

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment and Energy

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative—Sequestering Carbon in Soils in Grazing Systems—Revocation) Instrument 2018

Purpose

The *Carbon Credits (Carbon Farming Initiative—Sequestering Carbon in Soils in Grazing Systems—Revocation) Instrument 2018* (the **Revocation Instrument**) revokes the *Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014* (the **2014 soil determination**) made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act).

The determination being revoked has been superseded by the *Carbon Credits (Carbon Farming Initiative—Measurement of Soil Carbon Sequestration in Agricultural Systems) Methodology Determination 2018*. This new determination provides further flexibility in accounting for sequestration in a range of agricultural systems building on the framework in the 2014 soil determination.

Legislative provisions

The 2014 soil determination to be revoked was made under subsection 106(1) of the Act. It is 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.

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 making, varying or revoking methodology determinations.

The *Carbon Credits (Carbon Farming Initiative—Measurement of Soil Carbon Sequestration in Agricultural Systems) Methodology Determination 2018*, like the 2014 soil determination, provides an incentive for proponents to sequester carbon in soil in a range of agricultural systems through improved land management.

Soil carbon is primarily made up of decomposed plant material and microbes. Carbon rich materials, such as the roots, stems and leaves of crops or pasture, cycle into the soil, where part of it is broken down and respired into the atmosphere as carbon dioxide. Some remains to form soil carbon.

Soil carbon is highly variable across the landscape and through time. Research shows that this variability is largely explained by climatic factors and soil properties but that human activity also plays a role. This role can be observed in the general loss of soil carbon in agricultural soils since the 1800s due to changing land use.

In many cases, there are opportunities for land managers to improve soil carbon stocks by increasing the amount of carbon added to the soil and by slowing the rate of loss of carbon from the soil. These opportunities will be highly dependent on a number of site specific factors including the soil properties and selecting land management activities according to those factors.

The key improvements in the new determination are:

- an improved soil sampling strategy to reduce uncertainty of soil carbon estimates, supporting the participation of a wider range of production systems;
- an increased range of eligible farming systems including cropping, grazing and horticultural production systems;
- allowing the use of soil amendments containing biochar and accounting for other additives that may contain carbon, including clay;
- an additional measurement option allowing for the ability to estimate carbon stocks using in-field or laboratory sensors and associated models as well as the combustion techniques;
- a ten year baseline period; and
- use of a land management strategy, to be developed or reviewed by an independent person.

Impact on existing projects

Existing projects are not affected by the Revocation Instrument. Even after a determination has been revoked on 1 October 2018, an eligible offsets project already registered and whose crediting period has begun before then 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 commencement, or projects whose crediting periods have not yet commenced, will not be able to register under the 2014 soil determination. These projects can continue to register under the *Carbon Credits (Carbon Farming Initiative—Measurement of Soil Carbon Sequestration in Agricultural Systems) Methodology Determination 2018*.

Public consultation

The proposal to replace the 2014 soil determination with a new methodology determination was developed by the Department of the Environment and Energy in collaboration with the Regulator and advice from expert scientists and land managers.

The Department held five Technical Working Group (TWG) meetings between August 2015 and March 2017 to provide scientific advice on key aspects of the method, and review draft versions of the determination.

The exposure draft of the determination was published on the Department's website at for public consultation from 4 September 2017 to 2 October 2017. Submissions were received from seventeen individuals/organisations. Details of the non-confidential submissions are provided on the Department's website

The new determination has now been made as the *Carbon Credits (Carbon Farming Initiative—Measurement of Soil Carbon Sequestration in Agricultural Systems) Methodology Determination 2018*.

The Department conducted additional consultation on the proposed revocation between 26 March and 23 April 2018.

Determination details

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

The Revocation Instrument commences on 7 February 2019.

The Revocation Instrument will sunset according to the ordinary rules in the *Legislation Act 2003*.

Details of the Revocation Instrument are at [Attachment A](#). Numbered sections in this Explanatory Statement align with the relevant sections of the Revocation Instrument.

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

Details of Instrument

1 Name

Section 1 sets out the full name of this instrument, which is the *Carbon Credits (Carbon Farming Initiative—Sequestering Carbon in Soils in Grazing Systems—Revocation) Instrument 2018*.

2 Commencement

Section 2 provides that this instrument would commence on 7 February 2019.

3 Authority

Section 3 provides that the instrument is made under subsection 123(1) of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

4 Interpretation

Section 4 defines the term ‘the Act’ as the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

5 Revocation of methodology determination

Section 5 revokes the *Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014* made under subsection 106(1) of the Act.

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—Sequestering Carbon in Soils in Grazing Systems—Revocation) Instrument 2018.

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—Sequestering Carbon in Soils in Grazing Systems—Revocation) Instrument 2018* revokes the *Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014* made under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

The determination being revoked has been superseded by the *Carbon Credits (Carbon Farming Initiative—Measurement of Soil Carbon Sequestration in Agricultural Systems) Methodology Determination 2018*. That determination credits the same activities as the determination being revoked.

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.

Josh Frydenberg, Minister for the Environment and Energy