



Relinquishment of Australian carbon credit units (ACCUs) under joint emissions avoidance and sequestration methods guidance

The purpose of this guidance is to outline how the Clean Energy Regulator (the agency) will apply relinquishment provisions of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the CFI Act) to Emissions Reduction Fund (ERF) projects that involve both emissions avoidance and sequestration.

The agency may update this document from time-to-time following consultation with relevant stakeholders.

Regulator posture on ACCU relinquishments for joint methods

Where permitted under the CFI Act and the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the CFI Rule), the agency will distinguish between the number of ACCUs issued for sequestration and ACCUs issued for emissions avoidance where relevant, when administering relinquishment provisions for projects where ACCUs have been issued for both sequestration and emissions avoidance abatement.

Overview

The CFI Act categorises ERF projects as either emissions avoidance offsets projects or sequestration offsets projects.

Under s 54 of the CFI Act, a project that removes carbon dioxide from the atmosphere by sequestering carbon in **and** avoiding the emission of greenhouse gases from, living biomass, dead organic matter and/or soil, is considered to be a sequestration offsets project (regardless of the emissions avoidance component). There is no separate category for projects involving both sequestration and emissions avoidance components, such as projects under the *Savanna fire management – sequestration and emissions avoidance* method and the *Blue carbon - tidal restoration method* (joint methods).

A key administrative challenge for joint methods is that the CFI Act does not distinguish between the number of ACCUs issued for the sequestration components of the project and the number of ACCUs issued for the emissions avoidance components of the project. In circumstances where ACCUs are required to be relinquished to manage the permanence obligations associated with ACCUs generated for sequestration abatement, it is reasonable that project proponents are not required to also relinquish ACCUs associated with the emissions avoidance components of their project, which are not affected by reversals due to lack of permanence.



Requirements for relinquishment of ACCUs

The CFI Act enables the agency to require the relinquishment of ACCUs issued to a project in a number of scenarios. For sequestration offsets projects, these include:

1. if ACCUs have been issued to a person in relation to a sequestration offsets project and that person has given false or misleading information to the agency: Under s 88 of the CFI Act, the agency may require the person to relinquish a specified number of ACCUs, which were issued as a result of information that was false or misleading.
2. if ACCUs have been issued to a sequestration offsets project and the declaration of the project as an eligible offsets project is revoked: Under s 89 of the CFI Act, the agency may require a project proponent to relinquish a specified number of ACCUs.

A declaration of a project as an eligible offsets project may be revoked due to:

- eligibility requirements no longer being met
 - the project proponent ceasing to pass the fit and proper person test
 - the person responsible for carrying out the project ceasing to be the project proponent
 - the agency has been given false or misleading information in relation to the project
 - a project having multiple project proponents and the project proponents have failed to nominate a nominee.
3. if ACCUs have been issued to a sequestration offsets project and there has been a complete or partial reversal of sequestration levels, the agency may require a project proponent to relinquish a specified number of ACCUs in certain circumstances.

These circumstances include:

- where natural disturbances or conduct engaged by a person other than the project proponent (beyond reasonable control of the project proponent), have resulted in significant reversal of sequestration, and the agency is not satisfied that the project proponent has taken reasonable steps to mitigate the impacts on the project (s 91 of the CFI Act)¹
- where causes other than natural disturbances, bushfire risk reduction actions, or conduct engaged by a person other than the project proponent (beyond reasonable control of the project proponent), have resulted in significant reversal of sequestration (s 90 of the CFI Act).

¹ For further information on reducing the risk of fire and preserving sequestered carbon in ERF projects, please see the agency's guidance on [permanence obligation requirements](#)



4. if ACCUs have been issued to a sequestration offsets project and the project proponent wishes to either vary their project area to remove an area of land, or voluntarily revoke the entire project.

In scenarios 1, 2 and 3 (false or misleading information, revocation of a declaration of an eligible offsets project, or reversal of sequestration), the agency has discretion to determine the number of ACCUs that are required to be relinquished. This discretion is given by sections 88(3), 89(2), 91(2) and 90(2) of the CFI Act.

In **scenario 1 (false or misleading information)**, the agency may require relinquishment of the number of ACCUs that was the product of false or misleading information provided. In the context of projects under joint methods, which credit both emissions avoidance and sequestration, those ACCUs could relate to either sequestration or emissions avoided.

For **scenarios 2 and 3 (revocation or sequestration reversals)**, the agency **will** use this discretion to only require the relinquishment of ACCUs associated with the sequestration components of the project, as the relinquishment is intended only to manage the permanence obligations associated with ACCUs generated for sequestration as there is no permanence risk for avoided emissions under the project. For those scenarios, the agency will not require project proponents to relinquish ACCUs associated with the emissions avoidance components of the project.

Removing land or revoking an entire project

Scenario 4 (where the project proponent wishes to remove an area of land from the project or revoke the entire project) is more complex. Under the CFI Act, land that forms part of a sequestration offsets project which has been issued credits cannot directly be removed from the scheme. In these circumstances, the *restructure of eligible offsets projects* mechanism in s 57 of the CFI Act must be used.

Using s 57 of the CFI Act, the land being removed from the project (whether it be only part of the project, or the entire project) must be transferred to another sequestration project which can be a 'placeholder' project (known as a transferee project) set up to receive the transfer of the relevant land. From there, the land can be removed from the scheme through a voluntary revocation of the whole transferee project under s 32 of the CFI Act.

During the process of transferring land from the original project (*the transferor project*) to the transferee project, the agency has discretion under s 57(2) to determine the net total amount of ACCUs to be allocated to the transferor and the transferee project. The agency will use this discretion to determine that the net total number of the transferee project will only comprise the number of ACCUs generated for sequestration abatement in the area of land being transferred (whether that land is only part of the original project, or the entire original project). When the transferee project is then voluntarily revoked under s 32, the amount of ACCUs required to be relinquished under s 32(2)(c) will be equal to the sequestration abatement associated with that area of land and will not include emissions avoidance abatement.



Put simply, if a project area has been issued sequestration and emissions avoidance ACCUs and you intend to remove either some or all of the project area, you will need to:

1. transfer the relevant area of land to the second 'placeholder' sequestration project
2. apply to revoke the second sequestration project and relinquish all ACCUs allocated to that area of land by the agency (which will not include ACCUs generated from emissions avoidance)

Mandatory revocations following a carbon maintenance obligation declaration

Under s 97 of the CFI Act, a carbon maintenance obligation may be imposed where a relinquishment requirement has not been complied with. Under a carbon maintenance obligation, activities must not be conducted that are likely to reduce the level of carbon sequestered on the land subject to the obligation, below the level when the obligation was declared.

Where a carbon maintenance obligation is to be revoked, the ACCUs required to be relinquished must equal the net total number of ACCUs issued to the project (s 99 CFI Act). In this circumstance, the agency is not able to apply discretion, and the total net number of ACCUs required to be relinquished will include the ACCUs issued for both emissions avoidance and sequestration abatement. However, the agency views making a carbon maintenance obligation declaration as a last resort. It is worth noting that since the ERF was established in 2015 the carbon maintenance obligation mechanism has never been used.

The agency will only consider making a carbon maintenance obligation if the following circumstances apply:

- the agency has required the relinquishment of ACCUs in relation to a project, and the relinquishment requirement has not been met, or is unlikely to be met, or;
- the agency is likely to require the relinquishment of ACCUs in relation to the project, and it is likely that the relinquishment requirement will not be met.