



**Australian Government**  
**Clean Energy Regulator**

**EXPLANATORY STATEMENT**

*Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2015*

**Purpose**

The *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule) details additional administrative procedures under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act), including information and audit requirements for project applications and reports, the fit and proper person test for participants, procedures for parts of the carbon abatement purchasing process, the length of reporting periods, and notification and record-keeping requirements. The audit requirements were designed to be a risk-based approach to audit.

In order to apply a risk-based approach, the *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2015* (Audit Thresholds Instrument) details the thresholds that set the number of subsequent audits a project will be subject to and the threshold for a threshold audit. This will allow project proponents to factor in the likely cost of audit into their project operating costs. Project proponents will receive confirmation of the number of scheduled audits in their audit schedule, provided by the Clean Energy Regulator at the time of project registration.

**Legislative rules and regulations supporting the CFI Act**

The CFI Act is supported by subordinate legislation, including the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations) and the Rule. Pursuant to the *Carbon Credits (Carbon Farming Initiative) Amendment Regulations 2014 (No.2)*, the date of repeal of certain regulations in the Regulations coincided with the making of the replacement sections in the Rule to ensure there is no overlap between the Regulations and the Rule.

The Rule allows the Clean Energy Regulator to create a legislative instrument to set, among other matters, the number of subsequent audits and a trigger audit threshold.

**Detailed description of the Audit Thresholds Instrument**

**Attachment A** outlines and describes the sections in the Audit Threshold Instrument.

**Public Consultation**

Consultation was undertaken in September 2014 on the thresholds proposed with targeted audit industry experts. Draft guidance outlining the thresholds and the number of subsequent audits was released and available on the Clean Energy Regulator website for comment and feedback from November 2014, and information on the thresholds was provided at stakeholder information sessions on the ERF.

## **Regulatory Impact**

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund, including 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. The Regulatory Impact Statement included consideration of the change to a risk-based approach to audit and no separate assessment is necessary.

## **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 *Audit Thresholds Instrument***

**1 - Name**

Section 1 describes the name of the instrument.

**2 – Commencement**

This section provides for commencement on the day after the instrument is registered.

**3 – Definitions**

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

**4 – Audit thresholds**

The Clean Energy Regulator determined the key risk to be addressed through the risk-based approach to audit was the amount of abatement subject to audit. As such the thresholds are related to the size of a project.

This section sets out the thresholds as related to an annual average abatement amount. The annual average abatement amount is the estimate of the number of Australian carbon credit units likely to be issued for a 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.

Based on known data from the *Carbon Credits (Carbon Farming Initiative) 2011* before the amendments made in 13 December 2014, approximately 84% of established projects will fit into Threshold A.

**5– Number of subsequent audits**

This section sets out the number of subsequent audits required for a project based on the thresholds set in section 4.

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

Transitioning projects which have already reported before 17 February 2015 have submitted an audit report that is the equivalent of an initial audit as described in the Rule. As such they still require the same overall number of audits for the crediting period which commenced

with the amendments of 13 December 2014 but all those audits will be subsequent audits, which have a reduced scope as compared to an initial audit.

This results in transitioning projects which have 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 introduction of the Rule, are required to have an initial audit in addition to the listed number of subsequent audits.

#### 6 – Trigger audit threshold

The threshold audit, one of three trigger audits described in the rule, must be completed if a single report for a reporting period exceeds 100 000 tonnes of carbon dioxide equivalent.

This ensures any single large volumes of Australian carbon credit units issued are subject to the independent verification provided by audit.

**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 2015***

The *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2015* 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* (CFI 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.

*Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule) details additional administrative procedures under the CFI Act, including information and audit requirements for project applications and reports, the fit and proper person test for participants, procedures for parts of the carbon abatement purchasing process, the length of reporting periods, and notification and record-keeping requirements.

The content of the Rule is largely based on regulations under the CFI Act. Those relevant regulations were repealed upon commencement of the Rule.

The *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2015* (Audit Thresholds Instrument) details the thresholds that set the number of subsequent audits a project will be subject to and the threshold for a threshold audit.

**Conclusion**

The Audit Threshold Instrument 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*.