

Explanatory Statement – Public Consultation Draft

This draft Explanatory Statement supports the public consultation on the proposed variation to the *Carbon Credits (Carbon Farming Initiative—Industrial and Commercial Emissions Reduction) Methodology Determination 2021*.

EXPLANATORY STATEMENT

Consultation Draft

Carbon Credits (Carbon Farming Initiative) Act 2011

For the proposed *Carbon Credits (Carbon Farming Initiative Industrial and Commercial Emissions Reduction) Methodology Determination Variation 2022*

Purpose

The draft *Carbon Credits (Carbon Farming Initiative—Industrial and Commercial Emissions Reduction) Methodology Determination Variation 2022* (the **draft Variation**) proposes to amend the *Carbon Credits (Carbon Farming Initiative—Industrial and Commercial Emissions Reduction) Methodology Determination 2021* (the **Determination**).

The Determination provides for project proponents to undertake projects and generate ACCUs from activities that reduce the energy and industrial process emissions produced by existing equipment (**ICER projects**). The Determination provides project proponents flexibility to determine what eligible activities would be most appropriate for their site.

The draft Variation proposes to change the Determination in four ways.

Firstly, it proposes to add replacement of lighting equipment (lamps and luminaries) to the list of ineligible implementation activities. This is for consistency with the revocation of the *Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015* (the **2015 lighting determination**) pursuant to findings that lighting upgrades to highly energy efficient products are increasingly likely to occur in the ordinary course of events. The exclusion ensures that abatement generated under the Determination continues to meet the offsets integrity standard of additionality.

Secondly, the draft Variation proposes to amend the Determination to allow project proponents to choose a new time measurement interval when developing new baseline emissions models in subsequent reporting periods. This will allow eligible abatement to be calculated using shorter time intervals when longer time intervals do not result in eligible abatement.

Thirdly, the draft Variation proposes to amend the Determination so that formulas applying an emissions factor will require the emissions factor obtained from electricity suppliers to be applicable at the end of the reporting period. As the emissions intensity of the electricity grid

declines over time due to the uptake of renewable energy this will improve the accuracy of the abatement calculated by the Determination.

Lastly, the draft Variation proposes to amend the Determination to make two technical changes.

Legislative provisions that authorise the Variation

The Determination was made under subsection 106(1) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the *Act*).

The draft Variation is to be made under subsection 114(1) of the Act, which empowers the Minister to vary, by legislative instrument, a methodology determination.

Background to the Emissions Reduction Fund

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 vegetation.

Further information on the ERF is available at: www.dcceew.gov.au/ or www.cleanenergyregulator.gov.au/ERF.

Emissions reduction activities are undertaken as offsets projects. The process involved in establishing an offsets project is set out in Part 3 of the Act. An offsets project must be covered by, and undertaken in accordance with, a methodology determination.

Subsection 106(1) of the Act empowers the Minister to make a methodology determination by legislative instrument. The purpose of a methodology determination is to establish procedures for estimating abatement (emissions reduction and sequestration) from eligible projects and rules for monitoring, record-keeping, and reporting. These methodologies will ensure that emissions reductions are genuine—that they are both real and additional to business as usual.

In deciding to make a methodology determination, the Minister must have regard to the advice of the Emissions Reduction Assurance Committee (the *ERAC*), an independent expert panel that assesses whether methods meet the integrity requirements of the ERF. The Minister must not make or vary a methodology determination if the ERAC considers it inconsistent with the offsets integrity standards, which are set out in section 133 of the Act. The Minister will also consider any adverse environmental, economic, or social impacts likely to arise as a result of projects to which a methodology determination applies.

Offsets projects that are undertaken in accordance with a methodology determination and approved by the Clean Energy Regulator (the *Regulator*) can generate Australian carbon credit units (*ACCUs*). These units represent emissions reduction from the project. Only abatement that could be counted towards Australia's international emissions reduction targets can be credited as ACCUs.

Background to the draft Variation

On 7 April 2022 the 2015 lighting determination was revoked on the basis that there was reasonable evidence that the 2015 lighting determination no longer complied with the offsets integrity standard of additionality; that is, that projects under that determination should result in carbon abatement that is unlikely to occur in the ordinary course of events. The 2015 lighting determination provided for crediting emissions reductions from offsets projects that improve the energy performance of lighting systems in commercial and industrial buildings, as well as public areas, such as pedestrian, street and traffic lighting. LED products have improved significantly since the 2015 lighting determination was introduced, decreasing in cost and increasing in availability. At the same time, regulatory changes and changes in industry standards have occurred that affect the ongoing additionality of the lighting upgrade activities under the method with only higher energy efficient LED products able to meet many of the requirements. These changes in the market mean that it is increasingly likely that lighting upgrades to highly energy efficient products will occur in the ordinary course of events. The draft Variation removes the replacement of lighting equipment (lamps and luminaries) to ensure that that abatement credited under the Determination continue to meet the offsets integrity standard of additionality.

In recent years the ERAC have undertaken a number of reviews (whether periodic or crediting period extension) and recommended that where the emissions intensity factor is used in the calculations for abatement from electricity displacement activities, and emissions from electricity consumed from the operation of a project, the method be amended from the value that is fixed at the time of project declaration to the factor that is current at the end of each reporting period. This change ensures that abatement credited under the Determination meets the offsets integrity standards, specifically that estimates are accurate and conservative, particularly given the decline in grid emissions intensity over time. The draft Variation implements this recommendation.

Operation of the draft Variation

The draft Variation amends sections 5, 12, 14, 24, 29 and 53 of the Determination.

The proposed amendment to the definition of *statement of activity intent* in section 5 will make a technical change to replace the reference to non-existent subsection 16(1) with section 15.

The proposed amendment to section 12 will include the replacement of lighting equipment (lamps and luminaries) within the list of activities that are not an implementation activity for the purposes of the Determination. Other activities like modifications and supplementation of lighting systems, such as facilitating changes to control gear and energy sources, will remain eligible project abatement activities under the Determination.

The proposed amendment to section 14 will make a technical change to require that participants identify whether biomass is to be used as an energy source in the **upgraded boundary** of the project, rather than the **original boundary** of the project, at the time of making an application to register a project.

The proposed amendment to sections 24 and 29 will facilitate the choosing of a new measurement time interval when developing a new baseline emissions model.

The proposed amendment to section 53 will ensure that abatement calculated under the Determination is accurate and conservative. Using the emission factors that is applicable at the end of the reporting period better reflects the emissions intensity of the electricity that is being displaced, particularly as the grid electricity emissions intensity is declining.

The proposed Variation will not affect projects that are already registered and using the existing Determination. Section 126 of the Act sets out that even after a methodology determination has been varied, a registered eligible offsets project can continue to use the methodology determination for the remainder of its crediting period in the form that applied to the project before the variation was made. Under section 128 of the Act a project proponent may choose to apply to the Regulator for approval to move their project to the varied Determination from the start of the project's current reporting period. All decisions to approve eligible offsets projects after the commencement of the proposed Variation will need to comply with the Determination as varied by the proposed Variation.

Consultation

The draft Variation was developed by the Regulator.

Public consultation is being undertaken from DD October 2022 to DD November 2022, published on the Department's website at www.dcceew.gov.au.

Variation details

Details of the proposed Variation are at Attachment A. Draft items and numbered sections in this explanatory statement will align with the relevant items and sections of the proposed Variation. This is intended to assist the interpretation of the Determination as amended by the proposed Variation.

Attachment A

Details of the proposed Legislative Instrument

1 Name

Section 1 sets out the full name of the proposed Variation, which is the *Carbon Credits (Carbon Farming Initiative—Industrial and Commercial Emissions Reduction) Methodology Determination Variation 2022*.

2 Commencement

Section 2 provides that the proposed Variation commences on the day after it is registered on the Federal Register of Legislation.

3 Authority

Section 3 provides that the proposed Variation will be made under subsection 114(1) of the Act.

4 Amendment of methodology determination

Section 4 provides that the *Carbon Credits (Carbon Farming Initiative—Industrial and Commercial Emissions Reduction) Methodology Determination 2021* will be amended as set out in Schedule 1 to the proposed Variation.

Schedule 1—Amendments of the

Carbon Credits (Carbon Farming Initiative—Industrial and Commercial Emissions Reduction) Methodology Determination 2021

The sections that are not specified below are equivalent to the respective existing sections in the Determination and remain unchanged.

1 Section 5 (definition of *statement of activity intent*)

Item 1 amends the definition of *statement of activity intent* to replace the reference to subsection 16(1) with section 15. The Determination does not contain a subsection 16(1), and section 15 sets out the definition of *statement of activity intent*.

2 At the end of subparagraph 12(2)(h)

Item 2 inserts a new subparagraph 12(3)(i) to include the replacement of lighting equipment (lamps and luminaries) in the list of ineligible implementation activities under the Determination.

3 After subsection 12(6)

Item 3 inserts a definition of lighting equipment to mean any lamp or luminaire.

Items 2 and 3 are a technology neutral approach to ensuring that abatement generated under the Determination does not include lighting upgrades to high energy efficient products, such as upgrading from a conventional lighting system to light-emitting diode lighting systems.

Activities involving the following continue to remain eligible under the Determination:

- modification of lighting systems, such as installing lighting control systems (such as motion sensors, sensor lights, and programmable and manual dimmers) which affect the way lighting systems consume electricity; and
- supplementation of lighting systems, such as installing equipment that generates electricity for direct use by the lighting systems (such as integrated photovoltaic luminaire units).

4 Paragraph 14(1)(e)

Item 4 replaces all instances of the words ‘original boundary’ with the words ‘upgraded boundary’ in paragraph 14(1)(e). This will require participants to identify whether biomass is to be used as an energy source in the **upgraded boundary** of the project, rather than the **original boundary** of the project, at the time of making an application to register a project.

This amendment ensures consistency with the ineligible activities identified by paragraph 12(3)(d), (e) and (f) of the Determination. Where a project proponent identifies that the project implementation activities involve biomass (i.e. that after the project activities are implemented, biomass will be used within the **upgraded boundary** of the project) they must provide a declaration that the biomass will comply with the definition of *eligible renewable energy source*.

5 Section 24

Item 5 repeals section 24 and inserts a new section 24 to clarify that a single measurement time interval – for example, one hour, one day or one month – must be chosen and used for all parameters in an implementation in a reporting period when calculating abatement. Measurement time intervals of the same length must be used for every parameter in an implementation in a reporting period throughout the baseline measurement period and each subsequent reporting period.

6 After paragraph 29(2)(a)

Item 6 inserts a new paragraph 29(2)(aa) which will allow project proponents to choose a new time measurement interval when developing new baseline emissions models in subsequent reporting periods under section 29 of the Determination.

This change would allow project proponents to consider revising the baseline emissions model to claim abatement for shorter time measurement intervals (for example, daily time measurement intervals) when longer time intervals do not result in eligible abatement. For example, if the relevant variable was average temperature, seasonal variation may result in long time measurement intervals not meeting the effective range requirements. In this case, some shorter time measurement intervals may still meet the effective range requirements and result in eligible abatement.

7 Subsection 53(6) (definition of EF_{Elec})

Item 7 omits the words “on the day the project is declared to be an eligible offsets project” from the definition of EF_{Elec} in subsection 53(6) and substitutes the words “at the end of the reporting period”. For emissions factors that have been obtained from electricity suppliers, this will require the emissions factor to be current at the end of the reporting period.

As the emissions intensity of the electricity grid declines over time due to the uptake of renewable energy, the emissions factor in force at the end of the reporting period will also decrease. This amendment ensures that the abatement calculated under the Determination more accurately reflects the emissions from electricity consumption that would have been produced during the reporting period in the absence of the project.