

## **EXPLANATORY STATEMENT**

Issued by the Minister for the Environment

*Carbon Credits (Carbon Farming Initiative) Act 2011*

*Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*

### **Purpose of amendment rule**

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 from the atmosphere and storing it in soil or trees.

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the Amendment Rule) clarifies the intent of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2018) (the Human-Induced Regeneration Method). The Amendment Rule ensures the Clean Energy Regulator (the Regulator) has the information necessary to assess compliance with requirements in the Emissions Reduction Fund method for human-induced regeneration projects. The Amendment Rule also provides clarity around the timeframes within which land under the method must attain forest cover to obtain further carbon credits.

The Amendment Rule also ensures that amounts payable by the Clean Energy Regulator (the Regulator) under carbon abatement contracts are able to be set-off against money payable to the Regulator by a person who has failed to comply with a relinquishment requirement under the Act.

The Amendment Rule achieves these changes by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule).

### **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.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects (projects declared under section 27 of the Act). The Regulator is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

### **Background: native forest regeneration**

Native forest regeneration methods provide opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover.

The Human-Induced Regeneration Method provides opportunities for regenerating forest on land that has been without forest cover for at least 10 years and does not have forest cover at the start of the project (i.e. does not have pre-existing forest cover). The land must have been subject to management practices during those 10 years that suppressed the development of forest, and the land must be not able to attain forest cover without a change in those management practices. Land must have ‘forest potential’ – the potential to achieve forest cover – to be eligible for a project using the method.

Forest cover is defined as land with an area of at least 0.2 of a hectare with trees that are 2 metres or more in height and provide crown cover of at least 20% of the land. This definition aligns with the definition used for Australia’s international reporting obligations and targets.

Project proponents use the Australian Government’s publicly available Full Carbon Accounting Model (FullCAM) to estimate abatement. FullCAM was developed to estimate greenhouse gas emissions and carbon sequestration for land systems in Australia, using spatial data inputs. It is used in preparing estimates for Australia’s National Greenhouse Accounts and reporting against the Government’s international emissions reduction commitments.

The method initially used the Reforestation Modelling Tool to estimate abatement. The method was varied in 2016 to, among other things, replace use of the Reforestation Modelling Tool with the FullCAM model.

Amendments to the Principal Rule provide assurance that crediting under the method aligns with on-ground progress of regenerating vegetation towards forest cover.

The amendments apply to the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* and its variants. They also apply to any projects under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (Native Forest from Managed Regrowth Method) which include land previously in a project under the Human-Induced Regeneration Method.

Under the Act the issuance of Australian carbon credit units is separate to the declaration of eligible offsets projects and offsets reporting under the applicable method. After submitting an offsets report, project proponents can submit an application for a certificate of entitlement for the reporting period covered by the offsets report. Under subsection 15(2) of the Act, the Regulator cannot issue a certificate of entitlement unless satisfied of a number of requirements. Paragraph 15(2)(h) includes in that list any additional requirements specified in the regulations or legislative rules.

Under the Act, offsets reports must include both information required by the applicable method and information required by legislative rules.

Central to the Amendment Rule is a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for offsets reports including the applicable carbon estimation areas (CEAs).

The Amendment Rule also clarifies the information necessary to demonstrate that the forest potential requirements of the method are being met. This complements Regulator guidance (*Guidance on stratification, evidence and records*; available from the Regulator’s website [www.cleanenergyregulator.gov.au](http://www.cleanenergyregulator.gov.au)) setting out information to be provided by proponents at

5-year intervals to demonstrate that land within CEAs continues to have forest potential and has made progress towards attaining forest cover.

Land under existing CEAs (land part of a project area of a registered human-induced regeneration project on 15 August 2018) is required to attain forest cover by 15 years after the declaration of the project (or 15 years after the CEA modelling commencement date if that is later) to receive further credits through certificates of entitlement. The forest cover assessment date for each CEA may be delayed where:

- ‘eligible growth disruptions’ of up to 5 years have occurred in the CEA (for CEAs affected by disturbances that stop growth or by growth pauses)
- the modelled abatement of the CEA does not exceed 5 tonnes per hectare, unless the project is in the final 5 years of its crediting period.

For projects declared after 15 August 2018 or land added to an existing project after 15 August 2018, the same requirement to attain forest cover applies, but the 15-year period has a different starting point. It is the 15 years after the commencement of the modelling of forest regeneration in the relevant CEA. The forest cover assessment date for the CEA may be delayed where:

- ‘eligible growth disruptions’ have occurred in the CEA before the commencement of the project crediting period
- ‘eligible growth disruptions’ have occurred in the CEA during the crediting period (with no more than 5 years of eligible growth disruptions during the crediting period able to contribute to the total eligible growth disruption period)
- the modelled abatement of the CEA does not exceed 5 tonnes per hectare, unless the project is in the final 5 years of its crediting period.

These provisions support the principle that regeneration projects should be undertaken on land with existing forest potential that is capable of attaining forest cover.

The provision for extending the 15-year period where the CEA’s modelled abatement does not exceed 5 tonnes per hectare ensures vegetation in low productivity areas is required to attain forest cover within timeframes realistic for those conditions. Modelling undertaken in accordance with the relevant method needs to show the CEA has more than 5 tonnes of carbon per hectare for the forest cover requirement to apply. This benchmark abatement level of 5 tonnes per hectare is supported by data on growth of vegetation in regions where regeneration projects may be undertaken, including the time this vegetation generally takes to reach forest cover. The data shows that within a 15-year period and where modelled regeneration reaches 5 tonnes, on-ground regrowth is expected to have attained forest cover. The provision also ensures where disturbances such as wildfires reduce carbon stocks, projects are not required to have attained forest cover until stocks have recovered to more than 5 tonnes of carbon per hectare, providing there is still more than 5 years left until the end of the crediting period.

Limiting the crediting of CEAs yet to meet the forest cover requirements after a reasonable period of time supports consistency between modelled abatement estimates and on-ground project performance. The offsets integrity standards under the Act require that methods provide for conservative estimates of abatement.

Proponents could elect to restratify CEAs so that crediting would only be limited for areas of CEAs that have not substantially reached forest cover. The Amendment Rule has no effect on crediting for CEAs that have reached forest cover within their relevant 15-year period.

## **Operation**

The Act is supported by subordinate legislation, including the Principal Rule, and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (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 the Environment is empowered to make legislative rules under section 308 of the Act. The Amendment Rule supports the operation of the Human-Induced Regeneration Method and any projects under the Native Forest from Managed Regrowth Method which include land previously in a project under the Human-Induced Regeneration Method.

The primary changes to the Principal Rule relate to clarifying reporting to ensure the Regulator has the necessary information to administer the method and clarifying timeframes for land under the method to attain forest cover to obtain further carbon credits.

In particular, section 9AA sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and when regular forest potential information is inadequate. Subsection 70(3A) and paragraph 71(c) strengthen offsets reporting requirements by specifying the information that must be included in offsets reports for demonstrating progress towards forest cover at 5-year intervals and the attainment of forest cover once the forest cover assessment date passes. Section 79A provides for additional audit requirements for projects with CEAs that have passed the forest cover assessment date.

Section 95 sets out provision for the Regulator to set-off amounts payable by the Regulator under carbon abatement contracts against money payable to the Regulator under relinquishment requirements of the Act.

## **Detailed description of the Amendment Rule**

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

## **Public consultation**

Public consultation on a draft Amendment Rule was undertaken from 23 August 2018 to 13 September 2018. People were invited to make written submissions or to call or email the Department of the Environment and Energy to provide comments. Submissions and feedback received have been taken into account in the Amendment Rule.

## **Regulatory impact**

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment and Energy certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund. The decisions included the Emissions Reduction Fund crediting and purchasing arrangements, Carbon Farming Initiative arrangements incorporated into the Emissions Reduction Fund, and coverage of the Emissions Reduction Fund safeguard mechanism. These minor amendments will not materially impact the regulatory impact of the scheme.

## **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) Amendment Rule (No. 2) 2018***

**1. Name**

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*.

**2. Commencement**

Section 2 provides that the Amendment Rule would commence on the seventh day after it is registered.

**3. Authority**

Section 3 provides that the Amendment Rule would be made under section 308 of the Act. Section 304 of the Act also allows such rules to apply, adopt or incorporate matters in any instrument or writing as in force from time to time.

**4. Schedules**

Section 4 provides that the Amendment Rule would, when made, amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) in the manner set out in the schedules. The power to make rules in section 308 of the Act includes the power to amend or revoke rules that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

**Schedule 1—Amendments**

**1 Section 9AA (Issue of certificate of entitlement—eligibility requirements for human-induced regeneration projects)**

Section 9 of the Principal Rule specifies eligibility requirements that must be met in order for a certificate of entitlement to credits to be issued to an eligible offsets project for a reporting period.

This item inserts a new section 9AA that sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and in relation to the information required. Whether or not this section is satisfied does not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period.

The new subsection 9AA(2) ensures the information requirements set out in new paragraphs 70(3A)(a) and 71(c) and described below are adequately met in order for a regeneration project to be eligible for a certificate of entitlement.

The new subsection 9AA(3) is the central requirement to ensure that all CEAs that are past their forest cover assessment date must have attained forest cover to be eligible for a certificate of entitlement.

Subsection 9AA(4) sets out what is required for a CEA to be taken to have attained forest cover. The requirements are designed to ensure only those areas of land within a CEA meeting the method's definition of forest cover can be taken to have attained forest cover. In order to reliably determine whether forests meet the minimum area of 0.2 hectares, the assessment of forest cover must be undertaken at the 0.2 hectare scale. Any land of 0.2 hectares (or more) in area that does not have trees two metres or more in height and providing crown cover of at least 20% of the land does not meet the forest cover definition. Therefore the section requires assessment at the 0.2 hectare scale.

Paragraph (4)(a) provides for a simplified assessment approach; if the most recent version of the forest cover mapping used by the Government's National Inventory Report to report sequestered carbon shows over 90% of the area of the CEA as having forest cover, the CEA is taken to have attained forest cover. This approach is permitted because the National Inventory Report forest cover mapping is undertaken at a scale of less than 0.2 hectares (0.0625 hectares) and applies the requirement of a minimum contiguous forest area of 0.2 hectares to classify land as having forest cover. How to access the forest cover mapping is described on the Department's website ([www.environment.gov.au](http://www.environment.gov.au)). The Department is streamlining public access to the mapping.

Paragraph (4)(b) provides for a more detailed assessment such that when a CEA is considered as 0.2 hectare portions, and over 90% of those 0.2 hectare portions have attained forest cover as per the definition, the CEA is taken to have attained forest cover.

If a CEA were to be credited for abatement where it does not attain forest cover in at least 90% of the 0.2 hectare portions by the forest cover assessment date, the crediting is unlikely to be conservative. This is because the models used for estimating abatement under the method are calibrated to provide estimates of abatement where each 0.2 hectare portion of land attains forest cover. The requirements of subsection 9AA(4) help ensure carbon abatement credited under the method is conservative, consistent with the offsets integrity standards of the Act.

Allowing for 90% of 0.2 hectare portions to have attained forest cover, rather than 100%, reduces the need for re-stratification in circumstances where a small proportion of a CEA has not attained forest cover. Furthermore, where a small proportion of the CEA (10% or less of the 0.2 hectare portions) may be on the margins of having attained forest cover, the whole of the CEA would not be prevented from being taken to have attained forest cover.

The Department will consult stakeholders over whether it is possible to develop an option for future inclusion under subsection (4) to allow proponents to delay the forest cover assessment date until no later than 5 years before the end of the crediting period, where robust, direct measurement of carbon stocks can show that at least as much carbon has accumulated under the relevant pools as has been claimed in offsets reports for the span of the project.

Subsection 9AA(5) provides for requirements to be set out in the Carbon Farming Initiative Mapping Guidelines to guide assessment of CEAs under paragraph (4)(b). It requires assessments under paragraph 4(b) to follow those requirements and take into account guidelines published by the Regulator on its website ([www.cleanenergyregulator.gov.au](http://www.cleanenergyregulator.gov.au)). The Carbon Farming Initiative Mapping Guidelines are already incorporated into existing methods and requirements of the Principal Rule (such as subsection 13(2) of the Principal Rule). They are available at the Department's website: [www.environment.gov.au](http://www.environment.gov.au). They are incorporated as in force from time to time consistent with s 304 of the Act.

Subsection 9AA(6) defines when a CEA has passed the forest cover assessment date. This occurs once both the tonnes of carbon per hectare amount under paragraph (6)(a) and the time period set out under paragraph (6)(b) or (6)(c) have been surpassed.

Where the 15-year time period has passed, but not the tonnes of carbon amount (or vice versa), the forest cover assessment date has not yet passed.

The provision under paragraph (6)(a) ensures land is only required to have attained forest cover once it is reasonable to expect it to have done so. The relationship between tonnes of carbon present in regenerating forest and canopy cover informs this provision. However, it does not apply for the last 5 years of a project's crediting period.

Paragraphs (6)(b) and (6)(c) set out separate timing for existing CEAs (an area that was part of the project area for a human-induced regeneration project on 15 August 2018) and CEAs that are not existing CEAs respectively.

For existing CEAs, under paragraph 6(b), the forest cover assessment date is the later of 15 years after declaration of the project, or 15 years after the commencement of modelling of forest regeneration for the CEA, disregarding any eligible growth disruption period (see example 1 below). For this purpose the declaration is the day the Regulator made the decision to declare the project and not when it may have taken effect under earlier provisions in the Act which allowed the backdating of the effect of the declaration.

For CEAs that are not existing CEAs, under paragraph (6)(c), the forest cover assessment date is 15 years since the modelling of forest regeneration commenced in the CEA, disregarding any eligible growth disruption period (see example 2 below).

Subsection (7) provides for further definitions relevant to the interpretation of 9AA: carbon estimation area (CEA), eligible growth disruption period, existing CEA, forest potential requirement, human-induced regeneration project, National Inventory Report and tree.

For the 'eligible growth disruption period', the definition covers any period of time during which carbon stocks do not increase (for example due to a growth pause event), when such a period occurs after the carbon stocks had begun to increase following the modelled commencement of regeneration. An eligible growth disruption would run for the period that the model shows a zero or negative change in abatement from one step to the next, rather than the period of time it takes carbon stocks to recover to previous levels (in the event of a disturbance, for example). Paragraph (d) of the definition sets out that the eligible growth disruptions are limited to 5 years during a project's crediting period. Where the total eligible growth disruptions during the crediting period are greater than 5 years, the eligible growth disruptions contributing to the eligible growth disruption period is taken to be 5 years. Eligible growth disruptions occurring before the crediting period are, in effect, unlimited in their contribution to the eligible growth disruption period. Paragraph (c) ensures that periods of time before the declaration day that are already outside of the 15 year assessment timeframe under subparagraph (6)(b)(i) do not further extend that date.

An 'existing CEA' is defined in relation to whether all of the land area of a CEA was part of the project area of a human-induced regeneration project on 15 August 2018. This could include land already stratified as a CEA and land in a project area on that date which is yet to be stratified as a CEA.

For 'human-induced regeneration project', the definition includes projects under the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*; and projects under the *Carbon*

*Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* which have any land that was previously part of a project under the *Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

Other definitions are taken from the applicable methodology determinations.

Example 1:

A project is declared in 2017 and has a CEA regeneration start date of 2012. The CEA has a modelled growth pause from 2013 to 2017. There are no growth pauses during the project crediting period and modelled carbon per hectare for the CEA does not exceed 5 tonnes until 2035. The forest cover assessment date for this CEA would be 2035.

- The earliest possible forest cover assessment date for the CEA would be 2032 (15 years since the project declaration date).
- However, in this example, the modelled tonnes of carbon per hectare do not exceed 5 tonnes until 2035, therefore 2035 would be the forest cover assessment date.
- The latest possible forest cover assessment date for this example CEA, if the modelled carbon per hectare had not exceeded 5 tonnes before this, would have been 2037 (when it reached the final 5 years of the project crediting period).

Example 2:

A project is declared in 2020 and has a CEA regeneration start date of 2015. The CEA has a modelled 3-year growth pause from 2016 to 2018 and a further modelled 6-year growth pause from 2025 to 2030. The forest cover assessment date for this CEA would be 2038.

- The earliest possible forest cover assessment date for the CEA would be 2030 (15 years since the modelling of regeneration in the CEA commenced).
- However, in this example CEA, there is an eligible growth disruption period of 8 years which delays the forest cover assessment date until 2038:
  - 3 years prior to the project crediting period (2016-2018)
  - 5 years during the project crediting period (the eligible growth disruption period can only include 5 years during the crediting period so the 6-year growth pause from 2025 to 2030 is taken to be 5 years)
- The latest possible forest cover assessment date for this example CEA, if the modelled carbon per hectare had not exceeded 5 tonnes before this, would have been 2040 (when it reached the final 5 years of the project crediting period).

## 2 After subsection 70(3) (Information for human-induced regeneration projects)

Section 70 of the Principal Rule specifies the information that must be set out in an offsets report about an eligible offsets project for a reporting period. The Amendment Rule provides further requirements for projects under the Human-Induced Regeneration Method.

This item inserts a new subsection 70(3A) which, together with new paragraph 71(c), specifies the information that must be included in offsets reports for demonstrating progress towards forest cover at 5-year intervals and the attainment of forest cover once the forest cover assessment date (see above) passes. Under subsection 9AA(2) it is an eligibility requirement that the information provided to demonstrate progress towards forest cover be



sufficient to enable the Regulator to determine if the method's forest potential requirements are satisfied for each included CEA. The information provided would need to take into account any guidelines issued by the Regulator. These new requirements only apply to human-induced regeneration projects, as defined in subsection 9AA(7).

Paragraph (3A)(a) sets out the information to be included in offsets reports at least every 5 years, if the CEA being reported on has not already attained forest cover. This provision is intended to meet the Regulator's information requirements to inform the 5 yearly regeneration checks described in the Regulator's guidance (*Guidance on stratification, evidence and records* available from the Clean Energy Regulator's website: [www.cleanenergyregulator.gov.au](http://www.cleanenergyregulator.gov.au), as in force from time to time). The paragraph does not identify specific times at which offsets reports must be submitted. The paragraph specifies that the information is also required if requested by the Regulator after conducting a risk-based assessment of the project. Reporting under this paragraph is generally expected to be every 5 years, in line with the Regulator's guidance.

Paragraph (3A)(b) sets out the information required to be included in an offsets report for a CEA that has passed its forest cover assessment date. This is essentially the evidence that the requirement in subsection 9AA(3) has been met.

Paragraph (3A)(c) sets out the information required to be included in all offsets reports for each CEA included in the offsets report. These data points reflect the information necessary for auditors and the Regulator to determine how to apply section 9AA.

### 3 After subsection 70(5) (Definitions)

This item inserts a new subsection 70(6) which provides for further definitions relevant to the interpretation of new subsection 70(3A): carbon estimation area (CEA), eligible growth disruption period, forest cover assessment date and human-induced regeneration project.

### 4 At the end of section 71 (Documents that must accompany offsets reports)

Section 71 of the Principal Rule specifies documents that must accompany offsets reports. The Amendment Rule inserts new paragraph 71(c) which sets out that where an offsets report for a human-induced regeneration project is required to contain information under subsection 70(3A), it must be accompanied by documents to support the information. The subsection provides for the Regulator providing guidance on the documents required.

### 5 After subsection 74(2) (Initial audits)

Section 74 of the Principal Rule outlines the requirements of initial audits for eligible offsets projects.

The Amendment Rule includes a new subsection 74(2A) to enable audit reports to cover any matter identified by the Regulator on a risk basis with mutual agreement of the project proponent, similar to existing paragraph 76(2)(c).

### 6 After section 79 (Qualified or other conclusion audits)

This item inserts a new section 79A to support auditing of forest attainment by regeneration projects.

The provisions introduced in this section set out additional audit requirements relating to forest cover. Projects that have passed the forest cover assessment date would need to be audited. Projects would be exempt from this requirement if a previous audit found that the

requirement to attain forest cover (subsection 9AA(3)) has already been satisfied, or where the Regulator agrees in writing that an audit is unnecessary. One of the reasons why an audit would be unnecessary is where a subsequent audit has been scheduled or rescheduled to cover the relevant period. If a project has a range of forest cover assessment dates, the costs of multiple audits could also be considered.

#### 7 After section 94 (Set-off of amounts payable under carbon abatement contracts)

Subparagraph 182(b)(ii) of the Act allows the Regulator to set-off an amount payable under section 179 or 180 of the Act against an amount of a type specified in the Rule. Sections 179 and 180 of the Act relate to where a requirement to relinquish credits has not been met. This could have arisen because of a reversal of carbon stocks or the provision of false or misleading information to the Regulator.

This item inserts a new section 95 which applies to amounts payable under section 179 or 180, regardless of which methods may have applied or the reason for relinquishment. Section 95 allows amounts payable under carbon abatement contracts to be ‘of a kind specified’ for the purposes of subparagraph 182(b)(ii). This avoids the Regulator needing to pay an amount (in whole or in part) to a person under a carbon abatement contract who has an outstanding debt with the Regulator for a failure to comply with relinquishment requirements.

**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 Rule (No. 2) 2018***

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the **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.

The Amendment Rule details additional eligibility requirements relating to the issuance of certificates of entitlement to carbon credit units for human-induced regeneration projects. These eligibility requirements relate to the attainment of forest cover within a reasonable timeframe and in alignment with the abatement calculated from project modelling. They are informed by research on relationships between forest cover and biomass levels. They make allowances for slow regeneration and disruptions to regeneration. The Amendment Rule sets out information to be provided to the Clean Energy Regulator to support the Regulator's administration of the method. The information allows the Regulator to ensure a project's regrowth is progressing towards the attainment of forest cover, and pre-existing forest cover has been excluded from Carbon Estimation Areas. The Amendment Rule sets out audit requirements relating to forest attainment by human-induced regeneration projects.

In addition to provisions specific to the Human-Induced Regeneration Method, the Amendment Rule ensures that amounts payable by the Clean Energy Regulator under carbon abatement contracts are able to be set-off against money payable to the Regulator by a person who has failed to comply with a relinquishment requirement under the Act.

It does this by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the **Principal Rule**).

**Human rights implications**

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

A detailed statement of compatibility of the provisions of the Emissions Reduction Fund is provided in the Explanatory Memorandum for the *Carbon Farming Initiative Amendment Bill 2014*: <http://www.environment.gov.au/system/files/pages/7aef9f12-8ba1-4d9a-bf6a-1bc89a0bd6f5/files/cfi-amendment-bill-explanatory-memorandum.pdf>.

**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*.