Australian Government
Clean Energy Regulator

Guidance for ACCU Scheme participants impacted by the expiry (or sunsetting) of an ACCU Scheme method

Background

Methodology determinations (or methods) determine the rules and eligible activities for running an Australian Carbon Credit Unit (ACCU) Scheme project. As all methods are legislative instruments, they automatically sunset approximately 10 years after registration.[1]

In general, ACCU Scheme methods (**expiring methods**) expire on the day before they would otherwise sunset. When a method expires, existing project proponents may continue their projects under those methods for the remainder of their crediting period, if they have registered their project and started their crediting period on or before the expiry date. This means that project proponents will be able to continue to claim ACCUs for those projects after the expiry date. For projects registered within 18 months of the expiry date, it is important that project proponents do not vary their crediting period start date to a date after the expiry date. Project proponents who initially nominate their crediting period start date as a date after the expiry date but do not vary that start date to a date on or before the expiry date, or project proponents who vary their crediting period start date to a date after the expiry date, will not be able to continue their projects when the method expires.

No new projects may be registered under methods that have expired. Projects that have already been registered under a different method cannot transfer to a method that has expired.

Purpose

This guidance outlines how ACCU Scheme projects may be impacted by the expiry of a method, and clarifies administrative processes and options for these projects. The expiry of a method may impact participants who:

- are considering registering a new project
- are in the process of registering a new project
- are undertaking a project that has already been registered
- are considering transferring their project to a new or updated method.

[1] Sunsetting is the automatic repeal of legislative instruments after a defined period of time (on the first 1 April or 1 October on or after the 10th registration anniversary), and it provides an opportunity for agencies to review and streamline legislative instruments.

This guidance provides generalised advice for participants under the ACCU Scheme. For specific advice pertaining to the impacts on your individual project, please contact the relevant ACCU Scheme assessment team. The guidance is structured based on what stage of your project you are in. High level guidance on method specific considerations for some projects under the Native forest from managed regrowth method has been included at the end of this document.

1. Considering registering a new project

Participants considering registering a project under a method that is due to expire should consider:

- the timing of their application and the likelihood of the project being registered by the expiry date
- whether they intend to add new areas to the project after registration
- the intended project crediting period start date[2], and in particular whether it will occur after the relevant method has expired
- whether they intend to eventually transfer to a new method, if applicable.

Under s27(14) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the CFI Act)[3], the Clean Energy Regulator must take all reasonable steps to ensure that a decision is made on a project registration application within 90 days after the application was made or after the provision of further information requested by the Clean Energy Regulator.

Participants are therefore advised to complete their application to register a project as soon as possible, and at least 90 days prior to the expiry date of a method.

While all best endeavours will be taken to assess applications and register projects prior to the expiry date, participants should be aware that the Clean Energy Regulator may not have time to assess all completed applications, and completing applications less than 90 days before the expiry increases the risk that the project may not be able to be registered by the expiry date.

If this occurs and a new method replaces the expiring method, then eligible proponents are encouraged to reapply to register their project under the new method. The Clean Energy Regulator would look for opportunities to use information that was previously provided in registration forms for expired methods to pre-populate new application forms under the new method.

If a new method has been made and projects registered under the expiring method(s) are eligible under the new method, participants are generally advised to register under the new method where possible, (see Section 3).

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[2] The crediting period commences at the date that a project is declared, unless a request is specifically made at registration, or is made by submitting an application following registration, to defer the crediting period start date. Consequently, most projects will have commenced their crediting period at registration and will be able to continue their project beyond the method's expiry date.

[3] https://www.legislation.gov.au/Details/C2023C00083

2. In the process of registering a project

The expiry of a method will have varied impacts on project registrations, depending on what stage the project is up to in the registration process. The below table provides more information on these stages, the impacts the expiry will have, and steps participants can take to manage these impacts.

Stage of registration	Projects under an expiring method	Management steps
Registration application has not yet been completed and submitted to the Clean Energy Regulator	The expiry of the method will result in the project registration application being voided and the project cannot be declared.	For projects under an expiring method, participants may: • ensure their registration application is completed and submitted prior to the expiry date of the method, with sufficient time for the assessment team to process the application by the expiry of the method[4] • re-submit their registration application for assessment under a new applicable method. This option applies if a new method replaces the expiring method and the project remains eligible under the new method (noting that changed eligibility rules are likely for new methods). The Clean Energy Regulator would look for opportunities to use information that was previously provided in registration forms for expired methods to pre-populate new application forms under the new method.

[4] As per s27(14) of the CFI Act, the Clean Energy Regulator must take all reasonable steps to ensure a decision is made on a registration application within 90 days of the provision of further information requested by the Clean Energy Regulator or of the date of the application.

Stage of registration	Projects under an expiring method	Management steps
Registration application has been submitted to the Clean Energy Regulator and is under assessment	Projects are unable to be declared under a method after the expiry date. Any projects that are still under assessment after the method expires will not be declared.	If a new method replaces the expired method and the project remains eligible under the new method (noting that changed eligibility rules are likely for new methods), participants may: • re-submit their registration application for assessment under a new applicable method • request the assessment team to assess their registration application under a new applicable method. The assessment team may need to request any outstanding information required under the new method to process the application.

3. Undertaking a project that is registered under the expiring method

The impacts of the expiry of a method will depend on whether the crediting period has started or will start for your project on or before the expiry date. The below table provides more information on these stages, the impacts the expiry will have, and the steps you can take to manage these impacts.

Stage of project	Impact of the expiry of a method	Management steps
Crediting period has commenced on or before the expiry date	Under s125 of the CFI Act, if a method that covers a project has expired, the method will continue to apply for the project for the remainder of the crediting period. This only applies if the crediting period commenced on or before the expiry date. However, proponents undertaking an area-based project may not vary their project to add areas after a method has expired (see s23(1)(f) of	Proponents may: • continue their project under the expired method (but will be unable to add land to the project) • submit an application under s128 of the CFI Act to have a new method apply to their project, if a new method replaces the expired method and the project remains eligible under the new method (noting that changed eligibility rules are likely for new methods).

Stage of project	Impact of the expiry of a method	Management steps
	the Carbon Credits (Carbon Farming Initiative) Rule 2015 (the CFI Rule)[5]).	
Crediting period has not yet commenced on or before the expiry date	For projects that have been registered but not yet submitted their first offsets report, the crediting period start date for the project must commence on or before the expiry date or their project will no longer be able to continue under the expired method. Additionally, these projects will be unable to request to transition to a new method (as these requests must be made during a reporting period for the project – see s128 of the CFI Act). As such, the expiry of the method will result in the project being exited from the scheme.	Participants should not nominate to commence the start date of their crediting period after the expiry date.

4. Projects that wish to transition to a new method

Projects that are registered under a method and wish to transition to a new method can do so by submitting an application under s128 of the CFI Act to the Clean Energy Regulator. The Clean Energy Regulator will assess the eligibility of the project under the new method. These details will be method-specific, depending on both the original and new methods.

Method specific considerations

Native forest from managed regrowth projects:

The Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013 (NFMR method)[6] will expire on 31 March 2024. Projects registered under the method will remain covered by the method for the remainder of their crediting period, if they have started their crediting period on or before that date. By law, the Clean Energy Regulator cannot register NFMR projects after the method's expiry date.

Participants intending to apply to register a project under the NFMR method should apply as soon as possible. As the time required to assess an application is highly variable depending on the characteristics of the project and the circumstances of the application, the Clean Energy Regulator cannot guarantee that all

[5] https://www.legislation.gov.au/Details/F2023C00196
[6] https://www.legislation.gov.au/Details/F2018C00119

applications will be assessed before the expiry date. To minimise the risk that your application will not be assessed in time, we recommend you complete your application by **22 December 2023.**

The Clean Energy Regulator will prioritise assessment of project registration applications in the order in which they are **completed**, i.e., the date and time on which all information required by the applicable legislation (as well as any information that the Clean Energy Regulator has sought in a Request for Further Information or RFI) is received. It is important that participants respond to an RFI by the RFI due date or the Clean Energy Regulator may refuse to consider the application.

While all best endeavours will be made by the Clean Energy Regulator to decide on as many completed project registration applications as possible before the expiry of the method, applicants should be aware there is a risk that their application will not be decided on or by the expiry date. By law, the Clean Energy Regulator cannot register NFMR projects after the method's expiry date.

Conditionally registered projects

NFMR projects that are conditionally registered will remain covered by the expiring method, if they have started their crediting period before the expiry date.

Conditionally registered projects must obtain consents from eligible interest holders before the end of the first reporting period. ACCUs will not be issued to a project until all eligible interest holder consents are obtained.

The Independent Review of ACCUs[7] recommended removing the ability to conditionally register projects on Native Title land without Native Title eligible interest holder consent to ensure that the ACCU Scheme aligns with the principles of free, prior and informed consent (FPIC). This recommendation recognises the importance of early engagement with First Nations people before projects are established. The Government recently completed a public consultation process including with First Nations people on implementing this recommendation, and how the Government can best support Native Title eligible interest holders to participate in consent processes. The Government is currently analysing the feedback and working on administrative and legislative changes needed to support the recommendation's implementation.

Note that all participants must adhere to the Clean Energy Regulator's Native Title, legal right and eligible interest holder consent guidance[8] and should follow the best practice of the principle of FPIC when planning to run a project on land subject to Native Title. Participants will need to provide additional information showing how they have applied best practice of engaging with eligible interest holders prior to submission of project applications and how they have given consideration to the principle of free, prior and informed consent. Wanting to register a project before a method expires is not a valid reason for failing to adhere to the guidance.

[7] https://www.dcceew.gov.au/climate-change/emissions-reduction/independent-review-accus
[8] https://www.cleanenergyregulator.gov.au/DocumentAssets/Pages/Native-title-legal-right-and-eligible-interest-holder-consent-guidance.aspx