



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

I, Melissa Price, Minister for the Environment, make the following rule.

Dated 21 November 2018

Melissa Price
Minister for the Environment

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1 Name

This instrument is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*.

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
1. The whole of this instrument	On the 7th day after the 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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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:

9AA Issue of certificate of entitlement—eligibility requirements for human-induced regeneration projects

- (1) For paragraph 15(2)(h) of the Act, this section specifies eligibility requirements that must be met in order for a certificate of entitlement to be issued in respect of an eligible offsets project that is a human-induced regeneration project for a reporting period.

Note: The fact that these requirements are not met in relation to a reporting period does not mean that they cannot be met in relation to a subsequent reporting period within the crediting period; for example, if at the end of that subsequent reporting period forest cover has been attained.

- (2) If the offsets report for the reporting period was required to include information in accordance with paragraph 70(3A)(a)—it is an eligibility requirement that the information provided in the report, and any documents included in accordance with paragraph 71(c) to support such information, are sufficient to enable the Regulator to determine if the forest potential requirement of the applicable methodology determination for the reporting period is satisfied in relation to all carbon estimation areas that are included in the offsets report.
- (3) It is an eligibility requirement that all carbon estimation areas that:
- (a) are included in the offsets report for the reporting period; and
 - (b) are past their forest cover assessment date;
- have attained forest cover by or before the end of the reporting period.

Note 1: Under the applicable methodology determination for the human-induced regeneration project a project proponent may choose to re-stratify the carbon estimation areas to ensure that this requirement is met in relation to a reporting period. Under section 77A of the Act a project proponent may also choose to report on all carbon estimation areas that meet this requirement in advance of any carbon estimation areas which do not meet this requirement.

Note 2: It is intended that audit reports provided under section 79A or otherwise provided to the Regulator will be used to assist the Regulator to verify this requirement. Under subsection 9(2) if an audit report does not set out a reasonable assurance conclusion or qualified reasonable assurance conclusion a certificate of entitlement may not be issued.

- (4) For the purpose of subsection (3), a carbon estimation area has ***attained forest cover*** if:
- (a) over 90% of the area of the carbon estimation area is identified as having forest cover in accordance with the most recent version of the maps that form the basis of the National Inventory Report; or
 - (b) when assessed in 0.2 hectare portions, over 90% of those portions have attained forest cover such that the land in each portion has trees that:
 - (i) are 2 metres or more in height; and
 - (ii) provide crown cover of at least 20% of the land.

Note: The fact that a carbon estimation area is considered to have attained forest cover under this subsection does not mean that any requirements relating to forest cover or forest potential under the applicable methodology determination for the project are satisfied.

- (5) The assessment of 0.2 hectare portions for a carbon estimation area under paragraph (4)(b) must:
- (a) comply with any requirements set out in the CFI Mapping Guidelines for the purpose of this paragraph; and
 - (b) take into account any guidelines published by the Regulator on its website for the purpose of this paragraph, as in force from time to time.

Note: In 2018, the Regulator's website was <http://www.cleanenergyregulator.gov.au>.

- (6) A carbon estimation area has passed its **forest cover assessment date**, when paragraph (a) and either paragraph (b) or (c) are satisfied:
- (a) either:
 - (i) the carbon estimation area contains more than 5 tonnes of carbon per hectare under the modelling undertaken in accordance with the applicable methodology determination for the reporting period for the purpose of preparing the offsets report; or
 - (ii) the carbon estimation area is part of an eligible offsets project with less than 5 years of its crediting period remaining;
 - (b) if the carbon estimation area is an existing CEA—the date is after the later of:
 - (i) the date that is 15 years since the day the eligible offsets project first including the area was declared under section 27 of the Act disregarding any eligible growth disruption period; and
 - (ii) the date that is 15 years since the modelling of forest regeneration commenced for the carbon estimation area disregarding any eligible growth disruption period;
 - (c) if the carbon estimation area is not an existing CEA—the date more than 15 years since the modelling of forest regeneration commenced for the carbon estimation area disregarding any eligible growth disruption period.

Note: The modelling of when forest regeneration commences is often described as a regeneration event in the model where carbon stocks begin to increase in the carbon estimation area.

- (7) In this section:

carbon estimation area, for an eligible offsets projects, has the meaning given by the applicable methodology determination for the reporting period.

eligible growth disruption period, means the total period of time meeting the following criteria:

- (a) occurs after carbon stocks have begun to increase following the modelling of regeneration;
- (b) during which carbon stocks are modelled not to increase under the applicable methodology determination for the reporting period;
- (c) if subparagraph (6)(b)(i) applies—does not include a period before the day the project was declared under section 27 of the Act; and
- (d) if so much of the total period that occurs after the start of the project's last or only crediting period exceeds 5 years, that period is taken to be 5 years.

Example: If a project to which paragraph (6)(c) applies had 2 years of its eligible growth disruption period before the start of its crediting period and 6 years of eligible growth disruption after the start of its crediting period, its eligible growth disruption period would be 2+5=7 years.

existing CEA means a carbon estimation area consisting only of an area that was part of the project area for a human-induced regeneration project on 15 August 2018.

forest potential requirement means a requirement for an area of land to have forest potential, within the meaning of the applicable methodology determination for the reporting period, for the land to be included in a carbon estimation area for the project.

human-induced regeneration project means either:

- (a) a project whose applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* or an earlier version of that determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act; or
- (b) a project:
 - (i) whose applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* or an earlier version of that methodology determinations applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act; and
 - (ii) whose project area includes land that was previously part of an eligible offsets project covered by the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* or an earlier version of that determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act.

National Inventory Report means the report of that name produced by Australia in fulfilment of its obligations under the Climate Change Convention and the Kyoto Protocol, as in force from time to time.

Note: In 2018, the National Inventory Report could be accessed from <http://www.environment.gov.au>.

tree means a perennial plant that has primary supporting structures consisting of secondary xylem.

2 After subsection 70(3)

Insert:

Information for human-induced regeneration projects

- (3A) The offsets report for a human-induced regeneration project must set out the following information:
 - (a) if:
 - (i) a reporting period ends more than 5 years after the start of the project's last or only crediting period and the information required by

this paragraph has not been included in an offsets report within the last 5 years; or

- (ii) the Regulator requests, in writing, some or all of the following information in relation to a carbon estimation area after a risk based assessment of the project;

an explanation, for each carbon estimation area included in the offsets report that has not already attained forest cover:

- (iii) of the progress towards or attainment of forest cover in each such carbon estimation area and evidence supporting that progress or attainment; and
- (iv) of how the project mechanism has continued to be implemented in each such carbon estimation area and evidence supporting that continued implementation;
- (v) of how the boundaries of the carbon estimation area meet the requirements of the applicable methodology determination;

taking into account any guidelines published by the Regulator on its website for the purpose of this paragraph, as in force from time to time;

Note: In 2018, the Regulator's website was <http://www.cleanenergyregulator.gov.au>

(b) if:

- (i) the offsets report includes a carbon estimation area that has passed its forest cover assessment date; and
- (ii) the information required by this paragraph has not already been included in an offsets report;

an explanation of the evidence that demonstrates whether or not the requirements of subsection 9AA(3) are satisfied in relation to the carbon estimation area, taking into account any guidelines published by the Regulator on its website for the purpose of this paragraph, as in force from time to time;

Note: In 2018, the Regulator's website was <http://www.cleanenergyregulator.gov.au>

(c) for each carbon estimation area included in the offsets report:

- (i) the date that the modelling of forest regeneration commenced; and
- (ii) the estimated forest cover assessment date; and
- (iii) details of any eligible growth disruption period; and
- (iv) an explanation of whether forest cover has been attained; and
- (v) the total carbon stock at the end of the reporting period, in both tonnes of carbon and tonnes of carbon per hectare, under the modelling undertaken in accordance with the applicable methodology determination for the reporting period.

3 After subsection 70(5)

Insert:

(6) In this section:

attained forest cover, in relation to a carbon estimation area, has the meaning given by subsection 9AA(4).

carbon estimation area has the meaning given by subsection 9AA(7).

eligible growth disruption period has the meaning given by subsection 9AA(7).

forest cover assessment date has the meaning given by subsection 9AA(6).

human-induced regeneration project has the meaning given by subsection 9AA(7).

4 At the end of section 71

Add:

- ; (c) if the offsets report for a human-induced regeneration project is required to contain information under subsection 70(3A)—documents to support the information, taking into account any guidelines published by the Regulator on its website for the purpose of this paragraph, as in force from time to time.

Note: In 2018, the Regulator's website was <http://www.cleanenergyregulator.gov.au>

5 After subsection 74(2)

Insert:

- (2A) If requested in writing by the Regulator after agreement between the Regulator and the project proponent, the initial audit must also be about any matter identified by the Regulator in a risk-based assessment of the project.

6 After section 79

Insert:

79A Forest cover audits of human-induced regeneration projects

- (1) An eligible offsets project that is a human-induced regeneration project must be audited if:
 - (a) an offsets report for a reporting period will be submitted which includes one or more carbon estimation areas that have past their forest cover assessment date; and
 - (b) a previous audit report:
 - (i) prepared under this Division; or
 - (ii) prepared at the request of the project proponent and conducted in accordance with the requirements of section 80;has not been provided to the Regulator confirming, by way of a reasonable assurance conclusion or a qualified reasonable assurance conclusion, that the requirements of subsection 9AA(3) are satisfied for each carbon estimation area that is included in the offsets report and has passed its forest cover assessment date.
- (2) However, an audit need not be prepared if the Regulator agrees, in writing, that it is unnecessary.
- (3) The audit must be about whether the requirements of subsection 9AA(3) are satisfied in relation to the reporting period.
- (4) The report of the audit must accompany the offsets report for the reporting period mentioned in paragraph (1)(a).
- (5) In this section:

carbon estimation area has the meaning given by subsection 9AA(7).

forest cover assessment date has the meaning given by subsection 9AA(6).

human-induced regeneration project has the meaning given by subsection 9AA(7).

7 After section 94

Insert:

95 Set-off of amounts payable under carbon abatement contracts

For subparagraph 182(b)(ii) of the Act, amounts payable under carbon abatement contracts are specified.