

EXPLANATORY STATEMENT

Carbon Credits (Carbon Farming Initiative) Act 2011

DETERMINATION UNDER SUBSECTION 133(4)

1. The Instrument is made under subsection 133 (4) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* ('the Act').
2. Subsection 133 (4) provides that, for the purposes of the offsets integrity standards set out in section 133 of the Act, the Minister may determine, by legislative instrument, that a specified estimate, projection, or assumption is taken to be conservative.
3. The offsets integrity standards set out in section 133 of the Act ensure that abatement of greenhouse gas emissions credited under the Carbon Farming Initiative meet internationally recognised offsets integrity criteria. These criteria are designed to ensure that abatement is real and verifiable.
4. The criteria include the requirement that abatement be credibly measured or estimated. Conservative assumptions, numerical values and procedures must be used to ensure that abatement and other claims are not over-estimated. Under subsection 133 (4) of the Act, the Minister can determine that specified estimates, projections, or assumptions are, for the purposes of the offsets integrity standards, taken to be conservative.
5. The Instrument, *Carbon Credits (Carbon Farming Initiative) (Conservative Estimates, Projections or Assumptions) (Greenhouse FriendlyTM Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012* provides that the estimate set out in the Schedule of the instrument for alternative waste treatment projects transitioning from the Greenhouse FriendlyTM initiative is conservative.
6. Consultation was carried out in relation to the Instrument's approach to crediting (the estimate taken to be conservative). This approach was published on the Department's website:
 - a. From 30 September 2011 to 9 November 2011 in the 'Avoided Emissions from Diverting Legacy Waste from Landfill for Process Engineered Fuel Manufacture' methodology proposal — as a result of this consultation, five public submissions were received and considered by the Domestic Offsets Integrity Committee in their endorsement of the proposal under Section 112 of the Act; and
 - b. From 23 April 2012 to 2 June 2012 in the 'Diversion of Legacy Waste to an Alternative Waste Treatment Facility' and in the 'Avoided Emissions from Diverting Waste from Landfill through a Composting Alternative Waste Technology' methodology proposals — as a result of these consultations, four public submissions were received.
7. The Instrument is a legislative instrument within the meaning of the *Legislative Instruments Act 2003*.
8. A Statement of Compatibility prepared in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011 is at Attachment A.

9. The Instrument, *Carbon Credits (Carbon Farming Initiative) (Conservative Estimates, Projections or Assumptions) (Greenhouse FriendlyTM Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012*, commences retrospectively on the day it is made. Subsection 12 (2) of the *Legislative Instruments Act 2003* provides that, for a legislative instrument to have effect before the date it is registered, it must not adversely affect the rights of any person or impose a liability on any person in respect of anything done or not done before the date of registration. The instrument does not offend against these requirements. Retrospective application confers a benefit in that it allows persons to apply for and generate Australian Carbon Credit Units in circumstances where they would not normally be eligible to apply.

Attachment A

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) (Conservative Estimates, Projections or Assumptions) (Greenhouse FriendlyTM Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012

The Legislative Instrument specified above 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) (Conservative Estimates, Projections or Assumptions) (Greenhouse FriendlyTM Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012* (the Instrument) specifies that, for the purposes of section 133 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, certain abatement estimates, projections or assumptions for alternative waste treatment projects transitioning from the Greenhouse FriendlyTM initiative are conservative.

Human rights implications

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

Conclusion

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

Mark Dreyfus, Parliamentary Secretary for Climate Change and Energy Efficiency