

EXPLANATORY STATEMENT

Carbon Credits (Carbon Farming Initiative) Act 2011

*Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology
Determination Variation 2020*

(Issued by the authority of the Minister for Energy and Emissions Reduction)

Purpose and operation

The *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination Variation 2020* (the **Variation**) makes minor amendments to the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2017* (the **Determination**).

The Determination provides for plantation forest project activities including conversion of an existing short-rotation plantation to a long-rotation plantation. The primary reason for the amendments is to correct equations to provide an even distribution of crediting over time for areas undertaking the conversion project activity.

The Variation ensures the Determination achieves its original intent of evenly apportioning the difference between net baseline and predicted long-term average project carbon stocks over time, for up to 15 years. The Variation does not change how the difference between these carbon stocks is calculated.

Having made the above changes, consequential amendments are necessary to terms in the Determination which previously did not contemplate that there could be more than one version of the Determination. Accordingly, the Variation also:

- i. clarifies the eligibility date for land undertaking the new plantation project activity or conversion project activity is the date the Determination first applied to the land (including an earlier version of the Determination). This enables projects registered under the previous version of the Determination to transfer and report for the first time under the Determination;
- ii. specifies a pre-existing project is not one where the methodology determination that first applied to the project was an earlier version of the Determination;
- iii. corrects a minor typographical error.

Projects that first registered under the previous version of the Determination and have not reported, are able to apply to have the Determination apply to the project from the start of their first reporting period. This is possible within the limit of the maximum reporting period length of five years.

As all these changes are of a minor nature, subsection 114(9) of the Act applies to the Variation such that the Minister may make the Variation without the formal process for advice from the Emissions Reduction Assurance Committee.

Background

Emissions Reduction Fund

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 Act was amended by the *Carbon Farming Initiative Amendment Act 2014* to establish the Emissions Reduction Fund (ERF). The ERF expands on the Carbon Farming Initiative by extending the scope of eligible emissions reduction activities and by streamlining existing processes. 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 reductions and sequestration) and rules for monitoring, record-keeping and reporting. These methodology determinations ensure emissions reductions are genuine – that they are both real and additional to business as usual.

In deciding to make or vary a methodology determination the Minister must have regard to whether the methodology determination or varied methodology determination complies with the offsets integrity standards and any advice provided by the Emissions Reduction Assurance Committee, an independent expert panel established to advise the Minister on proposals for methodology determinations. Under subsection 114(9) of the Act, the Minister need not seek the advice of the Committee when the variation is of a minor nature, for example to ensure the methodology determination operates as was intended when it was made, by the correction of clear errors. The Minister will also consider any adverse environmental, economic or social impacts likely to arise as a result of projects to which the methodology 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, representing abatement 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 at: www.environment.gov.au/emissions-reduction-fund.

Plantation Forestry Determination

The Determination can be used by forest growers or land owners to establish new plantations or convert existing short-rotation plantations to long-rotation plantations. It can also be used by forest growers who have established a plantation forest under another ERF methodology determination, for example, the *Carbon Credits (Carbon Farming Initiative) (Measurement Based Methods for New Farm Forestry Plantations) Methodology Determination 2014* (farm forestry determination).

Projects under the Determination store carbon by establishing and managing plantation forests. Carbon continues to be stored in the wood products from the harvested plantations. Project proponents use the Full Carbon Accounting Model (FullCAM) software to estimate project carbon stocks.

Abatement estimates take into account the fluctuations in carbon stocks associated with the harvest of a plantation and new growth after harvesting. Estimates must take into account the effects of disturbances such as fires. There are two ways abatement is calculated:

- project areas for new plantations are credited up to a limit that represents the average carbon stocks of repeated harvest rotations over a 100-year modelling period;
- project areas for converting short-rotation plantations to long-rotation plantations are credited for the average project carbon stocks, less the average carbon stocks for the previous short rotations.

Projects are subject to permanence obligations. Project carbon stocks must be maintained for a nominated permanence period of either 100 or 25 years. Projects nominating a 25-year permanence period are subject to a reduction in the credits they receive. The reduction is 20 per cent for long-rotation plantations and 25 per cent for short-rotation projects.

Consultation

The Department commissioned an independent technical assessment of the amended equations in the Determination. The Department consulted proponents of projects registered under the Determination, and businesses providing advice and other services in relation to the Determination, on a draft of the Variation and this explanatory statement. The Department undertook targeted consultation due to the minor nature of the Variation. The Regulator and the Chair of the Emissions Reduction Assurance Committee were also consulted.

Regulatory impact analysis

In 2014, as part of the ERF White Paper process, a regulatory assessment was certified in accordance with the 2014 Government Guide to Regulation. This process assessed the regulatory impacts associated with the ERF. This included assessing the impacts associated with future methodology determinations to be developed under the Act, such as the potential future education costs, application costs, contract negotiation costs, and monitoring, verification and compliance audit costs. The regulatory impacts of the ERF were assessed as low. There have been no changes since the original assessment that would change the outcomes and as a result no further assessment of regulatory impacts is warranted.

Details of the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination Variation 2020*

Section 1 – Name of Instrument

This section specifies the name of the legislative instrument is the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination Variation 2020* (the **Variation**).

Section 2 – Commencement

This section provides that the Variation commenced on the day after it was registered.

Section 3 – Authority

This section sets out the provision of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) under which the Variation is made. The provision of the Act is subsection 114(1).

Section 4 – Amendment of methodology determination

This section provides that Schedule 1 of the Variation amends the *Carbon Credits (Carbon Farming Initiative— Plantation Forestry) Methodology Determination 2017* (the **Determination**).

Schedule 1 – Amendments of the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2017*

Item 1 – Paragraph 13(1)(a)

This amendment clarifies the establishment of a plantation forest for the new plantation forest project activity must occur after the eligibility date for the land.

Item 2 – Subsection 13(3)

This amendment clarifies that earlier versions of the Determination are considered when determining the eligibility date for land undertaking the new plantation project activity. The Determination may first apply to land in a new plantation project area as a result of:

- (a) an application to register an offsets project under the Determination;
- (b) a request to have the Determination apply to an existing offsets project from the commencement of a reporting period; or
- (c) the addition of land (including land from an existing offsets project) to a project under the Determination.

Land that is part of an existing offsets project under another methodology determination (i.e. the farm forestry determination) may be eligible land for the new plantation project activity, if the requirements of section 13, among others, are satisfied.

This item, along with items 3 and 4, are necessary because the existing terminology did not contemplate that there could be more than one version of the Determination which applied to projects. The amendments avoid perverse outcomes for projects moving from the previous version of the Determination to the varied Determination.

Item 3 – Subsection 14(3)

This amendment clarifies that earlier versions of the Determination are considered when determining the eligibility date for land undertaking the conversion plantation project activity. The Determination may first apply to land in a conversion plantation project area as a result of:

- (a) an application to register an offsets project under the Determination;
- (b) a request to have the Determination apply to an existing offsets project from the commencement of a reporting period; or
- (c) the addition of land (including from an existing offsets project under the Determination) to a project under the Determination.

Due to paragraph 14(2)(a), eligible land cannot include land that was part of an offsets project on the eligibility date. Paragraphs 14(3)(b) and (c) do not permit land from another methodology determination from being eligible land for the conversion project activity.

Item 4 – Paragraphs 15(a) and (b)

This amendment changes the definition of a pre-existing project. The revised definition excludes projects where the methodology determination that applied at the time the project was first declared an eligible offsets project was an earlier version of the Determination.

As a result, a pre-existing project is one that has transferred from a methodology determination other than the Determination. At the time the Variation was made, only projects under the farm forestry determination may be eligible to transfer to the Determination.

Examples: Transferring project areas

Example 1: Transferring an existing plantation forestry project (conversion activity)

A project was declared eligible in 2017 under the previous version of the Determination. The project involves only the conversion project activity.

In 2020, the proponent requests, under section 128 of the Act, to have the Determination apply to the project from the start of the reporting period. The proponent has not submitted an offsets report for the project. Therefore, the reporting period commences in 2017. As a result of the amendment to paragraph 14(3)(a), the project area is considered eligible land for the conversion project activity when the application is considered under section 130 of the Act.

In 2020, the project abatement is calculated under subsection 48(1), for the first reporting period under the Determination—commencing 2017.

Example 2: Transferring part of a farm forestry project (new plantation activity)

A project is declared eligible in 2020 under the Determination. The project involves only the new plantation project activity.

In 2022, the proponent requests, under section 29 of the Act, to vary their project area by adding an area of land (the relevant area) from an existing offsets project under the farm forestry determination. The relevant area is non-forested, has not been issued credits under the farm forestry determination and meets the eligibility requirements under the Determination to undertake the new plantation project activity. The application to voluntarily vary the offsets project in relation to the project area is approved.

In 2023, the project abatement is calculated under subsection 48(1), including the relevant area, for the first reporting period under the Determination—commencing 2020.

Example 3: Transferring a whole farm forestry project (maintenance activity)

A project is declared an eligible offsets project in 2019 under the farm forestry determination. The proponent submits an offsets report under the farm forestry determination at the end of 2020.

In 2021, the proponent requests, under section 128 of the Act, to transfer the project to the Determination from the start of the current reporting period—2021. The project area is considered eligible land for the maintenance project activity and meets the reporting requirement of subsection 16(4). The application to have the Determination apply from the start of the current reporting period is approved under section 130 of the Act.

In 2022, the project abatement is calculated under subsection 48(2), for the first reporting period under the Determination. The carbon stock reported under the farm forestry determination at the end of 2020 is deducted from the carbon stock for the first reporting period under the Determination—commencing 2021.

Item 5 – At the end of subsection 41(1)

This amendment corrects a typographical error concerning a notation used in equations. The amendment removes an erroneous strikethrough from the notation.

Item 6 – At the end of subsection 41(2)

This amendment adds a new baseline value for a conversion carbon estimation area. The new subsection specifies the net baseline carbon stock ($\bar{C}_{net,B,i}$) is calculated using equation 2A.

Equation 2A has been added by item 7.

Item 7 – At the end of section 41

This amendment adds equation 2A, which is required by paragraph 41(2)(c). This new equation calculates net baseline carbon stock in a conversion carbon estimation area by deducting emissions from biomass burning from the baseline carbon stock.

The output from this equation is used in equation 10 when calculating the carbon stock in a conversion carbon estimation area at the end of a reporting period. This is consequential to the change in item 8.

Item 8 – Subsection 45(2)

This amendment corrects equation 10 to enable the Determination to achieve its original intent to evenly distribute credits over time for up to 15 years, for areas undertaking the conversion project activity. It does this by apportioning the difference between the predicted long-term average project carbon stock and net baseline carbon stock, from equation 2A, instead of gross carbon stock. This does not change the total difference between these carbon

stocks over a crediting period, but means projects modelling biomass burning do not receive credits earlier than intended.

This amendment also replaces the definition of n in equation 10. The result is to apportion the difference between these carbon stocks based on the number of months since the first event under subsection 17(4) occurs (planting or seeding for a new rotation or thinning or pruning a rotation underway). This amendment supports the original intention to evenly distribute the carbon stock change achieved through the conversion project activity, including when a carbon estimation area is added to a project after project commencement.

Item 9 – Subsection 45(3) (definition of $E_{g,i,k}$)

This amendment zeroes the mass of emissions from biomass burning in conversion carbon estimation areas at the end of a reporting period. This change means the same emission source cannot be deducted twice, and is consistent with zeroing the carbon mass of forest products in subsection 45(4). As a result of the amendments in item 8, emissions from biomass burning are now accounted for in equation 10.

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—Plantation Forestry) Methodology Determination Variation 2020

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

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The Variation ensures the Determination achieves its original intent of evenly apportioning the difference between net baseline and predicted long-term average project carbon stocks over time, for up to 15 years. The Variation does not change how the difference between these carbon stocks is calculated.

Projects that first registered under the previous version of the Determination and have not reported, are able to apply to have the Determination apply to the project from the start of their first reporting period. This is possible within the limit of the maximum reporting period length of five years.

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.