

EXPLANATORY STATEMENT

Issued by authority of the Clean Energy Regulator

Carbon Credits (Carbon Farming Initiative) Rule 2015

Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2025

Purpose

The *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule) details requirements that supplement the requirements imposed by the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act), including audit requirements for project applications.

One component of this risk-based audit approach is the *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2015* (the 2015 Audit Thresholds Instrument), which sunsets on 1 April 2025. The *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2025* (the Audit Thresholds Instrument) repeals and replaces the 2015 Audit Thresholds Instrument.

The Audit Thresholds Instrument prescribes the thresholds which determine the number of subsequent audits a project will be subject to, the trigger audit threshold, and types of eligible offsets projects (otherwise known as Australian Carbon Credit Unit Scheme projects, or ACCU Scheme projects) that may be eligible for a reduced number of audits (alternative assurance projects).

Background: ACCU Scheme

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) enables the crediting of greenhouse gas abatement from emissions reduction activities across Australia, under the ACCU Scheme. Greenhouse gas abatement is achieved either by reducing or avoiding emissions, or by removing carbon from the atmosphere and storing it, consistent with Australia's international obligations under the United Nations Framework Convention on Climate Change, and the Paris Agreement.

Scheduled audits and triggered audits

Integrity of abatement is a key element of the ACCU Scheme. Since the inception of the scheme, the requirement for audits has been a core integrity and assurance measure for all ACCU Scheme projects. A risk-based approach to compliance ensures that audits are targeted to situations where they can provide the greatest value in supporting scheme integrity.

Subsections 74(1) and 75(1) of the Rule together require each ACCU Scheme project to be the subject of at least three scheduled audits and sets out that there are two types of scheduled audits: initial audits and subsequent audits. Sections 74 and 76 of the Rule set out the requirements for each type of audit – initial audits have a broader scope than subsequent audits. Project proponents receive confirmation of the number and timing of scheduled audits for their project in an audit schedule, provided by the Clean Energy Regulator at the time of project registration.

Under paragraph 75(4)(a) of the Rule, the Audit Thresholds Instrument may specify audit thresholds for ACCU Scheme projects. If an ACCU Scheme project's estimated annual average abatement exceeds such a threshold, the project is required to undergo a number of additional subsequent audits also specified in the Audit Thresholds Instrument. Paragraph

75(4)(c) of the Rule further provides that the Audit Thresholds Instrument may specify trigger audit thresholds for ACCU Scheme projects. If the reported carbon dioxide equivalent net abatement amount for a reporting period for an ACCU Scheme project is greater than either 250,000 tonnes of carbon dioxide equivalent, or a trigger audit threshold, the project is required to undergo a distinct type of audit called a threshold audit.

Alternative assurance projects

In 2021, the Rule was amended by the *Carbon Credits (Carbon Farming Initiative) Amendment (Audit) Rule 2021* to provide for a new category of “alternative assurance projects” which may be subject to fewer or no scheduled audits. These amendments recognised that, as industry innovates and technologies develop, there are opportunities to recognise alternatives to traditional project auditing while still providing a level of assurance that is fit for purpose and does not reduce scheme integrity. Such alternatives can reduce administrative burden for participants and broaden scheme participation, including for small-scale projects for which the audit costs are a barrier to participating in the ACCU Scheme.

Subsection 73(7) and paragraph 75(4)(ba) of the Rule as amended enable the Regulator to prescribe in the Audit Thresholds Instrument certain criteria that must be satisfied for a project to become an alternative assurance project. Alternative assurance projects are those which the Regulator considers pose low risk for integrity of abatement, either because of the attributes of the project, or because other mechanisms are available to provide appropriate assurance a lesser cost, or a combination of the two.

Alternative assurance projects are still subject to triggered audits under Part 6 Division 3 Subdivision D of the Rule, and compliance and other audits covered by sections 214 and 215 of the Act.

In 2021, the 2015 Audit Thresholds Instrument was amended by the *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Amendment (Low Risk Environmental Planting Projects) Instrument 2021* to set out the requirements for an initial class of alternative assurance projects, called ‘Low Risk Environmental Plantings 2014 Projects’ in the Audit Thresholds Instrument, for certain small projects using the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014* (the 2014 environmental plantings method). Following the amendment, if a project proponent requests for the project to be an alternative assurance project and the project meets these requirements, that project will not be subject to any scheduled audits.

In August 2024, the 2015 Audit Thresholds Instrument was amended by the *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Amendment (Low Risk Plantation Forestry Projects) Instrument 2024*, to set requirements for a second class of alternative assurance projects under the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2022* (the plantation forestry method), namely ‘Low Risk Plantation Forestry Projects’. Following the amendment, if a project requests for the project to be an alternative assurance project and the project meets these requirements, the project will be subject to one scheduled audit, which is to be an initial audit.

The 2014 environmental plantings method expired on 30 September 2024 and was replaced by the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024* (the 2024 environmental plantings method). Public consultation undertaken in late 2024 reflected overwhelming support for the Audit Thresholds Instrument to include a new class of alternative assurance

projects under the 2024 environmental plantings method (Low Risk Environmental Plantings 2024 Projects).

The Audit Thresholds Instrument introduces Low Risk Environmental Plantings 2024 Projects as a third class of alternative assurance projects. This class has the same eligibility criteria as Low Risk Environmental Plantings 2014 Projects, other than the removal of a reference to “generic calibration” which is not applicable to the 2024 environmental plantings method.

There are no other substantive differences between the 2015 Audit Thresholds Instrument and the Audit Thresholds Instrument. This means that existing and future projects will be subject to the same audit requirements as those in the 2015 Audit Thresholds Instrument, other than the inclusion of the new Low Risk Environmental Plantings 2024 class of alternative assurance projects.

Legislative Authority

Subsection 75(4) of the Rule empowers the Regulator to, by legislative instrument (namely, the Audit Thresholds Instrument), set out one or more matters, including audit thresholds, the number of subsequent audits required for projects that meet each audit threshold, trigger audit thresholds, and matters relating to an alternative assurance project for the purposes of subsection 73(7) of the Rule.

Under subsection 33(3) of the *Acts Interpretation Act 1901* (Acts Interpretation Act) read together with paragraph 13(1)(a) of the *Legislation Act 2003* (Legislation Act), the Regulator’s power under subsection 75(4) of the Rule to make audit thresholds instruments is to be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary those instruments and therefore extends to the repeal of the 2015 Audit Thresholds Instrument.

Compliance with Legislative Conditions

In making the Audit Thresholds Instrument (including making any amendment to it), the Regulator is required by subsection 75(4A) of the Rule to take into account:

- (a) the proportionality of likely audit burden to risks associated with relevant classes of ACCU Scheme projects; and
- (b) whether particular classes of ACCU Scheme projects should have more or less scheduled audits or no scheduled audits; and
- (c) the likely effectiveness of any alternative assurance process that may be prescribed or specified for the purposes of paragraphs 73(7)(b) or (c) of the Rule; and
- (d) the principle that any costs for a project proponent of being an alternative assurance project should be less than the costs of audits that would otherwise be conducted; and
- (e) any other matter the Regulator considers relevant.

In making the Audit Thresholds Instrument, the Regulator has taken these matters into account.

Details and operation

The Audit Thresholds Instrument is a legislative instrument within the meaning of the Legislation Act. The Audit Thresholds Instrument commences on the day after it is registered on the Federal Register of Legislation.

Details of the Audit Thresholds Instrument are set out in **Attachment A**.

Incorporated material

The Audit Thresholds Instrument incorporates material from the 2014 environmental plantings method, the 2024 environmental plantings method and the plantation forestry method, which are accessible from the Federal Register of Legislation, as they exist from time to time. These materials are described in the above background under ‘Alternative assurance projects’.

Public consultation

Two rounds of public consultation were conducted to inform the preparation of the Audit Thresholds Instrument.

On 18th November 2024, the Regulator released the first public consultation paper, seeking feedback on the effectiveness and efficiency of the 2015 Audit Thresholds Instrument.

The first consultation paper was published on the Regulator’s online Consultation Hub and an email with links to the Consultation Hub was sent to all ACCU Scheme email subscribers and the primary contact for all ACCU Scheme projects. A reminder email was sent to ACCU Scheme subscribers and the primary contact for all ACCU Scheme projects on 3rd December 2024. Stakeholders could respond either using an online survey or through a submission emailed to the Regulator, until 15th December 2024.

20 submissions were received for the first consultation from a range of stakeholders. All feedback received was considered and used to inform the development of a draft Audit Thresholds Instrument for public consultation.

A draft Audit Thresholds Instrument was released for public consultation on the 22nd January 2025 with a second consultation paper including responses to feedback received from the first round of public consultation.

The second consultation paper and draft instrument were published on the Regulator’s online Consultation Hub and an email with links to the Consultation Hub was sent to all ACCU Scheme email subscribers and the primary contact for all ACCU Scheme projects. Stakeholders could respond either using an online survey or through a submission emailed to the Regulator, until 5th February 2025.

23 submissions were received to the second round of public consultation. All feedback received in response to the second public consultation paper was taken into account in finalising the Audit Thresholds Instrument.

Submissions overwhelmingly supported the inclusion of the Low Risk Environmental Plantings 2024 class of alternative assurance projects.

Most submissions agreed that the Audit Thresholds Instrument strikes the right balance between supporting participation and abatement, ensuring integrity of abatement, and facilitating a risk based approach to compliance.

In response to submissions, amendments to the draft instrument were made to clarify that the 200-hectare size limit for Low Risk Environmental Plantings 2014 Projects, Low Risk Plantation Forestry Projects, and Low Risk Environmental Plantings 2024 Projects includes projects with multiple carbon estimation areas and the combined project total cannot be more than 200 hectares.

Certain technical amendments have also been made to clarify the operation of the Audit Thresholds Instrument.

Audit thresholds: Stakeholders were asked whether there was evidence that the audit thresholds or number of subsequent audits required for projects that meet each threshold should be changed to better support a risk-based approach to compliance.

The majority of submissions believed that audit thresholds should remain unchanged from those in the 2015 Audit Thresholds Instrument. Suggestions from other submissions included setting threshold audits on average annual abatement, limiting costs for smaller projects, and increased flexibility for low risk projects. The Regulator is of the view that the current risk-based approach ensures audits are targeted where they will best support scheme integrity consistently with the Rule, and that low risk and smaller projects are best supported through alternative assurance arrangements.

Trigger audit threshold: Stakeholders were asked whether there is any evidence that the trigger audit threshold should be changed to better support a risk-based approach to compliance.

Of those who answered, the majority proposed that the trigger audit threshold should remain unchanged from that in the 2015 Audit Thresholds Instrument. Suggestions included introducing a tiered trigger threshold for low risk projects. The Regulator is of the view that the Rule does not allow introduction of a tiered trigger audit threshold, but low risk projects can be supported through alternative assurance arrangements when appropriate.

Alternative assurance arrangements for the 2024 environmental plantings method: Stakeholders were asked whether alternative assurance arrangements should be extended to the 2024 method and if any changes are required.

The submissions reflected overwhelming support for the proposed inclusion of Low Risk Environmental Plantings 2024 Projects as an additional class of alternative assurance projects, and that the integrity of such projects can be achieved under the proposed reduced audit requirements.

The submissions provided feedback on the proposed project related criteria that must be met for the purposes of paragraph 73(7)(b) of the Rule and were overwhelmingly in favour of the criteria being the same as the criteria for the Low Risk Environmental Plantings 2014 Projects.

A small number of submissions proposed alternative eligibility criteria for Low Risk Environmental Plantings 2024 Projects. Suggestions included allowing proponents who are not the owner, leaseholder and native title holder of the land to participate and increasing the

maximum size capacity to incentivise participation. The Regulator is of the view that these changes to the eligibility criteria would increase the risk associated with this class of ACCU Scheme projects.

One submission proposed that mallee plantings should be included in alternative assurance for Low Risk Environmental Plantings 2024 Projects. The Regulator is of the view that audit measures are required for mallee plantings as they have stricter requirements compared to a mixed-species planting.

Regulatory Impact

The Office of Impact Analysis (OIA) has determined that a detailed Impact Analysis is not required. This assessment has been made based on their understanding that the proposed Audit Thresholds Instrument does not represent a significant difference from the status quo and does not propose to increase the audit burden for projects or propose significant changes to existing requirements under the current instrument.

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**.

Details of the sections in the *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2025*

1 Name

This section sets out the name of the instrument.

2 Commencement

This section provides that the instrument commences on the day after it is registered on the Federal Register of Legislation.

3 Authority

This section sets out the legal authority for the making of the instrument, being subsection 75(4) of the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. The instrument relies on the operation of subsection 33(3) of the Acts Interpretation Act read together with paragraph 13(1)(a) of the Legislation Act for authority to repeal the 2015 Audit Thresholds Instrument.

4 Schedule 1

This section provides that the instruments in Schedule 1 are repealed as described in that Schedule.

5 Definitions

This section provides definitions for terms used in the instrument that are not defined in the *Carbon Credits (Carbon Farming Initiative) Rule 2015*.

6 Audit Thresholds

This section sets out the thresholds as related to an annual average abatement amount. The annual average abatement amount is the estimate of the amount of carbon abatement, in tonnes of carbon dioxide equivalent, corresponding to the number of Australian carbon credit units likely to be issued for the project, over the course of its crediting period (or, as the case may be, its last crediting period) and any extended accounting period, divided by the number of years in the crediting period (or, as the case may be, its last crediting period).

The three thresholds are:

Threshold A (small) – 50 000 tonnes of carbon dioxide equivalent or less

Threshold B (medium) – 50 001 to 150 000 tonnes of carbon dioxide equivalent

Threshold C (large) – more than 150 000 tonnes of carbon dioxide equivalent.

7 Number of subsequent audits

This section sets out the number of subsequent audits required for a project based on the thresholds set in section 6.

This section separates the requirements for a new project from a transitioning project that had already reported under the *Carbon Credits (Carbon Farming Initiative) Act 2011* before the Rule commenced on 17 February 2015. Transitioning projects which had already reported

before 17 February 2015 each submitted an audit report that was the equivalent of an initial audit as described in the Rule. As such they are still required to undergo the same overall number of scheduled audits for the crediting period which commenced with the amendments of 13 December 2014, but all those audits are subsequent audits, which have a reduced scope as compared to an initial audit. This results in transitioning projects which had already reported before 17 February 2015 having one additional subsequent audit.

New projects, which includes (through the definition of new project) transitioning projects that did not submit an audit report before the Rule commenced on 17 February 2015, are required to undergo an initial audit in addition to the listed number of subsequent audits.

8 Trigger audit threshold

A threshold audit, one of three trigger audits described in the Rule, must be completed if the carbon dioxide net abatement amount for a reporting period exceeds 100 000 tonnes of carbon dioxide equivalent. This ensures any large volumes of Australian carbon credit units claimed for a single reporting period are subject to the independent verification provided by audit.

9 Alternative assurance projects

This section sets out the requirements an ACCU Scheme project must meet to be eligible to be an alternative assurance project. It also sets out the number and type of scheduled audits required for each class of alternative assurance projects. The table in subsection (3) sets out the requirements an ACCU Scheme project must meet to be eligible to be an alternative assurance project, which are:

- a. have its applicable methodology determination prescribed by column 2 of the table; and
- b. meet the criteria prescribed by column 3 of the table; and
- c. meet conditions on the project proponent related to the operation or reporting for the project specified by column 4 of the table.

This section establishes the following classes of alternative assurance projects:

- ‘Low Risk Environmental Plantings 2014 Projects’
- ‘Low Risk Plantation Forestry Projects’, and
- ‘Low Risk Environmental Plantings 2024 Projects’.

If the project changes so that it is no longer an alternative assurance project or ceases to meet the requirements to be an alternative assurance project, the Regulator may vary the audit schedule for the project under paragraph 73(5)(ab) of the CFI Rule to require one or more audits that would have been required if the project was not an alternative assurance project. This is acknowledged in the note at the end of the table in section 9.

Schedule 1 - Repeals

This schedule provides that the 2015 Audit Thresholds Instrument is repealed.

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) (Audit Thresholds) Instrument 2025

The *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2025* (Audit Thresholds 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) Act 2011* (the Act) enables the crediting of greenhouse gas abatement from emissions reduction activities across Australia, under the ACCU Scheme. Greenhouse gas abatement is achieved either by reducing or avoiding emissions, or by removing carbon from the atmosphere and storing it, consistent with Australia's international obligations under the United Nations Framework Convention on Climate Change, and the Paris Agreement.

The Act is supported by subordinate legislation, including the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule). The Rule details additional administrative requirements supplementing the requirements of the Act. Relevantly, the Rule allows the Clean Energy Regulator to create the Audit Thresholds Instrument.

The Rule requires each ACCU Scheme project to be the subject of at least three scheduled audits and sets out that there are two types of scheduled audits: initial audits and subsequent audits.

The Rule provides that the Audit Thresholds Instrument may specify audit thresholds. If an ACCU Scheme project's estimated annual average abatement exceeds such a threshold, the project is required to undergo a number of additional subsequent audits also specified in the Audit Thresholds Instrument. The Rule further provides that the Audit Thresholds Instrument may specify trigger audit thresholds. If the reported carbon dioxide equivalent net abatement amount for a reporting period for an ACCU Scheme project is greater than either 250,000 tonnes of carbon dioxide equivalent, or a trigger audit threshold, the project is required to undergo a distinct type of audit called a threshold audit.

In 2021, the Rule was amended by the *Carbon Credits (Carbon Farming Initiative) Amendment (Audit) Rule 2021* to provide for a new category of "alternative assurance projects" which may be subject to fewer or no scheduled audits. The Rule as amended enables the Regulator to prescribe types of projects as alternative assurance projects through the Audit Thresholds Instrument.

The Audit Thresholds Instrument prescribes the thresholds which determine the number of subsequent audits a project will be subject to, the trigger audit threshold, and types of ACCU Scheme projects (alternative assurance projects) that may be eligible for a reduced number of audits.

Human rights implications

The Audit Thresholds Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The Audit Thresholds Instrument is compatible with human rights as it does not raise any human rights issues.