



Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2017

I, Josh Frydenberg, Minister for the Environment and Energy, make the following rule.

Dated 10 August 2017

Josh Frydenberg
Minister for the Environment and Energy

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1 Name

This is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
The whole of this instrument.	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 308 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Carbon Credits (Carbon Farming Initiative) Rule 2015

1 After section 9

Insert:

9A Permanence period discount number—short rotation plantation forestry projects

- (1) This section applies in relation to a project:
 - (a) that includes the establishment of a plantation for the harvest of forest products that is established by planting or seeding; and
 - (b) for which the length of any of the rotations of a plantation that is part of the project from the planting, seeding or coppicing to the subsequent clearfelling during the 100 year period after the section 27 declaration will be less than 20 years.
- (2) For subparagraph (c)(ii) of the definition of “permanence period discount number” in subsection 16(2) of the Act, the permanence period discount number is 25%.

2 After subsection 13(2)

Insert:

- (3) If section 20B is relevant to the application, the application must also be accompanied by:
 - (a) the new ERF plantation notification made in relation to the application; and
 - (b) any information sent in connection with that application to the designated email account (within the meaning of that section).

3 After section 20A

Insert:

20B Excluded offsets project—certain new plantation forests

- (1) For paragraph 27(4)(m) and subsection 56(1) of the Act, if the project involves the establishment of a new plantation forest and this section applies to an application under section 22 of the Act—the project is an excluded offsets project if:
 - (a) the project proponent did not make a new ERF plantation notification meeting all of the following criteria:
 - (i) the new ERF plantation notification was made in the period beginning 18 months before the date of the application under section 22 of the Act and ending on the day of that application (inclusive);
 - (ii) all of the proposed project area for the project is within the potential project area set out in the new ERF plantation notification;
 - (iii) the size of the proposed project area does not exceed the maximum project area size set out in the new ERF plantation notification;

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- (iv) the new ERF plantation notification has not previously been relied upon in relation to an application under section 22 of the Act that resulted in a declaration of an eligible offsets project under subsection 27(2) of the Act;
 - (b) both of the following apply:
 - (i) within 30 days of a new ERF plantation notification being made the Agriculture Minister has sent the project proponent and the Regulator a written statement:
 - (A) stating that the Agriculture Minister intends to make an adverse impact finding in relation to the notification; and
 - (B) inviting the project proponent to send a written response to the designated email account within 20 days;
 - (ii) one of the following applies:
 - (A) within 30 days of sending the written statement referenced in subparagraph (1)(b)(i) the Agriculture Minister sends another written statement to the project proponent and Regulator stating that no written response to the first statement was sent within the 20 days; or
 - (B) within 45 days of sending the written statement referenced in subparagraph (1)(b)(i) the Agriculture Minister sends another written statement to the project proponent and Regulator making an adverse impact finding in relation to the notification; or
 - (C) less than 45 days have passed since the written statement referenced in subparagraph (1)(b)(i) was sent.
- (2) For paragraph 27(4)(m) and subsection 56(1) of the Act, if the project involves the establishment of a new plantation forest and this section applies to an application under subsection 23(3)—the project is an excluded offsets project if the effect of the application is to add an area of land to the project area for the project and:
- (a) the project proponent did not make an ERF plantation expansion notification meeting all of the following criteria:
 - (i) the ERF plantation expansion notification was made in the period beginning 18 months before the date of the application under subsection 23(3) and ending on the day of that application (inclusive);
 - (ii) all of the proposed additional project area for the project is within the potential additional project area set out in the ERF plantation expansion notification;
 - (iii) the size of the additional project area does not exceed the maximum additional project area size set out in the ERF plantation expansion notification;
 - (iv) the ERF plantation expansion notification has not previously been relied upon in relation to an application under subsection 23(3) that resulted in a variation of the declaration under subsection 23(1); or
 - (b) both of the following apply:
 - (i) within 30 days of an ERF plantation expansion notification being made the Agriculture Minister has sent the project proponent and the Regulator a written statement:
 - (A) stating that the Agriculture Minister intends to make an adverse impact finding in relation to the notification; and

- (B) inviting the project proponent to send a written response to the designated email account within 20 days;
- (ii) one of the following applies:
 - (A) within 30 days of sending the written statement referenced in subparagraph (2)(b)(i) the Agriculture Minister sends another written statement to the project proponent and Regulator stating that no written response to the first statement was sent within the 20 days; or
 - (B) within 45 days of sending the written statement referenced in subparagraph (2)(b)(i) the Agriculture Minister sends another written statement to the project proponent and Regulator making an adverse impact finding in relation to the notification; or
 - (C) less than 45 days have passed since the written statement referenced in subparagraph (2)(b)(i) was sent.
- (3) For the purposes of subsection (1) or (2):
 - (a) if a project proponent makes more than one new ERF plantation notification or ERF plantation expansion notification relevant to an application, it is the last notification to which those subsections apply; and
 - (b) if a purported notification is incomplete, that notification is invalid and is taken never to have been made.
- (4) If the Agriculture Minister sends the project proponent and Regulator a written statement stating that an earlier written statement covered by subsection (1) or (2) is to be disregarded, the earlier statement is taken never to have been sent.
- (5) If there are multiple project proponents in relation to a project, an ERF plantation expansion notification or new ERF plantation notification need only be made by one of those project proponents.
- (6) The Agriculture Minister must arrange for new ERF plantation notifications and ERF plantation expansion notifications to be sent to the Regulator along with the date those notifications were made.
- (7) If the Regulator receives an application under section 22 of the Act or subsection 23(3) to which this section applies, the Regulator must not make a decision on whether to make a declaration under section 27 of the Act or decision under subsection 23(1) until:
 - (a) if a written statement is sent under subparagraph 20B(1)(b)(i) or 20B(2)(b)(i)—either:
 - (i) more than 45 days have passed since that statement was sent; or
 - (ii) another written statement is sent under sub-subparagraphs 20B(1)(b)(ii)(A) or (B) or sub-subparagraphs 20B(2)(b)(ii)(A) or (B); or
 - (b) otherwise—more than 30 days have passed since the new ERF plantation notification or ERF plantation expansion notification was made.
- (8) In this section:
 - adverse impact finding*** means:
 - (a) in relation to a new ERF plantation notification—a finding that if the project went ahead there would, in the opinion of the Minister, be an

undesirable impact on agricultural production in the region where the project would be located; or

- (b) in relation to an ERF plantation expansion notification—a finding that if the project went ahead in the additional project area there would, in the opinion of the Minister, be an undesirable impact on agricultural production in the region where the additional project area would be located.

Agriculture Minister means:

- (a) the Minister administering the *Agricultural and Veterinary Chemicals Act 1994*; or
- (b) an SES employee, or acting SES employee, delegated responsibilities relating to this section by the Minister covered by paragraph (a).

designated email account means the email address published by the Agriculture Minister on their Department’s website for receiving information relevant to this section.

ERF plantation expansion notification means a notification to the designated email account that:

- (a) states that the project proponent is planning to vary the declaration of an existing eligible offsets project to add an area of land to the project area for the project; and
- (b) attaches a geospatial map of the potential additional project area that could be added to the project in accordance with the CFI Mapping Guidelines; and
- (c) sets out the maximum additional project area size, in hectares, that will be added to the project area of the project; and
- (d) contains the name, address and contact details of the project proponent, including a nomination of an email account for the receipt of all correspondence relating to the notification; and
- (e) lists the known addresses of land within the potential additional project area; and
- (f) includes the following statements in the form specified in any guidelines relating to this section published by Agriculture Minister on their Department’s website:
- (i) a statement setting out the previous five years of agricultural land use history within the potential additional project area, including the area, in hectares, of each land use type;
 - (ii) unless a statutory declaration is provided setting out why an agricultural production history is unavailable to the project proponent—a statement setting out the previous five years of agricultural production history of agricultural commodities within the potential additional project area;
 - (iii) a statement assessing the project’s potential impact on agricultural production in the region, that takes into account in any guidelines relating to this section published by the Agriculture Minister on their Department’s website; and
- (g) contains information required by any guidelines relating to this section published by the Agriculture Minister on their Department’s website.

Note: The potential additional project area could be a precise project area on which the additional project area is to be located or the boundaries of an area the project

proponent is looking to define a smaller additional project area in up to the maximum size provided under paragraph (c). Applicants need not have acquired any of the land in the potential additional project area before making an ERF plantation expansion notification.

incomplete, in relation to a new ERF plantation notification or ERF plantation expansion notification, includes a notification which does not include the information or documents required by the definition of that notification.

new ERF plantation notification means a notification to the designated email account that:

- (a) states that the project proponent is planning to seek the declaration of a project to establish a new plantation forest as an eligible offsets projects; and
- (b) attaches a geospatial map of the potential project area for the project in accordance with the CFI Mapping Guidelines; and
- (c) sets out the maximum project area size, in hectares, for all of the proposed project areas of the project; and
- (d) contains the name, address and contact details of the project proponent, including a nomination of an email account for the receipt of all correspondence relating to the notification; and
- (e) lists the known addresses of land within the potential project area; and
- (f) includes the following statements in the form specified in any guidelines relating to this section published by Agriculture Minister on their Department's website:
 - (i) a statement setting out the previous five years of agricultural land use history within the potential project area, including the area, in hectares, of each land use type;
 - (ii) unless a statutory declaration is provided setting out why an agricultural production history is unavailable to the project proponent—a statement setting out the previous five years of agricultural production history of agricultural commodities within the potential project area;
 - (iii) a statement assessing the project's potential impact on agricultural production in the region, that takes into account in any guidelines relating to this section published by the Agriculture Minister on their Department's website; and
- (g) contains information required by any guidelines relating to this section published by the Agriculture Minister on their Department's website.

Note: The potential project area could be a precise project area on which the project area is to be located or the boundaries of an area the project proponent is looking to define a smaller project area in up to the maximum size provided under paragraph (c). Applicants need not have acquired any of the land in the potential project area before making a new ERF plantation notification.

plantation forest means a plantation for the harvest of forest products that is established by planting or seeding.

4 After paragraph 23(3)(m) (before the note)

Insert:

- (n) if section 20B is relevant to the application—the ERF plantation expansion notification made in relation to the application and any information sent in

connection with that application to the designated email account (within the meaning of that section).