EMISSIONS REDUCTION ASSURANCE COMMITTEE

26 June 2017 Meeting

Agenda Item 5: Native Forests from Managed Regrowth Method

For Discussion

Recommendation

That the ERAC:

1. **note** the Department is working with the Clean Energy Regulator to assess some issues with the calculation of abatement in the existing *Native Forests from Managed Regrowth* method, and will provide further advice at a later meeting.

Purpose

This paper provides, for information and discussion, an outline of aspects of abatement calculations in the *Native Forests from Managed Regrowth* (NFMR) method being assessed to help inform decisions on next steps.

Background

Overview of the NFMR method

The NFMR method (2013) provides for projects to regenerate native vegetation on previously cleared land. In the absence of a project, the land would be periodically re-cleared for livestock grazing. Projects must stop mechanical or chemical destruction, or suppression, of regrowth. There must be a documented decision to change land management to enable regeneration. Projects may also involve encouraging regeneration by excluding livestock, changing grazing management, or managing feral animals or weeds.

To be eligible for a NFMR project, land must:

- have been comprehensively cleared at least once in the past
- have had forest cover (trees at least two metres high, with crown cover of at least 20 per cent and covering at least 0.2 hectare) before it was cleared
- at the time of the decision to promote regeneration, have the potential to reach forest cover and not have existing forest cover.

The method credits the difference between simulated carbon stocks (calculated using FullCAM) for baseline and project scenarios.

A zero baseline can be applied if ongoing and active suppression of regrowth has resulted in immaterial carbon stocks in the 10 years before the project. Alternatively, where carbon stocks have reached a material level during that 10-year period, a baseline representing the long-term average carbon stock is calculated.

Carbon stocks for the project are estimated from vegetation regrowth occurring since the last comprehensive clearing event (before project commencement), adjusted for disturbance events such as fires.

NFMR project activities are similar to those under the *Human-Induced Regeneration* method. The two methods also have some similarities in abatement estimation. However, unlike the NFMR approach, the Human-Induced Regeneration method does not issue credits for carbon already accumulated in woody vegetation at the project registration date.

The NFMR method is scheduled for review in mid-2019.

Current projects

There are 34 registered NFMR projects, of which 23 have contracts with the Clean Energy Regulator. Devine Agribusiness Carbon Pty Ltd is the proponent for 32 projects. The projects are located in southwest Queensland.

Around 1.3 million Australian Carbon Credit Units have been issued to NFMR projects, placing the method fifth in terms of credits issued, although well below the top four methods. Total contracted abatement for NFMR projects is around four million tonnes; this compares to 80 million tonnes for the HIR method.

Abatement calculations

The method adopts a default 15-year clearing cycle (based on known typical periods between re-clearing) for modelling baseline carbon stocks. Proponents can use this default even where the actual period is longer (for example, some project reports indicate the land was last cleared in the 1990s). Where this occurs, the baseline amount deducted from the project carbon stock could be underestimated.

The method allows the Regulator to request evidence that grazing in a project area has not prevented regrowth. However, it does not require project carbon stock estimates to take into account any suppression of regrowth by grazing or other factors. If suppression is material and not accounted for, abatement could be overestimated.

In cases where projects are on land last cleared more than 20 years ago, there may be a need to assess the conditions under which vegetation has grown large enough to sequester the substantial levels of carbon reported, but has not reached forest cover at project commencement.

Consultation

The Department has consulted the Clean Energy Regulator.

Next Steps

The Department will provide more specific advice at the next meeting, depending on findings from the work discussed above.

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING

Minutes

Monday 26 June 2017 **9:00am – 4:30pm**

Present

Committee members:
Andrew Macintosh (Chair), Paul Graham, Beverley Henry, Suzanne Jones, Andy Lloyd, Hilary Smith and Helen Wilson.
Apologies: David Hemming, Mick Keogh

Other attendees:
Department of the Environment and Energy
Gayle Milnes, s22 s22 s22 (items 2-2A and 4-5), s22 (item 3), s22 (item 4), s22 (item 5), s22 (item 6), s22 (items 6-8), s22 (item 7), s22 (item 7), s22 (Secretariat items 1-3) and s22 (Secretariat).

Department of Agriculture and Water Resources
s22 (items 2-5)

Australian Government Solicitor
s22 (Item 4- 4A)

s22

s22

5. Method discussion: Native Forest from Managed Regrowth

Dr Smith and s22 *joined meeting.*

s22 presented on the Native Forest from Managed Regrowth Method, noting differences between the method and the Human-Induced Regeneration method and highlighting ongoing work being undertaken on the method.

The Committee:

- **noted** the Department is working with the Clean Energy Regulator to assess calculation of abatement in the existing NFMR method, and will provide further advice at a later meeting; and

- **noted** reputation risk regarding perception of the method by stakeholders.

s22 s22 *and* s22 *left the meeting.*

s22

s22

s22

The meeting closed at 4:30pm

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

17 and 18 August 2017 Meeting

Agenda Item 7: Method reviews – Native Forest from Managed Regrowth Method and Human-Induced Regeneration of a Permanent Even-Aged Native Forest Method

For Decision

Purpose

To outline the Department's suggested approach to ERAC reviews of the two Emissions Reduction Fund native vegetation regeneration methods: the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2015* (NFMR method) and the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016* (HIR method).

Recommendations

That the Committee:

s47C

2. **agree** to an ERAC review of the NFMR method

3. **agree** to an ERAC review of the HIR method in parallel with the NFMR method review

4. **discuss and provide feedback** on the Department's thinking on how ERAC reviews of the NMFR method and the HIR method could be conducted

5. **consider** nominating a lead reviewer for the reviews

6. **note** the Department will provide scoping papers including further data analysis, draft discussion papers and options for public consultation at the next ERAC meeting.

Background

1. The Department agreed to provide ERAC with an update on our analysis of issues associated with the NFMR method that were discussed at the June ERAC meeting.

Key points

NFMR preliminary findings

2. The main issue we are analysing is that slow-growing regrowth vegetation has been able to generate high levels of early credits under the NFMR method. The Department and the Clean Energy Regulator have been analysing information to determine the nature and scale of the issues discussed at the 26 June 2017 ERAC meeting. Several aspects of the method require closer examination to ensure crediting aligns with on-ground outcomes.

3. NFMR projects must be undertaken on land with no forest cover and the potential to reach forest cover. Proponents can claim credits for carbon sequestered in regrowth occurring since the last clearing event. In some cases, where regrowth occurs slowly (and therefore has no reached forest cover, this could be more than 20 years ago. The method does not require abatement estimates to account for any slowing of regrowth due to factors such as land characteristics or grazing management. If the rate of regrowth is being slowed and this is not accounted for in abatement estimates, the rate of regrowth could be overestimated. In such cases, projects may have received more credits than have been achieved on-ground in their first couple of years since commencement. However, the Department's preliminary assessment indicates this may not translate to overcrediting of projects across their 25-year crediting period.

s47C

5. Further details on the Department's preliminary findings are at Attachment A.

s47C

s37(1)(a)

NFMR and HIR methods

8. The NFMR method was developed in 2013 under the Carbon Farming Initiative. The method was developed from a proposal by the Queensland Department of Science, Information Technology, Innovation and the Arts, which aimed to provide opportunities for carbon projects on land without forest cover and subject to ongoing clearing cycles for pastoral use. It was intended to complement the Avoided Deforestation method,

which provides for ending clearing cycles on land with existing forest cover. It uses the FullCAM model to estimate abatement.

9. The HIR method was developed to provide opportunities for reforestation of land without forest cover for at least ten years, but not necessarily subject to ongoing clearing cycles. It first used the Reforestation Modelling Tool to estimate abatement, but was later varied to use FullCAM (Attachment B provides further background).

10. The NFMR method has many similarities with the more popular HIR method.

    a. The methods cover the same project activities.

    b. They share the same goal of reforesting land without forest cover.

    c. Both use the FullCAM model to estimate abatement.

    d. They have similar eligibility requirements, including that land has forest potential.

11. The NFMR method requires abatement estimates to deduct the baseline carbon stocks from project carbon stocks. In contrast, the HIR method assumes a zero baseline. The NFMR method also differs from the HIR method by allowing for crediting of regrowth that predates the project, and requiring evidence of a past comprehensive clearing event and past forest cover. Attachment C provides a more detailed comparison of the two methods.

12. Most NFMR projects appear eligible for the HIR method and vice versa, with only small differences in eligibility requirements potentially limiting some projects using either method.

Method review

13. The ERAC is responsible for undertaking periodic reviews of methodology determinations and monitoring their compliance with the offsets integrity standards (section 255 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*). The Emissions Reduction Fund White Paper in 2014 stated each method would be reviewed at least once every four years. Papers for agenda item 10 provide further information.

14. The ERAC endorsed a variation to the HIR method in March 2016. It is due for review by 2020. In its advice to the Minister on the variation, the ERAC recommended the method be monitored closely to ensure it continues to meet the offsets integrity standards and minimises natural resource management risks (Attachment D). The HIR method is the most popular method under the ERF, with 178 registered projects and 80.7 million tonnes of contracted abatement.

15. Given many of the issues identified for review under the NFMR method are also relevant to the HIR method, the Department recommends reviewing the two methods concurrently. This would allow the ERAC to consider any matters common across the two methods together.

Proposed scope of method reviews

16. The Department proposes ERAC's NFMR and HIR method reviews largely follow the agreed approaches taken for method reviews for the Industrial Electricity and Fuel

Efficiency, Landfill Gas and Alternative Waste Treatment methods. The reviews would follow the approach proposed at agenda item 10.

17. The reviews would evaluate:

    a. whether the methods continue to meet the offsets integrity standards and additionality requirements, taking into account consistency and interaction with other methods

    b. if the methods do not meet the offsets integrity standards and additionality requirements, what action may be appropriate

    c. if the methods do meet the offsets integrity standards and additionality requirements:

        i. any specific method implementation issues

        ii. any specific method drafting issues.

    d. whether projects using the methods cause adverse natural resource management impacts.

18. The reviews would use the Clean Energy Regulator's experience in implementing the methods and project proponents' experience in running projects. There is an extensive evidence base available from offsets reports for the projects registered under the methods, as well as audit reports. The Clean Energy Regulator may have legal limitations on sharing some types of data with the Department. The Department and the Clean Energy Regulator agree on the proposed approach for the reviews.

19. The reviews could consider consistency between the regeneration methods and other vegetation methods where they have common concepts. For example, some other methods also use the concept of trees having potential to reach forest cover.

20. The Department anticipates the review reports, following consideration of stakeholder feedback, would identify proposed variations or other actions to respond to issues raised. Given the similarities between regeneration methods, one outcome may be the streamlining of project opportunities under one method.

21. The Department has identified several technical drafting and implementation issues for both methods, and will provide further details. Where these matters are minor, to streamline review processes it may be appropriate for the Department to consider them in parallel with the ERAC reviews.

Proposed method review process

22. At the next ERAC meeting, the Department would provide scoping papers with further data analysis, as well as draft discussion papers to assist in determining when and how to engage the public in the reviews.

23. The proposed reviews would include:

    a. a legislative drafter review of the clarity and readability of the determination

b. research and analysis of registered projects under the method, particularly how they established eligibility and additionality

c. analysis of other data or information from the CER on administration of the method

d. undertaking public consultation on the methods and targeted consultations with proponents, service providers, aggregators and industry associations using the discussion paper

e. feedback from the CER on the draft recommendations of the review.

24. Due to the logistics of arranging consultations, the volume of projects registered under the methods and allowing for the Christmas period, the Department expects the reviews would take up to nine months. The Department will present findings and draft recommendations to the ERAC by 30 June 2018.

25. Any proposed variations to the methods or other actions would then be implemented according to the established method development processes and procedures.

Attachments

Attachment A	NFMR method – preliminary analysis
Attachment B	HIR method – background
Attachment C	HIR and NFMR method comparison
Attachment D	HIR variation - ERAC letter to the Minister

Item 7 - Attachment A

Native Forest from Managed Regrowth method - preliminary analysis

Key statistics

	NFMR	All ERF
Number of projects	34	692
Number of projects credited	12	329
Number of contracts	23	387
Contracted abatement	4.1 million tonnes (2% of entire ERF)	182 million tonnes
Delivered abatement (contracted)	1.3 million tonnes	22.5 million tonnes
Estimated rate of initial crediting	s47C	-
Project locations	All located in Queensland	Nationwide

Summary

There is a high rate of initial crediting under the Native Forest from Managed Regrowth (NFMR) method relative to the other regeneration method, Human-Induced Regeneration (HIR). Projects under the NFMR method can claim credits for regrowth predating the project, whereas under the HIR method they cannot. The high rate of initial crediting is most pronounced where project land features decades of regrowth between the last clearing event and project commencement.s47C

s47C

s37(1)(a)

Department on consultation with the Clean Energy Regulator has identified several aspects of the method needing further examination against the offsets integrity standards.

The method assumes the type of land that meets eligibility requirements is regularly re-cleared for pastoral use, as otherwise the vegetation regrows into forest, making the land unsuitable for grazing. The original method proponents (Queensland Department of Science, Information Technology, Innovation and the Arts) assumed re-clearing cycles of 8-11 years. The method's abatement estimation requirements assume regrowth would grow to an extent requiring re-clearing every 15 years in the absence of a project.

There are circumstances under which vegetation will not regrow as quickly as the method assumes. Where this occurs, crediting could exceed actual abatement. These circumstances may arise due to land characteristics or land management, such as grazing. The method does not require abatement estimates to incorporate any effects of grazing on vegetation growth. There may be some site-specific land characteristics not fully represented in FullCAM modelling at the project level. The accuracy of FullCAM modelling is also subject to the ability of the user to identify factors limiting regrowth, such as grazing, and the ability of FullCAM to model them accordingly.

A review of the NFMR method would enable the ERAC to consider these concerns against the offsets integrity standards, and identify options to address them if necessary. Options could include, for example, revising the land eligibility, project mechanism and forest potential provisions within the method. A review could also look at factors affecting regrowth, such as grazing, and ways to take this into account, which could include changes to the method as well as longer-term work on modelling capabilities. Some of these considerations are also relevant to other methods.

A review could also consider the appropriateness of allowing crediting of abatement resulting from regrowth before project commencement.

Key findings from preliminary analysis

s47C

s45

- The method requires proponents to provide evidence of forest cover prior to the last clearing event. Evidence can include National Inventory forest cover data or other data. In some cases proponents have used Queensland Statewide Landcover and Tree Study data to meet the land eligibility requirements as the National Inventory data did not show that the land previously had forest cover or had been subjected to a comprehensive clearing.

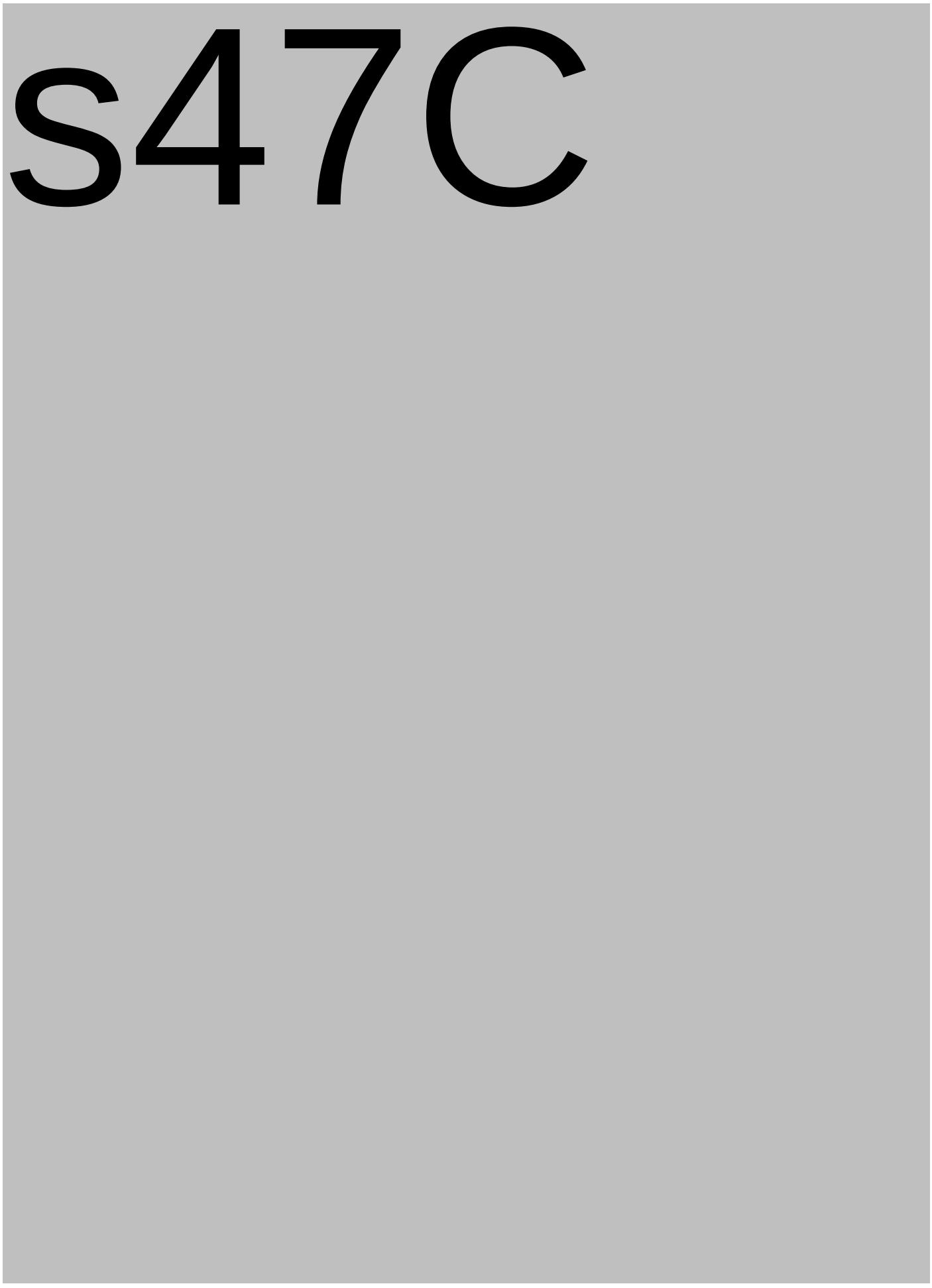
s47C

s47C

s47C

s47C

s47C


s47C

s47C

s47C

Native Forest from Managed Regrowth and Human-Induced Regeneration (FullCAM Version) method comparison

Projects and contracts

	Native Forest from Managed Regrowth	Human-Induced Regeneration
Number of projects	34	187
Number of projects credited	12	88
Number of contracts	23	127
Contracted abatement	4.1 million tonnes (2% of entire Fund)	80.7 million tonnes (44% of entire Fund)
Delivered abatement	1.3 million tonnes	5.5 million tonnes
Estimated rate of initial crediting	s47C	

Method components

Component	NFMR	HIR (FullCAM)	Summary
Up-front crediting	Proponents can model regeneration as occurring before the project commencement and be credited for it (s4.19 of method).	Proponents can model regeneration as occurring before the project commencement, but factor **ICr** in Equation 2 prevents crediting any regeneration that has been modelled as occurring before the project commencement (previous version also functions like this due to factor **IC** at s4.2).	NFMR permits up-front crediting whereas HIR does not.
Baseline carbon	Projects must estimate the average carbon that would be onsite if clearing cycles continued (where the amount is material) and subtract this amount from the amount that may be credited. There are generous allowances in the method	Projects do not have to account for carbon that would be onsite in the absence of a project.	NFMR deals with baseline carbon whereas HIR does not. The generous allowances under NFMR may allow baseline carbon to be underestimated.

Component	NFMR	HIR (FullCAM)	Summary
	that allow proponents to reduce baseline amounts.		
Requirement that land was comprehensively cleared	Requires proponent to submit evidence land was once comprehensively cleared (at any point in time).	No requirement land was comprehensively cleared	HIR simpler for proponents as no requirement to demonstrate past clearing with evidence
Project mechanism	The project must involve generating abatement through a change in land management which enables native vegetation to grow to achieve forest cover: (a) through the promotion and management of regeneration of in-situ seeds, rootstock or lignotubers (b) not through direct seeding or planting The human-induced regeneration referred to in subsection (1) must include the cessation of mechanical or chemical destruction, or suppression, of regrowth, and may also involve one or more of the following: (a) exclusion of livestock (b) management of the timing and extent of grazing (c) management, in a humane manner, of feral animals (d) management of plants that are not native to the project area.	The project proponent must, in an area of eligible land, undertake one or more HIR activities in a way that can reasonably be expected to result in the area becoming native forest, and attaining forest cover, through regeneration. HIR activities are: (i) the exclusion of livestock and the taking of reasonable steps to keep livestock excluded (ii) the management of the timing, and the extent, of grazing (iii) the management, in a humane manner, of feral animals (iv) the management of plants that are not native to the project area (v) the implementation of a decision to permanently cease the mechanical or chemical destruction, or suppression, of regrowth.	Provisions are similar. HIR adds the 'reasonably be expected' test
Time since comprehensive clearing to project start date	No provisions in method. The CFI Regulations require a minimum of 7 years (or 5	Requirement in method that land was free of forest cover for 10 years prior to start date, implying if ever comprehensively cleared,	Somewhat convoluted, but in practice NFMR requires less time between a

Component	NFMR	HIR (FullCAM)	Summary
	years where property has changed hands).	was at least 10 years before start.	comprehensive clearing and project start.
Requirement to not have forest cover before project start	Requires that land does not have forest cover at project start date.	Requirement that land does not have forest cover at any time in 10 years preceding project start date.	It is possible under NFMR to reach forest cover since last clearing and do something such as thinning or burning to bring back below forest cover before start date, whereas this is not possible under HIR.
Livestock and grazing restrictions	Method says proponents may be requested to show that grazing has not prevented regrowth. Proponents required to keep evidence that grazing, if any, has not affected the regrowth of native forest. No applicable FullCAM events.	Where exclusion of grazing is project activity, no grazing allowed until forest cover reached. Where managing timing and extent of grazing forms project activity, grazing must not materially affect carbon stocks. Where it does, there is a 'growth pause' event to be modelled in FullCAM; there are questions about whether it is practicable.	HIR sets out grazing restrictions more clearly. HIR has materiality threshold whereas NFMR does not. HIR has a FullCAM event for when grazing occurs, however there are concerns whether it is practicable.
Recordkeeping regarding suppression factors	Evidentiary requirements around the decision to implement project mechanism (s2.5), but not regarding pre-project suppression activities except evidence grazing has not had effect on regrowth (5.5(d)).	Must keep records of activities undertaken during the baseline period (10 years preceding project start) that contributed to suppression of development of forest cover (p41(2)(a)).	HIR requires record keeping regarding past suppression whereas NFMR does not.
Evidence of project implementation	Requires evidence documenting the 'decision to implement project mechanism' (s2.5), which may include evidence of activities that assist native forest regrowth	Requires evidence of the commencement of one or more HIR activities that resulted in, or could reasonably be expected to result in, the CEA becoming native forest through regeneration and attaining forest cover as well as evidence of suppression	HIR requires evidence of activity commenced, whereas NFMR does not necessarily require this, and does not require evidence of suppression factors preceding project commencement.

Component	NFMR	HIR (FullCAM)	Summary
		present during the baseline period (ss41(2)).	
Timing of assessment of land eligibility	Part 2 sets out requirements for declaration as an eligible project and includes the key land eligibility requirements at s 2.4. The project area is assessed against these requirements at registration. Part 3 sets out CEA requirements assessed at the time of the offsets reports. The land eligibility requirements of Part 2 are not explicitly stated here; it is only through linking certain terms and provisions that there is a hook to apply them at this stage.	Part 1 sets out the land eligibility requirements. The Method is clear that these are both applicable to assessments of project area at project registration and of carbon estimation areas at the time of offsets reporting.	HIR is clearer in outlining that key land eligibility requirements are applied at both the registration and offsets report stages.
Stratification and model point	Exclusion areas are permitted, but not CEA Parts. Model point must be approximate to the centre of the area.	CEA parts are permitted within a 1.5km radius. Method silent on exclusion areas, but CER advises they are permitted. Model point must be representative of the CEA and as close as practicable to the centre of the CEA.	HIR provides greater flexibility for stratification with CEA parts, and unlike NFMR, requires model point to be representative.
Treatment of negative abatement	Method not written to address negative abatement correctly from one reporting period to the next. An administrative workaround is currently implemented to deal with this.	HIR has addressed the issue of negative abatement for subsequent reporting periods with the inclusion of $\mathbf{Ar{-}1}$.	HIR has addressed issue.
Projects on conservation land	No projects allowed on conservation land.	Projects allowed on conservation land where management of feral animals or plants not	HIR provides some opportunities for conservation land whereas NFMR does not.

Component	NFMR	HIR (FullCAM)	Summary
		native to the area is the project mechanism.	
Dead biomass removal for personal use	Up to 10% of fallen timber may be removed from a carbon estimation area in a calendar year for personal use (not for sale or commercial use).	Dead biomass may be removed for firewood for personal use as long as it does not materially affect carbon stocks.	HIR allows removal for personal use of firewood, whereas NFMR allows removal for all personal uses.

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING

Minutes

Thursday 17 August 2017 **1:00pm – 5.30pm**

Present

Committee Members:
Andrew Macintosh (Chair) Paul Graham, David Hemming, Beverley Henry, Mick Keogh, Andy Lloyd, Hilary Smith and Gayle Milnes.
Apologies: Suzanne Jones

Other attendees:
Department of the Environment and Energy
Katrina Maguire (Items 4, 5 and 7), s22 (Items 1-4), s22 (Item 1-4), s22 (Items 4-5), s22 (Item 5), s22 (Items 5), s22 (Item 5), s22 Item 6), s22 (Item 6), s22 (Item 8), s22 (Item 7), s22 (Item 7), s22 (Item 8-9), s22 (Item 4), s22 (Secretariat), s22 (Secretariat) and s22 (Secretariat).

Clean Energy Regulator
Mary-Anne Wilson (Day 1), Jody Swirepik (Item 6-7) and s22 (Item 6-7).

Department of Agriculture and Water Resources
s22 (Items 4-7)

Australian Government Solicitor
s22 (Items 4-7)

s22

s22

s22

s22

7. Method review: Native Forest from managed regrowth and Human Induced Regeneration

s22 *and* s22 *joined the meeting.*

The Committee:

s47C

- **agreed** to conduct reviews of the Native Forest from Managed Regrowth method and Human Induced Regeneration method in parallel.
- **nominated** Hilary Smith as the lead reviewer for both reviews.
- **requested** the Department advise the Committee immediately of applications to register a project under or transfer onto the Native Forest from Managed Regrowth method, and outline the scale of transfers possible from the Human Induced Regeneration method as a priority.
- **requested** further information from the Inventory Team in regard to afforestation / reforestation, plantings and protected areas, as well as a presentation from them on their relevant processes.
- **requested** the Department provide updates at each meeting on the progress of the reviews, including understanding of the associated risks, and the preliminary findings.
- **agreed** to conduct a teleconference within the next four weeks to further discuss these issues.

s22 *,* s22 *, Ms Maguire,* s22 *,* s22 *, Ms Swirepik and* s22 *left the meeting.*

s22

s22

s22

Item #	Action	Responsible person	Status	Due
s22				
1708-7.1	Teleconference to be held within 4 weeks to discuss Native Forest by Managed Regrowth and Human Induced Regeneration Methods	s22 s22	Open	18/9
1708-7.2	Department to provide information requested from Inventory Team on afforestation/deforestation	s22	Open	18/9
1708-7.3	Department to advise the Committee of applications to register a project under or transfer onto the Native Forest from Managed Regrowth method, and outline the scale of transfers possible from the Human Induced Regeneration method.	s22	Open	2/9
s22				

Draft Work Breakdown and Scheduling: ERAC NFMR and HIR method Reviews

Event/Output	Details and Key Activities	Start	Finish
ERAC papers - for agreement	• Initial project scoping		Complete 18 Aug 2017
ERAC Teleconference - for information/discussion	• Update on analysis of inventory information on afforestation	21 Aug 2017	18 Sept 2017
ERAC papers - for agreement out of session	• Detailed project scopes for NFMR and HIR • Draft discussion paper (1 covering both methods)	Early Sept 2017	Late Oct 2017
ERAC Update – for information	• Short update presentation		30 Nov 2017
Discussion paper inviting submissions	• ERAC advice to Minister of review and consultation • Issue discussion paper		Early Nov 2017
Face to face consultations with key stakeholders	• Conduct consultations with key stakeholders • ERAC field trip	Early Dec	Late Jan 2018
ERAC papers – for discussion/input	• Draft NFMR Review • Draft HIR Review	From Oct 2017 Ongoing	Feb 2018
ERAC papers – for agreement	• Final NFMR Review • Final HIR Review	Mar 2018	Apr 2018
Advice to Minister – for information	• ERAC advice to Minister on outcomes of reviews		Apr 2018
Public release of Review	• Publish on website		May 2018

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING

DRAFT Teleconference Minutes

Monday 18 September 2017 **11:00am—12.20pm**

Emission Reduction Fund Method reviews: Native forest from managed regrowth (NFMR) and Human induced regeneration (HIR)

Present

Committee Members:
Andrew Macintosh (Chair) Paul Graham, David Hemming, Beverley Henry, Mick Keogh, Andy Lloyd, Hilary Smith, Suzanne Jones and Gayle Milnes.
Apologies: Nil

Other attendees:
Department of the Environment and Energy
Katrina Maguire, s22 , s22 , s22 , s22 , s22 , and s22 s22 (Secretariat).

Clean Energy Regulator (CER)
Jody Swirepik, Mary-Anne Wilson, s22 and s22 .

Australian Government Solicitor
s22

1. Welcome and introductions

- The Chair welcomed members to the meeting and noted Hilary Smith's role as lead reviewer for the two methods.

2. HIR & NFMR Method reviews

(For background please note extract from minutes of the previous ERAC meeting)

s42

2. Data analysis update

s22 briefed the meeting with a data analysis update.

The Committee:

- **discussed** the potential for transfers from HIR to NFMR.
- **noted** analysis of National Inventory data from reported projects suggested 20–25% of the area under HIR may be eligible to transfer.
- **discussed** the Department's assessment of recent performance of reported projects under the two methods based on National Inventory data.
- **noted** that:
  - investigations around the wide range in performance of different projects are ongoing, but initial analysis suggests differences in results from the two methods may correlate with differences in their respective project mechanisms
  - the Department is scoping further questions for data analysis to support the reviews, including examining the potential for further uptake
  - The Department will forward details of its assessment of project performance and proposed further data analysis, for the Committee's information and comment.

3. Approach to review (decision requested)

s22 briefed the meeting on timing, public consultation and proposed discussion paper content.

The Committee:

- **noted** that the revised timetable was shortened as requested at the last meeting
- **discussed** potential approaches to public consultation
- **agreed** to:
  - the draft work breakdown and schedule for the reviews as presented
  - combine both methods into a single public discussion paper inviting submissions
- **noted** the Department will provide a draft discussion paper for consideration in October.

s47C

- s47C

s42

- s47C

3. Other business

The Committee:

- **noted** the Department will organise a time for the next teleconference in late October 2017.

The meeting closed at 12:20 PM

Item #	Action	Responsible person	Status	Due
1809-1	*Department to provide the data analysis update with further information on how the summary of project information was developed, before end of week.*	s22	Closed	22/9
1809-2	*Department to provide the Committee with the questions for data analysis.*	s22	Closed	1/10
1809-3	*Department to provide a draft discussion paper,* s47C *for discussion at next teleconference.*	s22	Open	20/10
1809-4	*Department to clarify in work list that the discussion paper is for public consultation.*	s22	Closed	17/10
1809-5	*Secretariat to notify date of next teleconference, before end of week.*	s22	Closed	22/9
1809-6	*ERAC members to advise any additional questions for consultation.*	ERAC members	Open	17/10

Background: Extract from previous minutes of the ERAC meeting of the 17–18 August 2017

Method review: Native Forest from managed regrowth and Human Induced Regeneration

The Committee:

s47C

- **agreed** to conduct reviews of the Native Forest from Managed Regrowth method and Human Induced Regeneration method in parallel.
- **nominated** Hilary Smith as the lead reviewer for both reviews.
- **requested** the Department advise the Committee immediately of applications to register a project under or transfer onto the Native Forest from Managed Regrowth method, and outline the scale of transfers possible from the Human Induced Regeneration method as a priority.
- **requested** further information from the Inventory Team in regard to afforestation / reforestation, plantings and protected areas, as well as a presentation from them on their relevant processes.
- **requested** the Department provide updates at each meeting on the progress of the reviews, including understanding of the associated risks, and the preliminary findings.
- **agreed** to conduct a teleconference within the next four weeks to further discuss these issues.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

29 and 30 November 2017 Meeting

Agenda Item 5: Update on method reviews – Native Forest from Managed Regrowth Method and Human-Induced Regeneration of a Permanent Even-Aged Native Forest Method

For Information

Purpose

To update the Committee on the reviews of the Native Forest from Managed Regrowth (NFMR) and Human-Induced Regeneration (HIR) methods and actions that could be taken sooner to address concerns with the NFMR method.

Recommendations

That the Committee:

1. **note** the Department's progress with the concurrent reviews of the NFMR and HIR methods

2. **note** the Department is investigating the feasibility of amending the NFMR FullCAM Guidelines to help manage overcrediting risks and will provide an update at the Committee meeting

3. **note** the option of varying the NFMR method prior to completion of the review, if amending the FullCAM Guidelines isn't feasible

4. **note** actions being undertaken by the Clean Energy Regulator to clarify requirements for NFMR and HIR projects to demonstrate potential to attain and retain forest cover.

Background

1. The Committee agreed on 18 August 2017 to concurrently review the NFMR and HIR methods.

2. s47C . The Committee s47C requested the Department focus on collating and analysing data and information to inform an assessment of whether the NFMR method complies with the offsets integrity standards. The Committee also agreed to postpone releasing a public discussion paper for the NFMR and HIR reviews until it has a deeper understanding of the nature and scale of the issues, and to manage the risk that conducting consultation could lead to a substantial increase in new project applications.

Key points

NFMR and HIR method review progress

3. The Department is continuing to analyse available information to assess and provide advice to the Committee on whether the NFMR and HIR methods comply with the offsets integrity standards. The Department and the Clean Energy Regulator are sharing information to better understand the issues and the potential solutions. The diagram at Attachment A describes analysis tasks for the key issues and potential responses. The table at Attachment B lists the main issues against each of the offsets integrity standards being examined by the Department and identifies potential responses (solutions) to those issues. This is a working document and will be revised as work progresses.

s45

NFMR method review – recent context and new developments

s47C

s47C

s47C s47G(1)(a)
s47C
s47C s47G(1)(a)

s47C

6. The modelling specifications in the NFMR method give rise to a risk of over-crediting. Using satellite data and aerial photography, proponents can potentially identify eligible land that was cleared many decades ago and receive upfront credits on the basis of modelled biomass that cannot be present on the site (because the method does not allow the site to contain forest at the project registration date). This could occur not only in the region the method was designed for (western Queensland and New South Wales), but also more fertile regions where modelled sequestration rates would be higher.

7. In the National Greenhouse Accounts, to ensure estimates of regeneration are conservative, regeneration events are only modelled in FullCAM from the date the vegetation is detected as reaching forest cover. Forest cover is trees at least two metres high, with at least 20 per cent crown cover, on an area of at least 0.2 hectare. This means there is a disparity between the sequestration credited under the NFMR method and the corresponding sequestration recorded in the National Greenhouse Accounts. For the same reason, there is also a disparity between crediting for HIR projects and the National Greenhouse Accounts, although to a lesser extent because crediting only starts after project registration.

8. The issues associated with the NFMR and HIR methods can be divided into two categories: (a) those associated with upfront crediting; and (b) those associated with post-registration crediting. The upfront crediting issues relate solely to the NFMR method and stem from the fact the method allows proponents to be credited on the basis of tree growth that is modelled to have occurred prior to registration. The post-registration crediting issues apply to both NFMR and HIR, and relate to whether the modelled rate of tree growth from the date of registration matches the actual growth rate.

s47C

s47C

s47C

s47C s47C s47G(1)(a)

s47C

s47G(1)(a)

Proposed actions to manage risk of some overcrediting

12. Taking early steps to manage the risk that some NFMR projects are potentially getting some overcrediting over the life of the project, as well as early crediting, could limit the potential for NFMR projects to secure credits not reflected in actual project performance. The Committee may be able to proceed with the reviews with more confidence that any new projects coming forward in response to release of a discussion paper won't be able to access, to the same extent, credits for modelled abatement that doesn't correspond with actual project performance.

13. There are a number of potential responses to improve the conservativeness of estimates, projections and assumptions of both methods. These are listed in Attachment A and elaborated further in Attachment B. The Department has been examining which of these potential solutions could help manage the risk of some overcrediting for the NFMR method in a timely way while the Committee continues with the review of the NFMR and HIR methods. The following proposal, together with steps being taken by the Clean Energy Regulator (see below), could help manage the risk. It is important to emphasise that any measures to address the upfront crediting issues associated with the NFMR method will not resolve the post-registration crediting issues associated with both NFMR and HIR.

14. The FullCAM Guidelines for the NFMR method provide step-by-step instructions on using FullCAM to produce abatement estimates under the rules in the method. The method requires use of the Guidelines. The Department is, in consultation with the Clean Energy Regulator, investigating the feasibility of amending the Guidelines to restrict the length of time the regeneration date can predate the project registration date. This would limit the time over which modelled carbon stocks increase, constraining the extent of crediting to align more closely with what could be possible for land having no forest cover, as is required at project registration.

15. The Department is considering limiting the timing of the regeneration event commencement to no more than 14 years prior to the project registration date. The default baseline of the method implies an assumption that after 14 years of regeneration, vegetation on the land will have developed forest cover (subsection 14(2) of the method). Allowing longer periods of regeneration contradicts this assumption and means the baseline amount will be underestimated (it will be calculated from periods of regeneration lasting 14 years when in fact the period of regeneration immediately preceding the project registration was longer).

16. Reducing the pre-project modelling of regeneration from 23 years to 14 years for example, reduces the proportion of maximum tree growth modelled as having occurred by the project registration date from above 40% to about 25%.

17. The FullCAM Guidelines are not a legislative instrument requiring Ministerial approval. The method provides for the Guidelines to be updated by the Department from time to time, and requires proponents to use the current version when preparing reports on abatement to the Clean Energy Regulator.

18. To determine whether amending the Guidelines is workable, the Department is assessing: the specific amendments required; whether proponents and the Clean Energy Regulator could practically apply them; and any legal impediments. The Department is also looking at how effective the approach might be in managing the crediting risk, including whether it could apply to existing projects as well as new projects.

19. The Department will provide a verbal update on the possibility of this option at the ERAC meeting. If the concept appears feasible, the Department would consult project proponents.

20. If the Department is able to change the FullCAM Guidelines, the Committee may subsequently choose to proceed with public consultation on the reviews. The Department could provide the Committee with a consultation paper for consideration at the next Committee meeting (scheduled for February 2018).

21. If the Department finds it is not feasible to amend the FullCAM Guidelines, the Committee could consider instead making a variation to the NFMR method to adopt requirements along similar lines to the proposed FullCAM Guidelines amendment. This would only apply to new projects.

The Department has identified it as a secondary option compared to amending the FullCAM Guidelines, because it may have more limited effect, would take longer to develop, would require at least 14 days public consultation and would have a greater impact on the timing and resourcing of the review process.

22. If such a variation was feasible and supported by the Committee, the Department would proceed with legal drafting and consulting the Clean Energy Regulator. A draft variation would need to be released for public consultation. The review of the NFMR and HIR methods would continue alongside work on a variation. Conducting public consultation on the review after the variation was in place would help avoid any confusion between the method variation and review processes and ensure public comments on the review take the variation into account.

Clean Energy Regulator actions

s37(1)(a)

24. The Clean Energy Regulator has issued guidance (Attachment E) and an interim posture (Attachment F) to clarify the operation of the methods and when credits will and won't be issued. They will be consulting clients and stakeholders on these documents over the coming months and seeking feedback. One of the benefits of this program of work will be a reduction in the potential for crediting to exceed actual project performance. The proposed FullCAM Guidelines amendment would complement the Clean Energy Regulator's actions.

Next steps

1. The Department is investigating the feasibility of amending the NFMR FullCAM Guidelines to restrict the length of time the regeneration date can predate the project registration date, and will advise the Committee of outcomes.

2. If amending the FullCAM Guidelines is not feasible, the Department will inform the Committee. The Committee could further consider the method variation option at that point.

3. The Department will continue to update the Committee on any new NFMR project applications.

Attachments

Attachment A: NFMR and HIR method reviews – overview of analysis

Attachment B: NFMR and HIR method reviews – Offsets Integrity Standards: issues and approach

Attachment C: NFMR and NIR methods: eligibility and crediting

Attachment D: NFMR required number of stems and maximum corresponding crown cover per stem

Attachment E: Clean Energy Regulator interim operational policy-guidance on stratification of carbon estimation areas under the NFMR and HIR methods

Attachment F: Clean Energy Regulator interim posture on crediting NFMR and HIR projects

NFMR & HIR method reviews – overview of analysis

Information sources

Note: Each of these sources draw on confidential information.

DoEE Project Data Analysis
September – November
Performance of projects (changes in vegetation cover over time; influence of climate, location & project activity factors; FullCAM estimates & credits issued)

CER GIS Unit Analysis
October - December
Performance of projects (changes in vegetation at fine spatial level)
Perspectives on implementation & method improvement

CER Implementation Experience
October - December
Performance of projects (compliance, method interpretation & application)
Perspectives on implementation & method improvement

DoEE Review of Literature & Method Development History
November - January
Evidence supporting method
Original concepts & intentions

DoEE Landscape Data Analysis
November - February
Landscape-scale regeneration and clearing rates
Amount of remaining land suitable for project uptake

Key issues

Measurable and verifiable
Amount of variation in project performance and whether the model can adequately account for it?

Additionality
Do stratification requirements ensure only land without forest cover, but likely to regenerate is included?

Conservativeness
Is the timing of forest potential & the associated FullCAM regeneration event conservative?

Conservativeness
Are the method assumptions and modelling estimates conservative compared to on-ground outcomes?

Other
Potential for more uptake

Additionality
How likely is it re-clearing would have occurred in project's absence?

Evaluate Findings

s47C

Preliminary Review Considerations

Offsets Integrity Standards - issues and approach

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard			
Determination should result in carbon abatement that is unlikely to occur in the ordinary course of events.	• The project mechanism, which requires undertaking one or more HIR activities in a way that can reasonably be expected to result in the area becoming native forest, and attaining forest cover, through regeneration (s 12 and s 7) • The HIR activities, which are (i) the exclusion of livestock; (ii) the management of the timing and the extent of grazing; (iii) the management of feral animals humanely; (iv) the management of plants not native to the project area and (v) the implementation of a decision to permanently cease the mechanical or chemical destruction, or suppression, of regrowth (sub-s 7(2)) – method also states that the latter activity is compulsory with only strict exceptions (s 22) • Suppression of regrowth occurred during the 10 preceding years (p 4(1)(b)) • Evidence must be provided showing the commencement of one or more HIR activities & of the suppression during the baseline (sub-s 41(2)) • No forest cover was present in the preceding 10 years (s 4) • No clearing occurred in the preceding 7 years (Regulation 3.36) • Modelling carbon stocks commences when the land has forest potential (sub-s 28(2)), which can be before project registration, however pre-	• The project mechanism, which requires a change in land management which enables native vegetation to grow to achieve forest cover through regeneration, and not through direct seeding or planting (s 2.2-2.3 and s 1.4) • The change in land management, which must include the cessation of mechanical or chemical destruction, or suppression, of regrowth, and can also include one or more of the following (a) the exclusion of livestock; (b) management of the timing and extent of grazing; (c) management, in a humane manner, of feral animals; and/or (d) management of plants that are not native to the project area (s 1.3) • Evidence must be provided documenting the 'decision to implement the project mechanism' (s 2.5) • At least one comprehensive clearing for pastoral use (sub-s 2.4(3)) with no limit how long ago as long as it was not in the last 7 years (Regulation 3.36) • Before the clearing there must have been forest cover on the land (sub-s 2.4(4)) • No forest cover at commencement (p 2.4(5)(c))			

s47C

Preliminary Review Considerations

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
	project regrowth is not credited (**ICr** in Equation 2) • On conservation land, grazing animals is presumed not to occur as business as usual - therefore a restriction on grazing is not an additional activity • Permanence and newness requirements under the Act	• Projects are restricted from occurring on conservation land (sub-s 1.4(1)) • Permanence and newness requirements under the Act
Estimates of abatement are measureable and capable of being verified.	• The Full Carbon Accounting Model (FullCAM) is used to model carbon stocks and emissions. • Equations are specified in the method for the calculating abatement: abatement is the change in carbon stock minus emissions from biomass burning and other disturbance events, project fuel emissions and any negative abatement from previous reporting periods. • Verification is enabled through requirements for monitoring, record keeping and reporting (Part 5), the requirement to use FullCAM to model carbon stocks and emissions, and through restriction of HIR projects to land where FullCAM data exists. • Additional verification of correspondence between on-ground performance and modelled estimates is provided by the reference to satellite and aerial imagery to verify project eligibility, forest cover, and forest potential.	• The Full Carbon Accounting Model (FullCAM) is used to model carbon stocks and emissions. • Equations are specified in the method for calculating abatement: abatement is the change in carbon stock minus emissions from biomass burning and other disturbance events, project fuel emissions and any negative abatement from previous reporting periods. • Additional verification of correspondence between on-ground performance and modelled estimates is provided by the reference to satellite and aerial imagery to verify project eligible, past clearing events, forest cover, and forest potential.
Carbon abatement must be eligible carbon abatement.	• Assisting the regeneration of native forest to attain forest cover is an activity that results in eligible carbon abatement that contributes towards	• Assisting the regeneration of native forest to attain forest cover is an activity that results in eligible carbon abatement that contributes

s47C

Preliminary Review Considerations

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
	Australia's international reporting obligations and targets. • The Full Carbon Accounting Model (FullCAM) used to model Australia's national carbon stocks in the land sector, is also used under the method to model project carbon stocks and emissions. This helps ensure abatement estimated from projects is eligible abatement for Australia's international reporting obligations and targets. • The requirement that land does not have forest cover at the project commencement date ensures that only land with the potential to be converted to forest and captured within National Inventory reporting is eligible.	towards Australia's international reporting obligations and targets. • The Full Carbon Accounting Model (FullCAM) used to model Australia's national carbon stocks in the land sector, is also used under the method to model project carbon stocks and emissions. This helps ensure abatement estimated from projects is eligible abatement for Australia's international reporting obligations and targets. • The requirement that land does not have forest cover at the project commencement date ensures that only land with the potential to be converted to forest and captured within National Inventory reporting is eligible.
Determination is supported by clear and convincing evidence.	• Supported by broad range of evidence that land has potential to regenerate native vegetation where suppression factors such as grazing, weeds and destruction of regrowth are removed. • Using FullCAM to model carbon stocks provides estimates of carbon stocks consistent with the approach used to inform the National Greenhouse Gas Inventory. • The development and maintenance of FullCAM is supported by peer-reviewed and internationally agreed scientific research.	• Supported by evidence from the 2011 National Inventory Report that land is regularly cleared for pastoral purposes, on average every 8-11 years nationally, and at least once every 15 years for 75% of land regularly cleared. Proof of past forest and past clearing event suggests land likely to regenerate into native forest, and also likely to be cleared again in absence of an ERF project. • Supported by broad range of evidence that land has potential to regenerate native vegetation where suppression factors such as grazing, weeds and destruction of regrowth are removed.

s47C

Preliminary Review Considerations

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
		• Using FullCAM to model carbon stocks provides estimates of carbon stocks consistent with the approach used to inform the National Greenhouse Gas Inventory. • The development and maintenance of FullCAM is supported by peer-reviewed and internationally agreed scientific research.
Material amounts emitted as a consequence of the project are deducted.	• Emissions from fire and fuel use are accounted for (Part 4, Division 5). • The accounting boundary for project emissions and abatement is around the CEAs. Carbon stocks account for above and below vegetation biomass.	• Emissions from fire and fuel use are accounted for (Division 4.5). • The accounting boundary for project emissions and abatement is around the CEAs. Carbon stocks account for above and below vegetation biomass.
Estimates, projections and assumptions are conservative.	• Credits are only issued for abatement achieved during the crediting period. Proponents can model regeneration as occurring before the project commencement, but factor **ICr** in Equation 2 prevents crediting of such regeneration. • The input data used to model changes to carbon stocks have	• The input data used to model changes to carbon stocks have conservative default assumptions in the absence of known data, such as the default baseline clearing interval of 15 years. • The use of FullCAM to model carbon stocks provides a representation of carbon accumulation for projects consistent with the approach used

s47C

Preliminary Review Considerations

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
	conservative default assumptions in the absence of known data. • The use of FullCAM to model carbon stocks provides a representation of carbon accumulation for projects consistent with the approach used in the National Inventory and uses a mixed species environmental plantings calibration. • The specifications for establishing CEAs (Part 3, Division 3, subdivision 2) support conservative abatement estimates, including that: CEAs must consist only of land that regenerated at a similar time with a similar mix of native vegetation, the model point must be representative of the CEA and close to its centre, the CEA must have forest potential, and the CEA must have started to become native forest through regeneration. • The method states any area failing to meet the CEA requirements must be removed from the CEA through restratification (sub-s 18 (3)). • For CEAs with multiple parts, there is a 1.5 radius limited within which all the parts must be contained. • Where grazing by livestock or feral animals materially affects the carbon stocks, proponents must model a 'growth pause' event in FullCAM. • The wider legislative framework contains a 5% risk of reversal buffer and 20% discount for the 25 year permanence period option.	in the National Inventory and uses a mixed species environmental plantings calibration. • The specifications for establishing CEAs (Part 3, Division 3.2) support conservative abatement estimates, including that each CEA must: consist only of land that contain regrowth of the same forest type or vegetation community, contain a model point location that is at the approximate centre of the area, and have forest potential at the time of the decision to implement the project mechanism. • The method states that any area of land that loses forest potential or an area greater than 0.2 ha where regeneration fails must be removed from the CEA (sub-s 3.6(5)). • The wider legislative framework contains a 5% risk of reversal buffer and 20% discount for the 25 year permanence period option.

s47C

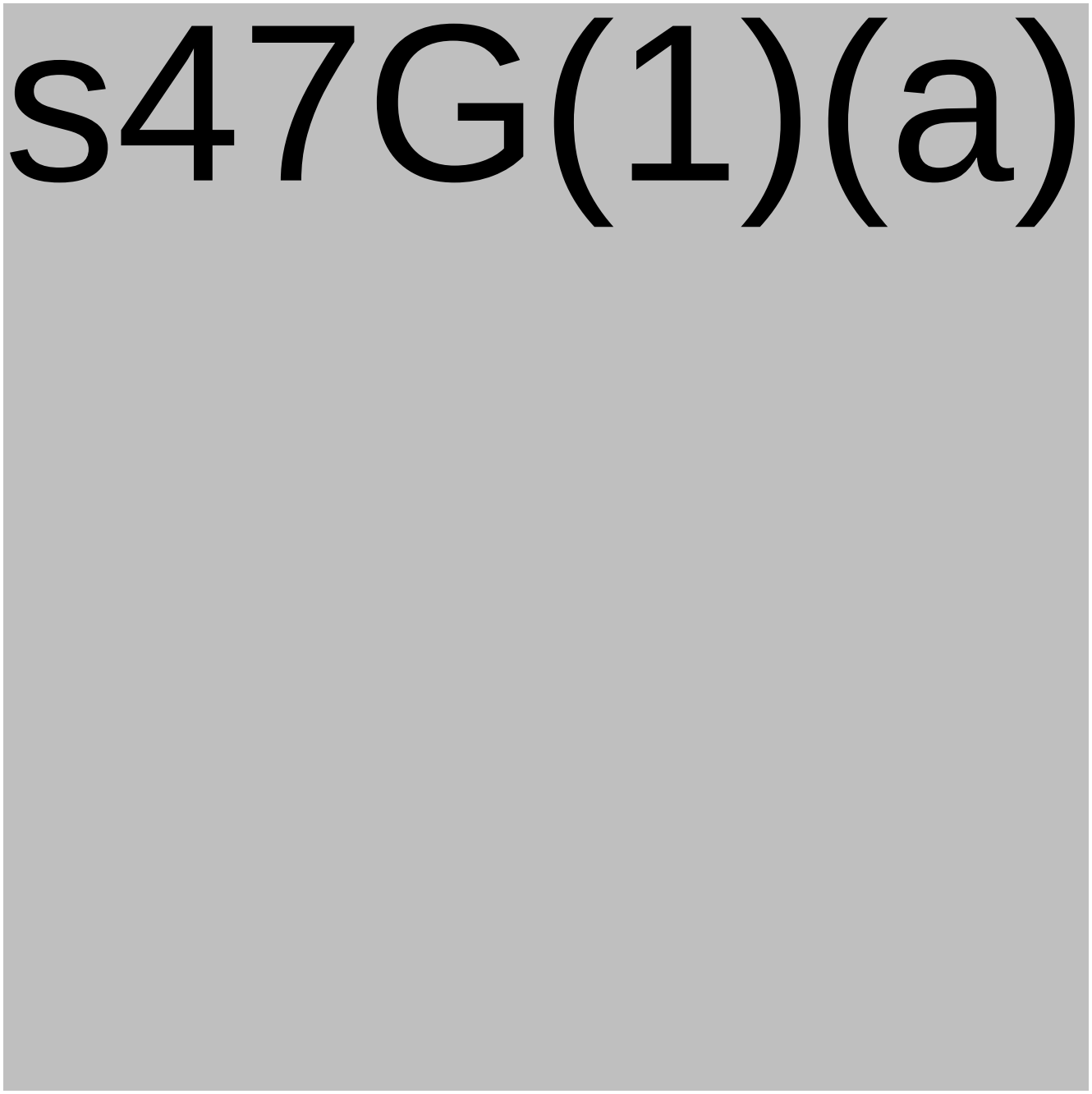
ATTACHMENT C

Native Forest from Managed Regrowth and Human-Induced Regeneration methods: eligibility and crediting

NFMR eligibility requirements

Eligibility requirements for NFMR projects are:

- the land must have been comprehensively cleared at least once for pastoral use
- there was forest cover (>20% crown cover) on the land at some point before the clearing
- there was not forest cover (>20% crown cover) on the land at the project registration date
- the land has forest potential (potential to reach forest cover) at project registration and throughout the life of the project
- the land had not been cleared in the 7 years preceding the project registration
- the decision to implement the project mechanism (decision to cease clearing and, optionally, undertake activities to assist regeneration) was new at project registration.


s47G(1)(a)

ATTACHMENT D

NFMR required number of stems and maximum corresponding crown cover per stem for CEAs with modelled regeneration dates of 2000 and 1991, assuming vegetation is or approximates mulga forests (*Acacia aneura*).

2000 modelled regeneration date			1991 modelled regeneration date		
Target above-ground biomass (20-22 tonnes per ha)			Target above-ground biomass (34-38 tonnes per ha)		
Diameter at 30cm	Required stems	Maximum possible crown cover per stem (m^2) without exceeding 20% crown cover across area	Diameter at 30cm	Required stems	Maximum possible crown cover per stem (m^2) without exceeding 20% crown cover across area
1	78260	0.03	1	135466	0.01
2	18166	0.11	2	31446	0.06
3	7731	0.26	3	13382	0.15
4	4217	0.47	4	7299	0.27
5	2635	0.76	5	4561	0.44
6	1795	1.11	6	3106	0.64
7	1297	1.54	7	2245	0.89
8	979	2.04	8	1694	1.18
9	764	2.62	9	1322	1.51
10	612	3.27	10	1059	1.89
11	500	4.00	11	866	2.31
12	417	4.80	12	721	2.77
13	352	5.68	13	609	3.28
14	301	6.64	14	521	3.84
15	260	7.68	15	451	4.44

Source: Allometry from Paul et al. (in review).

Interim operational policy—stratification of carbon estimation areas under the NFMR and HIR methods

The native forest from managed regrowth (NFMR) and human induced regeneration (HIR) family of methods are designed to achieve forest cover of Australian native tree species that are indigenous to a project's local area through regeneration. It is expected that areas with forest potential can and should reach forest cover by the end of the crediting period for the project.

The purpose of this policy is to clarify requirements for stratifying carbon estimation areas (CEAs) under the NFMR and HIR methods, including the requirement that a CEA must have forest potential when it is first stratified, and that it demonstrates regeneration during each subsequent reporting period[1].

Stratification refers to defining the boundaries of a CEA—which is an area of land within a project area where the project activity or activities are being carried out, and for which you expect to receive credits.

Initial stratification of a CEA requires that the land must have forest potential and be a minimum area of 0.2 hectares. For a CEA to have forest potential, it must contain trees across the CEA and the trees must be of a type that are likely to reach two metres or more in height and at least 20 per cent crown cover over the area of the CEA[2].

For NFMR projects, the minimum tree stem density required to achieve 20 per cent crown cover for a given crown diameter is set out in the table below.

[1] CEAs must also meet other requirements specified in the relevant method. For example, under both the HIR and NFMR methods, the regeneration in a CEA must be even-aged. This guidance does not deal with those other requirements.

[2] As these are modelled methods, forest potential must also be observed before commencing modelling of a regeneration event.

Table 1—Minimum number of trees per hectare to achieve 20% crown cover in a stand of trees

Mature crown diameter per tree (m)	Crown area per tree at maturity (m2)	Crown area per tree at maturity (ha)	Minimum number of trees per hectare required for 20% crown cover*
5.0	19.63	0.00196	102
4.5	15.90	0.00159	126
4.0	12.57	0.00126	160
3.5	9.62	0.00096	208
3.0	7.07	0.00071	283
2.5	4.91	0.00049	408
2.0	3.14	0.00031	637

*Crown cover of 20 per cent divided by crown area per tree at maturity.

CEAs should be selected according to the site characteristics and management practices that affect the growth rate of trees in the area. It is not sufficient that a CEA was once vegetated or forest—the CEA must have trees regrowing that meet the requirements outlined above to have forest potential[3].

All Emissions Reduction Fund methods include rules about which areas of land can be included in, or must be excluded from, a CEA. For HIR projects, the boundary of each CEA must be no further than two metres from a tree stem. Both HIR and NFMR methods also require re-stratification of CEAs when circumstances change.

Under the HIR method, a CEA may need to be re-stratified at the time of reporting to exclude any area that does not have forest potential and its inclusion in the CEA will prevent the CEA from attaining forest cover. Under HIR compilation two, if it at the time of reporting it can no longer reasonably be expected that a CEA will become native forest through regeneration or attain forest cover, the area making up the CEA must be re-stratified. Land that can reasonably be expected to become native forest through regeneration and attain

[3] In an NFMR project, forest potential must be demonstrated by an area of land at the time the decision under section 2.3 of the NFMR method to implement the project mechanism is made. If an area did not have forest potential at that time, it cannot be stratified as a CEA under the NFMR method even if later it exhibits forest potential or regeneration.

forest cover remains in the CEA and the remaining land is not part of the CEA. For NFMR projects any area greater than 0.2 hectares that has lost forest potential must be excluded from the CEA.

If you continue to apply the project activity on an area in an HIR or NFMR project that is not part of a CEA and at a later date trees regenerate on that area or it exhibits forest potential, it may be re-introduced as a CEA in the next offsets report.

Project participants should carefully assess each CEA for compliance with CEA stratification rules in the relevant method each time they report, and satisfy themselves that trees exist and growth can be detected in the intervening period. Where five years has elapsed since the CEA was first included in a report and no tree growth has been observed, the land must be excised.

To summarise, an area:

Has forest potential when, at the time of reporting:

- it is at least 0.2 hectares and includes trees or saplings with the potential to reach two metres or more in height and provide at least 20 per cent canopy cover over the area
- trees appear across the area
- the boundary of the area is no more than two metres from the nearest tree stem for HIR projects, or
- the minimum tree density is equal to or greater than the relevant number set out in Table 1 for NFMR projects.

Has no forest potential when, at the time of reporting:

- the area is less than 0.2 hectares
- the area is at least 0.2 hectares and does not include any tree stems, i.e. includes only shrubs, understory or grasses, or
- the trees that are present do not have the potential to attain two metres or more in height or crown cover that is at least 20 per cent of the area within the project crediting period.

Has lost forest potential when:

- it was previously included in an offsets report and showed forest potential but exhibits a similar or smaller crown cover at the time of reporting and five years has elapsed, or
- the number of tree stems in a 0.2 hectares lessens such that there are no longer sufficient trees across the CEA with the potential to attain two metres or more in height with crown cover that is at least 20 per cent of the area.

Providing evidence

Project participants must satisfy themselves that their CEAs meet all the requirements of the method and that the data and information they submit supports their application for ACCUs.

As geospatial tools and imagery continue to advance throughout the 25-year crediting period for these projects, the Clean Energy Regulator will continue to review the types of evidence required. Rather than endorse any particular tool, data set or imagery for the life of a project, we will accept data and information

supplied, and use a risk based approach to verify selected projects or CEAs using the imagery and tools available to us at that time.

Where higher resolution geospatial imagery or other information suggests that a crediting requirement has not been met, participants will be asked to justify the inclusion of that land within a CEA before a final decision is made to credit ACCUs.

Interim posture—crediting native forest from managed regrowth and human induced regeneration projects

Projects under the native forest from managed regrowth (NFMR) and human induced regeneration (HIR) methods may apply for Australian carbon credit units for areas[1] that have no forest cover and are regenerating back to forest cover by undertaking eligible activities.

When we will issue ACCUs

We will issue Australian carbon credit units for all carbon estimation areas that demonstrate forest potential (subject to method requirements). All areas that go on to reach forest cover continue to be credited.

When we won't issue ACCUs

We will not issue ACCUs for carbon estimation areas that:

- cannot satisfy forest potential requirements, or
- do not reach forest cover within defined timeframes.

Carbon estimation areas that have previously been credited, but fail to continue to demonstrate forest potential, will not be credited any further. Crediting may restart for these areas in the future if they demonstrate forest potential and achieve sequestration that exceeds levels previously credited.

When we may ask for credits back

If the Clean Energy Regulator assesses a carbon estimation area and determines that it cannot establish forest potential or forest potential never existed, or where forest potential was established but no further growth was exhibited over one or more reporting period, we may ask for credits back for the period no regeneration can be seen.

[1] All areas must be within a project area, as per your project declaration. For an area to be eligible for Australian carbon credit units it must be stratified into a carbon estimation area in accordance with method rules.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING

Present

Committee Members:
Andrew Macintosh (Chair), Paul Graham, David Hemming, Beverley Henry, Suzanne Jones, Andy Lloyd, Gayle Milnes and Hilary Smith
Apologies: Mick Keogh

Other attendees:
Department of the Environment and Energy
s22 s22 s22 s22 s22 s22 s22 s22 s22 s22 s22 Katrina Maguire, s22 s22 s22 s22 and Helen Wilson

Clean Energy Regulator
Mary-Anne Wilson, Jody Swirepik and s22

Department of Agriculture and Water Resources
s22

Australian Government Solicitor
s22

Commonwealth Scientific and Industrial Research Organisation
s47F

Consultants
s47F (SMEC) and s47F (RMCG)

Secretariat
s22 , s22 , s22 and s22

Wednesday 29 November 2017 **9:30am – 5:00pm**

s22

s22

s22

s22

5. Update on Method Review: Native Forests from Managed Regrowth

s22 , s22 , *Ms M Wilson and* s22 *joined the meeting.*

The Committee:

- **noted** the Department's proposal to revise the FullCAM Guidelines to restrict regeneration commencement to a maximum of 14 years since the last clearing event to all new projects as a means of addressing the Committee's concerns of the risks of over crediting;

- **noted** complexities of applying this requirement to existing projects and that stakeholder consultation would need to be undertaken;

- **noted** the Regulator has released a new operational policy and interim crediting posture on the two native forest regeneration methods;

- on the basis that the FullCAM guidelines are revised within the next two weeks, **agreed** the Committee will consider a draft discussion paper for public consultation at its meeting in February 2018, with a view to finalising the review report by May 2018 (at the latest);

- **agreed** the Chair, Ms Henry, Ms Smith and Mr Keogh would form a sub-committee to work with the Department on the reviews of the methods, including development of the discussion paper; and

- **instructed** the Department to publicly announce the Committee's review.

s22 , s22 , s22 , *Ms Wilson and* s22 *left the meeting.*

s22

Item #	Action	Responsible person	Due	Status
s22				
2911-5.1 Native Forests from Managed Regrowth	Department to revise FullCAM guidelines to limit regeneration predating registration to 14 years.	s22	14 December 2017	Open
2911-5.2 Native Forests from Managed Regrowth and Human-Induced Regeneration	Department to work with identified sub-committee to develop a discussion paper for endorsement by the Committee.	s22	22 February 2018	Open
2911-5.3 Native Forests from Managed Regrowth and Human-Induced Regeneration	Department to communicate to stakeholders that the Committee is reviewing the methods.	s22	14 December 2017	Open
s22				

s22

s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

22 February 2018 Meeting

Agenda Item 12: Engagement on method reviews – Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

For Decision

1. Purpose

To outline the Department's proposed approach for ERAC engagement on the reviews of the Native Forest from Managed Regrowth (NFMR) and Human-Induced Regeneration (HIR) methods.

2. Recommendations

That the Committee:

1. **endorse** the draft discussion paper on the reviews, for public consultation

2. **agree** to the ERAC consultation approach outlined in the draft engagement plan, including a six-week consultation period

3. **endorse** the draft letters from the ERAC Chair advising the Minister and the Department's Secretary of ERAC's decision to undertake the method reviews.

3. Background

The Committee agreed on 30 November 2017 to consider a draft discussion paper for public consultation on the NFMR and HIR method reviews at its next meeting.

Consistent with the discussion at the meeting, the Department revised, in December, the FullCAM guidelines for the NFMR method to limit proponents' ability to model the start date for regeneration to no more than 14 years before project registration.

4. Key points

Discussion paper

The Department has developed a draft discussion paper for the reviews (**Attachment A**) with input from the ERAC Chair.

The draft paper outlines the scope of the reviews and the Committee's role, provides an overview of the methods, explains elements in the existing methods that are designed to meet the Offsets Integrity Standards, and highlights suggested issues for consideration by stakeholders.

To facilitate feedback on these issues, the submission template to be published with the discussion paper will include questions targeted to the considerations in the paper. The Department will provide the draft questions for discussion by ERAC at the February meeting.

The paper and template also invite feedback on other issues, including any adverse or beneficial impacts of the methods, and the interaction of these methods with other methods.

Engagement plan

The NFMR and HIR reviews are likely to attract attention from stakeholders and the media because the HIR method has the highest uptake of any ERF method.

The Department has drafted an ERAC engagement plan to ensure an effective and transparent approach to seeking stakeholder input to the reviews (**Attachment B**).

The Clean Energy Regulator is currently engaging with project participants on a range of implementation issues. The Department is also aware of some local concerns about how projects are being implemented and the impact on local areas. Consequently, the ERAC consultation on the reviews will occur in parallel with existing method consultation.

The Department is consulting the Clean Energy Regulator on its engagement plans to ensure a coordinated approach.

Given the complexity of the two methods, the Department is proposing ERAC conduct a six-week consultation period to ensure sufficient time for public engagement and the preparation of submissions.

Letters to the Minister and Secretary

Under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (s255), the Committee's functions include advising the Minister and Departmental Secretary in relation to the outcomes of reviews of methodology determinations and any related public consultation.

Draft letters regarding the decision to review the NFMR and HIR methods are at **Attachment C**.

Next steps

The Department will finalise the discussion paper to reflect the Committee's feedback, with a view to releasing it in early March 2018.

The Committee agreed on 30 November 2017 to consider the outcomes of these reviews at its meeting in May 2018. The Department proposes to provide an out of session progress update prior to the May meeting.

Attachments

Attachment A: Draft discussion paper

Attachment B: Draft engagement plan

Attachment C: Draft letters to the Minister and Secretary

Australian Government
Department of the Environment and Energy

Emissions Reduction Fund

Review of methods:

- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*
- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*

DRAFT Consultation paper

EMISSIONS REDUCTION ASSURANCE COMMITTEE

March 2018

Contents

How to make a submission

The Emissions Reduction Assurance Committee invites submissions to inform its review of the:

1. *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*

2. *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013.*

Submissions should be provided using the template available on the Department of the Environment and Energy website, www.environment.gov.au and may be emailed to the Emissions Reduction Assurance Committee Secretariat at EmissionsReductionSubmissions@environment.gov.au.

Alternatively, submissions may be sent to the following postal address:

Emissions Reduction Assurance Committee Secretariat
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601

Responses should be submitted to the Committee no later than **……..**

It is the policy of the Committee for submissions to be published on the Department of the Environment and Energy website. Please tick the appropriate box on the template if you would like your submission to remain confidential. If you have chosen not to use the template and wish for your submission to remain confidential then the document should be clearly marked as confidential.

A submission should only be considered confidential if it could reasonably be expected to substantially prejudice the commercial interests of the author or another person. Copies will be provided to:

- The Department of the Environment and Energy
- The Clean Energy Regulator
- The Emissions Reduction Assurance Committee

Any request made under the *Freedom of Information Act 1982* for access to a submission marked as confidential will be considered in accordance with that Act.

1. INTRODUCTION

The Emissions Reduction Assurance Committee is an independent, expert committee. The Committee assesses whether Emissions Reduction Fund methodology determinations (also referred to as methods) meet the requirements of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act), and provides advice to the Minister for the Environment and Energy.

The Committee's functions include conducting periodic reviews of Emissions Reduction Fund methods and undertaking public consultation in relation to these reviews. These functions are set out in section 255 of the Act.

The Committee is reviewing two existing Emissions Reduction Fund vegetation methods:

1. *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (the Native Forest from Managed Regrowth Method)
2. *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2016) (the Human-Induced Regeneration Method).

See below for links to the methods and their supporting documents.

Both methods provide opportunities for projects involving changes in land management to regenerate native forests, which store carbon as they grow. Most current projects are located on grazing land in northwest New South Wales and southwest Queensland. Table 1 provides statistics for projects under both methods.

Table 1: Native forest from managed regrowth and human-induced regeneration project statistics as at February 2018.

Statistics as at February 2018*	Native Forest from Managed Regrowth	Human-Induced Regeneration
Registered projects	36 (all in Qld)	199 (NSW—113, Qld—82, WA—2 and SA—2)
Contracted projects	22 (all in Qld)	127 (NSW—83, Qld—55, WA—2 and SA—2)
Credits issued	1.72 million tonnes	8.1 million tonnes (NSW—5.38, Qld—2.71, and SA—0.1)
Contracted abatement	3.66 million tonnes	87.6 million tonnes (NSW—30.5, Qld—54.5, WA—0.76 and SA—1.4)

[Drafting note: current figures in table are as at January 2018. They will be updated prior to release.]

The Committee is reviewing the two methods in parallel, given the similarities between them. The Committee reviews methods against the Offsets Integrity Standards (see below).

This discussion paper provides an overview of the methods, the Offsets Integrity Standards and the key issues for review.

The Committee invites comments from the public on compliance of the methods with the Offsets Integrity Standards, and any other issues with the methods, including those not explicitly discussed in this paper.

The Minister for the Environment and Energy makes or varies methods, considering the advice of the Committee as well as any social, environmental and economic impacts. Committee reviews of methods provide an opportunity to seek information and feedback relevant to these factors.

1.1 Scope of reviews

Offsets Integrity Standards

Under the Act, Emissions Reduction Fund methods must comply with a set of standards known as the Offsets Integrity Standards. The standards ensure greenhouse gas abatement credited by a method is, among other requirements, genuine and additional to usual business practices. Table 2 provides a summary of the standards.

Table 2: Offsets Integrity Standards

Standard	Paragraph in Act	Test
Additionality	133(1)(a)	Projects covered by the method should result in carbon abatement that is unlikely to occur in the ordinary course of events disregarding the effect of the Act (i.e. unlikely to occur in the absence of the incentive provided by the Emissions Reduction Fund).
Measurement and verification	133(1)(b)	Removals of greenhouse gases from the atmosphere, emissions reductions and emissions covered by the method are measurable and capable of being verified.
Eligible carbon abatement	133(1)(c)	Carbon abatement results from carrying out projects under the method and is able to be used to meet Australia's international climate change mitigation obligations.
Evidence	133(1)(d)	The method is supported by clear and convincing evidence.
Project emissions and leakage	133(1)(e)	The method provides for deductions from net abatement estimates of material amounts of emissions that occur as a direct result of the conduct of projects (e.g. from fuel use or fire).
Conservativeness	133(1)(g)	All estimates, projections or assumptions in the method are conservative.
Legislative rules	133(1)(h)	The method satisfies any other standard set out in applicable legislative rules. (Currently, there are no other standards.)

Additional considerations for the method reviews

The Emissions Reduction Assurance Committee can consider matters other than the methods' compliance with the Offsets Integrity Standards as part of its reviews. For example, gathering feedback about social, environmental and economic impacts of projects is useful, as the Minister for the Environment and Energy must consider any potential adverse impacts when making or varying methods.

The Committee invites input on the following additional considerations:

- administrative requirements and efficacy of the methods
- the supporting method tools and guidance, including FullCAM and the FullCAM Guidelines for each method
- any adverse or beneficial impacts resulting from operation of the methods, particularly around natural resource management
- interactions and consistency with other relevant Emissions Reduction Fund methods
- other relevant implementation issues.

1.2 Sources of information

Human-Induced Regeneration Method

- Human-Induced Regeneration Method
- Human-Induced Regeneration Method Explanatory Statement
- Human-Induced Regeneration Method FullCAM Guidelines

Native Forest from Managed Regrowth Method

- Native Forest from Managed Regrowth Method
- Native Forest from Managed Regrowth Method Explanatory Statement
- Native Forest from Managed Regrowth Method FullCAM Guidelines

Emissions Reduction Fund legislative framework

- *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act)
- *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations)
- *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule)

Department of the Environment and Energy and Clean Energy Regulator information about methods

- Department of the Environment and Energy method reviews webpage

- Clean Energy Regulator regulatory guidance for vegetation projects

2. OVERVIEW OF METHODS

2.1 Development of the methods

Both methods were developed in 2012-13 under the Carbon Farming Initiative, which preceded the Emissions Reduction Fund. The methods were developed from proposals submitted to the Domestic Offsets Integrity Committee (an independent expert committee that was replaced by the Emissions Reduction Assurance Committee following establishment of the Emissions Reduction Fund) for endorsement. The Domestic Offsets Integrity Committee assessed the methods against the Offset Integrity Standards.

The Native Forest from Managed Regrowth Method was designed to provide opportunities for regenerating forest on land that was cleared for pastoral use, does not have forest cover and is likely to be subject to ongoing clearing cycles. Forest cover is defined as land with an area of at least 0.2 of a hectare with trees providing crown cover of at least 20 per cent of the land and two metres or more in height. This definition aligns with the definition used for Australia's international reporting obligations and targets. The method was developed from a proposal by the Queensland Department of Science, Information Technology, Innovation and the Arts in consultation with The Carbon Store and the University of Queensland.

The Human-Induced Regeneration Method was designed to provide opportunities for regenerating forest on land that has been without forest cover for at least ten years, but which is not necessarily subject to ongoing clearing cycles. The Commonwealth Department of Climate Change and Energy Efficiency developed the method proposal in consultation with Australian Carbon Traders and Essential Change Advisory Services.

The Native Forest from Managed Regrowth Method complements two other methods used under the Emissions Reduction Fund, the 'Avoided Deforestation Method' and the 'Avoided Clearing of Native Regrowth Method'. These methods provide for projects that avoid clearing of land with forest cover that would likely be cleared in the absence of a project. They require evidence demonstrating the land would otherwise be cleared. The Native Forest from Managed Regrowth Method provides opportunities for projects on land where clearing has previously occurred and forest cover has not yet re-established.

The Native Forest from Managed Regrowth Method and the Human-Induced Regeneration Method underwent minor changes in 2015 to maintain consistency with the Act following its amendment to establish the Emissions Reduction Fund.

The Native Forest from Managed Regrowth Method uses the Australian Government's publicly available Full Carbon Accounting Model (FullCAM) modelling software to estimate carbon abatement. FullCAM was developed to estimate greenhouse gas emissions and carbon sequestration for land systems in Australia, using spatial data inputs. It is used in preparing estimates for Australia's National Greenhouse Accounts and reporting against the Government's international treaty emissions reduction commitments.

The Human-Induced Regeneration Method initially used the Reforestation Modelling Tool to estimate abatement. The method was varied[1] in 2016 to replace use of the Reforestation Modelling Tool with the FullCAM model. The variation included other changes to clarify existing provisions and bring the format of the method in line with more recent Emissions Reduction Fund methods. The changes included:

a. providing greater clarity on eligibility of projects and land transferring from other methods

b. permitting a subset of eligible project activities on publicly-owned conservation land

c. clarifying treatment of negative abatement and baseline commencement dates

d. limiting the potential for land variability within carbon estimation areas through applying a 1.5 kilometre radius limit. (Carbon estimation areas are sub-areas of the project area that meet certain eligibility criteria and within which the project activities are required to be implemented.)

2.2 Objectives, eligibility requirements and activities

The Native Forest from Managed Regrowth and Human-Induced Regeneration Methods have similar objectives. The methods' eligibility requirements and project activities for achieving these objectives have common elements as well as important differences, as shown in Table 3.

[1] New projects are registered under a method as in force at the time of registration. Where methods are subsequently varied, proponents of existing projects can either continue to use the version of the method in operation when their project commenced, or apply to transfer their projects to the newer version.

Table 3: Objectives, eligibility requirements and activities

Native Forest from Managed Regrowth Method	Human-Induced Regeneration Method
The objective of the method is to generate abatement through a change in land management which enables native vegetation to grow to achieve forest cover. Eligible land must be without forest cover at project registration. It must also have previously had forest cover and been cleared for pastoral use. Proponents must provide evidence to support each eligibility requirement. Projects must involve a change in land management that enables native vegetation to grow to achieve forest cover. To enable regeneration, proponents must cease mechanical or chemical destruction, or suppression, of regrowth. Proponents may also undertake one or more of the following activities to assist the regeneration of native vegetation into forest cover: • excluding livestock • managing the timing and extent of grazing • managing feral animals • managing weeds.	The objective of the method is to generate abatement through undertaking activities which regenerate native forest and achieve forest cover. Eligible land for projects must not have had forest cover in the 10 years preceding project registration, and must have been subject to the suppression of regrowth over the period. Proponents must provide evidence to support each eligibility requirement. Proponents must undertake one or more of the following activities to regenerate native vegetation into forest cover: • excluding livestock • managing the timing and extent of grazing • managing feral animals • managing weeds • ceasing mechanical or chemical destruction, or suppression, of regrowth.

2.3 Calculating abatement

Both methods provide rules for estimating carbon abatement. The rules include using equations set out in the method, and using FullCAM according to detailed requirements in separate FullCAM Guidelines prepared for each method.

The Native Forest from Managed Regrowth Method takes into account the baseline carbon stock—the carbon sequestration that would have occurred in the business-as-usual scenario of ongoing cycles of land clearing and regrowth. A materiality test is applied to determine whether net abatement calculations need to deduct this baseline carbon stock from the carbon stock derived from project activities. The Human-Induced Regeneration Method assumes carbon stocks would continue to be suppressed in the business-as-usual scenario, and therefore does not account for business-as-usual carbon sequestration. However, the method accounts for carbon stocks that have accumulated prior to a project commencing, and subtracts this amount from project crediting.

Categories of carbon pools and greenhouse gas emissions accounted for in abatement calculations under both methods are: live above-ground and below-ground biomass (carbon dioxide); dead plant

material and debris (carbon dioxide); fuel use (methane, nitrous oxide and carbon dioxide); and fire (methane, nitrous oxide).

There are no requirements under either method to undertake field measurements to calculate a project's abatement. Site location and management and disturbance events are modelled in accordance with the respective FullCAM Guidelines to produce abatement estimates. Abatement must be recalculated for every reporting period using the version of FullCAM and associated FullCAM Guidelines in force at the end of the reporting period.

The methods also require recording and reporting of the way FullCAM modelling has been undertaken and FullCAM estimates of carbon stocks.

3. REVIEW OF THE METHODS

3.1 Assessment against Offsets Integrity Standards

This section outlines elements of the methods designed to meet the Offsets Integrity Standards, and issues stakeholders may like to consider in preparing submissions to the review of the methods.

Offsets Integrity Standard: Determination should result in carbon abatement that is unlikely to occur in the ordinary course of events (disregarding the effect of the ERF)

Native Forest from Managed Regrowth Method

The method requires projects to enable native vegetation to regenerate and achieve forest cover, by adopting a change in land management (section 1.4 and Part 2 of the method). This change in land management must include ceasing mechanical or chemical destruction, or suppression, of regrowth (section 1.4). It may also involve other activities to assist regeneration (see Table 3). The method assumes these activities would not occur in the absence of a project. Project proponents must provide evidence documenting the decision to undertake the change in land management (section 2.5).

Projects can only be carried out on land that can be shown to have been subject to at least one clearing event for pastoral use and previously had forest cover (sections 2.4 and 2.5). This requirement is intended to support the premise that in the absence of a project the periodic clearing of vegetation for pastoral purposes is likely to continue. Eligible land must have no forest cover at project commencement, as the method aims to develop forest cover where there it is absent (paragraph 2.4(5)(c)). Projects are not permitted on conservation land, as the project activities are assumed to be business-as-usual for this land type (paragraph 1.4(1)(a)).

Human-Induced Regeneration Method

The method requires one or more forest regeneration activities to be undertaken in a way that can reasonably be expected to result in the area becoming native forest, and attaining forest cover, as supported by evidence (sections 7, 12 and 41).

The method requires ceasing of mechanical or chemical destruction of native vegetation, with only strict exceptions (section 22). Suppression of regrowth must have occurred over the 10 years preceding the project (paragraph 4(1)(b)), as demonstrated by evidence (section 10). The method does not require evidence of a past clearing event. There must have been no forest cover present on the land in the 10 years preceding the project (paragraph 4(1)(a)). These requirements are intended to support the premise that in the absence of a project, forest regrowth would continue to be suppressed. Project proponents must provide evidence to show regeneration activities have commenced (subsection 41(2)).

On conservation land, activities to limit or cease livestock grazing or cease mechanical or chemical destruction, or suppression, of regrowth are not eligible, because these activities are considered to occur as business-as-usual within conservation areas (paragraph 7(2)(a)).

The method credits abatement from regrowth occurring after the project has started (see Equation 2).

Considerations for comment

The Native Forest from Managed Regrowth and Human-Induced Regeneration methods provide for similar activities to be undertaken to support the regeneration of native forest. The review seeks comments on whether the activities and the eligibility criteria in these methods are sufficient to demonstrate projects result in sequestration additional to what would occur in the business-as-usual scenario.

Offsets Integrity Standard: Estimates of abatement are measureable and capable of being verified

Abatement in both methods is calculated as the change in carbon stock minus emissions from biomass burning and other disturbance events, and project fuel emissions.

FullCAM is used to model carbon stocks and emissions for both methods. The methods used in FullCAM are based on the latest available science and empirical data. FullCAM has been extensively reviewed and accepted for use by the international community in the Australian Government's reporting against its emission reduction treaty commitments.

Estimates of abatement for projects depend on the choices made by project proponents, within the rules of each method. For example, FullCAM simulations used in estimating abatement can be run for a period of time starting before projects commenced. Proponents can decide the modelling commencement date from factors including the timing of management actions and the existence of potential for land to attain forest cover. Both methods require record-keeping and reporting of information on these and other factors to support verification of estimates.

Project proponents are also required to model a range of management and disturbance events, including regeneration of vegetation, clearing and wildfires, in accordance with the FullCAM Guidelines. FullCAM does not provide for quantifying the effects of grazing on vegetation growth.

Considerations for comment

The FullCAM model estimates carbon abatement using site-specific data at fine spatial and temporal scales combined with user inputs reflecting actual events. The review seeks comments on whether, from robust empirical literature, there are management influences on carbon stocks that could be better captured in future updates to the FullCAM model. The review is also seeking input on how verification of abatement estimates may be further strengthened, particularly given there are ongoing technological advances.

Offsets Integrity Standard: Carbon abatement must be eligible carbon abatement

Carbon abatement is eligible carbon abatement where it results from an Emissions Reduction Fund project and is able to contribute towards Australia's international reporting obligations and targets. The Government's National Greenhouse Accounts, which are prepared in accordance with these commitments, include tracking of carbon sequestration and emissions associated with forest establishment.

Both methods require that land does not have forest cover at the project commencement date. Land must also have forest potential, which means the land must have a minimum area of at least 0.2 hectare and vegetation with trees that have the potential to reach two metres or more in height and to provide crown cover of at least 20 per cent of the land. These requirements are intended to ensure only land with the potential to be converted to forest and counted within Australia's National Greenhouse Accounts can generate carbon credits under projects.

Considerations for comment

The review seeks comment on whether concepts such as forest potential are adequately defined, quantifiable and verifiable to ensure land credited for abatement under projects will develop forest cover.

Offsets Integrity Standard: Determination is supported by clear and convincing evidence

The activities for both methods are intended to be supported by evidence that land has forest potential where: suppression factors such as grazing (by livestock or feral animals), weeds or destruction of regrowth are removed; and where there are tree species with the potential to meet the forest cover threshold.

Native Forest from Managed Regrowth Method

The method is based on the premise that in the absence of projects, land would continue to be regularly cleared to provide for pastoral use. Evidence from the 2011 National Inventory Report available during development of the method showed land subject to repeated clearing is cleared every 8-11 years on average nationally. Requirements to provide evidence of past forest cover and a past clearing event help demonstrate that land would be likely to regenerate into native forest and be cleared again.

Considerations for comment

The review seeks comments on the adequacy of evidence demonstrating the methods provide for regenerating non-forested land into forest cover. This includes whether there is evidence the range of activities and eligibility criteria sufficiently capture the opportunities to reforest land through regeneration.

Offsets Integrity Standard: Material amounts emitted as a consequence of the project are deducted

Both methods require abatement estimates to account for emissions from fires and fuel use associated with the project.

Considerations for comment

The review seeks comments on whether the methods appropriately account for material amounts emitted as a consequence of projects.

The review will also consider whether there are any examples of leakage (e.g. an increase in vegetation clearing in non-project areas near projects as a direct result of the projects taking place) and if so, how to address these.

Offsets Integrity Standard: Estimates, projections and assumptions are conservative

Both methods specify requirements for input data used to model carbon stock changes in FullCAM. The requirements are intended to apply conservative default assumptions, in the absence of onsite measurements to collect data for estimating carbon stocks.

Native Forest from Managed Regrowth Method

The specifications for establishing carbon estimation areas under the method (Part 3, Division 3.2) seek to support conservative abatement estimates. The requirements include that each area must:

- consist only of land containing regrowth of the same forest type or vegetation community
- contain a model point location at the approximate centre of the area
- have forest potential at the time of the decision to implement the project mechanism.

If any area of land loses forest potential or regeneration fails to occur on an area greater than 0.2 hectare, the proponent must remove the area from the carbon estimation area (subsection 3.6(5)).

The method applies a default baseline interval between clearing events of 15 years. This interval is designed to be conservative because it generates higher baseline estimates of carbon stocks (to be deducted from project crediting) than an average national clearing interval of 8-11 years.

The method provides for crediting of carbon sequestered in regrowth to start at any time following a decision to change land management (that is, after the last clearing event) to encourage regrowth.

This allows crediting of abatement for a period starting before a project is registered. The method does not place any constraints on when the last clearing event must have occurred.

Human-Induced Regeneration Method

Credits are only issued for abatement achieved during the crediting period. Any carbon stocks modelled as accumulating before project commencement are subtracted when calculating the project abatement (Equation 2 of the method).

The specifications for establishing carbon estimation areas (Part 3, Division 3, Subdivision 2) are intended to support conservative abatement estimates. They include requirements that:

- carbon estimation areas must consist only of land that regenerated at a similar time with a similar mix of native vegetation
- the carbon estimation area must have forest potential
- the carbon estimation area must have started to become native forest through regeneration
- the model point must be representative of the carbon estimation area and close to its centre.

If any area within a carbon estimation area fails to meet these requirements, proponents must remove the area from the carbon estimation area through re-stratification (subsection 18 (3)).

For carbon estimation areas with multiple parts, all parts must be contained within a 1.5 kilometre radius limit, to help ensure the model point location provides a representative estimate of the area modelled.

Where grazing by livestock or feral animals materially affects the carbon stocks, proponents must model a 'growth pause' event in FullCAM to account for the effect on abatement.

The method provides for crediting of abatement from regrowth for the period after a project is registered.

Considerations for comment

The review seeks comments on whether estimates of abatement and assumptions underpinning the methods are conservative. This includes whether factors that can materially affect carbon abatement are adequately captured under the method and able to be represented in FullCAM.

3.2 Feedback sought from stakeholders

To assist its review, the Committee welcomes feedback from stakeholders on the matters within the scope of the review outlined above, particularly the review considerations. The Committee also welcomes feedback on other aspects of the design and operation of either or both of the Native Forest from Managed Regrowth and the Human-Induced Regeneration Method. The Committee requests that submissions be explicit on whether comments relate to both methods or to a particular method. Feedback may include:

- issues relating to whether the methods meet the Offsets Integrity Standards, either through the way the methods are designed or the way the methods operate in practice, particularly around:
    - additionality
    - method calculations
    - eligibility of abatement
- issues on interactions between these methods or with other vegetation methods, relevant to their consistency with the Offsets Integrity Standards
- issues related to adverse or beneficial outcomes from projects under either method, particularly around natural resource management
- concerns regarding potential consequences due to changes in existing arrangements
- proponents' experiences in implementing projects under the methods
- any other matters related to the method.

Draft engagement plan for the Emissions Reduction Assurance Committee's reviews of the Human-Induced Regeneration and Native Forest from Managed Regrowth ERF methods

Overall objectives:

- ERAC review is well informed by evidence and perspectives from a range of stakeholders
- ERAC review is conducted in a transparent and robust manner
- Stakeholders understand ERAC method reviews are standard business practice
- Stakeholders understand the focus and process of the review and the respective roles of the different bodies (ERAC, the Department, CER)
- Stakeholders feel encouraged and supported to contribute their views on the methods
- Stakeholders understand their views will be meaningfully considered

Component	Location/ method	Timing	Specific objectives	Participants
Public consultation on discussion paper	Online invitation for submissions and email notification to ERF subscribers	1 March – 12 April	Broad public engagement to inform review (for an extended period of six weeks given likely interest)	Members of the public, including landholders, proponents, aggregators, state and territory agencies, conservation groups and NRM bodies

Component	Location/ method	Timing	Specific objectives	Participants
ERAC site visits and workshop *DoEE/CER stakeholder discussions*	Charleville, Cunnamulla and St George (located in the Maranoa region of southern Queensland, where many NFMR and HIR projects are located)	Week of 5 March	ERAC to seek stakeholder perspectives as input to their reviews – focussed on Offset Integrity Standards. Also provides opportunity for ERAC members to view project sites *Support DoEE and CER stakeholder relationships and build understanding of NFMR and HIR method implementation, particularly local perspectives on the social, environmental and economic impacts of ERF projects*	ERAC Chair, Hilary Smith and Beverley Henry DoEE, CER, DAWR Site visits: site owners and proponents (projects involving Leichardt Group – formerly Devine Agribusiness, Corporate Carbon and Climate Friendly) Workshops (proposed invitees): • landholders and locals s47F and others) • aggregators (Leichardt Group, Corporate Carbon, Select Carbon, Climate Friendly, GreenCollar) • NRM groups (South West NRM, Queensland Murray-Darling Committee) • industry groups (Agforce) • Queensland Government (Department of Environment and Heritage Protection, Science, Herbarium) • local governments (Murweh, Paroo, Bulloo and Quilpie)

Component	Location/ method	Timing	Specific objectives	Participants
ERAC site visits and workshop *DoEE/CER stakeholder discussions*	Bourke (a cluster of HIR projects are located in this region)	Late March or first half of April	ERAC to seek stakeholder perspectives as input to their reviews – focussed on Offset Integrity Standards. Also provides opportunity for ERAC members to view project sites *Support DoEE and CER stakeholder relationships and build understanding of NFMR and HIR method implementation, particularly local perspectives on the social, environmental and economic impacts of ERF projects*	ERAC chair and some members DoEE, CER, DAWR Site visit: proponents and site owners Workshop: • landholders, proponents and locals • aggregators • NRM groups • industry groups • local government
Technical specialist meeting	Face-to-face or by phone	During consultation period	Obtain information and advice from a technical perspective from people with knowledge of the method concepts and relevant land systems and their management	Regional NRM bodies State agencies CSIRO Consultants DoEE staff ERAC members (as appropriate) CER staff

Component	Location/ method	Timing	Specific objectives	Participants
Individual stakeholder meetings	Face-to-face or by phone	Throughout consultation period	One-on-one meetings to improve understanding of particular stakeholder perspectives	DoEE staff ERAC members (as appropriate) Landholders and proponents (tbc) Aggregators: • Leichardt Group, Corporate Carbon, Climate Friendly, Greencollar, Country Carbon, CO2 Australia, Select Carbon, Natural Carbon Industry and NRM: • Agforce, Meat and Livestock Australia, Wentworth Group, CSIRO, South West NRM, Queensland Murray-Darling Committee, Western Local Land Service, GHD Pty Ltd, Mullion Group, auditors State government representatives: • NSW: Department of Primary Industries, Office of Environment and Heritage • Queensland: Department of Environment and Science, Herbarium
Group or individual stakeholder meetings (if required)	Brisbane and Sydney (all NFMR and almost all HIR projects are located in New South Wales and Queensland)	Mid–late March	Targeted consultation with key stakeholders with direct experience and understanding of the NFMR and HIR methods	DoEE, CER, DAWR ERAC sub-committee members Could include landholders, proponents, aggregators, state government agencies and other key stakeholders who were invited to individual meetings, plus some additional stakeholders (e.g. NRM Regions Australia, NRM Regions Queensland)

Key stakeholders throughout review

Stakeholder group	Relevant contact
Landholders, proponents, aggregators and locals	
Landholders, proponents and locals	s47F and others
Leichardt Group (formerly Devine Agribusiness)	Dominic Devine, Graham Kenny
Corporate Carbon	s47F Managing Director; s47F Director
Climate Friendly	s47F Head of Business Development and Risk; s47F Head of Systems and Data
Greencollar	s47F General Manager
Country Carbon	s47F Business Development Manager
CO2 Australia	s47F Managing Director
Select Carbon	s47F Managing Director
Natural Carbon	s47F Business Development Manager
Industry/NRM groups	
Agforce	s47F, Regional Manager, Agforce South West; s47F General Manager, Policy
Meat and Livestock Australia	Manager Sustainable Feedbase
Wentworth Group of Concerned Scientists	Director
South West NRM	s47F Regional Landcare Facilitator
Queensland Murray-Darling Committee	TBC
Western Local Land Service (NSW)	s47F Manager
State governments	
NSW Department of Primary Industries	s47F Senior Research Scientist
NSW Office of Environment and Heritage	s47F Senior Policy Officer
Qld Department of Environment and Science	s47F Executive Director, Climate Change Policy

Qld Herbarium	s47F Science Leader
Federal government	
Clean Energy Regulator	Mary-Anne Wilson, General Manager, Scheme Coordination and Policy; s22 Director, Land and Forest; s22 Director, Policy and Methods
Department of Agriculture and Water Resources	s22 , Director, Climate Policy
CSIRO Land and Water Flagship	s22 , Principal Research Scientist
Representatives of local councils in regions where projects are located	
Queensland	Murweh Shire; Paroo Shire; Bulloo Shire; Quilpie Shire
New South Wales (tbc)	Bourke Shire; Cobar Shire; Bogan Shire; Carathool Shire; Central Darling Shire; Brewarrina Shire
Independent technical experts/consultants (eg. s47F – Mullion Group; s47F GHD Pty Ltd; others to be advised by the CER)	

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Josh Frydenberg MP
Minister for the Environment and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I write to advise you of the Emissions Reduction Assurance Committee's decision to review the Native Forests from Managed Regrowth (NFMR) and Human-Induced Regeneration (HIR) methods under the Emissions Reduction Fund. Periodic review of Emissions Reduction Fund methods is one of the Committee's functions, listed in section 255 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Both methods provide for projects that regenerate native forests through changes in land management. They account for 47 per cent of contracted abatement under the Fund.

In its advice to the former Minister for the Environment on a draft variation of the HIR method (copy enclosed), the Committee recommended the method be monitored closely to ensure it continued to meet the offsets integrity standards in the Act and minimise natural resource management risks. The Department of the Environment and Energy's monitoring of both methods indicates reviews are now appropriate, and this was the basis of the Committee's decision. The Committee is reviewing the methods in parallel, given their similarities.

The Committee's reviews will focus on assessing the methods against the offsets integrity standards, but will also consider the methods' administrative requirements and any impacts resulting from their operation. The Committee will consult with the public via the Department's website and hold targeted discussions with stakeholders, including project proponents, agricultural bodies, state and territory governments, natural resource management groups and industry experts. The Committee aims to finalise its reviews by mid-2018.

Once finalised, the Committee will advise you of the review outcomes, which may include recommendations to change the methods. Any changes would occur subsequently, following standard processes for Emissions Reduction Fund methods.

I have sent a similar letter to Mr Finn Pratt, Secretary of the Department of the Environment and Energy, advising him of the Committee's decision.

Yours sincerely

Andrew Macintosh
Chair
Emissions Reduction Assurance Committee
/ /2018

Enc.

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

Mr Finn Pratt
Secretary
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Dear Mr Pratt

I write to advise you of the Emissions Reduction Assurance Committee's decision to review the Native Forests from Managed Regrowth (NFMR) and Human-Induced Regeneration (HIR) methods under the Emissions Reduction Fund. Periodic review of Emissions Reduction Fund methods is one of the Committee's functions, listed in section 255 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Both methods provide for projects that regenerate native forests through changes in land management. They account for 47 per cent of contracted abatement under the Fund.

In its advice to the former Minister for the Environment on a draft variation of the HIR method (copy enclosed), the Committee recommended the method be monitored closely to ensure it continued to meet the offsets integrity standards in the Act and minimise natural resource management risks. The Department of the Environment and Energy's monitoring of both methods indicates reviews are now appropriate, and this was the basis of the Committee's decision. The Committee is reviewing the methods in parallel, given their similarities.

The Committee's reviews will focus on assessing the methods against the offsets integrity standards, but will also consider the methods' administrative requirements and any impacts resulting from their operation. The Committee will consult with the public via the Department's website and hold targeted discussions with stakeholders, including project proponents, agricultural bodies, state and territory governments, natural resource management groups and industry experts. The Committee aims to finalise its reviews by mid-2018.

Once finalised, the Committee will advise you of the review outcomes, which may include recommendations to change the methods. Any changes would occur subsequently, following standard processes for Emissions Reduction Fund methods.

I have sent a similar letter to the Hon Josh Frydenberg MP, Minister for the Environment and Energy, advising him of the Committee's decision.

Yours sincerely

Andrew Macintosh
Chair
Emissions Reduction Assurance Committee
/ /2018

Enc.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 22 FEBRUARY 2018

DRAFT

Present

Committee Members:
Andrew Macintosh (Chair), Paul Graham, David Hemming (*Item 9, by teleconference*), Mick Keogh, Beverley Henry, Suzanne Jones, Andy Lloyd, Gayle Milnes and Hilary Smith

Other attendees:
Department of the Environment and Energy
s22 s22 s22 s22 s22 Katrina Maguire, s22 s22 s22 s22 s22 and Helen Wilson

Clean Energy Regulator
Mary-Anne Wilson, s22 s22

Department of Agriculture and Water Resources
s22

Australian Government Solicitor
s22

Secretariat
s22 s22 and s22 .

The meeting opened at 10:00am.

s22

s22

s22

s22

s22

12. Release for Public Consultation: Native Forests from Managed Regrowth and Human-Induced Regeneration

s22 s22 s22 *and* s22 *joined the meeting.*

The Committee:

- **agreed** to the discussion paper, subject to revisions requested by Members and final agreement by the Chair;
- **agreed** to the consultation approach outlined in the draft engagement plan, including a six-week consultation period;
- **endorsed** the draft letters from the Chair advising the Minister and the Secretary of the Committee's decision to undertake the method reviews.

s22 s22 s22 s22 *Ms M Wilson and* s22 *left the meeting.*

s22

s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

5 April 2018 meeting

Agenda Item 7: Update on method reviews – Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

For Information

Purpose

To provide an update on the reviews of the Native Forest from Managed Regrowth (NFMR) and Human-Induced Regeneration (HIR) methods.

Recommendations

That the Committee:

1. **note** the outcomes of the visit to south west Queensland in March
2. **note** the upcoming visit to north west New South Wales and additional engagement plans
3. **note** other work under way by the Department in support of the Committee to review the methods, and advise any other analysis the Committee would like undertaken.

Background

1. The Committee agreed at its 22 February 2018 meeting to release the discussion paper on the NFMR and HIR reviews, subject to revisions requested by members and final agreement by the Chair.

2. The Committee also agreed to an ERAC engagement plan for the reviews, including a six-week consultation period, and letters to the Minister for the Environment and Energy and the Department's Secretary advising of the Committee's decision to undertake the reviews.

Discussion paper

3. The Department released the discussion paper on its website on 2 March 2018. The Department also emailed the paper to stakeholders including: NFMR and HIR project proponents; landholders; carbon service providers; state government agencies; local councils; regional natural resource management bodies; agriculture industry groups; auditors; and Emissions Reduction Fund email list subscribers. The Clean Energy Regulator sent the paper to its stakeholder list for the methods.

Visit to southwest Queensland

Australian Government

Department of the Environment and Energy

4. Dr Smith and Dr Henry, and staff from the Department and the Clean Energy Regulator visited southwest Queensland from 5–9 March 2018. The schedule involved a half-day workshop in Charleville and visits to HIR and NFMR project sites with carbon service providers and landholders.

Australian Government

Department of the Environment and Energy

5. The aims of the workshop were to:

   - hear local perspectives on Emissions Reduction Fund projects from scheme participants and other community members, and facilitate dialogue between them
   - enable the Clean Energy Regulator to hear local experiences of existing native forest regeneration projects and how they are being implemented
   - provide the Committee with an opportunity to understand how the methods are being implemented and to ask questions of those with experience of the methods to inform the Committee's reviews.

6. Around 50 people attended the workshop, including: carbon service providers; landholders with projects, other landholders; other local community members; Queensland Government departmental representatives; Minister Littleproud's electorate office; AgForce; South West NRM and Queensland Murray-Darling Committee; rural financial counsellors; and a banking sector representative. An ABC journalist attended the end of the workshop. The Department is preparing a summary of workshop outcomes for circulation to participants and the Committee.

7. The Committee members, Department and Clean Energy Regulator visited HIR projects between Charleville and Cunnamulla and NFMR projects between Cunnamulla and St George. Carbon service providers and landholders hosted the visits.

Key points

8. The site visits provided useful insights into landholders' decision-making on projects, proponents' interpretation of the methods, and factors influencing regeneration of vegetation. The visits helped clarify questions for the reviews to focus on, for example in relation to the methods' requirements for project activities, project eligibility and supporting evidence. Dr Henry and Dr Smith, together with the review subcommittee, will expand on these issues at the meeting.

Visit to northwest New South Wales and other consultation

9. The Department has planned workshops and HIR project site visits in the Bourke region in the week of 9 April 2018. Committee members and representatives from the Department and the Clean Energy Regulator will attend. Like the Queensland visit, the trip will provide an opportunity for project proponents and community members to ask questions and provide information in relation to the method reviews.

10. The New South Wales site visits will, when added to those in Queensland, provide a sample of projects across a range of vegetation types and engage the carbon service providers involved with most of the projects under both methods.

Australian Government

Department of the Environment and Energy

11. The Chair has agreed to the Department's suggestion to extend the consultation period by one week to 20 April 2018, to allow people involved in the New South Wales visit to take these discussions into account in their submissions.

12. An updated engagement plan will be provided at the ERAC meeting. The Department and review subcommittee members are considering other possible stakeholder discussions during the consultation period.

Other work on method reviews

13. The Department is continuing analysing information and data as discussed at the November 2017 ERAC meeting. The table at Attachment A, which has been updated since the November meeting, outlines analysis of compliance with the offsets integrity standards. The spatial analysis referred to in Attachment A is well advanced.

14. The review subcommittee is scheduled to meet on 6 April 2018. Other Committee members have also been invited to attend the meeting.

Next steps

15. The Department will forward submissions on the discussion paper to the Committee as they are received. The Department will provide a summary of all submissions to the Committee after the closing date.

16. The Department will provide further information on consultation outcomes and review findings at the May 2018 meeting.

Attachments

Attachment A: Offsets integrity standards: issues and approach

Review Considerations – Updated from November 2017

Offsets Integrity Standards - issues and approach

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
Determination should result in carbon abatement that is unlikely to occur in the ordinary course of events.	• Project operation requirements do not allow mechanical or chemical destruction of native vegetation, with strict exceptions (s 22) • The project mechanism, which requires undertaking one or more HIR activities in a way that can reasonably be expected to result in the area becoming native forest, and attaining forest cover, through regeneration (s 12 and s 7) • The HIR activities, which are (i) the exclusion of livestock; (ii) the management of the timing and the extent of grazing; (iii) the management of feral animals humanely; (iv) the management of plants not native to the project area and (v) the implementation of a decision to permanently cease the mechanical or chemical destruction, or suppression, of regrowth (sub-s 7(2)) • Suppression of regrowth occurred during the 10 preceding years (p 4(1)(b)) • Evidence must be provided showing the commencement of one or more HIR activities & of the suppression during the baseline (sub-s 41(2)) • No forest cover was present in the preceding 10 years (s 4) • No clearing occurred in the preceding 7 years (Regulation 3.36)	• The project mechanism, which requires a change in land management which enables native vegetation to grow to achieve forest cover through regeneration, and not through direct seeding or planting (s 2.2-2.3 and s 1.4) • The change in land management, which must include the cessation of mechanical or chemical destruction, or suppression, of regrowth, and can also include one or more of the following (a) the exclusion of livestock; (b) management of the timing and extent of grazing; (c) management, in a humane manner, of feral animals; and/or (d) management of plants that are not native to the project area (s 1.3) • Evidence must be provided documenting the 'decision to implement the project mechanism' (s 2.5) • At least one comprehensive clearing for pastoral use (sub-s 2.4(3)) with no limit how long ago as long as it was not in the last 7 years (Regulation 3.36) • Before the clearing there must have been forest cover on the land (sub-s 2.4(4)) • No forest cover at commencement (p 2.4(5)(c))

s47C

Review Considerations – Updated from November 2017

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
	• Modelling carbon stocks commences when the land has forest potential (sub-s 28(2)), which can be before project registration, however pre-project regrowth is not credited (**ICr** in Equation 2) • On conservation land, grazing animals is presumed not to occur as business as usual - therefore a restriction on grazing is not an additional activity • Permanence and newness requirements under the Act	• Projects are restricted from occurring on conservation land (sub-s 1.4(1)) • Permanence and newness requirements under the Act
Estimates of abatement are measureable and capable of being verified.	• The Full Carbon Accounting Model (FullCAM) is used to model carbon stocks and emissions. • Equations are specified in the method for the calculating abatement: abatement is the change in carbon stock minus emissions from biomass burning and other disturbance events, project fuel emissions and any negative abatement from previous reporting periods. • Verification is enabled through requirements for monitoring, record keeping and reporting (Part 5), the requirement to use FullCAM to model carbon stocks and emissions, and through restriction of HIR projects to land where FullCAM data exists. • Additional verification of correspondence between on-ground performance and modelled estimates is provided by the reference to satellite and aerial imagery to verify project eligibility, forest cover, and forest potential.	• The Full Carbon Accounting Model (FullCAM) is used to model carbon stocks and emissions. • Equations are specified in the method for calculating abatement: abatement is the change in carbon stock minus emissions from biomass burning and other disturbance events, project fuel emissions and any negative abatement from previous reporting periods. • Additional verification of correspondence between on-ground performance and modelled estimates is provided by the reference to satellite and aerial imagery to verify project eligible, past clearing events, forest cover, and forest potential.

s47C

Review Considerations – Updated from November 2017

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
Carbon abatement must be eligible carbon abatement.	• Assisting the regeneration of native forest to attain forest cover is an activity that results in eligible carbon abatement that contributes towards Australia's international reporting obligations and targets. • The Full Carbon Accounting Model (FullCAM) used to model Australia's national carbon stocks in the land sector, is also used under the method to model project carbon stocks and emissions. This helps ensure abatement estimated from projects is eligible abatement for Australia's international reporting obligations and targets. • The requirement that land does not have forest cover at the project commencement date ensures that only land with the potential to be converted to forest and captured within National Inventory reporting is eligible.	• Assisting the regeneration of native forest to attain forest cover is an activity that results in eligible carbon abatement that contributes towards Australia's international reporting obligations and targets. • The Full Carbon Accounting Model (FullCAM) used to model Australia's national carbon stocks in the land sector, is also used under the method to model project carbon stocks and emissions. This helps ensure abatement estimated from projects is eligible abatement for Australia's international reporting obligations and targets. • The requirement that land does not have forest cover at the project commencement date ensures that only land with the potential to be converted to forest and captured within National Inventory reporting is eligible.
Determination is supported by clear and convincing evidence.	• Supported by broad range of evidence that land has potential to regenerate native vegetation where suppression factors such as grazing, weeds and destruction of regrowth are removed. • Using FullCAM to model carbon stocks provides estimates of carbon stocks consistent with the approach used to inform the National Greenhouse Gas Inventory. • The development and maintenance of FullCAM is supported by peer-reviewed and internationally agreed scientific research.	• Supported by evidence from the 2011 National Inventory Report that land is regularly cleared for pastoral purposes, on average every 8-11 years nationally, and at least once every 15 years for 75% of land regularly cleared. Proof of past forest and past clearing event suggests land likely to regenerate into native forest, and also likely to be cleared again in absence of an ERF project. • Supported by broad range of evidence that land has potential to regenerate native vegetation where suppression factors such as

s47C

Review Considerations – Updated from November 2017

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
		grazing, weeds and destruction of regrowth are removed. • Using FullCAM to model carbon stocks provides estimates of carbon stocks consistent with the approach used to inform the National Greenhouse Gas Inventory. • The development and maintenance of FullCAM is supported by peer-reviewed and internationally agreed scientific research.
Material amounts emitted as a consequence of the project are deducted.	• Emissions from fire and fuel use are accounted for (Part 4, Division 5). • The accounting boundary for project emissions and abatement is around the CEAs. Carbon stocks account for above and below vegetation biomass.	• Emissions from fire and fuel use are accounted for (Division 4.5). • The accounting boundary for project emissions and abatement is around the CEAs. Carbon stocks account for above and below vegetation biomass.
Estimates, projections and assumptions are conservative.	• Credits are only issued for abatement achieved during the crediting period. Proponents can model regeneration as occurring before the project commencement, but factor **ICr** in Equation 2 prevents crediting of such regeneration. • The input data used to model changes to carbon stocks have	• The input data used to model changes to carbon stocks have conservative default assumptions in the absence of known data, such as the default baseline clearing interval of 15 years and a recent limit on pre-project regrowth crediting to 14 years (in FullCAM guidelines).

s47C

Review Considerations – Updated from November 2017

Offsets integrity standard	Elements of the HIR method (FullCAM version) that deliver the standard	Elements of the NFMR method that deliver the standard
	conservative default assumptions in the absence of known data. • The use of FullCAM to model carbon stocks provides a representation of carbon accumulation for projects consistent with the approach used in the National Inventory and uses a mixed species environmental plantings calibration. • The specifications for establishing CEAs (Part 3, Division 3, subdivision 2) support conservative abatement estimates, including that: CEAs must consist only of land that regenerated at a similar time with a similar mix of native vegetation, the model point must be representative of the CEA and close to its centre, the CEA must have forest potential, and the CEA must have started to become native forest through regeneration. • The method states any area failing to meet the CEA requirements must be removed from the CEA through restratification (sub-s 18 (3)). • For CEAs with multiple parts, there is a 1.5 radius limited within which all the parts must be contained. • Where grazing by livestock or feral animals materially affects the carbon stocks, proponents must model a 'growth pause' event in FullCAM. • The wider legislative framework contains a 5% risk of reversal buffer and 20% discount for the 25 year permanence period option.	• The use of FullCAM to model carbon stocks provides a representation of carbon accumulation for projects consistent with the approach used in the National Inventory and uses a mixed species environmental plantings calibration. • The specifications for establishing CEAs (Part 3, Division 3.2) support conservative abatement estimates, including that each CEA must: consist only of land that contain regrowth of the same forest type or vegetation community, contain a model point location that is at the approximate centre of the area, and have forest potential at the time of the decision to implement the project mechanism. • The method states that any area of land that loses forest potential or an area greater than 0.2 ha where regeneration fails must be removed from the CEA (sub-s 3.6(5)). • The wider legislative framework contains a 5% risk of reversal buffer and 20% discount for the 25 year permanence period option.

s47C

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 5 APRIL 2018

Present

Committee Members:

Andrew Macintosh (Chair), Paul Graham (Items 2-8), David Hemming, Mick Keogh (Items 3-8), Beverley Henry, Suzanne Jones, Andy Lloyd (*Items 1-3, by teleconference*), Gayle Milnes and Hilary Smith.

Other attendees:

Department of the Environment and Energy

Edwina Johnson. *Items 5-6*: s22 s22 s22 s22
Item 7-8: Katrina Maguire, s22 s22 s22 .
Item 8: s22 s22

Clean Energy Regulator

Item 7: Mary-Anne Wilson

Department of Agriculture and Water Resources

Item 7: s22

Australian Government Solicitor

Items 2-4: s22

Secretariat

s22 s22 and s22 .

The meeting opened at 9:30am.

s22

s22

s22

s22

s22

Item 7 – Update on method reviews – Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

Ms Maguire, s22 s22 s22 *Ms Wilson (CER) and* s22 *(Agriculture) joined the meeting.*

The Committee:

- **noted** the outcomes of the visit to south west Queensland in March. Participants at the South West Queensland discussion were very appreciative of the opportunity to engage with the Department, Regulator and Committee.
- **noted** the upcoming visit to north west New South Wales.
- **noted** other work under way by the Department in support of the Committee to review the methods, and advise any other analysis the Committee would like undertaken.

s22 s22 s22 *left the meeting.*

s22

Issue/Risk	Degree of issue	Reference
Whether trends in regrowth and clearing indicate project activities are additional.	Under assessment	Att A, Page 1
How stratification is undertaken, including whether carbon estimation areas have forest potential and achieve forest cover, and the spatial resolution at which to apply these requirements.	Under assessment	Att A, Page 1
¢KŜ ŘλŦŦŜŊŜyǾŜ ōŜűøŜŜy CǆŦŦ/ ! a Ŋă ϒƨŘŜŦŦŜŘ ŜăűλϒI·űŜă and physical measurements, and supplementing modelling with on-ground and remote sensing information.	Under assessment	Att A, Page 2
The potential for adverse economic, social and environmental impacts arising from projects under the methods.	Under assessment	Att A, Page 2

5. Options going forward (with Pros and Cons)

The subcommittee and the Department will prepare options for the Committee to consider in relation to the issues under assessment. Current work includes looking into a concept of ΨƎI·űŜøI·èăŊ that would allow projects with initial forest potential to receive credits over time only where there is evidence of continued progress toward forest cover. The concept would ōŜ űƨ KŜŦǈ I·ŘŘŊŜăă űKŜ /ƨϒϒλűűŜŜŊă ǾƨyǾŜŊyă űKI·ű űKŜ ϒŜűKƨŘă ăKƨǆŦŘ ƨyŦè ǇŊƨøλŘe for projects that achieve forest cover and carbon sequestration estimates that reflect actual performance.

The ăǆōǾƨϒϒλűűŜŜ I·yŘ űKŜ 5ŜǇI·ŊűϒŜyű I·ŊŜ ăŜŜǨλyƎ űKŜ /ƨϒϒλűűŜŜŊă ŘλŊŜǾűλƨy ƨy űKŜ following procedural options at this stage.

1. The Committee prepare largely qualitative advice to the Minister on any adverse impacts, drawing on any comments made in submissions.
   Pros
   a. Consistent with established approach for considering adverse impacts for new methods.
   b. Reflects availability of information on adverse impacts.
   Cons
   a. Could be interpreted by stakeholders as lacking thorough analysis.
2. The Department prepare separate ERAC review reports for each method, rather than a single report covering both methods. The reports would also incorporate some

information common to both reviews. A draft outline, including some background information, is at Attachment B.

Pros

a. Allows clear presentation of findings specific to each method, to assist future decisions on the methods and interpretation by stakeholders.

Cons

a. Duplication of resources in preparing two reports.

6. Consultation

Dr Smith, Mr Keogh and staff from the Department and the Regulator visited north west NSW from 10-13 April 2018. They held a workshop in Bourke with 44 attendees (see Attachment C), a drop-in information session in Bourke and visits to HIR project sites (see Attachment D). A summary of the workshop held in Charleville on 6 March 2018 is at Attachment E.

The Chair and Department representatives met with carbon service providers GreenCollar, Climate Friendly and Corporate Carbon in Sydney on 19 April to discuss the reviews and DNŜŜy/2ffI·N0ă ăúNI·ûλŦλŎI·úλ2y˝I·yŘ LJN2?ŜŎú ŘŜăλ∃y˝LJN2ŎŜăăŜă¢

The Department discussed the reviews with project auditors at an auditor workshop convened by the Regulator on 3 May. The Department has also investigated arranging a discussion between the subcommittee and auditors, and will provide an update at the Committee meeting.

The subcommittee is seeking a contact for getting expert advice on native vegetation dynamics in western NSW and their implications for regeneration projects to complement similar advice obtained from Don Butler during the Queensland visit.

The closing date for submissions to the reviews was 20 April 2018. Copies of submissions are at Attachment F. The Department will provide a summary at the Committee meeting.

7. Attachments

Attachment A	Outcomes of 6 April 2018 subcommittee meeting
Attachment B	Draft review report outline
Attachment C	Summary of Bourke workshop outcomes
Attachment D	Summary of NSW site visits
Attachment E	Summary of Charleville workshop outcomes
Attachment F	Submissions

Subcommittee of the Emissions Reduction Assurance Committee: HIR and NFMR method reviews
Outcomes of meeting of 6 April 2018
Waratah Room, John Gorton Building, 9:00am to 11:00am

Attendees:
Emissions Reduction Assurance Committee: Andrew Macintosh, Hilary Smith, Beverley Henry, Mick Keogh
Clean Energy Regulator: s22 s22 s22
Department: Katrina Maguire, s22 s22 s22 s22
Rob Sturgiss, s22 s22 (by phone) s22 .

This meeting was held to discuss, in particular, the review focus areas the ERAC sub-committee members had circulated prior to the meeting. These notes summarise the main points discussed. They consider the two methods together except where indicated.

1. **Additionality: (a) Extent of natural regrowth in surrounding areas, (b) Cycle of clearing in the southwest Queensland and western NSW regions**
   - The subcommittee has sought Inventory data/analysis to inform consideration of whether the trends in regrowth and clearing support the premises on which the methods are based. The Inventory team tabled data showing time series analysis of forest conversion and re-clearing rates in southwest Queensland and western NSW by local government area. They are also compiling data on areas in these regions that were historically either non-forest or deforested and which have since reached forest cover and remained as forest.
   - The Forests Section and Inventory Branch are also working on data analysis to support assessment of additionality. Analysis includes forest regeneration rates and clearing patterns (e.g. scale, time between clearing events) in areas surrounding projects, and the extent of land not in projects that meets method eligibility criteria.

2. **Eligible activities, eligible land and forest potential**
   - Unlike ceasing clearing, there is limited information on the effect of changing management of grazing, pests and weeds on carbon stocks, which means these changes have minimal effects on FullCAM carbon estimates. However, these changes in activity can help demonstrate additionality.
   - Forest potential is influenced by past land management, which is often unknown or not able to be assessed by the Clean Energy Regulator.
   - Critical requirements for the methods are to ensure forest potential can be demonstrated at the project registration date and continued growth can be demonstrated as the project progresses. The methods need effective constraints if regeneration does not occur during the project. The degree of specificity in the methods should be sufficient to provide the Clean Energy Regulator and proponents certainty without hampering flexibility.
   - The Gateways concept could provide a safety net if forest potential was initially demonstrated, but regrowth is later inadequate.
   - Different carbon service providers have different approaches to stratification (largely based on using National Inventory data to include/exclude areas of non-forest/forest cover). s22

s22

3. Measurement

- The provision for NFMR modelling commencement date remains of concern. The Department is assessing data on project performance.
- The Gateways concept could create a connection between modelled growth and actual growth, but needs to be drawn out in more detail and considered alongside the Clean Energy Regulator's operational policy approach to implementing the existing methods.

4. Permanence

- The issues raised in the notes will be considered further.

5. Adverse/beneficial impacts

- The subcommittee will consider this when submissions come in. The first step will be to identify the issues, then ERAC will consider if/how it might consider any of these further, including any baseline information, literature and advice from NRM groups.
- The Department anticipates this work will be largely qualitative and there is a need to confirm that with ERAC.

6. Other items

- The subcommittee also explored the possible merits of merging the two methods into a single method rather than continuing with two methods. The Department indicated that the complexity of merging them and engaging with stakeholders may outweigh any administrative benefits of a single method.

7. Next Steps

1. A second subcommittee meeting will be held after submissions close.
2. The Department will draft a short paper on the Gateways concept.
3. The Department will send the subcommittee further data and results of analysis from Inventory and Forest Sections' work when available.
4. The subcommittee will confirm with the ERAC that advice to the Minister on adverse impacts will be largely qualitative.

EMISSIONS REDUCTION ASSURANCE COMMITTEE

Human-induced Regeneration Method Review Report

[Date] 2018

Contents

1 Executive summary

This report outlines the findings of the review of the *Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

The Committee found:

- the XXX method [meets][does not meet] the offsets integrity standards (see Table 1 below for examples of how the method addresses the standards)
- XXX
- XXX
- XXX

Following these findings, the Committee recommends XXX…

Having received the Committee's advice, the Minister may decide to vary the method. In this event, the Minister would then seek the Committee's advice on whether the proposed variation meets the offsets integrity standards.

2 Background

2.1 Committee to undertake reviews

The functions of the Emissions Reduction Assurance Committee include periodic reviews of methods and undertaking public consultation in relation to such reviews (see section 255 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act)). According to the Emission Reduction Fund White Paper, methods are to be reviewed at least once every four years.

Emissions Reduction Fund methods must comply with the offsets integrity standards defined in section 133 of the Act.

Emissions Reduction Fund methods must comply with the offsets integrity standards defined in section 133 of the Act and summarised in Table 1. The principal focus of the Committee's review of the human-induced regeneration method is to assess whether the method continues to meet the offsets integrity standards.

Table 1. How the current human-induced regeneration method addresses the offsets integrity standards

Offsets integrity standard	**Human-induced regeneration method examples**
Additionality	
Measurement and verification	
Eligible carbon abatement	

Evidence	
Project emissions and boundaries	
Conservative estimates, projections or assumptions	
Legislative rules	

The Committee also considered whether there were any potential adverse social, environmental or economic outcomes from projects conducted under the method. In addition, the Committee considered whether there were potential opportunities to improve the method in terms of its practical implementation.

Having received the Committee's advice, the Minister may decide to [vary] the method. As part of any variation, the Minister would seek the Committee's advice on whether the proposed variation would meet the offsets integrity standards. The Committee would then consider compliance of the method with the offsets integrity standards through any method variation process.

The Committee reviewed the human-induced regeneration method in parallel with the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*, given the similarities between them.

2.2 The Human-induced Regeneration method

The objective of the Human-induced Regeneration Method is to generate abatement through undertaking activities which regenerate native forest and achieve forest cover.

The method was designed to provide opportunities for regenerating forest on land that has been without forest cover for at least 10 years. Forest cover is defined as land with an area of at least 0.2 hectare with trees providing crown cover of at least 20 per cent of the land and two metres or more in height. This definition aligns with the definition used for Australia's international reporting obligations and targets.

Eligible land for projects must not have had forest cover in the 10 years preceding project registration, and must have been subject to the suppression of regrowth over the period. Land must also have the potential to attain forest cover. This means each 0.2 hectare of land must have trees with the potential to attain the forest cover characteristics described above.

The method was developed in 2013 under the Carbon Farming Initiative, which preceded the Emissions Reduction Fund. It was varied in 2016 to include the following changes:

a. replace use of the Reforestation Modelling Tool with the FullCAM model to estimate abatement
b. provide more clarity on eligibility of projects and land transferring from other methods
c. permit a subset of eligible project activities on publicly-owned conservation land
d. clarify treatement of negative abatement and baseline commencement dates
e. limit the potential for land variability within carbon estimation areas by applying a 1.5 kilometre radius limit on regions permitted to belong to the same carbon estimation area. (Carbon estimation areas are sub-areas of the project area that meet certain eligibility criteria and within which the project activities are required to be implemented.)

In its advice to the former Minister for the Environment on a draft variation of the method in 2016, the Committee recommended the method be monitored closely to ensure it continued to meet the offsets integrity standards in the Act and minimise natural resource management risks.

2.3 Eligible activities under the Human-induced Regeneration method

Proponents must undertake one or more of the following activities to regenerate native vegetation into forest cover:

- excluding livestock
- managing the timing and extent of grazing
- managing feral animals
- managing weeds
- ceasing mechanical or chemical destruction, or suppression, of regrowth.

Restrictions on activities within projects include limits on any removal of vegetation. Native vegetation cannot be mechanically or chemically destroyed (irrespective of the type of project activity) except in limited circumstances.

2.4 Abatement calculations

The method provides rules for estimating carbon abatement. The rules include using equations set out in the method, and using FullCAM according to detailed requirements in separate FullCAM Guidelines prepared for the method.

The Human-Induced Regeneration Method assumes carbon stocks would continue to be suppressed in the business-as-usual scenario, and therefore does not account for business-as-usual carbon sequestration. However, the method accounts for carbon stocks that have accumulated prior to a project commencing, and subtracts this amount from project crediting.

Categories of carbon pools and greenhouse gas emissions accounted for in abatement calculations are: live above-ground and below-ground biomass (carbon dioxide); dead plant material and debris (carbon dioxide); fuel use (methane, nitrous oxide and carbon dioxide); and fire (methane, nitrous oxide).

To calculate a project's abatement, site location and management and disturbance events are modelled in FullCAM in accordance with the FullCAM Guidelines. Abatement must be calculated for every reporting period using the version of FullCAM and FullCAM Guidelines in force at the end of the reporting period.

Areas of land within a project area are stratified into carbon estimation areas. Separate abatement estimates are calculated for each carbon estimation area. Each carbon estimation area must have consistent site characteristics, regrowth and management across the area. Prior to developing forest cover, land throughout carbon estimation areas must show potential to develop it. This allows for modelled abatement estimates that are representative of the characteristics of each area, and calculated only for areas that will develop forest cover according to evidence. The boundaries of carbon estimation areas may need to be altered over time to ensure they continue to meet these requirements. This re-stratification could be required where, for example, there is a change in management of vegetation in part of a carbon estimation area or some of the vegetation no longer has potential to reach forest cover.

2.5 Summary of registered projects and abatement under the method

The number of projects and volume of contracted abatement under the method exceeds those of any other method. Most current projects are located on grazing land in northwest New South Wales and southwest Queensland, along with two contracted projects in each of South Australia and Western Australia.

Table 2: Human-induced Regeneration method overview statistics as at February 2018.

Human-induced Regeneration method statistics	
Registered projects	197
Contracted projects	141
Contracted abatement (tonnes CO_2-e; the total abatement to be delivered over the life of all contracted projects, including from future reporting periods)	87.6 million
Australian Carbon Credit Units issued (tonnes CO_2-e)	8.1 million

2.6 Consultation

The Committee conducted the following consultation.

The Committee released a discussion paper and for public consultation on 2 March 2018. The discussion paper identified areas of interest to the Committee, to help guide submissions. The Committee invited submissions until 20 April 2018, and provided a template for submissions. The Committee received, XX submissions, from stakeholders including … The main issues raised in submissions included:...

The Committee visited regions in south west Queensland and north west New South Wales in which many existing human-induced regeneration projects are located. During these visits, the Committee held stakeholder workshops in Charleville, Queensland, on 6 March 2018 and Bourke, New South Wales, on 1 April 2018. Attendees at the workshops included landholders, carbon service providers, state government agencies, regional natural resource management bodies and other community members. More than XX people attended the Charleville workshop and more than XX attended the Bourke workshop. The workshops discussed… The Committee also visited several registered projects in both regions.

The Department also met other stakeholders to discuss particular aspects of the method and its implementation. The Department consulted the Clean Energy Regulator on implementation aspects, and considered information provided by the Regulator on project implementation.

The Committee's findings directly address feedback received through the consultation process.

3 Findings

The key review findings are set out in Table 3.

Table 3. Key review findings

	Finding
Finding 1	
Finding 2	
Finding 3	
Finding 4	
Finding 5	
Finding 6	

4 Conformity with the Offsets Integrity Standards

The review evaluated compliance of the XXX method with the offsets integrity standards in the Carbon Credits (Carbon Farming Initiative) Act 2011 (the Act) based on information available to the Department. [Include whether offsets reports have been considered]. [Depending on the complexity of the OIS discussions, it may be necessary to convert them from sub-headings to headings]

4.1 Abatement is unlikely to occur in the ordinary course of events

4.2 Estimations are measurable and capable of being verified

4.3 Abatement must be eligible carbon abatement from the project

4.4 The method is supported by clear and convincing evidence

4.5 Project emissions and leakage

4.6 Estimates, projections or assumptions in the method are conservative

4.7 Other standards set out in the legislative rules

5 Environmental, economic and social impacts

[likely to be a largely qualitative discussion of beneficial and adverse impacts]

6 Usability of the method

[might include discussion of: guidance material for the method/FullCAM/CFI mapping guidelines, registration, reporting, record-keeping and/or barriers to uptake]

7 Detailed recommendations

The Committee's detailed recommendations are summarised in Table 4.

Table 4. Detailed review recommendations

Category (examples)	Issue	Review recommendation
Eligibility		
Administrative and user considerations		
Insert others as required		

Summary of comments - Emissions Reduction Fund workshop: native forest revegetation method

Wednesday 11th April, 2:30 – 4:30pm

Diggers at the Darling, 23 – 25 Sturt St, Bourke

The Emissions Reduction Assurance Committee (ERAC), the Department of the Environment and Energy and the Clean Energy Regulator hosted the workshop to hear perspectives on the Emissions Reduction Fund and Human-Induced Regeneration projects from scheme participants and the local community. Attendees included landholders, carbon service providers, Western Local Land Services, traditional owners and other community members.

Workshop participants were generous in giving up their time to contribute their experiences and views of the Emissions Reduction Fund and the native forest revegetation method, *Human-Induced Regeneration of a Permanent Even-Aged Native Forest*.

Following is a summary of the views, as expressed by participants at the workshop. The summary does not represent endorsement of the comments by the Department, ERAC or Regulator.

Comments relating to the types of carbon farming opportunities available

- It would be good to develop a method that credits regeneration occurring in areas that already have forest cover.
- More consideration should be given to project neighbours who are not eligible to participate, noting additionality is important.

Comments around the impacts of Emissions Reduction Fund revegetation projects

<u>Community and farm-level impacts</u>

Farmers and other community members expressed the following views.

- Revegetation projects are bringing more money into the community.
- Carbon farming income is relatively secure and can be used to manage properties more sustainably (for example, by removing stock faster, buying fodder in dry times and feeding earlier, improving fencing, managing pests and increasing water accessibility).
- The additional income from carbon farming, together with increases in commodity prices, is increasing the work available for builders, fencers and others in the sector.
- There are some concerns about absentee landholders, but others see this is as a challenge for the whole region that started many years before carbon farming was introduced.
- Some families have left the area but they have been able to do so in better financial circumstances than if they had not had a carbon farming project.
- In the past there had been problems with pests on caretaker-managed properties, but nearly all projects involve managing pests and the income makes this more affordable.
- Goats have increased significantly in the region and it is important to keep numbers down as they damage vegetation. Unlike wild dogs, which are also a problem, goats have economic value.

- Some project proponents worry about the management of fire risk by neighbours. Others think fire is a low risk regionally due to the lack of material to burn, and that any fires can be quickly contained.
- The Australian Government should consider how climate change might affect projects and farmers' responsibilities, including in relation to fire management. The Government should also consider the effects of climate change on modelling of carbon storage in vegetation.
- Traditional owners sought to understand the processes in place to identify and protect culturally significant places such as scar trees. The Department and Regulator advised participants must obtain consent from eligible interest holders for projects.
- Landholders present spoke positively of the professionalism of carbon service providers working in the region.
- Aggregating projects across properties, for example to enable smaller properties to participate, is complicated. Challenges include getting landholders to do the same project activities, landholders not wanting to share information with others and the potential some may want to sell their properties.
- The tax classification of carbon income as off-farm income rather than primary production, which means it cannot be offset against losses, makes financial management more difficult.
- The tax legislation on primary production was designed to smooth out volatility in farming incomes. Although projects with a contract have a relatively stable income source, this is not the case for other projects, given other markets for carbon credits are still emerging and less stable. Smaller projects do have the ability to offset their losses.
- There are also concerns about demand for credits once contracts end.

Carbon service providers shared their approaches and experiences, including the following.

- There are very few absentee landholders, most are family-run farms, but even in these cases the landholders still visit periodically to manage the properties.
- Most landholders still run stock on their farms.
- The science regarding the interaction between vegetation and agricultural production is still evolving, as is the economic value of different types of landscapes.
- Carbon farming has reduced clearing rates far more than the New South Wales vegetation laws.

<u>Comments relating to environmental impacts</u>

- Projects grow vegetation that reduces biodiversity and the availability of grassland for grazing. The clustering of projects adds to concerns about these effects.
- In some areas projects may help regrow tree species that are in decline.
- Projects can offer benefits in areas less suited to agricultural production. Landscape planning at a regional or sub-regional scale could support targeting of project locations to increase benefits.

Comments around implementation (administration) by the Clean Energy Regulator

- Carbon service providers emphasised the need to remove bias in stratifying project areas and simplify auditing by relying on National Greenhouse Accounts modelling and data.

- The providers consider that the National Greenhouse Accounts modelling and data are less accurate in western New South Wales than in other parts of Australia, but believe the overs and unders even out on the ground.
- They cautioned against requiring service providers to provide more information (three-dimensional) to support stratification.
- Instead, the focus should be on improving the national accounting using on-ground information.

Outcomes

- Participants were thanked for their time and contributions to the discussions.
- The Emissions Reduction Assurance Committee and the Department encouraged participants to consider the Committee's discussion paper on the review of the methods and to provide a submission (see the Department's website at: http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/methods/review).
- The Committee is interested in any comments participants might have, whether or not they are directly in response to the questions asked in the discussion paper and submission template.
- The Committee and Department invites any follow up questions/comments to be directed to s22 or s22 through ERFforests@environment.gov.au .
- The Regulator welcomes any other questions participants might need clarified around implementation and processing of specific projects through enquiries@cleanenergyregulator.gov.au.

ATTACHMENT E

Summary of comments - Emissions Reduction Fund Workshop: native forest revegetation methods

Tuesday 6th March 2018, 1:00 – 4:00pm

Charleville RSL, Cnr Watson and River Street, Charleville

The Emissions Reduction Assurance Committee (ERAC), the Department of the Environment and Energy and the Clean Energy Regulator hosted the workshop to hear perspectives on the Emissions Reduction Fund and native forest regeneration projects from scheme participants and the local community. Attendees included landholders and other community members, carbon service providers, local community services providers, Queensland Government departmental representatives, Minister Littleproud's electorate office, AgForce, and the local NRM groups.

Workshop participants were generous in giving up their time to contribute their experiences and views of the Emissions Reduction Fund and the two native forest revegetation methods: *Human-Induced Regeneration of a Permanent Even-Aged Native Forest*, and *Native Forest from Managed Regrowth*.

Following is a summary of the views, as expressed by participants at the workshop. The summary does not represent endorsement of the comments by the Department, ERAC or the Clean Energy Regulator.

Comments relating to the types of carbon farming opportunities available

- There should be opportunities for storing carbon in grassland systems, for example incentivising pasture development.
- It would be good to see alternative carbon sequestration opportunities that increase farm productivity and benefit the community.
- Farmers manage other forested areas but are not getting any benefit or funding; a method that recognises this benefit should be considered.

Comments around the impacts of Emissions Reduction Fund revegetation projects

<u>Community and farm-level impacts</u>

Farmers and other community members expressed the following views:

- Revegetation projects are bringing more money into the community.
- The Fund has brought a new perspective on mulga - while valued for drought fodder, it needed to be cleared to allow grazing but it now has added monetary value through carbon.
- Reducing/ceasing livestock grazing under projects has had social and economic impacts, particularly where properties are purchased solely for carbon farming:
    - property infrastructure is not maintained (fencing, water infrastructure)
    - there are fewer people (and stock) on properties, leading to reduced demand for local goods and services (electricity, mail, groceries, stock transport)
    - land is not managed, exacerbating problems for neighbours with pests such as goats, and weeds and fire risk
    - the carbon income from the projects is not kept in the community.

- Other experiences suggest people have left farming areas for reasons not associated with carbon farming projects (e.g. wool prices). Carbon farming income may provide additional income that helps keep people on the land.
- There have always been some absentee landowners, but they still fence and stock farms and have fire management responsibilities.
- Fences are required whether a landholder is running stock or carbon farming – getting secure boundary fencing is an ongoing challenge.
- Most regeneration projects still have livestock – some with temporary destocking and plans to reintroduce livestock at a later date, some with changes to stocking rates.
- Carbon farming is seen by some as an avenue by which farmers can honour commitments to the environment and to animal management welfare, as well as diversify their income.
- A good relationship between a farmer and agent is as important as farm management actions for a successful project.
- Perspectives on how projects might affect bank valuations included the following:
    - Some mixed experiences:
        - banks didn't look at the carbon income as cash flow
        - an owner couldn't successfully sell a property until after it had a carbon project
        - potential bank customers had baulked at purchasing properties with carbon projects
    - Projects provide an increased income stream, but restrict what can be done with the land. While a project should enhance a farming operation if managed properly, people are still learning what it means for farm management. Potential buyers of land with a project may not know how to manage it.

Carbon service providers shared their approaches and experiences, including:

- Most of the carbon funds from projects were invested in the properties (i.e. drought proofing, de-stocking during periods of drought to look after the land, farm infrastructure investments, managing animals and improving animal welfare).
- Some farmers have used the income to support succession planning.
- Some properties with carbon projects did not have owners or managers living on them before the projects started.
- Aims are generally to manage properties as productive farmland together with storing carbon. For some this is a long term goal with the short term focus on managing carbon storage.
- Some projects have temporarily de-stocked properties, with a manager/s on the properties to manage water, repair fences and take short term agisted stock. Over time they plan to move to more active running of properties for livestock production.
- Changes in livestock numbers on properties with projects have been minor. Conservative stocking rates have helped improve livestock productivity.

<u>Comments relating to environmental impacts</u>

- Projects grow vegetation that reduces biodiversity and encourages pest species.

- Land in the region is a mulga landscape which has a long growth cycle. Current projects regenerating mulga are only half way through the cycle. Bringing them back to their long-term balanced state will take time but will create healthier land.
- Projects that are well set up benefit the environment and the landholder.

Comments around implementation (administration) by the Clean Energy Regulator

- Concerns were expressed about the Regulator's 90 day processing time for decisions on crediting applications, which could be reset for an additional 90 days through a Request for Information.
- There are projects on gidgee land unlikely to successfully regenerate.
- The Regulator explained that Carbon Estimation Areas must have forest potential (small trees with potential to reach forest cover over time). If areas lose forest potential (e.g. saplings fail) they must be taken out of Carbon Estimation Areas.
- Some project participants had been advised by auditors they could not clear any tree on the property, even on land outside Carbon Estimation Areas or project areas. The Clean Energy Regulator advised it would develop guidance to support understanding on this.

Comments about the two native forest regeneration methods

- Methods should support sustainable land use, not encourage approaches to farm management that have negative impacts on the community or environment.
- A well-managed property can more readily meet the eligibility requirements of forest potential than a property with degraded land.
- At the end of the 25-year project periods farmers will want to pull the mulga and go back to cattle. An incentive/method that allowed large trees to be removed and supported further mulga regrowth would have a better carbon outcome.
- Under the methods some vegetation can be cleared/thinned if it improves the growth rate or health of the remaining vegetation.

Outcomes and concluding comments

- The Emissions Reduction Assurance Committee, Department of the Environment and Energy and Clean Energy Regulator thanked participants for their time and contributions.
- The Emissions Reduction Assurance Committee and the Department encouraged participants to consider the Committee's discussion paper on the review of the methods and to provide a submission (see the Department's website at: http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/methods/review).
- The Committee is interested in any relevant comments participants might have, whether or not they are directly in response to the questions asked in the discussion paper and submission template.
- The Committee and Department invited any follow up questions/comments to be directed to s22 or s22 through ERFforests@environment.gov.au.
- The Regulator indicated it would provide follow up advice on clearing of trees outside CEAs and welcomed any other questions participants might need clarified around implementation and processing of specific projects through enquiries@cleanenergyregulator.gov.au.

SUMMARY OF SUBMISSIONS TO THE EMISSIONS REDUCTION ASSURANCE COMMITTEE REVIEW OF THE HUMAN-INDUCED REGENERATION AND NATIVE FOREST FROM MANAGED REGROWTH METHODS – MAY 2018

List of submissions

Submitter	Organisation type	Project proponent	Confidential	HIR or NFMR
s45				
CO2 Australia	Carbon broker	Yes	No	Both
s45				
Corporate Carbon	Carbon broker	Yes	No	HIR
CSIRO and NSW DPI	Government scientific body	No	No	Both
s45				
Emission Traders International Pty Ltd	Consultant	No	No	N/A
s45				
Greening Australia	Conservation group	No	No	Both
s45				
National Farmers' Federation	Industry peak body	No	No	Both
s45				
s45				
Trust for Nature	Conservation group	No	No	Both
Western Local Land Services	NRM group	No	No	HIR

Summary of comments on issues in discussion paper

Determination should result in carbon abatement that is unlikely to occur in the ordinary course of events (disregarding the effect of the Emissions Reduction Fund)

The Native Forest from Managed Regrowth and Human-Induced Regeneration methods provide for project proponents to do similar activities to help regenerate native forest.

Are the activities and eligibility criteria of each method sufficient to demonstrate projects result in sequestration that is additional to what would occur as business-as-usual?

- Several carbon brokers (CO2 Australia, s45 , s45 and Corporate Carbon) and Greening Australia said the methods provide for additional abatement. They suggested the business-as-usual case is a declining rate in forest cover as evidenced by broad trends in National Inventory data or the ongoing suppression of regrowth including through clearing or grazing.

- These respondents also noted that the changes in land management philosophy have been dramatic from viewing regrowth as something to restrain to seeing it as a commodity.
- Other respondents (CSIRO/NSW DPI, Western Local Land Services and s45) suggested that there is an ongoing increase in woodiness in Australia generally. CSIRO/NSW DPI said the underlying causes are still unsettled, and at present it cannot be conclusively said whether projects are resulting in additional abatement.

s45

Estimates of abatement are measureable and capable of being verified

The FullCAM model estimates carbon abatement using site-specific data at fine spatial and temporal scales, combined with information proponents provide about actual events.

Could future updates to FullCAM better account for certain types of land management that affect carbon stocks? If yes, what robust empirical literature is available detailing how these events impact carbon stocks?

- Multiple respondents (CO2 Australia, s45) noted that FullCAM is an averaging model that may under/over predict at the project scale, but is appropriate for use under a modelling method. Corporate Carbon similarly stated that the National Inventory yields overs and unders in detection of forest cover that balance out at scale.
- CO2 Australia said they believe it would be inappropriate to pursue improvements to FullCAM to better account for land management interventions as it would be pushing the model beyond its capacity and produce results unlikely to reflect reality.
- CSIRO/NSW DPI noted FullCAM predictions of regenerating biomass have not been fully verified as was done for the Environmental Plantings method, nor have the growth pause or post-fire adjustment parameters under the HIR method been verified.
- Western Local Land Services said the HIR method does not adequately account for episodic events such as high rainfall s45

Are there other information sources that could help in verifying abatement estimates, particularly given technology is continuing to improve?

- s45

- s45
- Corporate Carbon suggested that as higher resolution imagery becomes more affordable it should be incorporated into the method requirements.
- s45

Carbon abatement must be eligible carbon abatement

Is the concept of forest potential adequately defined, and able to be quantified and verified, to ensure project land will develop forest cover? Are the requirements concerning the attainment of forest cover adequately defined?

- s45
- CSIRO/NSW DPI are uncertain as to whether much land under projects has forest potential. They suggest focusing on changes from non-woody to sparse cover under the methods, which the Inventory can detect, to enable more opportunities for improved pastoralism, and remove the requirement for projects to achieve forest cover.
- s45
- s45
- Corporate Carbon said forest potential is adequately defined but noted the method is silent on how to quantify and verify it. They have legal advice indicating the HIR method does not require attainment of forest cover during the crediting period. As a model-based method, they believe field verification of forest potential would be inappropriate.
- C02 Australia do not believe that the spatial bounds of forest cover are defined, and interpret it to apply to CEA level (i.e. 20% canopy cover across entire CEA). s45 s45
- CO2 Australia also said a timing limit of 25 years on reaching forest cover is challenging in typical drier HIR areas, and believe a 50-year limit would be appropriate.
- s45
- Greening Australia noted improvements could be made to remote sensing to test forest potential and forest cover, and suggested on-ground validation could assist the exercise.
- s45
- Western Local Land Services suggested the big rainfall events typically needed in areas of high project uptake to encourage regeneration may not occur, because of climate change.

Determination is supported by clear and convincing evidence

Is there adequate evidence that the methods provide for regenerating non-forested land into forest cover?

- Western Local Land Services said woody thickening happens regardless of grazing management and mechanical or chemical control measures. They noted that project data and reporting itself should provide evidence on the efficacy of activities.
- s45
- Corporate Carbon cited National Inventory data as evidence their projects are outperforming general landscape trends due to the management interventions.
- s45

Is there evidence the range of activities and eligibility criteria sufficiently capture the opportunities to reforest land through regeneration?

- s45
- CSIRO/NSW DPI said focusing on attaining forest cover misses opportunities for improvements in sparse vegetation. They commented that opportunities could be expanded for riparian zones, for which FullCAM underpredicts abatement, and woodlands.
- s45 and CO2 Australia recommended removing the restriction on undertaking planting and seeding under the methods. They believe there is no reason to restrict these activities, and that removing the restriction would allow more land to reach forest cover where it is otherwise unlikely to be attained.
- s45 and the National Farmers' Federation asked for greater flexibility around thinning for fodder harvesting in drought. s45 s45

Material amounts emitted as a consequence of the project are deducted

Do the methods appropriately account for all material amounts emitted as a consequence of projects? Are there any examples where vegetation clearing in non-project areas near projects has increased as a direct result of the projects taking place? If yes, how could this issue be addressed?

- CO2 Australia said they had not seen evidence of clearing in non-project areas as a result of projects, but said this issue would be difficult to address through methods.
- s45
- CSIRO/NSW DPI noted leakage could be monitored through remote sensing.

- s45
- Corporate Carbon and Greening Australia said it is unnecessary and administratively burdensome to account for fossil fuel emissions which influence project abatement totals by less than 0.01%.

Estimates, projections and assumptions are conservative

Are the estimates of abatement and assumptions underpinning the methods conservative? Are factors that can materially affect carbon abatement adequately accounted for under the method and able to be represented in FullCAM?

- CO2 Australia said they do not have sufficient datasets to form a view on whether FullCAM estimates are conservative.
- s45
- Corporate Carbon said abatement estimates are conservative as they do not account for understorey or soil carbon.
- Greening Australia said FullCAM is generally conservative in their experience, but it is reasonably representative of factors that affect abatement.
- CSIRO/NSW DPI noted the conservativeness of FullCAM modelling is somewhat dependent on user assessments such as for the growth pause event.
- s45
- National Farmer's Federation noted that in drought years estimates may not be conservative and asked who wears the responsibility for any shortfalls in such a case.

Other

Do you have any further comments on whether the methods continue to meet the Offsets Integrity Standards?

- s45

Part B – Additional considerations

Do you have any comments on interactions and consistency with other Emissions Reduction Fund methods?

- CSIRO/NSW DPI said both modelling and direct measurement opportunities should be available for regeneration projects.

- s45
- Corporate Carbon said they do not see any inconsistencies with other methods, and that HIR is one of the most workable methods of the scheme.

Have there been any adverse or beneficial environmental, economic or social outcomes from projects under either method, particularly around natural resource management or agricultural production? What frameworks are in place to address any potential adverse impacts?

- s45
- Several respondents commented on biodiversity. Connect Ag said projects under the methods are having cumulative impacts on biodiversity that are currently ignored, and that there is increased fire risk to biodiversity s45 s45 Australia noted that they would not have occurred under business as usual. Western Local Land Services said there is a need for long-term monitoring of biodiversity under projects.
- Several respondents also commented on the socio-economic impacts of projects. Corporate Carbon, s45 s45 s45 Greening Australia suggested trends towards absentee ownership were linked to projects. The National Farmers' Federation indicated concern about any such trends, if they were occurrring. Western Local Land Services were concerned with the effects that 100-year permanence obligations may have on local communities.
- GreenCollar, CO2 Australia, Corporate Carbon and s22 noted the economic benefits projects have had in providing a diversified income stream, enabling farm investments, and having positive on-flow effects for the broader community. Corporate Carbon quoted a rural financial counsellor in Bourke who said the uptake of projects in the area has coincided with a reduction of counsellors from three to one.
- Western Local Land Services said they view woody thickening as a negative, and only some species are suitable for projects. They advocate increasing collaboration between project developers, landholders and NRM groups to address goals beyond carbon outcomes including employment and long-term farm economic opportunity.
- s45
- s45 s45 Greening Australia suggested an NRM group consent right over new projects may help avoid negative impacts.
- s45
- Corporate Carbon noted an industry code of conduct will be launched in June 2018.

Do you have any comments on practical implementation of the methods or any opportunities to simplify the methods?

s45

- Western Local Land Services suggested a range of best outcomes for HIR projects, including integration of ecological and production outcomes, appropriate infrastructure for controlling grazing pressure and maintaining groundcover, effective monitoring regimes, avoiding monocultures, and considering land use beyond carbon projects.

s45

Do you have any comment on the supporting method tools and guidance, including FullCAM and the FullCAM Guidelines for each method?

- Corporate Carbon s45 said the FullCAM Guidelines were adequate and user-friendly.
- s45
- Some submissions proposed changes to the method via FullCAM. Proposed new activities included permitting ecological thinning, leakage, including rainfall data, and including a growth pause for fodder harvesting. There were also concerns that changes in the FullCAM Guidelines over time were a substitute for updating the legislation.
- AgConnect said FullCAM is difficult to use for new users. They said this restricts landholders' ability to carry out projects themselves and makes them reliant on third parties such as carbon brokers.
- AgConnect recommended linking FullCAM to information from the Meat and Livestock Australia-developed EDGE grazing land management program and other programs, to give a more complete picture of vegetation outcomes in terms of biodiversity and tree density.
- s45

Are there any other matters related to the methods you wish to comment on?

- s45

- s45
- Trust for Nature noted the concentration of projects in NSW and Queensland, and suggested action should be taken to support uptake in other regions.
- Trust for Nature also said there should be a process for identifying environmental, water and social co-benefits.
- Western Local Land Services expressed concerns about additionality of ERF projects that had already implemented goat fencing under their projects.
- s45
- The National Farmers' Federation asked whether there are protections against changes in other legislation affecting projects' ability to meet their obligations.
- s45

Submission responses to issues in discussion paper

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 *Additionality*	Question 2 *Measurable/Verifiable*	Question 3 *Eligible abatement*	Question 4 *Clear evidence*	Question 5 *Emissions deducted*	Question 6 *Estimates conservative*	Question 7 *Further info on OIS*	Question 8 *Other methods links*	Question 9 *Impacts*	Question 10 *Implementation experiences*	Question 11 *Supporting tools/materials*	Question 12 *Other matters*
S45												
CO2 Australia *Both*	Forest cover is in decline in most parts of Australia and there are few instances where regeneration happens without human intervention. This is broadly the BAU, and a range of data sources confirm it. Additionality becomes an issue where new vegetation management laws come in.	FullCAM is a broad averaging tool and appropriate for the purposes of the methods. Further attempts to finesse FullCAM unwarranted as beyond capabilities of the model and underlying data.	Do not believe the spatial bounds of forest cover are defined, and interpret it to apply to CEA level (ie. 20% canopy cover across entire CEA). Believe that a timing limit of 25 years on reaching forest cover is challenging in typical drier HIR areas, and believe a 50 year limit appropriate.	Believe there is adequate evidence that methods support regenerating land to forest cover. Believe it is inappropriate to exclude plantings under methods, which can broaden areas where the method could be used (because land unlikely to reach forest cover without some assistance from planting).	Have not seen any evidence of clearing in non-project areas as a result of projects. Note that this would be difficult to address through methods.	Do not have sufficient datasets to form a view on whether FullCAM estimates are conservative.	Consider that the methods meet the standards.	Inconsistent that plantings excluded from HIR/NFMR and an opportunity to do both regen/planting together would increase abatement potential.	Diversified income streams are beneficial, especially during drought. Has a positive effect on nearby communities. Biodiversity improvements through much regenerated forest that would not have occurred under BAU.	No comment.	Inconsistent with other methods that there is no 'in force' explanatory statement.	No comment.

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 *Additionality*	**Question 2** *Measurable/Verifiable*	**Question 3** *Eligible abatement*	**Question 4** *Clear evidence*	**Question 5** *Emissions deducted*	**Question 6** *Estimates conservative*	**Question 7** *Further info on OIS*	**Question 8** *Other methods links*	**Question 9** *Impacts*	**Question 10** *Implementation experiences*	**Question 11** *Supporting tools/materials*	**Question 12** *Other matters*
s45												
Corporate Carbon *HIR*	National Accounts data shows that regrowth under their projects has greatly surpassed levels in broader regions; attributed to the high 2010 rainfalls.	Believes National Accounts data and modelling results in inaccuracies at the project level, but they are not significant at a broader scale. Believe two-tier National Accounts forest cover data was more accurate than three-tier. As higher-res imagery becomes more affordable should be included within monitoring, verification and stratification.	Forest potential is adequately defined, but method silent on how to quantify and verify it. As the method is model-based, caution against strict regime of field measurement to verify forest potential. Requirement that forest cover should be attained by end of crediting period is contrary to their legal advice.	Eligibility criteria sufficiently capture regeneration opportunity. National Accounts data provides evidence that their projects are outperforming general landscape trends.	Accounting for fossil fuel emissions should be removed. Burdensome and immaterial accounting for <0.1% of the abatement amount. Landholders becoming more environmentally aware under projects and less likely to clear non CEAs.	Estimates are overly conservative as they do not account for soil carbon or understorey biomass.	No comment.	Do not see any inconsistencies with other methods. One of the most workable methods of the scheme.	Concerns that projects will form hotbeds for pests unwarranted as under projects often improved feral animal management. Do not believe projects contribute to reduced economic activity nor increased absentee landholders. Increased carbon revenue results in more farm investment. A rural financial counsellor in Bourke said such counsellors had been reduced from 3 to 1 due to the positive impact carbon revenue had made flowing into the community. Note an industry code of conduct will be launched in June 2018.	No comment.	Found them adequate.	No comment.
CSIRO and NSW DPI *Both*	General trend towards increasing woodiness across Australia, and science is unsettled as to causes. Cannot be	FullCAM-predictions of biomass have not been fully verified against empirical literature on regeneration, such as	Uncertain whether much project land is capable of reaching forest cover. Recommend removing	Expand opportunities for woodland restoration and riparian zones under existing methods.	Can monitor for leakage through remote sensing.	Conservativeness of FullCAM modelling somewhat dependent on user assessments	No comment	Provide both modelling and direct measurement opportunities under the methods.	No comment	No comment	Regrowth from root stock often faster than from seed. Suggest specific calibrations for regrowth from root	No comment

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 ***Additionality***	**Question 2** ***Measurable/Verifiable***	**Question 3** ***Eligible abatement***	**Question 4** ***Clear evidence***	**Question 5** ***Emissions deducted***	**Question 6** ***Estimates conservative***	**Question 7** ***Further info on OIS***	**Question 8** ***Other methods links***	**Question 9** ***Impacts***	**Question 10** ***Implementation experiences***	**Question 11** ***Supporting tools/materials***	**Question 12** ***Other matters***
	conclusive on whether methods result in additional abatement until the science is settled. Given uncertainty recommend discounting approach as per soil carbon method using data on underlying trends.	was done for environmental plantings. The HIR growth pause and post-fire age adjustment have not been calibrated or validated. There is an inconsistency with NIS which does not use these modifiers. Apply discounts for uncertainty and address these issues through further research.	forest cover requirement as changes from non-woody to sparse cover can be detected under the inventory. Could incentivise better pastoralism through focusing on maintaining optimal ground cover. Remote sensing can detect changes from grassland to sparse to underlie crediting.	FullCAM underpredicts for riparian zones.		such as for the growth pause event. Could advance certainty around grazing influences through collecting data and separating out climate effects as well as regional workshops with pastoral experts to facilitate consensus on best management practices.					stock by vegetation type.	
S45												
Emission Traders International Pty Ltd	Does not address question.	Does not address question.	Does not address question.	Does not address question.	Does not address question.	Does not address question.	Does not address question.	Does not address question.	No comment.	No comment.	No comment.	Does not address question.
S45												

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 ***Additionality***	**Question 2** ***Measurable/Verifiable***	**Question 3** ***Eligible abatement***	**Question 4** ***Clear evidence***	**Question 5** ***Emissions deducted***	**Question 6** ***Estimates conservative***	**Question 7** ***Further info on OIS***	**Question 8** ***Other methods links***	**Question 9** ***Impacts***	**Question 10** ***Implementation experiences***	**Question 11** ***Supporting tools/materials***	**Question 12** ***Other matters***
	25 year option operates.	Support the use of National Accounts forest cover data as the principal method of stratification and have other methods of remote forest delineation such as NDVI no more accurate.								Current 1.5 km radius for multi part CEAs unnecessarily burdensome. Believe a better approach to constricting gaming of model point is to use a mode or median of the underlying FPI in approach similar to Avoided Clearing method.		
Greening Australia *Both*	Methods provide for change in land management practices and new abatement that would not occur under BAU.	No comment.	Improvements could be made to remote sensing to test forest potential and forest cover. Direct sampling and on-ground validation may help prove attainment of forest cover. Need minimum forest cover standard for non-forested land.		Have not seen any evidence of leakage. Unnecessary to account for fossil fuels that have negligible impact on abatement (<1%).	FullCAM typically conservative in their experience and could be improved by future concerted efforts. FullCAM reasonably representative of mechanisms that impact sequestration.	No comment.	No comment.	Have been instances of people leaving the land that leads to more pests and impacts communities. Want a no negative impact approach, potentially through an NRM consent right over new projects. Want co-benefits recognised under projects and suggest an approach such as the Climate, Community and Biodiversity Alliance standards.	No comment.	No comment.	No comment.
National Farmers' Federation *Both*	Unfair that a landholder protecting native vegetation under a legislative requirement receives no economic benefit for associated abatement but a landholder under a method does.					Notes concerns that in a drought regrowth may not meet estimates, and seek clarity to what occurs in these circumstances.			Concerned at the socio-economic impacts of a large number of projects on local communities, particularly if they are associated with absentee landholders.		Can methods allow for fodder harvesting during drought?	Asks whether there are protections against changes in other legislation affecting 25 or 100 year permanence obligations.

S45

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 *Additionality*	**Question 2** *Measurable/Verifiable*	**Question 3** *Eligible abatement*	**Question 4** *Clear evidence*	**Question 5** *Emissions deducted*	**Question 6** *Estimates conservative*	**Question 7** *Further info on OIS*	**Question 8** *Other methods links*	**Question 9** *Impacts*	**Question 10** *Implementation experiences*	**Question 11** *Supporting tools/materials*	**Question 12** *Other matters*
		CEA to demonstrate regeneration in all areas. Supplement satellite imagery with on-ground photographs showing growth. Incorporating rainfall measurements into FullCAM can lead to more plausible carbon estimates and be used as evidence of a growth pause. Insufficient evidence requirements for monitoring grazing history and feral animal management.	to demonstrate forest potential. Confusion when large area has forest cover but a subset of that area does not – method doesn't specify whether the CEA should exclude the subset area. The original method does not require proponents to demonstrate that regeneration is significant, sustained or consistent with FullCAM levels. The original method does not require projects to succeed – rather, they are only required to attempt. The original method allows insignificant levels of regeneration to be included in a CEA. Projects have not been carried out for long enough to confirm that the regeneration will become significant. No monitoring requirements of project effectiveness in both original method and variation.							been enforced because it is impractical and resource-intensive.		

S45

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 *Additionality*	**Question 2** *Measurable/Verifiable*	**Question 3** *Eligible abatement*	**Question 4** *Clear evidence*	**Question 5** *Emissions deducted*	**Question 6** *Estimates conservative*	**Question 7** *Further info on OIS*	**Question 8** *Other methods links*	**Question 9** *Impacts*	**Question 10** *Implementation experiences*	**Question 11** *Supporting tools/materials*	**Question 12** *Other matters*
	reduced grazing is somewhat accelerating regrowth.											
S45												
Trust for Nature *Both*	No comment.	No comment.	No comment.	No comment.	No comment.	No comment.	No comment.	No comment.	No comment.	No comment.	No comment.	The distribution of projects heavily favours NSW/QLD and should be addressed to even it out across other regions. Should be process for identifying environmental, water and social co-benefits.
Western Local Land Services *HIR*	Invasive native scrub has gone from a major land management issue to an opportunity. Suggest palatability of regional native vegetation, ecology of the woody species and their response to grazing or other treatments should be key considerations in establishing the additionality of HIR project activities. HIR Method does not adequately account for episodic events such as high rainfall.	No comment.	Risk that with climate change may not be future big rainfall events to encourage regeneration.	Woody thickening happens regardless of grazing management and mechanical or chemical control measures. The monitoring and evaluating going on under projects will provide evidence of the efficacy of activities.	NSW Primary Industries work suggests that soil carbon decreases in dense mulga but increases in bimblebox and pine areas. Increasing woody vegetation may lead to soil erosion and carbon loss not accounted for under the method.	No comment.	No comment.	No comment.	View woody thickening as a bad thing and have a focus on keeping open areas open. See some species as suitable for regeneration under HIR projects. Do not have access to the necessary information to comprehensively assess the outcomes of HIR projects. Identify many benefits for farms and the broader community (increased investment, better practices, more resilience etc). Advocate increasing collaboration between project developers, landholders and NRM groups to address goals beyond carbon outcomes including employment and long-	Suggest best outcomes for HIR projects will arise where activities are integrated into whole property plan that considers ecological and production outcomes, appropriate infrastructure for controlling grazing pressure and maintaining groundcover, effective monitoring regimes, avoiding monocultures and considering land use beyond carbon projects. Have developed ground principles for projects but say developers have not engaged with them.	No.	Concerns about additionality of ERF projects that had already implemented goat fencing under Western Local Land Services projects (and conflicting aims). Unverified reports that up to 50% of HIR projects in region may fall into category.

Organisation, *method* (HIR, NFMR or both)	Response to questions - summary of main points											
	Question 1 *Additionality*	**Question 2** *Measurable/Verifiable*	**Question 3** *Eligible abatement*	**Question 4** *Clear evidence*	**Question 5** *Emissions deducted*	**Question 6** *Estimates conservative*	**Question 7** *Further info on OIS*	**Question 8** *Other methods links*	**Question 9** *Impacts*	**Question 10** *Implementation experiences*	**Question 11** *Supporting tools/materials*	**Question 12** *Other matters*
									term farm economic opportunity. Concerned with the likely outcomes of 100 year permanence on land and community. Need long term monitoring for biodiversity under projects. Note the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW and suggest HIR projects should have regard to it, especially when installing fire breaks.			

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 21 MAY 2018

Present

Committee Members:

Andrew Macintosh (Chair), Paul Graham (items 2-9), David Hemming, Mick Keogh, Beverley Henry, Andy Lloyd (items 2-8), Gayle Milnes and Hilary Smith.

***Apologies**:* Suzanne Jones

Other attendees:

Department of the Environment and Energy

Item 2 (Katrina Maguire, s22), item 3 (Katrina Maguire, s22 s22), Coal Mine Waste Gas (s22), item 5 (Katrina Maguire, s22 , s22 , s22 , s22), items 6-8 (s22).

Clean Energy Regulator

Item 2 (s22), item 5 (s22), items 6-8 (s22)

Australian Government Solicitor

Coal Mine Waste Gas (s22)

Secretariat

s22 .

The meeting opened at 9:35am

s22

s22

s22

Item 5 – Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

Ms Maguire, s22 *joined the meeting.*

The Committee:

- **agreed** Committee advice to the Minister on any adverse impacts will be largely qualitative.
- **agreed** to the draft review report template and discussed report presentation, including whether to have a single or two separate review reports.
- **advised** the Committee did not have further analysis that it would like to be undertaken but this could change as the review progresses, in particular after the receipt of the spatial data and analysis concerning additionality and leakage.

s47C

- **requested** the Department present to the Committee on remote sensing technologies and how technological developments in remote sensing are incorporated into the National Inventory.

Action items (to be included in Action Items Register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Arrange Inventory Team (s22 s22 to present to the Committee on how spatial analysis informs the National Inventory	Secretariat	9 July	

Ms Maguire, s22 *left the meeting.*

s22

s22

s22

s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

15 June 2018 Meeting

Agenda Item 2: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest – Data analysis update

For Information

1. Introduction

These notes provide initial results from the Department's analysis of spatial data to support the Emissions Reduction Assurance Committee's review of the Human-Induced Regeneration (HIR) and Native Forest from Managed Regrowth (NFMR) methods. The Department has not yet double-checked all the results within these summaries, and provides this information on the understanding they are to be interpreted as broadly indicative and subject to refinement.

Several issues associated with the method reviews have been assessed and summarised below in separate sections:

- Additionality and leakage (drawing on initial analysis of 20 HIR projects)
- Analysis of clearing cycles for NFMR (drawing on assessment of 25 million hectares of land containing project and non-project areas)
- Analysis of project performance and forest potential (drawing on analysis of 73 HIR projects and 11 NFMR projects together comprising over 1 million hectares).

s22

s22

3. Rate of re-clearing

For 'tile' SH 55 encompassing mostly part of western NSW and some of south-west Queensland, a script was run to detect clearing events (both changes from sparse and woody to non-woody vegetation) over 1972-2017. The National Inventory vegetation cover dataset includes 24 points across these years. The primary purpose of this analysis was to determine the standard interval of re-clearing.

The results were evenly split between the count of hectares of sparse land and forested land cleared (2.89 million hectares and 2.82 million hectares respectively). These are cumulative totals; for example land cleared twice contributes twice the amount to the total hectare counts.

The below figure shows 19 per cent of the area analysed was cleared one time or more with 16 per cent cleared only once. The one clearing event does not provide any insight into the rate of re-clearing, only that once in a 45 year period clearing had occurred.

Table 1.

Number of Clearing Events	Hectare Count
0	20,319,434
1	3,960,552
2	751,442
3	76,889
4	4,242
5	116
Total	25,112,674

About 16 per cent of the land detected as cleared was cleared twice over the period, and a further 1.7 per cent was cleared three to five times. The figure below shows the clearing intervals for land cleared twice over the period. The average clearing interval was 16 years.

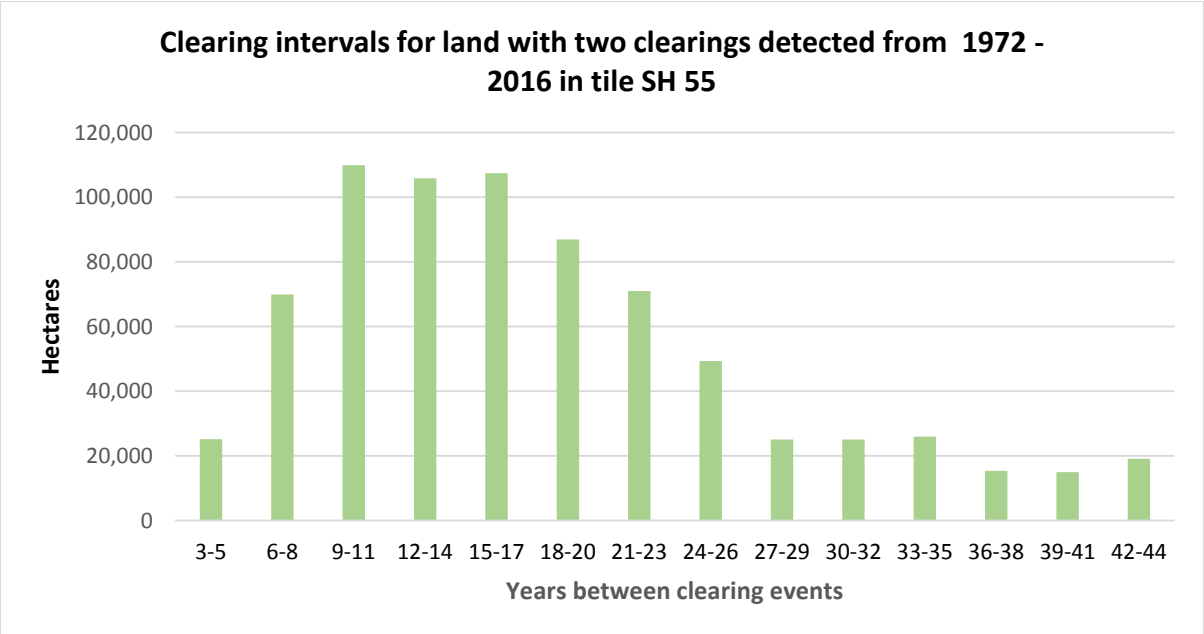


Figure 2.

The NFMR Method has a baseline built on the assumption that re-clearing happens every 15 years. This data shows the assumption is close to the average where multiple clearings have occurred over the past 45 years. However, the data raises questions about whether this is representative of typical clearing intervals, given the vast majority of land subject to clearing was only cleared once in the past 45 years (82 per cent). Well over half of the land cleared between 1972-2016 was cleared prior to 1998, leaving a sufficient period within which re-clearing could have occurred.

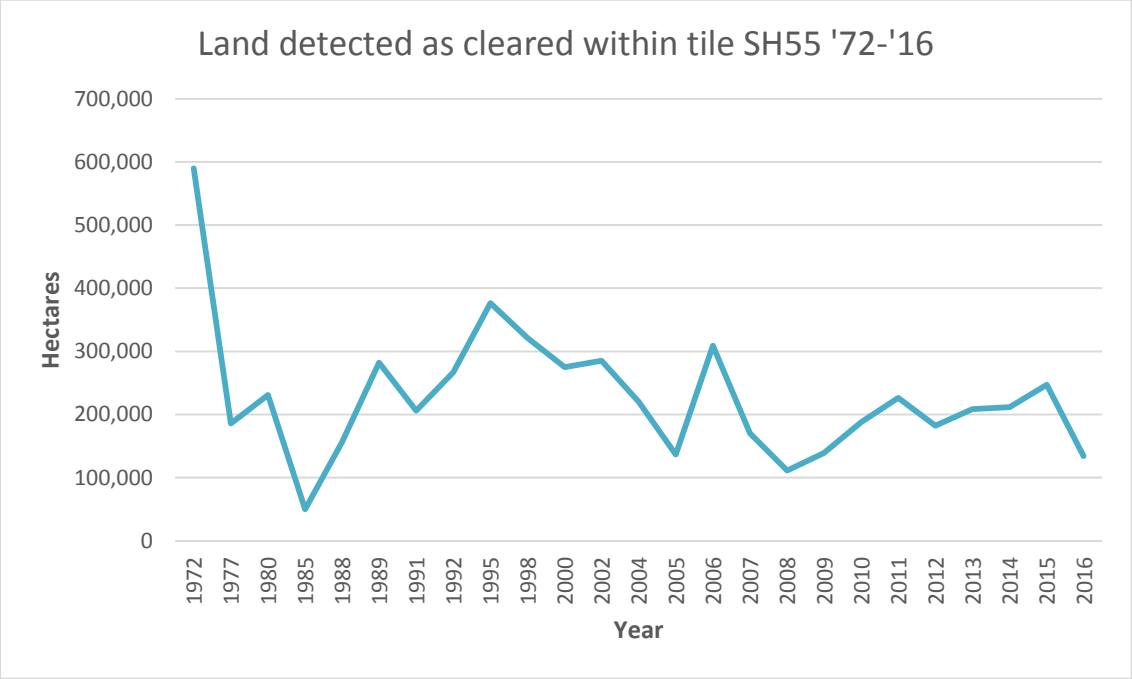


Figure 3.

Under the NFMR method proponents are required to demonstrate one past clearing event (which could have occurred at any time), and can choose whether to identify more past clearing events.

4. Rate of growth to sparse and forest cover

Further analysis of National Inventory data is required to track the regrowth on land after clearing. In particular, this is required to determine whether land returns to forest, but is not re-cleared promptly, or if it is typically converted to a non-forest state. This analysis will also help determine the rate of return to sparse and forest cover.

A visual example of return to forest cover of land detected as cleared in 1989 and located 50 kilometres north-east of Cobar is attached as a zip file to click through in sequence as well as a more limited selection of the sequence images below (the clearing area is about 2 kilometres across, sparse is light green, forest is dark green). Annual rainfall over a similar period is provided below to help in interpreting the results. It shows no detection of return of sparse or forest cover until 11 years after clearing, with about 30 per cent returning to forest after 11-13 years, and the remainder gradually increasing in sparse and forest cover until 22 years after regeneration when there is a significant jump to forest cover across most of the area. The 11 and 22 year increases coincide with the highest rainfall years for Cobar given below.

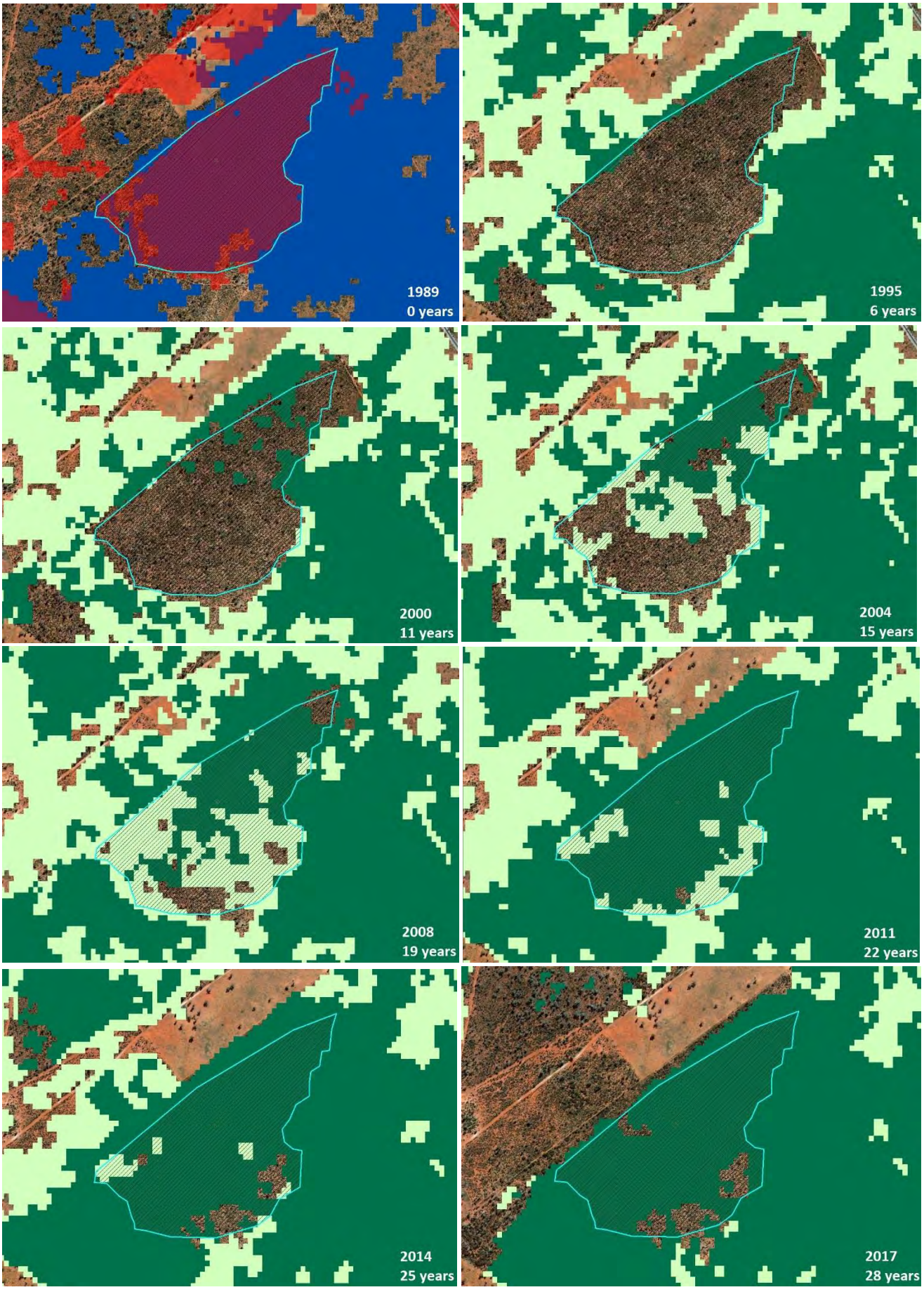

1989
0 years
1995
6 years
2000
11 years
2004
15 years
2008
19 years
2011
22 years
2014
25 years
2017
28 years

Figure 4.

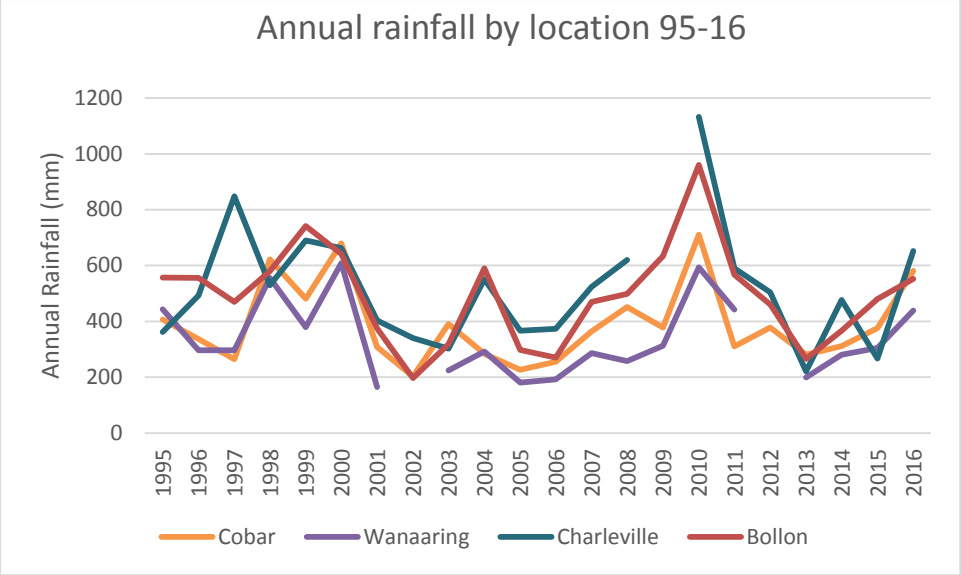


Figure 5.

5. Project performance assessment

The Department ran data analysis assessing project performance against a range of potential explanatory variables. Project performance was based on National Inventory-detected levels of sparse and forest cover vegetation in 2016, and change from 2010 levels. The proportion of sparse and forest cover within carbon estimation areas (CEAs) was recorded for each project. Only projects that had submitted at least one offsets report by June 2017 were included in the analysis, because only these projects had identified their CEAs. Seventy-three HIR projects and 13 NFMR projects were analysed.

Limitations of the current National Inventory Vegetation Layers

HIR and NFMR projects are typically located in western NSW and south-west Queensland where there is lower confidence in the ability of the National Inventory to detect forest cover accurately. The vegetation in the region is commonly on the cusp of the different canopy cover thresholds and are susceptible to the effects of drought and infrequent high rainfall events resulting in low image contrast. Regenerating natural bushland is also far less uniform than plantation or cropping agricultural systems and can be more difficult to discern change within.

The current resolution of the Landsat imagery used to underpin the classification of vegetation cover is 25 metres by 25 metres. The resolution may improve to 10 metres in coming years.

The Clean Energy Regulator has undertaken assessment of the error rate in classification of non-woody, sparse and forest using the National Inventory data in areas of high project update (Western NSW/Southern QLD). The Regulator's initial findings indicate that the National Inventory under-detects both sparse and forest cover in these regions. They found that 25 per cent of land classified as non-woody was actually sparse coverage, and a further 10 per cent was actually forest. They also found that almost all vegetation classified by the National Inventory as sparse cover was in fact forest, and almost all land detected as forest was in fact forest. These findings indicate there may be

under-detecting of the amount of vegetation within the 'tile' area analysed by the Clean Energy Regulator that spans regions of high project uptake.

Overall project performance across methods

Averages of project performance overall under the HIR and NFMR Methods were similar. Under the HIR Method at 2016, 23 per cent of the land under CEA analysed had forest cover. Under the NFMR Method 27 per cent had forest cover. Note that NFMR projects had started regenerating on average 10 years earlier according to the dates nominated by project proponents and have been credited as such. Under HIR, 30 per cent of the CEA land had sparse cover in 2016 and under NFMR 18 per cent was sparse. This leaves the total non-woody area under HIR as 47 per cent and under NFMR as 54 per cent. Extrapolating for the above-noted potential for the National Inventory to under-detect vegetation would leave approximately 31 per cent under HIR and 35 per cent under NFMR as non-woody in 2016.

Table 2.

	Predominant project mechanism	**Average years of regeneration to 2016**	**Area analysed**	**Vegetation cover within CEAs (Hectares/percent of total CEA area for method)**		
				Vegetation Type	**2016**	**2010**
NFMR	Ceasing clearing	16.1	58 161	**Woody**	15,848 (27%)	3,839 (7%)
				Sparse	10,680 (18%)	12,690 (21%)
				Non Woody	31,633 (54%)	41,633 (72%)
HIR	Grazing management, managing feral animals	6.5	999 882	**Woody**	232,099 (23%)	64,069 (6%)
				Sparse	296,259 (30%)	346,560 (35%)
				Non Woody	471,464 (47%)	589,192 (59%)

Source: National Inventory Forest Monitoring Program Vegetation Classification Layers for carbon estimation areas (CEAs) of HIR and NFMR projects that had reported by June 2017 for vegetation cover areas and project reports for project mechanism and years of regeneration information.

A total of 999 822 hectares under 73 projects was analysed for HIR, and 58 161 hectares across 11 projects for NFMR.

Improvements in forest cover were stronger under NFMR than HIR between 2010 and 2016. Under NFMR forest cover increased by 20 per cent and under HIR 15 per cent. Again, note that NFMR had been nominally been regenerating for a decade longer by this period, which may belie more rapid regeneration.

Explanation of project performance variation

The variables tested for explanation of project performance differences were:

- Location (projects separated into 8 geographic clusters)

- Annual rainfall
- The service provider
- Project activities undertaken
- Years of regeneration to 2016 (according to the regeneration start date nominated by the proponent)

Analysis of variance (ANOVA) and correlation tests were used to test these variables.

ANOVA tests comparing the performance of projects that had nominated or reported undertaking certain activities with those that had not did not find statistical significant differences between groups.

s22

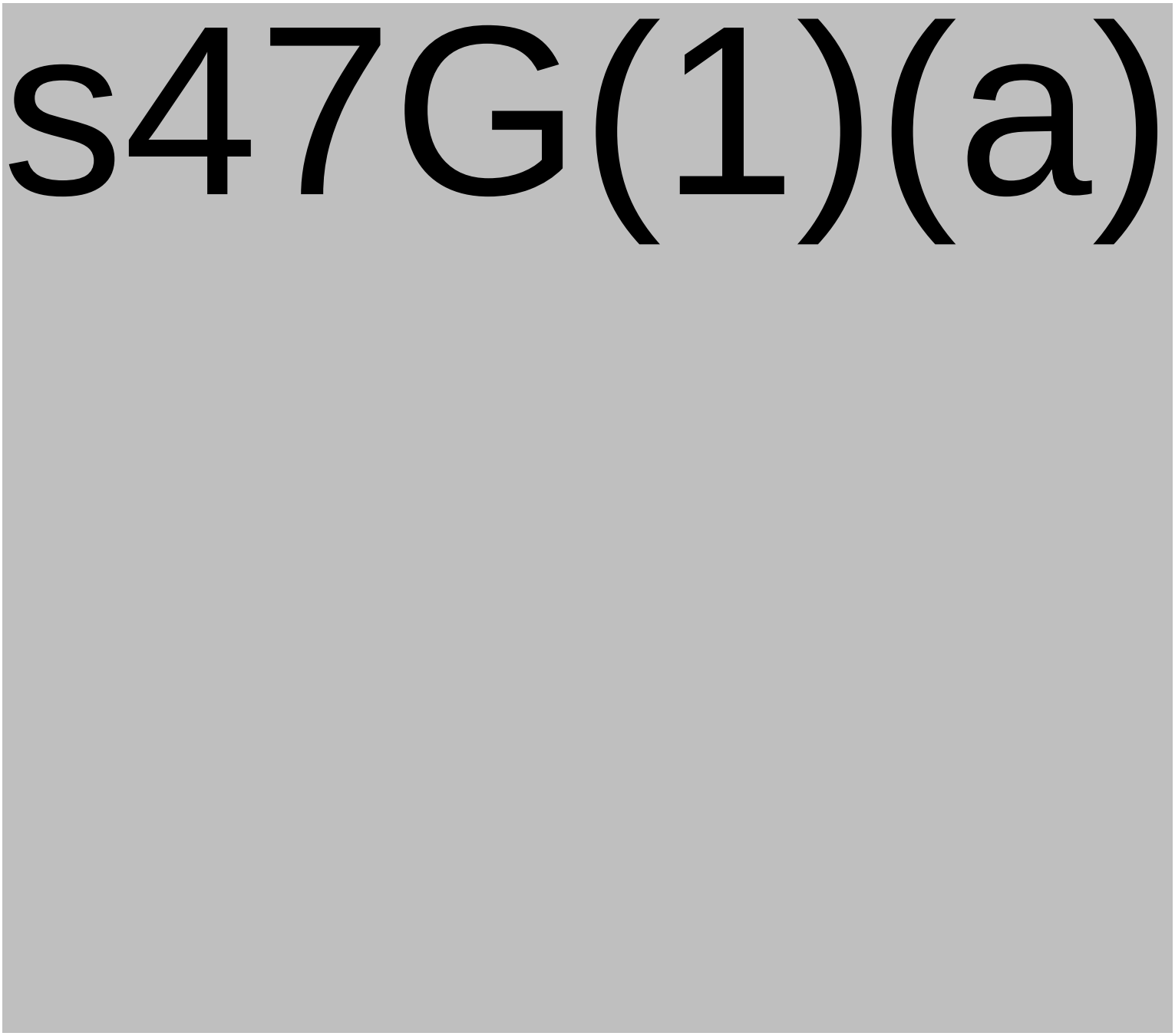
Forest potential of CEAs

National Inventory detection of past forest or sparse cover, and clearing events, provides a limited basis for determining whether land has forest potential. In the analysis of project performance, data was also collated on the levels sparse or forest cover in 1972, 1989, 2010 or 2016 for land within CEAs, along with whether such land had any forest cover in the ten years preceding registration or any clearing events detected.

Much land otherwise eligible for projects may be incapable of developing forest potential, for reasons including soil type, land position, past land management depleting the seed/root stock or the characteristics or the local vegetation itself. s47G(1)(a)

.

s22


s47G(1)(a)

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

15 June 2018 Meeting

Agenda Item 3: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest – Concerns relating to offsets integrity standards

For Information

1. Recommendations

1. **Note** the Department's preliminary assessment of the nature and scale of the main concerns with the HIR and NFMR methods
2. **Note** the Department's preliminary assessment of the extent to which the Regulator's interim guidance on the methods address those concerns
3. **Note** the Department's preliminary assessment of potential method variations that could be made if the Regulator's guidance on their expectations and practices does not sufficiently address the concerns.

2. Method Description

The Native Forest from Managed Regrowth (NFMR) method can be used by landholders to earn credits by regrowing native vegetation on land that was previously cleared for grazing or cropping.

The Human-Induced Regeneration (HIR) method can be used by landholders to earn carbon credits by regenerating native vegetation on land where native forest has been suppressed for example by clearing, grazing, feral animals or weeds).

Both methods require no clearing of vegetation in carbon estimation areas.

HIR and NFMR proponents may nominate a 25 year or 100 year permanence period for their projects. The 25 year projects are subject to a 20 per cent discount on their issued ACCUs.

3. Previous consideration by the Committee

The Subcommittee on the HIR and NFMR method reviews met on 14 May to continue Subcommittee discussions on the method reviews. At that time the Subcommittee planned to reconvene once the Department had documented issues in a draft report for discussion.

5. Issues

On Friday 8 June, the Subcommittee circulated its preliminary assessment of offsets integrity issues for the methods (**Attachment A**).

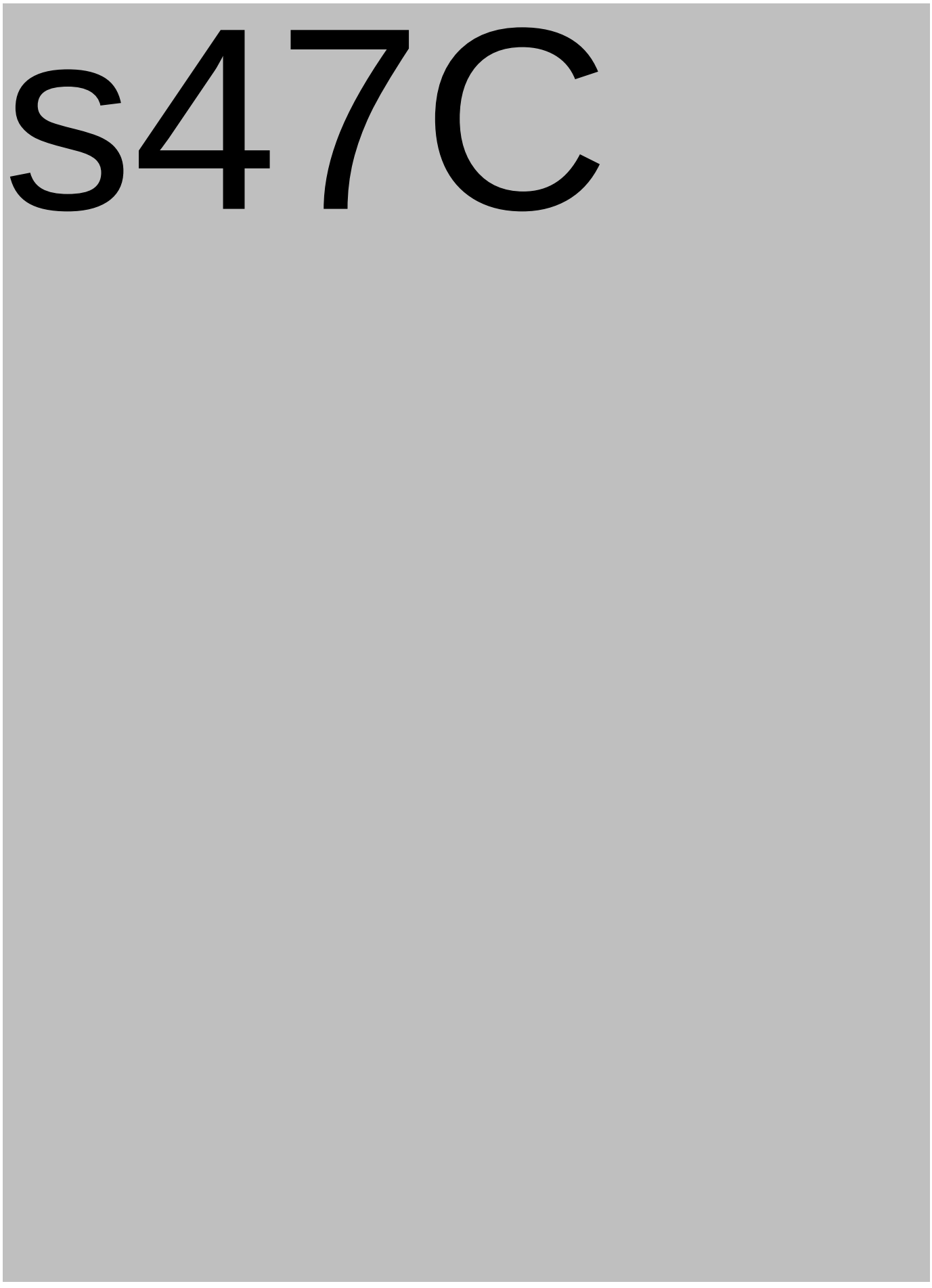
The Subcommittee noted the Department's view there were potential variations that could be made to the methods to address the most material elements identified by the Subcommittee.

The purpose of this paper is to support the Committee's consideration of the primary concerns with the NFMR and HIR methods, and existing and potential controls applicable to those concerns. The paper:

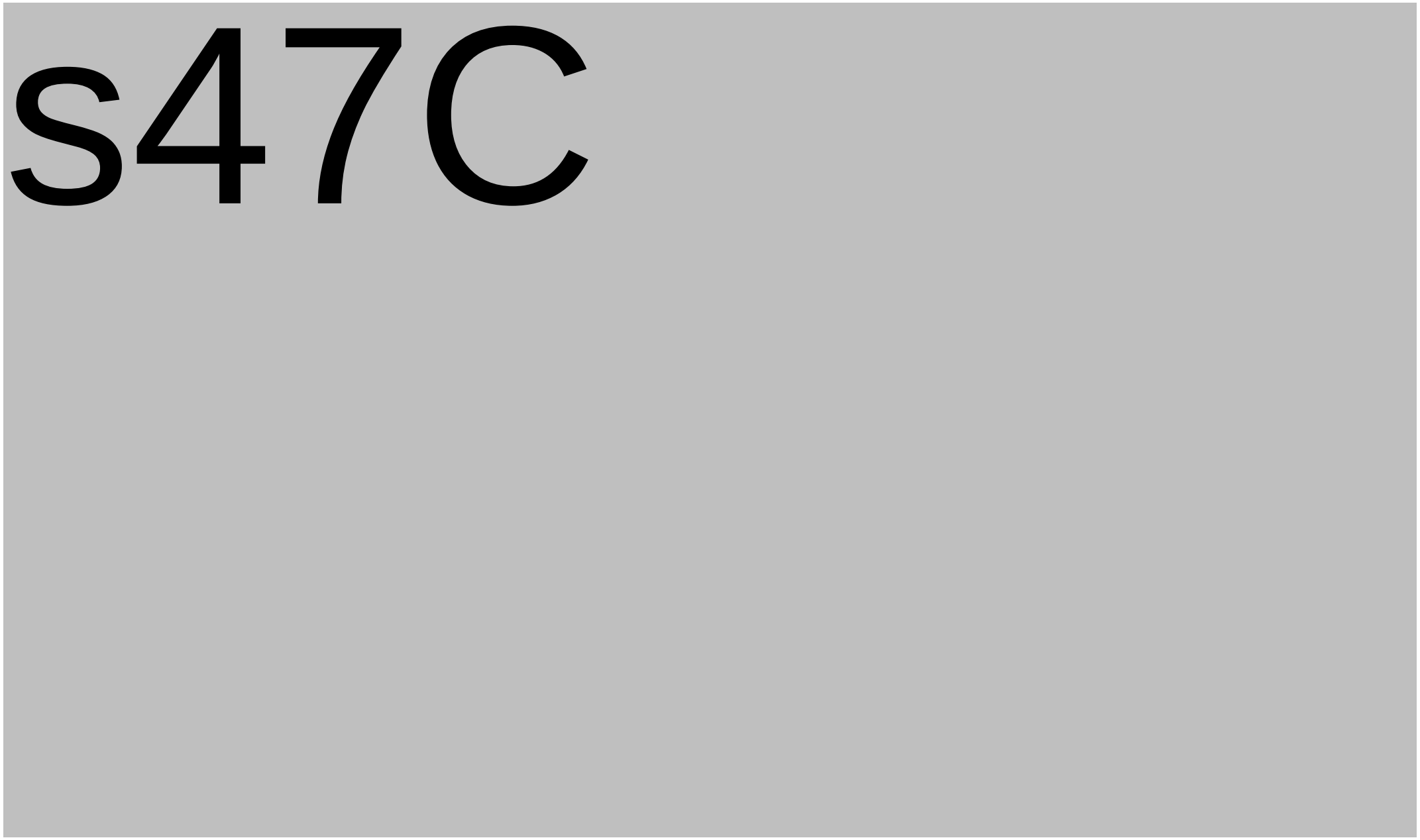
- summarises the Department's assessment of the nature and scale of the main concerns with the HIR and NFMR methods
- identifies provisions in the methods relevant to these concerns (Table 1)
- examines how the Clean Energy Regulator's interim guidance on the methods (**Attachment B**) clarifies implementation of the relevant provisions
- identifies potential method variations to address the concerns (Table 1).

The discussion of concerns below and the existing and alternative controls listed in Table 1 are based on the Department's preliminary analysis undertaken as part of the method reviews that are still being progressed. The Department considers some initial method variations could be made to deal with the primary concerns. Further variations could be made following completion of the reviews. The further variations may include the 'gateway' concept previously considered by the Committee as an option to address concerns about measurement.

s47C


s47C


s47C


s47C

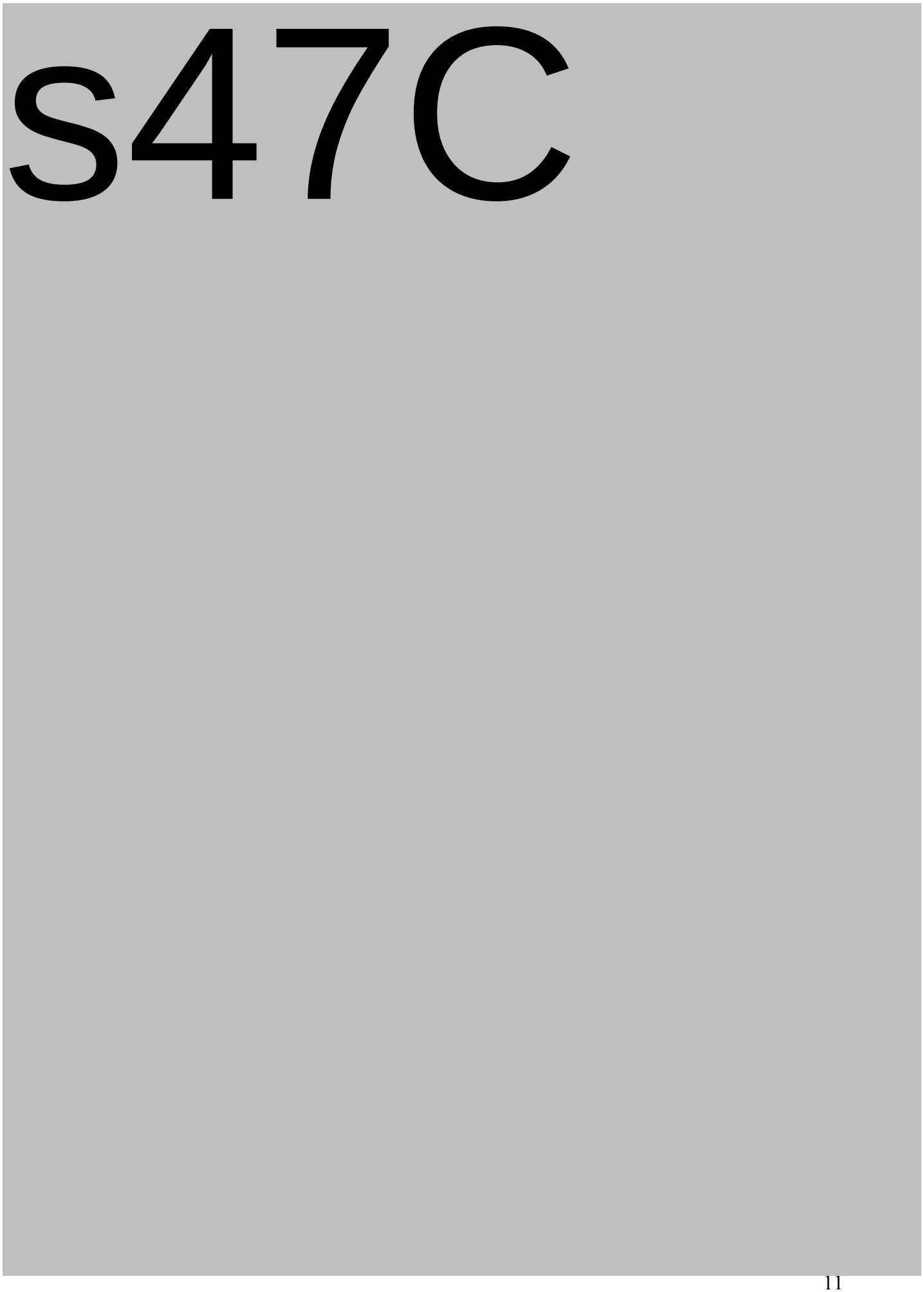
s47C

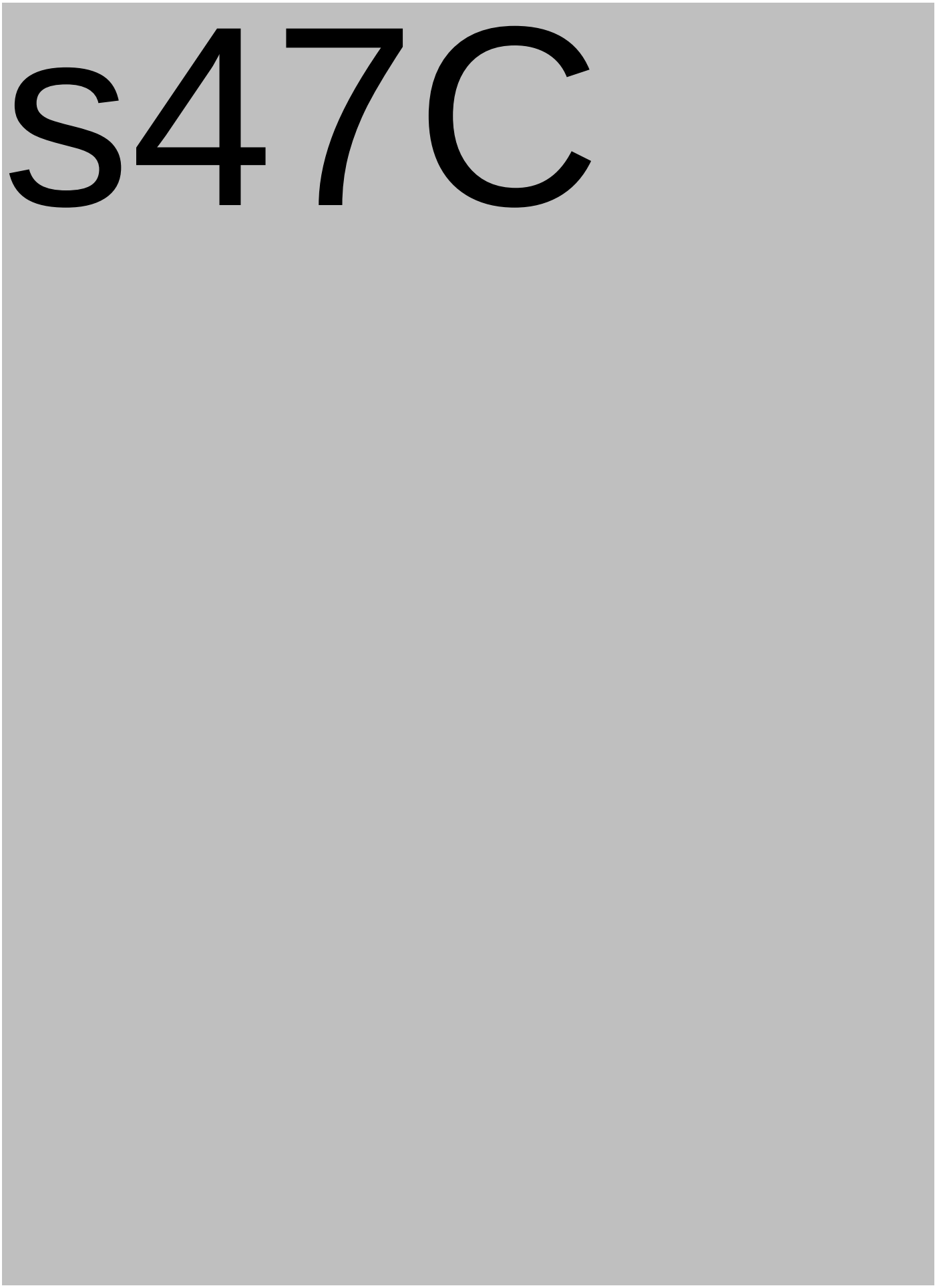

s47C

s47C

6. Attachments

Attachment A	Subcommittee's preliminary assessment of offsets integrity issues for the methods
Attachment B	The Regulator's interim guidance for HIR and NFMR


s47C


s47C

s47C

s47C

s47C

s47C

s47C

ATTACHMENT B

Australian Government
Clean Energy Regulator

CLEAN ENERGY REGULATOR

Interim guidance for Human-Induced Regeneration of a Permanent Even-Aged Native Forest and Native Forest from Managed Regrowth methods

Draft 25 May 2018

This draft guidance does not replace nor supersede the legal requirements of the Emissions Reduction Fund legislation, and does not address all requirements in the methods, legislation and supplementary documents. Where relevant this draft guidance does set out the Clean Energy Regulator's view on the interpretation of the methods, legislation and supplementary documents for the purposes of the administration of Human-Induced Regeneration of a Permanent Even-Aged Native Forest and Native Forest from Managed Regrowth projects and proposed Clean Energy Regulator processes.

Readers should note the Clean Energy Regulator has developed this draft guidance for further consultation with industry and proposed co-design with industry of certain technical elements. Therefore, this draft guidance does not represent a final Clean Energy Regulator position on the elements set out within.

1. Executive summary

The White Paper for the Emissions Reduction Fund (ERF), released April 2014, stated that the verification arrangements under the Carbon Farming Initiative (CFI) at that time were unnecessarily onerous; and that, while building on this scheme, the Government will take the opportunity to streamline its operation. It was also flagged that moving to risk-based verification will significantly reduce costs to business without sacrificing environmental integrity.

This statement of policy supported the intent for the change from the CFI to the ERF to significantly scale up the level of abatement, and this has occurred.

The Human-Induced Regeneration of a Permanent Even-Aged Native Forest (HIR) and Native Forest from Managed Regrowth (NFMR) methods are modelled methods. They credit abatement by applying estimation formulae over carbon estimation areas (CEAs) that are typically very large areas of land. These CEAs are required to exclude pre-existing forest and have the potential to regenerate back to forest cover as a result of undertaking an approved activity or activities.

These methods are intended to yield conservative estimates[1] of actual carbon abatement[2] in order to underpin the integrity of the scheme so that credited abatement is genuine and additional to business as usual. It is important that the Clean Energy Regulator administer these methods at the project level in a way that is consistent with the overall integrity objective.

In administering projects under these methods, the Clean Energy Regulator recognises there is inherent uncertainty in measuring forest cover, and measuring and judging forest potential in project areas. The Clean Energy Regulator's role is to manage that uncertainty and elements of the associated risk, noting that there are multiple approaches to data gathering to manage that uncertainty. This uncertainty must be appropriately factored into administrative practices to ensure that the methods are useable by proponents

[1] See s133(1)(g) of the *Carbon Credits (Carbon Farming Initiative) Act 2011*

[2] "Both methods specify requirements for input data used to model carbon stock changes in FullCAM. The requirements are intended to apply conservative default assumptions, in the absence of onsite measurements to collect data for estimating carbon stocks." page 13, Emissions Reduction Fund Review of methods: *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013, Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*, Discussion paper, Emissions Reduction Assurance Committee, March 2018

and workable for the Clean Energy Regulator, or the viability of otherwise high-quality projects could be undermined.

In the early years of regeneration, forest potential in a CEA relies upon the application of incomplete data and judgement on whether or not early actual regrowth, which must be evident to demonstrate positive forest potential, will achieve forest potential over time. Uncertainty for positive forest potential is likely to be greater than for pre-existing forest in the early stages of a project. Field data and high-resolution remote sensing imagery can reduce this uncertainty. It is also the case that uncertainty for forest potential reduces over time as regeneration progresses.

Proponents are expected to select techniques for assessing forest potential and forest cover that best reduce this uncertainty in their situation. Proponents should also aim to progressively improve the tools used to reduce uncertainty over time. The Clean Energy Regulator will test these using a combination of approaches, including, geo-spatial products, high-resolution remote sensing imagery, field data, and its judgement to ensure that the stratification of these CEAs is appropriate. It is the Clean Energy Regulator's expectation that proponents undertake field data collection including surveys and manual measurements to reduce the uncertainty.

If appropriate measurement techniques are used, this uncertainty is low for detecting pre-existing forest cover and there should be no need to re-visit this aspect.

The Clean Energy Regulator considers that an area claimed as having forest potential must realise forest cover before the end of the permanence period and the project proponent must undertake sufficient project activities to achieve that result. The Clean Energy Regulator expects that in undertaking appropriate due diligence to stratify CEAs, proponents will include only areas that have evidence of positive forest potential. We will expect evidence at five-yearly intervals to show the CEAs still have forest potential, and that any parts, which do not, are excluded. This is an ongoing issue for proponents to manage over the life of the project.

The Clean Energy Regulator proposes to consult with industry on the best way to account for uncertainties in these methods. The Clean Energy Regulator also proposes to co-design standardised approaches for CEA stratification and data collection to measure pre-existing forest and positive forest potential.

Following this co-design process, it is expected that proponents will progressively transition crediting claims for their projects to be consistent with the agreed approach in a final form of this guidance. It is envisaged that the transition period for conforming to standardised approaches for detecting pre-existing forest will be shorter than for areas of positive forest potential. The Clean Energy Regulator expects that as data on actual regrowth improves where areas are shown to clearly lack forest potential (for example, due to lack of regeneration), then these areas will be excluded in subsequent offsets reports. The formulae in the methods correct past over-crediting as areas without forest potential are removed.

The approaches proposed by the Clean Energy Regulator in this guidance will ensure project level abatement remains genuine and additional.

1.1 Introduction

The HIR[3] (HIR versions 2013, 2015, 2016 and 2018) and NFMR[4] (NFMR versions 2013, 2015 and 2018) methods (the methods) credit area based, modelled abatement. A feature of the methods is that only areas of land with forest potential are included in a CEA.

Measuring carbon abatement of dynamic vegetation systems over large areas[5] and over long time-periods has inherent uncertainty and can be complex. Confidence in the abatement estimates delivered by HIR and NFMR projects relies on proponents undertaking appropriate due diligence to improve the confidence in and the accuracy of abatement calculations. Part of this due diligence—as required under the HIR and NFMR methods—includes the keeping of certain records that evidence CEA eligibility.

The Clean Energy Regulator notes that proponents utilise a range of tools and processes in undertaking due diligence for CEA stratification. This includes the use of the National Inventory Forest Extent Data, which is designed for monitoring forest cover at the national scale and changes in land use for the national inventory. The imagery and algorithms underpinning this data will change over time as available information and technology improves. The forest extent layer has greater uncertainty at the project level in areas with low rainfall, which is typical of the regions in which the majority of HIR and NFMR projects occur. This uncertainty is not evenly distributed across projects, with greater uncertainty apparent in some regions.

Given the importance of ensuring that carbon abatement estimates are robust at a project level and underpinned by the best available data, the Clean Energy Regulator is developing its geo-spatial analysis capacity and ecology and forestry expertise to support ongoing detailed assessment of a range of data collected by proponents. This work has reinforced that the use of a combination of tools, including field data, improves the robustness of CEA stratification in HIR and NFMR projects.

The current suite of methods leave some matters open, specifically:

- the means by which the presence or absence of forest cover will be verified, and
- how assurance will be provided that CEAs will achieve forest cover by no later than the end of the permanence period.

The Clean Energy Regulator considers that the methods do not require or infer that National Inventory Forest Extent Data is the exclusive means to determine the absence or presence of forest cover (see section 3.1 of this guidance). The Clean Energy Regulator also considers that an area claimed as having forest potential must realise forest cover before the end of the permanence period and the project proponent must undertake sufficient project activities to achieve that result (see section 5.1 of this guidance).

1.2 Purpose of this guidance

This guidance is designed to clarify the broad requirements for stratifying CEAs, and record keeping requirements that demonstrate CEA eligibility for projects operating under the HIR and NFMR methods. This includes the Clean Energy Regulator's interpretation of certain matters that are not clear under the law, and the Clean Energy Regulator's position on how the Clean Energy Regulator will treat claims for Australian Carbon Credit Units (ACCUs) where requirements are not met.

---

[3] Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013

[4] Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013

[5] HIR and NFMR project area sizes can range from less than 500 hectares up to over 300,000 hectares with a median project area of approximately 15,000 to 20,000 hectares.

Several complex issues arise because estimated carbon abatement relies on the modelling of dynamic vegetation systems over large areas and over long time-periods, coupled with the fact that the technology and science will improve the accuracy and precision of their measurement and assessment over time. Accordingly, this guidance is designed to provide scope for innovation with industry through co-design on a number of technical elements.

1.3 False and misleading information

The Clean Energy Regulator expects high levels of compliance by all participants across all the schemes it administers. Where false or misleading information has been provided by a participant, the Clean Energy Regulator may take enforcement action which can include imposing requirements to relinquish ACCUs, project revocation and/or initiating court proceedings.

2. Appropriate stratification of CEAs for HIR and NFMR projects

Stratification refers to defining the boundaries of CEAs from ineligible and non-implementation areas within a project area. This is an area of land within a project area where the project activity or activities are being carried out to sequester carbon—for example, the cessation of mechanical or chemical suppression to enable regeneration of vegetation to forest—and for which ACCUs can be credited. Some or all of the project area must be stratified into one or more CEAs before submitting the first offsets report for the project.

Robust CEA stratification is necessary to meet the underlying assumptions of the Full Carbon Accounting Model (FullCAM) and the Reforestation Modelling Tool (RMT) models to ensure accurate carbon abatement estimates. Forest cover and forest potential are core requirements that proponents must consider when stratifying CEA boundaries to ensure sequestration as a result of the project is accurately calculated in accordance with the methods.

3. Forest cover

The HIR and NFMR methods both credit on the basis of an area[6], which has no forest cover, regenerating back to forest cover through undertaking an approved activity or activities as an ERF project. Therefore, it is a fundamental requirement of all versions of the HIR and NFMR methods, that land that meets the definition of forest cover must not be included in CEAs:

- for HIR 2016 and 2018 projects, CEAs must exclude areas with pre-existing forest cover in the baseline period7, unless the project/project area transitioned from an NFMR project to a HIR project and meets the requirements in s5(1)

- in HIR 2013 and 2015, CEAs must not have had forest cover at project commencement8, and the land must also meet the zero baseline test set out in s2.4 of HIR 2013 and 2015, and

[6] All areas must be within a project area, as per the project declaration. For an area to be eligible for credits it must be stratified into a CEA in accordance with method rules and meet all legislative requirements.
[7] s4(1)(a) of HIR 2016 and 2018
[8] s3.5(1)(a) of HIR 2013 and 2015

- for NFMR projects, CEAs must exclude areas with pre-existing forest cover when the project mechanism is implemented9.

- Under the methods, land meets the forest cover definition10 if the:

- land has an area of at least 0.2 of a hectare, and

- vegetation on the land includes (NFMR 2013, 2015 and 2018, and HIR 2013 and 2015), or has (HIR 2016 and 2018), trees that are 2 metres or more in height and provide crown cover of at least 20 percent of the land.

However, the Clean Energy Regulator recognises that it may not always be practical, over a large project area, to stratify each and every 0.2 hectare area which has forest cover out of the CEA because of measurement costs and materiality. The Clean Energy Regulator proposes to co-design with industry an approach that is both useable for industry and workable for the Clean Energy Regulator while maintaining scheme integrity (readers should refer to section 8 of this guidance) and this is one element that will need to be considered in developing this technical guidance.

For HIR 2013 and 2015, the requirement is that proponents must create and maintain records, which evidence that CEAs did not have forest cover at the end of the baseline period and have forest potential[11] across the CEA. For HIR 2016 and 2018, the requirement is that proponents must make and keep records which evidence that CEAs did not have forest cover in the baseline period (unless projects/project areas transitioned from an NFMR project to a HIR project and meet the requirements of s5(1)), and have forest potential[12] across the CEA.

For NFMR projects, the requirement is that proponents must create and maintain records that evidence that regrowth did not achieve forest cover before the change in land management in each CEA and also evidence forest potential[13].

No single type of record is deemed to meet the evidence requirements.

3.1 Clean Energy Regulator position on the use of National Inventory Forest Extent Data to determine forest cover in HIR and NFMR projects

The Clean Energy Regulator recognises the heavy reliance by industry to date on the use of the National Inventory Forest Extent Data to determine pre-existing forest for the purposes of excluding it from project CEAs. However, it is designed for monitoring forest cover at the national scale and it does not always identify all pre-existing forest when applied at the project scale in regions where HIR and NFMR projects are concentrated. Conversely, there may be instances where the forest layer shows existing forest where there is none.

The methods do not require or infer that the National Inventory Forest Extent Data is the exclusive means to determine the absence or presence of forest cover. Specifically:

- HIR versions 2013 and 2015 do not refer to the National Inventory Forest Extent Data.

---

[9] s2.4(5)(c) of NFMR 2013, 2015 and 2018
[10] s1.3 of HIR 2013 and 2015 | s3 of HIR 2016 and 2018 | s1.3 of NFMR 2013, 2015 and 2018
[11] s5.4(g) and s5.5(a) of HIR 2013 and 2015
[12] s41(2)(c) and (e) of HIR 2016 and 2018
[13] s5.4(b) and s 5.5(a)(iii) of NFMR 2013, 2015, and 2018

- NFMR versions 2013, 2015 and 2018 do not state that the absence of forest cover from a CEA at the time the project is registered or when the project mechanism is implemented, is a matter that must be evidenced by National Inventory Forest Extent Data.

- HIR 2016 and 2018 versions provide an example using the forest layer to demonstrate eligibility of land[14]; however, they do not state that eligibility is to be established exclusively by reference to National Inventory Forest Extent Data. Examples in legislation are not exhaustive[15].

Ongoing improvements in the Clean Energy Regulator's geo-spatial information system capability and detailed assessments of client-held project field data[16] show that a combination of the National Inventory Forest Extent Data, high-resolution remote sensing imagery, and field data provides more robust CEA stratification to ensure that the legislated requirements for excluding existing forest are met.

Hence, proponents should supplement National Inventory Forest Extent Data with high-resolution remote sensing imagery combined with field data as part of their due diligence activities to mitigate the risk that parts of CEAs contain pre-existing forest[17]. Proponents must also make and keep records to meet CEA eligibility requirements for forest cover.

4. Forest potential

As noted in section 3 of this guidance, HIR and NFMR methods both credit on the basis of an area, which has no forest cover, regenerating back to forest cover through undertaking an approved activity or activities as an ERF project.

Therefore, in NFMR projects, to be eligible as a CEA land must have had forest potential at the time the decision to implement the project mechanism is first taken[18]. For HIR projects, forest potential can emerge after project registration and may be eligible for incorporation in new CEAs[19]. In either case, land must have potential to achieve forest cover at the time of CEA stratification to be considered eligible when applying for ACCUs.

For a CEA to have forest potential, it must have sufficient trees (including seedlings and saplings) with the potential to reach two metres or more in height, and at least 20 percent crown cover across the CEA at the time of stratification. The HIR 2016 and 2018 methods further specify that land has forest potential where, having regard to the location and characteristics of the land, trees are reasonably likely to reach 2 metres or more in height; and provide crown cover of at least 20 percent of the land. Existing vegetation on the land prior to clearing is not alone sufficient to evidence the existence of forest potential.

4.1 How can forest potential be demonstrated?

In HIR 2013 and 2015, and NFMR 2013, 2015 and 2018, it is mandatory to record estimated tree density (stems per hectare) and the anticipated mature crown cover of the stems[20]. Proponents operating under

---

[14] s41(2)(c) together with Example 2 of that provision in HIR 2016 and 2018
[15] s15AD(a) of the *Acts Interpretation Act 1901* (Cth)
[16] Field data can include geo-referenced photographs, transect samples, quadrat samples, and point samples. Examples of sample data include both qualitative and quantitative data related to, but not limited to, tree height, stem density, species composition, regeneration, crown cover, and vegetation health.
[17] Conversely, proponents may add areas where due diligence shows that pre-existing forest did not in fact exist at the relevant times in the CEA.
[18] s2.4(5)(a) and s3.3(1)(a) of NFMR 2013, 2015 and 2018
[19] s3.5(3) and s3.6 of HIR 2013 and 2015 | s15(3) of HIR 2016 and 2018
[20] s5.4(g) and 5.5(a)(ii) of HIR 2013 & 2015 and s5.5(a)(iv) and (v) of NFMR 2013, 2015 and 2018

other versions of HIR may wish to use stem densities, in conjunction with the crown cover table in the NFMR explanatory statement[21], as a guide for demonstrating forest potential.

Robust evidence, such as field data, and remote-sensed data (in addition to the National Inventory Forest Extent Data) will also improve the confidence in the CEA stratification. Proponents should validate the use and outputs of data and data products in their project to mitigate the risk that areas identified as having forest potential fail to regenerate to achieve forest.

The Clean Energy Regulator is proposing to work with industry to co-design consistent, repeatable and robust standardised approaches to demonstrate and evidence forest potential for all HIR and NFMR projects in the future. These approaches are intended to be both useable for industry and workable for the Clean Energy Regulator while maintaining scheme integrity (readers should refer to section 8 of this guidance).

5. Attaining forest cover

The Clean Energy Regulator expects to see crown cover percentages in each CEA increase over the life of the project to demonstrate progression towards forest cover (see further in section 5.1 of this guidance). The Clean Energy Regulator recognises that early stage forest regeneration can be difficult to monitor and that there is inherent uncertainty (see section 6 of this guidance). Hence, proponents must ensure that remote sensing methodologies are supported by robust field data.

If regeneration does not appear to sufficiently progress the crown cover percentage across a CEA within the maximum reporting period interval (that is, five years for sequestration projects under the ERF legislation), the Clean Energy Regulator may ask for evidence that demonstrates the validity of forest potential claims for that CEA.

However, the Clean Energy Regulator may accept longer timeframes in specific circumstances, for example, where natural disturbances such as drought have occurred[22] and have been appropriately modelled. If the Clean Energy Regulator accepts the evidence provided for a lack of regeneration due to such events, then a second five-year period may be approved to enable proponents to demonstrate regrowth towards achieving forest cover.

Where proponents cannot demonstrate sufficient regrowth (to give confidence that forest potential will be realise in the permanence period) after five or ten years (where a second-five year period has been approved), then:

- ACCUs will not be issued unless CEAs are re-stratified to exclude the areas where regrowth cannot be evidenced, and
- the Clean Energy Regulator may seek the relinquishment of ACCUs depending on the circumstances.

Proponents should refer to the Clean Energy Regulator's posture on the Over and under crediting of certificates or units.

5.1 Clean Energy Regulator position on demonstrating attainment of forest cover

Projects that assist the regeneration of native forest must achieve forest cover in CEAs before the end of the permanence period. If an area of land in a CEA does not reach forest cover before the end of project's permanence period (whether the permanence period is 25 or 100 years), then the Clean Energy Regulator

[21] See Table 3 in s4.6 of the NFMR 2013 Explanatory statement

[22] Consistent with section 91 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*

considers that the project mechanism[23] has failed in the CEA and that claims of forest potential were flawed. Such areas would not have been eligible as CEAs and the claims for those areas having forest potential would not have been warranted[24]. The position adopted by the Clean Energy Regulator as set out in section 5 of this guidance is designed to minimise this risk and to support the robustness of claims that a CEA has forest potential.

6. Clean Energy Regulator verification: dealing with variances

Consistent with the Clean Energy Regulator's stated 2017 compliance priorities, the Clean Energy Regulator will continue to use a risk-based sampling approach to test CEA eligibility to ensure that they do not misrepresent forest cover extent or forest potential.

In undertaking appropriate due diligence to stratify CEAs, proponents must:

- exclude any areas with pre-existing forest
- exclude non-implementation areas
- include only areas that have positive forest potential.

The Clean Energy Regulator will assess the stratification of CEAs by applying its risk-based approaches that may differ from the proponent's stratification techniques. Due to inherent uncertainty in measuring forest cover and assessing forest potential, a precise match between the Clean Energy Regulator's assessment and the proponents' stratification will not always be achieved. If a mismatch exceeds reasonable bounds of variability, the Clean Energy Regulator will use its discretion in deciding to ask for evidence that supports the proponent's measurement of forest cover and forest potential to test the validity of their stratification.

As outlined in section 5 of this guidance, the Clean Energy Regulator will assess the validity of continuing forest potential claims at five-yearly intervals if, based on its risk-based approaches, regeneration does not appear to sufficiently progress the crown cover percentage across a CEA.

Acceptable levels of uncertainty to be applied for CEAs

As inherent uncertainties in measuring forest cover and assessing forest potential are likely to produce variances between the proponent's stratification and the Clean Energy Regulator's assessment of that stratification, the Clean Energy Regulator will consult with industry on what levels of variance reasonably account for those uncertainties.

6.1 Clean Energy Regulator posture on uncertainty

The Clean Energy Regulator expects all claims for ACCUs to comply with legal requirements and that any concerns raised are appropriately addressed. This will include the removal from CEAs of areas of pre-existing forest and lacking forest potential.

[23] s2.2 of NFMR 2013, 2015, and 2018 | s2.5 of HIR 2013 and 2015 | s12(1) of HIR 2016 and 2018
[24] s3.3(3)(a) of NFMR 2013, 2015 and 2018 | s3.5(1)(d) of HIR 2013 and 2015 | s16(2)(c)(ii) of HIR 2016 and 2018

Where **future claims** have a CEA that **materially exceeds** acceptable levels of variance, the Clean Energy Regulator may also review past claims for ACCUs for that project. For claims under processing participants will be asked to justify the inclusion of all ineligible land within a CEA before a final decision is made to credit ACCUs.

False or misleading information may also trigger a review of past claims, and may also result in investigation.

7. Transitional arrangements

The Clean Energy Regulator will publish final guidance following co-design of agreed approaches to identify forest cover, forest potential extent and data collection arrangements to support CEA stratification. The Clean Energy Regulator expects that proponents will self-assess and transition their projects to be consistent with the guidance.

Where proponents have been acting in good faith and have re-stratified CEAs during the transition, relinquishment of ACCUs in subsequent offset reports is not anticipated for the following reasons:

- the carbon stock accumulation models in FullCAM and RMT provide for relatively smaller amounts of crediting in the early stages of the project
- carbon stock accumulation will accelerate as the regrowth matures thereby allowing remaining CEA areas to generate enough abatement to compensate for potential reduction in the size of CEAs, and
- where areas are removed from CEAs, the methods' formulae will adjust in the following offset report.

7.1 Carbon abatement contracts

The Clean Energy Regulator recognises that many projects under the HIR and NFMR methods provide abatement to the Australian Government through carbon abatement contracts. If after implementing the final form of this guidance, proponents believe that they may no longer be able to meet their current contracted obligations, they are encouraged to contact the Clean Energy Regulator to discuss concerns. Each case will be handled on a case-by-case basis under commercial-in-confidence arrangements.

8. Opportunities for co-design of technical guidance

To provide greater certainty in how due diligence should be undertaken, the Clean Energy Regulator proposes to work with industry to develop standardised approaches for CEA stratification and data collection arrangements to support the stratification.

The Clean Energy Regulator will consult with industry to develop robust and repeatable approaches to accurately identify pre-existing forest at a project level. The Clean Energy Regulator will also work with industry to co-design consistent, repeatable and robust standardised approaches to demonstrate and evidence forest potential for all HIR and NFMR projects in the future.

The aim of any proposals is to agree generally with industry on approaches that will become part of our assessment processes to provide improved compliance and administration outcomes for industry and the Clean Energy Regulator alike.

Co-design opportunity for standardised approaches for CEA stratification and data collection to support stratification

The Clean Energy Regulator is seeking industry views on:

- standardised approaches to improve the robustness of CEA stratification for forest cover and forest potential (including pragmatic approaches for determining the minimum size of areas that do not meet forest cover and forest potential requirements), and
- standardised data collection and reporting to demonstrate and evidence forest potential in HIR and NFMR projects.

8.1 Scope and timing of co-design workshops

The co-design workshops will use the Clean Energy Regulator's clarifications of the methods provided in this guidance as a starting point. The Clean Energy Regulator's aim is to publish updated guidance by August 2018. To work towards this, the Clean Energy Regulator will hold co-design consultations with industry in early June 2018.

8.2 Clean Energy Regulator position where appropriate due diligence is undertaken for excluding forest cover and stratifying for forest potential

The Clean Energy Regulator proposes that once agreed approaches are in place, and proponents perform appropriate due diligence and re-stratify in line with the final form of this guidance, to the Clean Energy Regulator's satisfaction, then the Clean Energy Regulator will not seek further re-stratification for excluding pre-existing forest.

However, re-stratification for forest potential will potentially occur progressively as forest potential is assessed based on the presence or absence of continuing regrowth. This is an ongoing issue for proponents to manage over the life of the project.

Readers should refer to section 6 of this guidance to understand how the Clean Energy Regulator will treat future claims with respect to forest cover and forest potential.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 15 JUNE 2018

Present

Committee Members:

Andrew Macintosh (Chair), Paul Graham, David Hemming, Beverley Henry, Suzanne Jones, Andy Lloyd, Gayle Milnes and Hilary Smith.

Apologies: Mick Keogh

Other attendees:

Department of the Environment and Energy

Chris Johnston, Katrina Maguire, s22

Clean Energy Regulator

David Parker, Mary-Anne Wilson, s22

Australian Government Solicitor

s22

Secretariat

s22

The meeting opened at 9:30am.

Item 1 – Opening of meeting

The Chair welcomed attendees and opened the meeting.

Item 1 – Update on data analysis

1. The Department provided an update on status of the spatial data analysis requested by the Committee. The points raised by the Department and discussed by the Committee were:
    a. The data analysis was designed in particular to support assessment of whether the methods continued to provide for additional abatement. The analysis also considered the potential for leakage and the effectiveness of project activities in regenerating forest.
    b. The analysis is using information from project offsets reports and national inventory vegetation cover data sets, to compare the levels of regeneration in project areas with regeneration and clearing in surrounding regions.
    c. The analysis is using data from 73 HIR projects and 11 NFMR projects, and is nearing completion. National Inventory data is broken down into regions called tiles. Results are available to date for a tile covering parts of western New South Wales and south-west Queensland. The tile covers 20 HIR projects and one NFMR project, and is broadly representative of vegetation and land management in the regions where projects are undertaken.
    d. The initial results show woody vegetation regenerating at greater levels within project carbon estimation areas than in other areas. They also indicate no clear shift of clearing activity to nearby areas. These results suggest the projects are providing additional abatement and are not resulting in leakage through shifting of clearing locations.
2. The Committee noted caveats on the results, including a lack of information on: land management, forest potential and rainfall, which could influence regeneration; or locations of any other properties owned by participating landholders, who could shift clearing to those properties. However, the Committee noted the absence of any apparent major anomalies - such as a spike in clearing outside projects - indicated there was no reason for major concerns about additionality or leakage.
3. The Committee reiterated the need for papers to explain a clear line of logic between evidence, conclusions and its decisions. The Committee expressed concern that the material provided did not allow for this.
4. The Department explained in more detail the nature of the ecosystems, including rainfall variability and vegetation growth. The Department noted that

the definition of forest cover met United Nations Framework Convention on Climate Change requirements and was also used for Australia's international reporting on forests.

5. The NFMR method assumes land is cleared every 15 years. The Department's analysis tested actual cycles of re-clearing. The Department found that where multiple clearing events had occurred, the intervals between re-clearing closely matched the assumption. s47C

s47C

Item 3 – Consideration of options

11. The Committee discussed the options for addressing the concerns. All members present agreed the Clean Energy Regulator's guidance allowing the permanence period (25 or 100 years depending on the project's chosen permanence period) to achieve forest cover gave too long to achieve forest cover, but noted the legal basis of the interpretation.
12. The Clean Energy Regulator questioned whether a requirement to attain forest cover by year 10, as suggested by the Chair, was too short. The Regulator agreed the preferred timeframe warranted further consideration.
13. The Committee requested that the papers presented to them be reissued to include the scale, sources and keys for images and graphs; and sources of evidence to substantiate the Committee's conclusions and decisions. They stated this should include the background of the evidence, whose advice was before them, and assurance that the Regulator's claims relating to their guidance are feasible.

There was a short break

14. The Chair raised the Department's proposal for amending the CFI Rule to limit issuing of credits where projects were not progressing toward forest cover within an appropriate length of time. s47C
15. The Committee considered the process for amending the rule, including consultation, testing workability with the Regulator and obtaining advice from the Office of Best Practice Regulation on regulatory impact.
16. The Regulator noted it had not yet had time to fully consider the workability of the proposed rule amendment.
17. The Department explained the resources invested in implementing the Committee's decisions could delay the delivery of the final review report.
18. All Committee members agreed action was required to respond to its concerns about the methods' compliance with the offsets integrity standards.
19. The Chair suggested an immediate decision to avoid delays s47C
20. The Committee noted different combinations of the options presented may be possible. The Committee considered the option of an interim method variation

and interim review report addressing its main concerns. The Committee noted it could only endorse a variation that met the offsets integrity standards.

21. The Committee members agreed the proposed Rule amendment could be a suitable option, but there was a lack of clarity on how effective it would be. s47C The Committee noted risks could be managed through design.

s47C

23. The Committee agreed they needed a better understanding of the implications of their decision on the Regulator's administration of the methods, particularly in relation of the operation of their guidance.

s47C

25. The Committee further noted:

    a. The provision of the Rule amendment option by the Department without sufficient time or detail for consideration made it difficult for the Committee to arrive at a conclusion.

    b. The Committee will consider further how it works with the Clean Energy Regulator. In this context, it was noted that the request made by the Committee for a meeting with the Regulator remains outstanding.

26. The Committee expressed thanks to the members of the sub-committee for their work and efforts to date, as part of the review.

The meeting closed at 2:00pm.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

25 June 2018 Meeting

Agenda Item 4: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest methods s47C

For Decision

1. Recommendations

s47C

2. **Note** the Clean Energy Regulator's progress in implementing its interim guidance on the methods
3. **Note** the Department's proposal to amend the legislative rules to address the Committee's concerns

s47C

5. **Agree** to publish the non-confidential submissions on the reviews.

2. Method description

The Native Forest from Managed Regrowth (NFMR) method may be used by landholders and others to earn Australian carbon credit units (ACCUs) by regrowing native forest on land previously cleared for grazing. Project proponents must stop clearing and may undertake other activities to encourage regrowth.

The Human-Induced Regeneration (HIR) method may be used by landholders and others to earn ACCUs by regenerating native forest on land where native forest has been suppressed for at least 10 years. Project proponents must undertake one or more activities to encourage regrowth including managing grazing, feral animals or weeds or ceasing clearing where it has previously occurred.

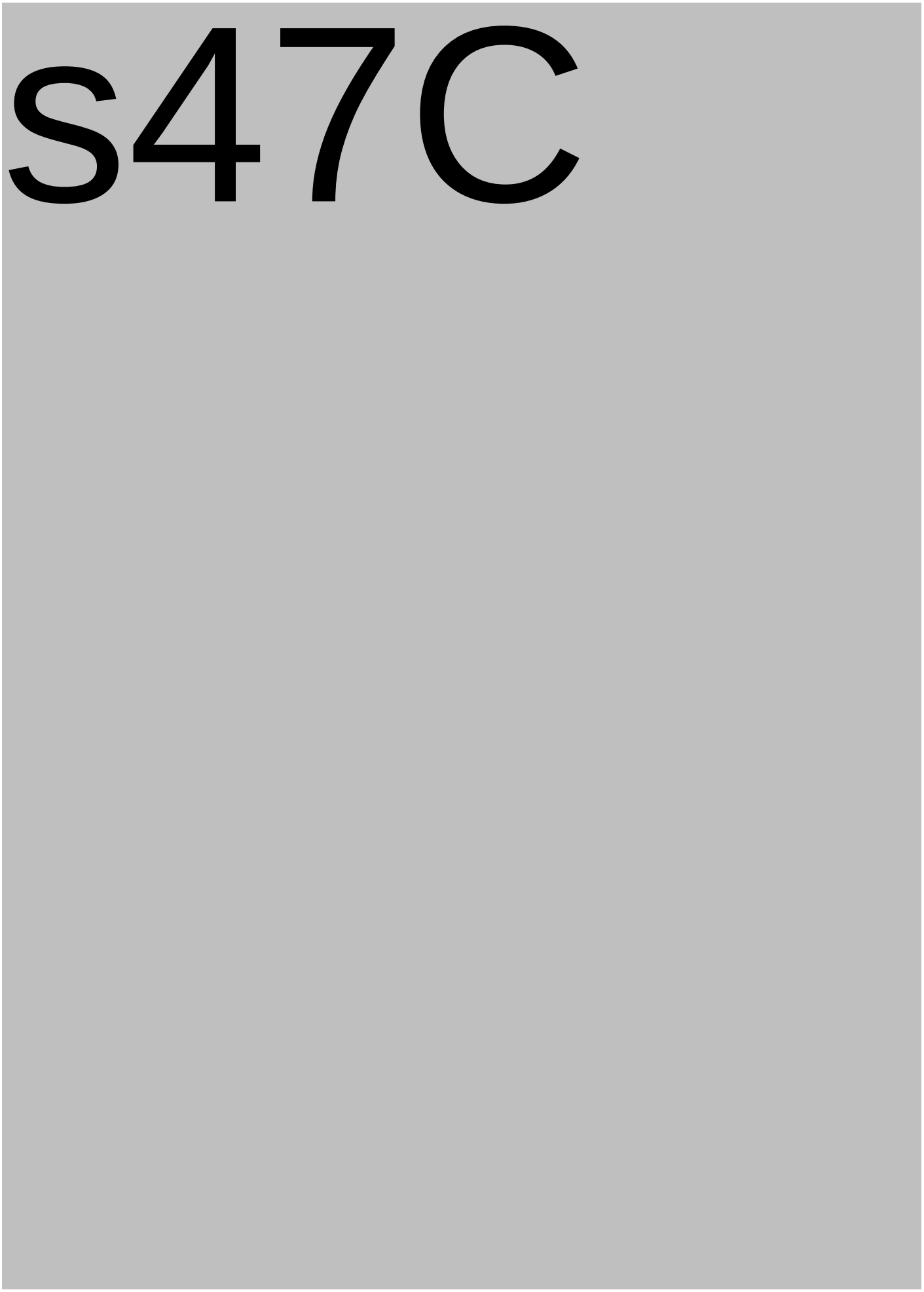
Of the total abatement the Australian Government has contracted to purchase under the Emissions Reduction Fund, 48.1 per cent is from HIR projects (as at June 2018). A further

1.8 per cent is from NFMR projects. Additional information on the methods and projects is at Attachment A.

3. Previous consideration by the Committee

The Committee noted the Clean Energy Regulator has issued interim guidance on the methods.

The Committee also noted the Department's proposed option for the Minister to amend the Rule and requested further details, including in relation to the implications for the Clean Energy Regulator's implementation of its guidance on the methods.


s47C

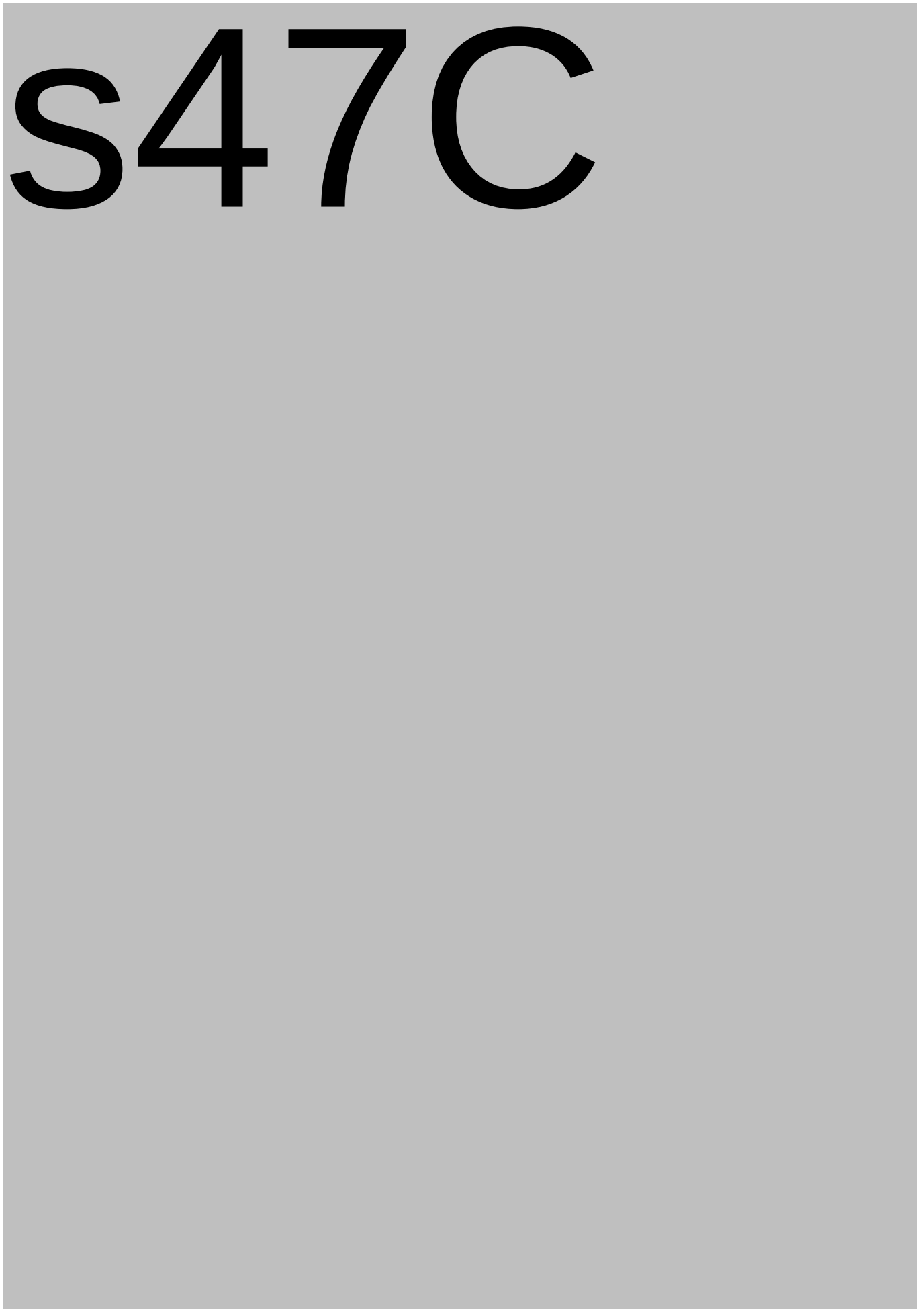
Progressing the review report

Regardless of the chosen option, the Department will continue working with the Subcommittee on the reviews, with the aim of providing the final review report for consideration by the Committee at its October meeting. The report will cover the Committee's findings in relation to the offsets integrity standards, potential for adverse impacts and practicality of implementation. The report will clarify and expand on the analysis discussed at the 15 June 2018 Committee meeting. The report will be provided to the Committee in draft form prior to the Committee's consideration of a final report.

The Department proposes the Committee agree to the non-confidential submissions to the reviews being published on the Department's website. Timing for publishing the

submissions could be aligned with other communications, subject to the Committee's decisions on matters discussed above.

s47C


s47C

s47C

s47C

s47C

s47C

8. Attachments

Attachment A Information about the NFMR and HIR methods and projects

s47C

Attachment C Update on Clean Energy Regulator interim guidance
Attachment D Draft summary of proposed legislative rule amendment
Attachment E Draft letter to the Minister

9. Contact details

Author: s22

Cleared by: Katrina Maguire
Assistant Secretary
Land and Outreach Branch
s22

Cleared on: 21 June 2018

Information about the Native Forest from Managed Regrowth and Human-Induced Regeneration methods and projects

Table 1 summarises the main elements of the NFMR and HIR methods. Table 2 provides data on registered and contracted projects and associated abatement amounts.

Table 1: NFMR and HIR method requirements

	Native Forest from Managed Regrowth method	**Human-Induced Regeneration method**
Eligibility requirements	Land must be without forest cover at project registration. It must also have previously had forest cover and been cleared for grazing.	Land must not have had forest cover in the 10 years preceding project registration, and must have been subject to the suppression of regrowth over the period.
Project area	An area of land on which the project has, is or will be carried out. The proponent may not be implementing project activities on some of this land, but has the option to add more of it to the project over time.	
Carbon estimation area (CEA)	Area(s) within the project area where the proponent chooses to implement project activities.	
Activities	Projects must involve a change in land management that enables native vegetation to grow to achieve forest cover. To enable regeneration, proponents must cease mechanical or chemical destruction, or suppression, of regrowth. Proponents may also undertake one or more of the following activities to assist the regeneration of native vegetation into forest cover: • excluding livestock • managing the timing and extent of grazing • managing feral animals • managing weeds.	Proponents must undertake one or more of the following activities to regenerate native vegetation into forest cover: • excluding livestock • managing the timing and extent of grazing • managing feral animals • managing weeds • ceasing mechanical or chemical destruction, or suppression, of regrowth.

	Native Forest from Managed Regrowth method	Human-Induced Regeneration method
Restrictions	Limits on any removal of fallen timber or thinning of trees.	Limits on any removal of vegetation. Native vegetation cannot be mechanically or chemically destroyed (irrespective of the type of project activity) except in limited circumstances.
Abatement calculations	Based on modelling using FullCAM.	Based on modelling using FullCAM. An earlier version of HIR used the Reforestation Modelling Tool (RMT) instead of FullCAM.
Reporting and verification	Proponents are required to submit offsets reports to the Regulator and/or maintain records that provide evidence of project eligibility, project and carbon estimation areas, vegetation type, project activities and many other matters. They must also monitor project implementation and events reduce carbon stocks (e.g. fires) using on-ground observation, remotely-sensed imagery and/or vegetation cover data.	
Crediting period	This the period of time a project can apply to claim ACCUs. Under both methods the crediting period is 25 years.	
Contract period	Contract periods for sequestration projects are generally 10 years.	
Permanence period	HIR and NFMR proponents must maintain forest cover on land for which they have been issued ACCUs for either 25 or 100 years. If proponents choose a 25 year 'permanence period', the number of ACCUs they receive is reduced by 20 per cent. This is to cover the potential cost to the Australian Government of replacing carbon stores if the forest is lost after the project ends.	

Source: Methodology determinations and *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Table 2: NFMR and HIR projects and abatement, as of 18 June 2018

	Native Forest from Managed Regrowth method	**Human-Induced Regeneration method**
Registered projects (Figure 1 shows the growth in registrations since 2013)	35	235
New projects registered in May 2018	0	38
Project locations	All existing NFMR projects are in Queensland (Figure 2)	HIR projects are concentrated in western New South Wales and south-west Queensland, with some projects also in Western Australia and South Australia (Figure 3)
s47G(1)(a)		
ACCUs issued	2,132,589	10,150,224
Contracted abatement (tonnes)	3,512,700 (1.8% of total contracted abatement)[2]	92,271,654 (48.1% of total contracted abatement)[2]
Abatement delivered to the Regulator under contract (tonnes)	1,867,502 (53% of contracted abatement for the method; 5.9% of total abatement delivered under contract[3])	8,786,537 (9.5% of contracted abatement for the method; 27.7% of total abatement delivered under contract[3])

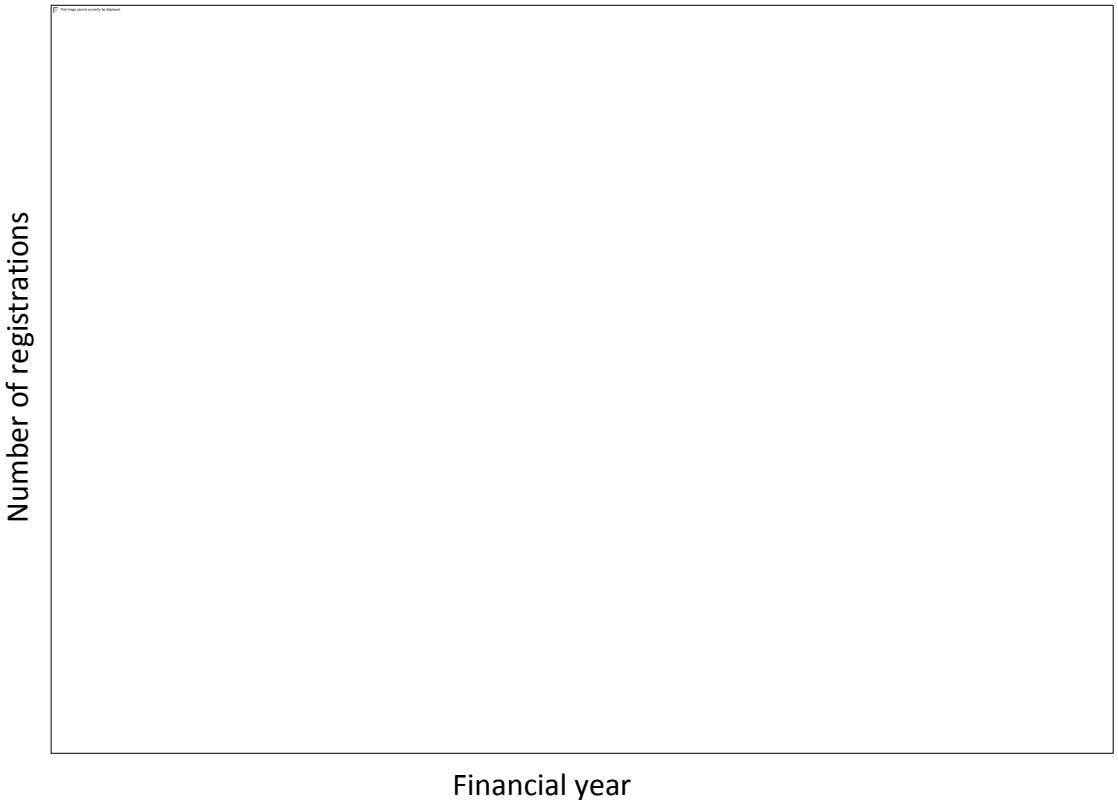
Source: Clean Energy Regulator, June 2018.

[1] CEAs are only known once a project has submitted an application to claim ACCUs.

[2] Total contracted abatement is 191,960,140 tonnes.

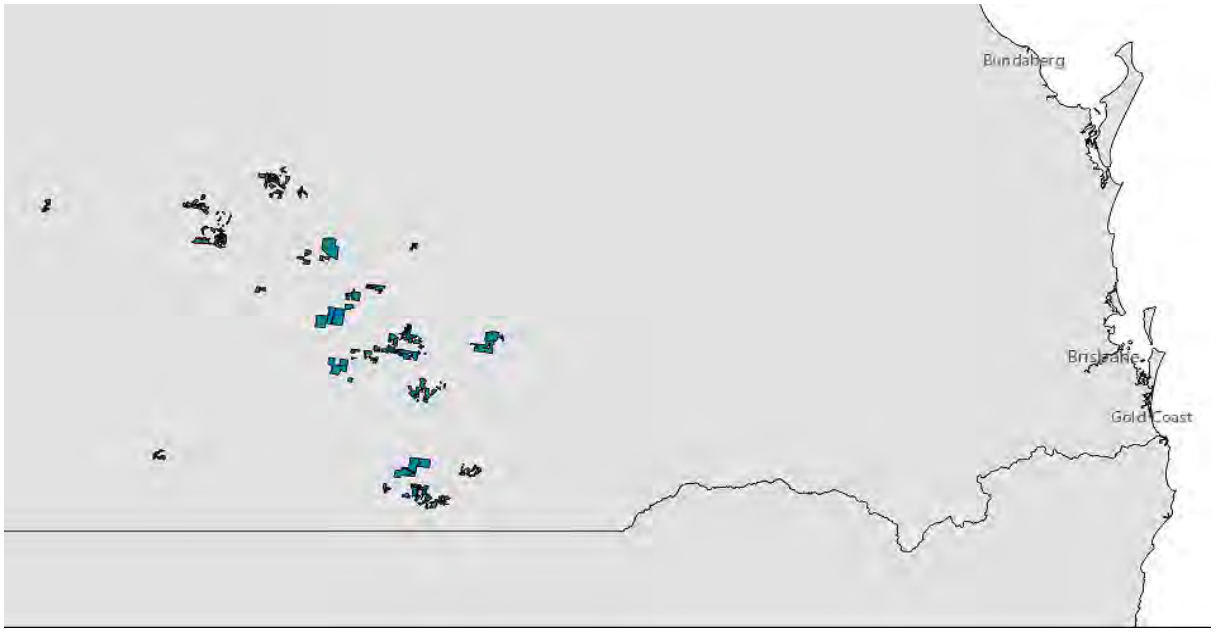
[3] Total abatement delivered under contract is 31,748,919 tonnes.

Figure 1: Growth in project registrations since 2013



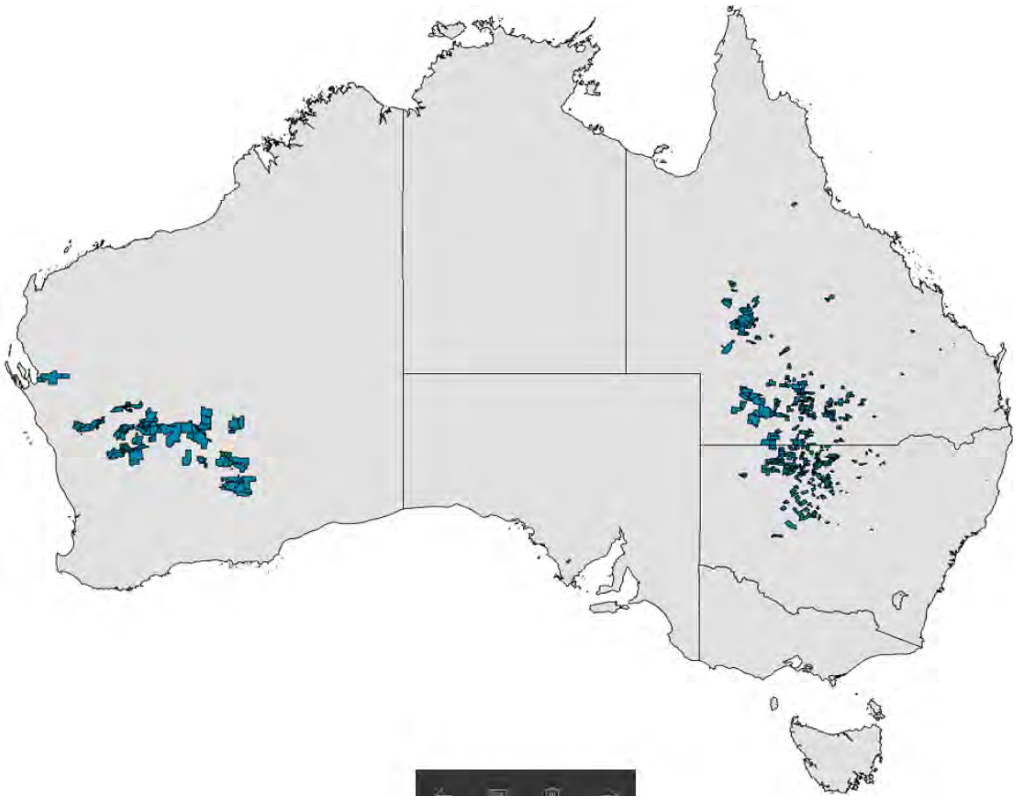
Source: Clean Energy Regulator.

Figure 2: Map showing locations of 35 Native Forest Managed Regrowth projects



Source: Clean Energy Regulator, June 2018.

Figure 3: Map showing locations of 235 Human Induced Regeneration projects



Source: Clean Energy Regulator, June 2018.

Australian Government
Clean Energy Regulator

CLEAN ENERGY REGULATOR

Human Induced Regeneration and Native Forest Managed Regrowth – current and future compliance

The Clean Energy Regulator (the Regulator) presented to an Emissions Reduction Assurance Committee (ERAC) subcommittee on current and future approaches to managing compliance for registered regeneration projects[1] under the Emissions Reduction Fund on Thursday 14 June 2018. A copy of that presentation is at Attachment A.

Key messages from the presentation were:

The Regulator has started using higher resolution satellite imagery to assess stratification of carbon estimation areas for regeneration projects. Combined with field data and photos supplied by clients, we believe that areas with forest cover and areas without forest potential can reliably be excluded.

The industry has, to date, been heavily reliant on using the National Inventory Forest Extent Data for stratification. s47C

Determining if areas with forest potential can achieve forest cover can only be proven over time.

s47C We expect this to improve over time and we are working with the Department and Geosciences Australia to achieve this.

The Regulator has released updated guidance for regeneration projects that sets out our expectations with respect to appropriate stratification of carbon estimation areas and achievement of forest cover (see Attachment B).

Release of our guidance is already having an effect:

- Several key aggregators have recently agreed to re-stratify projects to exclude areas of existing forest and areas with no forest potential for applications currently under assessment.
- Around 60 per cent of registered regeneration projects are yet to submit their first crediting application. We expect clients to conform with our guidance for new applications.

[1] Regeneration projects are projects registered under the various versions of the Human Induced Regeneration and Native Forest Managed Regrowth methods.

- For previously credited projects, if they apply improved due diligence to remove ineligible areas in line with our guidance for future crediting applications, the formulae in the crediting models claw back any past crediting for those ineligible areas.

Client engagement

The Regulator held a workshop with proponents on 15 June 2018 to discuss our updated guidance and the way forward.

Participants agreed to quickly progress co-design of technical guidance and supported the involvement of the ERAC and the Department of Environment and Energy in that process. The technical guidance will set out:

- Appropriate due diligence for initial stratification to remove areas of existing forest and areas with no forest potential; and
- Evidentiary requirements to be supplied to the Regulator at 5 yearly intervals to show that growth is on a trajectory to achieve forest cover.

We anticipate the technical guidance can be completed in around three months. s47G(1)(a)

Participants expressed a high degree of comfort in applying our guidance to future crediting applications.

s47G(1)(a)

Prepared by: Clean Energy Regulator, 22 June 2018

Australian Government
Clean Energy Regulator

CLEAN ENERGY REGULATOR

HIR and NFMR current and future compliance

Mark Williamson s22

Content slide

This presentation will cover:

- How the CER is assessing current credit claims
- Examples of GIS assessment
- High-level metrics on HIR and NFMR projects
- Pattern of peak ERF applications and auction announcement
- Additional controls
- Current and proposed guidance
- Alignment between crediting and inventory
- Next steps and implications

Current assessment process

Step 1: **Sparse woody check**

For every crediting application. The CER determines the proportion of the CEA that is sparse woody

s37(2)(b)

Step 2: **Rapid visual GIS check**

Imagery check of CEA for confirmation of material areas of pre-existing forest or lack of regeneration

Step 3: **Re-stratification**

Project field data and imagery used by CER to re-stratify

Step 4: **Re-submission**

Client required to re-stratify or claim rejected.

Enforcement actions including relinquishment may also apply

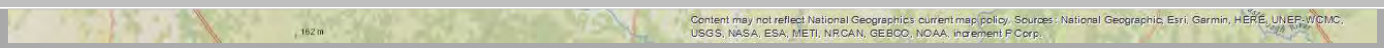
Step 5: **Client behavior change**

Client applies lessons learnt to all other projects

s47G(1)(a)

s47G(1)(a)

s22


Content may not reflect National Geographics current map policy. Sources: National Geographic, Esri, Garmin, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.

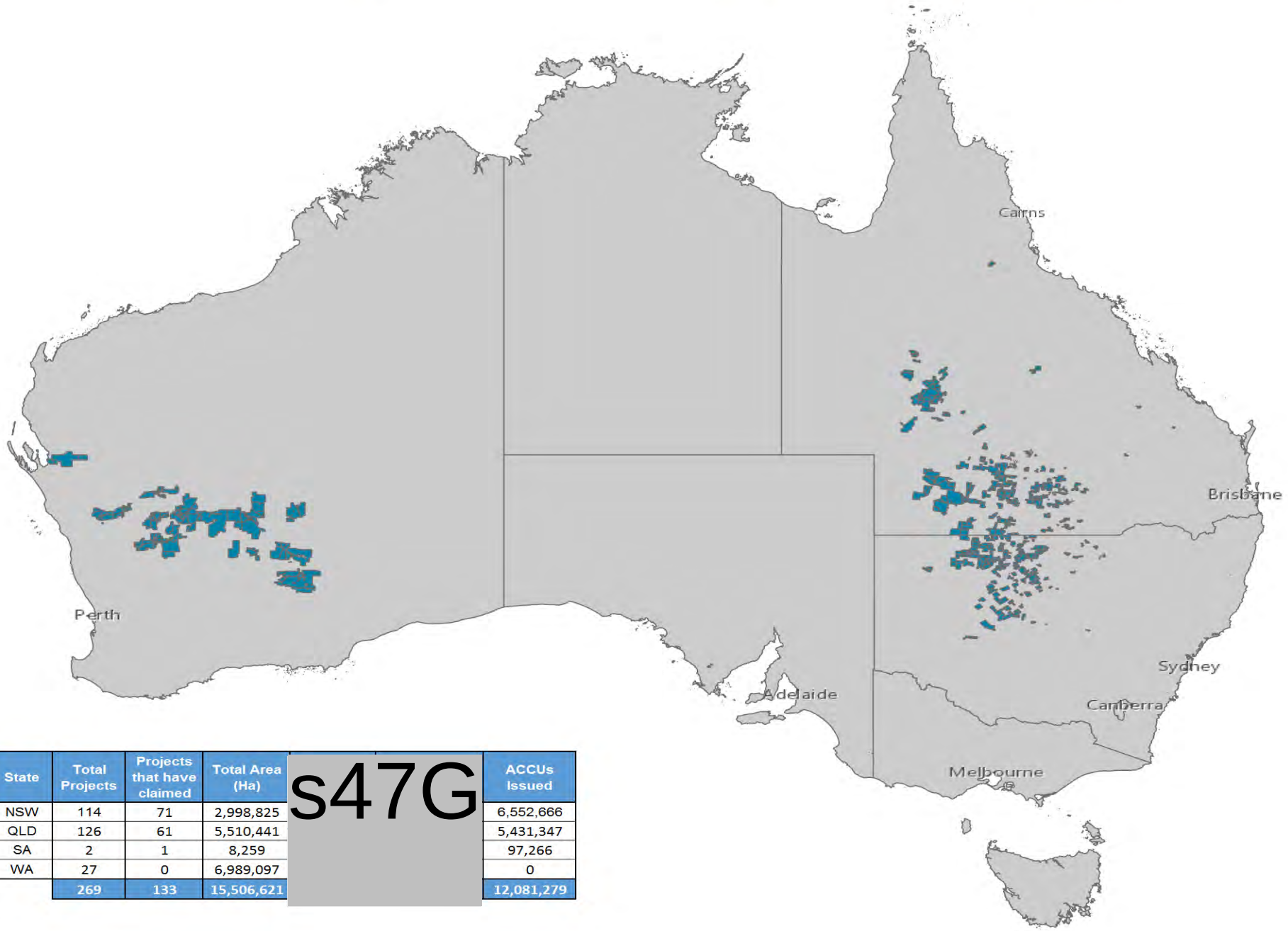
s22

s22

s22

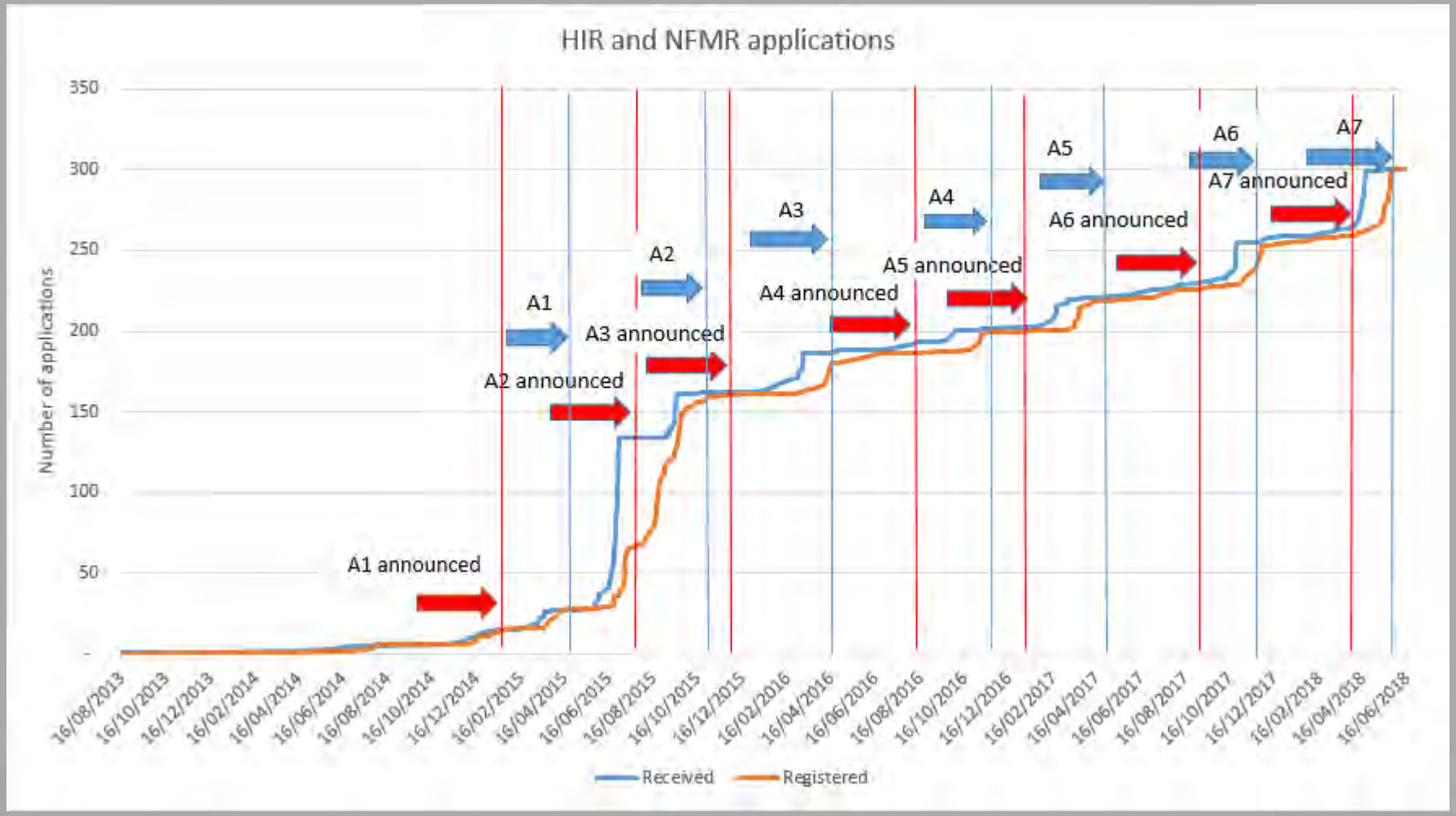
s22

Metrics for registered HIR and NFMR projects as at 31 May 2018



State	Total Projects	Projects that have claimed	Total Area (Ha)	s47G	ACCUs Issued
NSW	114	71	2,998,825		6,552,666
QLD	126	61	5,510,441		5,431,347
SA	2	1	8,259		97,266
WA	27	0	6,989,097		0
	269	133	15,506,621		12,081,279

Pattern of peak ERF applications and auction announcements



s47C, s47G(1)(a)

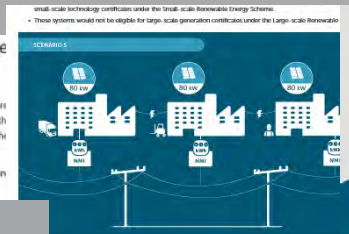
Over 80 guidance documents on CER website

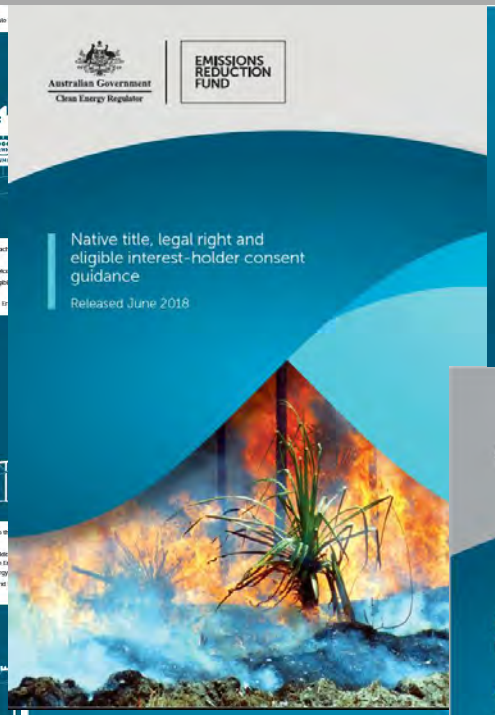

Renewable Energy Target liability for battery storage syste

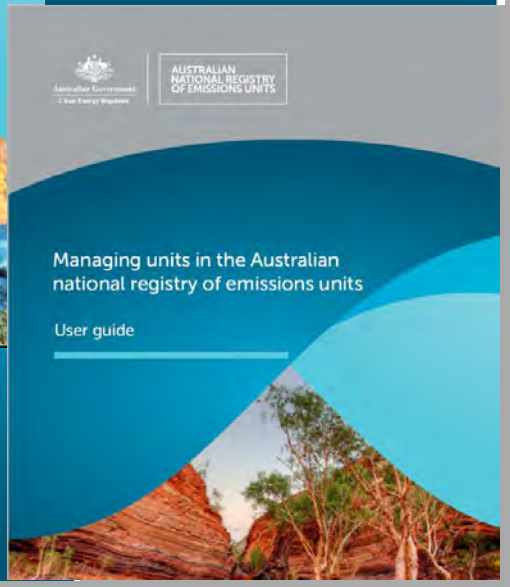
Interim guidance

The installation of battery storage systems is increasing across Australia and market participants need to be aware
responsibilities, including whether or not they may become liable entities. This guidance clarifies liability under th
battery storage systems that import electricity from the transmission or distribution networks, or directly from the
electricity back to the grid.

There are two principles in the Renewable Energy (Electricity) Act 2000 that are relevant when considering liab
battery storage systems.







Behind the meter photovoltaic systems and Renewable Energy Target liability

Evolving renewables market

New business models for photovoltaic (PV) systems ownership are growing. These models, which include lease arrangements, were not envisaged when the Renewable Energy Target was established. The new business models require careful assessment to determine how liability is to be determined under the Renewable Energy Target. This guidance outlines the Clean Energy Regulator's approach to the issue, both in terms of how liability is to be reported in the short term and how longer term options may be pursued.

Interaction of ERF projects and the inventory

- CER analysis of the woody extent layer (NCAS)
  - Key findings
  - Reasons
- Are CER seeing signs of regeneration in high resolution imagery? Yes
- Why this may not yet show in the woody extent layer yet?
- Retrospective revision to the woody extent layer

Next steps and implications

Australian Government
Clean Energy Regulator

CLEAN ENERGY REGULATOR

Interim guidance for Human-Induced Regeneration of a Permanent Even-Aged Native Forest and Native Forest from Managed Regrowth methods

Draft 25 May 2018

This draft guidance does not replace nor supersede the legal requirements of the Emissions Reduction Fund legislation, and does not address all requirements in the methods, legislation and supplementary documents. Where relevant this draft guidance does set out the Clean Energy Regulator's view on the interpretation of the methods, legislation and supplementary documents for the purposes of the administration of Human-Induced Regeneration of a Permanent Even-Aged Native Forest and Native Forest from Managed Regrowth projects and proposed Clean Energy Regulator processes.

Readers should note the Clean Energy Regulator has developed this draft guidance for further consultation with industry and proposed co-design with industry of certain technical elements. Therefore, this draft guidance does not represent a final Clean Energy Regulator position on the elements set out within.

1. Executive summary

The White Paper for the Emissions Reduction Fund (ERF), released April 2014, stated that the verification arrangements under the Carbon Farming Initiative (CFI) at that time were unnecessarily onerous; and that, while building on this scheme, the Government will take the opportunity to streamline its operation. It was also flagged that moving to risk-based verification will significantly reduce costs to business without sacrificing environmental integrity.

This statement of policy supported the intent for the change from the CFI to the ERF to significantly scale up the level of abatement, and this has occurred.

The Human-Induced Regeneration of a Permanent Even-Aged Native Forest (HIR) and Native Forest from Managed Regrowth (NFMR) methods are modelled methods. They credit abatement by applying estimation formulae over carbon estimation areas (CEAs) that are typically very large areas of land. These CEAs are required to exclude pre-existing forest and have the potential to regenerate back to forest cover as a result of undertaking an approved activity or activities.

These methods are intended to yield conservative estimates[1] of actual carbon abatement[2] in order to underpin the integrity of the scheme so that credited abatement is genuine and additional to business as usual. It is important that the Clean Energy Regulator administer these methods at the project level in a way that is consistent with the overall integrity objective.

[1] See s133(1)(g) of the *Carbon Credits (Carbon Farming Initiative) Act 2011*

[2] "Both methods specify requirements for input data used to model carbon stock changes in FullCAM. The requirements are intended to apply conservative default assumptions, in the absence of onsite measurements to collect data for estimating carbon stocks." page 13, Emissions Reduction Fund Review of methods: *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013, Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*, Discussion paper, Emissions Reduction Assurance Committee, March 2018

In administering projects under these methods, the Clean Energy Regulator recognises there is inherent uncertainty in measuring forest cover, and measuring and judging forest potential in project areas. The Clean Energy Regulator's role is to manage that uncertainty and elements of the associated risk, noting that there are multiple approaches to data gathering to manage that uncertainty. This uncertainty must be appropriately factored into administrative practices to ensure that the methods are useable by proponents and workable for the Clean Energy Regulator, or the viability of otherwise high-quality projects could be undermined.

In the early years of regeneration, forest potential in a CEA relies upon the application of incomplete data and judgement on whether or not early actual regrowth, which must be evident to demonstrate positive forest potential, will achieve forest potential over time. Uncertainty for positive forest potential is likely to be greater than for pre-existing forest in the early stages of a project. Field data and high-resolution remote sensing imagery can reduce this uncertainty. It is also the case that uncertainty for forest potential reduces over time as regeneration progresses.

Proponents are expected to select techniques for assessing forest potential and forest cover that best reduce this uncertainty in their situation. Proponents should also aim to progressively improve the tools used to reduce uncertainty over time. The Clean Energy Regulator will test these using a combination of approaches, including, geo-spatial products, high-resolution remote sensing imagery, field data, and its judgement to ensure that the stratification of these CEAs is appropriate. It is the Clean Energy Regulator's expectation that proponents undertake field data collection including surveys and manual measurements to reduce the uncertainty.

If appropriate measurement techniques are used, this uncertainty is low for detecting pre-existing forest cover and there should be no need to re-visit this aspect.

The Clean Energy Regulator considers that an area claimed as having forest potential must realise forest cover before the end of the permanence period and the project proponent must undertake sufficient project activities to achieve that result. The Clean Energy Regulator expects that in undertaking appropriate due diligence to stratify CEAs, proponents will include only areas that have evidence of positive forest potential. We will expect evidence at five-yearly intervals to show the CEAs still have forest potential, and that any parts, which do not, are excluded. This is an ongoing issue for proponents to manage over the life of the project.

The Clean Energy Regulator proposes to consult with industry on the best way to account for uncertainties in these methods. The Clean Energy Regulator also proposes to co-design standardised approaches for CEA stratification and data collection to measure pre-existing forest and positive forest potential.

Following this co-design process, it is expected that proponents will progressively transition crediting claims for their projects to be consistent with the agreed approach in a final form of this guidance. It is envisaged that the transition period for conforming to standardised approaches for detecting pre-existing forest will be shorter than for areas of positive forest potential. The Clean Energy Regulator expects that as data on actual regrowth improves where areas are shown to clearly lack forest potential (for example, due to lack of regeneration), then these areas will be excluded in subsequent offsets reports. The formulae in the methods correct past over-crediting as areas without forest potential are removed.

The approaches proposed by the Clean Energy Regulator in this guidance will ensure project level abatement remains genuine and additional.

1.1 Introduction

The HIR[3] (HIR versions 2013, 2015, 2016 and 2018) and NFMR[4] (NFMR versions 2013, 2015 and 2018) methods (the methods) credit area based, modelled abatement. A feature of the methods is that only areas of land with forest potential are included in a CEA.

Measuring carbon abatement of dynamic vegetation systems over large areas[5] and over long time-periods has inherent uncertainty and can be complex. Confidence in the abatement estimates delivered by HIR and NFMR projects relies on proponents undertaking appropriate due diligence to improve the confidence in and the accuracy of abatement calculations. Part of this due diligence—as required under the HIR and NFMR methods—includes the keeping of certain records that evidence CEA eligibility.

The Clean Energy Regulator notes that proponents utilise a range of tools and processes in undertaking due diligence for CEA stratification. This includes the use of the National Inventory Forest Extent Data, which is designed for monitoring forest cover at the national scale and changes in land use for the national inventory. The imagery and algorithms underpinning this data will change over time as available information and technology improves. The forest extent layer has greater uncertainty at the project level in areas with low rainfall, which is typical of the regions in which the majority of HIR and NFMR projects occur. This uncertainty is not evenly distributed across projects, with greater uncertainty apparent in some regions.

Given the importance of ensuring that carbon abatement estimates are robust at a project level and underpinned by the best available data, the Clean Energy Regulator is developing its geo-spatial analysis capacity and ecology and forestry expertise to support ongoing detailed assessment of a range of data collected by proponents. This work has reinforced that the use of a combination of tools, including field data, improves the robustness of CEA stratification in HIR and NFMR projects.

The current suite of methods leave some matters open, specifically:

- the means by which the presence or absence of forest cover will be verified, and
- how assurance will be provided that CEAs will achieve forest cover by no later than the end of the permanence period.

The Clean Energy Regulator considers that the methods do not require or infer that National Inventory Forest Extent Data is the exclusive means to determine the absence or presence of forest cover (see section 3.1 of this guidance). The Clean Energy Regulator also considers that an area claimed as having forest potential must realise forest cover before the end of the permanence period and the project proponent must undertake sufficient project activities to achieve that result (see section 5.1 of this guidance).

1.2 Purpose of this guidance

This guidance is designed to clarify the broad requirements for stratifying CEAs, and record keeping requirements that demonstrate CEA eligibility for projects operating under the HIR and NFMR methods. This includes the Clean Energy Regulator's interpretation of certain matters that are not clear under the law, and

[3] Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013
[4] Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013
[5] HIR and NFMR project area sizes can range from less than 500 hectares up to over 300,000 hectares with a median project area of approximately 15,000 to 20,000 hectares.

the Clean Energy Regulator's position on how the Clean Energy Regulator will treat claims for Australian Carbon Credit Units (ACCUs) where requirements are not met.

Several complex issues arise because estimated carbon abatement relies on the modelling of dynamic vegetation systems over large areas and over long time-periods, coupled with the fact that the technology and science will improve the accuracy and precision of their measurement and assessment over time. Accordingly, this guidance is designed to provide scope for innovation with industry through co-design on a number of technical elements.

1.3 False and misleading information

The Clean Energy Regulator expects high levels of compliance by all participants across all the schemes it administers. Where false or misleading information has been provided by a participant, the Clean Energy Regulator may take enforcement action which can include imposing requirements to relinquish ACCUs, project revocation and/or initiating court proceedings.

2. Appropriate stratification of CEAs for HIR and NFMR projects

Stratification refers to defining the boundaries of CEAs from ineligible and non-implementation areas within a project area. This is an area of land within a project area where the project activity or activities are being carried out to sequester carbon—for example, the cessation of mechanical or chemical suppression to enable regeneration of vegetation to forest—and for which ACCUs can be credited. Some or all of the project area must be stratified into one or more CEAs before submitting the first offsets report for the project.

Robust CEA stratification is necessary to meet the underlying assumptions of the Full Carbon Accounting Model (FullCAM) and the Reforestation Modelling Tool (RMT) models to ensure accurate carbon abatement estimates. Forest cover and forest potential are core requirements that proponents must consider when stratifying CEA boundaries to ensure sequestration as a result of the project is accurately calculated in accordance with the methods.

3. Forest cover

The HIR and NFMR methods both credit on the basis of an area[6], which has no forest cover, regenerating back to forest cover through undertaking an approved activity or activities as an ERF project. Therefore, it is a fundamental requirement of all versions of the HIR and NFMR methods, that land that meets the definition of forest cover must not be included in CEAs:

- for HIR 2016 and 2018 projects, CEAs must exclude areas with pre-existing forest cover in the baseline period[7], unless the project/project area transitioned from an NFMR project to a HIR project and meets the requirements in s5(1)

[6] All areas must be within a project area, as per the project declaration. For an area to be eligible for credits it must be stratified into a CEA in accordance with method rules and meet all legislative requirements.
[7] s4(1)(a) of HIR 2016 and 2018

- in HIR 2013 and 2015, CEAs must not have had forest cover at project commencement[8], and the land must also meet the zero baseline test set out in s2.4 of HIR 2013 and 2015, and
- for NFMR projects, CEAs must exclude areas with pre-existing forest cover when the project mechanism is implemented[9].

Under the methods, land meets the forest cover definition[10] if the:

- land has an area of at least 0.2 of a hectare, and
- vegetation on the land includes (NFMR 2013, 2015 and 2018, and HIR 2013 and 2015), or has (HIR 2016 and 2018), trees that are 2 metres or more in height and provide crown cover of at least 20 percent of the land.

However, the Clean Energy Regulator recognises that it may not always be practical, over a large project area, to stratify each and every 0.2 hectare area which has forest cover out of the CEA because of measurement costs and materiality. The Clean Energy Regulator proposes to co-design with industry an approach that is both useable for industry and workable for the Clean Energy Regulator while maintaining scheme integrity (readers should refer to section 8 of this guidance) and this is one element that will need to be considered in developing this technical guidance.

For HIR 2013 and 2015, the requirement is that proponents must create and maintain records, which evidence that CEAs did not have forest cover at the end of the baseline period and have forest potential[11] across the CEA. For HIR 2016 and 2018, the requirement is that proponents must make and keep records which evidence that CEAs did not have forest cover in the baseline period (unless projects/project areas transitioned from an NFMR project to a HIR project and meet the requirements of s5(1)), and have forest potential[12] across the CEA.

For NFMR projects, the requirement is that proponents must create and maintain records that evidence that regrowth did not achieve forest cover before the change in land management in each CEA and also evidence forest potential[13].

No single type of record is deemed to meet the evidence requirements.

3.1 Clean Energy Regulator position on the use of National Inventory Forest Extent Data to determine forest cover in HIR and NFMR projects

The Clean Energy Regulator recognises the heavy reliance by industry to date on the use of the National Inventory Forest Extent Data to determine pre-existing forest for the purposes of excluding it from project CEAs. However, it is designed for monitoring forest cover at the national scale and it does not always identify all pre-existing forest when applied at the project scale in regions where HIR and NFMR projects are concentrated. Conversely, there may be instances where the forest layer shows existing forest where there is none.

[8] s3.5(1)(a) of HIR 2013 and 2015
[9] s2.4(5)(c) of NFMR 2013, 2015 and 2018
[10] s1.3 of HIR 2013 and 2015 | s3 of HIR 2016 and 2018 | s1.3 of NFMR 2013, 2015 and 2018
[11] s5.4(g) and s5.5(a) of HIR 2013 and 2015
[12] s41(2)(c) and (e) of HIR 2016 and 2018
[13] s5.4(b) and s 5.5(a)(iii) of NFMR 2013, 2015, and 2018

The methods do not require or infer that the National Inventory Forest Extent Data is the exclusive means to determine the absence or presence of forest cover. Specifically:

- HIR versions 2013 and 2015 do not refer to the National Inventory Forest Extent Data.
- NFMR versions 2013, 2015 and 2018 do not state that the absence of forest cover from a CEA at the time the project is registered or when the project mechanism is implemented, is a matter that must be evidenced by National Inventory Forest Extent Data.
- HIR 2016 and 2018 versions provide an example using the forest layer to demonstrate eligibility of land[14]; however, they do not state that eligibility is to be established exclusively by reference to National Inventory Forest Extent Data. Examples in legislation are not exhaustive[15].

Ongoing improvements in the Clean Energy Regulator's geo-spatial information system capability and detailed assessments of client-held project field data[16] show that a combination of the National Inventory Forest Extent Data, high-resolution remote sensing imagery, and field data provides more robust CEA stratification to ensure that the legislated requirements for excluding existing forest are met.

Hence, proponents should supplement National Inventory Forest Extent Data with high-resolution remote sensing imagery combined with field data as part of their due diligence activities to mitigate the risk that parts of CEAs contain pre-existing forest[17]. Proponents must also make and keep records to meet CEA eligibility requirements for forest cover.

4. Forest potential

As noted in section 3 of this guidance, HIR and NFMR methods both credit on the basis of an area, which has no forest cover, regenerating back to forest cover through undertaking an approved activity or activities as an ERF project.

Therefore, in NFMR projects, to be eligible as a CEA land must have had forest potential at the time the decision to implement the project mechanism is first taken[18]. For HIR projects, forest potential can emerge after project registration and may be eligible for incorporation in new CEAs[19]. In either case, land must have potential to achieve forest cover at the time of CEA stratification to be considered eligible when applying for ACCUs.

For a CEA to have forest potential, it must have sufficient trees (including seedlings and saplings) with the potential to reach two metres or more in height, and at least 20 percent crown cover across the CEA at the time of stratification. The HIR 2016 and 2018 methods further specify that land has forest potential where, having regard to the location and characteristics of the land, trees are reasonably likely to reach 2 metres or more in height; and provide crown cover of at least 20 percent of the land. Existing vegetation on the land prior to clearing is not alone sufficient to evidence the existence of forest potential.

---

[14] s41(2)(c) together with Example 2 of that provision in HIR 2016 and 2018
[15] s15AD(a) of the *Acts Interpretation Act 1901* (Cth)
[16] Field data can include geo-referenced photographs, transect samples, quadrat samples, and point samples. Examples of sample data include both qualitative and quantitative data related to, but not limited to, tree height, stem density, species composition, regeneration, crown cover, and vegetation health.
[17] Conversely, proponents may add areas where due diligence shows that pre-existing forest did not in fact exist at the relevant times in the CEA.
[18] s2.4(5)(a) and s3.3(1)(a) of NFMR 2013, 2015 and 2018
[19] s3.5(3) and s3.6 of HIR 2013 and 2015 | s15(3) of HIR 2016 and 2018

4.1 How can forest potential be demonstrated?

In HIR 2013 and 2015, and NFMR 2013, 2015 and 2018, it is mandatory to record estimated tree density (stems per hectare) and the anticipated mature crown cover of the stems[20]. Proponents operating under other versions of HIR may wish to use stem densities, in conjunction with the crown cover table in the NFMR explanatory statement[21], as a guide for demonstrating forest potential.

Robust evidence, such as field data, and remote-sensed data (in addition to the National Inventory Forest Extent Data) will also improve the confidence in the CEA stratification. Proponents should validate the use and outputs of data and data products in their project to mitigate the risk that areas identified as having forest potential fail to regenerate to achieve forest.

The Clean Energy Regulator is proposing to work with industry to co-design consistent, repeatable and robust standardised approaches to demonstrate and evidence forest potential for all HIR and NFMR projects in the future. These approaches are intended to be both useable for industry and workable for the Clean Energy Regulator while maintaining scheme integrity (readers should refer to section 8 of this guidance).

5. Attaining forest cover

The Clean Energy Regulator expects to see crown cover percentages in each CEA increase over the life of the project to demonstrate progression towards forest cover (see further in section 5.1 of this guidance). The Clean Energy Regulator recognises that early stage forest regeneration can be difficult to monitor and that there is inherent uncertainty (see section 6 of this guidance). Hence, proponents must ensure that remote sensing methodologies are supported by robust field data.

If regeneration does not appear to sufficiently progress the crown cover percentage across a CEA within the maximum reporting period interval (that is, five years for sequestration projects under the ERF legislation), the Clean Energy Regulator may ask for evidence that demonstrates the validity of forest potential claims for that CEA.

However, the Clean Energy Regulator may accept longer timeframes in specific circumstances, for example, where natural disturbances such as drought have occurred[22] and have been appropriately modelled. If the Clean Energy Regulator accepts the evidence provided for a lack of regeneration due to such events, then a second five-year period may be approved to enable proponents to demonstrate regrowth towards achieving forest cover.

Where proponents cannot demonstrate sufficient regrowth (to give confidence that forest potential will be realise in the permanence period) after five or ten years (where a second-five year period has been approved), then:

- ACCUs will not be issued unless CEAs are re-stratified to exclude the areas where regrowth cannot be evidenced, and
- the Clean Energy Regulator may seek the relinquishment of ACCUs depending on the circumstances.

[20] s5.4(g) and 5.5(a)(ii) of HIR 2013 & 2015 and s5.5(a)(iv) and (v) of NFMR 2013, 2015 and 2018
[21] See Table 3 in s4.6 of the NFMR 2013 Explanatory statement
[22] Consistent with section 91 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*

Proponents should refer to the Clean Energy Regulator's posture on the Over and under crediting of certificates or units.

5.1 Clean Energy Regulator position on demonstrating attainment of forest cover

Projects that assist the regeneration of native forest must achieve forest cover in CEAs before the end of the permanence period. If an area of land in a CEA does not reach forest cover before the end of project's permanence period (whether the permanence period is 25 or 100 years), then the Clean Energy Regulator considers that the project mechanism[23] has failed in the CEA and that claims of forest potential were flawed. Such areas would not have been eligible as CEAs and the claims for those areas having forest potential would not have been warranted[24]. The position adopted by the Clean Energy Regulator as set out in section 5 of this guidance is designed to minimise this risk and to support the robustness of claims that a CEA has forest potential.

6. Clean Energy Regulator verification: dealing with variances

Consistent with the Clean Energy Regulator's stated 2017 compliance priorities, the Clean Energy Regulator will continue to use a risk-based sampling approach to test CEA eligibility to ensure that they do not misrepresent forest cover extent or forest potential.

In undertaking appropriate due diligence to stratify CEAs, proponents must:

- exclude any areas with pre-existing forest
- exclude non-implementation areas
- include only areas that have positive forest potential.

The Clean Energy Regulator will assess the stratification of CEAs by applying its risk-based approaches that may differ from the proponent's stratification techniques. Due to inherent uncertainty in measuring forest cover and assessing forest potential, a precise match between the Clean Energy Regulator's assessment and the proponents' stratification will not always be achieved. If a mismatch exceeds reasonable bounds of variability, the Clean Energy Regulator will use its discretion in deciding to ask for evidence that supports the proponent's measurement of forest cover and forest potential to test the validity of their stratification.

As outlined in section 5 of this guidance, the Clean Energy Regulator will assess the validity of continuing forest potential claims at five-yearly intervals if, based on its risk-based approaches, regeneration does not appear to sufficiently progress the crown cover percentage across a CEA.

[23] s2.2 of NFMR 2013, 2015, and 2018 | s2.5 of HIR 2013 and 2015 | s12(1) of HIR 2016 and 2018
[24] s3.3(3)(a) of NFMR 2013, 2015 and 2018 | s3.5(1)(d) of HIR 2013 and 2015 | s16(2)(c)(ii) of HIR 2016 and 2018

Acceptable levels of uncertainty to be applied for CEAs

As inherent uncertainties in measuring forest cover and assessing forest potential are likely to produce variances between the proponent's stratification and the Clean Energy Regulator's assessment of that stratification, the Clean Energy Regulator will consult with industry on what levels of variance reasonably account for those uncertainties.

6.1 Clean Energy Regulator posture on uncertainty

The Clean Energy Regulator expects all claims for ACCUs to comply with legal requirements and that any concerns raised are appropriately addressed. This will include the removal from CEAs of areas of pre-existing forest and lacking forest potential.

Where **future claims** have a CEA that **materially exceeds** acceptable levels of variance, the Clean Energy Regulator may also review past claims for ACCUs for that project. For claims under processing participants will be asked to justify the inclusion of all ineligible land within a CEA before a final decision is made to credit ACCUs.

False or misleading information may also trigger a review of past claims, and may also result in investigation.

7. Transitional arrangements

The Clean Energy Regulator will publish final guidance following co-design of agreed approaches to identify forest cover, forest potential extent and data collection arrangements to support CEA stratification. The Clean Energy Regulator expects that proponents will self-assess and transition their projects to be consistent with the guidance.

Where proponents have been acting in good faith and have re-stratified CEAs during the transition, relinquishment of ACCUs in subsequent offset reports is not anticipated for the following reasons:

- the carbon stock accumulation models in FullCAM and RMT provide for relatively smaller amounts of crediting in the early stages of the project
- carbon stock accumulation will accelerate as the regrowth matures thereby allowing remaining CEA areas to generate enough abatement to compensate for potential reduction in the size of CEAs, and
- where areas are removed from CEAs, the methods' formulae will adjust in the following offset report.

7.1 Carbon abatement contracts

The Clean Energy Regulator recognises that many projects under the HIR and NFMR methods provide abatement to the Australian Government through carbon abatement contracts. If after implementing the final form of this guidance, proponents believe that they may no longer be able to meet their current contracted obligations, they are encouraged to contact the Clean Energy Regulator to discuss concerns. Each case will be handled on a case-by-case basis under commercial-in-confidence arrangements.

8. Opportunities for co-design of technical guidance

To provide greater certainty in how due diligence should be undertaken, the Clean Energy Regulator proposes to work with industry to develop standardised approaches for CEA stratification and data collection arrangements to support the stratification.

The Clean Energy Regulator will consult with industry to develop robust and repeatable approaches to accurately identify pre-existing forest at a project level. The Clean Energy Regulator will also work with industry to co-design consistent, repeatable and robust standardised approaches to demonstrate and evidence forest potential for all HIR and NFMR projects in the future.

The aim of any proposals is to agree generally with industry on approaches that will become part of our assessment processes to provide improved compliance and administration outcomes for industry and the Clean Energy Regulator alike.

Co-design opportunity for standardised approaches for CEA stratification and data collection to support stratification

The Clean Energy Regulator is seeking industry views on:

- standardised approaches to improve the robustness of CEA stratification for forest cover and forest potential (including pragmatic approaches for determining the minimum size of areas that do not meet forest cover and forest potential requirements), and
- standardised data collection and reporting to demonstrate and evidence forest potential in HIR and NFMR projects.

8.1 Scope and timing of co-design workshops

The co-design workshops will use the Clean Energy Regulator's clarifications of the methods provided in this guidance as a starting point. The Clean Energy Regulator's aim is to publish updated guidance by August 2018. To work towards this, the Clean Energy Regulator will hold co-design consultations with industry in early June 2018.

8.2 Clean Energy Regulator position where appropriate due diligence is undertaken for excluding forest cover and stratifying for forest potential

The Clean Energy Regulator proposes that once agreed approaches are in place, and proponents perform appropriate due diligence and re-stratify in line with the final form of this guidance, to the Clean Energy Regulator's satisfaction, then the Clean Energy Regulator will not seek further re-stratification for excluding pre-existing forest.

However, re-stratification for forest potential will potentially occur progressively as forest potential is assessed based on the presence or absence of continuing regrowth. This is an ongoing issue for proponents to manage over the life of the project.

Readers should refer to section 6 of this guidance to understand how the Clean Energy Regulator will treat future claims with respect to forest cover and forest potential.

Summary of proposed legislative rule amendment and draft rule provisions to limit crediting for human-induced regeneration and native forest from managed regrowth projects failing to achieve forest cover

---

1. Key Points

1. This attachment explains the Department's proposal to amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* to limit the crediting for human-induced regeneration (HIR) and native forest from managed regrowth (NFMR) projects failing to achieve forest cover within a certain timeframe.
2. The amendment to the rule would be adopted as an addition after section 9 of the *Carbon Credits (Carbon Farming Initiative) Rule 2015*.
3. The proposal is aimed at strengthening the conservativeness of the crediting of abatement under the two regeneration methods.
4. The rule would limit the crediting of regeneration projects beyond the timeframe in which projects should have reached forest cover.
5. The rule would restrict the issuance of the certificate of entitlement for project reports where the requirements for achievement of forest cover have not been met.
6. The summary below explains the proposed elements of the rule and their intent. The Department has prepared a draft rule; see Item 1 at the end of this document.

Summary of proposed rule amendment

The draft rule has been prepared for discussion, on the expectation that the elements detailed below are subject to further refinement once feedback is received.

Certificate of Entitlement

- The draft rule would restrict crediting for regeneration projects failing to achieve forest cover in a given timeframe, by restricting the issuance of the certificate of entitlement. Part 2, Division 3 of the CFI Act sets out provisions on certificates of entitlement.
- The certificate of entitlement enables the project proponent to be issued credits for the carbon abatement recorded in the corresponding offsets report.
- When projects submit offsets reports, which must occur at least once every five years, they have the option of simultaneously applying for a certificate of entitlement.
- The Clean Energy Regulator must be satisfied that a project meets any eligibility requirements in the regulations or legislative rules before issuing a certificate of entitlement (as per section 15 of the CFI Act).

- A rule requiring that projects have achieved forest cover by a certain point in order to be issued a certificate of entitlement would restrict projects that fail to meet the requirement from obtaining credits through issuance of the certificate.

- A rule relating to the issuance of a certificate of entitlement is a binary requirement, meaning a proponent will either be issued or not issued the certificate depending on meeting the requirement.

- The proposed rule would be best suited to stopping the crediting of projects with clear integrity issues, rather than being used as a mechanism to recalibrate the method calculations.

Forest cover achievement test

- The objective of the HIR and NFMR methods is to regenerate native vegetation so that it achieves forest cover (vegetation greater than two metres in height and providing greater than 20 per cent canopy cover). This requirement ensures that the project land will contribute abatement to the National Inventory.

- The FullCAM modelling software predicts the carbon abatement from regenerating vegetation, in the unit of tonnes of carbon per hectare.

- While the FullCAM modelling software does not estimate canopy cover levels of the regenerating vegetation, other information on vegetation growth allows expected levels to be determined.

- There becomes a point at which, if a FullCAM estimate of carbon abatement is actually reflected on the ground for an area of regeneration, the area should have achieved forest cover.

    - This point varies from species to species and within species, due to factors including the size of the trees and growing conditions.

- The proposed rule would establish a point in time at which forest cover should be achieved. It would be designed to ensure that, regardless of the species, tree size or growing conditions, the point in time that forest cover is required to be achieved is highly reasonable and defensible.

- The Department has data on mulga (*Acacia aneura*), the predominant species in areas where HIR and NFMR projects are common, that indicates the point in time that the forest cover test applies (see below) as drafted is highly reasonable and defensible.

- The Department is working with CSIRO to collate data for other common species in the regions where projects are typically undertaken, to ensure that this test is highly reasonable where other species predominate.

Timing of the forest cover test

- The forest cover test would apply at an earlier stage for new projects than projects existing before commencement of the rule.
    - Existing projects may have registered under different expectations on project performance than those imposed by the proposed rule. Those projects would be allowed more leniency by applying the test at a later stage of crediting.
- The forest cover test as drafted would apply to each carbon estimation area (CEA), requiring each CEA to pass the test.
    - A CEA is an area of land where the project activity has been implemented. It is uniform in its management history and timing of regrowth. Regeneration projects typically have between a few and two to three dozen CEAs.
- CEAs under an existing project would be required to achieve forest cover by 15 years after the crediting period begins, unless the modelling of regeneration commenced later or a major disturbance event occurred.
- CEAs under projects registered after July 2018 would be required to achieve forest cover by 15 years after modelling of regeneration commences.
- Modelling of regeneration typically predates the commencement of the crediting period, by 2 to 8 years for HIR projects and by 9 to 23 years for NFMR projects (according to project data from projects that have reported). The revised FullCAM Guidelines for NFMR projects limit this period for new NFMR projects to a maximum of 14 years.
- For projects in the most marginal areas for regeneration, a separate provision that ensures CEAs are only tested for forest cover once the area has sufficiently regenerated could be included. This would accommodate outlier projects, where even after 15 years or more of regeneration, the carbon abatement amounts are so low that it may not be reasonable to expect forest cover has been achieved. The draft rule uses 10 tonnes of carbon per hectare as a proxy for this assessment.

Reporting implications

- Where some CEAs in a project meet the forest cover achievement test and some don't, proponents would be able to continue to receive credits for CEAs meeting the test, by using the 'split' or 'part' reporting option (s 77A of the Act).
- Proponents could re-stratify land under projects into areas that meet the test and areas that don't, in order to maximise the land for which they can continue to claim credits.
- Once the forest cover achievement date arrives, the test for forest cover would not be applied until the next offsets report is submitted. The date used to test whether CEAs had forest cover would be the end of the reporting period.

- Proponents cannot delay submitting a report any more than five years after the last report for the project was submitted to the Clean Energy Regulator.

- Proponents reporting on HIR projects with CEAs that failed the test for certain reporting periods would not be able to claim a backlog of credits for those reporting periods at some later date when forest cover is achieved.

    - This is due to the calculations in the method, which only credit the change in abatement levels from one reporting period to the next.

- NFMR projects would be able to claim any previously missed credits, due to the way abatement is calculated.

    - The NFMR method determines the amount to be credited by taking the total abatement achieved between the start of modelling and the end of the reporting period and subtracting any abatement previously issued in certificates of entitlement.

Major Disturbance Events and Eligible Growth Disruption

- Provisions in the draft rule provide for disturbance events. These are required as it would be unfair to expect that CEAs that have had major disturbance events such as wildfire can achieve forest cover in the same timeframes as unaffected CEAs.

- Where a disturbance has affected more than 50 per cent of a CEA and 50 per cent of the carbon stocks, the clock on when forest cover is to be achieved would be reset.

- The eligible growth disruption provision allows for the forest cover achievement date to be pushed back for up to five years where growth pauses or reductions in carbon stocks, for example due to minor disturbance events, occur.

Evidence

- The draft rule requires evidence from proponents to demonstrate that the forest cover achievement requirement has been met. It links in with the Regulator's guidance and ensures a range of additional information is provided to assist both the application of the rule and compliance with method requirements.

- The additional information links in with audit requirements, so there is third party assessment of the claims that are made as part of the existing audit schedule for each project. If auditors are not able to provide a reasonable assurance conclusion or qualified reasonable assurance conclusion on these matters, no credits would be issued.

Contact details

s22

Cleared on: 22 June 2018

9AA Issue of certificate of entitlement—eligibility requirements for 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 regeneration project for a reporting period.

(2) It is an eligibility requirement that at the end of the reporting period all carbon estimation areas that:

(a) are included in the offsets report for the reporting period; and

(b) are past their forest cover achievement date; and

(c) [contain more than 10 tonnes of carbon per hectare under the modelling undertaken for the purpose of preparing the offsets report;]

have attained forest cover.

(3) For the purpose of subsection (2), a carbon estimation area has ***attained forest cover*** if, when subdivided into 0.2 hectare portions, less than 10% of those portions have not attained forest cover.

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

(4) The ***forest cover achievement date***, for a carbon estimation area, is:

(a) if the carbon estimation area is an existing CEA and the area had not been subject to a major disturbance event after the start of the first or only crediting period for the project—the later of:

(i) the date that is 15 years since the start of the first or only crediting period for the project disregarding up to 5 years of any eligible growth disruption; and

(ii) the date that is 15 years since the modelling of forest growth commenced for the carbon estimation area disregarding up to 5 years of any eligible growth disruption;

(b) if the carbon estimation area is not an existing CEA and the area had not been subject to a major disturbance event after the modelling of forest growth commenced for the carbon estimation area—15 years since that commencement disregarding up to 5 years of any eligible growth disruption; or

(c) if, after the modelling of forest growth for the carbon estimation area commenced, the area had been subject to one or more major disturbance events—15 years since the modelling of forest growth commenced after the last major disturbance event disregarding up to 5 years of any eligible growth disruption.

Note 1: The periods of eligible growth disruption need not be at the same time. For example, under paragraph (b) if the third and fifth year after modelling commencement was an eligible growth disruption the forest cover achievement date would be 17 years after that modelling commencement.

Note 2: The modelling of when forest growth commences is often described as a regeneration event in the model where carbon stocks begin to increase in the carbon estimation area.

(5) For the purposes of paragraph (4)(c), disregard a major disturbance event for an existing CEA occurring between the commencement of the modelling of forest growth for the carbon estimation area and the start of the first or only crediting period for the project.

(6) In this section:

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

disturbance event has the meaning given by the applicable methodology determination for the project and the reporting period..

eligible growth disruption, in relation to a period, means any period of time during which the increase in carbon stocks is modelled to be zero or negative under the applicable methodology determination.

existing CEA means a carbon estimation area consisting only of an area that was part of the project area for a regeneration project on 1 July 2018.

forest cover—a particular area of land has attained forest cover if:

(a) the land has an area of at least 0.2 of a hectare; and

(b) the land has trees that:

(i) are 2 metres or more in height; and

(ii) provide crown cover of at least 20% of the land.

major disturbance event means a disturbance event impacting a significant proportion of the carbon estimation area which reduced the modelled carbon stocks of an area by 50% or more under the applicable methodology determination.

regeneration project means a project whose applicable methodology determination for the reporting period is one of the following:

(a) the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*;

(b) the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*;

(c) a version of one of the above methodology determinations applicable to the project in accordance with sections 125, 126 or 127 of the Act.

Supporting provisions

Options for additional offset report requirements, additions to s 70(2):

(l) if:

(i) the offsets report is the first offsets report to be submitted after the start of the 5th year of a regeneration project's last or only crediting period; or

(ii) the offsets report is the first offsets report to be submitted after the start of the 10th year of a regeneration project's last or only crediting period;

(iii) offsets report for a regeneration project must be accompanied by a report of a subsequent audit;

an explanation of the progress towards or achievement of forest cover in each carbon estimation area included in the offsets report and evidence supporting that progress or achievement, taking into account any guidelines issued by the Regulator for the purpose of this paragraph;

(m) if the offsets report for a regeneration project includes a carbon estimation area that has passed its forest cover achievement date [and contains more than 10 tonnes of carbon per hectare under the modelling undertaken for the purpose of preparing the offsets report]—an explanation of the evidence that demonstrates the requirements of section 9AA are satisfied in relation to the carbon estimation area;

(n) if the offsets report is for a regeneration project—for each carbon estimation area included in the offsets report:

(i) the date that the modelling of forest growth commenced; and
(ii) the estimated forest cover achievement date; and
(iii) details of any a major disturbance event or eligible growth disruption; and
(iv) an explanation of whether the forest cover has been obtained; and
(v) the total carbon stock at the end of the reporting period, in both tonnes of carbon and tonnes of carbon per hectare.

Additional offset report documents, additions to s 71:

(c) if the offsets report for a regeneration project is accompanied by information under paragraphs 70(2)(l), (m) or (n)—documents to support the information taking into account any guidelines issued by the Regulator for the purpose of this paragraph.

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 9 JULY 2018

Present

Committee Members:

Andy Lloyd, Paul Graham, David Hemming, Suzanne Jones, Mick Keogh, Beverley Henry, and Gayle Milnes.

Apologies: Andrew Macintosh (Chair), Hilary Smith, Mick Keogh (10:30am-12:30pm)

Other attendees:

Department of the Environment and Energy

Item 4: s22

Item 6: Edwina Johnson, s22

Item 10: s22

Clean Energy Regulator

Mary-Anne Wilson, s22

Secretariat

Chris Johnston, s22

The meeting opened at 9:00am.

s22

s22

Item 4 – Periodic method review: HIR and NFMR

s22 *Mary-Anne Wilson,* s22
s22

The Committee:

1. **noted** the Department's progress in amending the legislative rule is on track.
    a. The Department has drafted an amendment to the Legislative Rule and presented this to state government officials and carbon brokers attending the Regulator's workshop on technical guidance for the HIR and NFMR methods on 4 July 2018. The Department will circulate an updated version of the proposed Rule amendment to the Committee.
2. **thanked** Beverley Henry for representing the Committee at the Regulator's Sydney workshop.
3. **agreed** the data update provided by the Regulator is adequate in content and should be provided on a fortnightly basis, unless there is a sudden spike in registrations, in which case more regularly.
4. **noted** the Australian Government Solicitor's explanation of the distinction between regulations, legislative rules and guidance.

Action items (to be included in action items register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Provide Committee with material provided to stakeholders for the Sydney workshop, or, if updated shortly, then the new version.	s22	23 July	
Provide submissions on the proposed Rule amendment to the Committee as they come in.	s22	ongoing	
Prepare a one page overview of the distinction between regulations, legislative rules and guidance.	Secretariat	30 August	

s22

s22

s22

s22

s22

s22


s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

30 August 2018 Meeting

Method Review: Update

Agenda Item 3: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

For Information

1. Recommendation

1. **note** the Department's progress on the proposed legislative rule amendment and review report for the native vegetation regeneration methods.

2. Method description

The Native Forest from Managed Regrowth (NFMR) method may be used by landholders and others to earn Australian carbon credit units (ACCUs) by regrowing native forest on land previously cleared for grazing. Project proponents must stop clearing and may undertake other activities to encourage regrowth.

The Human-Induced Regeneration (HIR) method may be used by landholders and others to earn ACCUs by regenerating native forest on land where native forest has been suppressed for at least 10 years. Project proponents must undertake one or more activities to encourage regrowth including managing grazing, feral animals or weeds or ceasing clearing where it has previously occurred.

Of the total abatement the Australian Government has contracted to purchase under the Emissions Reduction Fund, 48.1 per cent is from HIR projects (as at August 2018). A further 1.8 per cent is from NFMR projects.

3. Previous consideration by the Committee

s47C

4. Issues

Issue	Degree of issue	Reference
There have been further discussions between the Department, members of the review subcommittee, Clean Energy Regulator and carbon service providers about the draft rule, ahead of the Department seeking the Minister's approval to release the draft rule for public consultation.	Low	See 'Discussion' below.

5. Discussion

Progress on the draft rule

The draft rule complements the Regulator's interim guidance on the NFMR and HIR methods, which has been circulated to the Committee previously. The Department and members of the review subcommittee have discussed the draft rule with the Regulator and carbon service providers. The Department submitted the draft rule to the Minister on 18 July 2018.

Following further discussions with carbon service providers, the Regulator has worked with them to develop detailed technical guidance, which will support the Regulator's existing guidance and the draft rule. The Department has provided input.

The Department has made minor changes to the draft rule (**Attachment A**) in response to feedback, and to align with the Regulator's guidance. The main change is to clarify the requirement for assessing attainment of forest cover and to add an option to assess attainment of forest cover using the Department's forest cover mapping (subsections 9AA(4) and (5)).

The Department will seek the Minister's agreement to release the revised draft rule for public consultation. The Regulator and the Department intend to coordinate release of the technical guidance and the draft rule, to help stakeholders understand the suite of new requirements applying to HIR and NFMR projects.

The Department will provide an update at the Committee meeting.

Progress on review report

The Department and the subcommittee are continuing work on the draft review report (which will cover both methods). Subject to the Committee's views, the subcommittee has agreed the Department will provide a full draft to the Committee for its meeting on 25 October. The Committee will consider the final report at its meeting on 10 December (see also 'Consultation', below). This is consistent with the Committee's intention to complete the reviews by the end of 2018.

6. Options

The Department invites the Committee's views on this update, timing for the Committee's consideration of the draft and final review reports, and proposed additional consultation.

7. Consultation

Given the close involvement of carbon service providers in examining the draft rule and in earlier consultation on the method reviews, the Department and subcommittee suggest they should be invited to comment on the draft review report prior to finalisation. After addressing comments received from Committee members at the 25 October meeting, the Department would provide the draft review report to service providers for discussion at a roundtable on around 12 November.

8. Attachments

Attachment A Draft Rule amendment

9. Contact details

Author: s22

Cleared by: Katrina Maguire
Assistant Secretary
Land and Outreach Branch
s22

Cleared on: 9/08/18

Australian Government
Department of the Environment and Energy

Emissions Reduction Fund:

Proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to native vegetation regeneration projects

Consultation paper

August 2018

Making a submission

The Australian Government invites written submissions from all interested businesses and members of the community on the Emissions Reduction Fund Consultation Paper - Proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* affecting native vegetation regeneration projects.

Submissions are due by midday AEST, XX August 2018. Any submissions received after this date will be considered at the Government's discretion.

Submission guidelines

Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address listed below. Alternatively, submissions may be sent to the postal address below to arrive by midday AEST on the above due date.

All submissions must include a cover sheet, available at www.environment.gov.au. The submission and coversheet should be provided as separate files if sent electronically.

Submissions can be forwarded to:

Email: ERFforests@environment.gov.au (preferred)

Postal: Forests Section
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Confidentiality

If you do not indicate that your submission should be treated as confidential, it will be treated as a public document and may be published in full on the Department of the Environment and Energy's website. This includes the publication of any personal information of authors and/or other third parties contained in the submission.

If you indicate that your submission should be treated as confidential, it will not be published.

If only a part of your submission should be treated as confidential, please provide two versions of the submission, one with the confidential information removed for publication.

Privacy

The Department will deal with personal information contained in, or provided in relation to, submissions in accordance with this cover sheet and its Privacy Policy (www.environment.gov.au/privacy-policy). The Department's Privacy Policy contains information about how to access or correct your personal information or make a complaint about a breach of the Australian Privacy Principles. Personal information is collected for the purposes of identifying authors of submissions and in case the Department needs to contact you for further information or clarification on your submission. It may be used and disclosed within the Department and to other persons for the purposes of updating the Safeguard Mechanism, and otherwise as required or permitted by law.

A request made under the *Freedom of Information Act 1982* for access to a submission, including those treated as confidential, will be determined in accordance with that Act.

CONTENTS

Introduction

The Australian Government is considering amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the rule) to:

- ensure the Clean Energy Regulator has the information necessary to assess compliance with requirements in Emissions Reduction Fund methods for native vegetation regeneration projects; and
- provide clarity around the timeframes within which land under regeneration methods must attain forest cover to obtain further carbon credits.

Purpose of the proposed amendments

The proposed rule amendments would clarify the intent of the following methods:

1. *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination* (as varied in 2018) (the Native Forest from Managed Regrowth Method)
2. *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2018) (the Human-Induced Regeneration Method).

The amendments are designed to support robust implementation and ongoing integrity of the methods over the long term. They would provide assurance that crediting aligns with on-ground progress of regenerating vegetation towards forest cover.

The Clean Energy Regulator is developing guidance on stratification, evidence and records for projects under the methods. The proposed rule amendments and the guidance are complementary. For example, the guidance requires that at five-yearly intervals proponents must demonstrate that eligible land with forest potential has made progress towards attaining forest cover. Projects that continue to meet the requirements of the Clean Energy Regulator's guidance would be likely to be on track to meet the requirements of the proposed rule amendments later in their crediting period. For this reason, the proposed rule amendments are being released for consultation alongside the draft guidance.

To provide further clarification, the CFI Mapping Guidelines will also be amended following consultation. The methods require use of the CFI Mapping Guidelines when mapping projects. For consultation purposes, geospatial mapping requirements are included in the Clean Energy Regulator's draft guidance. Relevant mapping requirements will be incorporated in the CFI Mapping Guidelines following consultation.

The Government will take submissions on the draft rule amendments into account in considering whether to adopt the rule amendments and make them into law.

Emissions Reduction Assurance Committee review of the methods

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (the 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.

The functions of the Government's independent Emissions Reduction Assurance Committee include conducting periodic reviews of the methods that specify how the emissions reduction activities must be undertaken (section 255 of the Act). In conducting such a review, the Committee examines whether methods continue to comply with the offsets integrity standards, which ensure abatement delivered under the method is genuine and additional.

The Committee is conducting periodic reviews of the two regeneration methods against the offsets integrity standards.

The Committee released a discussion paper to support these reviews and invited written submissions from the public. The public consultation period commenced on 2 March 2018 and closed on 20 April 2018. Non-confidential submissions received through the combined public consultation process for the methods are available on the Department's website[1]:

Both methods provide opportunities for projects involving changes in land management to regenerate native forests to attain forest cover. They require the land to be without forest cover at the project commencement date and to have forest potential. These requirements are intended to ensure only land with the potential to be converted to forest and counted within Australia's National Greenhouse Accounts can generate carbon credits.

The expectation under these methods is that areas with forest potential attain forest cover over time. Through its review process the Committee has stressed the importance of making sure there is no ambiguity in the intent of the methods. The Committee's view has been informed by expectations of attaining forest cover within a period of time, based on available science.

The Committee is continuing with its review of the methods. It expects to complete the review later in 2018, and will advise the Minister for the Environment and Energy of the outcomes.

[1] Native Forest from Managed Regrowth: http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/methods/review-native-forest-managed-regrowth and Human-Induced Regeneration http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/methods/review-human-induced-regeneration.

Overview of proposed rule amendments

The proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* are to:

- ensure the Clean Energy Regulator has the information necessary to assess compliance with requirements in Emissions Reduction Fund methods for regeneration projects; and
- provide clarity around the timeframes within which land under regeneration methods must attain forest cover to obtain further carbon credits.

The proposed amendments would apply to the two regeneration methods and their variants: the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* and the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*. These methods provide opportunities for projects involving changes in land management to regenerate native forests. The methods define land as having forest cover if it has an area of at least 0.2 of a hectare, with trees that are two metres or more in height and which provide crown cover of at least 20% of the land.

Legislative background

Under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) the issuance of Australian carbon credit units is separate to the declaration of eligible offsets projects and offsets reporting under the applicable methodology determination. After submitting an offsets report, project proponents can submit an application for a certificate of entitlement in respect of the reporting period covered by the offsets report. Under subsection 15(2) of the Act the Regulator cannot issue a certificate of entitlement unless satisfied of a number of requirements. Paragraph 15(2)(h) includes in that list any additional requirements specified in the regulations or legislative rules.

Under the Act, offsets reports must include both information required by the applicable methodology determination and information required by legislative rules.

Proposed rule amendments

Central to the proposed amendments is a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for the applicable carbon estimation areas (CEAs).

Amendments are also proposed clarifying the information necessary to demonstrate that the forest potential requirements of the methods are being met. They complement guidance to be published by the Clean Energy Regulator setting out information to be provided by proponents at five-year intervals to demonstrate that land within carbon estimation areas continues to have forest potential and has made progress towards attaining forest cover.

Land under existing projects (those registered before 1 July 2018) would be required to attain forest cover by 15 years after the declaration of the project. The proposed amendments would limit crediting after the 15 year period for CEAs that have not substantially reached forest cover. They would have no effect on crediting for CEAs that have reached forest cover within 15 years. Proponents could restratify CEAs so that

crediting would only be limited for areas of CEAs that have not substantially reached forest cover.

For projects registered after 1 July 2018 or land added to an existing project after 1 July 2018, the same rule would apply but the 15 year period would have a different starting point. It would be the 15 years after the commencement of the modelling of forest regeneration.

The proposed amendments make allowances for projects affected by disturbances or growth pauses, by allowing for the date of the test to be extended by up to five years for 'eligible growth disruptions'. This supports the principle that regeneration projects should be undertaken on land with existing forest potential that is capable of attaining forest cover. The rule also ensures that the forest attainment date falls no later than five years prior to the end of the crediting period.

The proposed amendments are supported by data on growth of vegetation in regions where regeneration projects may be undertaken, including the time this vegetation generally takes to reach forest cover. The data shows that forest cover would have been attained if the on-ground regrowth corresponded with the modelled regeneration estimates over the periods set out.

Limiting the crediting of projects yet to meet the forest cover requirements would support consistency between modelled abatement estimates and on-ground project performance. The offsets integrity standards under the Act require that methods provide for conservative estimates of abatement.

Provisions are included that would ensure vegetation in low productivity areas is required to attain forest cover within timeframes realistic for those conditions. In particular, modelling undertaken in accordance with the relevant method would need to show the CEA has more than [5][2] tonnes of carbon per hectare for the forest cover requirement to apply.

[2] The Department of the Environment and Energy will confirm the final value during the consultation period.

Detailed explanation of proposed rule amendments

The legislative text for the proposed rule amendments is presented in blue text.

Strengthened offsets reporting requirements

Sections 70 and 71 of the *Carbon Credits (Carbon Farming Initiative) Rule 2015* are proposed to be amended to specify the information that must be included in offsets reports for demonstrating progress towards forest cover at five-year intervals and the attainment of forest cover once the forest cover assessment date (see below) passes. The information provided would need to take into account any guidelines issued by the Regulator.

Section 70, regarding the information that must be included in offsets reports, would be amended to include the following subsection:

Information for regeneration projects

(3A) The offsets report for a regeneration project must set out the following information:

(a) if:

(i) a carbon estimation area has never previously been included in an offsets report for a regeneration project; or

(ii) the Regulator requests, in writing, the following information in relation to a carbon estimation area,

an explanation, for the carbon estimation area, of how pre-existing forest cover has been excluded from 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

(b) if:

(i) the offsets report is the first offsets report to be submitted after the end of the 5th, 10th, 15th or 20th year of the regeneration project's last or only crediting period; or

(ii) the offsets report for the regeneration project must be accompanied by a report of a subsequent audit; or

(iii) the offsets report is the first offsets report for a regeneration project where there has been modelling of forest regeneration or growth for a total of 5 or more years before the start of the project's crediting period,

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

(iv) of the progress towards or attainment of forest cover in each such carbon estimation area and evidence supporting that progress or attainment; and

(v) of how the project mechanism has continued to be implemented in each such carbon estimation area and evidence supporting that continued implementation;

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) 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

(d) 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; and

(iv) an explanation of whether forest cover has been obtained; 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; and

(vi) any previous assessment by the Regulator of whether the land included in the carbon estimation area had pre-existing forest cover.

(3B) The Regulator may not make a request under subparagraph (3A)(a)(ii) more than once for the same carbon estimation area.

Section 71, regarding documents that must accompany an offsets report, would be amended to include the following paragraph.

(c) if the offsets report for a 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

Eligibility requirements for a certificate of entitlement regarding forest cover attainment

A section 9AA would be introduced to set out eligibility requirements for obtaining a certificate of entitlement applicable when projects have passed their forest cover assessment date and in relation to the information required above. Whether or not this section is satisfied would not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period.

9AA Issue of certificate of entitlement—eligibility requirements for 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 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.

Subsection (2) would ensure the information requirements set out in subsections 70(3A)(b) and paragraph 71(c) are adequately met in order for a regeneration project to be eligible for a certificate of entitlement.

(2) If the offsets report for the reporting period was required to include information in accordance with paragraph 70(3A)(b)—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.

Subsection (3) is the central proposed additional requirement to ensure that all CEAs that are past their forest cover assessment date must have attained forest cover to be eligible for a certificate of entitlement.

(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 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.

Subsection (4) would set out what is required for a CEA to be taken to have attained forest cover. The proposed requirements are designed to ensure only those areas of land within a CEA meeting the methods' definition of forest cover can be taken to have attained forest cover. In order to reliably determine whether forests meet the minimum area of 0.2 hectares, the assessment of forest cover must be undertaken at the 0.2 hectare scale. Any land of 0.2 hectares (or more) in area that does not have trees two metres or more in height and providing crown cover of at least 20% of the land does not meet the forest cover definition. Therefore the proposed amendments require assessment at the 0.2 hectare scale.

Paragraph (4)(a) provides for a simplified assessment approach; if the forest cover mapping used by the National Inventory Report to report sequestered carbon shows over 90% of the area of the carbon estimation area as having forest cover, the CEA is taken to have attained forest cover. This approach is permitted because the National Inventory Report forest cover mapping is undertaken at a scale of less than 0.2 hectares (0.0625 ha) and applies the requirement of a minimum contiguous forest area of 0.2 hectares to classify land as having forest cover. Paragraph (4)(b) provides for a more detailed assessment such that when a CEA is considered as 0.2 hectare portions, and over 90% of those 0.2 hectare portions have attained forest cover as per the definition, the CEA is taken to have attained forest cover.

If land were to be credited for abatement where it does not attain forest cover in at least 90% of the 0.2 hectare portions by the forest cover assessment date, the crediting is unlikely to

be conservative. This is because the models used for estimating abatement under the methods are calibrated to provide estimates of abatement where each 0.2 hectare portion of land attains forest cover. The proposed requirements would help ensure carbon abatement credited under the regeneration methods is conservative.

Allowing for 90% of 0.2 hectare portions to have attained forest cover, rather than 100%, would reduce the need for re-stratification if a small proportion of a CEA has not attained forest cover. Furthermore, where a small proportion of the CEA (10% or less of the 0.2 hectare portions) may be on the margins of having attained forest cover, the whole of the CEA would not be prevented from being taken to have attained forest cover.

Subsection (5) provides for requirements to be set out in the Carbon Farming Initiative Mapping Guidelines to guide assessment of carbon estimation areas under paragraph (4)(b) and further guidance by the Clean Energy Regulator.

> (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.

Subsection (6) would define when a CEA has passed the forest cover assessment date. This occurs once both the tonnes of carbon per hectare amount under paragraph (a) and the time period set out under paragraph (b) or (c) have been surpassed.

Where the time period has been surpassed, but not the tonnes of carbon amount (or vice versa), the forest cover assessment date has not yet passed.

The provision under paragraph (a) ensures land is only required to have attained forest cover once it is reasonable to expect it to have done so. The relationship between tonnes of carbon present in regenerating forest and canopy cover informs this provision. However, it does not apply for the last 5 years of a project's crediting period.

Paragraphs (b) and (c) set-out separate timing for existing CEAs (an area that was part of the project area for a regeneration project on 1 July 2018) and non-existing CEAs (as of 1 July 2018).

For existing CEAs, under paragraph (b), the timing is the later of 15 years after declaration, or 15 years after the commencement of modelling of forest regeneration, disregarding up to 5 years of eligible growth disruption in either case. For this purpose the declaration is the

day the Regulator made the decision to declare the project and not when it may have taken effect under earlier provisions in the Act which allowed the backdating of the effect of the declaration.

For non-existing CEAs, under paragraph (c), the timing is 15 years since the modelling of forest regeneration commenced, disregarding up to 5 years of eligible growth disruption.

(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 offset 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 up to 5 years of any eligible growth disruption; and

(ii) the date that is 15 years since the modelling of forest regeneration commenced for the carbon estimation area disregarding up to 5 years of any eligible growth disruption;

(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 up to 5 years of any eligible growth disruption.

Note 1: The periods of eligible growth disruption need not be at the same time. For example, under paragraph (c) if the third and fifth year after modelling of forest regeneration commenced was an eligible growth disruption the forest cover assessment date would be 17 years after that modelling commencement (assuming over [5] tonnes of carbon per hectare was present at the end of the reporting period according to the modelling).

Note 2: 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.

Subsection (7) would provide for further definitions.

(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.

The definition for 'eligible growth disruption' would cover any period of time during which carbon stocks decrease or are modelled to be stable, for example due to a growth pause event. An eligible growth disruption would run for the period that the model shows a zero or negative change in abatement from one step to the next, rather than the period of time it takes carbon stocks to recover to previous levels (in the event of a disturbance, for example).

eligible growth disruption, in relation to a period, means any 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.

existing CEA means a carbon estimation area consisting only of an area that was part of the project area for a regeneration project on 1 July 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.

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.

regeneration project means a project whose applicable methodology determination for the reporting period is one of the following:

(a) the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*;

(b) the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*;

(c) a version of one of the above methodology determinations applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act.

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

Supporting auditing requirements

The draft rule amendment provisions introduced in this section set out additional audit requirements relating to forest cover. Projects that have passed the forest cover assessment date would need to be audited. Projects would be exempt from this requirement if a previous audit found that the requirement to attain forest cover (subsection 9AA(3)) has already been satisfied, or where the Regulator agrees in writing that this is unnecessary. One of the reasons why an audit would be unnecessary is where a subsequent audit has been scheduled or rescheduled to cover the relevant period.

79A Forest cover audits of regeneration projects

(1) An eligible offsets project that is a 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).

Section 74 would be amended to include the following subsection to enable audit reports to cover any matter identified by the Regulator on a risk-basis with mutual agreement of the project proponent, similar to paragraph 76(2)(c):

(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.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 30 AUGUST 2018

Present

Andrew Macintosh (Chair), Paul Graham, Chris Johnston, Suzanne Jones, Hilary Smith.

Apologies: Beverley Henry

Other attendees

Department of the Environment and Energy

Item 1: Kristin Tilley, First Assistant Secretary, Climate Change Division.

Item 2: s22 , Director Geospatial Analysis Unit.

Rob Sturgiss, Assistant Secretary, National Inventory System and International Reporting Branch.

Item 3: Katrina Maguire, Assistant Secretary, Land Branch.

s22 , Director, Agriculture Section.

s22 , Agriculture Section.

s22 , Agriculture Section.

s22 , Agriculture Section.

Items 4-5: s22 , Director, Transport Waste and Energy Efficiency Section.

s22 , Transport, Waste and Energy Efficiency Section.

Clean Energy Regulator

Item 1-9: Mary-Anne Wilson, General Manager, Clean Energy Regulator

Item 1-9: s22 Manager, Policy and Methods section.

Item 3: s22 Clean Energy Regulator.

Department of Agriculture and Water Resources

Items 2-3: s22 Director, Climate Policy.

Secretariat

s22 Director, ERF Governance and Policy Section

s22 ERF Governance and Policy Section

s22 Agriculture Section.

The meeting opened at 9:35am.

s22

s22

Item 3 – Periodic method review: HIR and NFMR

Katrina Maguire and s22 *joined the meeting.*

The Committee:

1. **noted** the Department's progress on the proposed legislative rule amendment and review report for the native vegetation regeneration methods.
2. **noted** a presentation from the Regulator (s22 on the draft guidance on HIR/NHFMR.
3. **noted** that stakeholders are engaging constructively in consultation on the draft change to the Rule.
4. **noted** the Regulator's advise that some projects are already changing practice in response to the draft guidance and other engagement.
5. **noted** that the Department's timeframe on the method review included exposing the review report to stakeholders.
6. **agreed** to consider a final report in December, following further engagement with stakeholders on further proposals and consideration via the sub-committee.
7. **agreed** the December papers need to include high level summary of issues raised by stakeholders.

Action items (to be included in action items register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Provide final review draft report including high level summary of issues raised by stakeholders during consultations.	s22	10 December	

Katrina Maguire, s22

s22

s22

s22

s22

s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 30 AUGUST 2018

Present

Andrew Macintosh (Chair), Paul Graham, Chris Johnston, Suzanne Jones, Hilary Smith.

Apologies: Beverley Henry

Other attendees

Department of the Environment and Energy

Item 1: Kristin Tilley, First Assistant Secretary, Climate Change Division.

Item 2: s22 , Director Geospatial Analysis Unit.

Rob Sturgiss, Assistant Secretary, National Inventory System and International Reporting Branch.

Item 3: Katrina Maguire, Assistant Secretary, Land Branch.

s22 Director, Agriculture Section.

s22 , Agriculture Section.

s22 Agriculture Section.

s22 , Agriculture Section.

Items 4-5: s22 Director, Transport Waste and Energy Efficiency Section.

s22 Transport, Waste and Energy Efficiency Section.

Clean Energy Regulator

Item 1-9: Mary-Anne Wilson, General Manager, Clean Energy Regulator

Item 1-9: s22 , Manager, Policy and Methods section.

Item 3: s22 , Clean Energy Regulator.

Department of Agriculture and Water Resources

Items 2-3: s22 Director, Climate Policy.

Secretariat

s22 Director, ERF Governance and Policy Section

s22 , ERF Governance and Policy Section

s22 , Agriculture Section.

The meeting opened at 9:35am.

s22

Item 3 – Periodic method review: Human Induced Regrowth and Native Forest from Managed Regrowth

Katrina Maguire and s22 *joined the meeting.*

The Committee:

1. **noted** the Department's progress on the proposed legislative rule amendment and review report for the native vegetation regeneration methods.
2. **noted** a presentation from the Regulator (s22 on the draft guidance on HIR/NFMR.
3. **noted** that stakeholders are mostly engaging constructively in consultation on the draft change to the Rule.
4. **noted** the Regulator's advice that some projects are already changing practice in response to the draft guidance and other engagement.
5. **noted** that the Department's latest timeframe on the method review included exposing the review report to stakeholders.
6. **agreed** to consider a final report in December on the method review, following further engagement with stakeholders on further proposals and consideration via the sub-committee.
7. **agreed** the December papers need to include high level summary of issues raised by stakeholders.

Action items (to be included in action items register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Provide final review draft report including high level summary of	s22	10 December	

issues raised by stakeholders during consultations.			

Katrina Maguire, s22

s22

s22

s22

s22


s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

25 October 2018 Meeting

Method Review: Update

Agenda Item 2: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

For Information

1. Recommendations

1. **Note** the Department's progress on the draft legislative rule amendment.
2. **Note** the Department's progress and the subcommittee's update on the draft review report.

2. Method descriptions

The Native Forest from Managed Regrowth (NFMR) method may be used to earn Australian carbon credit units (ACCUs) by regrowing forest on land for which there is evidence of prior clearing for grazing. Proponents must stop clearing and may undertake other activities to encourage regrowth. All 35 registered projects are in south-west Queensland.

The Human-Induced Regeneration (HIR) method may be used to earn ACCUs by regenerating native forest on land where the regrowth of native forest has been suppressed for at least 10 years. Project proponents must undertake one or more activities to encourage regrowth. The method prohibits clearing of vegetation, except in limited circumstances. The majority of registered projects are located in south-west Queensland and western New South Wales. Recently projects have begun to register in south-west Western Australia.

Both methods estimate net abatement using the Full Carbon Accounting Model (FullCAM).

Of the abatement contracted to the Australian Government under the Emissions Reduction Fund, 48.1 per cent is from HIR projects and a further 1.8 per cent is from NFMR projects (as of the most recent government auction in June 2018).

3. Previous consideration by the Committee

s47C

On 23 August 2018, the Department released an exposure draft rule addressing the risk of over-crediting for HIR projects for a three week public consultation period. As discussed with the Committee on 30 August, the amendments initially cover new and existing HIR projects but not NFMR projects.

The draft rule clarifies project reporting and crediting requirements, and makes continued crediting after 15 years conditional on projects demonstrating they have attained forest

cover. The Department is working with the Clean Energy Regulator to consider how best to apply a similar amendment to the rule for NFMR projects.

On 27 August 2018, the Regulator released draft technical guidance on the HIR and NFMR methods, which complements the draft rule. The Regulator provided this guidance to the Committee at the 30 August meeting.

The Committee agreed to consider the final draft report on the HIR and NFMR reviews in December following further engagement with stakeholders.

4. Issues

Issue	Degree of issue	Reference
The Department has made changes to the draft rule in response to consultation.	Low	Attachments A, B and C
The subcommittee will provide an update on the draft review report at the meeting.	Low	See 'Discussion' below.

5. Discussion

Progress on the draft rule

The consultation period on the draft rule closed on 13 September 2018. The Department received 20 submissions. Six submissions were from carbon service providers that collectively act as either proponents or agents for most of the 239 contracts for HIR projects. The other submissions were from landholders undertaking projects with the carbon service provider s45 as their agent. The main issues raised in submissions, and the Department's responses, are summarised at **Attachment A**.

Five of the carbon service providers supported actions to improve integrity around regeneration methods. s45 supported the draft rule, and s45 acknowledged the draft rule would give more certainty about the methods' integrity. s45 and Corporate Carbon suggested the aims could be achieved through the Regulator's guidance and amending the CFI Mapping Guidelines. s45 submission. Country Carbon's submission did not directly comment on the draft rule. Two of the submissions from landholders supported the intent of ensuring credits are only issued for genuine abatement.

The main issues raised in submissions were those already discussed during the Department's preliminary consultations with carbon service providers. Carbon service providers other than s45 expressed concern about the draft rule applying to existing projects, which they saw as reducing certainty about future crediting.

s45 said the proposed five-year cap on eligible growth disruptions could unnecessarily penalise some projects – especially when applied for the period prior to project registration. Eligible growth disruptions are periods of time during which carbon stocks do not increase, for example because of drought or grazing by livestock.

s45 and Corporate Carbon said the Regulator should not be able to revisit the eligibility assessment of pre-existing forest cover undertaken at project registration, and that the reporting requirements and timing for testing attainment of forest cover were excessively complex.

The submissions from landholders echoed key points in s45 submission. Two of them supported the intent of ensuring credits are only issued for genuine abatement.

In response to these concerns, the Department has revised the draft rule (**Attachments B and C**) to:

- only count eligible growth disruptions occurring during the crediting period toward the five-year cap. This provides flexibility where the commencement of regeneration has preceded the crediting period and eligible growth disruptions occur before the crediting period
- remove reference to limiting the Regulator's ability to revisit the assessment of pre-existing forest cover
- simplify requirements on the timing for providing additional information in offsets reports on progress of projects towards attaining forest cover.

The Department and the Regulator are discussing with stakeholders an appropriate approach on re-assessment by the Regulator of pre-existing forest cover. The Regulator will pursue this through its technical guidance on the HIR and NFMR methods. Already the Regulator is seeing carbon service providers adjust their behaviours in response to the release of their technical guidance.

The Department submitted the draft rule to the Minister for the Environment for approval on 4 October 2018, and will provide an update at the Committee meeting.

Progress on review report

The Department and the subcommittee continue to work on the draft review report for both methods, which will be separately provided to the Committee prior to the meeting. The subcommittee will provide an update at the meeting.

The Department is seeking initial comments from Committee members on the draft executive summary and findings and recommendations at the meeting, and will welcome written comments following this meeting. As previously agreed, the subcommittee intends to provide the final draft report for consideration by the Committee at the 10 December meeting. As discussed at the August meeting, the Department and the subcommittee are scheduling a stakeholder meeting to discuss key findings of the review, before bringing the report back to the Committee for further consideration at the December meeting.

6. Options

The Department seeks the Committee's views on this update, revisions to the draft rule and proposed timing in relation to the draft review report.

7. Consultation

The Department intends to share the main findings from the method reviews with carbon service providers in November, to help inform the final review report.

8. Attachments

Attachment A	Main issues raised in submissions, and revisions to the draft rule
Attachment B	Draft rule
Attachment C	Draft rule: explanatory statement

9. Contact details

Author: s22

Cleared by: Katrina Maguire
Assistant Secretary
Land and Outreach
Branch
s22

Cleared on: 04/10/2018

ATTACHMENT A

DRAFT RULE AMENDMENT – MAIN ISSUES RAISED IN SUBMISSIONS, AND REVISIONS TO THE DRAFT RULE

Growth pauses limit

HIR projects are able to voluntarily model 'growth pauses' in FullCAM. Growth pauses are periods where regrowth is paused because no carbon is accumulating due to instances such as drought or overgrazing. No credits are issued for periods of growth pauses.

Under the draft rule, modelling of a growth pause allows the forest cover assessment date to be extended, as slowing of growth is likely to mean more time is needed to reach forest cover. The draft rule placed a five-year limit on how long the forest cover assessment date could be extended due to the modelling of growth pauses. For example, a project modelling a total of seven years of growth pauses could extend the forest cover assessment date from occurring at year 15 to year 20, but not until year 22. The intention of the limit was to ensure that projects cannot keep extending the forest cover assessment date to avoid ever being assessed for the attainment of forest cover.

s45 and landholders requested removal of this limit. s45 was concerned that where suppression of regrowth (e.g. through grazing pressure) had already occurred before a project started and this was modelled as a growth pause, the five year allowance would be depleted before the project ever started.

The Department has responded to this by amending the draft rule to ensure that any growth pauses modelled as occurring before the project commences would not count towards the five year limit on extending the forest cover assessment date. This allows proponents to model pre-project suppression events at their discretion, without compromising the intent of the provision to ensure that growth pauses can be used to avoid being assessed for forest cover under the rule.

Reassessment of pre-existing forest cover

The draft rule had provisions that limited the Clean Energy Regulator (CER) ability to request information from project proponents on the initial exclusion of pre-existing forest cover to one occasion only. This provision related to work by the CER in examining projects where there appears to be a risk that projects have some land that is ineligible because it already had forest cover during the 10 years before the projects. The draft rule intended that where the CER requests further information to correct problems with ineligible land, this process would occur once and then be settled.

s45 and Corporate Carbon do not believe the CER has the authority to further examine the eligibility of land after projects have undergone audits and received credits. Therefore proponents objected to the inclusion of any provisions covering initial land eligibility under the rule.

As the rule was intended to limit the CER's powers, rather than expand them, the Department has decided to remove the provisions that stakeholders have objected to. This does not affect the CER's ability to re-examine projects where land receiving credits may be ineligible.

Lack of clarity of the timing of requirements

s45 and Corporate Carbon raised concerns that the timing of reporting requirements in the draft rule are unclear. The Department has simplified drafting of these requirements and provided practical examples in the explanatory statement. The Department is also working with the CER to ensure alignment between the draft rule requirements and the timing elements of CER's draft guidance around stratification and forest potential.

Other issues

The requirements in the draft rule for attaining forest cover within a certain period are based on relationships between modelled carbon stocks and tree canopy cover. The draft rule allows proponents to demonstrate forest cover has been attained within the required time by assessing canopy cover. s45 requested inclusion of an option to be able to provide field measurements of biomass in trees to verify modelled carbon stocks, instead of assessing canopy cover. It is not possible at present to provide this option, because it would require measurements to have already been taken, using a suitable sampling approach, to allow the change in carbon stocks to be estimated.

The Department has indicated in the explanatory statement that we will consult stakeholders on whether a robust measurement option could be developed. The explanatory statement makes it clear that this option, if progressed in future, would only function to delay the forest cover assessment date, with an effect similar to growth pauses. It would not provide an alternative to the requirement to attain forest cover.

To give projects registered before the changes were developed time to make any necessary adjustments to their business plans, the draft rule allows them more time to reach forest cover compared to new projects. It does this by giving existing projects a different starting point for the 15-year period. The draft rule initially defined existing projects as those registered before 1 July 2018. Corporate Carbon submitted that they had applied for a project well before that date, when stakeholders were not aware of the proposal to amend the rule, and that the project was not approved until early August. Corporate Carbon sought a change to the date to allow the project to be treated equally to other existing projects.

The Department has revised the draft rule to define existing projects as those registered before 15 August 2018. This change does not affect the classification of any other projects.

s45 and Corporate Carbon suggested new projects should have the same amount of time as existing projects to reach forest cover. However, the Department considers the amount of time allowed for new projects appropriately reflects available science on the amount of time within with vegetation should reach forest cover.

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

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

Dated

Melissa Price
Minister for the Environment

Contents

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	1 November 2018	1 November 2018

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.

EXPLANATORY STATEMENT

Issued by the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

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

Purpose of amendment rule

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 trees.

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the Amendment Rule) clarifies the intent of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2018) (the Human-Induced Regeneration Method). The Amendment Rule ensures the Clean Energy Regulator (the Regulator) has the information necessary to assess compliance with requirements in the Emissions Reduction Fund method for human-induced regeneration projects. The Amendment Rule also provides clarity around the timeframes within which land under the method must attain forest cover to obtain further carbon credits.

The Amendment Rule also ensures that amounts payable by the Clean Energy Regulator (the Regulator) under carbon abatement contracts are able to be set-off against money payable to the Regulator by a person who has failed to comply with a relinquishment requirement under the Act.

The Amendment Rule achieves these changes by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule).

Background: Emissions Reduction Fund

In 2014, the Australian Government amended the Act with the *Carbon Farming Initiative Amendment Act 2014* (CFI Amendment Act). The CFI Amendment Act established the Emissions Reduction Fund by expanding the crediting of emissions reductions under the Carbon Farming Initiative to non-land based sectors of the Australian economy.

The primary objective of the Emissions Reduction Fund is to assist Australia to meet its greenhouse gas emissions reduction targets, consistent with its international obligations under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects (projects declared under section 27 of the Act). The Regulator is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

Background: native forest regeneration

Native forest regeneration methods provide opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover.

The Human-Induced Regeneration Method provides opportunities for regenerating forest on land that has been without forest cover for at least 10 years and does not have forest cover at the start of the project (i.e. does not have pre-existing forest cover). The land must have been subject to management practices during those 10 years that suppressed the development of forest, and the land must be not able to attain forest cover without a change in those management practices. Land must have 'forest potential' – the potential to achieve forest cover – to be eligible for a project using the method.

Forest cover is defined as land with an area of at least 0.2 of a hectare with trees that are 2 metres or more in height and provide crown cover of at least 20% of the land. This definition aligns with the definition used for Australia's international reporting obligations and targets.

Project proponents use the Australian Government's publicly available Full Carbon Accounting Model (FullCAM) to estimate abatement. FullCAM was developed to estimate greenhouse gas emissions and carbon sequestration for land systems in Australia, using spatial data inputs. It is used in preparing estimates for Australia's National Greenhouse Accounts and reporting against the Government's international emissions reduction commitments.

The method initially used the Reforestation Modelling Tool to estimate abatement. The method was varied in 2016 to, among other things, replace use of the Reforestation Modelling Tool with the FullCAM model.

Amendments to the Principal Rule provide assurance that crediting under the method aligns with on-ground progress of regenerating vegetation towards forest cover.

The amendments apply to the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* and its variants. They also apply to any projects under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (Native Forest from Managed Regrowth Method) which include land previously in a project under the Human-Induced Regeneration Method.

Under the Act the issuance of Australian carbon credit units is separate to the declaration of eligible offsets projects and offsets reporting under the applicable method. After submitting an offsets report, project proponents can submit an application for a certificate of entitlement for the reporting period covered by the offsets report. Under subsection 15(2) of the Act, the Regulator cannot issue a certificate of entitlement unless satisfied of a number of requirements. Paragraph 15(2)(h) includes in that list any additional requirements specified in the regulations or legislative rules.

Under the Act, offsets reports must include both information required by the applicable method and information required by legislative rules.

Central to the Amendment Rule is a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for offsets reports including the applicable carbon estimation areas (CEAs).

The Amendment Rule also clarifies the information necessary to demonstrate that the forest potential requirements of the method are being met. This complements Regulator guidance (*Guidance on stratification, evidence and records*; available from the Regulator's website www.cleanenergyregulator.gov.au) setting out information to be provided by proponents at

5-year intervals to demonstrate that land within CEAs continues to have forest potential and has made progress towards attaining forest cover.

Land under existing CEAs (land part of a project area of a registered human-induced regeneration project on 15 August 2018) is required to attain forest cover by 15 years after the declaration of the project (or 15 years after the CEA modelling commencement date if that is later) to receive further credits through certificates of entitlement. The forest cover assessment date for each CEA may be delayed where:

- 'eligible growth disruptions' of up to 5 years have occurred in the CEA (for CEAs affected by disturbances that stop growth or by growth pauses)
- the modelled abatement of the CEA does not exceed 5 tonnes per hectare, unless the project is in the final 5 years of its crediting period.

For projects declared after 15 August 2018 or land added to an existing project after 15 August 2018, the same requirement to attain forest cover applies, but the 15-year period has a different starting point. It is the 15 years after the commencement of the modelling of forest regeneration in the relevant CEA. The forest cover assessment date for the CEA may be delayed where:

- 'eligible growth disruptions' have occurred in the CEA before the commencement of the project crediting period
- 'eligible growth disruptions' have occurred in the CEA during the crediting period (with no more than 5 years of eligible growth disruptions during the crediting period able to contribute to the total eligible growth disruption period)
- the modelled abatement of the CEA does not exceed 5 tonnes per hectare, unless the project is in the final 5 years of its crediting period.

These provisions support the principle that regeneration projects should be undertaken on land with existing forest potential that is capable of attaining forest cover.

The provision for extending the 15-year period where the CEA's modelled abatement does not exceed 5 tonnes per hectare ensures vegetation in low productivity areas is required to attain forest cover within timeframes realistic for those conditions. Modelling undertaken in accordance with the relevant method needs to show the CEA has more than 5 tonnes of carbon per hectare for the forest cover requirement to apply. This benchmark abatement level of 5 tonnes per hectare is supported by data on growth of vegetation in regions where regeneration projects may be undertaken, including the time this vegetation generally takes to reach forest cover. The data shows that within a 15-year period and where modelled regeneration reaches 5 tonnes, on-ground regrowth is expected to have attained forest cover. The provision also ensures where disturbances such as wildfires reduce carbon stocks, projects are not required to have attained forest cover until stocks have recovered to more than 5 tonnes of carbon per hectare, providing there is still more than 5 years left until the end of the crediting period.

Limiting the crediting of CEAs yet to meet the forest cover requirements after a reasonable period of time supports consistency between modelled abatement estimates and on-ground project performance. The offsets integrity standards under the Act require that methods provide for conservative estimates of abatement.

Proponents could elect to restratify CEAs so that crediting would only be limited for areas of CEAs that have not substantially reached forest cover. The Amendment Rule has no effect on crediting for CEAs that have reached forest cover within their relevant 15-year period.

Operation

The Act is supported by subordinate legislation, including the Principal Rule, and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations). The Principal Rule and Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

The Minister for the Environment is empowered to make legislative rules under section 308 of the Act. The Amendment Rule supports the operation of the Human-Induced Regeneration Method and any projects under the Native Forest from Managed Regrowth Method which include land previously in a project under the Human-Induced Regeneration Method.

The primary changes to the Principal Rule relate to clarifying reporting to ensure the Regulator has the necessary information to administer the method and clarifying timeframes for land under the method to attain forest cover to obtain further carbon credits.

In particular, section 9AA sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and when regular forest potential information is inadequate. Subsection 70(3A) and paragraph 71(c) strengthen offsets reporting requirements by specifying the information that must be included in offsets reports for demonstrating progress towards forest cover at 5-year intervals and the attainment of forest cover once the forest cover assessment date passes. Section 79A provides for additional audit requirements for projects with CEAs that have passed the forest cover assessment date.

Section 95 sets out provision for the Regulator to set-off amounts payable by the Regulator under carbon abatement contracts against money payable to the Regulator under relinquishment requirements of the Act.

Detailed description of the Amendment Rule

Attachment A outlines and describes the sections in the Amendment Rule.

Public consultation

Public consultation on a draft Amendment Rule was undertaken from 23 August 2018 to 13 September 2018. People were invited to make written submissions or to call or email the Department of the Environment and Energy to provide comments. Submissions and feedback received have been taken into account in the Amendment Rule.

Regulatory impact

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment and Energy certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund. The decisions included 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. These minor amendments will not materially impact the regulatory impact of the scheme.

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.

ATTACHMENT A

Details of the sections in the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*

1. Name

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*.

2. Commencement

Section 2 provides that the Amendment Rule would commence on 1 November 2018.

3. Authority

Section 3 provides that the Amendment Rule would be made under section 308 of the Act. Section 304 of the Act also allows such rules to apply, adopt or incorporate matters in any instrument or writing as in force from time to time.

4. Schedules

Section 4 provides that the Amendment Rule would, when made, amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) in the manner set out in the schedules. The power to make rules in section 308 of the Act includes the power to amend or revoke rules that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Schedule 1—Amendments

1 Section 9AA (Issue of certificate of entitlement—eligibility requirements for human-induced regeneration projects)

Section 9 of the Principal Rule specifies eligibility requirements that must be met in order for a certificate of entitlement to credits to be issued to an eligible offsets project for a reporting period.

This item inserts a new section 9AA that sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and in relation to the information required. Whether or not this section is satisfied does not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period.

The new subsection 9AA(2) ensures the information requirements set out in new paragraphs 70(3A)(a) and 71(c) and described below are adequately met in order for a regeneration project to be eligible for a certificate of entitlement.

The new subsection 9AA(3) is the central requirement to ensure that all CEAs that are past their forest cover assessment date must have attained forest cover to be eligible for a certificate of entitlement.

Subsection 9AA(4) sets out what is required for a CEA to be taken to have attained forest cover. The requirements are designed to ensure only those areas of land within a CEA

meeting the method's definition of forest cover can be taken to have attained forest cover. In order to reliably determine whether forests meet the minimum area of 0.2 hectares, the assessment of forest cover must be undertaken at the 0.2 hectare scale. Any land of 0.2 hectares (or more) in area that does not have trees two metres or more in height and providing crown cover of at least 20% of the land does not meet the forest cover definition. Therefore the section requires assessment at the 0.2 hectare scale.

Paragraph (4)(a) provides for a simplified assessment approach; if the most recent version of the forest cover mapping used by the Government's National Inventory Report to report sequestered carbon shows over 90% of the area of the CEA as having forest cover, the CEA is taken to have attained forest cover. This approach is permitted because the National Inventory Report forest cover mapping is undertaken at a scale of less than 0.2 hectares (0.0625 hectares) and applies the requirement of a minimum contiguous forest area of 0.2 hectares to classify land as having forest cover. How to access the forest cover mapping is described on the Department's website (www.environment.gov.au). The Department is streamlining public access to the mapping.

Paragraph (4)(b) provides for a more detailed assessment such that when a CEA is considered as 0.2 hectare portions, and over 90% of those 0.2 hectare portions have attained forest cover as per the definition, the CEA is taken to have attained forest cover.

If a CEA were to be credited for abatement where it does not attain forest cover in at least 90% of the 0.2 hectare portions by the forest cover assessment date, the crediting is unlikely to be conservative. This is because the models used for estimating abatement under the method are calibrated to provide estimates of abatement where each 0.2 hectare portion of land attains forest cover. The requirements of subsection 9AA(4) help ensure carbon abatement credited under the method is conservative, consistent with the offsets integrity standards of the Act.

Allowing for 90% of 0.2 hectare portions to have attained forest cover, rather than 100%, reduces the need for re-stratification in circumstances where a small proportion of a CEA has not attained forest cover. Furthermore, where a small proportion of the CEA (10% or less of the 0.2 hectare portions) may be on the margins of having attained forest cover, the whole of the CEA would not be prevented from being taken to have attained forest cover.

The Department will consult stakeholders over whether it is possible to develop an option for future inclusion under subsection (4) to allow proponents to delay the forest cover assessment date until no later than 5 years before the end of the crediting period, where robust, direct measurement of carbon stocks can show that at least as much carbon has accumulated under the relevant pools as has been claimed in offsets reports for the span of the project.

Subsection 9AA(5) provides for requirements to be set out in the Carbon Farming Initiative Mapping Guidelines to guide assessment of CEAs under paragraph (4)(b). It requires assessments under paragraph 4(b) to follow those requirements and take into account guidelines published by the Regulator on its website (www.cleanenergyregulator.gov.au). The Carbon Farming Initiative Mapping Guidelines are already incorporated into existing methods and requirements of the Principal Rule (such as subsection 13(2) of the Principal Rule). They are available at the Department's website: www.environment.gov.au. They are incorporated as in force from time to time consistent with s 304 of the Act.

Subsection 9AA(6) defines when a CEA has passed the forest cover assessment date. This occurs once both the tonnes of carbon per hectare amount under paragraph (6)(a) and the time period set out under paragraph (6)(b) or (6)(c) have been surpassed.

Where the 15-year time period has passed, but not the tonnes of carbon amount (or vice versa), the forest cover assessment date has not yet passed.

The provision under paragraph (6)(a) ensures land is only required to have attained forest cover once it is reasonable to expect it to have done so. The relationship between tonnes of carbon present in regenerating forest and canopy cover informs this provision. However, it does not apply for the last 5 years of a project's crediting period.

Paragraphs (6)(b) and (6)(c) set out separate timing for existing CEAs (an area that was part of the project area for a human-induced regeneration project on 15 August 2018) and CEAs that are not existing CEAs respectively.

For existing CEAs, under paragraph 6(b), the forest cover assessment date is the later of 15 years after declaration of the project, or 15 years after the commencement of modelling of forest regeneration for the CEA, disregarding any eligible growth disruption period (see example 1 below). For this purpose the declaration is the day the Regulator made the decision to declare the project and not when it may have taken effect under earlier provisions in the Act which allowed the backdating of the effect of the declaration.

For CEAs that are not existing CEAs, under paragraph (6)(c), the forest cover assessment date is 15 years since the modelling of forest regeneration commenced in the CEA, disregarding any eligible growth disruption period (see example 2 below).

Subsection (7) provides for further definitions relevant to the interpretation of 9AA: carbon estimation area (CEA), eligible growth disruption period, existing CEA, forest potential requirement, human-induced regeneration project, National Inventory Report and tree.

For the 'eligible growth disruption period', the definition covers any period of time during which carbon stocks do not increase (for example due to a growth pause event), when such a period occurs after the carbon stocks had begun to increase following the modelled commencement of regeneration. An eligible growth disruption would run for the period that the model shows a zero or negative change in abatement from one step to the next, rather than the period of time it takes carbon stocks to recover to previous levels (in the event of a disturbance, for example). Paragraph (d) of the definition sets out that the eligible growth disruptions are limited to 5 years during a project's crediting period. Where the total eligible growth disruptions during the crediting period are greater than 5 years, the eligible growth disruptions contributing to the eligible growth disruption period is taken to be 5 years. Eligible growth disruptions occurring before the crediting period are, in effect, unlimited in their contribution to the eligible growth disruption period. Paragraph (c) ensures that periods of time before the declaration day that are already outside of the 15 year assessment timeframe under subparagraph (6)(b)(i) do not further extend that date.

An 'existing CEA' is defined in relation to whether all of the land area of a CEA was part of the project area of a human-induced regeneration project on 15 August 2018. This could include land already stratified as a CEA and land in a project area on that date which is yet to be stratified as a CEA.

For 'human-induced regeneration project', the definition includes projects under the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*; and projects under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* which have any land that was previously part of a project under the *Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

Other definitions are taken from the applicable methodology determinations.

Example 1:

A project is declared in 2017 and has a CEA regeneration start date of 2012. The CEA has a modelled growth pause from 2013 to 2017. There are no growth pauses during the project crediting period and modelled carbon per hectare for the CEA does not exceed 5 tonnes until 2035. The forest cover assessment date for this CEA would be 2035.

- The earliest possible forest cover assessment date for the CEA would be 2032 (15 years since the project declaration date).
- However, in this example, the modelled tonnes of carbon per hectare do not exceed 5 tonnes until 2035, therefore 2035 would be the forest cover assessment date.
- The latest possible forest cover assessment date for this example CEA, if the modelled carbon per hectare had not exceeded 5 tonnes before this, would have been 2037 (when it reached the final 5 years of the project crediting period).

Example 2:

A project is declared in 2020 and has a CEA regeneration start date of 2015. The CEA has a modelled 3-year growth pause from 2016 to 2018 and a further modelled 6-year growth pause from 2025 to 2030. The forest cover assessment date for this CEA would be 2038.

- The earliest possible forest cover assessment date for the CEA would be 2030 (15 years since the modelling of regeneration in the CEA commenced).
- However, in this example CEA, there is an eligible growth disruption period of 8 years which delays the forest cover assessment date until 2038:
    - 3 years prior to the project crediting period (2016-2018)
    - 5 years during the project crediting period (the eligible growth disruption period can only include 5 years during the crediting period so the 6-year growth pause from 2025 to 2030 is taken to be 5 years)
- The latest possible forest cover assessment date for this example CEA, if the modelled carbon per hectare had not exceeded 5 tonnes before this, would have been 2040 (when it reached the final 5 years of the project crediting period).

2 After subsection 70(3) (Information for human-induced regeneration projects)

Section 70 of the Principal Rule specifies the information that must be set out in an offsets report about an eligible offsets project for a reporting period. The Amendment Rule provides further requirements for projects under the Human-Induced Regeneration Method.

This item inserts a new subsection 70(3A) which, together with new paragraph 71(c), specifies the information that must be included in offsets reports for demonstrating progress towards forest cover at 5-year intervals and the attainment of forest cover once the forest cover assessment date (see above) passes. Under subsection 9AA(2) it is an eligibility requirement that the information provided to demonstrate progress towards forest cover be sufficient to enable the Regulator to determine if the method's forest potential requirements are satisfied for each included CEA. The information provided would need to take into account any guidelines issued by the Regulator. These new requirements only apply to human-induced regeneration projects, as defined in subsection 9AA(7).

Paragraph (3A)(a) sets out the information to be included in offsets reports at least every 5 years, if the CEA being reported on has not already attained forest cover. This provision is intended to meet the Regulator's information requirements to inform the 5 yearly regeneration checks described in the Regulator's guidance (*Guidance on stratification, evidence and records* available from the Clean Energy Regulator's website: www.cleanenergyregulator.gov.au, as in force from time to time). The paragraph does not identify specific times at which offsets reports must be submitted. The paragraph specifies that the information is also required if requested by the Regulator after conducting a risk-based assessment of the project. Reporting under this paragraph is generally expected to be every 5 years, in line with the Regulator's guidance.

Paragraph (3A)(b) sets out the information required to be included in an offsets report for a CEA that has passed its forest cover assessment date. This is essentially the evidence that the requirement in subsection 9AA(3) has been met.

Paragraph (3A)(c) sets out the information required to be included in all offsets reports for each CEA included in the offsets report. These data points reflect the information necessary for auditors and the Regulator to determine how to apply section 9AA.

3 After subsection 70(5) (Definitions)

This item inserts a new subsection 70(6) which provides for further definitions relevant to the interpretation of new subsection 70(3A): carbon estimation area (CEA), eligible growth disruption period, forest cover assessment date and human-induced regeneration project.

4 At the end of section 71 (Documents that must accompany offsets reports)

Section 71 of the Principal Rule specifies documents that must accompany offsets reports. The Amendment Rule inserts new paragraph 71(c) which sets out that where an offsets report for a human-induced regeneration project is required to contain information under subsection 70(3A), it must be accompanied by documents to support the information. The subsection provides for the Regulator providing guidance on the documents required.

5 After subsection 74(2) (Initial audits)

Section 74 of the Principal Rule outlines the requirements of initial audits for eligible offsets projects.

The Amendment Rule includes a new subsection 74(2A) to enable audit reports to cover any matter identified by the Regulator on a risk basis with mutual agreement of the project proponent, similar to existing paragraph 76(2)(c).

6 After section 79 (Qualified or other conclusion audits)

This item inserts a new section 79A to support auditing of forest attainment by regeneration projects.

The provisions introduced in this section set out additional audit requirements relating to forest cover. Projects that have passed the forest cover assessment date would need to be audited. Projects would be exempt from this requirement if a previous audit found that the requirement to attain forest cover (subsection 9AA(3)) has already been satisfied, or where the Regulator agrees in writing that an audit is unnecessary. One of the reasons why an audit would be unnecessary is where a subsequent audit has been scheduled or rescheduled to cover

the relevant period. If a project has a range of forest cover assessment dates, the costs of multiple audits could also be considered.

7 After section 94 (Set-off of amounts payable under carbon abatement contracts)

Subparagraph 182(b)(ii) of the Act allows the Regulator to set-off an amount payable under section 179 or 180 of the Act against an amount of a type specified in the Rule. Sections 179 and 180 of the Act relate to where a requirement to relinquish credits has not been met. This could have arisen because of a reversal of carbon stocks or the provision of false or misleading information to the Regulator.

This item inserts a new section 95 which applies to amounts payable under section 179 or 180, regardless of which methods may have applied or the reason for relinquishment. Section 95 allows amounts payable under carbon abatement contracts to be 'of a kind specified' for the purposes of subparagraph 182(b)(ii). This avoids the Regulator needing to pay an amount (in whole or in part) to a person under a carbon abatement contract who has an outstanding debt with the Regulator for a failure to comply with relinquishment requirements.

ATTACHMENT B

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 Rule (No. 2) 2018

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

The Amendment Rule details additional eligibility requirements relating to the issuance of certificates of entitlement to carbon credit units for human-induced regeneration projects. These eligibility requirements relate to the attainment of forest cover within a reasonable timeframe and in alignment with the abatement calculated from project modelling. They are informed by forest carbon research relating forest cover levels and biomass levels and make allowances for where regrowth is slower, and disruptions to regrowth occur. The Amendment Rule sets out information to be provided to the Clean Energy Regulator to support the Regulator's administration of the method. The information allows the Regulator to ensure a project's regrowth is progressing towards the attainment of forest cover, and pre-existing forest cover has been excluded from Carbon Estimation Areas. The Amendment Rule sets out audit requirements relating to forest attainment by human-induced regeneration projects.

In addition to provisions specific to the Human-Induced Regeneration Method, the Amendment Rule ensures that amounts payable by the Clean Energy Regulator under carbon abatement contracts are able to be set-off against money payable to the Regulator by a person who has failed to comply with a relinquishment requirement under the Act.

It does this by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the ***Principal Rule***).

Human rights implications

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

A detailed statement of compatibility of the provisions of the Emissions Reduction Fund is provided in the Explanatory Memorandum for the *Carbon Farming Initiative Amendment Bill 2014*: http://www.environment.gov.au/system/files/pages/7aef9f12-8ba1-4d9a-bf6a-1bc89a0bd6f5/files/cfi-amendment-bill-explanatory-memorandum.pdf .

Conclusion

The Amendment Rule 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*.

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING 25 OCTOBER 2018

Present

Andrew Macintosh (Chair), Paul Graham, Beverley Henry, Suzanne Jones, Hilary Smith.

Apologies: Mick Keogh and Chris Johnston

Other attendees

Department of the Environment and Energy

Item 1: Kristin Tilley, First Assistant Secretary, Climate Change Division.

Item 2: Katrina Maguire, Assistant Secretary, Land Branch.
s22 , Director, Forests Section.
s22 Forests Section.
s22 Forests Section.
s22 Forests Section.

Item 3: Edwina Johnson, A/g Assistant Secretary, Industrial and Air Quality Branch
s22 Director, Transport Waste and Energy Efficiency Section.
s22 Transport, Waste and Energy Efficiency Section.

Item 4: Edwina Johnson, A/g Assistant Secretary, Industrial and Air Quality Branch
s22 Director, Industrial Safeguard and Facilities Section

Item 5: Edwina Johnson, A/g Assistant Secretary, Industrial and Air Quality Branch
s22 Director, Transport Waste and Energy Efficiency Section.
s22 Transport, Waste and Energy Efficiency Section.

Items 6-8: Kristin Tilley, First Assistant Secretary, Climate Change Division.
Edwina Johnson, A/g Assistant Secretary, Industrial and Air Quality Branch
Katrina Maguire, Assistant Secretary, Land Branch.
s22 Director, Forests Section

Clean Energy Regulator

Item 1-6: Mary-Anne Wilson, General Manager

Item 2-6: s22 Manager, Policy and Methods
s22 A/g Manager, ERF Policy

Department of Agriculture and Water Resources

Item 2: s22 A/g Director, Climate Policy
s22 Director, Climate Policy

Australian Government Solicitor

Item 2: s22 Counsel.

Secretariat

s22 Director, ERF Governance and Policy Section
s22 ERF Governance and Policy Section

The meeting opened at 9:30am.

s22

s22

Item 2 – Periodic method review: Human Induced Regrowth and Native Forest from Managed Regrowth

Introduced Nicole and Alan

Katrina Maguire, s22 *joined the meeting.*

The Committee:

1. **noted** the Department's progress on the proposed legislative rule amendments and review report for the native vegetation regeneration methods.
2. **thanked** the Forest team for their presentation on the current findings and suggested recommendations.
3. **discussed** the draft executive summary, findings and recommendations of the Review.
4. **noted** that there were 20 submissions received.
5. **noted** the Department is continuing to keep landholders informed and the Regulator has had discussions with a number of stakeholders.
6. **noted** the Department's advice that the Minister is expected to consider the draft amendment rule shortly.
7. **noted** the advice from s22 about the current rule and the issues with old data layers and old algorithms. The Department is looking at a number of solutions for stakeholders that may be affected by this.

s22 *left the meeting.*

8. **agreed** to provide comments to the Department on the draft recommendations and findings for inclusion in the report.
9. **agreed** that the text of some recommendations should be clarified.

s22 *left the meeting.*

10. **discussed** how the Committee will handle evidence received in relation to socio-economic issues obtained during the Review. The Committee agreed that any recommendations on this topic must be realistic and achievable.
11. **agreed** on the following next steps:
    - 2 November: Department provide a full first draft to the subcommittee for consideration
    - 8 November: Subcommittee will meet to discuss the draft report
    - Week of 19 November: Department to provide a revised draft to the subcommittee
    - Late November: final draft to be provided to full Committee for consideration at the December meeting.
12. **Agreed** to hold further stakeholder consultations, ideally before the 10 December meeting.

13. Thanks were given to the Sub-Committee for their substantial efforts with respect to the two reviews.

Action items (to be included in action items register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Committee members to provide further comments on the findings and recommendations to the Department through the subcommittee meetings	ERAC members	8 November	
Provide final review draft report to the Committee	s22	30 November	

Katrina Maguire, s22 *left the meeting.*

s22


s22


s22


s22

s22

s22


s22

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

10 December 2018 Meeting

Method Review: Outcomes

Agenda Item 3: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

For Decision

---

1. Recommendations

That the Committee:

1. **Note** progress on the review report.
2. **Decide** whether to consider the final report for endorsement either:
    a) out of session in January 2019
    b) at the February 2019 meeting.
3. **Note** the Department's progress on the legislative rule amendment.

2. Method descriptions

The Native Forest from Managed Regrowth (NFMR) method may be used to earn Australian Carbon Credit Units (ACCUs) by regrowing forest on land for which there is evidence of prior clearing for grazing. Proponents must stop clearing and may undertake other activities to encourage regrowth. All 35 registered projects are in south-west Queensland.

The Human-Induced Regeneration (HIR) method may be used to earn ACCUs by regenerating native forest on land where the regrowth of native forest has been suppressed for at least 10 years. Project proponents must undertake one or more activities to encourage regrowth. The method prohibits clearing of vegetation, except in limited circumstances. The majority of registered projects are located in south-west Queensland and western New South Wales. Recently projects have begun to register in south-west Western Australia.

Both methods estimate net abatement using the Full Carbon Accounting Model (FullCAM).

Of the abatement contracted to the Australian Government under the Emissions Reduction Fund, 47.5 per cent is from HIR projects and a further 1.8 per cent is from NFMR projects (as of the most recent government auction in June 2018).

3. Previous consideration by the Committee

s47C

Following discussions with project participants, the Department released on 23 August 2018 an exposure draft rule designed to address the risk of over-crediting for HIR projects, for a three week public consultation period. As discussed with the Committee on 30 August and 25 October, the amendments initially cover new and existing HIR projects but not new or existing NFMR projects.

The draft rule clarifies project reporting and crediting requirements, and makes continued crediting after 15 years conditional on projects demonstrating they have attained forest cover.

On 27 August 2018, the Regulator released draft technical guidance on the HIR and NFMR methods, which complements the draft rule. The Regulator provided this guidance to the Committee at the 30 August meeting.

On 25 October, the Committee discussed the draft executive summary, findings and recommendations of the Review and agreed to consider the final draft report on the HIR and NFMR reviews at the 10 December meeting following further engagement with stakeholders. The Department also informed the Committee that the draft rule had been submitted to the Minister on 4 October 2018.

4. Issues

Issue	Degree of issue	Reference
The subcommittee has a well-developed draft review report and will provide an update at the meeting.	Low	See 'Discussion' below and Attachment A.
The subcommittee will be meeting with stakeholders on 3 December to discuss likely review outcomes	Low	Outcomes will be discussed on 10 December.
The Minister made the rule amendment on 21 November 2018.	Medium	See 'Discussion' below and Attachments B and C.

5. Discussion

Progress on review report

The subcommittee and the Department have continued work on the draft review report for both methods, and met on 8 and 22 November. The report at **Attachment A** is an advanced draft. The subcommittee will provide an update at the meeting, taking into account outcomes from consultation (see below).

The draft report finds the methods meet the offsets integrity standards, when considered together with amendments to the rule to address over-crediting risks for both methods. The draft report recommends varying the methods, to ensure they meet best practice in relation to the offsets integrity standards and to improve usability.

Progress on the draft rule

The Minister made the Rule on 21 November 2018 (**Attachment B** and **Attachment C**). The Rule was registered on 30 November 2018. The Department will give an update on gazettal, tabling and the disallowance period at the meeting.

The Regulator is finalising its technical guidelines on both methods for publication.

The Department continues to work with the Clean Energy Regulator to consider how best to apply a similar amendment to the rule for NFMR projects.

6. Options

The Department seeks the Committee's comments on the review report, particularly the findings and recommendations.

Options for finalising the report are to: (1) circulate it for final endorsement out of session, with a view to releasing it in late January; or (2) consider it at the February meeting, for subsequent release. Subject to the Committee's consideration, the Department will work with the subcommittee to prepare a final draft.

7. Consultation

As foreshadowed at the 25 October meeting, the subcommittee shared the main findings from the method reviews with carbon service providers on 3 December, to help inform the final review report. At the 10 December meeting, the subcommittee will update the Committee on this consultation and any issues raised that need to be addressed in the report.

8. Attachments

Attachment A	Draft review report
Attachment B	Rule amendment
Attachment C	Rule explanatory statement

9. Contact details

Author: s22

Cleared by: Katrina Maguire
Assistant Secretary
Land and Outreach Branch
s22

Cleared on: 22/11/2018

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING

10 DECEMBER 2018

Present

Andrew Macintosh (Chair), Paul Graham, Beverley Henry, Chris Johnston, Suzanne Jones, Mick Keogh, Hilary Smith (Item 3 – by teleconference)

Apologies: Hilary Smith (other than Item 3)

Other attendees

Department of the Environment and Energy

Item 1-3, 6, 7: Kristin Tilley, First Assistant Secretary, Climate Change Division

Item 3: s22, Director, Forests Section
s22 Forests Section
s22 Forests Section
s22 Forests Section
s22 Agriculture Section

Items 4-7: Edwina Johnson, A/g Assistant Secretary, Industrial and Air Quality Branch

Items 4-5: s22 A/g Director, Transport, Waste and Energy Efficiency Section
Transport Waste and Energy Efficiency Section

Item 4: s22 Transport Waste and Energy Efficiency Section
Transport Waste and Energy Efficiency Section
Transport Waste and Energy Efficiency Section

Item 7: s22 Director, Industrial Safeguard and Facilities Section
s22 Transport Waste and Energy Efficiency Section.

Clean Energy Regulator

Item 6: David Parker, Chair, Clean Energy Regulator
Anne Brown, Member
Michael D'Ascenzo, Member
Peter Davis, Member
Virginia Malley, Member

Shayleen Thompson, Executive General Manager, Scheme Operations Division
Mark Williamson, Executive General Manager, Scheme Support Division
Chris Ramsden, Chief Operations Officer
s22 General Counsel
s22 Committee Manager

Items 3-7: Mary-Anne Wilson, General Manager
s22 A/g Manager, Policy and Methods

Australian Government Solicitor

Item 7: s22 Counsel

Secretariat

s22 , Director, ERF Governance and Policy Section
s22 , ERF Governance and Policy Section
s22 , ERF Governance and Policy Section

s22


s22

Item 3 – Periodic method review: Human Induced Regrowth and Native Forest from Managed Regrowth

Dr Smith joined the meeting by teleconference.

s22 *joined the meeting.*

The Committee:

- **noted** the progress on the draft review report and requested a number of changes to provide clarity and consistency.
- **agreed** to consider a final report at its February 2019 meeting.
- **noted** the Department's progress on the legislative rule amendment.
- **requested** written advice from the Department and legal advice regarding options for amending the FullCAM guidelines for the Native Forest from Managed Regrowth method in relation to pre-project crediting for existing projects.
- **agreed** to send the Minister a letter advising the Committee would likely finalise its review at the February meeting and therefore a rule change in accordance with that timing is highly desirable.

Action items (to be included in action items register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Department to draft letter for Chair to send to Minister advising the review would be completed in February, s47C	The Chair and s22	28 February 2019	
Department to provide advice on options for amending the FullCAM guidelines for the Native Forest from Managed Regrowth method.	s22	28 February 2019	
Department to work with subcommittee to provide final review draft report to the Committee.	s22	28 February 2019	

Dr Smith left the meeting.

s22 *left the meeting.*

s22

s22

s22

s22


s22

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Melissa Price MP
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Dear Minister

I am writing to provide you with an update on the Emissions Reduction Assurance Committee's review of two Emissions Reduction Fund methods: the Native Forest from Managed Regrowth method and the Human-Induced Regeneration method. Both of these methods provide for projects that regenerate native forests by changing management of the land.

The Committee's review is assessing the methods against the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*. The Committee is in the final stages of drafting the review report and expects to provide you with a final report in March 2019.

On 27 June 2018, the Committee wrote to the former Minister for the Environment and Energy, the Hon Josh Frydenberg MP, to inform him that it had come to the view that the methods did not adequately ensure the rate of crediting of carbon abatement appropriately reflects the rate of actual abatement from project activities.

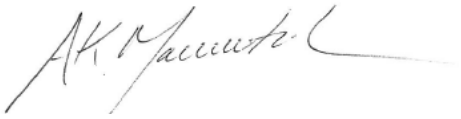
The Committee supports amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* as a practical and effective way of addressing this issue. The Committee was pleased to see your recent approval of amendments applying to projects under the Human-Induced Regeneration method. The Committee understands the Department will seek your approval for public consultation on similar Rule amendments for projects under the Native Forest from Managed Regrowth method.

The Committee's view is that the continued compliance of the methods with the offsets integrity standards depends on the Rule amendments being made for both methods. It is therefore desirable that amendments applying to projects under the Native Forest from Managed Regrowth method be made before the Committee finalises its review report in late February 2019.

s47C

s47C

Yours sincerely



Andrew Macintosh
Chair
Emissions Reduction Assurance Committee

7 January 2019

Australian Government

Department of the Environment and Energy

EMISSIONS REDUCTION ASSURANCE COMMITTEE

27 and 28 February 2019 Meeting

Method Review: Update
Agenda Item 3: Native Forest from Managed Regrowth and Human-Induced Regeneration of a Permanent Even-Aged Native Forest

For Decision

1. Recommendations

The subcommittee recommends the Committee:

1. **Note** progress on the review report.
2. **Note** the Department's progress on the further legislative rule amendment.

2. Method Description

The Native Forest from Managed Regrowth (NFMR) method may be used to earn Australian Carbon Credit Units (ACCUs) by regrowing forest on land for which there is evidence of prior clearing for grazing. Proponents must stop clearing and may undertake other activities to encourage regrowth. All 35 registered projects are in south-west Queensland.

The Human-Induced Regeneration (HIR) method may be used to earn ACCUs by regenerating native forest on land where the regrowth of native forest has been suppressed for at least 10 years. Project proponents must undertake one or more activities to encourage regrowth. The method prohibits clearing of vegetation, except in limited circumstances. Most of the 258 registered projects are located in south-west Queensland and western New South Wales. There are 40 registered projects in mid-west Western Australia and two in South Australia.

Both methods estimate net abatement using the Full Carbon Accounting Model (FullCAM).

Of the abatement contracted to the Australian Government under the Emissions Reduction Fund, 47.4 per cent is from HIR projects and a further 1.8 per cent is from NFMR projects (as of the December 2018 auction).

3. Previous consideration by the Committee

The Committee wrote to the then Minister for the Environment and Energy on 28 February 2018 to advise of its decision to review the NFMR and HIR methods.

The Committee's main concern during the review has been whether the methods ensure the rate of crediting appropriately reflects actual abatement. s47C

s47C The Committee advised the Minister it considered the Department's proposal to amend the *Carbon Credits (Carbon Farming Initiative) Rule 2011* would address these concerns.

The Department advised the Committee at its 10 December 2018 meeting that the Minister had made the amendments to the rule on 21 November 2018. The Department advised that the amendments applied only to HIR projects and it was working with the Clean Energy Regulator to consider how best to apply a similar amendment to the rule for NFMR projects.

At its 10 December 2018 meeting, the Committee noted progress on the draft review report. The Committee requested changes in the report to improve clarity and consistency. The Committee also requested written advice from the Department and legal advice regarding options for amending the FullCAM guidelines for the NFMR method in relation to pre-project crediting for existing projects. The Committee agreed to consider a final report at the February 2019 meeting.

s47C

4. Review Description

The Committee's review has focused on the method's compliance with the offsets integrity standards (section 133 of the Act). It also considered:

- stakeholder views on environmental and socio-economic outcomes from projects under the methods
- opportunities to improve usability of the methods
- potential for broadening opportunities for undertaking regeneration projects.

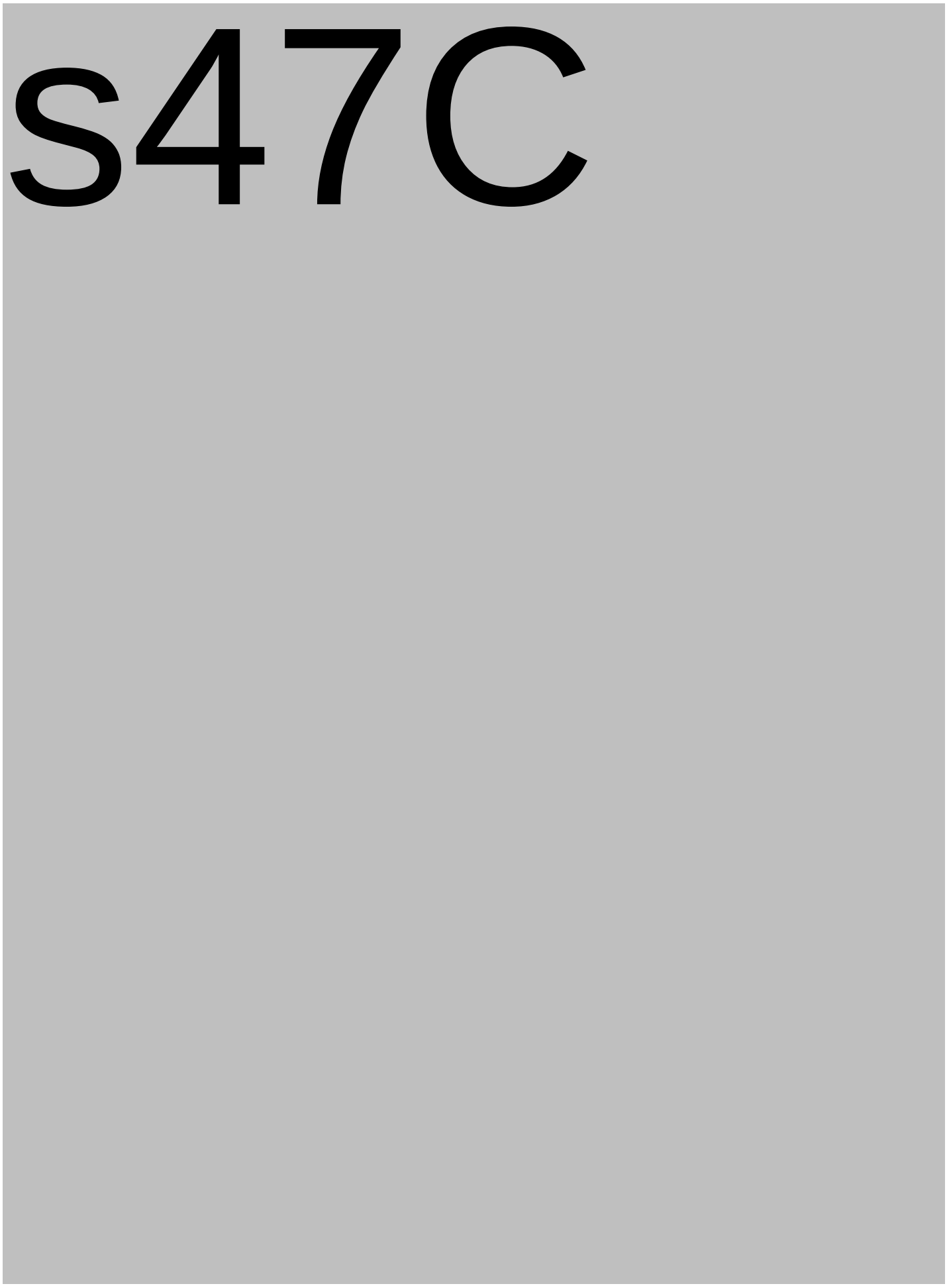
5. Issues

Issue	Degree of issue	Reference
The subcommittee is resolving remaining findings before finalising the report.	Medium	See 'Discussion' below and Attachment B.
The Department is progressing a further rule amendment.	Medium	See 'Discussion' below and Attachments C and D.

6. Discussion

Progress on the review report

The subcommittee has further considered its views on the NFMR method following discussion at the 10 December 2018 meeting. The outcomes for the NFMR methods presented in the draft report are as follows.


s47C

s47C

Progress on the further draft rule amendment

The Department has prepared a further draft amendment to the rule, which would restrict crediting for NFMR projects failing to reach forest cover within a specified period. These requirements are the same as those adopted for HIR projects in the 2018 rule amendment. The draft rule is at **Attachment C** and the draft explanatory statement is at **Attachment D**.

The draft rule also includes new requirements for any NFMR or HIR projects that stratify carbon estimation areas in accordance with the Regulator's guidelines to apply a consistent approach over time. The rule would require projects to adopt the same approach when they identify and exclude any areas of pre-existing forest at the start of a project, and when they later assess attainment of forest cover.

These proposed additions to the rule align with new provisions in the Regulator's draft guidance. The Regulator developed its new provisions in consultation with proponents.

The Department has held preliminary discussions on the proposed amendments with HIR and NFMR project proponents. The Department has sought the Minister's agreement to release the draft rule for public consultation for two weeks.

The Department will provide a further update at the meeting.

7. Consultation

At the 10 December 2018 meeting the subcommittee briefed the Committee on the outcomes from the subcommittee's 3 December 2018 stakeholder briefing on review findings.

The Department has consulted the Clean Energy Regulator on the draft review report.

8. Attachments

Attachment A	Committee's letter to the Minister
Attachment B	NFMR options paper
Attachment C	Draft rule amendment
Attachment D	Draft explanatory statement

9. Contact details

Author: s22

Cleared by: Katrina Maguire
Assistant Secretary
Land and Outreach Branch
s22

Cleared on: 20 February 2019

Emissions Reduction Fund: Proposed amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 relating to native vegetation regeneration projects, February 2019

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) both of the following apply:

(i) 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;

(ii) that version of the maps does not identify any pre-existing forest cover in the carbon estimation area, taking into account any guidelines published by the Regulator on its website for the purpose of this subparagraph, as in force from time to time; or

Note: In 2019, the Regulator's website was http://www.cleanenergyregulator.gov.au. Under the applicable methodology determination for the regeneration project a project proponent may choose to re-stratify the carbon estimation areas to exclude areas shown as pre-existing forest cover, or areas that have not attained forest cover, to enable this requirement to be met in relation to a reporting period.

(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

(aa) use data sources and data processing approaches that:

(i) the Regulator is satisfied are either:

(A) the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover; or

(B) if it is no longer possible or appropriate to use the data sources and data processing approaches in sub-subparagraph (A)—are consistent with, or comparable to, those data sources and data processing approaches; and

(ii) are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing; 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.

(5A) For subparagraph (5)(aa)(ii), if:

(a) a project proponent has relied upon an approval under subparagraph (5)(aa)(ii) in an offsets report covering the relevant carbon estimation area (the ***first approval***); and

(b) the project proponent has not relied on another approval under subparagraph (5)(aa)(ii) in a subsequent offsets report covering the relevant carbon estimation area;

the first approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator.

Note: While this subsection may facilitate the satisfaction of subparagraph (5)(aa)(ii), the other requirements of subsection (5) also need to be satisfied. This may not be possible if the relevant data sources or approaches are no longer available to apply to the carbon estimation area.

(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.

pre-existing forest cover, for a carbon estimation area, means forest cover that existed:

(a) if the 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 determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act—at the time of the decision to implement the project mechanism (within the meaning of that determination) in the carbon estimation area;

(b) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time until 21 March 2016—immediately before project commencement (within the meaning of that determination) for the carbon estimation area;

(c) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time after 21 March 2016—at any time during the baseline period (within the meaning of that determination) for the carbon estimation area.

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

70 Information that must be set out in offsets reports

(1) For paragraph 76(4)(b) of the Act, this section specifies information that must be set out in an offsets report about an eligible offsets project for a reporting period.

…

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 and stratification 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.

…

(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).

71 Documents that must accompany offsets reports

For paragraph 76(4)(d) of the Act, an offsets report about an eligible offsets project for a reporting period must be accompanied by the following documents:

(a) any document that, under the applicable methodology determination, is required to be provided to the Regulator with the offsets report;

(b) if the project is an area-based offsets project and the project proponent has chosen to divide the project into parts in accordance with section 77A of the Act—a scale map identifying the project area to which the offsets report relates;

(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

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).

DRAFT EXPLANATORY STATEMENT

Issued by the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019

Purpose of amendment rule

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 trees.

Two methods under the Act support regeneration of native vegetation activities:

- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (the Human-Induced Regeneration Method)
- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (the Native Forest from Managed Regrowth Method).

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the Previous Amendment Rule) clarified timeframes for the attainment of forest cover and supporting information required for the Human-Induced Regeneration Method. The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the Amendment Rule) extends coverage of the Previous Amendment Rule to the Native Forest from Managed Regrowth Method.

The Amendment Rule adds further provisions to the Previous Amendment Rule to ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements relating to the attainment of forest cover. The Clean Energy Regulator, which administers the compliance of projects under either Method, has recently co-designed guidelines with project proponents on the stratification of carbon estimation areas (CEAs), the demonstration of ongoing forest potential, and the attainment of forest cover. These guidelines apply to both native forest regeneration methods and the further provisions introduced through this Amendment Rule are intended to complement the approaches supported by the guidelines. The co-design process identified that using consistent approaches to the identification of forest cover at the start and end of a project would provide more certainty that projects continue to only include eligible land and be easier for project proponents to comply with.

The Amendment Rule achieves these changes by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule). Overall the changes made by this Amendment Rule are expected to enhance the integrity of the abatement credited under both native forest regeneration methods.

Background: Emissions Reduction Fund

In 2014, the Australian Government amended the Act with the *Carbon Farming Initiative Amendment Act 2014* (CFI Amendment Act). The CFI Amendment Act established the Emissions Reduction Fund by expanding the crediting of emissions reductions under the Carbon Farming Initiative to non-land based sectors of the Australian economy.

The primary objective of the Emissions Reduction Fund is to assist Australia to meet its greenhouse gas emissions reduction targets, consistent with its international obligations under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects (projects declared under section 27 of the Act). The Regulator is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

Background: native forest regeneration methods

Native forest regeneration methods provide opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover.

The Human-Induced Regeneration Method provides opportunities for regenerating forest on land that has been without forest cover for at least 10 years and does not have forest cover at the start of the project (i.e. does not have pre-existing forest cover). The Native Forest from Managed Regrowth Method provides opportunities for ceasing clearing on pastoral land to support the regeneration of forest. Central to both methods is the regeneration of forest which then attains forest cover on land that did not have pre-existing forest cover. Accordingly, it is appropriate that the requirements for Human-Induced Regeneration projects also apply to projects under the Native Forest from Managed Regrowth Method.

Central to the Previous Amendment Rule was a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for offsets reports that include the applicable CEA. The Previous Amendment Rule also clarifies the information proponents need to provide to the Regulator to demonstrate they are meeting requirements for CEAs to have forest potential. The Explanatory Statement that accompanied the Previous Amendment Rule provides further details on these changes and is available online at legislation.gov.au/Details/F2018L01642/Explanatory%20Statement/Text.

Operation

The Act is supported by subordinate legislation, including the Principal Rule, and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations). The Principal Rule and Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

The Minister for the Environment is empowered to make legislative rules under section 308 of the Act. The Amendment Rule supports the operation of the Human-Induced Regeneration Method and the Native Forest from Managed Regrowth Method.

The primary changes to the Principal Rule extend to all projects under the Native Forest from Managed Regrowth Method the application of provisions in the Previous Amendment Rule that clarify reporting requirements to ensure the Regulator has the necessary information to administer the Human-Induced Regeneration Method, and clarify timeframes for land under the method to attain forest cover in order to obtain further carbon credits.

Further changes, to section 9AA primarily, ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements relating to the attainment of forest cover.

Detailed description of the Amendment Rule

Attachment A outlines and describes the sections in the Amendment Rule.

Public consultation

The Australian Government invites written submissions from all interested businesses and members of the community on this draft Amendment Rule.

Submissions are due by 5:00pm AEST, [Date to be inserted once approved for consultation] March 2019. Any submissions received after this date will be considered at the Government's discretion.

Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address listed below. Alternatively, submissions may be sent to the postal address below to arrive by 5:00pm AEST on the above due date.

All submissions must include a cover sheet, available at www.environment.gov.au. The submission and coversheet should be provided as separate files if sent electronically.

Submissions can be forwarded to:

Email: ERFforests@environment.gov.au (preferred)

Postal: Forests Section
Climate Change Division
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Regulatory impact

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment and Energy certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund. The decisions included 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. These minor amendments will not materially impact the regulatory impact of the scheme.

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.

ATTACHMENT A

Details of the sections in the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*

1. Name

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*.

2. Commencement

Section 2 provides that the Amendment Rule would commence on the day after it is registered.

3. Authority

Section 3 provides that the Amendment Rule would be made under section 308 of the Act. Section 304 of the Act also allows such rules to apply, adopt or incorporate matters in any instrument or writing as in force from time to time.

4. Schedules

Section 4 provides that the Amendment Rule would, when made, amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) in the manner set out in the schedules. The power to make rules in section 308 of the Act includes the power to amend or revoke rules that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Schedule 1—Amendments

1 – 8 Amendments to section 9AA—Issue of certificate of entitlement—eligibility requirements for regeneration projects

Section 9AA of the Principal Rule sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and in relation to the information required.

The heading of Section 9AA is amended to remove 'human-induced' before 'regeneration projects' and references to 'human-induced regeneration project' within the section have been replace with 'regeneration project' (Items 1, 2, 3 and 7).

The new subparagraph (4)(a)(ii) adds that where demonstrating that carbon estimation areas have attained forest cover in accordance with paragraph (4)(a), it is also a requirement that the version of the maps used does not identify any pre-existing forest cover in the carbon estimation area, taking into account any guidelines published by the Regulator (Item 4). This provision reflects that updates to the National Inventory Report maps are provided as sets covering the complete timespan from 1972, and each set features a consistent approach to identifying forest cover within it. The use of a different set for each objective is not permitted as this may result in inconsistent approaches to identifying forest cover. A consistent approach ensures there is no bias towards a data source that detects relatively less or more forest cover to suit the objective.

The new paragraph (5)(aa) is also designed to ensure an approach taken is as consistent as possible between excluding pre-existing forest cover and demonstrating forest cover has been attained in accordance with paragraph (4)(b) (Item 5). It requires that the assessment of 0.2 hectare portions for a CEA under paragraph (4)(b) must use data sources and data processing approaches that the Regulator is satisfied are the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover. It also provides that, where use of the same data sources and data processing is no longer possible, the data sources and data processing approaches must be consistent with or comparable to those data sources and data processing approaches.

Subparagraph (5)(aa)(ii) requires that the data sources and data processing approaches used are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing.

Subsection (5A) provides that where an approval under subparagraph (5)(aa)(ii) has been relied upon in an offsets report covering the relevant carbon estimation area and no subsequent approval has been relied on, that approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator (Item 6). For a project proponent to continue to use those data sources and data processing approaches that were the subject of the approval, they must still meet the requirements of subparagraph (5)(aa)(i) to the satisfaction of the Regulator. Proponents should be aware that this may not be possible if the data sources or approaches that satisfied the Regulator under (5)(aa)(i) are no longer available. In this case, the approval granted under subparagraph (5)(aa)(ii) can not be relied upon.

The definition of 'human-induced regeneration project' at subsection (7) has been substituted with a definition for 'regeneration project', which means all projects with either the Human-Induced Regeneration Method or the Native Forest from Managed Regrowth Method as their applicable methodology determination, or an earlier version of those methods in accordance with sections 125, 126, 127 or 130 of the Act (Item 8).

A new definition is added to subsection (7) for 'pre-existing forest cover', which means, for a carbon estimation area, the forest cover that existed at the time, or within the time period, specified for the applicable methodology determination under paragraphs (a) to (c).

<u>10 – 13 Amendments to section 70—Information that must be set out in offsets reports</u>

Section 70 of the Principal Rule specifies the information that must be set out in an offsets report about an eligible offsets project for a reporting period. The Previous Amendment Rule added further requirements for a 'human-induced regeneration project'. These requirements now apply to a 'regeneration project', as defined at Subsection 9AA(7).

Subparagraph (3A)(a)(v) has been amended to clarify that applicable offsets reports are required to set out an explanation of how the stratification, as well as the boundaries, of the carbon estimation area meet the requirements of the applicable methodology determination (Item 12). The 'stratification' of the carbon estimation area is a technical concept in the methodology determination for how the boundaries of an area are mapped.

References within section 70 to a 'human-induced regeneration project' have been amended to 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7) (Items 10, 11 and 13).

14 Amendments to section 71—Documents that must accompany offsets reports

The reference at section 71 to a 'human-induced regeneration project' has been amended to 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7).

15 - 17 Amendments to section 79A—Forest cover audits of regeneration projects

The heading of section 79A and subsection 79A(1) have been amended to replace 'human-induced regeneration project' with 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7) (Items 15 - 17).

ATTACHMENT B

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 Rule (No. 1) 2019

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the ***Amendment Rule***) 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* (the ***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.

The Amendment Rule extends provisions concerning the eligibility requirements for the issuance of certificates of entitlement to carbon credit units, and information required in certain offsets reports, from applying to only human-induced regeneration projects to applying to all native forest regeneration projects. This ensures that projects with the applicable methodology determination of either the Human-Induced Regeneration Method or the Native Forest from Managed Regrowth Method are subject to the same such requirements under the Rule. The Amendment Rule also provides that consistent data sources and data processing approaches are used between identifying forest cover for the purpose of excluding pre-existing forest cover from regeneration projects, and for the purpose of demonstrating that forest cover has been attained.

It does this by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the ***Principal Rule***).

Human rights implications

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

A detailed statement of compatibility of the provisions of the Emissions Reduction Fund is provided in the Explanatory Memorandum for the *Carbon Farming Initiative Amendment Bill 2014*: http://www.environment.gov.au/system/files/pages/7aef9f12-8ba1-4d9a-bf6a-1bc89a0bd6f5/files/cfi-amendment-bill-explanatory-memorandum.pdf .

Conclusion

The Amendment Rule 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*.

EMISSIONS REDUCTION ASSURANCE COMMITTEE MEETING
MINUTES OF MEETING

27-28 FEBRUARY 2019

Present

Professor Andrew Macintosh (Chair), Dr Paul Graham, Dr Beverley Henry, Mr Chris Johnston, Ms Suzanne Jones, Mr Mick Keogh (27 February), Dr Hilary Smith

Apologies: Mr Mick Keogh (28 February)

Other attendees

Department of the Environment and Energy

Lunch, Day 2: Ms Jo Evans, Deputy Secretary

Additional Item Day 1, Items 4-5:
Ms Kristin Tilley, First Assistant Secretary, Climate Change Division

Item 2-4: Ms Katrina Maguire, Assistant Secretary, Land and Outreach Branch

Items 2, 4: s22 Director, Agriculture Section

Items 3, 6, 14: s22 Director, Forests Section

Item 3: s22 Forests Section
s22 Forests Section
s22 Forests Section

Item 4: s22 Agriculture Section
s22 Agriculture Section
s22 Agriculture Section

Item 5: s22 Director, Analysis and Projections Section

Items 8-12: Ms Edwina Johnson, A/g Assistant Secretary, Industrial and Air Quality Branch

Items 8, 10-12:
s22 Director, Transport Waste and Energy Efficiency Section
s22 Assistant Director, Transport Waste and Energy Efficiency Section

Items 9-10: s22 Director, Industrial Safeguards and Facilities Section
s22 Assistant Director, Transport, Waste and Energy Efficiency Section

Clean Energy Regulator

Items 2-5, 8-12: Ms Mary-Anne Wilson, General Manager

Items 2-3: s22 Manager, Land and Forests
s22 Policy and Methods
s22 Land Assessments

Items 4-5: s22 Policy and Methods

Item 13: s22 Manager, Policy and Methods

Department of Agriculture and Water Resources

Items 3-4: s22 Climate Policy

Australian Government Solicitor

Items 3-4, 10-11: s22 Counsel

Corporate Carbon Advisory

Item 2: Mr Matthew Warnken, Principal

Secretariat (Department of the Environment and Energy)

s22 Director, ERF Governance and Policy Section
s22 ERF Governance and Policy Section

s22

s22

Item 3 – Periodic method review: Human Induced Regrowth and Native Forest from Managed Regrowth

The Committee:

- **noted** the Department expected a draft revision to the *Carbon Credits (Carbon Farming Initiative) Legislative Rule 2015* relating to Native Forest from Managed Regrowth projects to be released the following day (28th February 2019).
- **discussed** remaining issues requiring resolution to allow the review report to be completed.

Committee members held a private discussion from 2.25pm to 2.55 pm. Officials left the meeting room.

The Committee:

- **agreed** to finalise its report and provide it to the Minister by 15 March, s47C s47C
    - Draft report to be agreed by the subcommittee by Friday 8 March.
    - Out of session agreement by Committee in week of 11 March.

- **agreed** to hold a teleconference in late March (date to be arranged by Secretariat) to:
    - consider a response by the Minister and report (if any).

s47C

s47C

Action items (to be included in action items register)			
Action item description	**Responsible person**	**Delivery date**	**Comments**
Finalise report to be agreed by subcommittee.	Subcommittee and s22	8 March 2019	
Out of session agreement by Committee.	Subcommittee and s22	11 March 2019	Out of session
Department to finalise report and provide it to the Minister by 15 March s47C s47C	The Chair and s22	15 March 2019	

s47C

s22

s47C

s47C

s22

s22

s22

s22

s22

PDR: MS17-001763

Copy to:

Secretary
Ms Evans
Ms Wilson

Chief of Staff
Mr Rigzin

To: Minister for the Environment and Energy (For Decision)

EMISSIONS REDUCTION FUND METHODS: CFI MAPPING TOOL VARIATION

Timing: 11 January 2018 to allow the CMT Mapping Tool to be retired

Recommendation:

1. That you make the *Carbon Credits (Carbon Farming Initiative-CFI Mapping Tool and Minor Corrections) Methodology Determination Variation 2018* at **Attachment A**.

Signed / Not signed

2. That you approve the Explanatory Statement for the Determination at **Attachment B**.

Approved / Not approved

Minister:

Date: 8/2/18

Comments:

Clearing and primary contact: Sent: 21/12/17	s22	A/g Director, Forests, Climate Change Division	s22
Relevant SES:	Katrina Maguire	Assistant Secretary Land and Outreach Branch, Climate Change Division	s22

Key Points:

1. Offsets projects under the Emissions Reduction Fund must be undertaken in accordance with a methodology determination (a method), which is a legislative instrument under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) (see **Attachment C**). The different methods provide the rules for different types of activities.

2. Section 114 of the Act authorises you to vary methods and, in doing so, to have regard to:
   a. whether the varied method complies with the offsets integrity standards;
   b. any advice the Emissions Reduction Assurance Committee (ERAC) has provided;
   c. whether any adverse environmental, economic or social impacts are likely to arise from projects under the varied method; and
   d. any other matters you consider to be relevant.

3. This proposed Variation would make changes to the following methods:
   a. *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014*
   b. *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*
   c. *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*
   d. *Carbon Credits (Carbon Farming Initiative—Avoided Clearing of Native Regrowth) Methodology Determination 2015*

e. *Carbon Credits (Carbon Farming Initiative—Estimating Sequestration of Carbon in Soil Using Default Values) Methodology Determination 2015*
f. *Carbon Credits (Carbon Farming Initiative—Reducing Greenhouse Gas Emissions from Fertiliser in Irrigated Cotton) Methodology Determination 2015*
g. *Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014*

4. The Carbon Farming Initiative (CFI) Mapping Tool helps project proponents to map their projects. Currently the methods require or allow the use of the mapping tool. The Department is discontinuing the mapping tool, from early 2018, because of feedback from scheme participants that they prefer to use other readily available mapping software platforms.

5. The underlying data (for example rainfall and forest cover) will still available for use on other mapping platforms, and accessible on the Department's website.

6. The Variation includes other minor technical amendments to address typographic errors, update references to the Legislation Act, ensure correct application of carbon stock equations, and clarify definition and application of project areas and reporting periods.

Compliance with Offsets Integrity Standards

7. The proposed amendments do not affect compliance with the offsets integrity standards.

Emissions Reduction Assurance Committee advice

8. The amendments under the Variation are minor and reflect existing regulatory interpretation by the Clean Energy Regulator. As such, subsection 114(9) of the Act allows these minor amendments to be made without ERAC advice. The ERAC Chair agrees the Variation is of a minor nature.

Adverse impacts

9. The Department has not identified any adverse environmental, social or economic impacts or community safety issues in developing the variation. A hazard assessment was not conducted because these amendments will not allow any new types of projects.

Other matters

10. Stakeholders involved with the ERF provided advice that the mapping tool was not necessary or preferred, given the large number of mature commercial and freely available alternatives.

Consultation: YES

11. The Department incorporated feedback on the text of the amendments from the Clean Energy Regulator to ensure the amendments will work effectively.

12. The Deregulation Unit was not consulted because this is a minor Variation.

13. The proposal to do the Variation was announced on the Department website and via email to project participants under the relevant methods. No public comments were received.

Attachments

A: *Methodology Determination Variation 2018*
B: Explanatory Statement for the Variation
C: ERF Method Determination and Variation Approval Process – Summary

Carbon Credits (Carbon Farming Initiative—CFI Mapping Tool and Minor Corrections) Methodology Determination Variation 2018

I, Josh Frydenberg, Minister for the Environment and Energy, make the following legislative instrument.

Dated 8/2/18

Josh Frydenberg
Minister for the Environment and Energy

Contents

1 Name

This is the *Carbon Credits (Carbon Farming Initiative—CFI Mapping Tool and Minor Corrections) Methodology Determination Variation 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	The day after this 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 subsection 114(1) of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

4 Amendment of methodology determinations

Each instrument that is specified in a Schedule to this instrument is amended or revoked 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 of the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014*

[1] Paragraph 1.2(a)

Omit "Legislative Instruments", substitute "Legislation".

[2] Paragraph 1.2(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

[3] Section 1.3 (definition of *CFI Mapping Tool*)

Repeal the definition.

[4] Subsection 2.3(6)

Omit "long term average rainfall map layer in the CFI Mapping Tool", substitute "Long Term Average Rainfall Map Layer".

[5] After subsection 2.3(6)

Insert:

(6A) In subsection (6):

Long Term Average Rainfall Map Layer means the online data layer of that name, as published on the Department's website and as in force from time to time.

Note: In 2018, the Department's website was http://www.environment.gov.au.

[6] Section 4.1

Omit "the project area", substitute "all project areas".

[7] Subsection 4.9(1)

Omit "subsection (2)", substitute "subsection 4.8(2) or subsection 4.8(3)".

[8] Section 4.10 (heading)

Repeal the heading, substitute:

4.10 Calculating initial carbon stock for project area

[9] Subsection 4.10(2)

Omit "the first offsets report", substitute "a project area".

[10] Paragraph 4.10(2)(a)

Repeal the paragraph, substitute:

(a) if:

(i) the project area was a project area of an eligible offsets project to which this Determination applied at the declaration date of that project; and

(ii) the project commenced in that project area before that date;

equal to the carbon stock for the project area calculated in accordance with subsection (3); and

[11] Paragraph 4.10(2)(b)

Omit "projects", substitute "project areas".

[12] Subsection 4.10(3)

Omit "The initial carbon stock specified in paragraph (2)(a) must be calculated for each reporting period", substitute "For paragraph (2)(a), the initial carbon stock for the project area must be calculated".

[13] Subsection 4.10(3) (table for equation 11a—cell at item, value of C_{Di})

Repeal the cell, substitute:

initial carbon stock for the i^{th} carbon estimation area at the relevant declaration date, D (in tonnes C)—see Equation 12a.

[14] Subsection 4.10(3) (table for equation 11a—cell at item, value of n_D)

Omit the table item, substitute:

n_a =	total number of carbon estimation areas in the project area at the relevant declaration date D.

[15] Section 4.11 (table for equation 11b—item, value of n)

After "carbon estimation areas", insert "in the project area".

[16] Subsection 4.12(1)

Omit "For each reporting period, the", substitute "The".

[17] Subsection 4.12(1) (table for equation 12a—item, value of C_{Di})

Omit "the beginning of the first reporting period", substitute "the declaration date D".

[18] Division 4.4 (heading)

Repeal the heading, substitute:

Division 4.4—Calculation of project area emissions

[19] Before subsection 4.15(1)

Insert:

(1A) The carbon dioxide equivalent net amount for the reporting period for an eligible offsets project to which this Determination applies is equal to the sum of the amounts *A* calculated in accordance with subsection (1) for each project area.

[20] Subsection 4.15(1)

After "net abatement amount for", insert "a project area of".

[21] Subsection 4.15(1) (equation 18)

Omit "$C_N - C_V$", substitute "C_{Prev}".

[22] Subsection 4.15(1) (table for equation 18—items, values of C_N and C_V)

Omit the table items, substitute:

C_{Prev} =	(a) for the first reporting period in which the project area has been reported on—the initial carbon stock for the project area C_N (in tonnes CO_2-e) (see subsections 4.10(2) and (3)); and (b) for a later reporting period—the carbon stock for the project area at the end of the previous reporting period (in tonnes CO_2-e) (see the carbon stock value reported in the previous offsets report).

[23] Subsection 4.15(2) (second note)

Repeal the note.

[24] Section 5.2

Omit "The CFI Mapping Tool or a", substitute "A".

[25] Section 5.8

After "the first offsets report for", insert "each project area of".

[26] Section 5.9

After "subsequent offsets reports for", insert "each project area of".

[27] Section 5.10

Repeal the section, substitute:

5.10 No division of project area

For subsection 77A(2) of the Act, the division of the overall project must not result in the division of a project area.

[28] Amendments of listed provisions—references to project area

Omit "the project area", substitute "a project area" in the following provisions:

(a) section 1.3 (definition of "carbon estimation area (CEA)");
(b) section 1.3 (definition of "stratification");
(c) paragraph 5.4(a).

[29] Amendments of listed provisions—references to project area

Omit "the project area", substitute "each project area" in the following provisions:

(a) section 2.4;
(b) section 3.2;
(c) section 3.7;
(d) paragraph 5.3(1)(c);
(d) paragraph 5.3(1)(d);
(e) paragraph 5.4(c);
(f) section 5.7 (first occurrence).

[30] Amendments of listed provisions—references to project area

After "project", insert "area" in the following provisions:

(a) subsection 4.10(1);
(b) subsection 4.13(1);
(c) subsection 4.13(1) (table for equation 13—item, value of E_{BCH_4});
(d) subsection 4.13(2) (table for equation 14—item, value of E_{BN_2O});
(e) subsection 4.13(3);
(f) subsection 4.13(3) (table for equation 15—item, value of E_B);
(g) subsection 4.13(3) (table for equation 15—item, value of E_{BCH_4});
(h) subsection 4.13(3) (table for equation 15—item, value of E_{BN_2O});
(i) subsection 4.15(1) (table for equation 18—item, value of A);
(j) subsection 4.15(1) (table for equation 18—item, value of C_P);
(k) subsection 4.15(1) (table for equation 18—item, value of E_B, second occurrence);
(l) subsection 4.15(1) (table for equation 18—item, value of E_F, second occurrence);
(m) subsection 4.15(2) (definition of "previous offsets report", first occurrence).

[31] Amendments of listed provisions—references to project area

Insert "for the project area" in the following provisions:

(a) in subsection 4.13(2), after "the reporting period";
(b) in subsection 4.14(1), after "fuel use";
(c) in subsection 4.14(2), after "for the reporting period";
(d) in subsection 4.14(2) (table for equation 16—item, value of E_{fk}), after "the reporting period";

(e) in subsection 4.14(2) (table for equation 16—item, value of Q_f), after "the reporting period";

(f) in subsection 4.14(3), after "the reporting period";

(g) in subsection 4.14(3) (table for equation 17—item, value of E_f), after "total fuel emissions";

(h) in subsection 4.14(3) (table for equation 17—item, value of E_{fk}), after "the reporting period".

Schedule 2—Amendments of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*

[1] Section 3 (definition of *CFI mapping tool*)

Repeal the definition (including the note).

[2] Section 24

Repeal the section, substitute:

24 Mapping requirements

For sections 10 and 17, mapping must be done using a geographic information system that meets the relevant geospatial information requirements of the CFI mapping guidelines.

Schedule 3—Amendments of the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*

[1] Paragraph 1.2(a)

Omit "Legislative Instruments", substitute "Legislation".

[2] Paragraph 1.2(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

[3] Section 1.3 (definition of *CFI Mapping Tool*)

Repeal the definition.

[4] Paragraph 2.5(4)(a)

Repeal the paragraph, substitute:

(a) the 1990 forest extent layer; and

[5] After subsection 2.5(4)

Insert:

(5) In subsection (4):

1990 forest extent layer means the online data layer of that name, as published on the Department's website and as in force from time to time.

Note: In 2018, the Department's website was http://www.environment.gov.au.

[6] Section 5.2

Omit "The CFI Mapping Tool or a", substitute "A".

Schedule 4—Amendments of the *Carbon Credits (Carbon Farming Initiative—Avoided Clearing of Native Regrowth) Methodology Determination 2015*

[1] Paragraph 4(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

[2] Section 5 (definition of *Carbon Farming Mapping Tool*)

Repeal the definition.

[3] Paragraph 10(3)(b)

Repeal the paragraph, substitute:

(b) the forest cover data layer.

[4] After subsection 10(4)

Insert:

(5) In paragraph 10(3)(b):

forest cover data layer means the document described as the forest cover data layer and as published on the Department's website, as in force from time to time.

Note: In 2018, the Department's website was http://www.environment.gov.au.

Schedule 5—Amendments of the *Carbon Credits (Carbon Farming Initiative—Estimating Sequestration of Carbon in Soil Using Default Values) Methodology Determination 2015*

[1] Paragraph 4(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

[2] Section 5 (definition of *CFI Mapping Tool*)

Repeal the definition (including the note).

[3] Section 5

Insert:

Sequestration Value Maps means the documents described as sequestration value maps and as published on the Department's website, as in force from time to time.

Note: In 2018, the Department's website was http://www.environment.gov.au.

[4] Section 5 (definition of *SA2 region*)

Omit "soil carbon maps published on the CFI Mapping Tool", substitute "Sequestration Value Maps".

[5] Section 5 (definition of *sequestration value*)

Omit "CFI Mapping Tool in accordance with the CFI Mapping Guidelines", substitute "relevant Sequestration Value Maps".

[6] Subsection 47(2) (note)

Omit "CFI Mapping Tool", substitute "Sequestration Value Maps".

[7] Amendments of listed provisions—Replacement of table to section 101

Omit "CFI Mapping Tool" and substitute "Sequestration Value Maps" in the following provisions:

(a) section 101 (table item 1, column headed "Description");

(b) section 101 (table item 1, column headed "Measurement procedure (including frequency as required)");

(c) section 101 (table item 2, column headed "Measurement procedure (including frequency as required)").

[8] Section 101 (cell at table item 13, column headed "Measurement procedure (including frequency as required)")

Repeal the cell, substitute:

Based on a geographic information system that meets the requirements of the CFI Mapping Guidelines

[9] Replacement of references to "soil carbon maps published on the CFI Mapping Tool"

Omit "soil carbon maps published on the CFI Mapping Tool" and substitute "Sequestration Value Maps" in the following provisions:

(a) subsection 12(2);

(b) subsection 49(1).

[10] Replacement of references to "soil carbon maps published on the CFI Mapping Tool"

Omit "soil carbon maps published on the CFI Mapping Tool" and substitute "relevant Sequestration Value Map" in the following provisions:

(a) subsection 49(3) (definition of "Sequestration value");

(b) subsection 49(4) (definition of "Sequestration value").

Schedule 6—Amendments of the *Carbon Credits (Carbon Farming Initiative—Reducing Greenhouse Gas Emissions from Fertiliser in Irrigated Cotton) Methodology Determination 2015*

[1] Paragraph 4(b)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

[2] Section 14 (note 1)

Repeal the note.

[3] Section 14 (note 2)

Omit "Note 2", substitute "Note".

Schedule 7—Amendments of the *Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014*

[1] Paragraph 1.2(a)

Omit "Legislative Instruments", substitute "Legislation".

[2] Paragraph 1.2(b)

Omit "*Legislative Instruments*", substitute "*Legislation*".

[3] Section 1.3 (definition of *CFI Mapping Tool*)

Repeal the definition.

[4] Subsection 6.8(1) (Equation SC24)

Omit "$-SD_{\Delta\overline{SOC\_cor}_{(t_0-t_1)l}}$", substitute "$+SD_{\Delta\overline{SOC\_cor}_{(t_0-t_1)l}}$".

[5] Subsection 6.18(1) (Equation SC37)

Omit "$-SE_{b_1}$", substitute "$+SE_{b_1}$".

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for the Environment and Energy

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative—CFI Mapping Tool and Minor Corrections) Methodology Determination Variation 2018

Purpose

The *Carbon Credits (Carbon Farming Initiative—CFI Mapping Tool and Minor Corrections) Methodology Determination Variation 2018* (the **Variation**) amends seven methodology determinations made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act).

The primary purpose of the amendments is to reflect the retirement of the online Carbon Farming Initiative Mapping Tool (CFI Mapping Tool) previously maintained by the Department of the Environment and Energy. The CFI Mapping Tool was always intended to be one option for proponents to map their projects, along with a number of other free and commercial tools that are readily available. Feedback from proponents has been that other software platforms are preferred such that the Government does not need to provide the CFI Mapping Tool. Accordingly, the Department of the Environment and Energy will no longer be supporting development and hosting of geospatial software for the Emissions Reduction Fund. Data that was previously provided from within the CFI Mapping Tool will now be available directly online on the Department of the Environment and Energy website.

The amendments around the CFI Mapping Tool remove references to the CFI Mapping Tool as it will no longer be available to map projects. Where a data layer is referenced in a determination in relation to the CFI Mapping Tool, these references will now refer to the relevant data on the Department's website: www.environment.gov.au.

Additionally, the Variation makes minor corrections to the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014* and in the *Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014*.

These amendments are of a minor nature. They are primarily to ensure that the methodology determinations continue to operate as originally intended and that there are no unintended consequences for eligible offsets projects wanting to apply the determinations.

The amendments will not affect projects that are already registered and using existing methods. Even after a determination has been varied, an eligible offsets project already registered can continue to use the determination in the form it was at the time the project was registered under section 126 of the Act. This is further explained below.

Legislative provisions

The methodology determinations to be varied were made under subsection 106(1) of the Act.

The Variation is made under subsection 114(1) of the Act, which empowers the Minister to vary, by legislative instrument, a methodology determination. Subsection 114(9) also applied to this Variation because the variations are of a minor nature.

Subsection 106(8) of the Act allows instruments, documents and tools, such as the CFI Mapping Tool and replacement data layers, to be incorporated into methodology determinations as in force from time to time.

Background

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 trees.

In 2014, the Australian Parliament passed the *Carbon Farming Initiative Amendment Act 2014*, which establishes the Emissions Reduction Fund (ERF). The ERF has three elements: crediting emissions reductions, purchasing emissions reductions, and safeguarding emissions reductions.

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, by legislative instrument, a methodology determination. 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 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 (ERAC), an independent expert panel established to advise the Minister on proposals for methodology determinations.

Subsection 114(9) allows the Minister to make variations of a minor nature to determinations, without seeking advice from the ERAC. In making variations of a minor nature the Minister must have regard to whether the varied determination complies with the offsets integrity standards, which are set out in section 133 of the Act. The Minister must also consider any adverse environmental, economic or social impacts likely to arise as a result of projects to which the 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), representing emissions reductions from the project.

Project proponents can receive funding from the ERF by submitting their projects into a competitive auction run by the Regulator. The Government will enter into contracts with successful proponents, which will guarantee the price and payment for the future delivery of emissions reductions.

Further information on the ERF is available on the Department of the Environment and Energy website at:

www.environment.gov.au/emissions-reduction-fund.

Impact of the Variation on existing and new projects

The Variation will not affect projects that are already registered and using existing methodology determinations. Even after a determination has been varied, an eligible offsets

project already registered can continue to use the determination in the form it was at the time the project was registered under section 126 of the Act. For these projects the reference to the ability to use the CFI Mapping Tool in the original determination will be redundant as that tool will no longer be available, but the original determinations do not mandate the use of the CFI Mapping Tool for mapping of projects. As no projects currently apply the *Carbon Credits (Carbon Farming Initiative—Estimating Sequestration of Carbon in Soil Using Default Values) Methodology Determination 2015,* the change of location from which the maps are sourced will not affect any projects. In relation to the reference to the long term average rainfall map in the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014,* the Department's website will make clear that for existing projects, the new data source is taken to be the data from the CFI Mapping Tool for the purpose of that determination.

The project proponent may also choose to apply to the Regulator for approval to move to the varied determination under section 128 of the Act.

All applications for new eligible offsets projects with crediting starting after the commencement of this instrument, or any existing projects whose crediting period has not begun, will need to apply the methodology determinations as varied by this instrument.

Operation

The Variation amends the following methodology determinations:

Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013

Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013

Carbon Credits (Carbon Farming Initiative—Avoided Clearing of Native Regrowth) Methodology Determination 2015

Carbon Credits (Carbon Farming Initiative—Estimating Sequestration of Carbon in Soil Using Default Values) Methodology Determination 2015

Carbon Credits (Carbon Farming Initiative—Reducing Greenhouse Gas Emissions from Fertiliser in Irrigated Cotton) Methodology Determination 2015

Carbon Credits (Carbon Farming Initiative) (Sequestering Carbon in Soils in Grazing Systems) Methodology Determination 2014.

Public consultation

The Variation has been developed by the Department of the Environment and Energy in consultation with the Clean Energy Regulator. The Department invited comments from existing project proponents on the nature of the proposed changes. The Variation incorporates comments received during that consultation.

Determination details

The Variation is a legislative instrument within the meaning of the *Legislation Act 2003*.

The Variation commences on the day after it is registered.

Details of the Variation are at Attachment A.

A Statement of Compatibility prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011* is at Attachment B.

ERF Method Determination and Variation Approval Process Summary

Offsets projects under the Emissions Reduction Fund must be undertaken in accordance with a methodology determination, which is a legislative instrument under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Making determinations

Section 106 of the Act authorises you to make determinations and requires that in making determinations you must have regard to:

a. whether the determination complies with the Act's offsets integrity standards;
b. any advice that the Emissions Reduction Assurance Committee (ERAC) have provided;
c. whether any adverse environmental, economic or social impacts are likely to arise from projects under the determination; and
d. any other matters that you consider to be relevant.

For each method determination, the Department will provide you with relevant information on the four points above.

Section 106 also prohibits you from making a determination that does not result in eligible carbon abatement or where the ERAC has advised that the determination does not comply with one or more of the offsets integrity standards.

Once made, the Determination and Explanatory Statement are registered on the Federal Register of Legislative Instruments and tabled for a 15 day disallowance period during the next sittings of Parliament.

Projects can be registered under a Determination once it is registered on the Federal Register of Legislative Instruments.

Varying determinations

Section 114 of the Act authorises you to vary a determination and requires that in varying a determination you must have regard to:

a. whether the varied determination complies with the Act's offsets integrity standards;
b. any advice that the ERAC have provided;
c. whether any adverse environmental, economic or social impacts are likely to arise from projects under the varied determination; and
d. any other matters that you consider to be relevant.

Section 114 also prohibits you from varying a determination so that it does not result in eligible carbon abatement or where the ERAC has advised that the varied determination does not comply with one or more of the offsets integrity standards.

If a variation is of a minor nature, the requirement for ERAC advice does not apply.

Once a variation commences (usually on the day after registration), the varied determination applies to projects whose crediting period start after the commencement or existing projects which apply to the Regulator to have the varied determination apply. Projects whose crediting period has already commenced can remain on the previous version of the determination under section 126 of the Act.

PDR: MS18-000226

Copy to:

Secretary
Ms Evans
Ms Wilson

Chief of Staff
Mr Rigzin

To: Minister for the Environment and Energy (For Information)
Cc. Assistant Minister for the Environment

EMISSIONS REDUCTION FUND: EMISSIONS REDUCTION ASSURANCE COMMITTEE DECISION TO REVIEW NATIVE VEGETATION METHODS

Recommendation:

1. That you note the Emissions Reduction Assurance Committee's advice of its decision to review the Emissions Reduction Fund 'native forest from managed regrowth' and 'human-induced regeneration' methods (**Attachment A**).

Noted / Please discuss

Minister: Date:

Comments:

Clearing Officer: Sent 28/2/18	s22	Director, Forests Land and Outreach Branch	s22
Contact Officer:	s22	Forests	s22

1. The Emissions Reduction Assurance Committee's functions include undertaking periodic reviews of Emissions Reduction Fund methods to ensure they continue to meet the offsets integrity standards.

2. The committee has written to you advising of its decision to review the 'native forest from managed regrowth' and 'human-induced regeneration' methods (**Attachment A**).

3. The methods provide for projects that regenerate native forests through changes in land management. The committee decided to review the methods in parallel, given their similarities.

4. The reviews will consider the methods' compliance with the offsets integrity standards, as well as administrative requirements and potential for projects to have adverse environmental, economic or social impacts.

5. The committee will conduct consultation to inform the reviews, including:

   a. releasing a discussion paper this week, for public comment over a six-week period (the Department will provide a copy to your office for information)

   b. meeting stakeholders and visiting projects in western Queensland and western New South Wales in March and April 2018.

6. The Hon David Littleproud MP raised concerns with you in 2017 about projects in his electorate having adverse effects on employment and feral animal management.

    a. The Department is liaising with Minister Littleproud's Maranoa electorate office in arranging a stakeholder meeting about the method reviews in Charleville on 6 March 2018.

    b. An article in the Queensland Country Life on 26 February 2018 reported on similar concerns and referred to the method reviews (**Attachment B**).

7. The committee will advise you of the outcomes of the reviews, which may include recommendations to make changes to the methods. Timing for completing the reviews is a matter for the committee, but the Department anticipates completion in the middle of 2018.

ATTACHMENTS

A: Letter from Emissions Reduction Assurance Committee
B: Queensland Country Life article

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Josh Frydenberg MP
Minister for the Environment and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I write to advise you of the Emissions Reduction Assurance Committee's decision to review the Native Forest from Managed Regrowth (NFMR) and Human-Induced Regeneration (HIR) methods under the Emissions Reduction Fund. Periodic review of Emissions Reduction Fund methods is one of the Committee's functions, listed in section 255 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Both methods provide for projects that regenerate native forests through changes in land management. They account for 47 per cent of contracted abatement under the Fund.

In its advice to the former Minister for the Environment on a draft variation of the HIR method (copy enclosed), the Committee recommended the method be monitored closely to ensure it continues to meet the offsets integrity standards in the Act and minimise natural resource management risks. On the basis of information provided by the Department of the Environment and Energy and Clean Energy Regulator, the Committee decided both methods should now be reviewed. The Committee decided a parallel review of the methods was appropriate because they apply to similar project activities.

The Committee's reviews will focus on assessing the methods against the offsets integrity standards but will also consider their administrative requirements and any impacts resulting from their operation. The Committee will consult with the public via the Department's website and hold targeted discussions with stakeholders, including project proponents, agricultural bodies, state and territory governments, natural resource management groups and industry experts. The Committee aims to finalise its reviews by mid-2018.

Once finalised, the Committee will advise you of the review outcomes, which may include recommendations to change the methods. Any changes would occur subsequently, following standard processes for Emissions Reduction Fund methods.

I have sent a similar letter to Mr Finn Pratt, Secretary of the Department of the Environment and Energy, advising him of the Committee's decision.

Yours sincerely

Andrew Macintosh
Chair
Emissions Reduction Assurance Committee
28/02/2018
Enc.

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Greg Hunt MP
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Dear Minister

On behalf of the Emissions Reduction Assurance Committee (ERAC), I am pleased to inform you that it has considered the draft *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest 1.1) Methodology Determination Variation 2016* (our reference: 027VG2015V1) and advises that it is suitable to be made into a Determination.

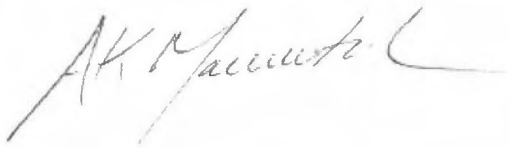
The draft Variation was developed by the Department of the Environment in collaboration with a technical working group of experts from a broad range of industry representatives and the Clean Energy Regulator. The Department invited public submissions on two occasions on the draft Variation and also commissioned a separate technical assessment.

Having considered the information from these processes, advice from the Clean Energy Regulator, the draft Explanatory Statement and the text of the draft Variation, the ERAC concluded that the draft Variation complies with the offsets integrity standards specified in section 133 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*. On this basis, the ERAC agreed it was suitable to be made into a Determination Variation.

In reaching its decision, the ERAC noted the importance of ensuring consistency in the assessment of compliance with the offsets integrity standards. The ERAC also recommends that, if the Variation is made, the method be monitored closely to ensure it continues to meet the offsets integrity standards and minimises natural resource management risks. The ERAC has asked that the Department do this in consultation with key stakeholders including natural resource management groups, state governments and carbon service providers.

Further details of the reasons for the ERAC's advice are included in the attached notice.

Yours sincerely



Andrew Macintosh
Chair
Emissions Reduction Assurance Committee

9 March 2016

EMISSIONS REDUCTION ASSURANCE COMMITTEE

Notice of advice to the Minister for the Environment under subsection 123A(2) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act)

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest 1.1) Methodology Determination 2013

On 9 March 2016 the Emissions Reduction Assurance Committee (ERAC) agreed that the draft Determination is suitable to be made into a Determination.

In forming this view, the ERAC considered:

1. the offsets integrity standards specified in section 133 of the Act;
2. the public submissions received during the two public consultation periods; and
3. advice from the Clean Energy Regulator.

The ERAC was not directed to have regard to any additional issues under section 123B of the Act in providing its advice on the draft Determination.

The ERAC took into account and supports the proposed changes to the draft Determination made after the draft was released for consultation.

1. Assessment against the offsets integrity standards

Section*	Requirement	Statement
133(1)(a)	The draft Determination's requirements and method should result in carbon abatement that is unlikely to occur in the ordinary course of events (disregarding the effect of the Act).	The draft Determination specifies appropriate requirements to ensure that projects are delivering additional abatement. Key eligibility requirements in *Carbon Credits (Carbon Farming Initiative—Human Induced Regeneration of a Permanent Even-Aged Native Forest 1.1) Methodology Determination 2013* will be retained in the draft Variation including requirements to: • demonstrate that the project area was subject to suppression of forest regeneration during the 10 years prior to project commencement; • demonstrate that forest cover has not been achieved at any time during the 10 years prior to commencement; and • demonstrate that suppression of forest regeneration has ceased or will cease in order to participate in the ERF. Accordingly, the ERAC considers that the above draft Variation complies with this offsets integrity standard.
133(1)(b)	Estimations of removal, reduction or emission, as the case may be, are measurable and capable of being verified.	Appropriate equations are specified for the calculation of emissions reduction and project emissions. Appropriate methods to enable verification of these estimations are specified for data collection, monitoring and reporting. The requirement to model carbon stocks and emissions using the Full Carbon Accounting Model (FullCAM) (rather than the Reforestation Modelling Tool (RMT)) will ensure that estimates of carbon stocks are consistent with the approach used in the National Greenhouse Gas Inventory. Accordingly, the ERAC considers that the above draft Determination complies with this offsets integrity standard.
133(1)(c)	Carbon abatement used in ascertaining the carbon dioxide net abatement amount for a project must be eligible carbon abatement from the project.	The carbon abatement used in ascertaining the abatement amount is eligible carbon abatement from the project. Amongst other things, the draft Variation requires that, for projects which have not previously submitted an offsets report, abatement achieved

		prior to the project commencement date must be deducted from the net abatement calculation such that Australian Carbon Credit Units are only issued for abatement achieved during the crediting period. Accordingly, the ERAC considers that the above draft Variation complies with this offsets integrity standard.
133(1)(d)	The draft Determination is supported by clear and convincing evidence.	The draft Variation is supported by clear and convincing evidence. The replacement of the RMT with FullCAM to model carbon stocks will provide more robust estimates of carbon stocks and is consistent with the approach used to inform the National Greenhouse Gas Inventory. The development and maintenance of FullCAM is supported by peer-reviewed and internationally agreed scientific research. Accordingly, the ERAC considers that the above draft Variation complies with this offsets integrity standard.
133(1)(e)	Material amounts, in carbon dioxide equivalent, of greenhouse gases that are emitted as a direct consequence of carrying out the project are deducted.	Net abatement is calculated after deducting material emissions generated as a direct result of carrying out the project. The draft Variation does not alter the current requirement to deduct emissions resulting from carrying out a project. Accordingly, the ERAC considers that the above draft Variation complies with this offsets integrity standard.
133(1)(g)	Estimates, projections or assumptions included in the methodology are conservative.	The assumptions and estimates included in the draft Variation are conservative. The net abatement estimate is conservative. The adoption of FullCAM in place of RMT to model carbon stocks will provide a more accurate representation of carbon accumulation for projects, consistent with the approach used in the National Greenhouse Gas Inventory. The draft Variation will provide a conservative estimate of abatement because, amongst other things, the carbon accumulated prior to project commencement is deducted in the net abatement calculation, so cannot be credited.

		Accordingly, the ERAC considers that the above draft Variation complies with this offsets integrity standard.
133(1)(h)	Such other standards that are set out in the legislative rules.	Not applicable.

* Section of the Act

2. Submissions received during public consultation period

The ERAC received 7 confidential submissions and 2 public submissions regarding the draft Variation as published on the Department's website between 9 February 2016 and 23 February 2016 and two public submissions regarding the draft Determination as published on the Department's website between 18 September and 2 October 2015 consistent with the requirements of section 123D of the Act.

Except for those submissions subject to a request not to publish under subsection 123D(5), all public submissions have been published on the Department's website.

3. Relevant advice from the Clean Energy Regulator

The Clean Energy Regulator advised the ERAC that it supports the above draft Determination.

Conclusion

On the basis that all the offsets integrity standards are met, the ERAC agreed that the draft Variation is suitable to be made into a Determination.

ATTACHMENT B

Queensland Country Life article

Carbon farming leading to rural community decline, review promised

Sally Cripps

26 Feb 2018, 6 a.m.

Graziers in the Paroo shire are sounding the environmental alarm on the practice of carbon farming as they watch a buildup of pest and weed threats, alongside a drastic decline in community revenue.

The potential perils of locking up south west Queensland's mulga lands completely has been enough of an incentive for Agriculture Minister, David Littleproud, to urge his federal counterpart, Environment Minister Josh Frydenberg, to travel north and see the situation for himself.

As the Member for Maranoa, Mr Littleproud is familiar with the region's cashflow needs and he told a posse of concerned Wyandra graziers recently that the minister had contacted his office to discuss a potential future visit.

"I sat down with Minister Frydenberg and said, no-one's trying to blow the program up but there's been some unintended consequences in my patch I'm a little worried about," Mr Littleproud said.

"He pulled up the maps and he could see the concentration (of carbon farms) in this part of the world, and that's when it did raise some alarm bells to get the department involved and out there."

Carbon farming, which retains regrowth and sells carbon credits to the federal government through a $2.55 billion Emissions Reduction Fund, has been touted as both a valuable environmental practice and a financial boon for some of the most drought-stricken people in Queensland.

An estimated 324,000ha of land in the Paroo shire, nine properties, all owned by corporate investors, have entered into carbon farming projects since the scheme was announced by the federal government.

> "Anyone would think the Paroo shire was trying to solve global warming by itself" - Peter Lucas, Cliffdale, Wyandra

He was very concerned about a landscape in which "not one dollar" from corporate owners was going back into the community.

"The shires have no income at all except out of rates now." he said.

“No-one lives on these properties so there’s no-one to buy groceries at the store.

“They don’t pay a power bill – the power’s switched off.

“The truck drivers that used to cart cattle off those joints, every year, five decks, 10 decks, well they’ve lost all that income.”

Estimates are that between $2m and $3m gross has been lost to the towns of Cunnamulla and Wyandra a year as a result.

Looking into the future, Kane Lucas predicted knock-on effects when young people trying to enter the industry were competing with large companies for land.

“The country (the carbon famers) are buying is generally cheaper country so these carbon blokes have pushed them out and they simply can’t afford it.

“They’re paying $26 for country that should be $10.”

‘A sinkhole of pests and weeds’

The state of the landscape under a proliferating carbon farming regime has been on South West NRM chairman, Mark O’Brien’s mind, who wants to see credits accompanied by a strict land management regime.

“These places have the potential to become a sinkhole of pests and weeds,” he said. “In some cases you can still graze but some agreements won’t allow that, so someone’s got to put their foot down and say you’ve got to manage that.”

Because the program’s funds originated with the federal government, Mr O’Brien said the responsibility lay with them.

He believed the idea of carbon farming was good in theory but the practicalities hadn’t been thought through.

“I have a concern that we will wake up one day and find it’s all smoke and mirrors,” he said. “Someone has got to grow our food, and someone’s got to pay.

“It might be better in the short term to have carbon credits but I don’t think they’ve thought about it strategically enough.”

Land locked up

One of the landholders benefiting from the concept is Stephen Schmidt, who has locked up 1214ha of his 55,440ha property south of Charleville with DA Carbon.

He said he was approached with an offer, which was an instant income stream as well as providing ongoing income, with country that was never likely to provide that kind of cashflow from running livestock and would not provide the returns from development.

“We’re getting enough to cover power bills, phone bills, lease payments,” he said.

The methodology Stephen has agreed to means that while he has stopped mechanically clearing category X country on his maps, he is encouraged to integrate livestock with his carbon because it reduces the surrounding fuel load.

“What I understand of the other methodology is, they’re wanting you to take your stock off so it’s a locking up. There’s no income from livestock, there’s nothing happening on the property.”

He would like to see an agreement implemented as part of carbon agreements with corporate managers that tied them to pest control.

Peter Lucas noted that there was already a responsibility for them to control wild dogs, as a class two pest, which needed to be enforced.

He and the other graziers suggested restricting the amount of land on each property that could be locked up for carbon credit purposes, as a possible solution.

According to Kane Lucas, the problems didn’t lie with landholders such as Stephen locking up a few thousand acres and receiving income that was subsidiary to their grazing enterprise.

“The issue we have is the corporate companies coming in and buying chunks of land – five or six places – and just locking them up.

“So they get paid for their carbon and they also get paid for the reduction of methane.

“That gives them an incentive to run no stock – they don’t employ anyone, no-one’s on there, there’s nothing.

“What the program was originally designed for is a good idea, there’s just flaws in the system.”

Mr Littleproud said the federal Department of Environment was preparing to undertake a carbon farming review.

“We’ve already started engagement and making sure you guys are going to be aware.

“You can let them know the unintended consequences of this policy.

“Let’s get the facts on the table and have a look at it in the cold hard light of day.”

PDR: MS18-000226

Copy to:

Secretary
Ms Evans
Ms Wilson

Chief of Staff
Mr Rigzin

To: Minister for the Environment and Energy (For Information)
Cc. Assistant Minister for the Environment

EMISSIONS REDUCTION FUND: EMISSIONS REDUCTION ASSURANCE COMMITTEE DECISION TO REVIEW NATIVE VEGETATION METHODS

Recommendation:

1. That you note the Emissions Reduction Assurance Committee's advice of its decision to review the Emissions Reduction Fund 'native forest from managed regrowth' and 'human-induced regeneration' methods (**Attachment A**).

Noted / Please discuss

Minister: Date:

Comments:

Noted by the Minister's Office

Clearing Officer: Sent 28/2/18	s22	Director, Forests Land and Outreach Branch	s22
Contact Officer:	s22	Forests	

1. The Emissions Reduction Assurance Committee's functions include undertaking periodic reviews of Emissions Reduction Fund methods to ensure they continue to meet the offsets integrity standards.
2. The committee has written to you advising of its decision to review the 'native forest from managed regrowth' and 'human-induced regeneration' methods (**Attachment A**).
3. The methods provide for projects that regenerate native forests through changes in land management. The committee decided to review the methods in parallel, given their similarities.
4. The reviews will consider the methods' compliance with the offsets integrity standards, as well as administrative requirements and potential for projects to have adverse environmental, economic or social impacts.
5. The committee will conduct consultation to inform the reviews, including:
   a. releasing a discussion paper this week, for public comment over a six-week period (the Department will provide a copy to your office for information)
   b. meeting stakeholders and visiting projects in western Queensland and western New South Wales in March and April 2018.

6. The Hon David Littleproud MP raised concerns with you in 2017 about projects in his electorate having adverse effects on employment and feral animal management.

   a. The Department is liaising with Minister Littleproud's Maranoa electorate office in arranging a stakeholder meeting about the method reviews in Charleville on 6 March 2018.

   b. An article in the Queensland Country Life on 26 February 2018 reported on similar concerns and referred to the method reviews (**Attachment B**).

7. The committee will advise you of the outcomes of the reviews, which may include recommendations to make changes to the methods. Timing for completing the reviews is a matter for the committee, but the Department anticipates completion in the middle of 2018.

ATTACHMENTS

A: Letter from Emissions Reduction Assurance Committee
B: Queensland Country Life article

PDR: EC18-000679

To: Secretary (For Information)

EMISSIONS REDUCTION FUND: LEGISLATIVE RULE AMENDMENT FOR NATIVE VEGETATION REGENERATION METHODS

Timing: routine

Recommendation:

That you note the concerns of the Emissions Reduction Assurance Committee regarding two vegetation methods (Attachment A), the Department's intention to make stakeholders aware of the Committee's concerns, and the Department's proposal to amend the legislative rule to address these concerns.

Noted / Please discuss

Secretary: Date:

Comments:

Clearing Officer: Sent 28/6/18	Katrina Maguire	Assistant Secretary, Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director, Forests Team, Climate Change Division	s22

Key Points:

1. In late 2017, the Emissions Reduction Assurance Committee (the Committee) commenced reviews of two vegetation methods; the Human Induced Regeneration and Native Forest from Managed Regrowth methods.

2. Further to your recent conversation with Ms Evans and Ms Milnes on this matter, the Committee has an immediate concern the methods do not adequately ensure the rate of crediting of carbon abatement appropriately reflects actual growth of regenerating forests in every project. This is relevant to the need for methods to apply conservative estimates, projections and assumptions. The Committee has written to you outlining its concerns (Attachment A). The Committee also wrote to the Minister (MS18-000836).

s47C

4. The Department's proposed Rule amendment would clarify the Government's expectation that regeneration projects must demonstrate continued potential to grow forest, and achieve the required growth ('forest cover') within reasonable timeframes.

5. The proposed amendment would require proponents to:

    a. provide evidence, every five years, that projects are making progress towards achieving forest cover

    b. achieve forest cover within a set timeframe, while also allowing for events that might slow growth or reduce carbon stocks (such as fire or drought).

6. If forest cover is not achieved within the set timeframe, proponents could not obtain further credits for a project in some cases until the requirements are met. They would not need to relinquish credits previously issued. The requirements would apply to new and existing projects, but existing projects would have longer to achieve forest cover.

7. The amendment would complement the work being undertaken by the Regulator with proponents to reduce the risk of projects earning credits for land that already has forest or lacks the potential to grow forest.

s47C

9. The Department will hold targeted discussions with aggregators and other stakeholders on the amendment this week and next and will ensure stakeholders are aware of the Committee's concerns. Following initial discussions, the Department plans to seek the Minister's approval to release an exposure draft of the amendment and explanatory statement for public consultation.

10. Subject to the outcomes of the formal consultation process, the Department will submit a proposed Rule amendment to the Minister for approval. If the Minister decides to make the amendment, it would come into force the day after it is registered on the Federal Register of Legislation. Once made, the legislative instrument is disallowable.

11. The Committee will continue to progress the method reviews, and plans to give the Minister a review report before the end of this year. The Department will publish non-confidential submissions received on the Committee's review discussion paper, before the proposed release of an exposure draft Rule amendment.

12. The Department anticipates continued media and public interest as we progress the proposed Rule amendment and the Committee's reviews of the methods.

Consultation: YES

Clean Energy Regulator

Attachments

A: Emissions Reduction Assurance Committee letter

B: s47C

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

Mr Finn Pratt
Secretary
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Dear Mr Pratt

I wrote to you on 28 February 2018 to advise that the Emissions Reduction Assurance Committee is reviewing the following Emissions Reduction Fund methodology determinations (methods):

- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*; and
- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013.*

Both methods provide for projects that regenerate native forests by changing management of the land.

The Committee's reviews are assessing the methods against the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act). The Committee has undertaken public consultation on the reviews, and expects to provide the Minister for the Environment and Energy with a final report before the end of 2018.

The Committee has identified several aspects of the methods that could be improved to ensure their continued compliance with the offsets integrity standards. The most pressing of these relates to whether the methods ensure the rate of crediting of carbon abatement appropriately reflects actual abatement through growth of regenerating forests.

The Committee believes there needs to be a mechanism that provides greater assurance that crediting aligns with on-ground progress of regenerating vegetation towards forest cover. Without such a mechanism, the methods could allow some projects to be issued Australian Carbon Credit Units in excess of actual increases in carbon storage.

Amongst other things, the offsets integrity standards require methods to apply conservative estimates, projections and assumptions. s47C [redacted] The Committee also believes there could be greater clarity on reporting requirements for crediting claims made under the methods.

The Department of the Environment and Energy has proposed to the Committee that these matters be addressed through an amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. The Committee understands the proposed Rule amendment would clarify requirements for projects to report to the Clean Energy Regulator on continued progress towards reaching forest cover, and, in some circumstances, restrict crediting until projects reach forest cover. The Committee notes the proposed Rule amendment would complement the Clean Energy Regulator's approach and guidance on regeneration projects.

The Committee understands the process for making the Rule amendment will involve:

- preliminary work between the Department, technical experts and other stakeholders to refine the design and drafting of the amendment;
- release of a draft amendment for public consultation for 28 days;
- finalising the form of the amendment, having regard to the information obtained through the public consultation process; and
- formal making of the Rule amendment by the Minister under section 308 of the CFI Act, after which the amendment will be tabled in both Houses of Parliament in accordance with the requirements in Part 2 of the *Legislation Act 2003*.

The Department has informed the Committee that this process should take approximately eight weeks.

The Committee supports the proposed Rule amendment as a practical and effective way of addressing the identified issues. The Committee would like to see the amendment made in a timely manner, in accordance with the process and timeframe described above.

s47C

Yours sincerely

Andrew Macintosh
Chair
Emissions Reduction Assurance Committee

27 June 2018

PDR: MS18-000729

To: Minister for the Environment and Energy (For Information)

cc: Assistant Minister for the Environment

EMISSIONS REDUCTION FUND: s47C

Recommendation:

That you note the update on the Emission's Reduction Assurance Committee's review of two vegetation methods' compliance with the Offsets Integrity Standards.

Noted / Please discuss

Minister: Date:

Comments:

Clearing Officer: Sent 13/6/18	Katrina Maguire	Assistant Secretary, Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director, Forests Team Climate Change Division	s22

Key Points:

1. In late 2017, the Emissions Reduction Assurance Committee (the Committee) commenced reviews of two vegetation methods; the Human Induced Regeneration (HIR) and Native Forest from Managed Regrowth (NFMR) methods. The two methods credit abatement stored in vegetation on land where vegetation was previously cleared or suppressed. The abatement results from not clearing vegetation and can also include other changes in land management, such as grazing management and fencing. Projects under the methods earn credits based on modelled estimates.

2. Combined, the two methods account for approximately 47 per cent of contracted abatement under the Emissions Reduction Fund – 45 per cent of which is under HIR. Only around 11 per cent of contracted credits under the HIR method have so far been issued. Four million tonnes of abatement has been contracted under the NFMR method and around half of that has been credited. Together, these issued credits account for around 6 per cent of all contracted abatement under the scheme.

s47C

4. The Committee is considering whether the methods still meet the offsets integrity standards and whether they are drafted in a way to adequately manage the risk of projects being over-credited. Over-crediting could occur if credits are issued to projects where vegetation does not regrow.

10. The department's view is that the steps being taken by the Regulator through its guidance on assessing initial and ongoing eligibility, adequately manages the project risk in the short term. s47C We are also exploring whether variations to the method could alleviate the Committee's concerns, but there are downsides to this approach as the compliance task becomes more complex as variations are made.

Attachments

A: Background
B: Suggested talking points

Attachment A

Background

1. Both methods were developed under the Carbon Farming Initiative. The Human-Induced Regeneration (HIR) method was first made in January 2013 and the Native Forest from Managed Regrowth (NFMR) method in November 2013. Variations were made to the HIR method in 2015 and 2016, and to the NFMR method in 2016. Further minor variations were made to both methods in 2017.

2. The government has contracted 86.8 million tonnes of abatement under the HIR method, around 45 per cent of all ERF contracted abatement. The Clean Energy Regulator has so far issued 10.1 million ACCUs (around 11 per cent) to projects under this method. The majority of the projects are in western NSW and south western Queensland. 26 new projects in Western Australia have recently been registered.

3. The government has contracted 3.7 million tonnes of abatement under the NFMR method, around 2 per cent of all ERF contracted abatement. The Clean Energy Regulator has issued 2 million ACCUs (50 per cent) to projects under this method. All NFMR projects are in south-west Queensland.

6. During 2017 the Emissions Reduction Assurance Committee was concerned projects under the NFMR method were earning credits earlier than expected for growth that had occurred prior to the projects commencing. This was allowed in the method. The Department varied the modelling guidelines for the method to limit the pre-project growth to 14 years prior to projects commencing. This is still of concern to the Committee.

7. In late 2017, the Emissions Reduction Assurance Committee announced it would review the two vegetation methods and released a discussion paper for public consultation in February 2018. In March and April, representatives from the Department, the Clean Energy Regulator and the Emissions Reduction Assurance Committee visited properties with ERF vegetation projects and held meetings with a broad range of stakeholders in western NSW and South West Queensland. The Committee received 16 submissions on the discussion paper, with seven being marked as confidential. The Emissions

Reduction Assurance Committee will publish the submissions on the Department's website soon.

8. There is a range of issues the Committee is considering in reviewing whether the two methods comply with the offsets integrity standards. s47C

   s47C

9. The Committee will provide you with a review report and possibly recommendations to vary or revoke the method/s. s47C

See previous briefs: PEMS17-900612 (risks brief) and MS17-000466 (change to FullCAM guidelines) and MS18-000226 (ERAC review).

Suggested talking points s47C

The Human Induced Regeneration and Native Forest from Managed Regrowth methods were developed under the Carbon Farming Initiative, back in 2013.

Combined, 12 million credits have been issued to projects under these methods. This is approximately 6 per cent of total abatement contracted to the government.

The independent Emissions Reduction Assurance Committee routinely review methods under the Emissions Reduction Fund to ensure they continue to the meet the Offsets Integrity Standards. This is fundamental to the integrity of the scheme.

The projects under the methods are still relatively new and as new data and information becomes available we need to analyse it and check the projects are achieving what we expected.

s47C

I am looking forward to seeing the Committee's report when it completes its review in the next few months and considering any recommendations they may make to government to ensure the continued integrity of these methods.

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

PDR: MS18-001012

To: Minister for the Environment and Energy (For Decision)

cc: Assistant Minister for the Environment

EMISSIONS REDUCTION FUND NATIVE VEGETATION REGENERATION METHODS: CONSULTATION ON LEGISLATIVE RULE CHANGES

Timing: 31 August 2018 to allow timely commencement of consultation.

Recommendation:

1. That you agree to consult on proposed changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to the Human-Induced Regeneration method and projects that may elect to transfer from the Human-Induced Regeneration method to the Native Forest from Managed Regrowth method (**Attachment A**).

Agreed / Not agreed

Minister: Date:

Comments:

Clearing Officer: Sent 22/8/18	Katrina Maguire	Assistant Secretary Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director Forests Section	s22

Key Points:

1. The Department proposes changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* in response to Emissions Reduction Assurance Committee (ERAC) concerns the Human-Induced Regeneration and Native Forest from Managed Regrowth methods could allow overcrediting.

2. The draft rule initially applies only to the Human-Induced Regeneration method, and to any Human-Induced Regeneration projects that may elect to transfer to the Native Forest from Managed Regrowth method.

   a. The two methods are similar, and the draft rule should be applied to all projects under both methods. However, the methods have some differences, and the Department is still exploring how best to apply the rule to existing and new projects under the Native Forest from Managed Regrowth method.

   b. Projects under the Human-Induced Regeneration method represent 48 per cent of total contracted abatement in the Emissions Reduction Fund. Native Forest from Managed Regrowth projects represent two per cent of contracted abatement.

3. The ERAC's concerns are set out in MS18-000836. The draft rule and project developers' views are explained in MS18-000892. The Department has revised the draft rule (**Attachment A**) following further discussions with the Clean Energy Regulator, project developers and ERAC members.

4. The Department understands the ERAC would support the release for public consultation of the draft rule applying initially to the Human-Induced Regeneration method, and any transferring projects, while the Department and the Regulator undertake further work on how best to apply it to all projects under the Native Forest from Managed Regrowth method.

5. The draft rule would support and add to the Regulator's requirements for projects to continue to show progress towards achieving forest cover. The Regulator intends to release draft guidance with the draft rule, for comment. The draft guidance outlines how the draft rule would be implemented and how to meet the Regulator's requirements. The Regulator developed the guidance in consultation with the Department and with input from project developers.

11. An exposure draft rule and explanatory material would be released for public consultation for 21 days. The guidance would be released at the same time. The Department would send the documents to project developers and other stakeholders, and offer meetings to discuss the documents with them. Subject to the outcomes of consultation, the Department would submit a final rule to you for approval.

Sensitivities

12. s47C [redacted] Suggested talking points are at **Attachment C**.

13. Most existing projects are in south-west Queensland (including all Native Forest from Managed Regrowth projects) and western New South Wales. Human-Induced Regeneration projects are now commencing in the rangelands in Western Australia.

Consultation: YES

14. Clean Energy Regulator.

ATTACHMENTS

A: Exposure draft rule and explanatory statement
B: Letter from Devine Agribusiness
C: Suggested talking points

Australian Government
Department of the Environment and Energy

Emissions Reduction Fund:

Proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to native vegetation regeneration projects

Consultation paper

August 2018

Making a submission

The Australian Government invites written submissions from all interested businesses and members of the community on the Emissions Reduction Fund Consultation Paper - Proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to native vegetation regeneration projects.

Submissions are due by midday AEST, XX August 2018. Any submissions received after this date will be considered at the Government's discretion.

Submission guidelines

Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address listed below. Alternatively, submissions may be sent to the postal address below to arrive by midday AEST on the above due date.

All submissions must include a cover sheet, available at www.environment.gov.au. The submission and coversheet should be provided as separate files if sent electronically.

Submissions can be forwarded to:

Email: ERFforests@environment.gov.au (preferred)

Postal: Forests Section
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Confidentiality

If you do not indicate that your submission should be treated as confidential, it will be treated as a public document and may be published in full on the Department of the Environment and Energy's website. This includes the publication of any personal information of authors and/or other third parties contained in the submission.

If you indicate that your submission should be treated as confidential, it will not be published.

If only a part of your submission should be treated as confidential, please provide two versions of the submission, one with the confidential information removed for publication.

Privacy

The Department will deal with personal information contained in, or provided in relation to, submissions in accordance with this cover sheet and its Privacy Policy (www.environment.gov.au/privacy-policy). The Department's Privacy Policy contains information about how to access or correct your personal information or make a complaint about a breach of the Australian Privacy Principles. Personal information is collected for the purposes of identifying authors of submissions and in case the Department needs to contact you for further information or clarification on your submission. It may be used and disclosed within the Department and to other persons for the purposes of updating the Safeguard Mechanism, and otherwise as required or permitted by law.

A request made under the *Freedom of Information Act 1982* for access to a submission, including those treated as confidential, will be determined in accordance with that Act.

CONTENTS

Introduction

The Australian Government is considering amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the rule) to:

- ensure the Clean Energy Regulator has the information necessary to assess compliance with requirements in Emissions Reduction Fund methods for native vegetation regeneration projects; and
- provide clarity around the timeframes within which land under regeneration methods must attain forest cover to obtain further carbon credits.

Purpose of the proposed amendments

The proposed rule amendments would clarify the intent of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2018) (the Human-Induced Regeneration Method).

The method provides opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover. The amendments are designed to support robust implementation and ongoing integrity of the method over the long term. They would provide assurance that crediting aligns with on-ground progress of regenerating vegetation towards forest cover.

The Clean Energy Regulator is developing guidance on stratification, evidence and records for projects under the method. The proposed rule amendments and the guidance are complementary. For example, the guidance requires that at five-yearly intervals proponents must demonstrate that eligible land with forest potential has made progress towards attaining forest cover. Projects that continue to meet the requirements of the Clean Energy Regulator's guidance would be likely to be on track to meet the requirements of the proposed rule amendments later in their crediting period. For this reason, the proposed rule amendments are being released for consultation alongside the draft guidance.

To provide further clarification, the CFI Mapping Guidelines will also be amended following consultation. The method requires use of the CFI Mapping Guidelines when mapping projects. For consultation purposes, geospatial mapping requirements are included in the Clean Energy Regulator's draft guidance. Relevant mapping requirements will be incorporated in the CFI Mapping Guidelines following consultation.

The Government will take submissions on the draft rule amendments into account in considering whether to adopt the rule amendments and make them into law.

Overview of proposed rule amendments

The proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* are to:

- ensure the Clean Energy Regulator has the information necessary to assess compliance with requirements in Emissions Reduction Fund methods for regeneration projects; and
- provide clarity around the timeframes within which land under regeneration methods must attain forest cover to obtain further carbon credits.

The proposed amendments would apply to the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* and its variants. They would also apply to any projects transferring from this method to the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*. These methods provide opportunities for projects involving changes in land management to regenerate native forests. The methods define land as having forest cover if it has an area of at least 0.2 of a hectare, with trees that are two metres or more in height and which provide crown cover of at least 20% of the land.

Legislative background

Under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) the issuance of Australian carbon credit units is separate to the declaration of eligible offsets projects and offsets reporting under the applicable methodology determination. After submitting an offsets report, project proponents can submit an application for a certificate of entitlement in respect of the reporting period covered by the offsets report. Under subsection 15(2) of the Act the Regulator cannot issue a certificate of entitlement unless satisfied of a number of requirements. Paragraph 15(2)(h) includes in that list any additional requirements specified in the regulations or legislative rules.

Under the Act, offsets reports must include both information required by the applicable methodology determination and information required by legislative rules.

Proposed rule amendments

Central to the proposed amendments is a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for the applicable carbon estimation areas (CEAs).

Amendments are also proposed clarifying the information necessary to demonstrate that the forest potential requirements of the methods are being met. They complement guidance to be published by the Clean Energy Regulator setting out information to be provided by proponents at five-year intervals to demonstrate that land within carbon estimation areas continues to have forest potential and has made progress towards attaining forest cover.

Land under existing projects (those registered before 1 July 2018) would be required to attain forest cover by 15 years after the declaration of the project. The proposed amendments would limit crediting after the 15 year period for CEAs that have not substantially reached forest cover. They would have no effect on crediting for CEAs that have reached forest cover within 15 years. Proponents could restratify CEAs so that

crediting would only be limited for areas of CEAs that have not substantially reached forest cover.

For projects registered after 1 July 2018 or land added to an existing project after 1 July 2018, the same rule would apply but the 15 year period would have a different starting point. It would be the 15 years after the commencement of the modelling of forest regeneration.

The proposed amendments make allowances for projects affected by disturbances or growth pauses, by allowing for the date of the test to be extended by up to five years for 'eligible growth disruptions'. This supports the principle that regeneration projects should be undertaken on land with existing forest potential that is capable of attaining forest cover. The rule also ensures that the forest attainment date falls no later than five years prior to the end of the crediting period.

The proposed amendments are supported by data on growth of vegetation in regions where regeneration projects may be undertaken, including the time this vegetation generally takes to reach forest cover. The data shows that forest cover would have been attained if the on-ground regrowth corresponded with the modelled regeneration estimates over the periods set out.

Limiting the crediting of projects yet to meet the forest cover requirements would support consistency between modelled abatement estimates and on-ground project performance. The offsets integrity standards under the Act require that methods provide for conservative estimates of abatement.

Provisions are included that would ensure vegetation in low productivity areas is required to attain forest cover within timeframes realistic for those conditions. In particular, modelling undertaken in accordance with the relevant method would need to show the CEA has more than [5][1] tonnes of carbon per hectare for the forest cover requirement to apply.

[1] The Department of the Environment and Energy will confirm the final value during the consultation period.

Detailed explanation of proposed rule amendments

The legislative text for the proposed rule amendments is presented in blue text.

Strengthened offsets reporting requirements

Sections 70 and 71 of the *Carbon Credits (Carbon Farming Initiative) Rule 2015* are proposed to be amended to specify the information that must be included in offsets reports for demonstrating progress towards forest cover at five-year intervals and the attainment of forest cover once the forest cover assessment date (see below) passes. The information provided would need to take into account any guidelines issued by the Regulator.

Section 70, regarding the information that must be included in offsets reports, would be amended to include the following subsection:

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 carbon estimation area has never previously been included in an offsets report for a human-induced regeneration project; or

(ii) the Regulator requests, in writing, the following information in relation to a carbon estimation area,

an explanation, for the carbon estimation area, of how pre-existing forest cover has been excluded from 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

(b) if:

(i) the offsets report is the first offsets report to be submitted after the end of the 5th, 10th, 15th or 20th year of the human-induced regeneration project's last or only crediting period; or

(ii) the offsets report for the human-induced regeneration project must be accompanied by a report of a subsequent audit; or

(iii) the offsets report is the first offsets report for a human-induced regeneration project where there has been modelling of forest regeneration or growth for a total of 5 or more years before the start of the project's crediting period,

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

(iv) of the progress towards or attainment of forest cover in each such carbon estimation area and evidence supporting that progress or attainment; and

(v) of how the project mechanism has continued to be implemented in each such carbon estimation area and evidence supporting that continued implementation;

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) 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

(d) 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; and

(iv) an explanation of whether forest cover has been obtained; 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; and

(vi) any previous assessment by the Regulator of whether the land included in the carbon estimation area had pre-existing forest cover.

(3B) The Regulator may not make a request under subparagraph (3A)(a)(ii) more than once for the same carbon estimation area.

(6) In this section:

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

eligible growth disruption 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).

pre-existing forest cover, for a carbon estimation area, means forest cover that existed:

(a) if the 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 determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act—at the time of the decision to implement the project mechanism (within the meaning of those determinations) in the carbon estimation area;

(b) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time until 21 March 2016—immediately before project commencement (within the meaning of that determination) for the carbon estimation area;

(c) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time after 21 March 2016—at any time during the baseline period (within the meaning of that determination) for the carbon estimation area.

Section 71, regarding documents that must accompany an offsets report, would be amended to include the following paragraph.

(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

Eligibility requirements for a certificate of entitlement regarding forest cover attainment

A section 9AA would be introduced to set out eligibility requirements for obtaining a certificate of entitlement applicable when projects have passed their forest cover assessment date and in relation to the information required above. Whether or not this section is satisfied would not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period.

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.

Subsection (2) would ensure the information requirements set out in subsections 70(3A)(b) and paragraph 71(c) are adequately met in order for a regeneration project to be eligible for a certificate of entitlement.

(2) If the offsets report for the reporting period was required to include information in accordance with paragraph 70(3A)(b)—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.

Subsection (3) is the central proposed additional requirement to ensure that all CEAs that are past their forest cover assessment date must have attained forest cover to be eligible for a certificate of entitlement.

(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.

Subsection (4) would set out what is required for a CEA to be taken to have attained forest cover. The proposed requirements are designed to ensure only those areas of land within a CEA meeting the methods' definition of forest cover can be taken to have attained forest cover. In order to reliably determine whether forests meet the minimum area of 0.2 hectares, the assessment of forest cover must be undertaken at the 0.2 hectare scale. Any land of 0.2 hectares (or more) in area that does not have trees two metres or more in height and providing crown cover of at least 20% of the land does not meet the forest cover definition. Therefore the proposed amendments require assessment at the 0.2 hectare scale.

Paragraph (4)(a) provides for a simplified assessment approach; if the forest cover mapping used by the National Inventory Report to report sequestered carbon shows over 90% of the area of the carbon estimation area as having forest cover, the CEA is taken to have attained forest cover. This approach is permitted because the National Inventory Report forest cover mapping is undertaken at a scale of less than 0.2 hectares (0.0625 ha) and applies the requirement of a minimum contiguous forest area of 0.2 hectares to classify land as having forest cover. Paragraph (4)(b) provides for a more detailed assessment such that when a CEA is considered as 0.2 hectare portions, and over 90% of those 0.2 hectare portions have attained forest cover as per the definition, the CEA is taken to have attained forest cover.

If land were to be credited for abatement where it does not attain forest cover in at least 90% of the 0.2 hectare portions by the forest cover assessment date, the crediting is unlikely to be conservative. This is because the models used for estimating abatement under the methods are calibrated to provide estimates of abatement where each 0.2 hectare portion of land attains forest cover. The proposed requirements would help ensure carbon abatement credited under the regeneration methods is conservative.

Allowing for 90% of 0.2 hectare portions to have attained forest cover, rather than 100%, would reduce the need for re-stratification if a small proportion of a CEA has not attained forest cover. Furthermore, where a small proportion of the CEA (10% or less of the 0.2 hectare portions) may be on the margins of having attained forest cover, the whole of the CEA would not be prevented from being taken to have attained forest cover.

Subsection (5) provides for requirements to be set out in the Carbon Farming Initiative Mapping Guidelines to guide assessment of carbon estimation areas under paragraph (4)(b) and further guidance by the Clean Energy Regulator.

(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.

Subsection (6) would define when a CEA has passed the forest cover assessment date. This occurs once both the tonnes of carbon per hectare amount under paragraph (a) and the time period set out under paragraph (b) or (c) have been surpassed.

Where the time period has been surpassed, but not the tonnes of carbon amount (or vice versa), the forest cover assessment date has not yet passed.

The provision under paragraph (a) ensures land is only required to have attained forest cover once it is reasonable to expect it to have done so. The relationship between tonnes of carbon present in regenerating forest and canopy cover informs this provision. However, it does not apply for the last 5 years of a project's crediting period.

Paragraphs (b) and (c) set-out separate timing for existing CEAs (an area that was part of the project area for a regeneration project on 1 July 2018) and non-existing CEAs (as of 1 July 2018).

For existing CEAs, under paragraph (b), the timing is the later of 15 years after declaration, or 15 years after the commencement of modelling of forest regeneration, disregarding up to 5 years of eligible growth disruption in either case. For this purpose the declaration is the day the Regulator made the decision to declare the project and not when it may have taken effect under earlier provisions in the Act which allowed the backdating of the effect of the declaration.

For non-existing CEAs, under paragraph (c), the timing is 15 years since the modelling of forest regeneration commenced, disregarding up to 5 years of eligible growth disruption.

(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 offset 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 up to 5 years of any eligible growth disruption; and

(ii) the date that is 15 years since the modelling of forest regeneration commenced for the carbon estimation area disregarding up to 5 years of any eligible growth disruption;

(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 up to 5 years of any eligible growth disruption.

Note 1: The periods of eligible growth disruption need not be at the same time. For example, under paragraph (c) if the third and fifth year after modelling of forest regeneration commenced was an eligible growth disruption the forest cover assessment date would be 17 years after that modelling commencement (assuming over [5] tonnes of carbon per hectare was present at the end of the reporting period according to the modelling).

Note 2: 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.

Subsection (7) would provide for further definitions.

(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.

The definition for 'eligible growth disruption' would cover any period of time during which carbon stocks decrease or are modelled to be stable, for example due to a growth pause event. An eligible growth disruption would run for the period that the model shows a zero or negative change in abatement from one step to the next, rather than the period of time it takes carbon stocks to recover to previous levels (in the event of a disturbance, for example).

eligible growth disruption, in relation to a period, means any 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.

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 1 July 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.

The definition for 'human-induced regeneration project' includes projects under the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*; and projects under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* which have any land that was previously part of a project under the *Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

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.

Supporting auditing requirements

The draft rule amendment provisions introduced in this section set out additional audit requirements relating to forest cover. Projects that have passed the forest cover assessment date would need to be audited. Projects would be exempt from this requirement if a previous audit found that the requirement to attain forest cover (subsection 9AA(3)) has already been satisfied, or where the Regulator agrees in writing that this is unnecessary. One of the reasons why an audit would be unnecessary is where a subsequent audit has been scheduled or rescheduled to cover the relevant period.

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).

Section 74 would be amended to include the following subsection to enable audit reports to cover any matter identified by the Regulator on a risk-basis with mutual agreement of the project proponent, similar to paragraph 76(2)(c):

(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.

Devine Agribusiness Carbon Pty Ltd

ABN 88 160 651 052

c/- Leichardt Group
Level 27, 32 Turbot Street

GPO Box 948
Brisbane QLD 4001

Ph. 07 3226 7777

dac@leichardt.com.au

8 August 2018

Hon Josh Frydenberg MP
Minister for the Environment and Energy
PO Box 6022
Parliament House
Canberra ACT 2600

Dear Mr Frydenberg

We write in response to the change to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the CFI rule) recently proposed by the Department of Environment and Energy. We oppose this change and set out our reasons for this below, together with proposed alternative solutions.

Background

Our firm is a carbon project proponent operating a portfolio of carbon projects, all within the mulga lands of south west Queensland in the 400-500 mm rainfall zone, and all registered under the Native Forests from Managed Regrowth (NFMR) method. The NFMR method, following its approval by the then named Domestics Offsets Integrity Committee, was originally determined in November 2013 and apart from minor amendments has not been varied. No other project proponents currently operate projects using the NFMR method.

In contrast to the NFMR method, the Human Induced Regeneration (HIR) method is used by approximately 180 project proponents and has been implemented within a wide range of landscapes across QLD, NSW, South Australia and Western Australia. Since being originally determined it has been subject to significant variation. Despite some similarities in the abatement modelling processes, these two methods operate on a vastly different basis. In summary, NFMR projects require the project land; i) to have previously supported a native forest, ii) to have previously been comprehensively cleared for a pastoral purpose, and iii) to be subject to a project mechanism which includes the cessation of the mechanical or chemical suppression of the regenerating forest. None of these requirements apply to HIR projects.

Our reasons for opposing the rule change – the combined review of HIR and NFMR

The HIR and NFMR methods are vastly different in their scale and scope of operation, geographical implementation, and in the number of projects and proponents that use them. In addition, the implementation of the HIR method would appear to have resulted in significant over-crediting of projects, because it allows, in certain circumstances, for the removal of livestock from an area already containing mature vegetation to be modelled as a regeneration event, when in fact no actual regeneration of significance will occur s45 This is not an issue in NFMR projects because the entire method is based upon the cessation of clearing within land that was once forest, has since been subject to clearing cycles for pastoral purposes, and is now being allowed to regenerate.

For these reasons we have always strongly opposed the decision to undertake a combined review of these two methods. Our concern was that the scale of implementation of the HIR method, along with its profound technical flaws would, in a joint review process, prejudice the NFMR method from being fairly reviewed on its merits alone, as intended by the offsets integrity standards.

The proposed rule change has confirmed these concerns. We consider this to be a clumsy attempt by the Department to cover up the over-crediting issues within the HIR method without drawing public attention to the scale of that problem. We recognise the pressing need to fix the issues in HIR, however, by also capturing NFMR projects, the rule change unfairly imposes additional regulatory burdens and costs on them.

We made our opposition on this matter clear to the Department and ERAC, to which they have responded by suggesting there is also an over-crediting issue within NFMR, therefore justifying its inclusion in the rule change. Despite repeated requests, data to support this suggestion was not provided to us until 5pm on Friday 3 August, however it did not confirm the existence of an over-crediting issue in NFMR.

This is a somewhat technical matter, however, in simple terms; the Department has suggested that if actual abatement within the project areas aligned to the FullCAM estimates of abatement credited, they should observe a larger proportion of NFMR project areas obtaining forest cover in the Department's National Forest Monitoring Programme spatial data. However, the object of that spatial data is to interpret satellite imagery to derive an estimate of the extent of forest cover at a national level. This process is laden with potential sources of error and miscalibration. It does not, nor can it be expected to provide, meaningful information concerning the amount of sequestered carbon at a very fine scale, such as within an individual Carbon Estimation Area. If anything, at a broad scale the data provided confirms the suitable operation of the NFMR method, with the proportion of project areas demonstrating forest cover increasing from 6.6% in 2010 to 31.3% in 2017. To suggest that the projects must be over-credited because a higher proportion of forest cover has not been observed within some unrelated process, and then relying on this to introduce a significant change in the regulations governing the method appears to be a desperate and belated attempt to justify the erroneous decision to review and amend these methods jointly.

Other reasons – the need for investment certainty for project stakeholders

Prior to participating in any ERF auctions, our firm successfully implemented eight (8) pilot projects under the NFMR method to fully inform us regarding the operation of the method and the relevant regulatory environment. This enabled us to develop an informed view concerning the volume of abatement able to be generated from NFMR projects, and the costs we would likely incur in realising that abatement. As a result we were able to confidently bid into the ERF Auction, in the manner preferred by the regulator - at the lowest possible cost at which we could viably operate the projects. The proposed rule change has the potential to result in substantial increases to the project costs after these ERF contracts and other commercial arrangements have been finalised.

These pilot projects also allowed us to demonstrate to various interest holders, particularly land owners and their mortgagees (the major rural banks) that establishing a NFMR project under the CFI/ERF was a safe and viable option for them to consider for their business, as the method and regulatory environment was settled, such that they could commit land and invest time in establishing a project with certainty. The proposed rule change will now highlight the potential for ad-hoc regulatory changes to be imposed with retrospective effect, which will undermine the confidence of stakeholders to commit to ERF projects. Given the potential for the regeneration of previously cleared native forests within the pastoral zone to supply large volumes of relatively low cost abatement, this would be an unfortunate outcome for the ERF and for the nation's future energy policy options.

Proposed solutions

If the level of over-crediting within the HIR method is demonstrably significant, in our view this leaves ERAC with no option than to recommend that it be suspended or revoked while an amended method is prepared. If the ERAC also sincerely believes there is a significant over-crediting issue within NFMR they should take the same course of action for that method. We would not object to this approach as it follows the existing

legislative framework and does not introduce retrospective regulatory changes to already well established projects. However, it appears from our discussions with the Department and ERAC, they are reluctant to take this course of action as it may draw unwanted public attention to the scale of the over-crediting issue within the HIR method, as this would reflect poorly on the ERF and those responsible for it.

We believe that drawing public attention to this problem is already unavoidable as there are a large number of organisations and individuals watching on, and if the Department insists upon advancing the proposed rule change in what appears to be an attempted cover-up of the HIR problem, this may ultimately prove more embarrassing for the Government and more damaging to the overall integrity and reputation of the ERAC and ERF than the suspension of the method or methods ever would have been.

By suspending or revoking the method(s), the difficulties within HIR would then be isolated to the existing projects and solutions could be worked through in an unhurried consultation process with the relevant proponents. Regarding the existing NFMR projects, we submit that the potential for any significant over-crediting is minimal given the nature of the method, being the regeneration of cleared land that was previously forested. The method also already contains an elegant remedy for areas where adequate regeneration is not achieved; originally eligible areas where forest potential is later found not to exist, can be re-stratified as exclusion areas. The effect of this is that no further abatement can be credited to the project until the remaining eligible areas demonstrate adequate abatement to justify all the ACCUs previously issued, including any issued in respect of the now excluded areas. We note that all but 2 of the projects so far credited have a permanence obligation of 100 years, providing a more than adequate time frame for this self-correction to occur. For those projects having only a 25-year permanence period, the credited abatement has been discounted by 25% so they are unlikely to have a demonstrable over-crediting problem.

The revision of the NFMR method could then proceed independently of the distracting difficulties associated with the HIR problem. Any thorough revision of the method against the offsets integrity standards should also include an assessment of the potential for areas of under-crediting (i.e. where abatement is running ahead of crediting), and the adequacy of the non-zero baseline, which we consider to be overly conservative given the increasing intensification of land use occurring on the margins of the pastoral zone. As far as we are aware neither of these important matters has been give any consideration within current review process.

We welcome any opportunity discuss our concerns in further detail with you or your staff and I invite you to contact me on s47F should you wish to do so.

Yours sincerely

Dominic Devine

CC Hon. David Littleproud MP, Member for Maranoa.

Attachment C

Suggested talking points

What is the Human-Induced Regeneration method?

- The Human-Induced Regeneration method was developed under the Carbon Farming Initiative in 2013.
- This method provides opportunities for landholders to earn carbon credits by changing management of their land to allow native vegetation to regenerate and grow into forests.
- Farmers can reinvest income from these projects in their properties to improve productivity, for example by building new fences to help manage livestock.
- Projects under this method have only been operating for a few years, and will be able to earn credits over 25 years.

What changes are you making?

- The Department of the Environment and Energy is proposing to amend the Emissions Reduction Fund's legislative rule to clarify some of the requirements for regeneration projects.
    - The draft rule clarifies the reporting requirements and crediting for regeneration projects around 15 years after the projects started.
- The Clean Energy Regulator is releasing guidance on how projects can meet the requirements of the methods.
    - The guidance sets out how regeneration will be monitored and assessed to ensure progress is being made towards forest cover.
- The amendments to the rule and the Regulator's guidance are designed to work together.
    - The Department and the Regulator have been consulting project participants during development.
- We are releasing the draft rule and related guidance for public consultation. Officers from the Department and the Clean Energy Regulator are available to discuss the material throughout the public consultation.

Why are you proposing to change the rules now?

- The Government is committed to ensuring the integrity of the Emissions Reduction Fund.
    - Adopting these changes now will give more certainty to project particpants about how assessment and crediting will work for projects already under way.
    - It will also help in designing new projects to best realise their carbon storage potential.

Why doesn’t the rule also apply to all projects under the Native Forest from Managed Regrowth method?

- The proposed rule would apply to any projects that may elect to transfer from the Human Induced from Regeneration method to the Native Forest from Managed Regrowth method.
- The methods are similar but there are also some differences, and the Department is considering the best way to clarify the requirements for projects under the Native Forest from Managed Regrowth method.

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

PDR: MS18-001012

To: Minister for the Environment and Energy (For Decision)

cc: Assistant Minister for the Environment

EMISSIONS REDUCTION FUND NATIVE VEGETATION REGENERATION METHODS: CONSULTATION ON LEGISLATIVE RULE CHANGES

Timing: 31 August 2018 to allow timely commencement of consultation.

Recommendation:

1. That you agree to consult on proposed changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to the Human-Induced Regeneration method and projects that may elect to transfer from the Human-Induced Regeneration method to the Native Forest from Managed Regrowth method (**Attachment A**).

Agreed / Not agreed

Minister:

Date: 23/8/18

Comments:

Clearing Officer: Sent 22/8/18	Katrina Maguire	Assistant Secretary Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director Forests Section	s22

Key Points:

1. The Department proposes changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* in response to Emissions Reduction Assurance Committee (ERAC) concerns the Human-Induced Regeneration and Native Forest from Managed Regrowth methods could allow overcrediting.
2. The draft rule initially applies only to the Human-Induced Regeneration method, and to any Human-Induced Regeneration projects that may elect to transfer to the Native Forest from Managed Regrowth method.
    a. The two methods are similar, and the draft rule should be applied to all projects under both methods. However, the methods have some differences, and the Department is still exploring how best to apply the rule to existing and new projects under the Native Forest from Managed Regrowth method.
    b. Projects under the Human-Induced Regeneration method represent 48 per cent of total contracted abatement in the Emissions Reduction Fund. Native Forest from Managed Regrowth projects represent two per cent of contracted abatement.

3. The ERAC's concerns are set out in MS18-000836. The draft rule and project developers' views are explained in MS18-000892. The Department has revised the draft rule (**Attachment A**) following further discussions with the Clean Energy Regulator, project developers and ERAC members.

4. The Department understands the ERAC would support the release for public consultation of the draft rule applying initially to the Human-Induced Regeneration method, and any transferring projects, while the Department and the Regulator undertake further work on how best to apply it to all projects under the Native Forest from Managed Regrowth method.

5. The draft rule would support and add to the Regulator's requirements for projects to continue to show progress towards achieving forest cover. The Regulator intends to release draft guidance with the draft rule, for comment. The draft guidance outlines how the draft rule would be implemented and how to meet the Regulator's requirements. The Regulator developed the guidance in consultation with the Department and with input from project developers.

s47G

11. An exposure draft rule and explanatory material would be released for public consultation for 21 days. The guidance would be released at the same time. The Department would send the documents to project developers and other stakeholders, and offer meetings to discuss the documents with them. Subject to the outcomes of consultation, the Department would submit a final rule to you for approval.

Sensitivities

s47C

s47C Suggested talking points are at **Attachment C**.

13. Most existing projects are in south-west Queensland (including all Native Forest from Managed Regrowth projects) and western New South Wales. Human-Induced Regeneration projects are now commencing in the rangelands in Western Australia.

Consultation: YES

14. Clean Energy Regulator.

ATTACHMENTS

A: Exposure draft rule and explanatory statement
B: Letter from Devine Agribusiness
C: Suggested talking points

PDR: MS18-000729

To: Minister for the Environment and Energy (For Information)

cc: Assistant Minister for the Environment

EMISSIONS REDUCTION FUND: s47C

Recommendation:

That you note the update on the Emission's Reduction Assurance Committee's review of two vegetation methods' compliance with the Offsets Integrity Standards.

Noted / Please discuss

Minister: Date:

Comments:

Clearing Officer: Sent 14/6/18	Katrina Maguire	Assistant Secretary, Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director, Forests Team, Climate Change Division	s22

Key Points:

1. In late 2017, the Emissions Reduction Assurance Committee (the Committee) commenced reviews of two vegetation methods; the Human Induced Regeneration (HIR) and Native Forest from Managed Regrowth (NFMR) methods. The two methods credit abatement stored in vegetation on land where vegetation was previously cleared or suppressed. The abatement results from not clearing vegetation and can also include other changes in land management, such as grazing management and fencing. Projects under the methods earn credits based on modelled estimates.

2. Combined, the two methods account for approximately 47 per cent of contracted abatement under the Emissions Reduction Fund – 45 per cent of which is under HIR. Only around 11 per cent of contracted credits under the HIR method have so far been issued. Four million tonnes of abatement has been contracted under the NFMR method and around half of that has been credited. Together, these issued credits account for around 6 per cent of all contracted abatement under the scheme.

s22

4. The Committee is considering whether the methods still meet the offsets integrity standards and whether they are drafted in a way to adequately manage the risk of projects being over-credited. Over-crediting could occur if credits are issued to projects where vegetation does not regrow.

10. The department's view is that the steps being taken by the Regulator through its guidance on assessing initial and ongoing eligibility, adequately manages the project risk in the short term. s22 We are also exploring whether variations to the method could alleviate the Committee's concerns, but there are downsides to this approach as the compliance task becomes more complex as variations are made.

Attachments

A: Background
B: Suggested talking points

Background

1. Both methods were developed under the Carbon Farming Initiative. The Human-Induced Regeneration (HIR) method was first made in January 2013 and the Native Forest from Managed Regrowth (NFMR) method in November 2013. Variations were made to the HIR method in 2015 and 2016, and to the NFMR method in 2016. Further minor variations were made to both methods in 2017.

2. The government has contracted 86.8 million tonnes of abatement under the HIR method, around 45 per cent of all ERF contracted abatement. The Clean Energy Regulator has so far issued 10.1 million ACCUs (around 11 per cent) to projects under this method. The majority of the projects are in western NSW and south western Queensland. 26 new projects in Western Australia have recently been registered.

3. The government has contracted 3.7 million tonnes of abatement under the NFMR method, around 2 per cent of all ERF contracted abatement. The Clean Energy Regulator has issued 2 million ACCUs (50 per cent) to projects under this method. All NFMR projects are in south-west Queensland.

6. During 2017 the Emissions Reduction Assurance Committee was concerned projects under the NFMR method were earning credits earlier than expected for growth that had occurred prior to the projects commencing. This was allowed in the method. The Department varied the modelling guidelines for the method to limit the pre-project growth to 14 years prior to projects commencing. This is still of concern to the Committee.

7. In late 2017, the Emissions Reduction Assurance Committee announced it would review the two vegetation methods and released a discussion paper for public consultation in February 2018. In March and April, representatives from the Department, the Clean Energy Regulator and the Emissions Reduction Assurance Committee visited properties with ERF vegetation projects and held meetings with a broad range of stakeholders in western NSW and South West Queensland. The Committee received 16 submissions on the discussion paper, with seven being marked as confidential. The Emissions

Reduction Assurance Committee will publish the submissions on the Department's website soon.

8. There is a range of issues the Committee is considering in reviewing whether the two methods comply with the offsets integrity standards. s47C [redacted] s47C [redacted]

9. The Committee will provide you with a review report and possibly recommendations to vary or revoke the method/s.s22 [redacted].

See previous briefs: PEMS17-900612 (risks brief) and MS17-000466 (change to FullCAM guidelines) and MS18-000226 (ERAC review).

Suggested talking points s22

The Human Induced Regeneration and Native Forest from Managed Regrowth methods were developed under the Carbon Farming Initiative, back in 2013.

Combined, 12 million credits have been issued to projects under these methods. This is approximately 6 per cent of total abatement contracted to the government.

The independent Emissions Reduction Assurance Committee routinely review methods under the Emissions Reduction Fund to ensure they continue to the meet the Offsets Integrity Standards. This is fundamental to the integrity of the scheme.

The projects under the methods are still relatively new and as new data and information becomes available we need to analyse it and check the projects are achieving what we expected.

s22

I am looking forward to seeing the Committee's report when it completes its review in the next few months and considering any recommendations they may make to government to ensure the continued integrity of these methods.

PDR: MS18-000836

To: Minister for the Environment and Energy (For Information)

cc: Assistant Minister for the Environment

EMISSIONS REDUCTION FUND: LEGISLATIVE RULE AMENDMENT FOR NATIVE VEGETATION REGENERATION METHODS

Recommendation:

1. That you note the concerns of the Emissions Reduction Assurance Committee regarding two vegetation methods (**Attachment A**), the Department's intention to make stakeholders aware of the Committee's concerns, and the Department's proposal to amend the legislative rule to address these concerns.

Noted / Please discuss

Minister: Date:

Comments:

Clearing Officer: Sent 27/6/18	Katrina Maguire	Assistant Secretary, Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director, Forests Team, Climate Change Division	s22

Key Points:

1. In late 2017, the Emissions Reduction Assurance Committee (the Committee) commenced reviews of two vegetation methods; the Human Induced Regeneration and Native Forest from Managed Regrowth methods.

2. The Committee has an immediate concern the methods do not adequately ensure the rate of crediting of carbon abatement appropriately reflects actual growth of regenerating forests in every project. This is relevant to the need for methods to apply conservative estimates, projections and assumptions. The Committee has written to you outlining its concerns (**Attachment A**).

s47C

4. The Department's proposed Rule amendment would clarify the Government's expectation that regeneration projects must demonstrate continued potential to grow forest, and achieve the required growth ('forest cover') within reasonable timeframes.

5. The proposed amendment would require proponents to:

    a. provide evidence, every five years, that projects are making progress towards achieving forest cover

    b. achieve forest cover within a set timeframe, while also allowing for events that might slow growth or reduce carbon stocks (such as fire or drought).

6. If forest cover is not achieved within the set timeframe, proponents could not obtain further credits for a project in some cases until the requirements are met. They would not need to relinquish credits previously issued. The requirements would apply to new and existing projects, but existing projects would have longer to achieve forest cover.

7. The amendment would complement the work being undertaken by the Regulator with proponents to reduce the risk of projects earning credits for land that already has forest or lacks the potential to grow forest.

s47C

9. The Department will hold targeted discussions with aggregators and other stakeholders on the amendment this week and next and will ensure stakeholders are aware of the Committee's concerns. Following initial discussions, the Department plans to seek your approval to release an exposure draft of the amendment and explanatory statement for public consultation.

10. Subject to the outcomes of the formal consultation process, the Department will submit a proposed Rule amendment to you for approval. If you decide to make the amendment, it would come into force the day after it is registered on the Federal Register of Legislation. Once made, the legislative instrument would be disallowable.

11. The Committee will continue to progress the method reviews, and plans to give you a review report before the end of this year. The Department will publish non-confidential submissions received on the Committee's review discussion paper, before the proposed release of an exposure draft Rule amendment.

12. The Department anticipates continued media and public interest as we progress the proposed Rule amendment and the Committee's reviews of the methods.

Consultation: YES

Clean Energy Regulator

Attachments

A: Emissions Reduction Assurance Committee letter
B: Suggested talking points

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Josh Frydenberg MP
Minister for the Environment and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I wrote to you on 28 February 2018 to advise that the Emissions Reduction Assurance Committee is reviewing the following Emissions Reduction Fund methodology determinations (methods):

- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*; and
- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013.*

Both methods provide for projects that regenerate native forests by changing management of the land.

The Committee's reviews are assessing the methods against the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act). The Committee has undertaken public consultation on the reviews, and expects to provide you with a final report before the end of 2018.

The Committee has identified several aspects of the methods that could be improved to ensure their continued compliance with the offsets integrity standards. The most pressing of these relates to whether the methods ensure the rate of crediting of carbon abatement appropriately reflects actual abatement through growth of regenerating forests.

The Committee believes there needs to be a mechanism that provides greater assurance that crediting aligns with on-ground progress of regenerating vegetation towards forest cover. Without such a mechanism, the methods could allow some projects to be issued Australian Carbon Credit Units in excess of actual increases in carbon storage.

Amongst other things, the offsets integrity standards require methods to apply conservative estimates, projections and assumptions. s47C The Committee also believes there could be greater clarity on reporting requirements for crediting claims made under the methods.

The Department of the Environment and Energy has proposed to the Committee that these matters be addressed through an amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. The Committee understands the proposed Rule amendment would clarify requirements for projects to report to the Clean Energy Regulator on continued progress towards reaching forest cover, and, in some circumstances, restrict crediting until projects reach forest cover. The Committee notes the proposed Rule amendment would complement the Clean Energy Regulator's approach and guidance on regeneration projects.

The Committee understands the process for making the Rule amendment will involve:

- preliminary work between the Department, technical experts and other stakeholders to refine the design and drafting of the amendment;
- release of a draft amendment for public consultation for 28 days;
- finalising the form of the amendment, having regard to the information obtained through the public consultation process; and
- formal making of the Rule amendment by you under section 308 of the CFI Act, after which the amendment will be tabled in both Houses of Parliament in accordance with the requirements in Part 2 of the *Legislation Act 2003*.

The Department has informed the Committee that this process should take approximately eight weeks.

The Committee supports the proposed Rule amendment as a practical and effective way of addressing the identified issues. The Committee would like to see the amendment made in a timely manner, in accordance with the process and timeframe described above.

s47C

Yours sincerely

Andrew Macintosh
Chair
Emissions Reduction Assurance Committee

27 June 2018

Attachment B

Suggested talking points in response to the Committee's letter

- The Human-Induced Regeneration and Native Forest from Managed Regrowth methods were developed under the Carbon Farming Initiative in 2013.
- Projects under these methods have only been operating for a few years, and will be able to earn credits over 25 years.
- Only 12.3 million credits have been issued to projects under these methods so far.
- The independent Emissions Reduction Assurance Committee routinely reviews methods under the Emissions Reduction Fund to ensure they continue to meet the offsets integrity standards in the Fund's legislation.
    - This is fundamental to the integrity of the scheme.
- The projects under the methods are still relatively new, and as new data and information becomes available we need to analyse it and check the methods are achieving what we expected.
- The Committee has advised me it has concerns about how well the methods ensure calculation of credits for storing carbon aligns with actual growth of forests across the range of projects.
- The Department of the Environment and Energy is proposing to amend the Emissions Reduction Fund legislative rule to address the Committee's concerns.
    - The Department will be consulting on these proposed changes.
- In the meantime, I understand the Committee will continue work on its review over the next few months.
- I look forward to seeing the Committee's report and considering any further advice and recommendations they may make to Government to ensure the continued integrity of these methods.

PDR: MS18-000892

To: Minister for the Environment and Energy (For Decision)

cc: Assistant Minister for the Environment

EMISSIONS REDUCTION FUND NATIVE VEGETATION REGENERATION METHODS: CONSULTATION ON LEGISLATIVE RULE CHANGES

Timing: 31 July 2018 to allow timely commencement of consultation.

Recommendation:

1. That you agree to consult on proposed changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to the Human-Induced Regeneration and Native Forest from Managed Regrowth methods (**Attachment A**).

Agreed / Not agreed

Minister: Date:

Comments:

Clearing Officer: Sent 18/7/18	Paul Ryan	Acting Assistant Secretary, Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Acting Director, Forests Team	s22

Key Points:

1. The Emissions Reduction Assurance Committee (the Committee) wrote to you on 27 June 2018 outlining its immediate concern with the Human-Induced Regeneration and Native Forest from Managed Regrowth methods (see MS18-000836). The concern is that the methods could allow overcrediting, because over time, the rate of crediting of carbon abatement may not reflect actual growth of regenerating forests in every project.

2. The Department proposes consulting on changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule) that respond to the Committee's concerns. The Committee supports the intent of the proposed amendment. s47C

3. The proposed amendment would clarify the original intent of the methods that regeneration projects reach forest cover in a reasonable timeframe and be assessed at a scale consistent with the National Greenhouse Accounts. It would apply to new and existing projects, to consistently manage the risk of overcrediting for all regeneration projects.

4. Regeneration projects can earn credits for 25 years. The amendment would allow crediting for the first 15 years as long as projects show progress towards reaching forest cover. If forest cover is not achieved in 15 years, crediting would halt until there is forest cover, as long as this is within 25 years. Existing tree growth data for regions where projects occur shows regenerating vegetation should reach forest cover within 15 years.

5. The methods define land as having forest cover if it has an area of at least 0.2 hectare, and has trees two metres or more in height with crown cover of at least 20 per cent of the land. These parameters match the definition used in the National Accounts. s47C [redacted] The amendment would reinforce method requirements by specifying demonstration of forest cover at the 0.2 hectare scale.

6. The Department is developing the amendment in consultation with the Clean Energy Regulator. The changes would support and add to the Regulator's guidance on the methods, which requires projects to show ongoing progress towards forest cover.

7. The Department has discussed the Committee's concerns and the proposed amendment with project developers, and Queensland and New South Wales Government agencies. Project developers have said:

   a. there is insufficient evidence of an overcrediting risk to justify any new requirements beyond the Regulator's guidance

   b. the Emissions Reduction Fund was established on the basis that methods would only be changed by varying the legislative instruments, allowing participants the certainty of continuing on the same method or the option of moving to a new method

   c. the proposed amendment would change the way the existing methods operate, with retrospective effects that would undermine third parties' confidence in the Fund.

8. The Committee is satisfied there is reasonable evidence of an overcrediting risk. The Department considers the changes should apply to existing and new projects, because they simply clarify what is needed to achieve the aims of the methods. Should you wish to consider limiting the amendment to new projects only, we could provide separate briefing. However, our view is this option would be ineffective in managing the risk.

9. An exposure draft rule amendment and explanatory material (**Attachment A**) would be released for public consultation for 28 days. Subject to the outcomes of this process, the Department will submit a proposed Rule amendment to you for approval.

Sensitivities

10. A 14 July 2018 newspaper article (**Attachment B**) raised concerns about the robustness of the methods. s47C [redacted] Suggested talking points are at **Attachment C**.

11. Most existing projects are in south-west Queensland and western New South Wales. Projects are now commencing in the rangelands in Western Australia. Projects under these methods represent 50 per cent of contracted abatement.

Consultation: YES

12. Clean Energy Regulator.

ATTACHMENTS

A: Proposed rule amendment and explanatory statement
B: Media article
C: Talking points

Australian Government
Department of the Environment and Energy

Emissions Reduction Fund:

Proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to native vegetation regeneration projects

Consultation paper

July 2018

Making a submission

The Australian Government invites written submissions from all interested businesses and members of the community on the Emissions Reduction Fund Consultation Paper - Proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* affecting native vegetation regeneration projects.

Submissions are due by midday AEST, XX August 2018. Any submissions received after this date will be considered at the Government's discretion.

Submission guidelines

Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address listed below. Alternatively, submissions may be sent to the postal address below to arrive by midday AEST on the above due date.

All submissions must include a cover sheet, available at www.environment.gov.au. The submission and coversheet should be provided as separate files if sent electronically.

Submissions can be forwarded to:

Email: ERFforests@environment.gov.au (preferred)

Postal: Forests Section
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Confidentiality

If you do not indicate that your submission should be treated as confidential, it will be treated as a public document and may be published in full on the Department of the Environment and Energy's website. This includes the publication of any personal information of authors and/or other third parties contained in the submission.

If you indicate that your submission should be treated as confidential, it will not be published.

If only a part of your submission should be treated as confidential, please provide two versions of the submission, one with the confidential information removed for publication.

Privacy

The Department will deal with personal information contained in, or provided in relation to, submissions in accordance with this cover sheet and its Privacy Policy (www.environment.gov.au/privacy-policy). The Department's Privacy Policy contains information about how to access or correct your personal information or make a complaint about a breach of the Australian Privacy Principles. Personal information is collected for the purposes of identifying authors of submissions and in case the Department needs to contact you for further information or clarification on your submission. It may be used and disclosed within the Department and to other persons for the purposes of updating the Safeguard Mechanism, and otherwise as required or permitted by law.

A request made under the *Freedom of Information Act 1982* for access to a submission, including those treated as confidential, will be determined in accordance with that Act.

CONTENTS

Introduction

The Australian Government is considering amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the rule) to:

- ensure the Clean Energy Regulator has the information necessary to assess compliance with requirements in Emissions Reduction Fund methods for regeneration projects; and
- provide clarity around the timeframes within which land under regeneration methods must attain forest cover to obtain further carbon credits.

Background

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (the 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.

The functions of the Government's independent Emissions Reduction Assurance Committee include conducting periodic reviews of the methods that specify how the emissions reduction activities must be undertaken (section 255 of the Act). In conducting such a review, the Committee examines whether methods continue to comply with the offsets integrity standards, which ensure abatement delivered under the method is genuine and additional.

The Committee is reviewing two existing Emissions Reduction Fund vegetation methods against the offsets integrity standards in the Act:

1. *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination* (as varied in 2018) (the Native Forest from Managed Regrowth Method)
2. *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2018) (the Human-Induced Regeneration Method).

The Committee released a discussion paper to support these reviews and invited written submissions from the public. The public consultation period commenced on 2 March 2018 and closed on 20 April 2018. Non-confidential submissions received through the combined public consultation process for the methods are available on the Department's website[1]:

Both methods provide opportunities for projects involving changes in land management to regenerate native forests to attain forest cover. They require the land to be without forest cover at the project commencement date and to have forest potential. These requirements are intended to ensure only land with the potential to be converted to forest and counted within Australia's National Greenhouse Accounts can generate carbon credits.

[1] Native Forest from Managed Regrowth: http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/methods/review-native-forest-managed-regrowth and Human-Induced Regeneration http://www.environment.gov.au/climate-change/government/emissions-reduction-fund/methods/review-human-induced-regeneration.

The expectation under these methods is that areas with forest potential attain forest cover over time. Through its review process the Committee has stressed the importance of making sure there is no ambiguity on the intent of the methods. The Committee's view has been informed by expectations of attaining forest cover within a period of time, based on available science.

The Committee is continuing with its review of the methods. It expects to complete the review later in 2018, and will advise the Minister for the Environment and Energy of the outcomes.

Purpose of the proposed amendments

The proposed rule amendments would clarify the intent of the methods, and complement Regulatory Guidance being developed by the Clean Energy Regulator requiring that at five-year intervals proponents must demonstrate that eligible land with forest potential has made progress towards attaining forest cover. Projects that continue to meet the requirements of the Regulatory Guidance would be likely to be on track to meet the requirements of the proposed rule amendments later in their crediting period.

The proposed rule amendments are intended to support robust implementation and the ongoing integrity of the methods over the long term. They would provide assurance that crediting aligns with on-ground progress of regenerating vegetation towards forest cover.

The Government will take submissions on the draft rule amendments into account in considering whether to adopt the rule amendments and make them into law.

Overview of proposed rule amendments

The proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* are to:

- ensure the Clean Energy Regulator has the information necessary to assess compliance with requirements in Emissions Reduction Fund methods for regeneration projects; and
- provide clarity around the timeframes within which land under regeneration methods must attain forest cover to obtain further carbon credits.

The proposed amendments would apply to the two regeneration methods and their variants: the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* and the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*. These methods provide opportunities for projects involving changes in land management to regenerate native forests.

Legislative background

Under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) the issuance of Australian carbon credit units is separate to the declaration of eligible offsets projects and offsets reporting under the applicable methodology determination. After submitting an offsets report, project proponents can submit an application for a certificate of entitlement in respect of the reporting period covered by the offsets report. Under subsection 15(2) of the Act the Regulator cannot issue a certificate of entitlement unless satisfied of a number of requirements. Paragraph 15(2)(h) includes in that list any additional requirements specified in the regulations or legislative rules.

Under the Act, offsets reports must include both information required by the applicable methodology determination and information required by legislative rules.

Proposed rule amendments

Central to the proposed amendments is a new eligibility requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for the applicable carbon estimation areas (CEAs).

Amendments are also proposed clarifying the information necessary to demonstrate that the forest potential requirements of the methods are being met. They complement Regulatory Guidance published by the Clean Energy Regulator requiring that at five-year intervals proponents must demonstrate that land within carbon estimation areas continues to have forest potential and has made progress towards attaining forest cover.

The methods define land as having forest cover if it has an area of at least 0.2 of a hectare, with trees that are two metres or more in height and which provide crown cover of at least 20% of the land.

Land under existing projects (those registered before 1 July 2018) would be required to attain forest cover by 15 years after the declaration of the project. The proposed amendments would limit crediting after the 15 year period for CEAs that have not substantially reached forest cover. They would have no effect on crediting for CEAs that have reached forest cover within 15 years.

For projects registered after 1 July 2018 or land added to an existing project after 1 July 2018, the same rule would apply but the 15 year period would have a different starting point. It would be the 15 years after the commencement of the modelling of forest regeneration.

The proposed amendments make allowances for projects affected by disturbances or growth pauses, by allowing for the date of the test to be extended by up to five years for 'eligible growth disruptions'.

The proposed amendments are supported by data on growth of vegetation in regions where regeneration projects may be undertaken, including the time this vegetation generally takes to reach forest cover. The data shows that forest cover would have been attained if the on-ground regrowth corresponded with the modelled regeneration estimates over the periods set out.

Limiting the crediting of projects yet to meet the forest cover requirements would support consistency between modelled abatement estimates and on-ground project performance. The offsets integrity standards under the Act require that methods provide for conservative estimates of abatement.

Provisions are included that would ensure vegetation in low productivity areas is required to attain forest cover within timeframes realistic for those conditions. In particular, modelling undertaken in accordance with the relevant method would need to show the CEA has more than [5][2] tonnes of carbon per hectare for the forest cover requirement to apply.

[2] The Department of the Environment and Energy will confirm the final value during the consultation period.

Detailed explanation of proposed rule amendments

The legislative text for the proposed rule amendments is presented in blue text.

Strengthened offsets reporting requirements

Sections 70 and 71 of the *Carbon Credits (Carbon Farming Initiative) Rule 2015* are proposed to be amended to specify the information that must be included in offsets reports for demonstrating progress towards forest cover at five-year intervals and the attainment of forest cover once the forest cover assessment date (see below) passes. The information provided would need to take into account any guidelines issued by the Regulator.

Subsection 70(2), regarding the information that must be included in offsets reports, would be amended to include the following paragraphs:

(2) The offsets report must set out the following information:

…

(m) if:

(i) the offsets report is the first offsets report to be submitted after the start of the 5th, 10th, 15th or 20th year of a regeneration project's last or only crediting period; or

(ii) the offsets report for a regeneration project must be accompanied by a report of a subsequent audit,

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 achievement of forest cover in each such carbon estimation area and evidence supporting that progress or achievement; and

(iv) of how the project mechanism has continued to be implemented in each such carbon estimation area and evidence supporting that continued implementation;

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

(n) if the offsets report for a regeneration project includes a carbon estimation area that has passed its forest cover assessment date—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;

(o) if the offsets report is for a regeneration project—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; and

(iv) an explanation of whether forest cover has been obtained; 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.

Section 71, regarding documents that must accompany an offsets report, would be amended to include the following paragraph.

(c) if the offsets report for a regeneration project is accompanied by information under paragraphs 70(2)(m), (n) or (o)—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

Additional eligibility requirements for a certificate of entitlement regarding forest cover attainment

A new section 9AA would be introduced to set out the eligibility requirements for obtaining a certificate of entitlement applicable when projects have passed their forest cover assessment date and in relation to the information required above. Whether or not this section is satisfied would not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period.

9AA Issue of certificate of entitlement—eligibility requirements for 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 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.

Subsection (2) would ensure the information requirements set out in subsections 70(2) and paragraph 71(c) are adequately met in order for a regeneration project to be eligible for a certificate of entitlement.

(2) If the offsets report for the reporting period was required to include information in accordance with paragraph 70(2)(m)—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.

Subsection (3) is the central proposed additional requirement to ensure that all CEAs that are past their forest cover assessment date must have attained forest cover to be eligible for a certificate of entitlement.

(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 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.

Subsection (4) would set out what is required for a CEA to be taken to have attained forest cover. The proposed requirements are designed to ensure only those areas of land within a CEA meeting the methods' definition of forest cover can be taken to have attained forest cover. In order to reliably determine whether forests meet the minimum area of 0.2 hectares, the assessment of forest cover must be undertaken at the 0.2 hectare, or finer, scale. Any land of 0.2 hectares (or more) in area that does not have trees two metres or more in height and providing crown cover of at least 20% of the land does not meet the forest cover definition. Therefore the proposed amendments require assessment at the 0.2 hectare scale.

Paragraph (4)(a) provides that when a CEA is considered as 0.2 hectare portions, and over 90% of those 0.2 hectare portions have attained forest cover as per the definition, the CEA is taken to have attained forest cover. Paragraph (4)(b) provides for an alternative assessment approach; if the forest cover mapping used by the National Inventory Report to report sequestered carbon shows over 90% of the area of the carbon estimation area as having forest cover, the CEA is taken to have attained forest cover. This alternative approach is permitted because the forest cover mapping is undertaken at a scale of less than 0.2 hectares (0.0625 ha) and applies the requirement of a minimum contiguous forest area of 0.2 hectares to classify land as having forest cover.

If land were to be credited for abatement where it does not attain forest cover in at least 90% of the 0.2 hectare portions by the forest cover assessment date, the crediting is unlikely to be conservative. This is because the models used for estimating abatement under the methods are calibrated to provide estimates of abatement where at least each 0.2 hectare portion of land has attained forest cover. The proposed requirements would help ensure carbon abatement credited under the regeneration methods is conservative.

Allowing for 90% of 0.2 hectare portions to have attained forest cover, rather than 100%, would reduce the need for re-stratification if a small proportion of a CEA has not attained forest cover. Furthermore, where a small proportion of the CEA (10% or less of the 0.2 hectare portions) may be on the margins of having attained forest cover, the whole of the CEA would not be prevented from being taken to have attained forest cover.

Subsection (5) provides for the use of sampling or other measurement techniques (to be developed) set out in the Carbon Farming Initiative Mapping Guidelines to guide assessment of carbon estimation areas under paragraph (4)(a). These requirements would be developed with input from the Clean Energy Regulator and drawing upon the work they have already done in developing guidance for these methods.

(4) For the purpose of subsection (3), a carbon estimation area has ***attained forest cover*** if:

(a) 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; or

(b) over 90% of the area of the carbon estimation area is identified as having forest cover in accordance with the maps that form the basis of the National Inventory Report.

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)(a) may adopt any sampling or measurement techniques set out in the CFI Mapping Guidelines for the purpose of this subsection.

Subsection (6) would define when a CEA has passed the forest cover assessment date. This occurs once both the tonnes of carbon per hectare amount under paragraph (a) and the time period set out under paragraph (b) or (c) have been surpassed.

Where the time period has been surpassed, but not the tonnes of carbon amount (or vice versa), the forest cover assessment date has not yet passed.

The provision under paragraph (a) ensures land is only required to have attained forest cover once it is reasonable to expect it to have done so. The relationship between tonnes of carbon present in regenerating forest and canopy cover informs this provision. However, it does not apply for the last 5 years of a project's crediting period.

Paragraphs (b) and (c) set-out separate timing for existing CEAs (an area that was part of the project area for a regeneration project on 1 July 2018) and non-existing CEAs (as of 1 July 2018).

For existing CEAs, under paragraph (b), the timing is the later of 15 years after declaration, or 15 years after the commencement of modelling of forest regeneration, disregarding up to 5 years of eligible growth disruption in either case. For this purpose the declaration is the day the Regulator made the decision to declare the project and not when it may have taken effect under earlier provisions in the Act which allowed the backdating of the effect of the declaration.

For non-existing CEAs, under paragraph (c), the timing is 15 years since the modelling of forest regeneration commenced, disregarding up to 5 years of eligible growth disruption.

(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 offset 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 up to 5 years of any eligible growth disruption; and

(ii) the date that is 15 years since the modelling of forest regeneration commenced for the carbon estimation area disregarding up to 5 years of any eligible growth disruption;

(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 up to 5 years of any eligible growth disruption.

Note 1: The periods of eligible growth disruption need not be at the same time. For example, under paragraph (c) if the third and fifth year after modelling of forest regeneration commenced was an eligible growth disruption the forest cover assessment date would be 17 years after that modelling commencement (assuming over [5] tonnes of carbon per hectare was present at the end of the reporting period according to the modelling).

Note 2: 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.

Subsection (7) would provide for further definitions.

(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.

The definition for 'eligible growth disruption' would cover any period of time during which carbon stocks decrease or are modelled to be stable, for example due to a growth pause event. An eligible growth disruption would run for the period that the model shows a zero or negative change in abatement from one step to the next, rather than the period of time it takes carbon stocks to recover to previous levels (in the event of a disturbance, for example).

eligible growth disruption, in relation to a period, means any 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.

existing CEA means a carbon estimation area consisting only of an area that was part of the project area for a regeneration project on 1 July 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.

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.

regeneration project means a project whose applicable methodology determination for the reporting period is one of the following:

(a) the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*;

(b) the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*;

(c) a version of one of the above methodology determinations applicable to the project in accordance with sections 125, 126 or 127 of the Act.

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

Supporting auditing requirements

The draft rule amendment provisions introduced in this section set out additional audit requirements relating to forest cover. Projects that have passed the forest cover achievement date would need to be audited. Projects would be exempt from this requirement where the Regulator agrees in writing that this is unnecessary, or a previous audit found that the requirement to attain forest cover (subsection 9AA(3)) has already been satisfied.

79A Forest cover audits of regeneration projects

(1) An eligible offsets project that is a 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 achievement 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 achievement 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).

ATTACHMENT B

Sydney Morning Herald, 14 July 2018

CLIMATE ACTION

$1b emissions cuts program questioned

Nicole Hasham

Methods used to pledge at least $1.15 billion in taxpayer-funded emissions cuts are under a cloud as officials probe whether the environmental benefits credited to the Coalition government's flagship climate policy are genuine.

A former government official has told Fairfax Media that the scheme, the emissions reduction fund, has rightly focused on attracting participants to carbon-reducing projects such as revegetation, rather than assessing if the projects have accurately estimated how much carbon was kept out of the atmosphere.

But critics say a lack of probity in the $2.55 billion Abbott-era policy mean it is impossible to know how much carbon reduction has actually been delivered, casting doubt on the integrity of Australia's contribution to international climate action.

The Clean Energy Regulator would not guarantee that all emissions reduction claimed under the scheme was genuine, but says it has "processes in place to address this risk".

The controversial emissions reduction fund is Australia's central climate policy. It was introduced by the Abbott government in 2014 after Labor's so-called "carbon tax" was repealed.

The fund provides financial incentives for businesses, landowners and others to reduce carbon emissions through projects such as planting trees, installing more efficient appliances or managing bushfires.

About half the 192 million tonnes of abatement contracted under the fund relate to projects using one of two revegetation methods, which together have promised abatement worth at least $1.15 billion. The projects are mostly on grazing land in north-west NSW and south-west Queensland, and involve regrowing native forest by limiting cattle grazing, managing feral animals and other actions.

A government-appointed expert committee is examining the two methods in what it says is a routine review to ensure emissions reductions "remain genuine". A former official at the regulator, Raphael Wood, told Fairfax Media that the organisation recently began using new satellite imagery of project areas that revealed "issues" with estimations of carbon abatement. He said it showed some land slated for revegetation likely had little forest potential, while forest may have already existed on other land where revegetation had been promised.

Mr Wood left the regulator in 2015 and is now an independent consultant. He said the onus was on project proponents to accurately measure carbon abatement and any miscalculation was probably not intentional. However the regulator needed to "tighten up the robustness of the standards" used to estimate carbon reserves. "The regulator is transitioning from a period of participation focus [to attract projects to the scheme] to a compliance focus," he said, adding the approach taken so far involved "learning by doing".

Projects are issued with Australian carbon credit units as emission reduction is delivered. More than 12 million credits, each representing one tonne of carbon abatement, have been issued to projects using the methods that are under a cloud. Credits are mostly purchased by the regulator at a reverse auction, seven of which have been held so far.

Fairfax Media is aware of concerns held by other former regulator staff that projects using the methods under review continue to be approved and issued with carbon credits, despite questions over their robustness.

Such fears were underlined by the Climate Change Authority's review of the fund in December last year, which cited concerns including that "vegetation on the ground may not match assumptions in the model".

Mr Wood said while some claimed carbon abatement may not have actually been achieved, other projects had created more emissions cuts than they were credited for, or would do so in future.

Attachment C

Suggested talking points

- The Human-Induced Regeneration and Native Forest from Managed Regrowth methods were developed under the Carbon Farming Initiative in 2013.
- These methods provide opportunities for landholders to earn carbon credits by changing management of their land to regenerate native vegetation.
- Projects under these methods have only been operating for a few years, and will be able to earn credits over 25 years.
- Only 12.4 million credits have been issued to projects under these methods so far.
- The independent Emissions Reduction Assurance Committee routinely reviews methods under the Emissions Reduction Fund to ensure they continue to meet the offsets integrity standards in the Fund's legislation.
    - This is fundamental to the integrity of the scheme.
- The projects under the methods are still relatively new, and as new data and information becomes available we need to analyse it and check the methods are achieving what we expected.
- I understand the Committee will continue work on its review over the next few months.
- I look forward to seeing the Committee's report and considering any further advice and recommendations they may make to Government to ensure the continued integrity of these methods.
- The Department of the Environment and Energy is proposing to amend the Emissions Reduction Fund's legislative rule to clarify what regeneration projects need to do to achieve the objectives of the methods.
    - These clarifications would apply to reporting and crediting for regeneration projects around 15 years after the projects started. The first of these projects was registered in 2013.
    - The amendment would be consistent with, and support, guidance being developed by the Clean Energy Regulator.
- The Department will be consulting on these proposed changes.
    - I encourage interested parties to provide comments.
- The Government is committed to ensuring the continued integrity of the Emissions Reduction Fund.
- The Government will continue to work with businesses to provide opportunities for participating in the Fund.

PDR: MB18-000634

MINISTERIAL INFORMATION REQUEST

Minister for the Environment

Subject:	Engagement with Kent Broad on climate change issues/carbon farming
Requested by (Minister's office contact):	s22
Date requested:	25 September 2018
Cleared by:	Katrina Maguire

Details of Request and Response

- Kent Broad spoke with the Minister at an event over the weekend about his interests in carbon farming and farming operations in WA.
- I note Mr Broad has been engaged in the carbon farming space for some time. Can you please send me through some information on the Department's previous engagement with Mr Broad and the climate change programs/issues he is interested in?

Background

Kent Broad is a Founding Director of Auscarbon Pty Ltd and Carbon Neutral Pty Ltd. These companies develop biodiverse reforestation projects on degraded farmland in the Western Australian wheatbelt, from which they create carbon offset units.

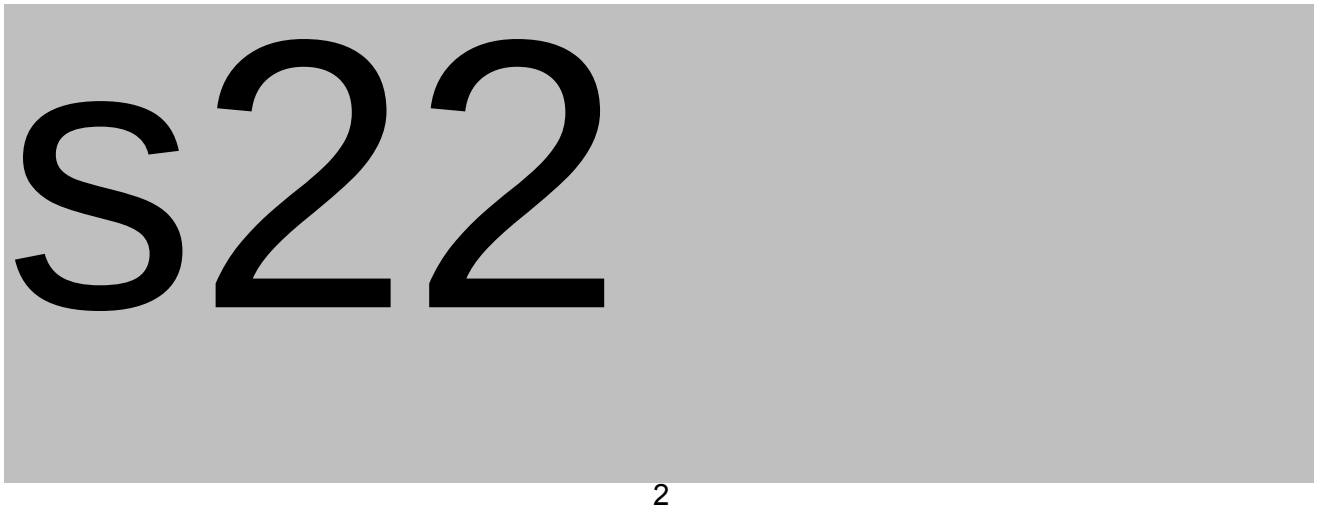
s22

2. Other opportunities for vegetation-based carbon offsets under the Emissions Reduction Fund in Western Australia

The Department's National Inventory Systems and International Reporting and Land and Outreach Branches spoke with Mr Broad in August 2018 about vegetation-based opporunities.

Mr Broad raised the following points.

- Can the Emissions Reduction Fund human-induced regeneration method be varied to provide for crediting of carbon stored in shrubs and groundcover, and to allow for changes in land management such as rehydration of the landscape?



s22

The Department provided the following advice.

- Human-induced regeneration method and rangelands:
    - The human-induced regeneration method provides for certain types of changes in land management to regenerate native forest. It does not provide for increasing carbon storage in shrubs and groundcover, or landscape rehydration activities.
    - The Emissions Reduction Assurance Committee (ERAC) is reviewing the method. Broadening of the method is outside the scope of the review. However, subject to the ERAC's findings, the Department may develop a variation to the method.
    - The Department develops methods, including variations to methods, according to priorities determined by the Minister. Priorities take into account factors including potential level of uptake and scale of abatement, technical feasibility and ability to estimate emissions reductions.
    - The Department is aware of interest in providing new opportunities under the Emissions Reduction Fund for storing carbon in rangelands. The Department has previously worked with rangeland specialists to undertake extensive investigation in this area. This work found that the variability of rangeland systems and associated fluctuations in carbon could make it difficult to continue to build carbon stocks over time, and to maintain the carbon stocks. For similar reasons, the investigations found estimating existing carbon stocks and changes in carbon stocks, and attributing the changes to management actions, could be challenging.
    - The Department is open to considering new information and ideas addressing the questions that need to be considered in determining method priorities.

s22

PDR: MB18-000720

To: Minister for the Environment

MEETING WITH THE EMISSIONS REDUCTION ASSURANCE COMMITTEE

Timing: For meeting on 25 October 2018, 3.30pm.

Meeting with: Emissions Reduction Assurance Committee

Prior meetings: Minister Hunt met the Committee in February 2016.

Proposed note taker: Kristin Tilley

What we want: Discussion on the operation of the Emissions Reduction Fund.

What they want: Opportunity to talk to the Minister about the work of the Committee and the future of the Emissions Reduction Fund.

Issues and Sensitivities:

s22

5. The Committee is currently reviewing human-induced regeneration and native forest from managed regrowth methods. The Committee has concerns about the methods' compliance with the offsets integrity standards. The Department has sought your approval of an amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015*, to address these concerns (see MS18-001232).

Clearing Officer: Sent: 22/10/18	Chris Johnston	Assistant Secretary, Climate Change Policy Branch	s22
Contact Officer:	s22	Director, Emissions Reduction Fund, Governance and Policy Section	

Consultation: YES - Consultation with members of the Emissions Reduction Assurance Committee

Attachments

A: Talking points

B: Background information on the Emissions Reduction Assurance Committee and a list of current members.

C: Expected activities in the next 12 months for the Emissions Reduction Assurance Committee.

ATTACHMENT A

Talking Points

- I acknowledge the efforts you have been making this year regarding the reviews of the vegetation methods, landfill gas and aviation methods. These reviews have been complex, involved discussions with a wide range of stakeholders, and covered contentious issues.
    - It is important to get these reviews right.
    - I am interested in your views on how these reviews are progressing, and your thoughts on what recommendations you are considering.

Background information on ERAC

The Emissions Reduction Assurance Committee (the Committee) is an independent, expert committee, which assesses whether methods for projects to reduce greenhouse gas emissions meet the requirements of the Emissions Reduction Fund. In particular, the Committee helps ensure the integrity of methods under the Fund.

The role of the Committee is to provide the Minister of the Environment with advice on new methods proposed by the Department, conduct reviews of methods, undertake public consultation on proposed methods, variations and periodic reviews of methods and to determine if the amount of time for which an activity is eligible to earn credits should be extended.

If there is reasonable evidence a method no longer meets the offsets integrity standards, the Committee may suspend the registration of projects under that method.

The Committee monitors and reviews the effectiveness of methods over time and advises the Minister whether or not methods should continue to apply.

The offsets integrity standards are set out in the *Carbon Credits (Carbon Farming Initiative) Act 2011* and require abatement to be additional, measurable and verifiable, eligible, evidence based, material and conservative. The Minister cannot make or vary a method if the Committee advises that it does not comply with one or more of the offsets integrity standards.

The Committee are supported by a Secretariat provided by the Department of the Environment and Energy. The Department is responsible for the preparation of draft methods and variations, and supports the Committee in the conduct of its reviews. The Committee also works closely with the Clean Energy Regulator, which is responsible for implementation of the scheme.

ERAC Members

Name	Position	Organisation
Professor Andrew Macintosh	Chair ERAC	Professor, Associate Director of the Centre of Climate Law and Policy, Australian National University.
Mr Paul Graham	Member ERAC (CSIRO Representative)	Chief Economist, CSIRO Energy Flagship.
Dr Beverley Henry	Member ERAC	Adjunct Associate Professor at Queensland University of Technology and an independent research consultant.
Mr Chris Johnston	Member ERAC (Department representative)	Assistant Secretary, Climate Change Policy Branch, Department of Environment and Energy
Ms Suzanne Jones	Member ERAC	National Chair of the Infrastructure Industry Association, Director of Urban Growth NSW, University of New England.
Mr Mick Keogh	Member ERAC	Deputy Chair of the Australian Competition and Consumer Commission, Chairman of the Rural Advisory Council.
Dr Hilary Smith	Member ERAC	Visiting Fellow at Fenner School of Environment and Society, Australia National University and independent research consultant.

*** Two positions on the Committee are currently vacant.**

s22

Human Induced Regeneration	Potential variation following ERAC review.
Native Forest from Managed Regrowth	Potential variation following ERAC review.

s22

• Human Induced Regeneration • Native Forest from Managed Regrowth	

s22

THE HON MELISSA PRICE MP
MINISTER FOR THE ENVIRONMENT

MC18-015257

Mr Dominic Devine
Devine Agribusiness Carbon Pty Ltd
GPO Box 948
BRISBANE QLD 4001

Dear Mr Devine

Thank you for your letter to the former Minister for the Environment and Energy, the Hon Josh Frydenberg MP, regarding the Department of the Environment and Energy's proposal to amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. This correspondence has been referred to me as it falls under my responsibilities as the Minister for the Environment.

The Emissions Reduction Fund is successfully supporting Australian businesses, communities and landholders to reduce emissions. So far it has secured more than 190 million tonnes of emissions reductions. Vegetation projects such as yours are making a significant contribution to the Fund's success and providing an income stream for participants.

The integrity of the Fund is paramount and the independent Emissions Reduction Assurance Committee (ERAC) has an important role in advising me whether the methods meet the Offsets Integrity Standards. As you know the Committee is currently reviewing the Native Forest from Managed Regrowth and Human-Induced Regeneration methods. The object of both methods is to regenerate native forest. The ERAC has indicated it is reviewing them at the same time because, while there are some differences, there are enough similarities in the two methods to warrant concurrent reviews. I understand the ERAC expects to complete its review in the next few months, and I look forward to seeing its report.

During the review, the ERAC has identified a risk that crediting could exceed the actual carbon that is stored if regenerating vegetation does not reach forest cover in a reasonable period of time. The ERAC identified this risk is relevant for both methods. While existing projects are in early stages of regeneration, this risk could arise in future, when the vegetation reaches an age at which it would be expected to have reached forest cover. The ERAC identified a need for the risk to be managed by the Australian Government being clear about its expectations of a reasonable timeframe for reaching forest cover; the means of assessing whether forest cover has been achieved; and aligning crediting with progress towards achieving forest cover.

As you know the Department released a proposed rule that would apply to projects under the Human-Induced Regeneration method for public consultation. This was released ahead of the proposed rule for projects operating under the Native Forest from Managed Regrowth method.

I approved the rule applying to projects under the Human-Induced Regeneration method on XX November 2018. The rule is designed to clarify project reporting and crediting requirements. It also specifies, based on available science, a reasonable period of time to reach forest cover. The rule is designed to work in conjunction with the existing method and the Clean Energy Regulator's guidance on the methods. The Regulator's guidance will assist in cost-effectively identifying, and removing from projects, areas of land that are not progressing towards forest cover. The rule and the guidance are intended to provide more certainty about projects' performance over time.

I understand my Department, the Clean Energy Regulator and the Chair and members of ERAC worked closely with project participants to design the rule in a way that enhances the integrity of the methods and can be implemented. I encourage you to continue working with my Department to achieve the same outcome for projects under the Native Forest from Managed Regrowth method.

Thank you for bringing your concerns to my attention. I have copied this letter to the Hon David Littleproud MP, Member for Maranoa.

Yours sincerely

MELISSA PRICE

cc: The Hon David Littleproud MP

PDR: MC18-015257

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND: DEVINE AGRIBUSINESS CARBON PTY LTD CORRESPONDENCE ON LEGISLATIVE RULE CHANGES

Timing: 4 December 2018, to provide a response to Devine Agribusiness Carbon Pty Ltd

Recommendation:

1. That you sign the draft reply to Devine Agribusiness Carbon Pty Ltd at **Attachment A**.

Signed / Not signed

Minister: Date:

Comments:

Clearing Officer: Sent 21/11/18	Katrina Maguire	Assistant Secretary, Land and Outreach Branch	s22
Contact Officer:	s22	Director, Forests Section	

Key Points:

1. There are two similar Emissions Reduction Fund methods for projects that change land management to regenerate native forest: the Human-Induced Regeneration method and the Native Forest from Managed Regrowth method.

2. The Department is proposing changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* in response to Emissions Reduction Assurance Committee (ERAC) concerns the two methods could allow over crediting.

   a. The draft rule clarifies reporting and crediting requirements for regeneration projects. It makes continued crediting after 15 years conditional on projects being able to demonstrate trees have grown enough to achieve forest cover. It applies to existing and new projects.

3. Devine Agribusiness Carbon Pty Ltd, a carbon project developer, wrote to the former Minister for the Environment and Energy on 8 August 2018 opposing the draft rule applying to projects under the Native Forest from Managed Regrowth method (**Attachment B**).

   a. Devine Agribusiness Carbon is the only proponent for projects registered under the Native Forest from Managed Regrowth method. The company has 18 contracted projects, representing around two per cent of total contracted emissions reductions under the Fund. All projects are in southwest Queensland.

s47G(1)(a)

4. Both methods have over crediting risks. The draft rule is initially designed to address this issue in the Human-Induced Regeneration method. The Department considers the similarities between the methods and the concerns warrant taking a similar approach, and we are still considering the best way to apply the rule to all projects under the Native Forest from Managed Regrowth method.

5. The Department has been consulting project developers about the proposed rule amendment since July 2018. Following public consultation on the draft rule, the Department submitted the rule to you for approval (see MS18-001232).

    a. The draft reply to Devine Agribusiness Carbon at **Attachment A** refers to the rule, and is subject to your agreement to make the rule.

6. The ERAC Chair has discussed the ERAC's concerns with Devine Agribusiness Carbon, and has offered further discussions. The Department has offered to discuss the draft rule with their landholder clients and creditors.

7. The Department will provide briefing to you on amending the rule for the Native Forest from Managed Regrowth method, following further discussions with Devine Agribusiness Carbon.

Sensitivities and Handling

s47G(1)(a)

Consultation: NIL

ATTACHMENTS

A: Draft reply to Devine Agribusiness Carbon Pty Ltd
B: Letter from Devine Agribusiness Carbon Pty Ltd

MC18-015257

Devine Agribusiness Carbon Pty Ltd

ABN 88 160 651 052

c/- Leichardt Group
Level 27, 32 Turbot Street

GPO Box 948
Brisbane QLD 4001

Ph. 07 3226 7777

dac@leichardt.com.au

---

8 August 2018

CCD

Min Reply

Hon Josh Frydenberg MP
Minister for the Environment and Energy
PO Box 6022
Parliament House
Canberra ACT 2600

Dear Mr Frydenberg

We write in response to the change to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the CFI rule) recently proposed by the Department of Environment and Energy. We oppose this change and set out our reasons for this below, together with proposed alternative solutions.

Background

Our firm is a carbon project proponent operating a portfolio of carbon projects, all within the mulga lands of south west Queensland in the 400-500 mm rainfall zone, and all registered under the Native Forests from Managed Regrowth (NFMR) method. The NFMR method, following its approval by the then named Domestics Offsets Integrity Committee, was originally determined in November 2013 and apart from minor amendments has not been varied. No other project proponents currently operate projects using the NFMR method.

In contrast to the NFMR method, the Human Induced Regeneration (HIR) method is used by approximately 180 project proponents and has been implemented within a wide range of landscapes across QLD, NSW, South Australia and Western Australia. Since being originally determined it has been subject to significant variation. Despite some similarities in the abatement modelling processes, these two methods operate on a vastly different basis. In summary, NFMR projects require the project land; i) to have previously supported a native forest, ii) to have previously been comprehensively cleared for a pastoral purpose, and iii) to be subject to a project mechanism which includes the cessation of the mechanical or chemical suppression of the regenerating forest. None of these requirements apply to HIR projects.

Our reasons for opposing the rule change – the combined review of HIR and NFMR

The HIR and NFMR methods are vastly different in their scale and scope of operation, geographical implementation, and in the number of projects and proponents that use them. In addition, the implementation of the HIR method would appear to have resulted in significant over-crediting of projects, because it allows, in certain circumstances, for the removal of livestock from an area already containing mature vegetation to be modelled as a regeneration event, when in fact no actual regeneration of significance will occur s45 s45 This is not an issue in NFMR projects because the entire method is based upon the cessation of clearing within land that was once forest, has since been subject to clearing cycles for pastoral purposes, and is now being allowed to regenerate.

For these reasons we have always strongly opposed the decision to undertake a combined review of these two methods. Our concern was that the scale of implementation of the HIR method, along with its profound technical flaws would, in a joint review process, prejudice the NFMR method from being fairly reviewed on its merits alone, as intended by the offsets integrity standards.

The proposed rule change has confirmed these concerns. We consider this to be a clumsy attempt by the Department to cover up the over-crediting issues within the HIR method without drawing public attention to the scale of that problem. We recognise the pressing need to fix the issues in HIR, however, by also capturing NFMR projects, the rule change unfairly imposes additional regulatory burdens and costs on them.

We made our opposition on this matter clear to the Department and ERAC, to which they have responded by suggesting there is also an over-crediting issue within NFMR, therefore justifying its inclusion in the rule change. Despite repeated requests, data to support this suggestion was not provided to us until 5pm on Friday 3 August, however it did not confirm the existence of an over-crediting issue in NFMR.

This is a somewhat technical matter, however, in simple terms; the Department has suggested that if actual abatement within the project areas aligned to the FullCAM estimates of abatement credited, they should observe a larger proportion of NFMR project areas obtaining forest cover in the Department's National Forest Monitoring Programme spatial data. However, the object of that spatial data is to interpret satellite imagery to derive an estimate of the extent of forest cover at a national level. This process is laden with potential sources of error and miscalibration. It does not, nor can it be expected to provide, meaningful information concerning the amount of sequestered carbon at a very fine scale, such as within an individual Carbon Estimation Area. If anything, at a broad scale the data provided confirms the suitable operation of the NFMR method, with the proportion of project areas demonstrating forest cover increasing from 6.6% in 2010 to 31.3% in 2017. To suggest that the projects must be over-credited because a higher proportion of forest cover has not been observed within some unrelated process, and then relying on this to introduce a significant change in the regulations governing the method appears to be a desperate and belated attempt to justify the erroneous decision to review and amend these methods jointly.

Other reasons – the need for investment certainty for project stakeholders

Prior to participating in any ERF auctions, our firm successfully implemented eight (8) pilot projects under the NFMR method to fully inform us regarding the operation of the method and the relevant regulatory environment. This enabled us to develop an informed view concerning the volume of abatement able to be generated from NFMR projects, and the costs we would likely incur in realising that abatement. As a result we were able to confidently bid into the ERF Auction, in the manner preferred by the regulator - at the lowest possible cost at which we could viably operate the projects. The proposed rule change has the potential to result in substantial increases to the project costs after these ERF contracts and other commercial arrangements have been finalised.

These pilot projects also allowed us to demonstrate to various interest holders, particularly land owners and their mortgagees (the major rural banks) that establishing a NFMR project under the CFI/ERF was a safe and viable option for them to consider for their business, as the method and regulatory environment was settled, such that they could commit land and invest time in establishing a project with certainty. The proposed rule change will now highlight the potential for ad-hoc regulatory changes to be imposed with retrospective effect, which will undermine the confidence of stakeholders to commit to ERF projects. Given the potential for the regeneration of previously cleared native forests within the pastoral zone to supply large volumes of relatively low cost abatement, this would be an unfortunate outcome for the ERF and for the nation's future energy policy options.

Proposed solutions

If the level of over-crediting within the HIR method is demonstrably significant, in our view this leaves ERAC with no option than to recommend that it be suspended or revoked while an amended method is prepared. If the ERAC also sincerely believes there is a significant over-crediting issue within NFMR they should take the same course of action for that method. We would not object to this approach as it follows the existing

legislative framework and does not introduce retrospective regulatory changes to already well established projects. However, it appears from our discussions with the Department and ERAC, they are reluctant to take this course of action as it may draw unwanted public attention to the scale of the over-crediting issue within the HIR method, as this would reflect poorly on the ERF and those responsible for it.

We believe that drawing public attention to this problem is already unavoidable as there are a large number of organisations and individuals watching on, and if the Department insists upon advancing the proposed rule change in what appears to be an attempted cover-up of the HIR problem, this may ultimately prove more embarrassing for the Government and more damaging to the overall integrity and reputation of the ERAC and ERF than the suspension of the method or methods ever would have been.

By suspending or revoking the method(s), the difficulties within HIR would then be isolated to the existing projects and solutions could be worked through in an unhurried consultation process with the relevant proponents. Regarding the existing NFMR projects, we submit that the potential for any significant over-crediting is minimal given the nature of the method, being the regeneration of cleared land that was previously forested. The method also already contains an elegant remedy for areas where adequate regeneration is not achieved; originally eligible areas where forest potential is later found not to exist, can be re-stratified as exclusion areas. The effect of this is that no further abatement can be credited to the project until the remaining eligible areas demonstrate adequate abatement to justify all the ACCUs previously issued, including any issued in respect of the now excluded areas. We note that all but 2 of the projects so far credited have a permanence obligation of 100 years, providing a more than adequate time frame for this self-correction to occur. For those projects having only a 25-year permanence period, the credited abatement has been discounted by 25% so they are unlikely to have a demonstrable over-crediting problem.

The revision of the NFMR method could then proceed independently of the distracting difficulties associated with the HIR problem. Any thorough revision of the method against the offsets integrity standards should also include an assessment of the potential for areas of under-crediting (i.e. where abatement is running ahead of crediting), and the adequacy of the non-zero baseline, which we consider to be overly conservative given the increasing intensification of land use occurring on the margins of the pastoral zone. As far as we are aware neither of these important matters has been give any consideration within current review process.

We welcome any opportunity discuss our concerns in further detail with you or your staff and I invite you to contact me on s47F should you wish to do so.

Yours sincerely

Dominic Devine

CC Hon. David Littleproud MP, Member for Maranoa.

Devine Agribusiness Carbon Pty. Ltd.

Position paper – proposed CFI rule change, August 2018.

1. Technical flaws in the HIR method together with the relative inexperience of the regulator appear to have allowed certain HIR project proponents to generate ACCUs substantially greater than genuine abatement levels.
2. We have played no part in that problem and operate projects only under the NFMR method. Despite some similarities in eligibility criteria and abatement modelling processes, NFMR projects are implemented on vastly different lands, and on a vastly different basis, to HIR projects. Further detail concerning these differences is provided in Attachment 1.
3. The DoE and the ERAC, for reasons unknown, insist upon aggregating these methods for the purposes of reviewing their effectiveness and operation. This is a fundamental procedural flaw in the review process, as the deficiencies inherent in the HIR method may prejudice the review of the NFMR method.
4. It would be procedurally unfair if hastily imposed measures to address deficiencies in the HIR method and its projects were allowed to impact upon the NFMR projects, our firm, NFMR project land owners, and other NFMR project stakeholders including the mortgagees.
5. The proposed rule change has the appearance of seeking to bypass existing legislative processes for reviewing and amending methods. The proper place for method specific eligibility and reporting requirements is in the method, not the rule. There already exists a legislative process for amending methods.
6. The proposed rule change will increase project costs in circumstances where proponents have already locked in forward prices. Our firm quite deliberately did not participate in any ERF auction until we had successfully established and had achieved the initial issuance for a total of 8 pilot projects. This enabled us to be fully informed regarding interpretations of regulatory requirements, and the costs of managing and reporting on our projects (The Clean Energy Regulator actively encouraged proponents to submit their bids at the lowest possible price at which projects could be undertaken).
7. The CFI/ERF intended that once declared, projects would remain subject to the method as in force at the time of the declaration. This was fundamental to attracting investment and participation in ERF projects and ERF contracts. The use of a legislative instrument by the Australian parliament to effectively and retrospectively amend a method in the manner proposed will result in stakeholders revising their commitment to invest and participate in ERF projects. It may also affect the viability of ERF participation for farmers who have already accepted permanence obligations over their land on the basis of the method as currently declared and implemented.
8. In considering a rule change which will affect NFMR projects, the DoE and ERAC have had regard to a number of irrelevant considerations. The offsets integrity standards only provide for the examination of a method (singular) not methods (plural). Performance of HIR projects is therefore not a relevant consideration insofar as the NFMR method is concerned, it must only be considered in isolation.
9. That fact the DoE and ERAC have aggregated the methods for review purposes is evident in the supporting data provided to justify the proposed rule change. Data is provided for '83 HIR and NFMR projects' with no disaggregation into the respective methods.
10. The data provided to us in support of the rule change does not appear to be scientifically rigorous. For example; time averages provided in Table 3 appear biased toward areas that regenerate

quicker (the slower areas having not yet had time to regenerate), the data used for Table 3 was drawn from an area including large portions of the Brigalow Belt bioregion, with average rainfall up to 800mm (approximately twice that of the areas in which the projects are actually located) and the regressions illustrated in Figure 2 to imply certain relationships are not supported by any quantitative measure of their goodness of fit.

11. The NFMR method already contains an elegant remedy for areas where forest cover cannot be achieved. Originally eligible areas where forest potential is later found not to exist, can be re-stratified as exclusion areas. The effect of this being that no further abatement can be credited to the project until the remaining eligible areas demonstrate adequate abatement to justify all the ACCUs previously issued, including any issued in respect of the now excluded areas.

12. Consistency with the National Inventory is not a relevant consideration. A substantial portion of the justification for the proposed rule change is that estimates of abatement arising from the application of the HIR and NFMR methods are inconsistent with the abatement able to be counted in Australia's National Inventory. There is no known requirement for this to be so. It is entirely open for a carbon offsets scheme to operate independently of any national inventory, as has been the case for several years. There is no requirement for such consistency arising from either the offsets integrity standards, the Act, the Regulation, the Rules, or the NFMR method. It is therefore not a relevant consideration for the Department or for ERAC in any revision of the method.

13. In any modelled method it is implied that there will be some divergence between modelled and actual abatement, it being impossible for a model to estimate abatement with 100% accuracy. Such divergence could be and was foreseen at the time of the method's determination and is adequately accommodated for within the all current NFMR projects through; the conservative nature of FullCAM, the deduction of a non-zero baseline form the project carbon stocks, and the ongoing requirement to restratify as exclusion any areas found to have lost their forest potential.

14. In addition, of all of the NFMR projects that have currently been issued with credits, only 2 of these have a 25 year permanence period, with the balance having a 100 year permanence period. Over this period any project area will achieve its abatement potential regardless of any short term divergence of modelled and actual abatement that might have occurred in the early years of the project.

15. For the 2 projects having a 25 year permanence period, credits are only issued at 75% of the level of modelled abatement, making it unlikely that over-crediting has occurred.

16. If genuine concerns are held regarding the potential for over crediting in the NFMR method, then the proper course of action intended under the legislation is that the method be suspended or revoked whilst it is reviewed and if necessary amended. We are the only proponent actively using the NFMR method and we are agreeable to this course of action. There is therefore no known impediment or objection to following the course of action intended under the legislation.

Attachment 1 – Differences in the implementation of the HIR and NFMR methods

The Human Induced Regeneration (HIR) method.

1. A methodology determination for the Human Induced Regeneration of a Permanent Even Aged Native Forest (HIR method) was first made in January 2013, and was replaced by HIR method 1.1 in June 2013, which was subsequently varied in March 2016 to incorporate the use of FullCAM in preference to the Reforestation Modelling Tool (RMT). Collectively these methods are referred to here as 'the HIR method'.

2. The HIR method allows for land to be included in a project area and to generate ACCUs if;
    a. It has been subject to a suppression activity such that it did not achieve forest cover in the ten years prior to commencement of the project, and,
    b. It will be subject to a land management regime including one or more human assisted regeneration activities so that forest cover will be achieved.

3. The HIR method allows for 5 human assisted regeneration activities which include;
    a. exclusion of livestock;
    b. management of the timing, and the extent, of grazing.

4. The method does not require the land to have previously had forest cover, or for it to have been previously cleared.

5. Our understanding is that the construction and interpretation of the HIR method therefore allows sparsely vegetated land that is simply subject to a change in the grazing regime to generate ACCUs even in circumstances where the land has never previously sustained a forest.

6. For example, consider an extensive property located in far western Queensland in a low rainfall environment which is naturally sparsely vegetated. It will not have had forest cover in the ten years prior to project commencement and if also subject to a change in grazing regime it can be deemed eligible to be included in a HIR project and generate ACCUs.

7. The HIR method requires abatement from these areas to be modelled, using FullCAM, as if regeneration of the area were commencing from a cleared landscape and progressing, <u>through the steep initial portion of the abatement yield curve</u>, toward forest cover.

8. However, if, in reality the land already contains mature vegetation (which it may do, provided it is not substantive enough to have reached the forest cover threshold) any <u>thickening or growth resulting from only a change in grazing management is likely to be minimal.</u>

9. HIR projects are zero-baseline projects. This assumes any carbon that would have continued within the landscape if the project were not implemented (i.e. carbon that does not meet the additionality requirement) is negligible and therefore does not need to be offset.

10. Through discussions with various stakeholders involved in south west QLD carbon projects, we understand that the CER, the DoE, and the ERAC have identified HIR projects exhibiting these characteristics, i.e. where modelled and credited abatement is likely to be running well ahead of actual abatement, so are seeking solutions to limit any further over crediting and to realign modelled and actual abatement.

11. This is in our opinion a technical flaw in the method, however the problem has been compounded by the inexperience of the regulator which failed to recognise this flaw prior to issuing substantial credits. Had this deficiency been identified sooner, the method may have allowed for problem areas to be excluded on the basis of not having forest potential.

The Native Forest from Managed Regrowth (NFMR) method.

12. The NFMR method was determined in November 2013 and apart from minor corrections in 2015 and February 2018 has not been varied.

13. Devine Agribusiness Carbon was closely involved in the authoring of this method with the Queensland Department of Environment and is the only project proponent having projects currently registered under this method. We are therefore well qualified to comment on the method and the way in which it is being implemented.

14. In contrast to the HIR method, to be eligible under the NFMR method, the land must have previously sustained forest cover.

15. In contrast to the HIR method, to be eligible under the NFMR method, the land must have previously been comprehensively cleared for a pastoral purpose.

16. In contrast to HIR method, to be eligible under the NFMR method, the land must be subject to a change in land management which includes the cessation of the destruction or suppression of regrowing native vegetation.

17. In contrast to the HIR projects, all the NFMR projects are located within a relatively small geographic area. This is in Queensland between the 400mm and 500mm isohyets in a line stretching approximately from just north west of Charleville to south of Bollon.

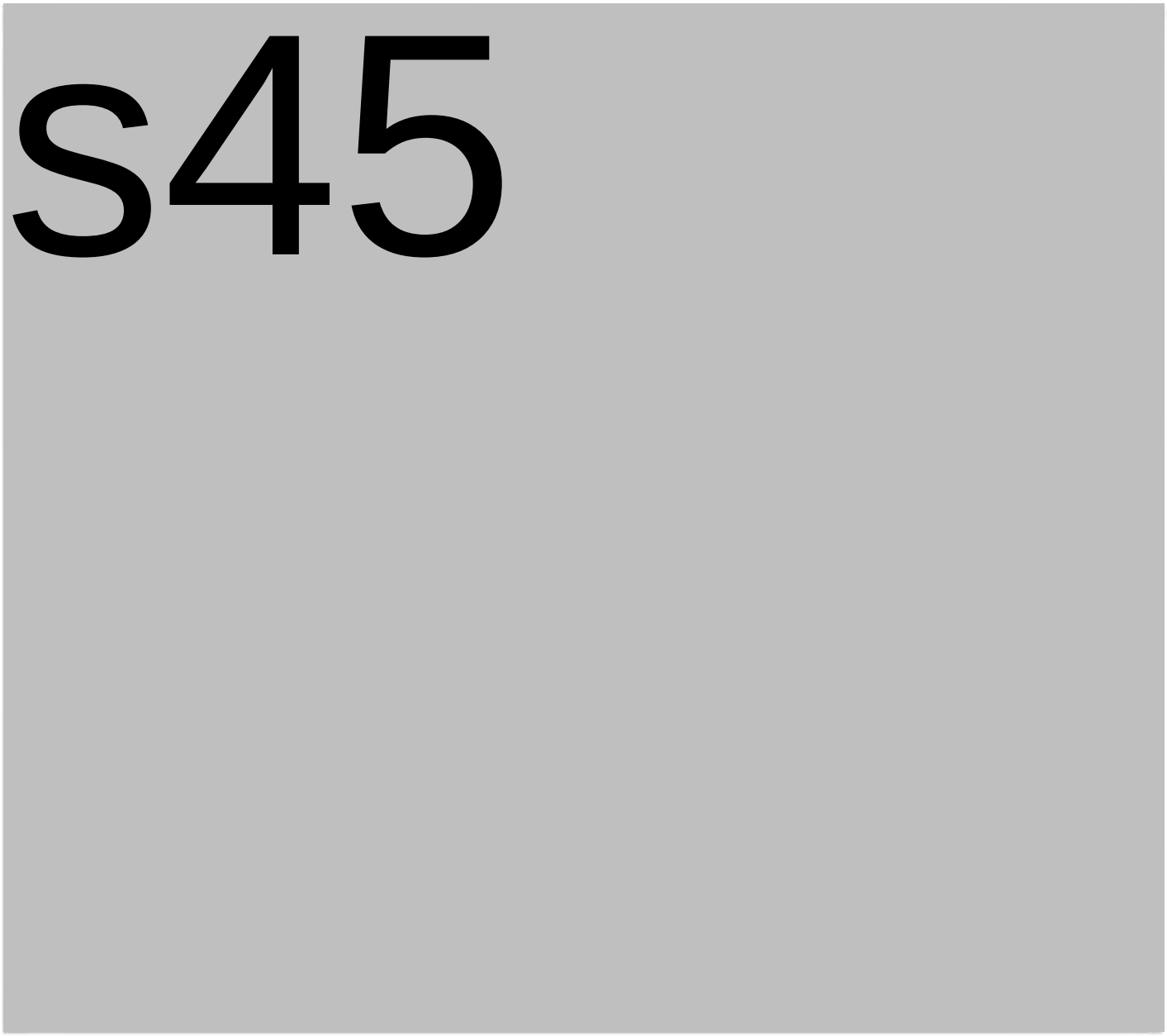
18. In contrast to the HIR projects, all the NFMR projects, because of more restrictive eligibility criteria, exhibit relatively homogenous land and vegetation characteristics.

19. As a consequence of these differences in the methods and their implementation, the currently registered NFMR projects are vastly different to HIR projects in several ways as summarised on the following Table 1.

20. We submit that the scope for over-crediting within the NFMR method (if any) is of a substantially lower order of magnitude than it is for the HIR method, and is in any case able to be adequately addressed by the existing provisions of the NFMR method.

Table 1: Summary of differing attributes of the NFMR and HIR methods

Attribute	NFMR method	HIR method
Forest cover history	Must have previously sustained forest cover, demonstrating the area has adequate soil and rainfall characteristics to do so again.	Need not have ever previously sustained forest cover, therefore may not have adequate soil and rainfall characteristics to support forest.
Management history	Must have been comprehensively cleared in the past, for a pastoral purpose.	Need not have been comprehensively cleared in the past.
Project activity giving rise to the abatement	Must include the cessation of the mechanical or chemical clearing regime.	May only include a change to grazing practices only.
Project Location	Mulga lands of SWQ, in the 400-500 mm rainfall zone, within land types widely known for their capacity to regenerate after clearing.	Diverse areas within QLD, NSW, South Australia and Western Australia.
Baseline	Whilst the method allows for a a zero baseline to be adopted in certain circumstances, in all current projects a non-zero baseline has been calculated and deducted from the project carbon stocks.	The method assumes a zero baseline – no baseline is deducted from the project carbon stocks.
Projects registered (and not revoked)	35	237
Number of project proponents	2 (effectively 1 as they are related entities)	Approximately 180


S45

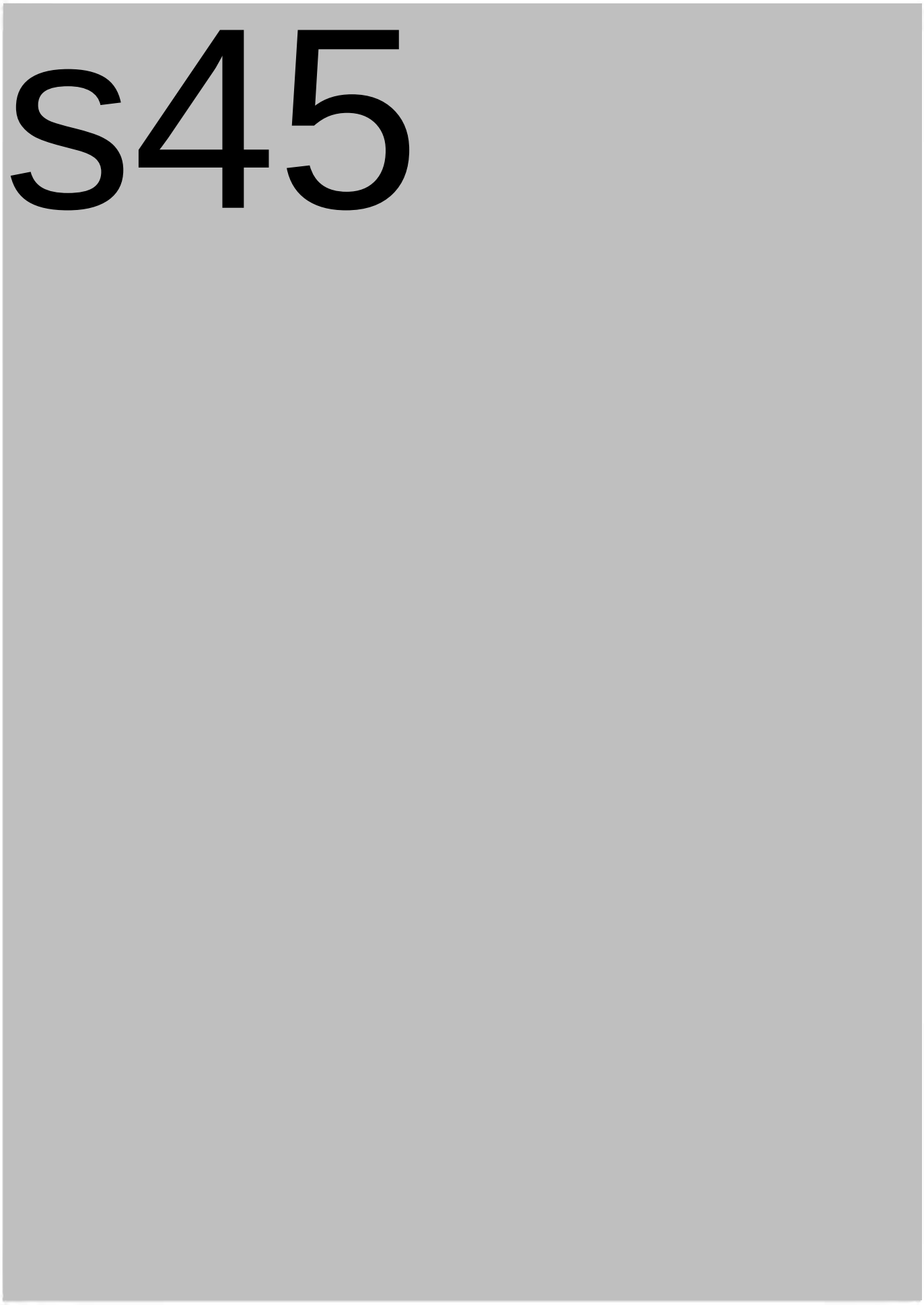

s45

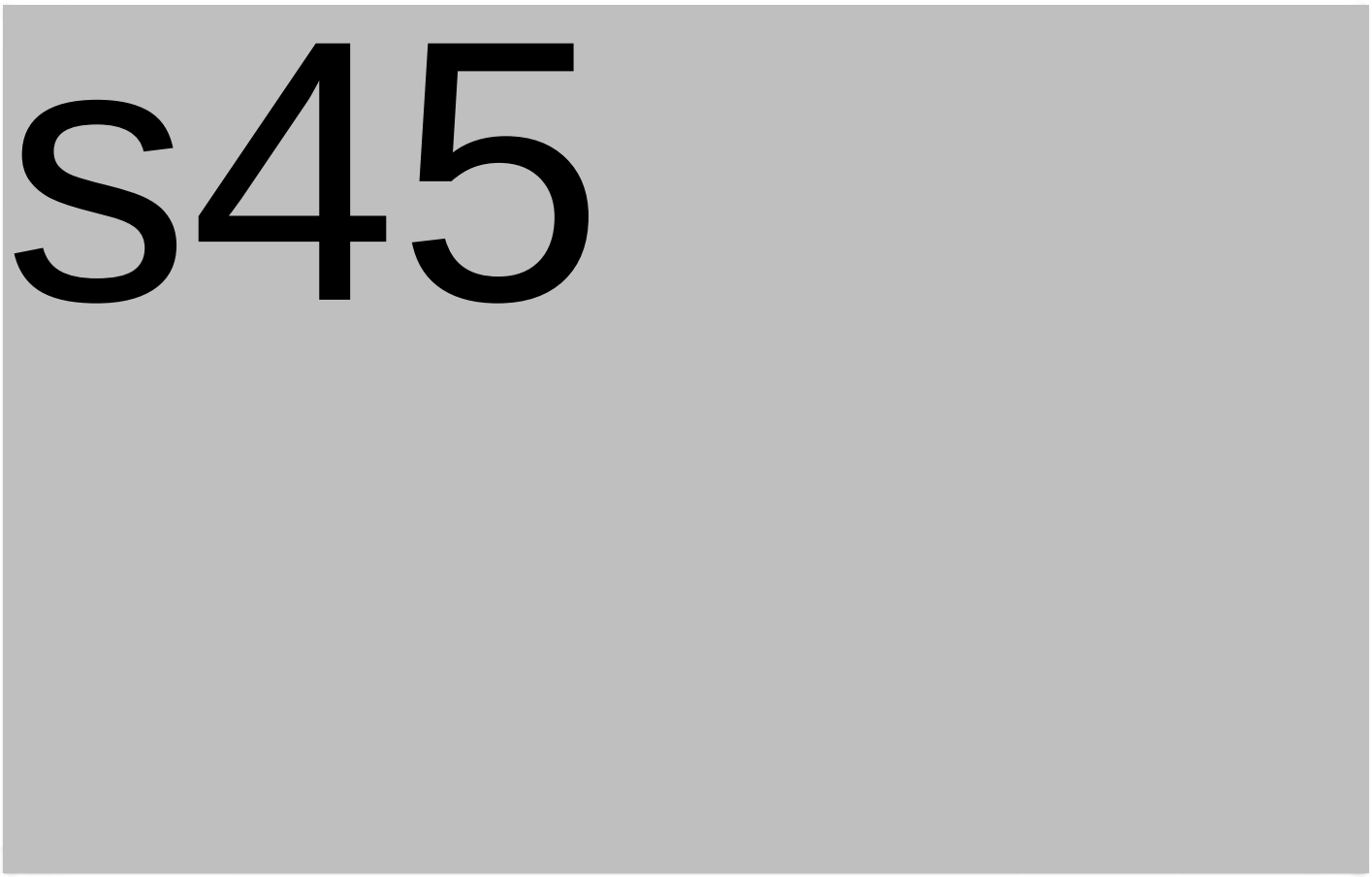
s45

s45

s45

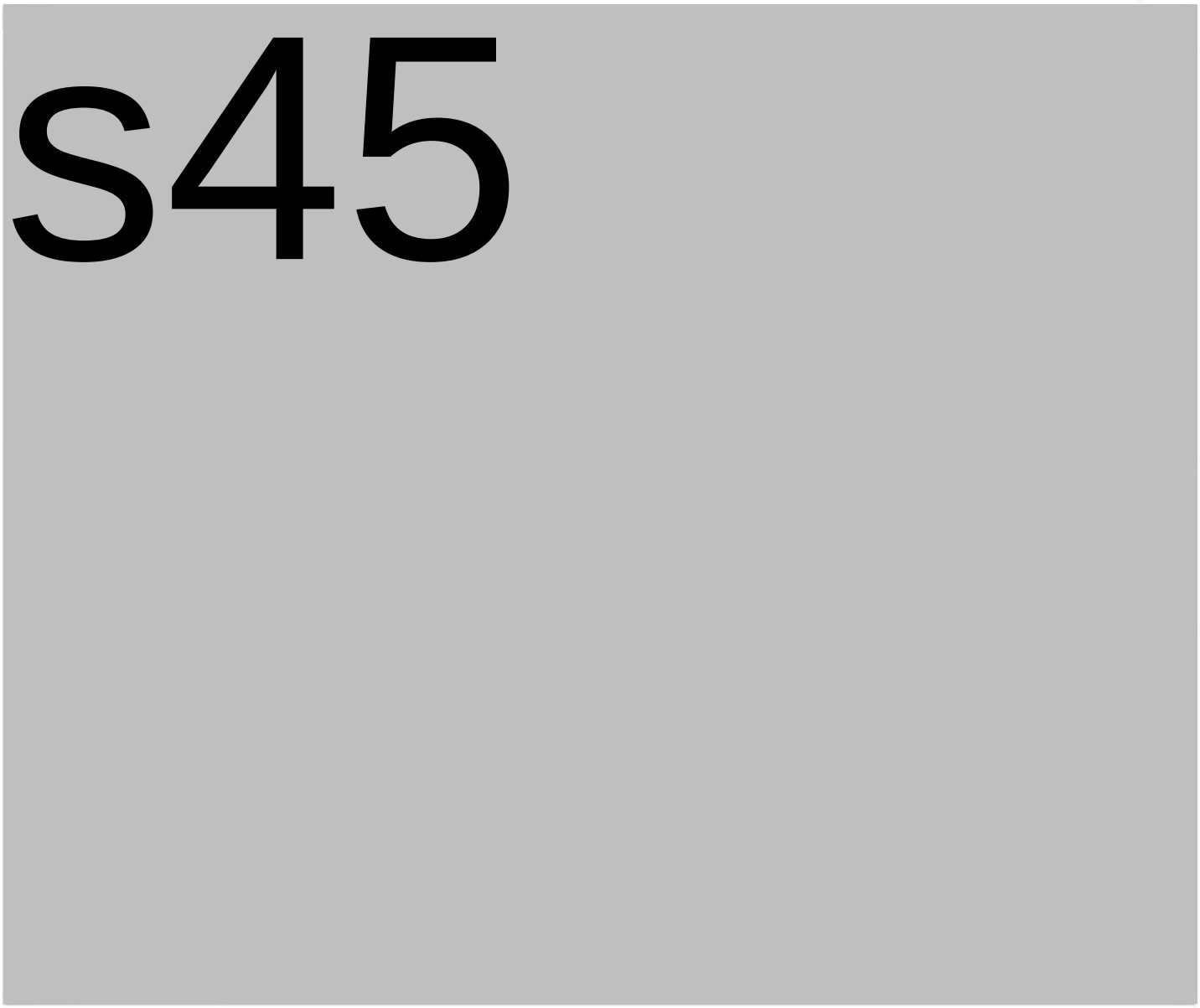
s45


s45


S45


s45

s45


s45

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

PDR: MC18-015257

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND: DEVINE AGRIBUSINESS CARBON PTY LTD CORRESPONDENCE ON LEGISLATIVE RULE CHANGES

Timing: 4 December 2018, to provide a response to Devine Agribusiness Carbon Pty Ltd

Recommendation:

1. That you sign the draft reply to Devine Agribusiness Carbon Pty Ltd at **Attachment A**.

Signed / Not signed

Minister: Date: 21/11/18

Comments:

Clearing Officer: Sent 21/11/18	Katrina Maguire	Assistant Secretary, Land and Outreach Branch	s22
Contact Officer:	s22	Director, Forests Section	

Key Points:

1. There are two similar Emissions Reduction Fund methods for projects that change land management to regenerate native forest: the Human-Induced Regeneration method and the Native Forest from Managed Regrowth method.

2. The Department is proposing changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* in response to Emissions Reduction Assurance Committee (ERAC) concerns the two methods could allow over crediting.

   a. The draft rule clarifies reporting and crediting requirements for regeneration projects. It makes continued crediting after 15 years conditional on projects being able to demonstrate trees have grown enough to achieve forest cover. It applies to existing and new projects.

3. Devine Agribusiness Carbon Pty Ltd, a carbon project developer, wrote to the former Minister for the Environment and Energy on 8 August 2018 opposing the draft rule applying to projects under the Native Forest from Managed Regrowth method (**Attachment B**).

   a. Devine Agribusiness Carbon is the only proponent for projects registered under the Native Forest from Managed Regrowth method. The company has 18 contracted projects, representing around two per cent of total contracted emissions reductions under the Fund. All projects are in southwest Queensland.

s47G(1)(a)

4. Both methods have over crediting risks. The draft rule is initially designed to address this issue in the Human-Induced Regeneration method. The Department considers the similarities between the methods and the concerns warrant taking a similar approach, and we are still considering the best way to apply the rule to all projects under the Native Forest from Managed Regrowth method.

5. The Department has been consulting project developers about the proposed rule amendment since July 2018. Following public consultation on the draft rule, the Department submitted the rule to you for approval (see MS18-001232).

    a. The draft reply to Devine Agribusiness Carbon at **Attachment A** refers to the rule, and is subject to your agreement to make the rule.

6. The ERAC Chair has discussed the ERAC's concerns with Devine Agribusiness Carbon, and has offered further discussions. The Department has offered to discuss the draft rule with their landholder clients and creditors.

7. The Department will provide briefing to you on amending the rule for the Native Forest from Managed Regrowth method, following further discussions with Devine Agribusiness Carbon.

Sensitivities and Handling

s47G(1)(a)

Consultation: NIL

ATTACHMENTS

A: Draft reply to Devine Agribusiness Carbon Pty Ltd
B: Letter from Devine Agribusiness Carbon Pty Ltd

THE HON MELISSA PRICE MP
MINISTER FOR THE ENVIRONMENT

MC18-015257

Mr Dominic Devine
Devine Agribusiness Carbon Pty Ltd
GPO Box 948
BRISBANE QLD 4001

21 NOV 2018

Dear Mr Devine

Thank you for your letter to the former Minister for the Environment and Energy, the Hon Josh Frydenberg MP, regarding the Department of the Environment and Energy's proposal to amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. This correspondence has been referred to me as it falls under my responsibilities as the Minister for the Environment.

The Emissions Reduction Fund is successfully supporting Australian businesses, communities and landholders to reduce emissions. So far it has secured more than 190 million tonnes of emissions reductions. Vegetation projects such as yours are making a significant contribution to the Fund's success and providing an income stream for participants.

The integrity of the Fund is paramount and the independent Emissions Reduction Assurance Committee (ERAC) has an important role in advising me whether the methods meet the Offsets Integrity Standards. As you know the Committee is currently reviewing the Native Forest from Managed Regrowth and Human-Induced Regeneration methods. The object of both methods is to regenerate native forest. The ERAC has indicated it is reviewing them at the same time because, while there are some differences, there are enough similarities in the two methods to warrant concurrent reviews. I understand the ERAC expects to complete its review in the next few months, and I look forward to seeing its report.

During the review, the ERAC has identified a risk that crediting could exceed the actual carbon that is stored if regenerating vegetation does not reach forest cover in a reasonable period of time. The ERAC identified this risk is relevant for both methods. While existing projects are in early stages of regeneration, this risk could arise in future, when the vegetation reaches an age at which it would be expected to have reached forest cover. The ERAC identified a need for the risk to be managed by the Australian Government being clear about its expectations of a reasonable timeframe for reaching forest cover; the means of assessing whether forest cover has been achieved; and aligning crediting with progress towards achieving forest cover.

As you know the Department released a proposed rule that would apply to projects under the Human-Induced Regeneration method for public consultation. This was released ahead of the proposed rule for projects operating under the Native Forest from Managed Regrowth method.

PDR: MS18-001232

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND: LEGISLATIVE RULE AMENDMENT FOR HUMAN-INDUCED REGENERATION METHOD

Timing: 26 November 2018 to enable timely commencement of the amendment.

Recommendations:

1. That you make the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* by signing the instrument at **Attachment A**.

Signed / Not signed

2. That you approve the Explanatory Statement for the Amendment Rule at **Attachment B**.

Approved / Not approved

Minister: Date:

Comments:

Clearing Officer: Sent 15/11/18	Katrina Maguire	Assistant Secretary Land Branch	s22
Contact Officer:	s22	Director Forests Section	

Key Points:

1. The Emissions Reduction Fund Human-Induced Regeneration method provides for projects that regenerate native forest by changing the way the land is managed.

2. Most existing Human-Induced Regeneration projects are in south-west Queensland and western New South Wales. Projects are now also being registered in Western Australia's rangelands. Human-Induced Regeneration projects represent about 48 per cent of the total abatement that is contracted to the Government. Eligible carbon credits are calculated based on a model.

3. The proposed amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* at **Attachment A** clarifies reporting and crediting requirements for projects under the Human-Induced Regeneration method, to reduce the risk of over-crediting.

4. The independent Emissions Reduction Assurance Committee (ERAC) is reviewing the method to assess whether it continues to meet the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*. The ERAC is concerned the method could allow over-crediting, because it does not adequately ensure the rate of crediting of carbon abatement appropriately reflects actual growth of regenerating forests in every project. **Attachment C** provides background on the method and the concerns.

5. The Amendment Rule provides for better alignment between the rate of crediting and actual growth, by making continued crediting after 15 years conditional on projects being

able to demonstrate they have reached forest cover. Forest cover is defined as trees two metres in height, with 20 per cent canopy cover, and extending over at least 0.2 of a hectare). The Amendment Rule would apply to new and existing projects. Further details are at **Attachment C.**

6. The Amendment Rule is complemented by operational guidance developed by the Clean Energy Regulator to assess progress towards achieving forest cover.

7. The Department, Clean Energy Regulator and Chair of ERAC have been consulting carbon project developers about the proposed amendment since July 2018. Project developers manage administration of most of the existing projects for landholders. They are concerned the Amendment Rule would change the way the existing methods operate, with retrospective effects that would undermine confidence in the Fund. They also consider it would make reporting on projects more complex. However, most project developers acknowledge the rationale for the Amendment Rule.

8. Landholders with existing projects object to the intent of the Amendment Rule because they see it reducing certainty about future crediting.

9. The Department released the draft Amendment Rule for public consultation between 23 August and 13 September 2018, and received 20 submissions. The Department has revised the Amendment Rule to adopt some suggestions from submissions. These include removing a proposed clause relating to treatment of pre-existing forest cover, while the Department discusses the most appropriate approach with the Regulator and stakeholders.

10. The Amendment Rule includes an unrelated administrative change (item 7). It avoids the Clean Energy Regulator having to pay a person for credits under a carbon abatement contract if the person has an outstanding debt with the Regulator for failing to comply with a requirement to relinquish credits.

11. The Department's Economics Section agrees the Amendment Rule is covered by the regulatory burden estimate approved for the Emissions Reduction Fund in 2014.

12. Another method, the Native Forest from Managed Regrowth method, is similar to the Human-Induced Regeneration method. It has similar over-crediting risks. The Department will come back to you with a further amendment to apply the rule to all projects under the Native Forest from Managed Regrowth method following further consultation with the one project participant (see covering brief for MC18-015257).

Sensitivities and Handling

13. s47C Suggested talking points are at **Attachment D**.

Consultation: YES

14. Clean Energy Regulator.

ATTACHMENTS

A: *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*
B: Explanatory statement for the amendment rule
C: Background
D: Talking points

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

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

Dated

Melissa Price
Minister for the Environment

Contents

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.

EXPLANATORY STATEMENT

Issued by the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

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

Purpose of amendment rule

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 trees.

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the Amendment Rule) clarifies the intent of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (as varied in 2018) (the Human-Induced Regeneration Method). The Amendment Rule ensures the Clean Energy Regulator (the Regulator) has the information necessary to assess compliance with requirements in the Emissions Reduction Fund method for human-induced regeneration projects. The Amendment Rule also provides clarity around the timeframes within which land under the method must attain forest cover to obtain further carbon credits.

The Amendment Rule also ensures that amounts payable by the Clean Energy Regulator (the Regulator) under carbon abatement contracts are able to be set-off against money payable to the Regulator by a person who has failed to comply with a relinquishment requirement under the Act.

The Amendment Rule achieves these changes by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule).

Background: Emissions Reduction Fund

In 2014, the Australian Government amended the Act with the *Carbon Farming Initiative Amendment Act 2014* (CFI Amendment Act). The CFI Amendment Act established the Emissions Reduction Fund by expanding the crediting of emissions reductions under the Carbon Farming Initiative to non-land based sectors of the Australian economy.

The primary objective of the Emissions Reduction Fund is to assist Australia to meet its greenhouse gas emissions reduction targets, consistent with its international obligations under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects (projects declared under section 27 of the Act). The Regulator is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

Background: native forest regeneration

Native forest regeneration methods provide opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover.

The Human-Induced Regeneration Method provides opportunities for regenerating forest on land that has been without forest cover for at least 10 years and does not have forest cover at the start of the project (i.e. does not have pre-existing forest cover). The land must have been subject to management practices during those 10 years that suppressed the development of forest, and the land must be not able to attain forest cover without a change in those management practices. Land must have 'forest potential' – the potential to achieve forest cover – to be eligible for a project using the method.

Forest cover is defined as land with an area of at least 0.2 of a hectare with trees that are 2 metres or more in height and provide crown cover of at least 20% of the land. This definition aligns with the definition used for Australia's international reporting obligations and targets.

Project proponents use the Australian Government's publicly available Full Carbon Accounting Model (FullCAM) to estimate abatement. FullCAM was developed to estimate greenhouse gas emissions and carbon sequestration for land systems in Australia, using spatial data inputs. It is used in preparing estimates for Australia's National Greenhouse Accounts and reporting against the Government's international emissions reduction commitments.

The method initially used the Reforestation Modelling Tool to estimate abatement. The method was varied in 2016 to, among other things, replace use of the Reforestation Modelling Tool with the FullCAM model.

Amendments to the Principal Rule provide assurance that crediting under the method aligns with on-ground progress of regenerating vegetation towards forest cover.

The amendments apply to the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* and its variants. They also apply to any projects under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (Native Forest from Managed Regrowth Method) which include land previously in a project under the Human-Induced Regeneration Method.

Under the Act the issuance of Australian carbon credit units is separate to the declaration of eligible offsets projects and offsets reporting under the applicable method. After submitting an offsets report, project proponents can submit an application for a certificate of entitlement for the reporting period covered by the offsets report. Under subsection 15(2) of the Act, the Regulator cannot issue a certificate of entitlement unless satisfied of a number of requirements. Paragraph 15(2)(h) includes in that list any additional requirements specified in the regulations or legislative rules.

Under the Act, offsets reports must include both information required by the applicable method and information required by legislative rules.

Central to the Amendment Rule is a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for offsets reports including the applicable carbon estimation areas (CEAs).

The Amendment Rule also clarifies the information necessary to demonstrate that the forest potential requirements of the method are being met. This complements Regulator guidance (*Guidance on stratification, evidence and records*; available from the Regulator's website www.cleanenergyregulator.gov.au) setting out information to be provided by proponents at

5-year intervals to demonstrate that land within CEAs continues to have forest potential and has made progress towards attaining forest cover.

Land under existing CEAs (land part of a project area of a registered human-induced regeneration project on 15 August 2018) is required to attain forest cover by 15 years after the declaration of the project (or 15 years after the CEA modelling commencement date if that is later) to receive further credits through certificates of entitlement. The forest cover assessment date for each CEA may be delayed where:

- 'eligible growth disruptions' of up to 5 years have occurred in the CEA (for CEAs affected by disturbances that stop growth or by growth pauses)
- the modelled abatement of the CEA does not exceed 5 tonnes per hectare, unless the project is in the final 5 years of its crediting period.

For projects declared after 15 August 2018 or land added to an existing project after 15 August 2018, the same requirement to attain forest cover applies, but the 15-year period has a different starting point. It is the 15 years after the commencement of the modelling of forest regeneration in the relevant CEA. The forest cover assessment date for the CEA may be delayed where:

- 'eligible growth disruptions' have occurred in the CEA before the commencement of the project crediting period
- 'eligible growth disruptions' have occurred in the CEA during the crediting period (with no more than 5 years of eligible growth disruptions during the crediting period able to contribute to the total eligible growth disruption period)
- the modelled abatement of the CEA does not exceed 5 tonnes per hectare, unless the project is in the final 5 years of its crediting period.

These provisions support the principle that regeneration projects should be undertaken on land with existing forest potential that is capable of attaining forest cover.

The provision for extending the 15-year period where the CEA's modelled abatement does not exceed 5 tonnes per hectare ensures vegetation in low productivity areas is required to attain forest cover within timeframes realistic for those conditions. Modelling undertaken in accordance with the relevant method needs to show the CEA has more than 5 tonnes of carbon per hectare for the forest cover requirement to apply. This benchmark abatement level of 5 tonnes per hectare is supported by data on growth of vegetation in regions where regeneration projects may be undertaken, including the time this vegetation generally takes to reach forest cover. The data shows that within a 15-year period and where modelled regeneration reaches 5 tonnes, on-ground regrowth is expected to have attained forest cover. The provision also ensures where disturbances such as wildfires reduce carbon stocks, projects are not required to have attained forest cover until stocks have recovered to more than 5 tonnes of carbon per hectare, providing there is still more than 5 years left until the end of the crediting period.

Limiting the crediting of CEAs yet to meet the forest cover requirements after a reasonable period of time supports consistency between modelled abatement estimates and on-ground project performance. The offsets integrity standards under the Act require that methods provide for conservative estimates of abatement.

Proponents could elect to restratify CEAs so that crediting would only be limited for areas of CEAs that have not substantially reached forest cover. The Amendment Rule has no effect on crediting for CEAs that have reached forest cover within their relevant 15-year period.

Operation

The Act is supported by subordinate legislation, including the Principal Rule, and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations). The Principal Rule and Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

The Minister for the Environment is empowered to make legislative rules under section 308 of the Act. The Amendment Rule supports the operation of the Human-Induced Regeneration Method and any projects under the Native Forest from Managed Regrowth Method which include land previously in a project under the Human-Induced Regeneration Method.

The primary changes to the Principal Rule relate to clarifying reporting to ensure the Regulator has the necessary information to administer the method and clarifying timeframes for land under the method to attain forest cover to obtain further carbon credits.

In particular, section 9AA sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and when regular forest potential information is inadequate. Subsection 70(3A) and paragraph 71(c) strengthen offsets reporting requirements by specifying the information that must be included in offsets reports for demonstrating progress towards forest cover at 5-year intervals and the attainment of forest cover once the forest cover assessment date passes. Section 79A provides for additional audit requirements for projects with CEAs that have passed the forest cover assessment date.

Section 95 sets out provision for the Regulator to set-off amounts payable by the Regulator under carbon abatement contracts against money payable to the Regulator under relinquishment requirements of the Act.

Detailed description of the Amendment Rule

Attachment A outlines and describes the sections in the Amendment Rule.

Public consultation

Public consultation on a draft Amendment Rule was undertaken from 23 August 2018 to 13 September 2018. People were invited to make written submissions or to call or email the Department of the Environment and Energy to provide comments. Submissions and feedback received have been taken into account in the Amendment Rule.

Regulatory impact

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment and Energy certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund. The decisions included 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. These minor amendments will not materially impact the regulatory impact of the scheme.

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.

ATTACHMENT A

Details of the sections in the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*

1. Name

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*.

2. Commencement

Section 2 provides that the Amendment Rule would commence on the seventh day after it is registered.

3. Authority

Section 3 provides that the Amendment Rule would be made under section 308 of the Act. Section 304 of the Act also allows such rules to apply, adopt or incorporate matters in any instrument or writing as in force from time to time.

4. Schedules

Section 4 provides that the Amendment Rule would, when made, amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) in the manner set out in the schedules. The power to make rules in section 308 of the Act includes the power to amend or revoke rules that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Schedule 1—Amendments

1 Section 9AA (Issue of certificate of entitlement—eligibility requirements for human-induced regeneration projects)

Section 9 of the Principal Rule specifies eligibility requirements that must be met in order for a certificate of entitlement to credits to be issued to an eligible offsets project for a reporting period.

This item inserts a new section 9AA that sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and in relation to the information required. Whether or not this section is satisfied does not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period.

The new subsection 9AA(2) ensures the information requirements set out in new paragraphs 70(3A)(a) and 71(c) and described below are adequately met in order for a regeneration project to be eligible for a certificate of entitlement.

The new subsection 9AA(3) is the central requirement to ensure that all CEAs that are past their forest cover assessment date must have attained forest cover to be eligible for a certificate of entitlement.

Subsection 9AA(4) sets out what is required for a CEA to be taken to have attained forest cover. The requirements are designed to ensure only those areas of land within a CEA meeting the method's definition of forest cover can be taken to have attained forest cover. In order to reliably determine whether forests meet the minimum area of 0.2 hectares, the assessment of forest cover must be undertaken at the 0.2 hectare scale. Any land of 0.2 hectares (or more) in area that does not have trees two metres or more in height and providing crown cover of at least 20% of the land does not meet the forest cover definition. Therefore the section requires assessment at the 0.2 hectare scale.

Paragraph (4)(a) provides for a simplified assessment approach; if the most recent version of the forest cover mapping used by the Government's National Inventory Report to report sequestered carbon shows over 90% of the area of the CEA as having forest cover, the CEA is taken to have attained forest cover. This approach is permitted because the National Inventory Report forest cover mapping is undertaken at a scale of less than 0.2 hectares (0.0625 hectares) and applies the requirement of a minimum contiguous forest area of 0.2 hectares to classify land as having forest cover. How to access the forest cover mapping is described on the Department's website (www.environment.gov.au). The Department is streamlining public access to the mapping.

Paragraph (4)(b) provides for a more detailed assessment such that when a CEA is considered as 0.2 hectare portions, and over 90% of those 0.2 hectare portions have attained forest cover as per the definition, the CEA is taken to have attained forest cover.

If a CEA were to be credited for abatement where it does not attain forest cover in at least 90% of the 0.2 hectare portions by the forest cover assessment date, the crediting is unlikely to be conservative. This is because the models used for estimating abatement under the method are calibrated to provide estimates of abatement where each 0.2 hectare portion of land attains forest cover. The requirements of subsection 9AA(4) help ensure carbon abatement credited under the method is conservative, consistent with the offsets integrity standards of the Act.

Allowing for 90% of 0.2 hectare portions to have attained forest cover, rather than 100%, reduces the need for re-stratification in circumstances where a small proportion of a CEA has not attained forest cover. Furthermore, where a small proportion of the CEA (10% or less of the 0.2 hectare portions) may be on the margins of having attained forest cover, the whole of the CEA would not be prevented from being taken to have attained forest cover.

The Department will consult stakeholders over whether it is possible to develop an option for future inclusion under subsection (4) to allow proponents to delay the forest cover assessment date until no later than 5 years before the end of the crediting period, where robust, direct measurement of carbon stocks can show that at least as much carbon has accumulated under the relevant pools as has been claimed in offsets reports for the span of the project.

Subsection 9AA(5) provides for requirements to be set out in the Carbon Farming Initiative Mapping Guidelines to guide assessment of CEAs under paragraph (4)(b). It requires assessments under paragraph 4(b) to follow those requirements and take into account guidelines published by the Regulator on its website (www.cleanenergyregulator.gov.au). The Carbon Farming Initiative Mapping Guidelines are already incorporated into existing methods and requirements of the Principal Rule (such as subsection 13(2) of the Principal Rule). They are available at the Department's website: www.environment.gov.au. They are incorporated as in force from time to time consistent with s 304 of the Act.

Subsection 9AA(6) defines when a CEA has passed the forest cover assessment date. This occurs once both the tonnes of carbon per hectare amount under paragraph (6)(a) and the time period set out under paragraph (6)(b) or (6)(c) have been surpassed.

Where the 15-year time period has passed, but not the tonnes of carbon amount (or vice versa), the forest cover assessment date has not yet passed.

The provision under paragraph (6)(a) ensures land is only required to have attained forest cover once it is reasonable to expect it to have done so. The relationship between tonnes of carbon present in regenerating forest and canopy cover informs this provision. However, it does not apply for the last 5 years of a project's crediting period.

Paragraphs (6)(b) and (6)(c) set out separate timing for existing CEAs (an area that was part of the project area for a human-induced regeneration project on 15 August 2018) and CEAs that are not existing CEAs respectively.

For existing CEAs, under paragraph 6(b), the forest cover assessment date is the later of 15 years after declaration of the project, or 15 years after the commencement of modelling of forest regeneration for the CEA, disregarding any eligible growth disruption period (see example 1 below). For this purpose the declaration is the day the Regulator made the decision to declare the project and not when it may have taken effect under earlier provisions in the Act which allowed the backdating of the effect of the declaration.

For CEAs that are not existing CEAs, under paragraph (6)(c), the forest cover assessment date is 15 years since the modelling of forest regeneration commenced in the CEA, disregarding any eligible growth disruption period (see example 2 below).

Subsection (7) provides for further definitions relevant to the interpretation of 9AA: carbon estimation area (CEA), eligible growth disruption period, existing CEA, forest potential requirement, human-induced regeneration project, National Inventory Report and tree.

For the 'eligible growth disruption period', the definition covers any period of time during which carbon stocks do not increase (for example due to a growth pause event), when such a period occurs after the carbon stocks had begun to increase following the modelled commencement of regeneration. An eligible growth disruption would run for the period that the model shows a zero or negative change in abatement from one step to the next, rather than the period of time it takes carbon stocks to recover to previous levels (in the event of a disturbance, for example). Paragraph (d) of the definition sets out that the eligible growth disruptions are limited to 5 years during a project's crediting period. Where the total eligible growth disruptions during the crediting period are greater than 5 years, the eligible growth disruptions contributing to the eligible growth disruption period is taken to be 5 years. Eligible growth disruptions occurring before the crediting period are, in effect, unlimited in their contribution to the eligible growth disruption period. Paragraph (c) ensures that periods of time before the declaration day that are already outside of the 15 year assessment timeframe under subparagraph (6)(b)(i) do not further extend that date.

An 'existing CEA' is defined in relation to whether all of the land area of a CEA was part of the project area of a human-induced regeneration project on 15 August 2018. This could include land already stratified as a CEA and land in a project area on that date which is yet to be stratified as a CEA.

For 'human-induced regeneration project', the definition includes projects under the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*; and projects under the *Carbon*

Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013 which have any land that was previously part of a project under the *Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

Other definitions are taken from the applicable methodology determinations.

Example 1:

A project is declared in 2017 and has a CEA regeneration start date of 2012. The CEA has a modelled growth pause from 2013 to 2017. There are no growth pauses during the project crediting period and modelled carbon per hectare for the CEA does not exceed 5 tonnes until 2035. The forest cover assessment date for this CEA would be 2035.

- The earliest possible forest cover assessment date for the CEA would be 2032 (15 years since the project declaration date).
- However, in this example, the modelled tonnes of carbon per hectare do not exceed 5 tonnes until 2035, therefore 2035 would be the forest cover assessment date.
- The latest possible forest cover assessment date for this example CEA, if the modelled carbon per hectare had not exceeded 5 tonnes before this, would have been 2037 (when it reached the final 5 years of the project crediting period).

Example 2:

A project is declared in 2020 and has a CEA regeneration start date of 2015. The CEA has a modelled 3-year growth pause from 2016 to 2018 and a further modelled 6-year growth pause from 2025 to 2030. The forest cover assessment date for this CEA would be 2038.

- The earliest possible forest cover assessment date for the CEA would be 2030 (15 years since the modelling of regeneration in the CEA commenced).
- However, in this example CEA, there is an eligible growth disruption period of 8 years which delays the forest cover assessment date until 2038:
    - 3 years prior to the project crediting period (2016-2018)
    - 5 years during the project crediting period (the eligible growth disruption period can only include 5 years during the crediting period so the 6-year growth pause from 2025 to 2030 is taken to be 5 years)
- The latest possible forest cover assessment date for this example CEA, if the modelled carbon per hectare had not exceeded 5 tonnes before this, would have been 2040 (when it reached the final 5 years of the project crediting period).

2 After subsection 70(3) (Information for human-induced regeneration projects)

Section 70 of the Principal Rule specifies the information that must be set out in an offsets report about an eligible offsets project for a reporting period. The Amendment Rule provides further requirements for projects under the Human-Induced Regeneration Method.

This item inserts a new subsection 70(3A) which, together with new paragraph 71(c), specifies the information that must be included in offsets reports for demonstrating progress towards forest cover at 5-year intervals and the attainment of forest cover once the forest cover assessment date (see above) passes. Under subsection 9AA(2) it is an eligibility requirement that the information provided to demonstrate progress towards forest cover be

sufficient to enable the Regulator to determine if the method's forest potential requirements are satisfied for each included CEA. The information provided would need to take into account any guidelines issued by the Regulator. These new requirements only apply to human-induced regeneration projects, as defined in subsection 9AA(7).

Paragraph (3A)(a) sets out the information to be included in offsets reports at least every 5 years, if the CEA being reported on has not already attained forest cover. This provision is intended to meet the Regulator's information requirements to inform the 5 yearly regeneration checks described in the Regulator's guidance (*Guidance on stratification, evidence and records* available from the Clean Energy Regulator's website: www.cleanenergyregulator.gov.au, as in force from time to time). The paragraph does not identify specific times at which offsets reports must be submitted. The paragraph specifies that the information is also required if requested by the Regulator after conducting a risk-based assessment of the project. Reporting under this paragraph is generally expected to be every 5 years, in line with the Regulator's guidance.

Paragraph (3A)(b) sets out the information required to be included in an offsets report for a CEA that has passed its forest cover assessment date. This is essentially the evidence that the requirement in subsection 9AA(3) has been met.

Paragraph (3A)(c) sets out the information required to be included in all offsets reports for each CEA included in the offsets report. These data points reflect the information necessary for auditors and the Regulator to determine how to apply section 9AA.

3 After subsection 70(5) (Definitions)

This item inserts a new subsection 70(6) which provides for further definitions relevant to the interpretation of new subsection 70(3A): carbon estimation area (CEA), eligible growth disruption period, forest cover assessment date and human-induced regeneration project.

4 At the end of section 71 (Documents that must accompany offsets reports)

Section 71 of the Principal Rule specifies documents that must accompany offsets reports. The Amendment Rule inserts new paragraph 71(c) which sets out that where an offsets report for a human-induced regeneration project is required to contain information under subsection 70(3A), it must be accompanied by documents to support the information. The subsection provides for the Regulator providing guidance on the documents required.

5 After subsection 74(2) (Initial audits)

Section 74 of the Principal Rule outlines the requirements of initial audits for eligible offsets projects.

The Amendment Rule includes a new subsection 74(2A) to enable audit reports to cover any matter identified by the Regulator on a risk basis with mutual agreement of the project proponent, similar to existing paragraph 76(2)(c).

6 After section 79 (Qualified or other conclusion audits)

This item inserts a new section 79A to support auditing of forest attainment by regeneration projects.

The provisions introduced in this section set out additional audit requirements relating to forest cover. Projects that have passed the forest cover assessment date would need to be audited. Projects would be exempt from this requirement if a previous audit found that the

requirement to attain forest cover (subsection 9AA(3)) has already been satisfied, or where the Regulator agrees in writing that an audit is unnecessary. One of the reasons why an audit would be unnecessary is where a subsequent audit has been scheduled or rescheduled to cover the relevant period. If a project has a range of forest cover assessment dates, the costs of multiple audits could also be considered.

7 After section 94 (Set-off of amounts payable under carbon abatement contracts)

Subparagraph 182(b)(ii) of the Act allows the Regulator to set-off an amount payable under section 179 or 180 of the Act against an amount of a type specified in the Rule. Sections 179 and 180 of the Act relate to where a requirement to relinquish credits has not been met. This could have arisen because of a reversal of carbon stocks or the provision of false or misleading information to the Regulator.

This item inserts a new section 95 which applies to amounts payable under section 179 or 180, regardless of which methods may have applied or the reason for relinquishment. Section 95 allows amounts payable under carbon abatement contracts to be 'of a kind specified' for the purposes of subparagraph 182(b)(ii). This avoids the Regulator needing to pay an amount (in whole or in part) to a person under a carbon abatement contract who has an outstanding debt with the Regulator for a failure to comply with relinquishment requirements.

ATTACHMENT B

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 Rule (No. 2) 2018

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

The Amendment Rule details additional eligibility requirements relating to the issuance of certificates of entitlement to carbon credit units for human-induced regeneration projects. These eligibility requirements relate to the attainment of forest cover within a reasonable timeframe and in alignment with the abatement calculated from project modelling. They are informed by research on relationships between forest cover and biomass levels. They make allowances for slow regeneration and disruptions to regeneration. The Amendment Rule sets out information to be provided to the Clean Energy Regulator to support the Regulator's administration of the method. The information allows the Regulator to ensure a project's regrowth is progressing towards the attainment of forest cover, and pre-existing forest cover has been excluded from Carbon Estimation Areas. The Amendment Rule sets out audit requirements relating to forest attainment by human-induced regeneration projects.

In addition to provisions specific to the Human-Induced Regeneration Method, the Amendment Rule ensures that amounts payable by the Clean Energy Regulator under carbon abatement contracts are able to be set-off against money payable to the Regulator by a person who has failed to comply with a relinquishment requirement under the Act.

It does this by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the ***Principal Rule***).

Human rights implications

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

A detailed statement of compatibility of the provisions of the Emissions Reduction Fund is provided in the Explanatory Memorandum for the *Carbon Farming Initiative Amendment Bill 2014*: http://www.environment.gov.au/system/files/pages/7aef9f12-8ba1-4d9a-bf6a-1bc89a0bd6f5/files/cfi-amendment-bill-explanatory-memorandum.pdf .

Conclusion

The Amendment Rule 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*.

ATTACHMENT C

Background

Emissions Reduction Fund legislation and methods

Offsets projects under the Emissions Reduction Fund must be undertaken in accordance with a methodology determination (method), which is a legislative instrument under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act). The Act authorises you to make methods.

The *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule) supports the operation of the Act. The Rule provides details on, for example, the information to be included in offsets project reports, and requirements that projects need to meet before they can receive Australian carbon credit units. The Act authorises you to make legislative rules.

Emissions Reduction Fund projects that store carbon in trees or soil can generate Australian carbon credit units for 25 years. Where these projects secure a contract with the Clean Energy Regulator, the contract can be for up to 10 years.

Native forest regeneration methods

The Human-Induced Regeneration method enables Emissions Reduction Fund projects that change land management to regenerate native forest. Projects earn credits for carbon stored in vegetation on land where vegetation was previously cleared or suppressed (for example by grazing). The abatement results from changes in land management, such as grazing management and fencing. The method prohibits clearing of vegetation, except in limited circumstances. Projects earn credits based on estimates generated by a model (called FullCAM). Projects are in south-west Queensland, western New South Wales and Western Australian rangelands.

The Native Forest from Managed Regrowth method also provides for projects that change land management to regenerate native forest. The method differs from the Human-Induced Regeneration method in some of the eligibility requirements, project activities, and the approach for estimating credits. However, there are a number of similarities between the two methods. Native Forest from Managed Regrowth projects account for about two per cent of the contracted abatement. All projects are in south-west Queensland.

Emissions Reduction Assurance Committee concerns

The independent Emissions Reduction Assurance Committee (ERAC) routinely reviews methods to ensure they continue to the meet the offsets integrity standards set out in the Act. The ERAC is currently reviewing the Human-Induced Regeneration and Native Forest from Managed Regrowth methods and expects to provide their report to you by the end of 2018.

The ERAC is concerned the methods do not adequately ensure the rate of crediting of carbon abatement appropriately reflects the actual growth of regenerating forests in all projects. This is relevant to one of the offsets integrity standards, which require methods to apply conservative estimates, projections and assumptions. The concern is the methods could allow projects to be

over-credited. The ERAC wrote to the former Minister for the Environment and energy about its concerns (attached).

Outline of Amendment Rule

The *Carbon Credits (Carbon Farming Initiative) Rule 2015* includes details on the information to be included in offsets reports for Emissions Reduction Fund projects. Projects must submit an offsets report and meet other requirement in the Rule before they can receive credits.

The method doesn't specify a particular time period for projects to attain forest cover. The Amendment Rule clarifies reporting and crediting requirements for projects under the Human-Induced Regeneration method, to reduce the risk of over-crediting. Project proponents would be required to provide evidence, every five years, that projects are making progress towards achieving forest cover.

Under the Amendment Rule, if forest cover is not achieved within 15 years, projects could not obtain further credits until it is achieved. If projects do not reach forest cover in the required time, they would not need to relinquish credits that have already been issued.

There are provisions to allow projects some extra time beyond 15 years to reach forest cover. There are two mechanisms for this.

- Projects may have some land with low productivity. If modelled abatement does not exceed five tonnes per hectare at the 15-year mark, it indicates tree growth is slower than would normally be expected. In these cases, delaying the date for attaining forest cover would be allowed.

- Events such as fire or drought can reduce growth. Where these events occur, projects can pause modelling of abatement for a period of time until growth resumes.

To give existing projects (projects registered before 15 August 2018) time for any necessary adjustments to their business plans, the starting point for their 15-year period would differ from new projects, to allow them more time overall to reach forest cover compared to new projects.

The following simple example illustrates how an existing project would need to meet the requirements of the Amendment Rule.

- A landholder has a grazing property in western New South Wales. The property has areas of native forest and areas of native pasture where grazing by livestock has suppressed tree growth, and there has been no forest for at least 10 years.
- In 2016 the landholder identified part of the pasture land where there were trees with the potential to grow into a forest if grazing pressure was reduced. With assistance from a project developer, the landholder registered a Human-Induced Regeneration project with the Clean Energy Regulator in 2016, and changed management of the livestock to encourage more tree growth.
- The landholder periodically submits offsets reports to the Clean Energy Regulator. For the reports submitted five and ten years after the project started, the landholder follows the Clean Energy Regulator's guidance to assess whether the land continues to have forest potential after five years. The landholder provides information specified in the Amendment Rule in the offsets report. If there is continued forest potential, the Regulator will issue credits to the landholder.
- The earliest the project would be required to demonstrate attainment of forest cover in order to be issued further credits would be 2031 (15 years after the project was registered).
- Drought conditions in 2018, 2019 and 2020 result in a pause in tree growth in part of the project. While the trees still have forest potential, the lack of growth means no increase in carbon storage, and the project does not receive credits for that part of the project over the three years. The areas affected by the three-year pause in growth would have until 2034 to reach forest cover.
- The project reaches forest cover within the required period, and receives further credits up to the end of the 25-year crediting period.

s47C

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Josh Frydenberg MP
Minister for the Environment and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I wrote to you on 28 February 2018 to advise that the Emissions Reduction Assurance Committee is reviewing the following Emissions Reduction Fund methodology determinations (methods):

- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013*; and
- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013.*

Both methods provide for projects that regenerate native forests by changing management of the land.

The Committee's reviews are assessing the methods against the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act). The Committee has undertaken public consultation on the reviews, and expects to provide you with a final report before the end of 2018.

The Committee has identified several aspects of the methods that could be improved to ensure their continued compliance with the offsets integrity standards. The most pressing of these relates to whether the methods ensure the rate of crediting of carbon abatement appropriately reflects actual abatement through growth of regenerating forests.

The Committee believes there needs to be a mechanism that provides greater assurance that crediting aligns with on-ground progress of regenerating vegetation towards forest cover. Without such a mechanism, the methods could allow some projects to be issued Australian Carbon Credit Units in excess of actual increases in carbon storage.

Amongst other things, the offsets integrity standards require methods to apply conservative estimates, projections and assumptions. s47C

s47C

s47C The Committee also believes there could be greater clarity on reporting requirements for crediting claims made under the methods.

The Department of the Environment and Energy has proposed to the Committee that these matters be addressed through an amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. The Committee understands the proposed Rule amendment would clarify requirements for projects to report to the Clean Energy Regulator on continued progress towards reaching forest cover, and, in some circumstances, restrict crediting until projects reach forest cover. The Committee notes the proposed Rule amendment would complement the Clean Energy Regulator's approach and guidance on regeneration projects.

The Committee understands the process for making the Rule amendment will involve:

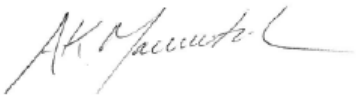
- preliminary work between the Department, technical experts and other stakeholders to refine the design and drafting of the amendment;
- release of a draft amendment for public consultation for 28 days;
- finalising the form of the amendment, having regard to the information obtained through the public consultation process; and
- formal making of the Rule amendment by you under section 308 of the CFI Act, after which the amendment will be tabled in both Houses of Parliament in accordance with the requirements in Part 2 of the *Legislation Act 2003*.

The Department has informed the Committee that this process should take approximately eight weeks.

The Committee supports the proposed Rule amendment as a practical and effective way of addressing the identified issues. The Committee would like to see the amendment made in a timely manner, in accordance with the process and timeframe described above.

s47C

Yours sincerely



Andrew Macintosh
Chair
Emissions Reduction Assurance Committee

27 June 2018

Attachment D

Suggested talking points

What is the Human-Induced Regeneration method?

- The Human-Induced Regeneration method was developed under the Carbon Farming Initiative in 2013.
- This method provides opportunities for landholders to earn carbon credits by changing management of their land to allow native vegetation to regenerate and grow into forests.
- Farmers can reinvest income from these projects in their properties to improve productivity, for example by building new fences to help manage livestock.
- Projects under this method have only been operating for a few years, and will be able to earn credits over 25 years.

What changes are you making?

- Amendments to the Emissions Reduction Fund's legislative rule clarify some of the reporting and crediting requirements for projects under the Human-Induced Regeneration method.
    - These changes clarify the time allowed for regenerating native vegetation to reach forest cover.
- The amendments to the rule will work together with new guidance from the Clean Energy Regulator on how to monitor progress of regeneration projects towards achieving forest cover.
- The Department and the Regulator have consulted project participants and taken their contributions into account.

Why are you changing the rules now?

- The Government is committed to ensuring the integrity of the Emissions Reduction Fund.
    - Adopting these changes now will give more certainty to project participants about how assessment and crediting will work for projects already under way.
    - It will also help in designing new projects to best realise their carbon storage potential.

Why doesn't the rule also apply to all projects under the Native Forest from Managed Regrowth method?

- The proposed rule would apply to any projects that may elect to transfer from the Human-Induced Regeneration method to the Native Forest from Managed Regrowth method.
- The methods are similar but there are also some differences, and the Department of the Environment and Energy is considering the best way to clarify the requirements for projects under the Native Forest from Managed Regrowth method.

If asked: **Will changing the rules have a negative effect on farmers already under pressure from the drought?**

- Farmers in drought-stricken regions are receiving income from projects that regenerate native vegetation.
    - The Government has more than 150 contracts for projects under the Human-Induced Regeneration method.
    - Most of these projects are in western Queensland and western New South Wales.
    - These contracts are worth around $1.1 billion over 10 years (based on the average price from Emissions Reduction Fund auctions).
    - The Government has already paid around $110 million for carbon credits generated under these contracts.
- These projects provide local employment and spending in local communities.
- Projects are already required to reflect changes in vegetation growth rates. This is necessary to make sure projects are only issued credits for genuine emissions reductions.
- The changes to the rule clarify these requirements. There would be extra checks on projects to make sure the number of credits issued continues to match vegetation growth.
    - The earliest these checks would be applied is 15 years after projects started. The first project was registered in 2013, so the earliest the changes will apply is 2028.
    - There is an allowance for tree growth being affected by drought. This gives projects up to 20 years before the new checks would apply.
    - There will be no effect on projects if vegetation continues to regenerate as expected.
- The changes to the rule don’t affect credits already issued or payments already made under contracts.

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

PDR: MS18-001232

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND: LEGISLATIVE RULE AMENDMENT FOR HUMAN-INDUCED REGENERATION METHOD

Timing: 26 November 2018 to enable timely commencement of the amendment.

Recommendations:

1. That you make the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* by signing the instrument at **Attachment A**.

Signed / Not signed

2. That you approve the Explanatory Statement for the Amendment Rule at **Attachment B**.

Approved / Not approved

Minister: Date: 21/11/18

Comments: noted

Clearing Officer: Sent 15/11/18	Katrina Maguire	Assistant Secretary Land Branch	s22
Contact Officer:	s22	Director Forests Section	

Key Points:

1. The Emissions Reduction Fund Human-Induced Regeneration method provides for projects that regenerate native forest by changing the way the land is managed.
2. Most existing Human-Induced Regeneration projects are in south-west Queensland and western New South Wales. Projects are now also being registered in Western Australia's rangelands. Human-Induced Regeneration projects represent about 48 per cent of the total abatement that is contracted to the Government. Eligible carbon credits are calculated based on a model.
3. The proposed amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* at **Attachment A** clarifies reporting and crediting requirements for projects under the Human-Induced Regeneration method, to reduce the risk of over-crediting.
4. The independent Emissions Reduction Assurance Committee (ERAC) is reviewing the method to assess whether it continues to meet the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*. The ERAC is concerned the method could allow over-crediting, because it does not adequately ensure the rate of crediting of carbon abatement appropriately reflects actual growth of regenerating forests in every project. **Attachment C** provides background on the method and the concerns.
5. The Amendment Rule provides for better alignment between the rate of crediting and actual growth, by making continued crediting after 15 years conditional on projects being

able to demonstrate they have reached forest cover. Forest cover is defined as trees two metres in height, with 20 per cent canopy cover, and extending over at least 0.2 of a hectare). The Amendment Rule would apply to new and existing projects. Further details are at **Attachment C.**

6. The Amendment Rule is complemented by operational guidance developed by the Clean Energy Regulator to assess progress towards achieving forest cover.

7. The Department, Clean Energy Regulator and Chair of ERAC have been consulting carbon project developers about the proposed amendment since July 2018. Project developers manage administration of most of the existing projects for landholders. They are concerned the Amendment Rule would change the way the existing methods operate, with retrospective effects that would undermine confidence in the Fund. They also consider it would make reporting on projects more complex. However, most project developers acknowledge the rationale for the Amendment Rule.

8. Landholders with existing projects object to the intent of the Amendment Rule because they see it reducing certainty about future crediting.

9. The Department released the draft Amendment Rule for public consultation between 23 August and 13 September 2018, and received 20 submissions. The Department has revised the Amendment Rule to adopt some suggestions from submissions. These include removing a proposed clause relating to treatment of pre-existing forest cover, while the Department discusses the most appropriate approach with the Regulator and stakeholders.

10. The Amendment Rule includes an unrelated administrative change (item 7). It avoids the Clean Energy Regulator having to pay a person for credits under a carbon abatement contract if the person has an outstanding debt with the Regulator for failing to comply with a requirement to relinquish credits.

11. The Department's Economics Section agrees the Amendment Rule is covered by the regulatory burden estimate approved for the Emissions Reduction Fund in 2014.

12. Another method, the Native Forest from Managed Regrowth method, is similar to the Human-Induced Regeneration method. It has similar over-crediting risks. The Department will come back to you with a further amendment to apply the rule to all projects under the Native Forest from Managed Regrowth method following further consultation with the one project participant (see covering brief for MC18-015257).

Sensitivities and Handling

13. There could be media interest in whether the amendment rule reinforces concerns about the robustness of the methods. Suggested talking points are at **Attachment D**.

Consultation: YES

14. Clean Energy Regulator.

ATTACHMENTS

A: *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018*
B: Explanatory statement for the amendment rule
C: Background
D: Talking points

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

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

Dated 21/11/18

Melissa Price
Minister for the Environment

PDR: MS19-000067

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND NATIVE VEGETATION REGENERATION METHODS: CONSULTATION ON LEGISLATIVE RULE CHANGES

Timing: 27 February 2019 to allow timely commencement of consultation.

Recommendation:

1. That you agree to consult on proposed changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to the Emissions Reduction Fund native vegetation regeneration methods (**Attachment A**).

Agreed / Not agreed

Minister: Date:

Comments:

Clearing Officer: Sent 13/2/19	Katrina Maguire	Assistant Secretary Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director Forests Section	s22

Key Points:

1. The Department proposes changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the rule) to ensure the rate of crediting under the Native Forest from Managed Regrowth method appropriately reflects actual growth of regenerating forests.

2. These changes would apply the same requirements to the Native Forest from Managed Regrowth method as changes already adopted for the Human-Induced Regeneration method in a rule amendment you made on 21 November 2018 (see MS18-001232).

3. When you made the previous amendment, the Department informed you it would come back to you with a further amendment to apply the rule to projects under the Native Forest from Managed Regrowth method, after further consultation with the only project participant under that method, Devine Agribusiness.

4. The amendments respond to Emissions Reduction Assurance Committee (ERAC) concerns the native vegetation regeneration methods could allow over-crediting of carbon abatement in some projects. The ERAC is reviewing the two native vegetation regeneration methods to assess whether they continue to meet the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

5. The ERAC wrote to you in January 2019 advising it expected to finalise its review report in March 2019. s47C

6. The Department has had further discussions with Devine Agribusiness since November 2018. s47G(1)(a)

7. s47G(1)(a) We will advise your office if there is any need to revise the draft rule before releasing it for public consultation.

8. The proposed amendments also include further changes to the rule, which would apply to projects under both methods. These changes would require projects to adopt the same approach when they identify and exclude any areas of pre-existing forest at the start of a project, to when they later assess whether they have attained forest cover.

    a. These changes would make it easier for proponents to comply with the rule, and provide more certainty that projects continue to only include eligible land.

    b. The Department has sought preliminary views from Human-Induced Regeneration and Native Forest from Managed Regrowth project proponents. Human-Induced Regeneration project proponents indicated support for the concept, and suggested further changes. The Department has made changes in response to the suggestions.

9. An exposure draft rule (including a version showing placement of changes in the rule) and explanatory statement (**Attachment A**) would be released for public consultation for 14 days. Subject to the outcomes of the public consultation, the Department would submit a final rule to you for approval.

Sensitivities and Handling

10. Recent media articles have referred to a CSIRO submission to the ERAC's review of the methods, which raised uncertainties about additionality and estimates of abatement. s47C Suggested talking points are at **Attachment B**.

Consultation: YES

11. Clean Energy Regulator.

ATTACHMENTS

A: Exposure draft rule and explanatory statement
B: Suggested talking points

Australian Government

Department of the Environment and Energy

Emissions Reduction Fund: Proposed amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 relating to native vegetation regeneration projects, February 2019

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) both of the following apply:

(i) 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;

(ii) that version of the maps does not identify any pre-existing forest cover in the carbon estimation area, taking into account any

guidelines published by the Regulator on its website for the purpose of this subparagraph, as in force from time to time; or

Note: In 2019, the Regulator's website was http://www.cleanenergyregulator.gov.au. Under the applicable methodology determination for the regeneration project a project proponent may choose to re-stratify the carbon estimation areas to exclude areas shown as pre-existing forest cover, or areas that have not attained forest cover, to enable this requirement to be met in relation to a reporting period.

(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

(aa) use data sources and data processing approaches that:

(i) the Regulator is satisfied are either:

(A) the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover; or

(B) if it is no longer possible or appropriate to use the data sources and data processing approaches in sub-subparagraph (A)—are consistent with, or comparable to, those data sources and data processing approaches; and

(ii) are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing; 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.

(5A) For subparagraph (5)(aa)(ii), if:

(a) a project proponent has relied upon an approval under subparagraph (5)(aa)(ii) in an offsets report covering the relevant carbon estimation area (the ***first approval***); and

(b) the project proponent has not relied on another approval under subparagraph (5)(aa)(ii) in a subsequent offsets report covering the relevant carbon estimation area;

the first approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator.

Note: While this subsection may facilitate the satisfaction of subparagraph (5)(aa)(ii), the other requirements of subsection (5) also need to be satisfied. This may not be possible if the relevant data sources or approaches are no longer available to apply to the carbon estimation area.

(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.

pre-existing forest cover, for a carbon estimation area, means forest cover that existed:

(a) if the 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 determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act—at the time of the decision to implement the project mechanism (within the meaning of that determination) in the carbon estimation area;

(b) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time until 21 March 2016—immediately before project commencement (within the meaning of that determination) for the carbon estimation area;

(c) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time after 21 March 2016—at any time during the baseline period (within the meaning of that determination) for the carbon estimation area.

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

70 Information that must be set out in offsets reports

(1) For paragraph 76(4)(b) of the Act, this section specifies information that must be set out in an offsets report about an eligible offsets project for a reporting period.

…

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 and stratification 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.

…

(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).

71 Documents that must accompany offsets reports

For paragraph 76(4)(d) of the Act, an offsets report about an eligible offsets project for a reporting period must be accompanied by the following documents:

(a) any document that, under the applicable methodology determination, is required to be provided to the Regulator with the offsets report;

(b) if the project is an area-based offsets project and the project proponent has chosen to divide the project into parts in accordance with section 77A of the Act—a scale map identifying the project area to which the offsets report relates;

(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

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).

EXPOSURE DRAFT (Insert Date)

Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019

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

Dated

Melissa Price [***DRAFT ONLY - NOT FOR SIGNATURE]***
Minister for the Environment

Contents

1 Name

This instrument is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*.

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 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 Section 9AA (heading)

Before "regeneration project", omit "human-induced".

2 Subsection 9AA(1)

Before "regeneration project", omit "human-induced".

3 Subsection 9AA(3) (Note 1)

Before "regeneration project", omit "human-induced".

4 Paragraph 9AA(4)(a)

Repeal the paragraph, substitute:

(a) both of the following apply:

(i) 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;

(ii) that version of the maps does not identify any pre-existing forest cover in the carbon estimation area, taking into account any guidelines published by the Regulator on its website for the purpose of this subparagraph, as in force from time to time; or

Note: In 2019, the Regulator's website was http://www.cleanenergyregulator.gov.au. Under the applicable methodology determination for the regeneration project a project proponent may choose to re-stratify the carbon estimation areas to exclude areas shown as pre-existing forest cover, or areas that have not attained forest cover, to enable this requirement to be met in relation to a reporting period.

5 After paragraph 9AA(5)(a)

Insert:

(aa) use data sources and data processing approaches that:

(i) the Regulator is satisfied are either:

(A) the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover; or

(B) if it is no longer possible or appropriate to use the data sources and data processing approaches in sub-subparagraph (A)—are consistent with, or comparable to, those data sources and data processing approaches; and

(ii) are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing; and

6 After subsection 9AA(5)

Insert:

(5A) For subparagraph (5)(aa)(ii), if:

(a) a project proponent has relied upon an approval under subparagraph (5)(aa)(ii) in an offsets report covering the relevant carbon estimation area (the ***first approval***); and

(b) the project proponent has not relied on another approval under subparagraph (5)(aa)(ii) in a subsequent offsets report covering the relevant carbon estimation area;

the first approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator.

Note: While this subsection may facilitate the satisfaction of subparagraph (5)(aa)(ii), the other requirements of subsection (5) also need to be satisfied. This may not be possible if the relevant data sources or approaches are no longer available to apply to the carbon estimation area.

7 Subsection 9AA(7) (definition of *existing CEA*)

Before "regeneration project", omit "human-induced".

8 Subsection 9AA(7) (definition of *human-induced regeneration project*)

Repeal the definition, substitute (in the appropriate alphabetical position):

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 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.

9 Subsection 9AA(7)

Insert (in the appropriate alphabetical position):

pre-existing forest cover, for a carbon estimation area, means forest cover that existed:

(a) if the 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 determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act—at the time of the decision to implement the project mechanism (within the meaning of that determination) in the carbon estimation area;

(b) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time until 21 March 2016—immediately before project commencement (within the meaning of that determination) for the carbon estimation area;

(c) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time after 21 March 2016—at any time during the baseline period (within the meaning of that determination) for the carbon estimation area.

10 Subsection 70(3A) (subsection heading)

Before "regeneration project", omit "human-induced".

11 Subsection 70(3A)

Before "regeneration project", omit "human-induced".

12 Subparagraph 70(3A)(a)(v)

After "the boundaries", insert "and stratification".

13 Subsection 70(5) (definition of *human-induced regeneration project*)

Before "regeneration project", omit "human-induced".

14 Paragraph 71(c)

Before "regeneration project", omit "human-induced".

15 Section 79A (heading)

Before "regeneration project", omit "human-induced".

16 Subsection 79A(1)

Before "regeneration project", omit "human-induced".

17 Subsection 79A(5) (definition of *human-induced regeneration project*)

Before "regeneration project", omit "human-induced".

DRAFT EXPLANATORY STATEMENT

Issued by the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019

Purpose of amendment rule

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 trees.

Two methods under the Act support regeneration of native vegetation activities:

- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (the Human-Induced Regeneration Method)
- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (the Native Forest from Managed Regrowth Method).

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the Previous Amendment Rule) clarified timeframes for the attainment of forest cover and supporting information required for the Human-Induced Regeneration Method. The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the Amendment Rule) extends coverage of the Previous Amendment Rule to the Native Forest from Managed Regrowth Method.

The Amendment Rule adds further provisions to the Previous Amendment Rule to ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements relating to the attainment of forest cover. The Clean Energy Regulator, which administers the compliance of projects under either Method, has recently co-designed guidelines with project proponents on the stratification of carbon estimation areas (CEAs), the demonstration of ongoing forest potential, and the attainment of forest cover. These guidelines apply to both native forest regeneration methods and the further provisions introduced through this Amendment Rule are intended to complement the approaches supported by the guidelines. The co-design process identified that using consistent approaches to the identification of forest cover at the start and end of a project would provide more certainty that projects continue to only include eligible land and be easier for project proponents to comply with.

The Amendment Rule achieves these changes by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule). Overall the changes made by this Amendment Rule are expected to enhance the integrity of the abatement credited under both native forest regeneration methods.

Background: Emissions Reduction Fund

In 2014, the Australian Government amended the Act with the *Carbon Farming Initiative Amendment Act 2014* (CFI Amendment Act). The CFI Amendment Act established the

Emissions Reduction Fund by expanding the crediting of emissions reductions under the Carbon Farming Initiative to non-land based sectors of the Australian economy.

The primary objective of the Emissions Reduction Fund is to assist Australia to meet its greenhouse gas emissions reduction targets, consistent with its international obligations under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects (projects declared under section 27 of the Act). The Regulator is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

Background: native forest regeneration methods

Native forest regeneration methods provide opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover.

The Human-Induced Regeneration Method provides opportunities for regenerating forest on land that has been without forest cover for at least 10 years and does not have forest cover at the start of the project (i.e. does not have pre-existing forest cover). The Native Forest from Managed Regrowth Method provides opportunities for ceasing clearing on pastoral land to support the regeneration of forest. Central to both methods is the regeneration of forest which then attains forest cover on land that did not have pre-existing forest cover. Accordingly, it is appropriate that the requirements for Human-Induced Regeneration projects also apply to projects under the Native Forest from Managed Regrowth Method.

Central to the Previous Amendment Rule was a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for offsets reports that include the applicable CEA. The Previous Amendment Rule also clarifies the information proponents need to provide to the Regulator to demonstrate they are meeting requirements for CEAs to have forest potential. The Explanatory Statement that accompanied the Previous Amendment Rule provides further details on these changes and is available online at legislation.gov.au/Details/F2018L01642/Explanatory%20Statement/Text.

Operation

The Act is supported by subordinate legislation, including the Principal Rule, and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations). The Principal Rule and Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

The Minister for the Environment is empowered to make legislative rules under section 308 of the Act. The Amendment Rule supports the operation of the Human-Induced Regeneration Method and the Native Forest from Managed Regrowth Method.

The primary changes to the Principal Rule extend to all projects under the Native Forest from Managed Regrowth Method the application of provisions in the Previous Amendment Rule that clarify reporting requirements to ensure the Regulator has the necessary information to administer the Human-Induced Regeneration Method, and clarify timeframes for land under the method to attain forest cover in order to obtain further carbon credits.

Further changes, to section 9AA primarily, ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements relating to the attainment of forest cover.

Detailed description of the Amendment Rule

Attachment A outlines and describes the sections in the Amendment Rule.

Public consultation

The Australian Government invites written submissions from all interested businesses and members of the community on this draft Amendment Rule.

Submissions are due by 5:00pm AEST, [Date to be inserted once approved for consultation] March 2019. Any submissions received after this date will be considered at the Government's discretion.

Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address listed below. Alternatively, submissions may be sent to the postal address below to arrive by 5:00pm AEST on the above due date.

All submissions must include a cover sheet, available at www.environment.gov.au. The submission and coversheet should be provided as separate files if sent electronically.

Submissions can be forwarded to:

Email: ERFforests@environment.gov.au (preferred)

Postal: Forests Section
Climate Change Division
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Regulatory impact

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment and Energy certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund. The decisions included 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. These minor amendments will not materially impact the regulatory impact of the scheme.

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.

ATTACHMENT A

Details of the sections in the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*

1. Name

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*.

2. Commencement

Section 2 provides that the Amendment Rule would commence on the day after it is registered.

3. Authority

Section 3 provides that the Amendment Rule would be made under section 308 of the Act. Section 304 of the Act also allows such rules to apply, adopt or incorporate matters in any instrument or writing as in force from time to time.

4. Schedules

Section 4 provides that the Amendment Rule would, when made, amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) in the manner set out in the schedules. The power to make rules in section 308 of the Act includes the power to amend or revoke rules that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Schedule 1—Amendments

1 – 8 Amendments to section 9AA—Issue of certificate of entitlement—eligibility requirements for regeneration projects

Section 9AA of the Principal Rule sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs have passed their forest cover assessment date and in relation to the information required.

The heading of Section 9AA is amended to remove 'human-induced' before 'regeneration projects' and references to 'human-induced regeneration project' within the section have been replace with 'regeneration project' (Items 1, 2, 3 and 7).

The new subparagraph (4)(a)(ii) adds that where demonstrating that carbon estimation areas have attained forest cover in accordance with paragraph (4)(a), it is also a requirement that the version of the maps used does not identify any pre-existing forest cover in the carbon estimation area, taking into account any guidelines published by the Regulator (Item 4). This provision reflects that updates to the National Inventory Report maps are provided as sets covering the complete timespan from 1972, and each set features a consistent approach to identifying forest cover within it. The use of a different set for each objective is not permitted as this may result in inconsistent approaches to identifying forest cover. A consistent approach ensures there is no bias towards a data source that detects relatively less or more forest cover to suit the objective.

The new paragraph (5)(aa) is also designed to ensure an approach taken is as consistent as possible between excluding pre-existing forest cover and demonstrating forest cover has been attained in accordance with paragraph (4)(b) (Item 5). It requires that the assessment of 0.2

hectare portions for a CEA under paragraph (4)(b) must use data sources and data processing approaches that the Regulator is satisfied are the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover. It also provides that, where use of the same data sources and data processing is no longer possible, the data sources and data processing approaches must be consistent with or comparable to those data sources and data processing approaches.

Subparagraph (5)(aa)(ii) requires that the data sources and data processing approaches used are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing.

Subsection (5A) provides that where an approval under subparagraph (5)(aa)(ii) has been relied upon in an offsets report covering the relevant carbon estimation area and no subsequent approval has been relied on, that approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator (Item 6). For a project proponent to continue to use those data sources and data processing approaches that were the subject of the approval, they must still meet the requirements of subparagraph (5)(aa)(i) to the satisfaction of the Regulator. Proponents should be aware that this may not be possible if the data sources or approaches that satisfied the Regulator under (5)(aa)(i) are no longer available. In this case, the approval granted under subparagraph (5)(aa)(ii) can not be relied upon.

The definition of 'human-induced regeneration project' at subsection (7) has been substituted with a definition for 'regeneration project', which means all projects with either the Human-Induced Regeneration Method or the Native Forest from Managed Regrowth Method as their applicable methodology determination, or an earlier version of those methods in accordance with sections 125, 126, 127 or 130 of the Act (Item 8).

A new definition is added to subsection (7) for 'pre-existing forest cover', which means, for a carbon estimation area, the forest cover that existed at the time, or within the time period, specified for the applicable methodology determination under paragraphs (a) to (c).

10 – 13 Amendments to section 70—Information that must be set out in offsets reports

Section 70 of the Principal Rule specifies the information that must be set out in an offsets report about an eligible offsets project for a reporting period. The Previous Amendment Rule added further requirements for a 'human-induced regeneration project'. These requirements now apply to a 'regeneration project', as defined at Subsection 9AA(7).

Subparagraph (3A)(a)(v) has been amended to clarify that applicable offsets reports are required to set out an explanation of how the stratification, as well as the boundaries, of the carbon estimation area meet the requirements of the applicable methodology determination (Item 12). The 'stratification' of the carbon estimation area is a technical concept in the methodology determination for how the boundaries of an area are mapped.

References within section 70 to a 'human-induced regeneration project' have been amended to 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7) (Items 10, 11 and 13).

14 Amendments to section 71—Documents that must accompany offsets reports

The reference at section 71 to a 'human-induced regeneration project' has been amended to 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7).

15 - 17 Amendments to section 79A—Forest cover audits of regeneration projects

The heading of section 79A and subsection 79A(1) have been amended to replace ‘human-induced regeneration project’ with ‘regeneration project’, to reflect the replacement of definitions at subsection 9AA(7) (Items 15 - 17).

ATTACHMENT B

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 Rule (No. 1) 2019

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the ***Amendment Rule***) 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* (the ***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.

The Amendment Rule extends provisions concerning the eligibility requirements for the issuance of certificates of entitlement to carbon credit units, and information required in certain offsets reports, from applying to only human-induced regeneration projects to applying to all native forest regeneration projects. This ensures that projects with the applicable methodology determination of either the Human-Induced Regeneration Method or the Native Forest from Managed Regrowth Method are subject to the same such requirements under the Rule. The Amendment Rule also provides that consistent data sources and data processing approaches are used between identifying forest cover for the purpose of excluding pre-existing forest cover from regeneration projects, and for the purpose of demonstrating that forest cover has been attained.

It does this by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the ***Principal Rule***).

Human rights implications

The Amendment Rule does not engage any of the applicable rights or freedoms.
A detailed statement of compatibility of the provisions of the Emissions Reduction Fund is provided in the Explanatory Memorandum for the *Carbon Farming Initiative Amendment Bill 2014*: http://www.environment.gov.au/system/files/pages/7aef9f12-8ba1-4d9a-bf6a-1bc89a0bd6f5/files/cfi-amendment-bill-explanatory-memorandum.pdf .

Conclusion

The Amendment Rule 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*.

Attachment B

Suggested talking points

What is the Native Forest from Managed Regrowth method?

- The Native Forest from Managed Regrowth method was developed under the Carbon Farming Initiative in 2013.
- The Native Forest from Managed Regrowth method provides opportunities for landholders to earn carbon credits by stopping clearing on pastoral land to support the regeneration of forest.
- Farmers can reinvest income from these projects in their properties to improve productivity, for example by building new fences to help manage livestock.
- Projects under this method have only been operating for a few years, and will be able to earn credits over 25 years.

What changes are you making?

- The Department of the Environment and Energy is proposing to amend the Emissions Reduction Fund's legislative rule to clarify some of the reporting and crediting requirements for Native Forest from Managed Regrowth projects.
    - These changes specify the time allowed for regenerating native vegetation to reach forest cover.
- The amendments to the rule would work together with new guidance from the Clean Energy Regulator on how to monitor progress of regeneration projects towards achieving forest cover.
- Similar amendments were made in November 2018 to clarify requirements for projects under another native forest regeneration method, the Human-Induced Regeneration method.
- The proposed amendments also require projects to adopt the same approach when they identify and exclude any areas of pre-existing forest at the start of a project, to when they later assess whether they have attained forest cover.
    - These changes would apply to projects under both the Native Forest from Managed Regrowth method and the Human-Induced Regeneration method.
- The Department has been consulting with project participants during development.
- We are releasing the draft rule for public consultation. Officers from the Department and are available to discuss the material throughout the public consultation.

Why are you changing the rules now?

- The Government is committed to ensuring the integrity of the Emissions Reduction Fund.
    - Adopting these changes now will give more certainty to project participants about how assessment and crediting will work for projects already under way.

    - It will also help in designing new projects to best realise their carbon storage potential.

Are these changes in response to questions about additionality and abatement estimates, as raised in the CSIRO's submission to the Emissions reduction Assurance Committee's review of the two regeneration methods?

- The independent Emissions Reduction Assurance Committee is reviewing the two regeneration methods.
- The Committee routinely reviews methods to ensure they continue to meet the offsets integrity standards in the Fund's legislation.
    - These routine reviews are fundamental to the integrity of the Fund.
- The Committee has considered submissions during its review of the methods.
- The Committee will advise the Government of the outcomes of the reviews.

Why weren't these changes made at the same time as amendments for the Human-Induced Regeneration method?

- The methods are similar but there are also some differences, and the Department of the Environment and Energy took additional time to consider the best way to clarify the requirements for projects under the Native Forest from Managed Regrowth method.

Will changing the rules have a negative effect on farmers already under pressure from the drought?

- Farmers in drought-stricken regions are receiving income from projects that regenerate native vegetation.
    - The Government has 20 contracts for projects under the Native Forest from Managed Regrowth method.
    - These projects are all in western Queensland.
- These projects provide local employment and spending in local communities.
- The changes to the rule don't affect credits already issued or payments already made under contracts.

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

PDR: MS19-000067

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND NATIVE VEGETATION REGENERATION METHODS: CONSULTATION ON LEGISLATIVE RULE CHANGES

Timing: 27 February 2019 to allow timely commencement of consultation.

Recommendation:

1. That you agree to consult on proposed changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to the Emissions Reduction Fund native vegetation regeneration methods (**Attachment A**).

Agreed / Not agreed

Minister: Date: 26/2/19

Comments:

Clearing Officer: Sent 13/2/19	Katrina Maguire	Assistant Secretary Land and Outreach Branch, Climate Change Division	s22
Contact Officer:	s22	Director Forests Section	

Key Points:

1. The Department proposes changes to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the rule) to ensure the rate of crediting under the Native Forest from Managed Regrowth method appropriately reflects actual growth of regenerating forests.
2. These changes would apply the same requirements to the Native Forest from Managed Regrowth method as changes already adopted for the Human-Induced Regeneration method in a rule amendment you made on 21 November 2018 (see MS18-001232).
3. When you made the previous amendment, the Department informed you it would come back to you with a further amendment to apply the rule to projects under the Native Forest from Managed Regrowth method, after further consultation with the only project participant under that method, Devine Agribusiness.
4. The amendments respond to Emissions Reduction Assurance Committee (ERAC) concerns the native vegetation regeneration methods could allow over-crediting of carbon abatement in some projects. The ERAC is reviewing the two native vegetation regeneration methods to assess whether they continue to meet the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

5. The ERAC wrote to you in January 2019 advising it expected to finalise its review report in March 2019.s47C

s47C

6. The Department has had further discussions with Devine Agribusiness since November 2018.s47G(1)(a)

s47G(1)(a)

7 s47G(1)(a) We will advise your office if there is any need to revise the draft rule before releasing it for public consultation.

8. The proposed amendments also include further changes to the rule, which would apply to projects under both methods. These changes would require projects to adopt the same approach when they identify and exclude any areas of pre-existing forest at the start of a project, to when they later assess whether they have attained forest cover.

   a. These changes would make it easier for proponents to comply with the rule, and provide more certainty that projects continue to only include eligible land.

   b. The Department has sought preliminary views from Human-Induced Regeneration and Native Forest from Managed Regrowth project proponents. Human-Induced Regeneration project proponents indicated support for the concept, and suggested further changes. The Department has made changes in response to the suggestions.

9. An exposure draft rule (including a version showing placement of changes in the rule) and explanatory statement (**Attachment A**) would be released for public consultation for 14 days. Subject to the outcomes of the public consultation, the Department would submit a final rule to you for approval.

Sensitivities and Handling

10. Recent media articles have referred to a CSIRO submission to the ERAC's review of the methods, which raised uncertainties about additionality and estimates of abatement.

s47C

s47C Suggested talking points are at **Attachment B**.

Consultation: YES

11. Clean Energy Regulator.

ATTACHMENTS

A: Exposure draft rule and explanatory statement
B: Suggested talking points

PDR: MS18-001574

To: Minister for the Environment (For Information)

EMISSIONS REDUCTION FUND: EMISSIONS REDUCTION ASSURANCE COMMITTEE REVIEW OF THE HUMAN-INDUCED REGENERATION AND NATIVE FOREST FROM MANAGED REGROWTH METHODS

Recommendation:

1. That you note the letter from the Emissions Reductions Assurance Committee at **Attachment A** updating you on their review of the Human-Induced Regeneration and Native Forest from Managed Regrowth methods.

Noted / Please discuss

Minister: Date:

Comments:

Clearing Officer: Sent: 7/1/19	Katrina Maguire	Assistant Secretary Land and Outreach Branch	s22
Contact Officer:	s22	Director Forests Section	

Key Points:

1. The independent Emissions Reduction Assurance Committee (ERAC) is reviewing two Emissions Reduction Fund regeneration methods to assess whether they continue to meet the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*: the Human-Induced Regeneration method and the Native Forest from Managed Regrowth method.

2. Both methods provide for projects that regenerate native forest by changing the way the land is managed.

3. The ERAC has written to advise you that it will finalise its review report on the two methods in March 2019 (**Attachment A**). Once finalised, the ERAC will provide you with a copy of their report, for your consideration.

4. The ERAC is concerned the methods could allow over-crediting because they do not adequately ensure the rate of crediting of carbon abatement appropriately reflects actual growth of regenerating forests in every project.

5. You made an amendment to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* in November 2018 to address this issue for projects under the Human-Induced Regeneration method (see MS18-001232). The ERAC considers the Human-Induced Regeneration method meets the offsets integrity standard with this rule amendment.

6. The second method, Native Forest from Managed Regrowth, has similar over-crediting risks. The ERAC considers a similar amendment to apply the rule to projects under the Native Forest from Managed Regrowth method is necessary to address the risk. s47C

7. The Department proposes consulting on a further rule amendment to address the over-crediting risk for Native Forest from Managed Regrowth projects. You referred to this in your 21 November 2018 letter to Devine Agribusiness, the sole project participant under the Native Forest from Managed Regrowth method (see MC18-015257).

8. s47G(1)(a) The Department will subsequently seek your agreement to release a draft rule amendment for public consultation. Subject to the outcomes of consultation, the Department could submit a rule amendment for your approval in February 2019.

Attachments

A: Letter from the Emissions Reduction Assurance Committee

EMISSIONS REDUCTION ASSURANCE COMMITTEE

C/- ERAC Secretariat
GPO Box 787
CANBERRA ACT 2601

The Hon Melissa Price MP
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Dear Minister

I am writing to provide you with an update on the Emissions Reduction Assurance Committee's review of two Emissions Reduction Fund methods: the Native Forest from Managed Regrowth method and the Human-Induced Regeneration method. Both of these methods provide for projects that regenerate native forests by changing management of the land.

The Committee's review is assessing the methods against the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*. The Committee is in the final stages of drafting the review report and expects to provide you with a final report in March 2019.

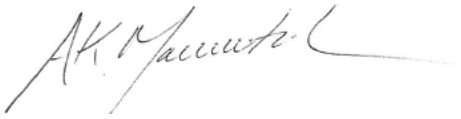
On 27 June 2018, the Committee wrote to the former Minister for the Environment and Energy, the Hon Josh Frydenberg MP, to inform him that it had come to the view that the methods did not adequately ensure the rate of crediting of carbon abatement appropriately reflects the rate of actual abatement from project activities.

The Committee supports amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* as a practical and effective way of addressing this issue. The Committee was pleased to see your recent approval of amendments applying to projects under the Human-Induced Regeneration method. The Committee understands the Department will seek your approval for public consultation on similar Rule amendments for projects under the Native Forest from Managed Regrowth method.

s47C

s47C

Yours sincerely



Andrew Macintosh
Chair
Emissions Reduction Assurance Committee

7 January 2019

PDR: MS19-000181

To: Minister for the Environment (For Decision)

EMISSIONS REDUCTION FUND NATIVE VEGETATION REGENERATION METHODS: RULE AMENDMENT

Timing: 20 March 2019 to enable timely commencement of the amendment.

Recommendation/s:

1. That you make the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* by signing the instrument at **Attachment A**.

Signed / Not signed

2. That you approve the Explanatory Statement for the Amendment Rule at **Attachment B**.

Approved / Not approved

Minister: Date:

Comments:

Clearing Officer: Sent 15/3/19	Katrina Maguire	Assistant Secretary Land and Outreach Branch	s22
Contact Officer:	s22	Director Forests Section	

Key Points:

1. The amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* ensure the rate of crediting under the Native Forest from Managed Regrowth method appropriately reflects the actual growth of the regenerating forests.

2. The changes apply the same requirements to the Native Forest from Managed Regrowth method as those adopted for the Human-Induced Regeneration method in a rule amendment you made on 21 November 2018 (see MS18-001232).

3. The new rule also requires projects under both methods to use the same approach when they identify and exclude any areas of pre-existing forest at the start of a project, to when they later assess whether they have attained forest cover. This makes it easier to comply with the rule and gives more certainty that projects continue to only include eligible land.

4. The rule responds to Emissions Reduction Assurance Committee (ERAC) concerns the two native vegetation regeneration methods could allow over-crediting of carbon abatement in some projects. The ERAC has been reviewing the methods to assess

whether they continue to meet the offsets integrity standards in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

5. s47C
The ERAC plans to submit its Review Report to you by 22 March 2019.

6. Devine Agribusiness, the sole project participant under the Native Forest from Managed Regrowth method, wrote to you on 26 February 2019 opposing the amendments s47G(1)(a) You replied on 5 March 2019, inviting them to make a submission during public consultation (MC19-002272).

7. The Department released the draft rule for public consultation between 28 February and 14 March 2019 and received five submissions (**Attachment C**), four of which support the amendments.

8. The Devine Agribusiness submission reiterates their main concern that the rule has the effect of improperly changing operation of the method, with retrospective effects on existing projects. The submission claims the rule is unjustified, lacks procedural fairness and denies natural justice. It disputes evidence for concerns over the Native Forest from Managed Regrowth method and suggests the rule is in response to over-crediting of Human-Induced Regeneration projects.

   - The Department considers the rule to be legally sound and an appropriate approach to maintain the integrity of the scheme. The rule already includes differential approaches for existing projects to recognise past investment.
   - The Department worked closely with the Regulator, the ERAC, and stakeholders for both methods to design the rule.
   - The rule will not change the method requirements.
   - The Department made changes to the rule to include transitional provisions in response to the Devine Agribusiness submission, to ensure it would not affect applications for carbon credits already received, or soon to be received, by the Regulator.

Sensitivities and Handling

9. s47G(1)(a) Suggested talking points are at **Attachment D**.

Consultation: YES

10. Clean Energy Regulator.

ATTACHMENTS

A: *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*
B: Explanatory statement for the amendment rule
C: Submissions
D: Talking points

Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019

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

Dated

Melissa Price
Minister for the Environment

Contents

1 Name

This instrument is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*.

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 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 Section 9AA (heading)

Before "regeneration project", omit "human-induced".

2 Subsection 9AA(1)

Before "regeneration project", omit "human-induced".

3 Subsection 9AA(3) (Note 1)

Before "regeneration project", omit "human-induced".

4 Paragraph 9AA(4)(a)

Repeal the paragraph, substitute:

(a) both of the following apply:

(i) 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;

(ii) that version of the maps does not identify any pre-existing forest cover in the carbon estimation area, taking into account any guidelines published by the Regulator on its website for the purpose of this subparagraph, as in force from time to time; or

Note: In 2019, the Regulator's website was http://www.cleanenergyregulator.gov.au. Under the applicable methodology determination for the regeneration project a project proponent may choose to re-stratify the carbon estimation areas to exclude areas shown as pre-existing forest cover, or areas that have not attained forest cover, to enable this requirement to be met in relation to a reporting period.

5 After paragraph 9AA(5)(a)

Insert:

(aa) use data sources and data processing approaches that:

(i) the Regulator is satisfied are either:

(A) the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover; or

(B) if it is no longer possible or appropriate to use the data sources and data processing approaches in sub-subparagraph (A)—are consistent with, or comparable to, those data sources and data processing approaches; and

(ii) are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing, having regard to the requirements of subparagraph (i); and

6 After subsection 9AA(5)

Insert:

(5A) For subparagraph (5)(aa)(ii), if:

(a) a project proponent has relied upon an approval under subparagraph (5)(aa)(ii) in an offsets report covering the relevant carbon estimation area (the ***first approval***); and

(b) the project proponent has not relied on another approval under subparagraph (5)(aa)(ii) in a subsequent offsets report covering the relevant carbon estimation area;

the first approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator.

Note: While this subsection may facilitate the satisfaction of subparagraph (5)(aa)(ii), the other requirements of subsection (5) also need to be satisfied. This may not be possible if the relevant data sources or approaches are no longer available to apply to the carbon estimation area.

7 Subsection 9AA(7) (definition of *existing CEA*)

Before "regeneration project", omit "human-induced".

8 Subsection 9AA(7) (definition of *human-induced regeneration project*)

Repeal the definition, substitute (in the appropriate alphabetical position):

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 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.

9 Subsection 9AA(7)

Insert (in the appropriate alphabetical position):

pre-existing forest cover, for a carbon estimation area, means forest cover that existed:

(a) if the 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 determination applicable to the project in accordance with sections 125, 126, 127 or 130 of the Act—at the time of the decision to implement the project mechanism (within the meaning of that determination) in the carbon estimation area;

(b) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time until 21 March 2016—immediately before project commencement (within the meaning of that determination) for the carbon estimation area;

(c) if the applicable methodology determination for the reporting period is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Forest—1.1) Methodology Determination 2013* as in force at any time after 21 March 2016—at any time during the baseline period (within the meaning of that determination) for the carbon estimation area.

10 Subsection 70(3A) (subsection heading)

Before "regeneration project", omit "human-induced".

11 Subsection 70(3A)

Before "regeneration project", omit "human-induced".

12 Subparagraph 70(3A)(a)(v)

After "the boundaries", insert "and stratification".

13 Subsection 70(6) (definition of *human-induced regeneration project*)

Before "regeneration project", omit "human-induced".

14 Paragraph 71(c)

Before "regeneration project", omit "human-induced".

15 Section 79A (heading)

Before "regeneration project", omit "human-induced".

16 Subsection 79A(1)

Before "regeneration project", omit "human-induced".

17 Subsection 79A(5) (definition of *human-induced regeneration project*)

Before "regeneration project", omit "human-induced".

18 After section 114

Insert:

Part 29—Application and transitional provisions

Division 1—Application and transitional provisions relating to the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*

120 Applications for certificate of entitlement before or within 28 days of commencement

An application under section 12 of the Act received by the Regulator before the start of the 28th day after the commencement of the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the ***amendment rule***) must be determined as if the amendment rule had not commenced.

121 Offsets reports submitted before or within 28 days of commencement

An offsets report received by the Regulator before start of the 28th day after the commencement of the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the ***amendment rule***) need not include information or documents that are only required after the amendment rule had commenced.

EXPLANATORY STATEMENT

Issued by the Minister for the Environment

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019

Purpose of amendment rule

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (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 trees.

Two methods under the Act support regeneration of native vegetation activities:

- *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* (the Human-Induced Regeneration Method)
- *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (the Native Forest from Managed Regrowth Method).

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 2) 2018* (the Previous Amendment Rule) clarified timeframes for the attainment of forest cover and supporting information required for the Human-Induced Regeneration Method. The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the Amendment Rule) extends coverage of the Previous Amendment Rule to the Native Forest from Managed Regrowth Method.

The Amendment Rule adds further provisions to the Previous Amendment Rule to ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements relating to the attainment of forest cover. The Clean Energy Regulator, which administers the compliance of projects under either Method, has recently co-designed guidelines with project proponents on the stratification of carbon estimation areas (CEAs), the demonstration of ongoing forest potential, and the attainment of forest cover. These guidelines apply to both native forest regeneration methods and the further provisions introduced through this Amendment Rule are intended to complement the approaches supported by the guidelines. The co-design process identified that using consistent approaches to the identification of forest cover at the start and end of a project would provide more certainty that projects continue to only include eligible land and be easier for project proponents to comply with.

The Amendment Rule achieves these changes by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule). Overall the changes made by this Amendment Rule are expected to enhance the integrity of the abatement credited under both native forest regeneration methods.

Background: Emissions Reduction Fund

In 2014, the Australian Government amended the Act with the *Carbon Farming Initiative Amendment Act 2014* (CFI Amendment Act). The CFI Amendment Act established the Emissions Reduction Fund by expanding the crediting of emissions reductions under the Carbon Farming Initiative to non-land based sectors of the Australian economy.

The primary objective of the Emissions Reduction Fund is to assist Australia to meet its greenhouse gas emissions reduction targets, consistent with its international obligations under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

The Emissions Reduction Fund does this by purchasing approved and verified emissions reductions from registered projects (projects declared under section 27 of the Act). The Regulator is empowered under the Act to conduct processes to purchase emissions reductions, and enter into contracts for this purpose.

Background: native forest regeneration methods

Native forest regeneration methods provide opportunities for projects involving changes in land management to regenerate native vegetation to attain forest cover.

The Human-Induced Regeneration Method provides opportunities for regenerating forest on land that has been without forest cover for at least 10 years and does not have forest cover at the start of the project (i.e. does not have pre-existing forest cover). The Native Forest from Managed Regrowth Method provides opportunities for ceasing clearing on pastoral land to support the regeneration of forest. Central to both methods is the regeneration of forest which then attains forest cover on land that did not have pre-existing forest cover. Accordingly, it is appropriate that the requirements for Human-Induced Regeneration projects also apply to projects under the Native Forest from Managed Regrowth Method.

Central to the Previous Amendment Rule was a requirement for a certificate of entitlement such that where requirements for attaining forest cover are not met, crediting is restricted for offsets reports that include the applicable CEA. The Previous Amendment Rule also clarifies the information proponents need to provide to the Regulator to demonstrate they are meeting requirements for CEAs to have forest potential. The Explanatory Statement that accompanied the Previous Amendment Rule provides further details on these changes and is available online at legislation.gov.au/Details/F2018L01642/Explanatory%20Statement/Text.

Operation

The Act is supported by subordinate legislation, including the Principal Rule, and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Regulations). The Principal Rule and Regulations provide detailed explanations of the way in which the Act is administered by the Regulator.

The Minister for the Environment is empowered to make legislative rules under section 308 of the Act. The Amendment Rule supports the operation of the Human-Induced Regeneration Method and the Native Forest from Managed Regrowth Method.

The primary changes to the Principal Rule extend to all projects under the Native Forest from Managed Regrowth Method the application of provisions in the Previous Amendment Rule that clarify reporting requirements to ensure the Regulator has the necessary information to administer the Human-Induced Regeneration Method, and clarify timeframes for land under the method to attain forest cover in order to obtain further carbon credits.

Further changes, to section 9AA primarily, ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements relating to the attainment of forest cover.

Transitional provisions are included in a new Part 29 to the Principal Rule. They ensure the Amendment Rule does not impact applications for a certificate of entitlement or offsets reports already received by the Regulator or received within 28 days of the Amendment Rule's commencement.

Detailed description of the Amendment Rule

Attachment A outlines and describes the sections in the Amendment Rule.

Public consultation

This Amendment Rule applies the same requirements to projects under the Native Forest from Managed Regrowth method as the requirements applied by the Previous Rule Amendment to projects under the Human-Induced Regeneration method. Consultation on these combined amendments commenced in July 2018 with directly affected stakeholders. This was supported by a public consultation process from 23 August 2018 to 13 September 2018 on the changes as they applied to projects under the Human-Induced Regeneration method. Direct consultation with proponents of projects under the Native Forest from Managed Regrowth method continued over late 2018 and early 2019.

Public consultation on an Exposure Draft for this Amendment Rule was undertaken from 28 February to 14 March 2019. People were invited to make written submissions or to call or email the Department of the Environment and Energy to provide comments. Submissions and feedback received have been taken into account in the Amendment Rule.

Regulatory impact

In accordance with the *Australian Government Guide to Regulation*, the Department of the Environment and Energy certified the Emissions Reduction Fund White Paper as a Regulation Impact Statement for initial decisions on the Emissions Reduction Fund. The decisions included 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. These minor amendments will not materially impact the regulatory impact of the scheme.

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.

ATTACHMENT A

Details of the sections in the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*

1. Name

Section 1 provides that the name of the Amendment Rule is the *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019*.

2. Commencement

Section 2 provides that the Amendment Rule would commence on the day after it is registered. Transitional provisions are included in a new Part 29 to the Principal Rule to ensure the Amendment Rule does not impact applications for a certificate of entitlement or offsets reports already received by the Regulator or received within 28 days of the Amendment Rule's commencement.

3. Authority

Section 3 provides that the Amendment Rule would be made under section 308 of the Act. Section 304 of the Act also allows such rules to apply, adopt or incorporate matters in any instrument or writing as in force from time to time.

4. Schedules

Section 4 provides that the Amendment Rule would, when made, amend the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Principal Rule) in the manner set out in the schedules. The power to make rules in section 308 of the Act includes the power to amend or revoke rules that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Schedule 1—Amendments

1 – 8 Amendments to section 9AA—Issue of certificate of entitlement—eligibility requirements for regeneration projects

Section 9AA of the Principal Rule sets out eligibility requirements for obtaining a certificate of entitlement applicable when a project's CEAs past their forest cover assessment date are included in an offsets report for the relevant reporting period.

The application for, and assessment of, whether a project is eligible for a certificate of entitlement for a reporting period has always been separate from the declaration of a project and its applicable methodology determination. Since the Act commenced in 2011 paragraph 15(2)(h) of the Act has required the Regulator to be satisfied of any eligibility requirements in subordinate legislation before issuing a certificate of entitlement. Section 9AA is one such requirement. However, whether or not section 9AA is satisfied for a reporting period does not affect the declaration of the project, whether the project complies with the applicable methodology determination, any credits already issued for the project or whether a certificate of entitlement will be issued for a subsequent reporting period. New Part 29 inserted by item 18 ensures the requirements for a certificate of entitlement do not have any retrospective impact on applications for a certificate of entitlement already received or received within 28 days of the commencement of the Amendment Rule. Section 9AA does not vary

requirements project proponents have to apply under their applicable methodology determinations.

The heading of Section 9AA is amended to remove 'human-induced' before 'regeneration projects' and references to 'human-induced regeneration project' within the section have been replace with 'regeneration project' (Items 1, 2, 3 and 7).

The new subparagraph (4)(a)(ii) adds that where demonstrating that carbon estimation areas have attained forest cover in accordance with paragraph (4)(a), it is also a requirement that the version of the maps used does not identify any pre-existing forest cover in the carbon estimation area, taking into account any guidelines published by the Regulator (Item 4). This provision reflects that updates to the National Inventory Report maps are provided as sets covering the complete timespan from 1972, and each set features a consistent approach to identifying forest cover within it. Use of the same set for both objectives is required to ensure consistent approaches to identifying forest cover for both exclusion of pre-existing forest cover and for demonstrating attainment of forest cover. A consistent approach ensures there is no bias towards a data source that detects relatively less or more forest cover to suit the objective. Relevant guidelines can be found on the Clean Energy Regulator's website at: http://www.cleanenergyregulator.gov.au/ERF/Forms-and-resources/Regulatory-Guidance/sequestration-guidance and are incorporated as in force from time to time consistent with section 308 of the Act.

The new paragraph (5)(aa) is also designed to ensure approaches taken to exclude pre-existing forest cover and to demonstrate forest cover has been attained in accordance with paragraph (4)(b) are as consistent as possible (Item 5). It requires that the assessment of 0.2 hectare portions for a CEA under paragraph (4)(b) must use data sources and data processing approaches that the Regulator is satisfied are the same as, or equivalent to, those relied upon to demonstrate that the carbon estimation area did not have any pre-existing forest cover. It also provides that, where use of the same data sources and data processing is no longer possible, the data sources and data processing approaches must be consistent with or comparable to those data sources and data processing approaches.

Subparagraph (5)(aa)(ii) requires that the data sources and data processing approaches used are approved by the Regulator on a list published on its website or are otherwise approved by the Regulator in writing. Subparagraph (5)(aa)(ii) provides that in doing this the Regulator will primarily have regard to the requirements subparagraph (5)(aa)(i). A decision to refuse to issue a certificate of entitlement is a reviewable decision under Part 24 of the Act and the merits of any approval decision relevant to a refusal could be considered as part of that review process.

Subsection (5A) provides that where an approval under subparagraph (5)(aa)(ii) has been relied upon in an offsets report covering the relevant carbon estimation area and no subsequent approval has been relied on, that approval remains relevant to the carbon estimation area despite any subsequent revocation or variation of that approval by the Regulator (Item 6). For a project proponent to continue to use those data sources and data processing approaches that were the subject of the approval, they must still meet the requirements of subparagraph (5)(aa)(i) to the satisfaction of the Regulator. Proponents should be aware that this may not be possible if the data sources or approaches that satisfied the Regulator under (5)(aa)(i) are no longer available. In this case, the approval granted under subparagraph (5)(aa)(ii) can not be relied upon.

The definition of 'human-induced regeneration project' at subsection (7) has been substituted with a definition for 'regeneration project', which means all projects with either the Human-

Induced Regeneration Method or the Native Forest from Managed Regrowth Method as their applicable methodology determination, or an earlier version of those methods in accordance with sections 125, 126, 127 or 130 of the Act (Item 8).

A new definition is added to subsection (7) for 'pre-existing forest cover', which means, for a carbon estimation area, the forest cover that existed at the time, or within the time period, specified for the applicable methodology determination under paragraphs (a) to (c).

10 – 13 Amendments to section 70—Information that must be set out in offsets reports

Section 70 of the Principal Rule specifies the information that must be set out in an offsets report about an eligible offsets project for a reporting period. The Previous Amendment Rule added further requirements for a 'human-induced regeneration project'. These requirements now apply to a 'regeneration project', as defined at Subsection 9AA(7).

Subparagraph (3A)(a)(v) has been amended to clarify that applicable offsets reports are required to set out an explanation of how the stratification, as well as the boundaries, of the carbon estimation area meet the requirements of the applicable methodology determination (Item 12). The 'stratification' of the carbon estimation area is a technical concept in the methodology determination for how the boundaries of an area are mapped.

References within section 70 to a 'human-induced regeneration project' have been amended to 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7) (Items 10, 11 and 13).

Section 70 is made in accordance with paragraph 76(4)(b) of the Act which allows legislative rules to require additional information to be included in offsets reports.

14 Amendments to section 71—Documents that must accompany offsets reports

The reference at section 71 to a 'human-induced regeneration project' has been amended to 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7). Section 71 is made in accordance with paragraph 76(4)(d) of the Act which allows legislative rules to require additional documents to be included in offsets reports.

15 - 17 Amendments to section 79A—Forest cover audits of regeneration projects

The heading of section 79A and subsection 79A(1) have been amended to replace 'human-induced regeneration project' with 'regeneration project', to reflect the replacement of definitions at subsection 9AA(7) (Items 15 - 17). Section 79A is made in accordance with paragraph 76(4)(c), (ca) and (cb) of the Act which allows legislative rules to require audit reports to accompany offsets reports.

18 Application and Transitional Provisions

This item inserts a new Part 29 to provide application and transitional provisions relating to the Amendment Rule. It is also intended to contain any application and transitional provisions relating to future amendments to the Principal Rule. The numbering of the Part has been designed to follow on from the Parts in the Act.

Section 120 ensures that applications for a certificate of entitlement received before the Amendment Rule commenced or within 28 days of the commencement are determined under the existing rules.

Section 121 ensures that offsets reports need not include additional information or documents required by amendments to section 70 or 71 if they are received before commencement or within 28 days of commencement.

These provisions ensure that existing rights to certificates of entitlement are not impacted by the Amendment Rule. Future applications after the 28 day period need to comply with the requirements of the Amendment Rule and it was always the case that additional requirements could be imposed on existing declared projects during their crediting period.

ATTACHMENT B

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 Rule (No. 1) 2019

The *Carbon Credits (Carbon Farming Initiative) Amendment Rule (No. 1) 2019* (the ***Amendment Rule***) 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* (the ***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.

The Amendment Rule extends provisions concerning the eligibility requirements for the issuance of certificates of entitlement to carbon credit units, and information required in certain offsets reports, from applying to only human-induced regeneration projects to applying to all native forest regeneration projects. This ensures that projects with the applicable methodology determination of either the Human-Induced Regeneration Method or the Native Forest from Managed Regrowth Method are subject to the same such requirements under the Rule. The Amendment Rule also provides that consistent data sources and data processing approaches are used between identifying forest cover for the purpose of excluding pre-existing forest cover from regeneration projects, and for the purpose of demonstrating that forest cover has been attained. Transitional arrangements are included to ensure the requirements to not impact existing applications or offsets reports.

It does this by amending the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the ***Principal Rule***).

Human rights implications

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

A detailed statement of compatibility of the provisions of the Emissions Reduction Fund is provided in the Explanatory Memorandum for the *Carbon Farming Initiative Amendment Bill 2014*: http://www.environment.gov.au/system/files/pages/7aef9f12-8ba1-4d9a-bf6a-1bc89a0bd6f5/files/cfi-amendment-bill-explanatory-memorandum.pdf .

Conclusion

The Amendment Rule 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*.

ATTACHMENT C

Submissions

1. Australian Conservation Foundation
2. Corporate Carbon
3. Devine Agribusiness
4. Terra Carbon
5. Climate Friendly

Level 1, 60 Leicester Street
Carlton VIC 3053
ABN 22 007 498 482

Telephone. +61 3 9345 1232
www.acf.org.au

Email. acf@acf.org.au
@AusConservation

AUSTRALIAN CONSERVATION FOUNDATION

13 March 2018

Forests Section
Climate Change Division
Department of the Environment and Energy
By email: ERFforests@environment.gov.au

Dear Forests Section,

Thank you for the opportunity to provide comment on the proposed amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 (the Rule) as it relates to native vegetation regeneration projects.

Levelling out the playing field for both regeneration methods

Amendments to the Rule were made last year that enhanced the robustness of the Human-Induced Regeneration of a Permanent Even-Aged Native Forest (HIR) method. The amendments applied to HIR projects which have transferred to the Native Forest Managed Regeneration (NFMR) method, but curiously did not apply to the original NFMR method projects themselves.

This was despite the interim operational policy, interim posture and guidance from the Clean Energy Regulator last year discussing the NFMR method and the HIR method as though they were synonymous in terms of crediting issues. Further, briefing between Senior Executives at the Clean Energy Regulator for February 2018 senate estimates suggests that access to higher resolution aerial imagery in late 2017 had alerted the Regulator to a "risk of over-crediting projects under these methods" (FOI 04-2018).

It appears that, in the absence of the proposed amendments, the original NFMR method projects will (and do) enjoy less stringent legislative requirements in satisfying the Government that carbon abatement is occurring.

We have analysed the Emission Reduction Fund project register and, while the HIR projects have diverse proponents and are geographically widespread, the NFMR projects appear to be clustered in southwest Queensland and are all managed by a single proponent.

Level 1, 60 Leicester Street
Carlton VIC 3053
ABN 22 007 498 482

Telephone. +61 3 9345 1232
www.acf.org.au

Email. acf@acf.org.au
@AusConservation

The Australian Conservation Foundation believes the proposed amendments ideally should have occurred along with the amendments last year and are important for levelling out the playing field for proponents with projects registered under the regeneration methods.

Ensuring carbon credits reflect genuine abatement

Our understanding is that the proposed amendments will ensure that abatement being credited under the regeneration methods is genuine and not an artefact of the selective use of change detection products or Carbon Estimation Area (CEA) stratifications that may artificially maximise purported abatement.

It is a reasonable expectation that the proponents of regeneration projects can demonstrate that their claimed carbon abatement is, in fact, from the genuine fostered growth of native forest. It is also reasonable to expect that carbon credits would not be issued to proponents in cases in which carbon abatement is not occurring—i.e. when regeneration is unlikely to ever occur, or, when a pre-existing forest is included in the CEA.

The Australian Conservation Foundation believes that responsible proponents, and the Clean Energy Regulator where appropriate, should be ground-truthing the information gleaned from change detection products and CEA stratifications.

There is a possibility the proponents will be resistant to the proposed requirements for additional rigour. However, the risk and cost of issuing carbon credits for dubious carbon abatement is arguably far greater than asking proponents to adapt their business models to use the best available information.

Land sector methods like the HIR and NFMR methods are an important feature of the Emissions Reduction Fund and their effectiveness is contingent on reliable, valid and consistent information. The two regeneration methods constitute more than a third of all Emissions Reduction Fund projects, nearly half of all contracted abatement and involve well-over $170 million worth of ACCUs (conservative estimate based on average price and ACCUs issued).

Addressing the existing CEA concerns

Given the material released by the Clean Energy Regulator, their internal briefing and the issues addressed by the proposed amendments to the Rule, it would be reasonable to infer that over-crediting has likely occurred for existing CEAs (or at the very least the risk of it having occurred is serious).

While the Australian Conservation Foundation sees the proposed amendments chiefly as an important step in the right direction, we note that the change is overly generous to current projects

Level 1, 60 Leicester Street
Carlton VIC 3053
ABN 22 007 498 482

Telephone. +61 3 9345 1232
www.acf.org.au

Email. acf@acf.org.au
@AusConservation

AUSTRALIAN CONSERVATION FOUNDATION

and applies a different rigour to new projects. For example, the length of time over which a project may be credited before it must achieve forest cover appears to be stricter and made more explicit for new projects.

Meanwhile, it remains open to old projects with existing CEAs to enjoy an extended period of time to achieve forest cover and receive credits. As the proposed amendments to the Rule appear to have been born out of concerns with precisely these projects, this seems ill-advised.

In light of this, we recommend that further changes are made to ensure the rigour of the amendments applies to all projects, new and old. Nevertheless, we strongly support the proposed amendments and see them as overdue and necessary for the integrity of the Emissions Reduction Fund.

If you have any questions please contact me on 0455 299 923 or annica.schoo@acf.org.au.

Kind regards,

Annica Schoo
Environmental Investigator

11 March 2019

Forests Section
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Via email: ERFforests@environment.gov.au

Dear Review,

Re: SUBMISSION ON PROPOSED AMENDMENTS TO THE CARBON CREDITS (CARBON FARMING INITIATIVE) RULE 2015 RELATING TO EMISSIONS REDUCTION FUND NATIVE FOREST REGENERATION PROJECTS

Thank you for the opportunity to make a submission to the proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* consultation.

Corporate Carbon has been involved in the development and on-going operation of a number of human-induced regeneration projects. It thus has a strong interest in seeing that the legislation, regulations, rules, methodology and guidance under which these projects operate is effective in meeting the objectives of the ERF and project participants.

We support the on-going amendments to the regulator framework for ERF projects to ensure that a high standard of environmental integrity is maintained.

Corporate Carbon looks forward to ongoing participation in the ERF, and working collaboratively with all key stakeholders to ensure its continued success.

Our detailed submission on the proposed amendments are contained in the attachment below.

Please let me know if I can provide any additional information in relation to this submission.

Regards,

Gary Wyatt
Director

1. Overview of proposed rule amendments

We note that the current proposed Rule amendment follows on from the previous amendment to the Rule which was made on 21 November 2018, which also dealt with native forest regeneration projects.

The Department of the Environment and Energy efforts to revise and update the Rule so that the implementation of existing and new regeneration projects may proceed as best as possible is commended.

2. Extension of the Rule to cover all regeneration projects

We are supportive of the amendments to the Rule that expand the scope of the Rule to cover all regeneration projects, as opposed just human-induced regeneration. Having a consistent regulatory approach to all types of regeneration projects is good for scheme integratory.

3. Consistent approach to excluding pre-existing forest and demonstrating forest attainment

In our opinion, the Rule establishes a workable approach to the identification and exclusion of pre-existing forest cover, and the demonstration of the attainment of forest cover.

Australian Government
Department of the Environment and Energy

COVER SHEET FOR SUBMISSIONS

PROPOSED AMENDMENTS TO THE *CARBON CREDITS (CARBON FARMING INITIATIVE) RULE 2015* RELATING TO EMISSIONS REDUCTION FUND NATIVE FOREST REGENERATION PROJECTS

Overview

The Australian Government is considering amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015.* The Department of the Environment and Energy is inviting members of the public and industry to provide submissions. Submissions should be provided by 5:00pm AEST on Thursday 14th March 2019.

Contact details

Organisation (if applicable)			Devine Agribusiness Carbon Pty Ltd
Title	Mr	**Name** (required)	Dominic Devine
Position within organisation (if applicable)			Director
Postal address (required)			GPO Box 948, Brisbane, Q, 4001
Email address (required)			dac@devineagribusiness.com.au
Phone number (optional)			

Confidentiality and publication

Unless you indicate that your submission is confidential, it will be treated as a public document. It may be published in full on the Department's website, or included in a published summary report of submissions.

If you do indicate that your submission is confidential, it will not be published on the Department's website.

Is this a confidential submission? ☐ **Yes** ☒ **No**
(If yes, please clearly mark each page of your submission 'confidential')

If only a part of your submission is confidential, for example because it contains a small amount of commercially sensitive information, please provide two clearly marked versions of the submission, a full version and one with the confidential information removed, for publication.

If your submission is published, the Department will include identifying details (author name and state/territory). Contact information (such as names, signatures, addresses or phone numbers) and information may be included in published submissions.

While the Department values public consultation highly and seeks to be transparent, it is under no obligation to publish submissions it receives, and it reserves the right not to publish submissions on its website that raise legal or other concerns.

Privacy

The Department will deal with personal information contained in, or provided in relation to, submissions in accordance with its Privacy Policy (www.environment.gov.au/privacy-policy).

Contact information is collected for the purposes of identifying authors and in case we need to get in touch with you in relation to your submission. Contact information and other personal information contained in submissions may be used, and disclosed within the Department and to other persons, for the purposes of consulting on the proposed amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015*, for related purposes, and otherwise as required or permitted by law. Submissions may also be shared with other Government agencies.

If you are making a submission which contains the personal information of another person, and you have *not* obtained the person's consent to their information:

- being included in your submission; and
- being used and potentially published by the Department for the purposes set out in this notice,

please de-identify or otherwise remove the personal information before providing your submission to the Department.

Liability

The views contained in published submissions are the responsibility of the authors and should not be taken to represent the views of the Department or the Australian Government. Publication does not in any way constitute endorsement of the views of the authors.

The Department does not verify the information contained in published submissions and makes no representation or warranty about the accuracy, reliability, currency or completeness of any material contained in submissions.

The Department disclaims liability, to the extent permitted by law, for any liabilities, losses, damages and costs arising from any information contained in published submissions.

Freedom of Information

A request may be made under the *Freedom of Information Act 1982* for access to a submission, including a submission marked 'confidential'. Such requests, including determining whether information is exempt from release, will be handled in accordance with provisions of the Act.

Submission instructions

Submissions are due by 5:00pm AEST on Thursday 14th March 2019. Any submissions received after this date will be considered at the Department's discretion.

Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address below.

All submissions must include this cover sheet and reference the project name.

Submissions should be sent to:

Email: ERFforests@environment.gov.au

Post: Forests Section
Climate Change Division
Department of the Environment and Energy
GPO Box 787
CANBERRA, ACT 2601

Summary

The proposed rule change is for an improper purpose.

- The *Carbon Credits (Carbon Farming Initiative) Act 2011* was specifically designed to provide regulatory certainty to project participants and stakeholders.
- This was done through sections 114 and 126, which provide specific provisions for amending a methodology determination, and provide that despite any future variation, the original methodology determination continues to apply to existing projects.
- The proposed rule change is, in substance if not in form, a variation to the NFMR methodology determination[1] which has potentially significant commercial implications for project participants and stakeholders.
- It would appear, and it has not been denied, that the adoption of a rule change to introduce method specific variations is specifically designed to avoid sections 114 and 126 of the Act.

The proposed rule change is unjustifiable, premature and lacks procedural fairness.

- No scientifically rigorous justification for the change has been provided.
- No scientifically rigorous demonstration of overcrediting within NFMR projects has been provided.
- No objective measurement of actual abatement *vis-à-vis* NFMR modelled abatement has been undertaken.
- An ERAC review of NFMR method is underway, however it is not complete, and its findings have not yet been published.
- It is therefore premature and procedurally unfair to impose the rule change prior to the finalisation of the ERAC review.

The proposed rule change is grossly unfair and denies natural justice to NFMR stakeholders.

- In these circumstances the question arises, why pursue this variation to the method dressed up as a rule change?
- In the absence of any alternative plausible explanation, the only remaining explanation is perhaps the worst kept secret in the ERF; the regulator has substantially overcredited a number of HIR projects, and the provisions of the Act require that a rule change (rather than a method change) is now necessary to paper over those mistakes.
- The NFMR project stakeholders are small businesses and farmers. These people committed their resources and land to the ERF in good faith and entered into other binding commercial arrangements based upon the regulatory certainty provided by the sections 114 and 126 of the Act.
- The effect of the rule change is that despite having faithfully applied the NFMR method since project inception, the NFMR stakeholders must now potentially pay for the past mistakes of the regulator, because the bureaucracy lacks the necessary courage to address these issues in a forthright and transparent manner.
- How this situation arose is a matter of public interest and this submission is therefore not confidential.

[1] For example, the rule change imposes a time frame for the achievement of forest cover where none currently exists. The explanatory statement suggests that it only 'clarifies' this time frame, however this is misleading, as it implies that some timeframe currently exists requiring clarification, when it does not. We are not suggesting it is unreasonable to impose a timeframe, only that it is improper, premature and unfair to impose one in the manner proposed.

The proposed rule change will have a retrospective application which was never intended by Parliament.

- It is questionable whether Parliament intended for the Minister to be able to effect changes through the Rules that are to have retrospective application (or that have the consequence of retrospective application).
- In this context, the retrospective application is that the rights of a person that exist at the date of notification of the CFI Rule change may be prejudicially affected or liabilities imposed in relation to acts taken by a person prior to notification.
- There is a presumption that legislation is not to apply retrospectively unless clear words are used (i.e. it is incumbent on the legislature to make its intentions clear beyond reasonable doubt) (various cases, but primarily Polyukhovich v Commonwealth 1991 HCA 32).
- As the intention is for the new rules to impose additional reporting and audit obligations to existing projects, they have a retrospective effect.
- Sections 114 and 126 of the CFI Act suggest that Parliament actually had the opposite intention, that is specifically not allowing method specific changes to be made to declared projects.
- In such circumstances it is arguable that using delegated legislation in this way is beyond the scope of the authority conferred on the Minister pursuant to section 15(h) of the CFI Act.
- This is a further reason why an amendment to the methodology determination using the legislative processes put in place for that purpose would be more appropriate.

Further information

The proposed rule change arguably contravenes section 308 of the CFI Act

Section 114 of the CFI Act sets out the legislative process the Minister must follow when considering a variation to a methodology determination. Sections 125, 126 and 127 confirm that the original methodology determination continues to apply to a project following the expiry, variation, or revocation of the methodology determination. The intent of these provisions is clear; they provide participants and farmers with the investment certainty required in order to invest in, and commit productive pastoral land to, ERF projects.

The introduction of new, method specific eligibility requirements for certificates of entitlement through the proposed rule change is, in substance, a significant variation to the NFMR methodology determination. In our discussions with the Department and the regulator that has never been denied. Using a rule change to give effect to the variation of a method is an obvious attempt by the Department, assisted in this case by the regulator, to defeat or avoid the important provisions of sections 114 and 126 of the CFI Act.

Section 308 of the CFI Act outlines the Minister may prescribe rules by legislative instrument which are required or permitted by the Act, or a necessary or convenient for carrying out or giving effect to the Act.

Whilst the form of the proposal may be a change to the rule, in substance, it is a change to the method. It is presented as a rule change only to avoid important provisions of the Act (*i.e.* the proper legislative process for amending a methodology determination). Therefore, it could not reasonably be considered either required, permitted, necessary or convenient for giving effect to the Act, when the change is specifically designed to avoid the Act's provisions.

The proposed rule change undermines the integrity of the scheme and foregoes low cost abatement

This attempt by the regulator and the Department, acting together, to vary a methodology determination other than by the proper legislative process undermines the integrity of the ERF. Participants and landholders will not commit their resources and productive pastoral land to a scheme where the bureaucracy has demonstrated disregard for the legislative provisions and does not apply regulatory interpretations with consistency.

For example, our firm, having invested substantial funds and resources in developing methods and successfully establishing projects, can no longer continue to do so as we are now unable to provide landholders with any assurance that the method will not change (sections 114 and 126 previously allowed us to do this). We must now disclose to landholders that the bureaucracy has attempted to change the methodology, and consequently they will not commit their land to projects and access to large areas of low cost abatement will be lost to the ERF.

The proposed rule change produces absurd outcomes

We agree that it is reasonable for the regulator to observe forest cover within NFMR project areas within a reasonable time period, however the way this requirement is currently drafted produces the following absurd outcomes;

- The proposed rule change in its current form prohibits us from using actual field measurement of forest cover to demonstrate the achievement of forest cover. This is absurd in the extreme. There can be no better way to demonstrate forest cover than to physically measure it.
- The rule change effectively provides the regulator, who is supposed to be subject to the rules, with the ability to change them at any time. For example, the demonstration of forest cover requires that participants *"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." This essentially releases the regulator from abiding by the rules as they can simply change them each time they are found to be inconvenient.

- The rule change introduces an audit requirement that is not in the audit schedule provided at project declaration. Audits are very expensive, and we were encouraged to price our ERF contracts at the lowest possible price at which we could undertake the projects. The imposition of an additional audit requirement is therefore grossly unfair. As the Commonwealth is a party to the ERF contracts, should additional costs now be imposed upon participants by the Commonwealth, it would be arguable that the ERF contracts are unenforceable.

We recently suggested amendments to the Department which would avoid these absurd outcomes. Everything we suggested was summarily dismissed. We maintain an open mind to adopting a reasonable time frame for the achievement of forest cover within regenerating project areas. However, the way this is sought to be imposed, and the resulting investment uncertainty and absurd outcomes created is very concerning to us.

Should the rule change be implemented in its current form, this will give rise to the following situation;

1. The Commonwealth enticed participants and landholders into the ERF, by assurances given that once a project was declared, the bureaucracy could not vary the applicable methodology determination.
2. These assurances were given in no less than the legislative provisions of the CFI Act.
3. The bureaucracy then seeks to renege on these assurances (as well as previous written advice provided to participants) to vary a method, and to apply it retrospectively to projects declared some years ago.
4. However, because the legislative provisions don't allow this, they do so via a devious and underhanded regulatory loophole.

This is not a particularly good look for the government of a developed nation. Innovative firms like ours invested our own money into ERF projects which has greatly contributed to the success of the ERF. Farmers like our clients have committed their productive pastoral land to the scheme. This was done on the basis of the assurances given in the CFI Act which the Department now seeks to completely disregard as if they were never there. It is reasonable for us to expect the Commonwealth to not attempt to defeat or avoid its own laws, and for this reason and those outlined above we submit that the proposed rule change should not be made.

37 George Street
The Rocks
Sydney
NSW 2000

14th March 2019

Submissions by Terra Carbon Pty Ltd (trading as "GreenCollar") to the Australian Government Department of the Environment and Energy

Emissions Reduction Fund: Proposed 2019 amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 relating to native vegetation projects

We write in response to the invitation by the Australian Government for submissions by interested businesses and members of the community on the Emissions Reduction Fund Consultation Paper on Proposed amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 relating to native vegetation projects (Proposed Rule Change). As a project developer, with a large portfolio of native vegetation projects, GreenCollar appreciates the opportunity to provide these submissions. We note that the Proposed Rule Change (together with the Clean Energy Regulator Technical Guidance) is part of ongoing efforts to strengthen the robustness and integrity of the native vegetation methods under the Emissions Reduction Fund Scheme (the Scheme) and we fully support that process.

Efforts to strengthen the robustness and integrity of methods should always be considered in the context of building confidence not only with members of the broader community but within the Industry itself. Confidence is a key factor that will continue to drive future investment and ongoing improvement by Industry. This is especially important in an ever changing regulatory landscape.

The amendments outlined in the Proposed Rule Change aim to ensure consistency between approaches and sources used to identify both pre-existing forest cover and forest cover for the purposes of satisfying requirements to attain forest cover. Overall GreenCollar supports the approach taken by Department of the Environment and Energy (the Department) in relation to the Proposed Rule Change.

GreenCollar acknowledges that the intention of the proposed amendments is not only to help strengthen the robustness and integrity of the methods but moreover to help maintain confidence and a level of assurance within Industry moving forward.

These are our submissions we hope they have assisted the Department with the consultation process. Please do not hesitate to contact us if we can be of any further assistance

Yours Faithfully,

James Schultz
Chief Executive Officer / Director
Terra Carbon Pty Ltd - GreenCollar Group
Email: james.schultz@greencollargroup.com.au

14 March 2019

By email: ERFforests@environment.gov.au
Forests Section
Department of Environment
GPO Box 787
Canberra ACT 2601

cc: Clean Energy Regulator, HIRTaskforce@cleanenergyregulator.gov.au
Emissions Reduction Assurance Committee, erac@environment.gov.au

Dear Forests Section,

This submission responds to the "*Proposed 2019 amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 relating to ERF native forest regeneration projects*" (Rule Change).

We note the proposed amendments primarily extend changes to the CFI Rule that were legislated in November 2018 to cover an additional project methodology (native forest managed regrowth). We previously provided submissions relating to the November 2018 amendments and have no further specific comments on the coverage of an additional method. However, we do emphasis the continued importance in giving due consideration to scheme complexity and integrity when making amendments of this nature. To that end, we reiterate previous comments that the inclusion of technical amendments to methods via a Rule Change is concerning, and that in our view other legislative instruments such as the CFI Mapping Guidelines would have been more appropriate avenues for making these changes.

Regarding the proposed amendments to clause 9AA(5) and 9AA(5A), we are in principle supportive of these amendments as they assist in operationalising the November 2018 changes. Although we again note that this is a key reason why it would have been preferable to implement the November changes at the technical guideline level. Making changes to the Rule has had further technical consequences which were not fully considered in 2018, and which now necessitate further regulatory changes. In relation to 9AA(5)(aa)(ii), we request that the wording is updated to clarify that approval will be given via publication on the website or in writing if 9AA(5)(aa)(i)(A) or (B) are met. This is for the avoidance of any doubt that the approval is discretionary, as the approval should be granted if the technical conditions are satisfied.

Climate Friendly Pty Ltd
ABN 65 107 201 025; AFSL 430250
Level 2, 140 William St, East Sydney, NSW 2011, Australia
T 1800 233 276 F +61 2 8221 9895
www.climatefriendly.com

Further to the above comments, we request the Department give high priority to the long overdue update to the CFI Mapping Guidelines. These would assist in operationalising the proposed new amendments and the previous November 2018 amendments by providing greater clarity about how mapping requirements variously incorporated in the CFI Rule, the relevant methodologies, as well as various technical guidelines managed by the Department of Clean Energy Regulator, can be implemented in a coherent framework. The proliferation of requirements in different legislative instruments is creating mounting complexity, and scheme efficiency and effectiveness would be enhanced by stepping out how these apply in practice in a single location in the CFI Mapping Guidelines. In updating the CFI Mapping Guidelines, we request the Department given prompt consideration to the ability of proponents to re-stratify projects in subsequent reporting periods, including the ability to merge carbon estimation areas where they have the same characteristics and meet the requirements set out in the methodology for initial stratification. This is consistent with the intent and purpose of the carbon farming initiative and relevant methodologies. It would better enable implementation of the forest monitoring requirements stemming from the November 2018 amendments and draft Clean Energy Regulator *Guidelines on stratification, evidence and records for projects under the Human-Induced Regeneration of Permanent Even-Aged Native Forest and Native Forest from Managed Regrowth method.*

Please do not hesitate to contact us if you wish to discuss the matters outlined above. We can be contacted at correspondence@climatefriendly.com.

Kind regards,

Skye Glenday
Executive Manager – Strategy & Analytics
Climate Friendly

ATTACHMENT D

Suggested talking points

What is the Native Forest from Managed Regrowth method?

- The Native Forest from Managed Regrowth method was developed under the Carbon Farming Initiative in 2013.
- The Native Forest from Managed Regrowth method provides opportunities for landholders to earn carbon credits by stopping clearing on pastoral land to support the regeneration of forest.
- Farmers can reinvest income from these projects in their properties to improve productivity, for example by building new fences to help manage livestock.
- Projects under this method have only been operating for a few years, and will be able to earn credits over 25 years.

What changes are you making?

- Amendments the Emissions Reduction Fund's legislative rule clarify some of the reporting and crediting requirements for Native Forest from Managed Regrowth projects.
    - These changes specify the time allowed for regenerating native vegetation to reach forest cover.
- The amendments to the rule will work together with new guidance from the Clean Energy Regulator on how to monitor progress of regeneration.
- Similar amendments were made in November 2018 for projects under another native forest regeneration method, the Human-Induced Regeneration method.
- The Amendments also require projects to adopt the same approach when they identify and exclude any areas of pre-existing forest at the start of a project, to when they later assess whether they have attained forest cover.
    - These changes will apply to projects under both the Native Forest from Managed Regrowth method and the Human-Induced Regeneration method.
- The Department and the Regulator consulted with project participants and have taken their contributions into account.

Why are you changing the rules now?

- The Government is committed to ensuring the integrity of the Emissions Reduction Fund.
    - Adopting these changes now will give more certainty to project participants about how assessment and crediting will work for projects already under way.
    - It will also help in designing new projects to best realise their carbon storage potential.

Why weren't these changes made at the same time as amendments for the Human-Induced Regeneration method?

- The methods are similar but there are also some differences, and the Department of the Environment and Energy took additional time to consider and consult on the best way to clarify the requirements for projects under the Native Forest from Managed Regrowth method.

Will changing the rules have a negative effect on farmers already under pressure from the drought?

- Farmers in drought-stricken regions are receiving income from projects that regenerate native vegetation.
    - The Government has 21 contracts for projects under the Native Forest from Managed Regrowth method.
    - These projects are all in western Queensland.
- These projects provide local employment and spending in local communities.
- The changes to the rule don't affect credits already issued or payments already made under contracts.

Why is the rule more generous for existing projects than for new projects?

- The rule allows a reasonable period of time, based on available science, for existing projects and new projects to reach forest cover.
- The starting dates for this period of time are defined in different ways for existing and new projects, because existing projects have already commenced activities to regenerate forests.