

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—Plantation Forestry—Revocation) Instrument
2022*

Purpose

The *Carbon Credits (Carbon Farming Initiative—Plantation Forestry—Revocation) Instrument 2022* (the **Revocation Instrument**) revokes the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2017* (the **2017 plantation forestry determination**) made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the **Act**).

The 2017 plantation forestry determination has been superseded by the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2022* (the **2022 plantation forestry determination**). The 2022 plantation forestry determination builds on the framework in the 2017 plantation forestry determination and aims to provide more opportunities for the plantation forestry industry to participate in the scheme. The new determination includes two new activities to retain forest on land in situations where it would have otherwise converted to a non-forest land use (that is, continuing plantation forestry activities and transitioning to a permanent not-for-harvest forest).

Legislative provisions

The 2017 plantation forestry determination to be revoked was made under subsection 106(1) of the Act. It is being revoked by the Revocation Instrument made under subsection 123(1) of the Act.

Background to the Emissions Reduction Fund

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 dioxide from the atmosphere and storing it in soil, biomass or organic matter.

In 2014, the Australian Parliament passed the *Carbon Farming Initiative Amendment Act*,

which established the Emissions Reduction Fund (ERF). 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.

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 a methodology determination by legislative instrument. The purpose of a methodology determination is to establish procedures for estimating abatement (emissions avoidance or sequestration) from eligible projects and rules for monitoring, record keeping and reporting. The methodology determinations ensure that emissions reductions are genuine—that they are both real and additional to business as usual.

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.

Background to the Determination

In late 2020, the Minister for Industry, Energy and Emissions Reduction tasked the Clean Energy Regulator with developing a new plantation forestry method under the Emissions Reduction Fund.

A plantation forestry project accumulates or sequesters carbon as the trees grow, which has the effect of reducing the level of carbon dioxide in the atmosphere.

The new plantation forestry method:

- builds on the 2017 plantation forestry determination
- provides more opportunities for the plantation forestry industry to participate in the scheme
- retains two activities (establishing a new plantation and converting an existing plantation from a short to long rotation), with targeted changes to these activities to increase flexibility and remove barriers to participation
- includes two new activities to retain forest on land in situations where it would have

otherwise converted to a non-forest land use (that is, continuing plantation forestry activities and transitioning to a permanent not-for-harvest forest).

Consequences of revocation of 2017 plantation forestry determination

After the revocation of the 2017 plantation forestry determination, an eligible offsets project whose crediting period has already begun can continue to apply that determination in the form it was at the time the project was registered under section 127 of the Act. Those projects may also choose to transfer to the 2022 method. The 2022 plantation forestry determination includes transitional provisions to facilitate this.

New proposed offsets projects will no longer be able to apply to be registered under the 2017 plantation forestry determination after it is revoked. These projects can instead apply to be registered under the 2022 plantation forestry determination.

Public consultation

The proposal to replace the 2017 plantation forestry determination with the 2022 plantation forestry determination was developed by the Regulator through a co-design process with industry, potential end-users, scientists and technical experts and the ERAC. The co-design process involved workshops, bilateral stakeholder consultation, and technical review.

An exposure draft of the 2022 plantation forestry determination was published on the website of the Department of Industry, Science, Energy and Resources' for public consultation from 26 October 2021 to 23 November 2021. As part of this consultation, the ERAC also consulted on the revocation of the 2017 plantation forestry determination. 16 submissions were received. There were no objections to the revocation of the 2017 plantation forestry determination. Details of the non-confidential submissions are provided on the Department's website, <https://www.industry.gov.au/>.

Determination details

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

The Revocation Instrument commences on 28 February 2022.

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—Plantation Forestry—Revocation) Instrument 2022*.

2 Commencement

Section 2 provides that this instrument would commence on 28 February 2022.

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—Plantation Forestry) Methodology Determination 2017* made under subsection 106(1) of the Act on 28 February 2022.

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—Revocation) Instrument
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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—Plantation Forestry—Revocation) Instrument 2022* revokes the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2017* made under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

The determination being revoked has been superseded by the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2022*. The determination builds on the framework in the 2017 plantation forestry determination.

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.

Angus Taylor, Minister for Industry, Energy and Emissions Reduction