

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

*Carbon Credits (Carbon Farming Initiative—Emissions Reduction Fund) Methodology
Determination Variation 2015*

Purpose

The *Carbon Credits (Carbon Farming Initiative—Emissions Reduction Fund) Methodology Determination Variation 2015* (the **Variation**) amends ten 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 amendments are of a minor nature. They are primarily to ensure that the methodology determinations continue to operate as originally intended in light of the changes made by the Amendment Act, and that there are no unintended consequences for eligible offsets projects wanting to apply the determinations. Other amendments are made to ensure that a factor that is a function of the global warming potential of methane continues to be correct in light of amendments to the *National Greenhouse and Energy Regulations 2008* (NGER Regulations).

The amendments will not affect projects that are already registered and using existing methods. Even after a determination has been varied, 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 126 of the Act.

The Variation also makes a minor amendment to the *Carbon Credits (Carbon Farming Initiative – Domestic, Commercial and Industrial Wastewater) Methodology Determination 2015* consequential to recent changes to the NGER Regulations.

Legislative provisions

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

The Variation is made under subsection 114(1) of the Act which empowers the Minister to vary, by legislative instrument, a methodology determination. Subsection 114(9) also applied to this Variation because the variations are of a minor nature.

Background

The Act enables the crediting of greenhouse gas abatement from emissions reduction activities across the economy. 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.

In 2014, the Australian Parliament passed the Amendment Act, which establishes the Emissions Reduction Fund (ERF). The ERF has three elements: crediting emissions reductions, purchasing emissions reductions, and safeguarding emissions reductions.

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.

Subsection 106(1) of the Act empowers the Minister to make, by legislative instrument, 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. These methodologies will ensure that emissions reductions are genuine—that they are both real and additional to business as usual.

In deciding to make a methodology determination the Minister must have 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.

Subsection 114(9) allows the Minister to make variations of a minor nature to determinations, without seeking advice from the ERAC. In making variations of a minor nature the Minister must have regard to whether the varied determination complies with the offsets integrity standards, which are set out in section 133 of the Act. The Minister must also consider any adverse environmental, economic or social impacts likely to arise as a result of projects to which the determination applies.

Offsets projects that are undertaken in accordance with a methodology determination and approved by the Clean Energy Regulator (the Regulator) can generate Australian carbon credit units (ACCUs), representing emissions reductions from the project.

Project proponents can receive funding from the ERF by submitting their projects into a competitive auction run by the Regulator. The Government will enter into contracts with successful proponents, which will guarantee the price and payment for the future delivery of emissions reductions.

Further information on the ERF is available on the Department of the Environment website at:

www.environment.gov.au/emissions-reduction-fund.

Impact of the Variation on existing and new projects

The Variation will not affect projects that are already registered and using existing methodology determinations. Even after a determination has been varied, 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 126 of the Act. The project proponent may also choose to apply to the Regulator for approval to move to the varied determination under section 128 of the Act.

If an application is made to the Clean Energy Regulator to register a project as an eligible offset project before 1 July 2015, and the project is covered by a methodology determination as it was in December 2014, the application can be assessed as an ‘ERF transitional application’, consistent with the transitional provisions in items 382 and 389 of Schedule 1 to the Amendment Act.

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 provided by the Amendment Act.

Item 389 of Schedule 1 to the Amendment Act also states that for ERF transitional applications, the Regulator must use the provisions governing the timing of commencement of the project in paragraph 27 (15) and 27(16) of the Act as in force in December 2014. Consistent with the intent of these transitional provisions in the Amendment Act, the Variation ensures that ERF transitional applications can access the backdating provisions in the relevant determinations as in force before 1 July 2015.

However, the amended Act and any variation to the methodology determinations applies to other elements of the decision to declare a project as an eligible offset project. For instance, an ERF transitional application made before 1 July 2015 but decided on or after 1 July 2015 will apply the methodology determinations as varied by this instrument rather than the original methodology determinations. The minor nature of the amendments means this should not be an issue for such projects or otherwise impede their declaration. This result will avoid the need for such projects to apply to move to the updated determinations after approval.

The Regulator will assess applications made on or after 1 July 2015 to register a project as an eligible offsets project under the new legislation, regulations and rules, and the relevant varied methodology determinations. The Variation clarifies that the newness requirements in section 27(4)(A)(a) of the Amendment Act apply to applications received on or after 1 July 2015, and these new projects will not be able to access the backdating provisions previously available under CFI determinations.

Operation

The Variation amends the following methodology determinations to ensure consistency with the terminology and provisions of the amended Act:

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Dairy Manure in Covered Anaerobic Ponds) Methodology Determination 2012

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

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries—1.1) Methodology Determination 2013

Carbon Credits (Carbon Farming Initiative) (Reducing Greenhouse Gas Emissions by Feeding Dietary Additives to Milking Cows) Methodology Determination 2013

Carbon Credits (Carbon Farming Initiative) (Reducing Greenhouse Gas Emissions by Feeding Nitrates to Beef Cattle) Methodology Determination 2014

Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013

Carbon Credits (Carbon Farming Initiative) (Measurement Based Methods for New Farm Forestry Plantations) Methodology Determination 2014

Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014

Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014

Carbon Credits (Carbon Farming Initiative – Domestic, Commercial and Industrial Wastewater) Methodology Determination 2015

Public consultation

The Variation has been developed by the Department of the Environment in consultation with the Clean Energy Regulator. The exposure draft of the Variation was published on the Department's website for public consultation from 19 May 2015 to 02 June 2015. The Variation incorporates comments received during that consultation.

Determination details

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

The Variation commences on 1 July 2015.

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—Emissions Reduction Fund) Methodology Determination Variation 2015*.

2. Commencement

Section 2 provides that the Variation commences on 1 July 2015. Accordingly, the variation will take effect from 1 July 2015 for the purpose of paragraph 115(b) of the Act.

However, the amendments will not affect projects that are already registered and using existing methodology determinations. Even after a determination has been varied, 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 126 of the Act.

Project proponents with existing projects may also choose to adopt the varied methodology determination by making an application under section 128 of the Act to apply the varied determination to their project.

All applications for new eligible offsets projects after 1 July 2015 will need to apply the methodology determination as varied by this instrument.

3. Authority

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

4. Amendment of methodology determinations

Section 4 provides that Schedule 1 of the Variation varies the methodology determinations referred to in the Schedule.

Schedule 1 Amendments of methodology determinations

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Dairy Manure in Covered Anaerobic Ponds) Methodology Determination 2012

[1] After section 1.2

Item [1] inserts a new section 1.2A into the determination consistent with the standard duration clause in new methodology determinations under the Emissions Reduction Fund. This section ensures that the determination expires in accordance with section 122 of the Act and that section 125 will operate to continue the operation of the determination and associated crediting for existing projects after that expiry.

[2] Section 1.3

Item [2] inserts the requirement that the project ‘could reasonably be expected to result in eligible carbon abatement’ consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

[3] Section 1.4 (definition of *DGAS Calculator*)

Item [3] repeals the definition of DGAS Calculator and replaces it with a definition which reflects how similar calculator tools are being referred to in new determinations under the Emissions Reduction Fund. The definition makes clear the limited circumstances when the version of the calculator tool that can be used under the determination will be updated, such as changes in the National Inventory Report. This should provide greater certainty to project proponents that the version of the calculator tool that can be used under the determination will not be updated in an arbitrary manner and disadvantage their projects. A link to the calculator is available on the Department’s website: www.environment.gov.au.

[4] Section 1.4 (definition of *DGAS Manual*)

Item [4] repeals the definition of DGAS Manual and replaces it with a definition which references the new definition of the DGAS Calculator inserted at item [3].

[5] Section 1.4 (definition of *Effluent and Manure Management Database*)

Item [5] repeals the definition of Effluent and Manure Management Database and replaces with a definition similar to that used for other tools referred to in new determinations under the Emissions Reduction Fund. The definition makes clear the limited circumstances when the version of the database that can be used under the determination will be updated, such as changes in the National Inventory Report. This should provide greater certainty to project proponents that the version of the database that can be used under the determination will not be updated in an arbitrary manner and disadvantage their projects. A link to the database is available on the Department’s website: www.environment.gov.au.

[6] Section 1.4 (National Inventory Report)

Item [6] inserts into the determination the definition of National Inventory Report previously provided for in the Act. The definition was repealed from the Act by the Amendment Act, but it is needed for the operation of the determination.

[7] Section 1.4 (note at the end of the section)

Item [7] repeals a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[8] Subsection 3.1(3)

Item [8] amends the general clause of the determination that determines which externally referenced values, such as global warming potentials, to use in an offsets report. Consistent

with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[9] After subsection 3.1(4)

Item [9] inserts a requirement that the use of the DGAS Calculator and Effluent and Manure Management Database must be in accordance with any guidelines relating to the use of those tools to calculate abatement under the determination that are published on the Department's website at the relevant time.

This is to enable the Department to update the version of the DGAS Calculator and Effluent Manure Management Database that can be used under the determination, and ensure any updated versions are used in a manner that supports the operation of the determination and is consistent with the Act, legislative rules and regulations. For instance, an update to the calculator may allow previously fixed parameters to be changed in a manner that is not consistent with the calculation of eligible carbon abatement under the methodology.

[10] Subsection 3.3(1)

Item [10] removes a redundant reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[11] Subsection 3.12(2)

Item [11] removes a blank paragraph (c) from the determination and remakes paragraphs (a) and (b) in their current form.

[12] Paragraph 4.9(1)(b)

Item [12] repeals a redundant reference to an audit report accompanying an offsets report. Under the Emissions Reduction Fund, audits are only required for some offsets reports in accordance with the legislative rules.

[13] After section 4.9

Item [13] inserts a new Division 4.4 into the determination to effectively provide for partial reporting under section 77A of the Act. The new requirement ensures that the division of the overall project must not be incompatible with the calculation of the carbon dioxide equivalent net abatement amount for a project for a reporting period under this determination. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane from Piggeries using Engineered Bi digesters) Methodology Determination 2013

[14] After section 1.2

Item [14] inserts a new section 1.2A into the determination consistent with the standard duration clause in new methodology determinations under the Emissions Reduction Fund. This section ensures that the determination expires in accordance with section 122 of the Act and that section 125 will operate to continue the operation of the determination and associated crediting for existing projects after that expiry.

[15] Section 1.3 (definition of Effluent and Manure Management Database)

Item [15] repeals the definition of Effluent and Manure Management Database and replaces with a definition similar to that used for other tools referred to in new determinations under the Emissions Reduction Fund. The definition makes clear the limited circumstances when the version of the database that can be used under the determination will be updated, such as changes in the National Inventory Report. This should provide greater certainty to project proponents that the version of the database that can be used under the determination will not be updated in an arbitrary manner and disadvantage their projects. A link to the database is available on the Department's website: www.environment.gov.au.

[16] Section 1.3 (GWP_{N2O})

Item [16] inserts a definition of the global warming potential of nitrous oxide into the determination that is consistent with the NGER Regulations.

[17] Section 1.3 (definition of *PigBal* model)

Item [17] repeals the definition of the *PigBal* model and replaces it with a definition which reflects how similar calculator tools are being referred to in new determinations under the Emissions Reduction Fund. The definition makes clear the limited circumstances when the version of the calculator tool that can be used under the determination will be updated, such as changes in the National Inventory Report. This should provide greater certainty to project proponents that the version of the calculator tool that can be used under the determination will not be updated in an arbitrary manner and disadvantage their projects. A link to the model is available on the Department's website: www.environment.gov.au.

[18] Section 1.3 (note at the end of the section)

Item [18] repeals a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[19] Paragraph 1.4(b)

Item [19] inserts the requirement that the project ‘could reasonably be expected to result in eligible carbon abatement’ consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act and remakes the current paragraph (b).

[20] Part 2 (note under heading)

Item [20] repeals a note referring to regulations.

[21] Part 3 (note under heading)

Item [21] repeals a note referring to regulations.

[22] Section 4.2 (note)

Item [22] repeals a note referring to sections of the Act which were repealed by the Amendment Act.

[23] Paragraph 4.6(1)(d)

Item [23] remakes the current section 4.6 with two amendments. First, it amends the general clause of the determination at paragraph (d) that determines which externally referenced values, such as global warming potentials, to use in an offsets report. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

Second, it inserts a requirement in new paragraph (e) that the use of the PigBal model and Effluent and Manure Management Database must be in accordance with any guidelines relating to the use of those tools to calculate abatement under the determination that are published on the Department’s website at the relevant time.

This is to enable the Department to update the version of the PigBal and Effluent Manure Management Database that can be used under the determination, and ensure any updated versions are used in a manner that supports the operation of the determination and is consistent with the Act, legislative rules and regulations. For instance, an update to the PigBal model may allow previously fixed parameters to be changed in a manner that is not consistent with the calculation of eligible carbon abatement under the methodology.

[24] Subsection 4.20(3) (definition of EF_{LF})

Item [24] replaces the definition of the emissions factor for the decay of digestate at landfill with a definition that is expressed in terms of the global warming potential of methane. This ensures that the emissions factor will be continue to be correct in light of recent changes to the NGER Regulations and if the global warming potential of methane prescribed in the NGER Regulations changes in the future.

[25] Paragraph 5.13(2)(c)

Item [25] repeals a redundant reference to an audit report accompanying an offsets report. Under the Emissions Reduction Fund, audits are only required for some offsets reports in accordance with the legislative rules.

[26] After section 5.13

Item [26] inserts a new Division 5.6 into the determination to effectively provide for partial reporting under section 77A of the Act. The new requirement ensures that the division of the overall project must not be incompatible with the calculation of the carbon dioxide equivalent net abatement amount for a project for a reporting period under this determination. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries—1.1) Methodology Determination 2013

[27] After section 1.2

Item [27] inserts a new section 1.2A into the determination consistent with the standard duration clause in new methodology determinations under the Emissions Reduction Fund. This section ensures that the determination expires in accordance with section 122 of the Act and that section 125 will operate to continue the operation of the determination and associated crediting for existing projects after that expiry.

Item [28] Section 1.3 (definition of *PigBal* model)

Item [28] repeals the definition of the PigBal model and replaces it with a definition that reflects how similar calculator tools are being referred to in new determinations under the Emissions Reduction Fund. The definition makes clear the limited circumstances when the version of the calculator tool that can be used under the determination will be updated, such as changes in the National Inventory Report. This should provide greater certainty to project proponents that the version of the calculator tool that can be used under the determination will not be updated in an arbitrary manner and disadvantage their projects. A link to the model is available on the Department's website: www.environment.gov.au.

[29] Section 1.3 (notes at the end of the section)

Item [29] repeals two notes, one of which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[30] At the end of section 1.4

Item [30] inserts the requirement that the project 'could reasonably be expected to result in eligible carbon abatement' consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

[31] Section 2.3

Item [31] omits the words ‘that, on or after 1 July 2007, has equipment installed’ and substitutes ‘and involve the installation of equipment’ to reflect that offsets projects under the Act now need to meet the newness requirement in subsection 27(4A) of the Act.

[32] Subsection 2.4(2)

Item [32] clarifies that:

- for projects that applied to the Clean Energy Regulator to be registered as eligible offsets projects prior to 1 July 2015, project equipment can not include upgrades, replacement or modifications of equipment installed ‘prior to 1 July 2007’.
- for projects that applied to the Clean Energy Regulator to be registered as eligible offsets projects on or after 1 July 2015, project equipment can not include project equipment can not include upgrades, replacement or modifications of equipment installed prior to declaration of the project. This is to clarify that these projects are required to comply with the newness requirement in subsection 27(4A) of the Act.

[33] Heading to Part 3 (note)

Item [33] removes a reference to the regulations.

[34] Paragraph 4.2(c) and (d)

Item [34] remakes paragraphs 4.2(c) and (d) with two amendments. First, it amends the general clause of the determination that determines which externally referenced values, such as global warming potentials, to use in an offsets report. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

Second, it inserts a requirement that the use of the PigBal model must be in accordance with any guidelines relating to the use of those tools to calculate abatement under the determination that are published on the Department’s website at the relevant time.

This is to enable the Department to update the version of the PigBal that can be used under the determination, and ensure any updated versions are used in a manner that is supports the operation of the determination and is consistent with the Act, legislative rules and regulations. For instance, an update to the PigBal model may allow previously fixed parameters to be changed in a manner that is not consistent with the calculation of eligible carbon abatement under the methodology.

[35] Subsection 4.3(1)

Item [35] removes a redundant reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[36] Subsection 4.10(1) (definition of $Q_{\text{biogas,h}}$)

Item [36] inserts the term “standard” to clarify that the calculation should reflect the volume of biogas sent to combustion device h adjusted to standard conditions.

[37] Subsection 4.16(2) (definition of E_{elec})

Item [37] removes a reference to “landfill” in the definition of E_{elec} to clarify that the definition relates to the electricity used to operated the gas extraction system.

[38] Paragraph 5.12(2)(b)

Item [38] repeals a redundant reference to an audit report accompanying an offsets report. Under the Emissions Reduction Fund, audits are only required for some offsets reports in accordance with the legislative rules.

Item [38] also inserts a requirement that pig numbers be reported in the first offsets report. Division 4.3 of the determination already requires that data on pig numbers in each class be measured and recorded.

[39] Paragraph 5.13(2)(b)

Item [39] repeals a redundant reference to an audit report accompanying an offsets report. Under the Emissions Reduction Fund, audits are only required for some offsets reports in accordance with the legislative rules.

Item [39] also inserts a requirement that pig numbers be reported in subsequent offsets reports. Division 4.3 of the Determination already requires that data on pig numbers in each class be measured and recorded.

[40] After section 5.13

Item [40] inserts a new Division 5.5 into the determination to effectively provide for partial reporting under section 77A of the Act. The new requirement ensures that the division of the overall project must not be incompatible with the calculation of the carbon dioxide equivalent net abatement amount for a project for a reporting period under this determination. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Reducing Greenhouse Gas Emissions by Feeding Dietary Additives to Milking Cows) Methodology Determination 2013

[41] After section 1.2

Item [41] inserts a new section 1.2A into the determination consistent with the standard duration clause in new methodology determinations under the Emissions Reduction Fund.

This section ensures that the determination expires in accordance with section 122 of the Act and that section 125 will operate to continue the operation of the determination and associated crediting for existing projects after that expiry.

[42] Section 1.3 (definition of *carbon dioxide equivalent (CO₂-e)*)

Item [42] repeals the definition of carbon dioxide equivalent as the term is now defined in the Act.

[43] Section 1.3 (definition of *Dietary Fats Calculator*)

Item [43] repeals the definition of Dietary Fats Calculator and replaces it with a definition which reflects how similar calculator tools are being referred to in new determinations under the Emissions Reduction Fund. The definition makes clear the limited circumstances when the version of the calculator tool that can be used under the determination will be updated, such as changes in the global warming potential of greenhouse gases or changes in the National Inventory Report. This should provide greater certainty to project proponents that the version of the calculator tool that can be used under the determination will not be updated in an arbitrary manner and disadvantage their projects. The calculator is available on the Department's website: www.environment.gov.au.

[44] Section 1.3 (National Inventory Report)

Item [44] amends the definition of National Inventory Report in the determination so that it is consistent with the definition that was in the Act. The definition was repealed from the Act by the Amendment Act, but it is needed for the operation of the determination.

[45] Section 1.3 (note at the end of the section)

Item [45] repeals a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[46] Section 1.4 (note)

Item [46] removes a reference to a redundant regulation.

[47] Section 1.4

Item [47] inserts the requirement that the project 'could reasonably be expected to result in eligible carbon abatement' consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

[48] Heading to Part 3 (note)

Item [48] removes a reference to a regulation that is expected to be transferred to the legislative rules.

[49] Subsection 4.5(1)

Item [49] removes a redundant reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[50] Division 5.4 (note)

Item [50] repeals a redundant note.

[51] After section 5.11

Item [51] inserts a new Division 5.5 into the determination to effectively provide for partial reporting under section 77A of the Act. The new requirement ensures that the division of the overall project must not be incompatible with the calculation of the carbon dioxide equivalent net abatement amount for a project for a reporting period under this determination. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Reducing Greenhouse Gas Emissions by Feeding Nitrates to Beef Cattle) Methodology Determination 2014

[52] Section 1.3 (definition of carbon dioxide equivalent (CO₂-e))

Item [52] repeals the definition of carbon dioxide equivalent which is now provided for by the Act and inserts a definition of carbon dioxide equivalence with reference to the NGER Regulations to ensure that references to that term in the determination work as intended.

[53] Section 1.3 (National Inventory Report)

Item [53] amends the definition of National Inventory Report in the determination so that it is consistent with the definition that was in the Act. The definition was repealed from the Act by the Amendment Act, but it is needed for the operation of the determination.

[54] Section 1.3 (note at the end of the section)

Item [54] repeals a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[55] Section 1.4 (note)

Item [55] amends a note to remove a reference to a regulation that is expected to be repealed in the near future.

[56] At the end of section 1.4

Item [56] inserts the requirement that the project ‘could reasonably be expected to result in eligible carbon abatement’ consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

[57] Heading to Part 3 (note)

Item [57] removes a reference to a regulation that is expected to be transferred to the legislative rules.

[58] Subsection 4.5(1)

Item [58] removes a redundant reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[59] Heading to Division 5.4 (note)

Item [59] removes a note that references a repealed regulation.

[60] After section 5.11

Item [60] inserts a new Division 5.5 into the determination to effectively provide for partial reporting under section 77A of the Act. The new requirement ensures that the division of the overall project must not be incompatible with the calculation of the carbon dioxide equivalent net abatement amount for a project for a reporting period under this determination. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013

[61] Section 1.3 (definition of *conservation land*)

Item [61] repeals the definition of conservation land, and substitutes a new definition that is the same as the definition in the Regulations.

[62] Section 1.3 (definition of *forest*)

Item [62] repeals the definition of forest, and substitutes a definition that is consistent with the definition in the Regulations.

[63] Section 1.3

Item [63] inserts a definition of native forest, which is now not defined in the Act, to ensure the references to that term in the determination work as intended. The definition of native forest being inserted is the same as the definition that was repealed by the Amendment Act.

[64] Section 1.3 (at the end of the definition of *project commencement*)

Item [64] adds a new note at the end of the definition of project commencement to clarify that the obligations regarding newness in subsection 27(4A) of the Act apply to any eligible offsets project which apply to the Clean Energy Regulator after 30 June 2015, notwithstanding any dates relating to project commencement in the determination.

[65] Section 1.3 (definition of *tree*)

Item [65] repeals the definition of tree and substitutes a definition that is the same as the definition in the Regulations.

[66] Section 1.3 (note at the end of the section)

Item [66] repeals a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[67] Section 1.4 (note)

Item [67] removes a redundant reference in a note.

[68] Subsection 1.4(1)

Item [68] removes a reference in the determination to projects that commence on or after 1 July 2007. The purpose of this is to clarify that the newness obligations in subsection 27(4A) of the Act apply to eligible offsets projects which apply to the Clean Energy Regulator after 1 July 2015.

Item [68] also inserts the requirement that the project ‘could reasonably be expected to result in eligible carbon abatement’ consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

[69] Section 2.1 (note)

Item [69] removes a redundant note.

[70] Heading to Part 3 (note)

Item [70] removes references to regulations that have either been repealed or are expected to be moved to the legislative rules.

[71] Section 4.2

Item [71] amends the general clause of the determination that determines which externally referenced values, such as global warming potentials, to use in an offsets report. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[72] Subsection 4.5(1)

Item [72] removes a redundant reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[73] After section 5.8

Item [73] inserts a new Division 5.5 into the determination to clarify that partial reporting under section 77A of the Act must not result in the division of a carbon estimation area.

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013

[74] After section 1.2

Item [74] inserts a new section 1.2A into the determination consistent with the standard duration clause in new methodology determinations under the Emissions Reduction Fund. This section ensures that the determination expires in accordance with section 122 of the Act and that section 125 will operate to continue the operation of the determination and associated crediting for existing projects after that expiry.

[75] Section 1.3 (definition of *conservation land*)

Item [75] inserts a definition of conservation land that is the same as the definition in the Regulations.

[76] Section 1.3 (definition of *forest*)

Item [76] repeals the definition of forest, and substitutes a definition that is consistent with the definition in the Regulations.

[77] Section 1.3

Item [77] inserts a definition of native forest, which is now not defined in the Act, to ensure the references to that term in the determination work as intended. The definition of native forest being inserted is the same as the definition that was repealed by the Amendment Act.

[78] Section 1.3 (definition of *project commencement*)

Item [78] removes a reference to projects commencing on or after 1 July 2007 to clarify that the obligations regarding newness in subsection 27(4A) of the Act apply to any eligible offsets project which apply to the Clean Energy Regulator after 30 June 2015.

[79] Section 1.3 (note after the definition of *project commencement*)

Item [79] repeals a note that referred to a project declaration date of 1 July 2010, and substitutes a new note that clarifies that the obligations regarding newness in subsection 27(4A) of the Act apply to any eligible offsets project which apply to the Clean Energy Regulator after 30 June 2015.

[80] Section 1.3 (definition of *tree*)

Item [80] repeals the definition of tree and substitutes a definition that is the same as the definition in the Regulations.

[81] Section 1.3 (note at the end of the section)

Item [81] repeals a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[82] Paragraphs 1.4(c) and (d)

Item [82] remakes paragraphs (c) and (d) and inserts the requirement that the project ‘could reasonably be expected to result in eligible carbon abatement’ consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

Item [82] also inserts a requirement that the project is not on conservation land to ensure the determination continues to operate as originally intended in this respect, following the removal of this restriction from the regulations.

[83] Section 2.6 (note)

Item [83] removes a note which refers to repealed regulations.

[84] Heading to Part 3 (note)

Item [84] removes references to regulations that have either been repealed or are expected to be moved to the legislative rules.

[85] Paragraph 4.2(b)

Item [85] amends the sources that should be used for certain factors or parameters used in the calculations. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[86] Section 4.4

Item [86] removes a redundant reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[87] Misnumbered Division heading after section 5.6

Item [87] corrects a typographical error in the determination.

[88] After section 5.8

Item [88] inserts a new Division 5.5 into the determination to clarify that partial reporting under section 77A of the Act must not result in the division of a carbon estimation area.

Carbon Credits (Carbon Farming Initiative) (Measurement Based Methods for New Farm Forestry Plantations) Methodology Determination 2014

[89] Section 1.3 (CFI rainfall map)

Item [89] inserts a definition of the CFI rainfall map, which was previously not defined in the determination but assumed to be captured by the regulations.

[90] Section 1.3 (definition of *Greenhouse FriendlyTM initiative*)

Item [90] repeals the definition of Greenhouse FriendlyTM initiative and replaces it with the definition that is in the Regulations.

[91] Section 1.3 (definition of *Greenhouse FriendlyTM forestry project*)

Item [91] clarifies that, in the determination, a Greenhouse FriendlyTM forestry project must have been accredited under that initiative just prior to the initiative ceasing to operate.

[92] Section 1.3 (definition of *GWP_{CH4}*)

Item [92] amends the definition of the global warming potential for methane to use in an offsets report. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[93] Section 1.3 (definition of *GWP_{N2O}*)

Item [93] amends the definition of the global warming potential for nitrous oxide to use in an offsets report. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[94] Section 1.3

Item [94] inserts a definition of native forest, which is now not defined in the Act, to ensure the references to that term in the determination work as intended. The definition of native forest being inserted is the same as the definition that was repealed by the Amendment Act.

[95] Section 1.3 (definition of *new farm forestry plantation*)

Item [95] removes a reference to projects that commence on or after 1 July 2010. This is to clarify that the newness obligations in subsection 27(4A) of the Act apply to eligible offsets projects which apply to the Clean Energy Regulator after 1 July 2015.

[96] Section 1.3 (note at the end of the section)

Item [96] removes a note which refers to definitions in the Act, some of which were repealed by the Amendment Act.

[97] Section 1.4

Item [97] removes a reference in the determination applying to projects that commence on or after 1 July 2007. The purpose of this is to clarify that the newness obligations in subsection 27(4A) of the Act apply to eligible offsets projects which apply to the Clean Energy Regulator after 1 July 2015.

Item [97] includes the requirement that new projects ‘could reasonably be expected to result in eligible carbon abatement’, consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

Item [97] also clarifies that the determination applies to projects that applied to the Clean Energy Regulator before 1 Jul 2015 be registered as eligible offsets projects under the determination as it was immediately before the commencement of the ERF in December 2014.

[98] Paragraph 2.4(1)(c)

Item [98] clarifies that, any projects that involve establishing or maintaining a forestry project accredited under the Greenhouse FriendlyTM initiative, must relate to projects declared eligible before 1 July 2015 under the determination in force on 12 December 2014.

[99] Section 2.6 (note)

Item [99] removes a note which refers to repealed regulations.

[100] Heading to Part 4 (note)

Item [100] removes a note which refers to repealed regulations and parts of the Act that were repealed by the Amendment Act.

[101] Section 6.3 (note)

Item [101] removes a note which refers to a part of the Act that was repealed by the Amendment Act.

[102] Section 6.42 (definitions of EC_i and $Fac_{i,y}$)

Item [102] amends the definitions of the energy content factor and the emissions factor of fossil fuels to be used in an offsets report. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be

submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[103] Heading to Division 7.3 (note)

Item [103] removes a note which refers to a repealed regulation.

[104] Section 7.3

Item [104] removes a reference to record keeping requirements that have been repealed from the Regulations and replaces it with a reference to the power to create record keeping requirements in paragraph 106(3)(c) of the Act.

[105] Subsection 7.11(1)

Item [105] removes a reference to reporting requirements that have been repealed from the Regulations and replaces it with a reference to the power to create reporting requirements in paragraph 106(3)(a) of the Act.

[106] Section 7.16

Item [106] removes a reference to reporting requirements that have been repealed from the Regulations and replaces it with a reference to the power to create reporting requirements in paragraph 106(3)(a) of the Act.

[107] After section 7.28

Item [107] inserts a new Division 7.5 into the determination to clarify that partial reporting under section 77A of the Act must not result in the division of a stratum area. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014

[108] Section 1.3 (note to definition of *activity start date*)

Item [108] removes a note to clarify the definition of the activity start date under the determination given the change to when a project declaration takes effect in subsection 27(15) of the Act.

[109] Section 1.3 (definition of carbon dioxide equivalent (CO2-e))

Item [109] removes a definition of carbon dioxide equivalent as the term is now defined in the Act.

[110] Section 1.3 (note at the end of the section)

Item [110] removes a note which refers to definitions in the Act some of which have been removed from the Act.

[111] Section 1.4 (note)

Item [111] removes part of a note which refers to part of the regulation that is expected to be repealed.

[112] Section 1.4

Item [112] introduces a requirement that projects ‘could reasonably be expected to result in eligible carbon abatement’, consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

[113] Section 2.1 (note)

Item [113] removes a redundant note.

[114] Paragraph 2.3 (b)

Item [114] removes the word ‘final’ to clarify that the project proponent must provide a description of project management actions that will be carried out from the start of the activity start date to the end of the crediting period and that the Act now only provides for a single crediting period.

[115] Heading to Part 3 (note)

Item [115] removes a reference to repealed regulations from a note.

[116] After section 3.9

Item [116] inserts a requirement that management actions that are precluded during the crediting period are also precluded between the first day of the baseline sampling round and the activity start date. These could artificially increase the crediting under the determination.

This is to ensure that the determination continues to operate in the way that was intended, in light of changes to section 4.8(1) regarding the earliest date on which baseline sampling can

have occurred and the removal of the ability to backdate declarations made by the Amendment Act.

[117] Subsection 4.8(1)

Item [117] amends the requirements regarding the time period in which baseline sampling can occur to facilitate projects that have undertaken baseline sampling using that sampling, while meeting the newness the requirements of section 27(4)(A) of the Act. In particular, baseline sampling may occur before the project is declared but not more than two years before the start of the activity. This reflects the removal of backdating under the Amendment Act and the recognition in paragraph 27(4B)(g) of the Act that sampling to establish a baseline for a project is not an activity that indicates that a project has begun to be implemented.

[118] Subsection 4.8(1) (note)

Item [118] repeals a note to clarify the determination's requirements regarding the project start date.

[119] Paragraph 4.10(4)(b) (note)

Item [119] amends a note to clarify the determination's requirements regarding the project start date and when baseline sampling can have occurred, consistent with the variations to section 4.8.

[120] Subsection 5.2(1)

Item [120] amends the sources that should be used for certain factors or parameters used in the baseline calculations. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[121] Heading to Division 5.3 (note)

Item [121] removes a reference to paragraph 106(4)(f) of the Act which was repealed by the Amendment Act.

[122] After section 7.15

Item [122] inserts a new Division 7.5 into the determination to clarify that partial reporting under section 77A of the Act must not result in the division of a carbon estimation area. This

clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014

[123] Section 1.3 (definition of *forest*)

Item [123] replaces the definition of forest with a definition that is in the regulations.

[124] Section 1.3 (note at the end of the section)

Item [124] removes a note which refers to definitions in the Act consistent with the amendment of the other methodology determinations.

[125] Section 1.4

Item [125] removes a reference in the determination to projects that commence on or after 1 July 2007. This is to clarify that the newness obligations in subsection 27(4A) of the Act apply to projects that apply to the Clean Energy Regulator after 1 July 2015 to be eligible offsets projects.

Item [125] includes the requirement that new projects ‘could reasonably be expected to result in eligible carbon abatement’, consistent with the new offsets integrity standard in paragraph 133(1)(c) of the Act.

Item [125] also clarifies that the determination applies to projects that apply to the Clean Energy Regulator before 1 July 2015 to be declared eligible offsets projects under the determination as it was immediately before the ERF commenced.

[126] Section 2.1 (note)

Item [126] removes a reference to a repealed regulation from the note.

[127] Subsection 2.3(4)

Item [127] removes the term ‘project commencement’ from the determination and replaces it with a reference to the date of application for declaration of the project as an eligible offsets project.

[128] Section 2.4 (note)

Item [128] removes a note that refers to a repealed regulation.

[129] Heading to Part 3 (note)

Item [129] removes references in the note to one repealed regulation and one regulation that is expected to be transferred to the legislative rules.

[130] Section 4.2

Item [130] amends the sources that should be used for certain factors or parameters used in the calculations. Consistent with the new determinations under the Emissions Reduction Fund, the values to be used are those in force at the end of the reporting period rather than those in force at the time that the offsets report was required to be submitted. This avoids unnecessary costs for a project proponent to recalculate a report if the values change just before an offsets report is submitted.

[131] Paragraph 5.4(a)

Item [131] removes the term ‘project commencement’ from paragraph 5.4(a) and replaces it with a reference to the date of application for declaration of the project as an eligible offsets project.

[132] After section 5.9

Item [132] inserts a new Division 5.5 into the determination to clarify that partial reporting under section 77A of the Act must not result in the division of a carbon estimation area. This clarifies that partial reporting cannot be used to circumvent the calculation method provided in the determination.

Carbon Credits (Carbon Farming Initiative—Domestic, Commercial and Industrial Wastewater) Methodology Determination 2015

[133] Section 5

Item [133] inserts a definition of the global warming potential for methane as set out in the NGER Regulations consistent with that in section 41 of the determination.

[134] Section 40 (definition of $EF_{Dig,n}$)

Item [134] replaces the definition of the emissions factor for digestate disposed to landfill with a definition that is expressed in terms of the global warming potential of methane. This ensures that the emissions factor will be continue to be correct with recent changes to the NGER Regulations and if the global warming potential of methane prescribed in the NGER Regulations changes in the future.

[135] Section 41 (definition of GWP_{CH_4})

Item [135] repeals the definition of GWP_{CH_4} , given that this will be in section 5 of the determination.

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—Emissions Reduction Fund) Methodology Determination Variation 2015

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—Emissions Reduction Fund) Methodology Determination Variation 2015* (the **Variation**) amends a number of 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 amendments are of a minor nature. They are primarily to ensure that the methodology determinations continue to operate as originally intended in light of the changes made to the Act by the Amendment Act, and that there are no unintended consequences for eligible offsets projects wanting to apply the determinations.

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