

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Climate Change and Energy, the Hon. Chris Bowen
MP

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) Amendment (2024 Measures No. 1) Rules 2024

Legislative Authority

Section 308 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) empowers the Minister to make legislative rules prescribing matters required or permitted by the Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) is made under section 308 of the Act.

The power to make rules in section 308 of the Act includes the power to revoke, amend or vary such rules, in like manner and subject to like conditions (relying on subsection 33(3) of the *Acts Interpretation Act 1901*).

Paragraph 255(a) of the Act provides that the legislative rules can confer functions on the Emissions Reduction Assurance Committee (the Committee) in addition to those functions set out in section 255. The *Carbon Credits (Carbon Farming Initiative) Amendment (2024 Measures No. 1) Rules 2024* (the Amendment Rules) are made for the purposes of paragraph 255(a) of the Act.

Purpose

The Amendment Rules amend the Principal Rule to insert a new Division into Part 26. This division contains provisions that confer additional functions on the Committee. The additional functions enable the Committee to start carrying out a proponent-led process for the development of methodology determinations (methods) under the Act. This is a first step in implementing recommendation 5 of the Independent Review of Australian Carbon Credit Units (ACCUs) (the Review).

The Amendment Rules introduce the concept of an expression of interest (EOI), which is a way for anyone to submit a proposal for a new or varied method. The Committee can then provide feedback on the EOI to the person submitting the EOI.

The Amendment Rules also allow the Committee, at the Minister's referral, to advise the Minister at any time about EOIs and method development arising from an EOI. Sections 106 (4) and (10), and 123A, of the Act deal with the separate process of requesting, giving and considering advice in relation to the making of a method.

Background

The Act enables the crediting of greenhouse gas abatement from emissions reduction activities across Australia, under the ACCU Scheme. Greenhouse gas abatement is achieved

either by reducing or avoiding emissions, or by removing carbon from the atmosphere and storing it, consistent with Australia's international obligations under the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement.

The Act is supported by subordinate legislation, including the Principal Rule and methods. The purpose of a method is to establish procedures for estimating abatement (emissions avoidance or sequestration) from eligible projects and rules for monitoring, record keeping and reporting. Methods ensure that emissions reductions are genuine—that they are both real and additional to business as usual.

The ACCU Scheme is a key component of the government's policy agenda to drive emissions reductions across the economy and meet its legislated targets of at least 43% reduction in emissions by 2030 (based on 2005 levels), and net zero emissions by 2050.

In 2022, the Australian Government appointed an independent panel to review the integrity of ACCUs under Australia's carbon crediting framework.¹ The Review's purpose was to advise the government on ways to strengthen the integrity of Australia's carbon crediting framework in contributing to Australia's emissions reduction targets, and to ensure the Scheme maintains a strong and credible reputation supported by participants, purchasers and the broader community.

The Review concluded that the ACCU Scheme arrangements are sound, incorporating mechanisms for regular review and improvement. The Review recommended several changes to clarify governance, improve transparency, facilitate positive project outcomes and co-benefits, and enhance confidence in the integrity and effectiveness of the ACCU Scheme.

The Review recommended a proponent-led process for developing and varying methods (recommendation 5). This process was recommended to deliver timely and effective emissions reductions through a transparent process and to promote innovation by providing participants the flexibility to develop or adapt new approaches to carbon abatement.

Impact and Effect

The Amendment Rules will enable the transition to a more transparent proponent-led process for developing and varying methods. It will assist the Minister to prioritise and make methods under the Act.

These changes form part of the Australian Government's larger program of reforms of the ACCU Scheme to bolster the integrity of ACCUs, and make sure ACCUs are consistent with agricultural and other objectives, and deliver environmental, economic, and social benefits.

Consultation

The Department of Climate Change, Energy, the Environment and Water (the department) released a discussion paper on 25 August 2023, outlining options for implementing several of the independent Review's recommendations. Submissions were open until 3 October 2023.

¹ *Independent Review of the Australian Carbon Credit Units, 2022*
(<https://www.dcccew.gov.au/sites/default/files/documents/independent-review-accu-final-report.pdf>)

The discussion paper sought feedback on implementing several Review recommendations including recommendation 5. The Amendment Rules enable part of the policy reforms proposed in the consultation paper. The changes in the Amendment Rules are necessary progress implementation of the reforms.

The Amendment Rules reflect feedback received during these periods of public consultation. The approach to the amendment was also discussed with interested stakeholders and draft provided to the Carbon Market Institute. Further consultation was unnecessary as the rules are administrative in nature, conferring a new function on the Committee.

Details/ Operation

Details of the Amendment Rules are set out in Attachment A.

Other

The Amendment Rules are compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Carbon Credits (Carbon Farming Initiative) Amendment (2024 Measures No. 1) Rules 2024

Section 1 – Name

This section provides that the name of the Amendment Rules is the *Carbon Credits (Carbon Farming Initiative) Amendment (2024 Measures No. 1) Rules 2024*.

Section 2 – Commencement

This section provides for the Amendment Rules to commence on the day after the instrument is registered.

Section 3 – Authority

This section provides that the Amendment Rules are made under sections 255 and 308 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Section 4 – Schedules

This section provides that the Principal Rule is amended in the manner set out in Schedule 1 of the Amendment Rules.

Schedule 1 – Amendments

Item 1 – Before section 110

Subsection 105(a) enables the Committee to accept expressions of interest (EOIs) from any person. An EOI is a written proposal for a new or varied methodology determination (method) under the Act. The Committee can decide how EOIs should be structured, and when and how they can be submitted to the Committee.

Subsection 105(b) provides that the Committee will review EOIs against the offsets integrity standards, and any other criteria nominated by the Minister. The offsets integrity standards are defined in section 133 the Act and are standards the Minister must have regard to when making, varying, or revoking a method.

Section 123A of the Act requires that before making or varying a method, the Committee must provide advice to the Minister of the Committee's opinion on whether the method complies with the offsets integrity standards. Subsection 105(b) in the Amendment Rules adds to this requirement to ensure the Committee also has regard to the offsets integrity standards when providing advice to the Minister on EOIs.

Subsection 105(c) enables the Committee to provide feedback on an EOI to the person who submitted an EOI. The Committee can advise on whether an EOI could be developed into a method or method variation that is likely to meet the offsets integrity standards. The Committee can also suggest whether and how to change an EOI to better meet the offsets integrity standards or any other criteria.

Subsection 105(d) enables the Committee, on referral by the Minister, to advise the Minister on EOIs, and the development of methods or variations to methods arising from an EOI at any time.

Item 2 – Section 110

This item is a consequence of organising Part 26 into two divisions and does not make any substantive change.

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 (2024 Measures No. 1) Rules
2024**

This Legislative Instrument 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 Amendment Rules amends the *Carbon Credits (Carbon Farming Initiative) Rule 2015* to confer additional functions on the Emissions Reduction Assurance Committee. The additional functions enable the Committee to start carrying out a proponent led process for the development of methods under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act). The Amendment Rules introduce the concept of an expression of interest (EOI), which is a way for the public to submit a proposal for a new or varied method. The Committee can then provide feedback to the person submitting the EOI in relation to the EOI. The Amendment Rules also allow the Committee, at the Minister's referral, to advise the Minister at any time about EOIs and method development. Under subsection 106(4) of the Act, the Minister may have regard to this information when deciding to make a method under section 106 of the Act.

Human rights implications

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

Conclusion

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

**The Hon. Chris Bowen
Minister for Climate Change and Energy**