p>	<p>Carbon Credits (Carbon Farming Initiative—Reforestation and Afforestation 2.0 Methodology Determination 2015</p>
<p>11. Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.1) Methodology Determination 2013</p>	<p>Carbon Credits (Carbon Farming Initiative—Reforestation and Afforestation 2.0) Methodology Determination 2015</p>
<p>12. Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.2) Methodology Determination 2013</p>	<p>Carbon Credits (Carbon Farming Initiative—Reforestation and Afforestation 2.0 Methodology Determination 2015</p>
<p>13. Carbon Farming (Capture and Combustion of Methane in Landfill Gas from Legacy Waste) Methodology Determination 2012</p>	<p>Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015</p>
<p>14. Carbon Farming (Destruction of Methane Generated from Manure in Piggeries) Methodology Determination 2012</p>	<p>Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries-1.1) Methodology Determination 2013</p>

<p>15. Carbon Farming (Quantifying Carbon Sequestration by Permanent Environmental Plantings of Native Species using the CFI Reforestation Modelling Tool) Methodology Determination 2012</p>	<p>Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014</p>
<p>16. Carbon Farming (Reduction of Greenhouse Gas Emissions through Early Dry Season Savanna Burning) Methodology</p>	<p>Carbon Credits (Carbon Farming Initiative – Emissions Abatement through Savanna Fire Management) Methodology Determination 2015</p>



## **Statement of Compatibility with Human Rights**

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

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—Superseded Methodology Determinations—Revocation and Transitional Provisions) Instrument 2015* revokes 16 methodology determinations made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) before the commencement of the *Carbon Farming Initiative Amendment Act 2014*.

The determinations that are being revoked have been superseded by subsequent determinations. There is no change in the scope of activities that are covered by determinations made under the Act due to the revocation of these 16 determinations. The legislative instrument reduces duplication and confusion over which rules should govern the crediting of emissions reduction from certain types of projects.

### **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**