

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Industry, Energy and Emissions
Reduction

Carbon Credits (Carbon Farming Initiative) Act 2011

*Carbon Credits (Carbon Farming Initiative) Amendment (Blue Carbon Projects)
Rule 2022*

Purpose

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) enables the crediting of greenhouse gas abatement from emissions reduction activities across Australia. Greenhouse gas abatement is achieved either by reducing or avoiding emissions, or by removing carbon from the atmosphere and storing it in soil, biomass or organic matter.

The *Carbon Credits (Carbon Farming Initiative) Amendment (Blue Carbon Projects) Rule 2022* (the Amendment Rule) amends the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule). The Amendment Rule expands the application of section 9B of the Principal Rule to tidal restoration projects. This sets the permanence period discount number and risk of reversal buffer number to zero under subsection 16(2) of the Act, which allows entities undertaking tidal restoration projects to receive their full unit entitlement for avoided emissions and an appropriate discount, set out in the relevant methodology determination, for carbon sequestration by the project.

Background: Emissions Reduction Fund

In 2014, the Australian Government amended the Act with the *Carbon Farming Initiative Amendment Act 2014* (CFI Amendment Act). The CFI Amendment Act established the Emissions Reduction Fund by expanding the crediting of emissions reductions under the Carbon Farming Initiative to non-land based sectors of the Australian economy. The primary objective of the Emissions Reduction Fund is to assist Australia to meet its greenhouse gas emissions reduction targets, consistent with its international obligations under the United Nations Framework Convention on Climate Change and the Kyoto Protocol. Further information on the Emissions Reduction Fund is available at: www.industry.gov.au/funding-and-incentives/emissions-reduction-fund or www.cleanenergyregulator.gov.au/ERF.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects. The Clean Energy Regulator (the Regulator) is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

Emissions reduction activities are undertaken as offsets projects. Offsets projects undertaken in accordance with a methodology determination and approved by the Regulator can generate Australian Carbon Credit Units (ACCUs) that represent greenhouse gas abatement achieved by the project.

The Act is supported by subordinate legislation, including methodology determinations, Principal Rule and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations). The Principal Rule and the Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

Background: Blue Carbon Projects

In December 2020, a blue carbon methodology determination was announced as one of 5 priority Emissions Reduction Fund methods to be developed in 2021. The Carbon Credits (Carbon Farming Initiative—Tidal Restoration of Blue Carbon Ecosystems) Methodology Determination 2022 (Blue Carbon Method) enables projects that sequester carbon in biomass and soils, and avoid emissions, through the establishment of coastal wetland ecosystems to generate ACCUs.

The Amendment Rule facilitates the introduction of the Blue Carbon Method, which sets out the rules for calculating, crediting and reporting the abatement from undertaking eligible project activities for the purpose of creating ACCUs. It also sets out the rules for eligibility of projects to be credited for carbon sequestration and emissions avoidance, and specific notification and monitoring requirements.

This method is similar to the *Carbon Credits (Carbon Farming Initiative—Savanna Fire Management—Sequestration and Emissions Avoidance) Methodology Determination 2018* in that projects create abatement by both avoiding emissions and carbon sequestration. The discounts in section 16 of the Act are unable to distinguish between these two forms of abatement and abatement for emissions avoidance is not discounted under section 18 of the Act (because once emissions are avoided that is a permanent benefit to the atmosphere). Accordingly, for the same reasons as applied to the savanna sequestration method, the discounts under section 16 of the Act are set to zero so that the methodology determination can set out appropriate discounts for sequestration, but provide full crediting for emissions avoidance.

The application of the discounts for sequestration abatement is achieved by section 29 of the *Carbon Credits (Carbon Farming Initiative—Tidal Restoration of Blue Carbon Ecosystems) Methodology Determination 2022* with the concept of a ‘sequestration buffer’. The combined discounts for 100-year and 25-year permanence period projects are generally the same as applies under section 16 of the Act for carbon sequestration, however a higher total discount of 25 per cent is applied to 100-year permanence period projects where the project includes less than 80 per cent of all land identified as impacted land for the project in permanence period. This higher discount is intended to manage the risk that the coastal wetland ecosystem vegetation that establishes as a result of the project migrates beyond the project area over time. No discount is applied to avoided emissions. These discount arrangements were considered appropriate by the Emissions Reduction Assurance Committee in providing advice on the making of the methodology determination.

Operation

The Act is supported by subordinate legislation, including the Principal Rule, and the Regulations. The Principal Rule and Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

The Minister for Industry, Energy and Emissions Reduction is empowered to make legislative rules under section 308 of the Act.

The Amendment Rule expands the application of section 9B of the Principal Rule, which details the permanence period discount number and risk of reversal buffer number for savanna sequestration projects, to tidal restoration projects.

To support this in the Principal Rule, the Amendment Rule inserts a new definition of “tidal restoration project”, which refers to sequestration offsets projects that introduce tidal flow in order to support the establishment of coastal wetlands ecosystems. The applicable methodology determination for tidal restoration projects is the *Carbon Credits (Carbon Farming Initiative—Tidal Restoration of Blue Carbon Ecosystems) Methodology Determination 2022*, or earlier versions of that determination that apply to the project by operation of sections 125, 126, 127 or 130 of the Act. Those sections allow for the application of earlier versions of the methodology determination to projects in the event the determination expires or is varied or revoked.

Detailed description of the Amendment Rule

Attachment A outlines and describes the sections in the Amendment Rule.

Public consultation

The Regulator and the Department of Industry, Science, Energy and Resources publically consulted on the new blue carbon ecosystems method leading up to the release of the *Carbon Credits (Carbon Farming Initiative—Tidal Restoration of Blue Carbon Ecosystems) Methodology Determination 2022*. This included information relevant to the Amendment Rule, including information about the new permanence period discount number and risk of reversal buffer number which applies to tidal restoration projects.

Regulatory impact

The Office of Best Practice Regulation has confirmed that a Regulatory Impact Statement is not required, because the proposal is unlikely to have more than a minor regulatory impact (OBPR reference 44151).

Statement of compatibility with human rights

A statement of Compatibility with Human Rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment B.

ATTACHMENT A

Details of the sections in the Carbon Credits (Carbon Farming Initiative) Amendment (Blue Carbon Projects) Rule 2022

1. Name

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment (Blue Carbon Projects) Rule 2022*.

2. Commencement

Section 2 provides that the Amendment Rule commences on the day after it is registered.

3. Authority

Section 3 clarifies that the Amendment Rule is made under the Act. In particular, section 308 of the Act provides the Minister with the power to make legislative rules. The power to make rules in section 308 of the Act includes the power to amend rules already made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

4. Schedules

Section 4 provides that the draft Amendment Rule would, when made, amend the Principal Rule in the manner set out in the Schedule.

Schedule 1—Amendments

This Schedule sets out amendments to the Principal Rule.

1. Section 4

This item inserts a definition of “tidal restoration project” into section 4 of the Principal Rule.

A tidal restoration project is a sequestration offsets projects that introduces tidal flow in order to support the establishment of coastal wetlands ecosystems. To fall within the section 4 definition, the applicable methodology determination for tidal restoration projects must be the *Carbon Credits (Carbon Farming Initiative—Tidal Restoration of Blue Carbon Ecosystems) Methodology Determination 2022*, or earlier versions of that determination that apply to the project by operation of sections 125, 126, 127 or 130 of the Act.

2. Section 9B (heading)

This item updates the heading to section 9B to reflect amendments made to subsection 9B(1) which expand the application of the section to include tidal restoration projects.

3. Subsection 9B(1)

This item extends the operation of subsection 9B(1) to tidal restoration projects. The effect of this amendment is that the permanence period discount number and the risk of reversal buffer number for the purposes of subsection 16(2) of the Act is zero percent for tidal restoration projects.

Under subsection 16(2), the risk of reversal buffer is 5 per cent, unless another percentage is specified in the rules at the start of the crediting period in which the reporting period is included, and the permanence period discount number is zero for 100-year permanence period projects, or for 25-year permanence projects, 20 per cent or a percentage set by the rules. The purpose of the risk of reversal buffer and the permanence period discount is to account for the risk to the Government that the project is discontinued or reversed. This item reduces the relevant percentages in section 16(2) that would otherwise apply to zero. By setting this number to zero, no discount will be applied for ACCUs accumulated from tidal restoration projects under section 16 of the Act, but appropriate sequestration discounts will be applied to the sequestration portion of the abatement under the *Carbon Credits (Carbon Farming Initiative—Tidal Restoration of Blue Carbon Ecosystems) Methodology Determination 2022*. This is achieved in section 29 of that determination.

ATTACHMENT B

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) Amendment (Blue Carbon Projects) Rule 2022

The *Carbon Credits (Carbon Farming Initiative) Amendment (Blue Carbon Projects) 2022* (Amendment Rule) 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) Act 2011* (the Act) enables the crediting of greenhouse gas abatement from emissions reduction activities across Australia. Greenhouse gas abatement is achieved either by reducing or avoiding emissions, or by removing carbon from the atmosphere and storing it in soil, biomass or organic matter.

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Human rights implications

The Amendment Rule does not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Rule is compatible with human rights because it does not limit any human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Hon Angus Taylor MP
Minister for Industry, Energy and Emissions Reduction