

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—Commercial and Public Lighting—Revocation)

Instrument 2022

Purpose

The *Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting—Revocation) Instrument 2022* (the **Revocation Instrument**) revokes the *Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015* (the **2015 lighting determination**) made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the **Act**).

The 2015 lighting determination has been revoked because it no longer complies with the offsets integrity standards.

Legislative Provision

The 2015 lighting determination 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 to the Emission 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 carbon in soil, biomass, or organic matter.

In 2014, the Australian Parliament passed the *Carbon Farming Initiative Amendment Act 2014*, which established Emissions Reduction Fund (the **ERF**). Further information on the ERF 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 (through 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 the 2015 lighting determination, the Minister has had regard to the advice of the Emissions Reduction Assurance Committee (the **ERAC**), an independent expert panel established to advise the Minister on proposals for making, varying or revoking methodology determinations. The Minister also has had regard to whether the 2015 lighting determination complies with the offsets integrity standards defined in section 133 of the Act.

Background to the Determination

The 2015 lighting determination provides for crediting emissions reductions from offsets projects that improve the energy performance of lighting systems in commercial and industrial buildings, as well as public areas, such as pedestrian, street and traffic lighting. By improving existing lighting systems less electricity is consumed, and emissions associated with the generation of electricity are reduced.

The ERAC has advised the Minister that there is reasonable evidence that the 2015 lighting determination no longer complies with the offsets integrity standard of additionality, that is that projects under that determination should result in carbon abatement that is unlikely to occur in the ordinary course of events.

Since the 2015 lighting determination commenced in 2015, several market and regulatory changes have occurred that affect the ongoing additionality of the lighting upgrade activities under the determination.

When the 2015 lighting determination was introduced in 2015, a large upfront investment was required to upgrade from conventional lighting systems to light-emitting diode (**LED**) lighting systems. This meant that the installing LED lighting was not considered to be a business-as-usual practice and there was substantial opportunity to generate additional carbon abatement by incentivising upgrades.

Since then, LED products have improved significantly decreasing in cost and increasing in availability. The return on investment for LED lighting products is also shorter due to significant electricity savings, and reduced maintenance and replacement costs compared to conventional lighting systems.

At the same time, industry standards are rapidly evolving. The Australian Building Codes Board amended the National Construction Code (**NCC**) in 2019 to increase the energy efficiency requirements for lighting in new buildings and major retrofits, with only LED products able to meet many of the requirements. There has also been a move to introduce Australian minimum energy performance standards for LED lighting under the Greenhouse

and Energy Minimum Standards Act 2012, which involves phasing out conventional halogen incandescent lamps. These changes are aligned with European Union standards and are expected to come into force in 2022-2023.

These changes in the market mean that it is increasingly likely that lighting upgrades to highly energy efficient products will occur in the ordinary course of events.

The Minamata Convention on Mercury (the **Minamata Convention**) is an international convention that aims to address health and environmental risks from mercury by restricting the manufacture, import and export of products containing the heavy metal that are used in a range of industries including lighting.

In 2021, the Commonwealth Department of Agriculture, Water and Environment published a final Regulatory Impact Statement (**RIS**) outlining the potential impacts ratifying the Minamata Convention would have on the lighting sector, primarily local governments that typically use mercury vapour lamps in public lighting. The RIS identified that industry had been making significant investment in lighting upgrades in recent years, particularly upgrades involving LED lighting. The RIS concluded that ratification would bring forward the final stages of this investment.

The Minamata Convention's ratification on 7 December 2021 means the Australian Government is expected to progress regulatory change that will effectively mandate the transition from mercury vapour lamps to LED lighting in public and commercial lighting.

Impact on Existing Projects

Existing projects are not affected by the Revocation Instrument. Even after the 2015 lighting determination has been revoked in accordance with the Revocation Instrument, an eligible offsets project already registered and whose crediting period has begun before the revocation comes into effect, can continue to use that determination in the form it was in at the time the crediting period commenced, pursuant to section 127 of the Act.

New offsets projects will not be able to register under the 2015 lighting determination. Further, projects that registered under the 2015 lighting determination whose crediting periods have not commenced before the commencement of the Revocation Instrument, cannot continue under that determination.

Public Consultation

A discussion paper proposing that the 2015 lighting determination be revoked was published on the Department of Industry, Science, Energy and Resources' website for public consultation from 13 January to 11 February 2022. Two submissions were received, neither of which provided sufficient evidence to demonstrate that the 2015 lighting determination

continues to result in additional carbon abatement.

The ERAC completed a crediting period extension review of the 2015 lighting determination in 2021. In the course of this review, the ERAC undertook targeted stakeholder engagement that sought information and data to demonstrate that the 2015 lighting determination would continue to result in abatement that would be unlikely to occur in the ordinary course of events if the crediting period were extended.

The Minister is satisfied that appropriate consultation, that is reasonably practicable to undertake, was undertaken and that any parties that may be affected by the Revocation Instrument were provided an opportunity to comment.

Determination Details

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

The Revocation Instrument commences on the day after it is registered.

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—Commercial and Public Lighting—Revocation) Instrument 2022*.

2 Commencement

Section 2 provides that this instrument would commence on the day after it is registered.

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 ‘Act’ as the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

5 Revocation of methodology determination

Section 5 revokes the *Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015* 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—Commercial and Public Lighting—Revocation)

Instrument 2022

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 Legislature Instrument

The *Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting—Revocation) Instrument 2022* revokes the *Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015* made under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

The determination being revoked no longer complies with the offsets integrity standards.

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.

The Hon Angus Taylor MP

Minister for Industry, Energy and Emissions Reduction