



# **Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2013 (No. 1)**

## **Select Legislative Instrument No. 77, 2013**

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I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Dated                      16 May 2013

Quentin Bryce  
Governor-General

By Her Excellency's Command

Yvette D'Ath  
Parliamentary Secretary for Climate Change, Industry and  
Innovation

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## 1 Name of regulation

This regulation is the *Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2013 (No. 1)*.

## 2 Commencement

This regulation commences on the day after it is registered.

## 3 Authority

This regulation is made under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

## 4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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) Regulations 2011*

#### 1 Subregulation 1.3(1)

Insert:

**2006 IPCC Guidelines for National Greenhouse Gas Inventories** means the report titled *IPCC 2006, 2006 IPCC Guidelines for National Greenhouse Gas Inventories*, prepared by the National Greenhouse Gas Inventories Programme, as in force from time to time.

Note: The report is accessible at [www.ipcc.ch/](http://www.ipcc.ch/).

**CFI rainfall map** means the map:

- (a) that shows long-term average annual rainfall; and
- (b) that uses data that is:
  - (i) collected by the Bureau of Meteorology for the period from at least 1921 to 2010; and
  - (ii) processed by the Department; and
- (c) published on the Department's website; and
- (d) as in force from time to time.

Note: The map is accessible at [www.climatechange.gov.au](http://www.climatechange.gov.au).

**clearing** means the conversion, caused by people, of native forest to cropland, grassland or settlements (within the meaning of "cropland", "grassland" and "settlements" in the *2006 IPCC Guidelines for National Greenhouse Gas Inventories*).

**consent**, for Divisions 3.6 and 3.12, means approval to commence clearing or conversion to a plantation, required by Commonwealth, State or Territory law, issued by the relevant Commonwealth, State, Territory or local regulatory authority responsible for giving the approval.

**harvest plan** means a plan prepared in accordance with Commonwealth, State or Territory law, that identifies:

- (a) geographic areas of native timber forest scheduled for harvesting; and
- (b) when the harvest will occur; and
- (c) the estimated volume of native timber forest to be harvested.

*plantation* means a forest established for harvest.

## **2 Regulation 1.5**

Repeal the regulation, substitute:

### **1.5 Kyoto abatement deadline**

For paragraph (b) of the definition of *Kyoto abatement deadline* in section 5 of the Act:

- (a) 31 December 2020 is specified in relation to the kinds of project mentioned in regulation 3.35; and
- (b) 30 June 2020 is specified in relation to all other kinds of project.

## **3 After subregulation 1.13(1)**

Insert:

- (1A) For subsections 13(2) and 76(5) of the Act, a project is specified if:
  - (a) the project is a specified offsets project mentioned in paragraph 3.28(1)(l) or subregulation 3.28(2); and
  - (b) a prescribed audit report has been provided for a period of 12 months or more after the diversion of waste.

## **4 Subregulation 3.1(3)**

Omit “or a non-CFI offsets scheme,”, substitute “or a non-CFI scheme,”.

## **5 Subregulation 3.1(4)**

Omit “or a non-CFI offsets project,”, substitute “or a non-CFI scheme,”.

## **6 At the end of regulation 3.16**

Add:

- (4) For paragraph (2)(p), the estimate must only be provided for the transferor offsets project.

## 7 Regulation 3.27

Repeal the regulation, substitute:

### 3.27 Definitions

In this Division:

***alternative waste treatment plant*** means an enclosed resource recovery plant that:

- (a) accepts and processes mixed solid waste using:
  - (i) mechanical processing; and
  - (ii) biological or thermal processing; and
- (b) extracts recyclable and organic materials.

***biocover***, for a landfill, means a cover:

- (a) consisting of a gravel layer and an overlying layer of a mixture of:
  - (i) woodchips or shredded wood, or a combination of both; and
  - (ii) compost; and
- (b) placed over waste in the landfill to optimise environmental conditions for microbial methane consumption.

***biofilter***, for a landfill, means a filtration system that:

- (a) consists of a flow control system, a gravel layer and an overlying oxidation layer of a mixture of:
  - (i) woodchips or shredded wood, or a combination of both; and
  - (ii) compost; and
- (b) receives gas from a landfill through an active gas extraction or passive drainage system; and
- (c) is designed to microbially oxidise methane in the gas.

***biosolids*** means a mixture of mainly water and organic materials that:



- (a) is entirely produced from the domestic and commercial waste water treatment process; and
- (b) has undergone further treatment to significantly reduce disease-causing pathogens and volatile organic matter; and
- (c) has been stabilised for beneficial use.

**conservation land** means an area that is owned and managed by the Commonwealth, a State or a Territory Government for biodiversity conservation.

**farm** means:

- (a) any tract of land:
  - (i) which is used by a person for agriculture; and
  - (ii) for which the person holds an estate in fee simple or a lease over the land; or
- (b) multiple tracts of land:
  - (i) which are used by the same person for agriculture; and
  - (ii) for which the person holds an estate in fee simple or a lease over each tract of land; and
  - (iii) to which the same methodology determination is applied, regardless of whether those tracts of land are touching.

**mixed solid waste**—see subregulation 3.28(4).

**new farm forestry plantation** means a plantation:

- (a) established on or after 1 July 2010 for the harvest of wood products; and
- (b) occupying land that has been cleared of trees and used for agricultural purposes for at least 5 years prior to the establishment of the plantation; and
- (c) in an area that, according to the CFI rainfall map, receives the amount of long term average annual rainfall mentioned in an item in the following table; and
- (d) occupies the area mentioned in the item.

<b>Farm forestry plantations</b>		
<b>Item</b>	<b>Rainfall</b>	<b>Area</b>
1	400mm or more	No more than the smaller of the

Farm forestry plantations		
Item	Rainfall	Area
		following areas:
		(a) no more than 100 ha;
		(b) no more than 30% of a farm.
2	less than 400mm	No more than the smaller of the following areas:
		(a) no more than 300 ha;
		(b) no more than 30% of a farm.

**putrescible waste** means the organic matter contained within solid waste which is capable of being decomposed by microorganisms.

**rangeland** means land:

- (a) that, according to the CFI rainfall map, receives average annual rainfall of less than 450mm; and
- (b) on which the vegetation is mainly native vegetation including grasses, forbs or shrubs; and
- (c) on which agricultural activity, if any, consists of grazing; and
- (d) that is not routinely:
  - (i) fertilised; or
  - (ii) cultivated for broadacre cropping.

**scalded soil** means topsoil that has been eroded by wind or water in an area that is usually without vegetation.

**tannin** means a naturally occurring plant polyphenol that binds and precipitates proteins.

Note: Tannins are common in fruits (such as grapes, persimmons and blueberries), tea, legume forages, legume trees (such as *Acacia* spp. and *Sesbania* spp.) and grasses (such as sorghum and corn).

## 8 At the end of paragraph 3.28(1)(c)

Add:

- ; or (vi) the rehabilitation of scalded soils on rangeland, by the creation of shallow earth banks or furrows to trap rainfall or slow water runoff;

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**9 Paragraph 3.28(1)(i)**

Repeal the paragraph, substitute:

- (i) the reduction of emissions from ruminants by one or more of the following:
  - (i) feeding tannins to ruminants;
  - (ii) feeding *Eremophila* spp. to ruminants;
  - (iii) feeding fats or oils, or both, to dairy cattle that are pasture grazed for more than 9 months each year;

**10 Paragraph 3.28(1)(l)**

Repeal the paragraph, substitute:

- (l) the diversion, before 1 July 2012, of mixed solid waste, which would otherwise have entered landfill, to an alternative waste treatment plant;
- (m) the passive oxidation of emissions from waste, deposited in a landfill before 1 July 2012, using biofilters or biocovers on landfills;

Note: This does not include projects using material obtained as a result of clearing or harvesting of native forest: see paragraph 27(4)(j) of the Act.

- (n) the establishment of a new farm forestry plantation;
- (o) the protection of native forest on freehold or leasehold land, on or after 1 July 2010, in relation to which:
  - (i) a Commonwealth, State or Territory law prohibits clearing, or conversion to a plantation, without consent; and
  - (ii) the landholder received consent, before 1 July 2010, for the clearing or conversion from the relevant Commonwealth, State, Territory or local regulatory authority responsible for giving the consent; and
  - (iii) the consent mentioned in subparagraph (ii) remains valid at the time of application to the Regulator for the declaration of the offsets project as an eligible offsets project; and
  - (iv) the consent mentioned in subparagraph (ii) does not require an offset to mitigate any effect from the clearing or conversion to which it relates;

- (p) the protection of native forest on freehold or leasehold land, on or after 1 July 2010, in relation to which:
  - (i) a Commonwealth, State or Territory law prohibits harvest without approval of a harvest plan; and
  - (ii) the landholder received approval of a harvest plan, before 1 July 2010, from the relevant Commonwealth, State, Territory or local regulatory authority responsible for giving the approval; and
  - (iii) the approved harvest plan remains valid at the time of application to the Regulator for the declaration of the offsets project as an eligible offsets project; and
  - (iv) the approved harvest plan does not require an offset to mitigate any effect from the harvest.

## 11 Subregulations 3.28(4) and (5)

Repeal the subregulations, substitute:

- (4) For paragraph (1)(l), ***mixed solid waste*** means waste from sources such as offices, community organisations, sporting facilities, households, retail and catering businesses and institutions (including schools, hospitals and prisons), but excludes the following:
  - (a) recyclable paper, paperboard, glass, metal or plastic that has been separated at the point of generation;
  - (b) green waste or wood waste, including waste from gardens or parks, that has been separated at the point of generation;
  - (c) biosolids;
  - (d) organic waste from the livestock industry, such as straw bedding and manure mixes;
  - (e) commercial and industrial waste comprising only putrescible waste when it is received by an alternative waste treatment plant;
  - (f) construction and demolition waste.
- (5) For subregulation (4), a type of waste is separated at the point of generation even if it is separated into a container that may contain some other types of waste.

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**12 At the end of subregulation 3.29(1)**

Add:

- ; (c) a requirement under State or Territory law that is made after 24 March 2011 and that implements an agreement between the Commonwealth and a State or Territory Government:
  - (i) to establish new reserves or reduce annual native forest harvest; and
  - (ii) that recognises the potential for carbon offset opportunities for areas protected by the agreement.

**13 Regulation 3.34 (definitions of *CFI rainfall map*, including the note, and *plantation*)**

Repeal the definitions.

**14 At the end of subregulation 3.35(2)**

Add:

- ; or (f) an activity mentioned in subparagraph 3.28(1)(c)(vi).

**15 Regulation 3.36**

Before “The”, insert “(1)”.

**16 Paragraph 3.36(a)**

Repeal the paragraph, substitute:

- (a) a project that involves an activity that:
  - (i) was mandatory under a Commonwealth, State or Territory law; and
  - (ii) is no longer mandatory because the law was repealed, or amended to be less onerous, after 24 March 2011;

**17 At the end of regulation 3.36**

Add:

- ; (g) a project that protects native forest on freehold or leasehold land, for which a clearing consent or harvest approval plan was granted on the basis that the clearing or harvesting of the native forest:
  - (i) would lead to an environmental improvement or benefit, or would maintain an environmental outcome; or

- (ii) was for fire management purposes.
- (2) Subparagraph (1)(a) does not apply to a project to which paragraph 3.29(1)(c) also applies.
- (3) Subparagraph (1)(g)(i) does not apply to a project if:
  - (a) the clearing consent or harvest approval plan provides options for vegetation management; and
  - (b) the project provides active and on-going management of the project area in accordance with one of those options.

## **18 Regulation 5.1 (after the heading)**

Insert:

- (1) This regulation is made for subparagraph 69(1)(b)(ii) of the Act.

## **19 Regulation 5.1**

Before “For”, insert “(2)”.

## **20 Regulation 5.1**

Omit “For subparagraph 69(1)(b)(ii) of the Act, the”, substitute “The”.

## **21 At the end of regulation 5.1**

Add:

- (3) The period of 100 years is specified for a project if:
  - (a) the project is a specified offsets project mentioned in paragraph 3.28(1)(l) or (2)(b); and
  - (b) the *Carbon Credits (Carbon Farming Initiative) (Conservative Estimates, Projections or Assumptions: Greenhouse Friendly<sup>TM</sup> Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012* does not apply to the applicable methodology determination for the project; and
  - (c) no Australian carbon credit units have been issued in relation to the diversion of mixed solid waste that is eligible for crediting under the project.

## **22 Regulation 5.2 (after the heading)**

Insert:

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- (1) This regulation is made for paragraph 70(4)(b) of the Act.

**23 Regulation 5.2**

Before “For”, insert “(2)”.

**24 Regulation 5.2**

Omit “For paragraph 70(4)(b) of the Act, the”, substitute “The”.

**25 At the end of regulation 5.2**

Add:

- (3) The period of 0 years is specified for a project if:
- (a) the project is a specified offsets project mentioned in paragraph 3.28(2)(b); and
  - (b) the *Carbon Credits (Carbon Farming Initiative) (Conservative Estimates, Projections or Assumptions: Greenhouse Friendly<sup>TM</sup> Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012* applies, or has ever applied, to the methodology determination that is, or has ever been, the applicable methodology determination for the project; and
  - (c) Australian carbon credit units have been issued in relation to the diversion of mixed solid waste that is eligible for crediting under the project.

**26 At the end of Division 6.1**

Add:

**6.5 Information and documentation for offsets reports—particular waste diversion projects**

- (1) This regulation applies to a project mentioned in subregulation 1.13(1A).
- (2) After an offsets report has been submitted for a period of 12 months or more after the diversion of mixed solid waste, a subsequent offsets report for the project does not need to comply with the requirements mentioned in paragraphs 6.2(e), (h), (j) and (k), and regulations 6.3 and 6.4.

**27 Subregulation 9.1(2) (including the note)**

Omit “*Guidelines for Submitting Methodologies*” (wherever occurring), substitute “*Guidelines for Submitting a Methodology Proposal*”.

**28 Paragraph 9.2(2)(c)**

Omit “*Guidelines for Submitting Methodologies*”, substitute “*Guidelines for Submitting a Methodology Proposal*”.

**29 Subregulation 9.2(2) (note)**

Omit “*Guidelines for Submitting Methodologies*”, substitute “*Guidelines for Submitting a Methodology Proposal*”.

**30 Subparagraph 11.5(1)(b)(i)**

Omit “a sequestration offsets project”, substitute “abatement from a sequestration offsets project that would result in the issue of a removal unit to the relevant Commonwealth holding account”.

**31 Subparagraph 11.5(1)(c)(iii)**

Omit “for an emissions avoidance project”, substitute “for an emissions avoidance project, or abatement from a sequestration offsets project that would not result in the issue of a removal unit to the relevant Commonwealth holding account”.

**32 Subparagraph 11.5(1)(c)(iv)**

Omit “a sequestration offsets project”, substitute “abatement from a sequestration offsets project that would result in the issue of a removal unit to the relevant Commonwealth holding account”.

**33 After Part 11**

Insert:

**Part 12—Publication of information**

**12.5 Entries in the Register**

For subparagraph 168(1)(o)(iii) of the Act, the requested information must meet the following requirements:



- (a) the requested information must state whether the project has received funding under the Australian Government's Biodiversity Fund;
- (b) the requested information must be supported by evidence that demonstrates that the information is accurate, such as a copy of the funding agreement under the Biodiversity Fund.

### **34 Before regulation 15.4 of Part 15**

Insert:

#### **15.2 Transfer of certain units instead of relinquishment of Kyoto Australian carbon credit units**

- (1) For subsection 177(4) of the Act, the transfer of a substitute unit (other than a substitute unit mentioned in paragraph 177(6)(e)) may only occur during a flexible charge year.
- (2) For subsection 177(4) of the Act, the transfer of a substitute unit mentioned in subregulation (3) may occur at any time.
- (3) For the definition of ***prescribed eligible carbon unit*** in section 5 of the Act, a non-Kyoto Australian carbon credit unit is a prescribed eligible carbon unit for paragraph 177(6)(e) of the Act, only if the non-Kyoto Australian carbon credit unit meets paragraph (b) or (c) of the definition of ***eligible Australian carbon credit unit*** in the *Clean Energy Act 2011*.
- (4) For subsection 177(8) of the Act, each of the following is not a substitute unit:
  - (a) a certified emission reduction mentioned in subregulation 6.1(1) of the *Clean Energy Regulations 2011*, to which subregulation 6.1(2) of those regulations applies;
  - (b) an emission reduction unit mentioned in subregulation 6.1(1) of the *Clean Energy Regulations 2011*, to which subregulation 6.1(2) of those regulations applies.
- (5) In this regulation:

***flexible charge year*** has the same meaning as in the *Clean Energy Act 2011*.

**15.3 Transfer of certain units instead of relinquishment of non-Kyoto Australian carbon credit units**

- (1) For subsection 178(4) of the Act, the transfer of a substitute unit (other than a substitute unit mentioned in paragraph 178(6)(a)) may occur only during a flexible charge year.
- (2) For subsection 178(8) of the Act, each of the following is not a substitute unit:
  - (a) a certified emission reduction mentioned in subregulation 6.1(1) of the *Clean Energy Regulations 2011*, to which subregulation 6.1(2) of those regulations applies;
  - (b) an emission reduction unit mentioned in subregulation 6.1(1) of the *Clean Energy Regulations 2011*, to which subregulation 6.1(2) of those regulations applies.

- (3) In this regulation:

*flexible charge year* has the same meaning as in the *Clean Energy Act 2011*.