

BIDCARBON™

Biomass Energy (Biochar Production Systems) Standard 2025

Carbon Farming

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Part 1—Preliminary

1. Name

This BPS Standard may be cited as the Biomass Energy (Biochar Production Systems) Standard 2025.

1.A. Schedule 1

Each instrument that is specified in [Schedule 1](#) to this BPS Standard is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

2. Commencement

- (1) Each provision of this BPS Standard 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
Provision(s)	Commencement	Date/Details
1. The whole of this BPS Standard	The day after this BPS Standard receives the assent of the Chairman of the Board of Trustees.	15 November 2025

Note: This table relates only to the provisions of this BPS Standard as originally enacted. It will not be amended to deal with any later amendments of this BPS Standard.

- (2) Any information in column 3 of the table is not part of this BPS Standard. Information may be inserted in this column, or information in it may be edited, in any published version of this BPS Standard.

3. Object/outline

The objects of this BPS Standard are:

- (1) to encourage the additional production of biochar from renewable sources by both:
 - (a) facility for the production of both electricity and biochar; and
 - (b) units used solely for the production of biochar or for cooking; and
- (2) to ensure that renewable energy sources are ecologically sustainable; and
- (3) to contribute to the achievement of voluntary greenhouse gas emissions reduction targets.

4. Years to which this BPS Standard applies

This BPS Standard applies to the year commencing on 14 November 2025 and to all subsequent years.

5. Definitions

- (1) In this BPS Standard, unless the contrary intention appears:
accredited AWT facility means a AWT facility accredited under [Division 3](#) of Part 2.

arrangement means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
- (b) any scheme, plan, proposal, action, course of action or course of conduct.

authorised BidCarbon contractor means a person who:

- (a) provides, or proposes to provide, services to the BidCarbon Foundation under a contract; and
- (b) is authorised, in writing, by the Working Body for the purposes of this definition.

authorised person means a person appointed under [section 78](#).

AWT facility or **alternative waste treatment facility** means a facility that:

- (a) uses high-scale technology; and
- (b) accepts and processes waste by means of an eligible waste treatment technology; and
- (c) generates electricity or biobased products from the waste processed; and
- (d) is operated in accordance with the laws of the relevant Country, State (or similar division) or Territory.

For the purposes of paragraph (a), “**high-scale technology**” means technology that satisfies all of the following conditions, as set out in the European Biochar Certificate – EBC Guidelines for Sustainable Production of Biochar (“the EBC Production Guidelines”):

- (e) the greenhouse gases generated during pyrolysis in the production device are recovered or combusted, and are not released into the atmosphere;
- (f) at least 70% of the heat energy produced by pyrolysis is used (taking into account heat-transfer inefficiencies), so as to ensure that energy is recovered as well as biochar;
- (g) pollution controls, including a thermal oxidiser or other emissions controls, are installed and meet local, national or international emission thresholds; and
- (h) the production temperature is measured and reported.

A system that does not meet all of the conditions in paragraphs (e) to (h) is to be categorised as small-scale technology.

biobased product means a product that:

- (a) is manufactured by a waste treatment facility or unit; and
- (b) contains material that was previously eligible energy sources; and
- (c) has been produced to a saleable quality.

Note: The USDA BioPreferred® Program designates categories of biobased products that qualify for federal purchasing preference, including the following:

- (a) compost;
- (b) landscape mulch;
- (c) mine site remediation material;
- (d) soil conditioner (including biochar).

biochar production emission activity means an activity prescribed by rules made for the purposes of this definition.

biochar production return has the meaning given by [section 23](#).

BidCarbon removal unit has the meaning given by the BidCarbon (Carbon Farming) Standard 2025.

body corporate means:

- (a) includes a body corporate that is being wound up or has been dissolved; and
- (b) includes an unincorporated registrable body.

certificate means a carbon data rights certificate.

certificate registration charge means small-scale technology certificate charge or apply for AWT facility applications charge.

certificate registration charge related liability means a pecuniary liability to the Working Body (including a liability the amount of which is not yet due and payable) being:

- (a) certificate registration charge; or
- (b) interest charge; or
- (c) damage charge.

commercial arbitration has the meaning given by [subsection 110.\(2\)](#).

Commercial Court means the Business and Property Courts of England and Wales.

controlling corporation has the same meaning as in the Greenhouse Gas Reporting Standard.

corporation mean:

- (a) a body corporate; or
- (b) a body incorporated outside the United Kingdom; but does not include—
 - (i) a corporation sole, or
 - (ii) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed.

damage unit means the standard **amount** of money used to calculate penalties for many breaches of the liquidated damages clauses, for example 10 damage units is equivalent to 1 certificate with a face value of 10 BidCarbon removal units, or 10 certificates with a face value of 1 BidCarbon removal unit.

Note: The value of each BidCarbon removal unit is based on the selling price of the carbon data rights certificates on the BidCarbon marketplace, and the price of each certificate varies.

ecologically sustainable means that an action is consistent with the following principles of ecologically sustainable development:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of intergenerational equity, which is that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.

electronic signature of a person means the person's unique identification in an electronic form that is approved by the Working Body under subsection (3).

eligible biochar baseline has the meaning given by [section 15](#).

eligible countries does not refer to countries, governments, or terrorist organisations that are subject to financial sanctions imposed by the Sanctions and Anti-Money Laundering Act 2018.

eligible energy sources means an eligible renewable energy sources.

eligible renewable energy source has the meaning given by [section 20](#).

eligible waste treatment technology means:

- (a) pyrolysis or thermochemical technologies, including sorting, separation of recyclables, size reduction, screening, and the use of one or more devices to convert waste biomass types into biochar; or

- (b) biomass pelleting technologies, converting waste biomass types into high-quality pellets for use as fuel or in power generation.

engage in conduct means:

- (a) do an act; or
- (b) omit to do an act.

executive officer of a corporation means:

- (a) a director of the corporation; or
- (b) the chief executive officer (however described) of the corporation; or
- (c) the chief financial officer (however described) of the corporation; or
- (d) the secretary of the corporation.

equipment has the meaning given by the Biomass Energy (Biochar Production Systems) Rule 2025.

general interest charge rate, for a day, is the rate that is the general interest charge rate for that day for the purposes of the Taxes Management Act 1970.

interest charge means the charge payable under [section 72](#).

liquidated damages clause means a provision declared by this BPS Standard to be a liquidated damages clause.

monitoring authorisation means a warrant issued under [section 92](#).

nominated person, for an accredited AWT facility, means:

- (a) if no approvals have been given under [section 44](#) in relation to the AWT facility—the person who made the application for accreditation; or
- (b) if one or more approvals have been given under that section in relation to the AWT facility—the last person so approved.

objection decision has the meaning given by [section 65](#).

occupier, in relation to premises, includes a person present at the premises who is in apparent control of the premises.

offence against this BPS Standard includes:

- (a) an offence against the rules; and
- (b) an offence against section 171.(1) of the BidCarbon (Carbon Farming) Standard 2025 that relates to this BPS Standard or the rules.

officer has the same meaning as in the BidCarbon (Carbon Farming) Standard 2025.

premises includes the following:

- (a) a structure, building or vehicle;
- (b) a place (whether enclosed or built on or not);
- (c) a part of a thing referred to in paragraph (a) or (b).

produce includes permit access to.

production device are generally classified as either pyrolysis technology (in which oxidants are excluded), or gasification technology (in which oxidant concentrations are low enough to generate syngas).

quarters means each year consists of quarters as follows:

- (a) January, February and March in the year (the ***first quarter***);
- (b) April, May and June in the year (the ***second quarter***);
- (c) July, August and September in the year (the ***third quarter***);
- (d) October, November and December in the year (the ***fourth quarter***).

register of accredited AWT facilities has the meaning given by [section 102](#).

register of applications for accredited AWT facilities has the meaning given by [section 106](#).

register of registered persons has the meaning given by [section 100](#).

register of small-scale technology certificates has the meaning given by [section 104](#).

registered person means a person registered under [Division 2](#) of Part 2.

registration number has the meaning given by [section 13](#).

senior employee, in relation to an authorised BidCarbon contractor, means an employee of the contractor, where the skills and responsibilities that are expected of the employee are equivalent to, or exceed, the skills and responsibilities expected of at least one of the senior officers of the Working Body.

senior officer of the Working Body means a person who:

- (a) is a member of the staff of the Working Body; and
- (b) either:
 - (i) a employee of the Technical Review Panels, whether employed directly by the panel or working on an acting basis; or
 - (ii) a employees (including Certified Internal Auditors) of BidCarbon Big Data Chengdu Limited.

small-scale technology unit means a device that generates biochar and is specified by the rules as a small-scale technology unit.

Note : This category of small-scale technology unit can be suitable for clean, healthy, distributed low tech biochar production (DLT) of by developing country smallholders and micro-entrepreneurs.

small-scale technology certificate means a certificate created under [Subdivision A](#) of Division 4 of Part 2.

staff of the Working Body means:

- (a) The Chair of the Technical Governance Committee and the Committee's staff members constitute an ad hoc committee of the Board of Trustees.
- (b) the Chair of the Technical Governance Committee is the Head of that Committee.

stakeholder, in relation to an accredited AWT facility, means:

- (a) a person who operates the AWT facility (whether alone or together with one or more other persons); or
- (b) a person who owns all, or a part, of the AWT facility (whether alone or together with one or more other persons).

STC means a small-scale technology certificate.

waste biomass type means defined in paragraphs (i) to (q) of the definition of eligible renewable energy source in [subsection 20.\(1\)](#).

waste treatment facility or unit means a facility or unit that:

- (a) is an accredited AWT facility; or
- (b) is a small-scale technology unit registered in the register of small-scale technology certificates.

warrant premises, in relation to a monitoring authorisation, means the premises to which the authorisation relates.

Working Body means the Technical Governance Committee, the Technical Governance Committee is an ad hoc committee of the Board of Trustees.

- (2) For the purposes of this BPS Standard, biochar is taken to be a good that can be acquired.
- (3) The Working Body may, in writing, approve an electronic form for the purposes of the definition of electronic signature in subsection (1).

6. Trustees of a trust to be bound

- (1) This BPS Standard unequivocally binds trustees of a trust of the Foundation in each of its capacities.
- (2) This BPS Standard does not impose liability on trustees of a trust of the Foundation for pecuniary or damages or for irregular behaviour.

7. Extension beyond the United Kingdom

This BPS Standard applies to legal entities registered in eligible countries as well as in the United Kingdom.

8. Standard basis

To the extent that this BPS Standard applies in relation to a controlling corporation, the operation of this BPS Standard is based on the following principles:

- (a) the principles that the BidCarbon Foundation has under the Companies Act 2006;
- (b) any other principles that the BidCarbon Foundation has under the BidCarbon (Carbon Farming) Standard 2025;
- (c) a foreign law that corresponds to a law mentioned in subparagraph (a).

8.A. Interpretation of foreign law

- (3) For the purposes of this BPS Standard, a reference to a foreign law is a reference to that law as interpreted by the courts of the foreign jurisdiction in which it applies.
- (4) In the event of any conflict between a foreign law and this BPS Standard, this BPS Standard prevails unless explicitly stated otherwise.
- (5) Any principles derived from a foreign law are applied only to the extent necessary to give effect to the objectives of this BPS Standard.

Part 2— *Waste treatment facility or unit*

Division 1—Preliminary

9. Overview of Part

This Part provides for the creation and extinguishing of small-scale technology certificates.

The certificates are created by people who produces biochar from accredited AWT facility using eligible energy sources where the amount production exceeds the relevant eligible biochar baseline. The certificates are also created for approved installations of small-scale technology units.

A person needs to be registered under [Division 2](#) before they can create a certificate.

Division 2—Registration of persons

10. Who can register

- (1) Any person may be registered under this BPS Standard.
- (2) However, if a person's registration has been suspended under [section 42](#) or [43](#), the person cannot be registered during the period of the suspension.

11. Applying for registration

- (1) A person may apply to the Working Body to be registered.
- (2) The application must:
 - (a) be made in a form and manner required by the Working Body; and
 - (b) contain any information required by the Working Body; and
 - (c) be accompanied by any documents required by the Working Body; and
 - (d) be accompanied by the fee (if any) prescribed by the rules for the making of applications for registration.

12. Working Body to refuse or approve application

- (1) If the Working Body receives an application that is properly made under [section 11](#), the Working Body must:
 - (a) approve the application; or
 - (b) refuse the application.
- (2) The Working Body may refuse the application if the Working Body is satisfied that the applicant is not a fit and proper person.
- (2)(A) For the purposes of subsection (2), in determining whether the applicant is a fit and proper person, the Working Body:
 - (a) must have regard to the matters specified in rules made for the purposes of this subsection; and
 - (b) may have regard to such other matters (if any) as the Working Body considers relevant.
- (3) The Working Body must refuse the application if the Working Body is satisfied that the applicant has previously been a registered person.

13. Working Body to allocate registration numbers

If the Working Body approves an application, the Working Body must allocate the applicant a unique registration number and advise the applicant of the number.

Division 3—Accreditation of AWT facility

14. Application for accreditation

- (1) A registered person may apply to the Working Body for the accreditation, as an accredited AWT facility, of components of an facility as a single AWT facility if the person:
 - (a) operates those components (whether alone or together with one or more other persons); or
 - (b) owns all, or a part, of those components (whether alone or together with one or more other persons).
- (2) The application must:
 - (a) be made in a form and manner required by the Working Body; and
 - (b) specify those components of the unit that the applicant considers are a single AWT facility; and
 - (b)(a) specify each other person (if any) who:
 - (i) operates those components (whether alone or together with one or more other persons); or
 - (ii) owns all, or a part, of those components (whether alone or together with one or more other persons); and
 - (b)(b) list:
 - (i) the eligible energy sources from which biochar is intended to be generated; and
 - (ii) the estimated average annual output of each eligible energy sources listed under subparagraph (i); and
 - (c) contain any other information required by the Working Body; and
 - (d) be accompanied by any documents required by the Working Body; and
 - (e) be accompanied by the fee (if any) prescribed by the rules for the making of applications for accreditation; and
 - (f) be accompanied by a statement in writing from each other person (if any) specified under paragraph (b)(a) indicating that the other person agrees to the making of the application.
- (3) The Working Body must enter details of the application on the register of applications for accredited AWT facilities.

15. Working Body to determine certain matters

- (1) If the Working Body receives an application that is properly made under [section 14](#), the Working Body must:
 - (a) determine which components of the unit are to be taken to be a AWT facility for the purposes of this BPS Standard; and
 - (b) determine whether the AWT facility is eligible for accreditation.

Note : A determination under paragraph (a) may be varied: see [Division 10](#).
- (2) A AWT facility is eligible for accreditation if:
 - (a) some or all of the produces biochar by the AWT facility is generated from an eligible energy source; and
 - (b) the AWT facility satisfies any prescribed requirements.

- (2)(A) However, a AWT facility is not eligible for accreditation if the Working Body is satisfied that a previous determination under paragraph (1)(a) should be varied to include the components of the unit specified in the application for accreditation.
- (3) If the Working Body determines that the AWT facility is eligible for accreditation, the Working Body must also determine:
 - (a) the ***eligible biochar baseline*** for the AWT facility; and
 - (b) any energy sources used by the AWT facility that are not ***eligible energy sources***.

Note : The eligible biochar baseline for a AWT facility may be varied: see [Division 12](#).
- (4) The Working Body must determine the matters specified in paragraphs (1)(a), (3)(a) and (3)(c) in accordance with guidelines prescribed in the rules.
- (5) To avoid doubt:
 - (a) the rules may provide that a AWT facility includes components that are integral to the operation of the AWT facility or to the generation of biochar by the AWT facility; and
 - (b) the eligible biochar baseline for a AWT facility may be nil.

16. Working Body to approve or refuse application

If the Working Body determines that a AWT facility is eligible for accreditation, the Working Body must approve the application. In any other case, the Working Body must refuse the application.

17. Time limit for deciding applications

General rule

- (1) The Working Body must decide an application that is properly made under [section 14](#) within:
 - (a) the period of 6 weeks beginning on the day the Working Body received the application; or
 - (b) if, before the end of that period, the Working Body and applicant agree to a longer period—that longer period.
- (2) If the Working Body has not decided the application within the period applicable under subsection (1), the Working Body is taken, at the end of that period, to have made a decision under [section 16](#) refusing the application.

18. Nominated person for AWT facility

If the Working Body approves an application, the applicant becomes the nominated person for the accredited AWT facility.

Note : The nominated person may change: see [Division 9](#).

19. Working Body to allocate identification codes

If the Working Body approves an application, the Working Body must allocate the AWT facility a unique identification code and advise the applicant of the code.

20. What is an eligible renewable energy source?

- (1) The following energy sources are ***eligible renewable energy sources***:
 - (a) hydro;
 - (b) wave;
 - (c) tide;
 - (d) ocean;

- (e) wind;
 - (f) solar;
 - (g) geothermal-aquifer;
 - (h) hot dry rock;
 - (i) energy crops;
 - (j) wood;
 - (k) wood waste;
 - (l) branches;
 - (m) logs;
 - (n) wheat straw;
 - (o) maize stover;
 - (p) nut shells and pits;
 - (q) bagasse;
 - (r) food waste;
 - (s) sewage gas and biomass-based components of sewage;
 - (t) landfill gas;
 - (u) black liquor;
 - (v) any other energy source prescribed by the rules.
- (2) Despite subsection (1), the following energy sources are not eligible renewable energy sources:
- (a) fossil fuels;
 - (b) materials or waste products derived from fossil fuels.

Rules

- (3) For the purposes of this BPS Standard, the rules may provide that an energy source referred to in subsection (1) or (2) has the meaning prescribed by the rules.
- (4) For the purposes of this BPS Standard, the rules may make provision for and in relation to limiting the meaning of an energy source referred to in subsection (1).
- (5) For the purposes of this BPS Standard, the rules may make provision for and in relation to extending the meaning of an energy source referred to in subsection (2).

21. Amount of biochar produced

The amount of biochar produced by an accredited AWT facility is to be worked out in accordance with the rules.

21.A. Biochar production return

- (1) The nominated person for a accredited AWT facility must give a biochar production return for a year to the Working Body on or before:
 - (a) 14 February in the following year; or
 - (b) any later day allowed by the Working Body.
- (2) The return must include details of:
 - (a) the amount of biochar produced by the accredited AWT facility during the year; and
 - (b) the amount of eligible energy sources; and
 - (c) any other information specified by the rules.

21.B. Amending biochar production returns

- (1) The Working Body may amend an biochar production return if the nominated person for the accredited AWT facility concerned requests, in writing, an amendment within 12 months of the return being given.

- (2) The Working Body may also amend an biochar production return on his or her own initiative if the amendment is made within 4 years of the return being given.
- (3) If the Working Body refuses to amend an biochar production return upon a request by a nominated person for an accredited AWT facility, the Working Body must notify the person accordingly.

Division 4—Creation of small-scale technology certificates

Subdivision AA—Preliminary

22. Overview of Division

This Division deals with the creation of certificates, known as small-scale technology certificates.

There are 1 types of small-scale technology certificates, which are created in relation to the installation of small-scale technology units (see [Subdivision A](#)).

[Subdivision BB](#) requires people who create certificates under [Subdivision A](#) to submit returns relating to the creation of the certificates.

[Subdivision C](#) contains strict liability and liquidated damages clauses relating to the improper creation of certificates.

Subdivision A—Small-scale technology certificates for small-scale technology units

23. Small-scale technology certificates

Certificates created under this Subdivision are small-scale technology certificates.

24. When a certificate may be created

- (1) If a small-scale technology unit is installed on or after 1 October 2024, certificates may be created after the small-scale technology unit is installed.
- (1)(A) The rules:
 - (a) may provide that certificates cannot be created in relation to a small-scale technology unit unless particular conditions are satisfied in relation to the small-scale technology unit or its installation; and
 - (b) without limiting paragraph (a), may:
 - (i) require information or documents to be given to the Working Body in relation to a small-scale technology unit or its installation; and
 - (ii) provide that information or documents required to be given to the Working Body must be verified by statutory declaration.
- (1)(B) To avoid doubt, rules under subsection (1)(A) may impose conditions to be complied with in relation to a small-scale technology unit after its installation.
- (2)(2) The rules may make provision in relation to the time at which a small-scale technology unit is taken to have been installed.
- (2)(3) The rules may make provision in relation to:
 - (a) the time when a right to create certificates in relation to a small-scale technology unit arises; and
 - (b) the period within which certificates may be created in relation to a small-scale technology unit.

25. Rules to establish scheme for inspection of new installations of small-scale technology units

- (1) The rules must establish a scheme for the inspection of the installation of small-scale technology units for which certificates have been created.
- (2) Without limiting subsection (1), rules made under that subsection must provide, for small-scale technology units installed after the commencement of this section:
 - (a) that each year a statistically significant selection of small-scale technology units that were installed during that year must be inspected for conformance with local standards and any other standards or requirements relevant to the creation of certificates in relation to that small-scale technology unit;
 - (b) that an inspection of a small-scale technology unit is to be carried out by a person or organisation who:
 - (i) is independent of the person or organisation who designed and/or installed that small-scale technology unit; and
 - (ii) does not have a conflict of interest in relation to that small-scale technology unit or administration of the matters being inspected;
 - (c) for the transfer of information, about any failures to comply with standards or other requirements relevant to the creation of certificates in relation to small-

- scale technology units, to State or Territory bodies with responsibility for the enforcement and administration of those standards or requirements.
- (3) A report of an inspection carried out in accordance with requirements made under subsection (1) may set out:
 - (a) conclusions; or
 - (b) recommendations; or
 - (c) other material;
 that is or are relevant to the performance of the functions, or the exercise of the rights, conferred on the Working Body by [section 37](#).
 - (4) Subsection (3) does not limit the matters that may be set out in a report.

29. Who may create a certificate

- (1) The owner of the small-scale technology unit at the time that a right to create a certificate or certificates arises in relation to the small-scale technology unit is entitled to create the certificate or certificates.
- (2) However, the owner may, by written notice and in accordance with the rules, assign the right to create the certificate or certificates to another person. If the owner does this, the owner is not entitled to create the certificate or certificates but the person to whom the right was assigned is entitled to create the certificate or certificates.
- (3) Despite subsections (1) and (2), a person who is not registered may not create a certificate that relates to the small-scale technology unit.
- (4) Rules made for the purposes of subsection (2) may make provision:
 - (a) in relation to when the right may be assigned; and
 - (b) in relation to the kind of persons to whom the right may be assigned.
- (5) Subsection (4) does not limit the rules that may be made for the purposes of subsection (2).

Subdivision C—Improper creation of certificates

33. Improper creation of certificates — violation

- (1) A person commits an this BPS Standard if:
 - (a) the person creates a certificate; and
 - (b) the person is not entitled to create the certificate.
- (2) Subsection (1) is strict liability.
- (3) A person commits an this BPS Standard if:
 - (a) the person creates a certificate; and
 - (b) the person is not entitled to create the certificate.
- (4) In determining whether a person was not entitled to create a certificate, the fact that the certificate has been registered by the Working Body under [section 37](#) is to be disregarded.

34. Improper creation of certificates — damages

- (1) A person must not create a certificate if the person is not entitled to create the certificate.

Ancillary breaches

- (2) A person must not:
 - (a) aid, abet, counsel or procure a breach of subsection (1); or

- (b) induce, whether by threats or promises or otherwise, a breach of subsection (1); or
- (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a breach of subsection (1); or
- (d) conspire with others to effect a breach of subsection (1).

Liquidated damages clauses

- (3) Subsections (1) and (2) are *liquidated damages clauses*.

Note : [Division 1](#) of [Part 12](#) clearly sets out the amount of damages for breach of liquidated damages clauses.

35. False etc. information resulting in improper creation of certificates under Subdivision A

- (1) A person (the *first person*) breaches this subsection if:
- (a) the person provides information to another person (the *second person*) in relation to, or in relation to the installation of, a small-scale technology unit; and
 - (b) the information:
 - (i) is false or misleading in a material particular; or
 - (ii) omits a matter or thing without which the information is misleading in a material particular; and
 - (c) the second person relies on the information to create certificates under Subdivision A in relation to the small-scale technology unit; and
 - (d) it could reasonably be expected that the second person would so rely on the information; and
 - (e) the second person's reliance on the information results in the second person creating certificates under that Subdivision, in relation to the small-scale technology unit, that the second person is not entitled to create.

Ancillary breaches

- (2) A person must not:
- (a) aid, abet, counsel or procure a breach of subsection (1); or
 - (b) induce, whether by threats or promises or otherwise, a breach of subsection (1); or
 - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a breach of subsection (1); or
 - (d) conspire with others to effect a breach of subsection (1).

Liquidated damages clauses

- (3) Subsections (1) and (2) are *liquidated damages clauses*.

Note : [Division 1](#) of [Part 12](#) clearly sets out the amount of damages for breach of liquidated damages clauses.

Division 5—Form and registration of certificates

Subdivision AA—Preliminary

36. Form and content of small-scale technology certificates

- (1) Small-scale technology certificates are to be created in an electronic form approved in writing by the Working Body.
- (2) Each certificate is to contain:
 - (a) the registered person's registration number; and
 - (b) the year; and
 - (c) a number in an unbroken sequence that is used for all certificates created in respect of the small-scale technology unit concerned in that year and that starts at one and has increments of one; and
 - (d) the electronic signature of the registered person who created the certificate; and
 - (e) the date on which the small-scale technology unit concerned was installed; and
 - (f) a statement that the certificate was created in relation to a small-scale technology unit (as appropriate); and
 - (g) the date on which the certificate was created.

37. Certificates must be registered

- (1) A certificate is not valid until it has been registered by the Working Body.
- (2) The Working Body must be advised of the creation of a certificate by electronic transmission in the manner determined, in writing, by the Working Body.
- (3) When the Working Body is notified that a certificate has been created, the Working Body must determine whether the certificate is eligible for registration.
- (3)(A) In determining whether a certificate is eligible for registration, the Working Body must have regard to any relevant:
 - (a) conclusions; or
 - (b) recommendations; or
 - (c) other material;set out in a report of an inspection carried out in accordance with rules made under [subsection 27.\(1\)](#).
- (3)(B) Subsection (3)(A) does not limit the matters to which regard may be had.
- (3)(C) A certificate is not eligible for registration unless the Working Body has been paid the fee (if any) prescribed by the rules for the registration of the certificate.
- (3)(D) The amount of a fee prescribed under subsection (3)(C) must be reasonably related to the expenses incurred, or to be incurred, by the Working Body in connection with:
 - (a) the performance of the Working Body's functions, or the exercise of the Working Body's powers, under this section; and
 - (b) the carrying out of inspections in accordance with rules made under [subsection 27.\(1\)](#), to the extent to which the inspections are relevant to the performance of the functions, or the exercise of the rights, conferred on the Working Body by this section; and
 - (c) the preparation of reports of inspections carried out in accordance with rules made under [subsection 27.\(1\)](#), to the extent to which such reports set out:
 - (i) conclusions; or
 - (ii) recommendations; or

- (iii) other material;
that is or are relevant to the performance of the functions, or the exercise of the rights, conferred on the Working Body by this section.
- (2)(4) If the Working Body determines that a certificate is eligible for registration, the Working Body must create an entry for the certificate in the register of small-scale technology certificates (as appropriate) and record the person who created the certificate as the owner of the certificate.
- (2)(5) If the Working Body determines that a certificate is not eligible for registration, the Working Body must notify the person who created the certificate.
- (2)(6) The Working Body may at any time (whether before or after the registration of a certificate) require the person who created the certificate to provide to the Working Body a written statement containing such information as the Working Body requires in connection with the creation of the certificate. The person who created the certificate must provide the statement within the period (not being a period of less than 14 days) specified by the Working Body.

Division 7—Retirement of certificates

40. Registered owner may surrender certificate

The registered owner of a certificate may surrender the certificate to the Working Body under this section.

Note : The name of the current registered owner of each certificate is in the register of small-scale technology certificates (as appropriate).

41. Retirement of certificates

- (1) Where a certificate is surrendered under [section 40](#), the certificate ceases to be valid.
- (2) When a certificate ceases to be valid, the Regulator must alter the entry relating to the certificate in the register of certificates to show that the certificate is no longer valid.

Division 8—Suspension of registration

42. Suspension of registration

- (1) If a registered person contravenes under [subsection 33.\(3\)](#), the Working Body may suspend the person's registration for such period (not exceeding 2 years) as the Working Body considers appropriate in all of the circumstances.
- (2) If a person whose registration has previously been suspended under subsection (1) commits a further infringement in respect of any other matter, the Working Body may suspend the person's registration for such period (including permanently) as the Working Body considers appropriate in all of the circumstances.

43. Suspension of registration—other grounds

Working Body's belief that offence committed or liquidated damages clause contravened

- (1) The Working Body may, by written notice, suspend the registration of a registered person if the Working Body believes on reasonable grounds that the person has committed an offence against this BPS Standard or has contravened a liquidated damages clause.
- (2) The registration is suspended for such period (not exceeding 12 months) as the Working Body considers appropriate in all of the circumstances. That period must be specified in the notice.

Registration obtained improperly

- (3) The Working Body may, by written notice, suspend the registration of a registered person if the registration was obtained improperly.
- (4) The registration is suspended for such period (including permanently) as the Working Body considers appropriate in all of the circumstances. That period must be specified in the notice.

Prescribed ground

- (5) The Working Body may, by written notice, suspend the registration of a registered person if the Working Body is satisfied that the registered person is not a fit and proper person.
- (5)(A) For the purposes of subsection (5), in determining whether the registered person is a fit and proper person, the Working Body:
 - (a) must have regard to the matters specified in rules made for the purposes of this subsection; and
 - (b) may have regard to such other matters (if any) as the Working Body considers relevant.
- (6) The registration is suspended for such period (including permanently) as the Working Body considers appropriate in all of the circumstances. That period must be specified in the notice.

Division 9—Changing the nominated person for an accredited AWT facility

44. Changing the nominated person for an accredited AWT facility

- (1) A registered person who is a stakeholder in relation to an accredited AWT facility may apply to the Working Body for approval to become the nominated person for the AWT facility.
- (2) The application must:
 - (a) be made in a form and manner required by the Working Body; and
 - (b) contain any information required by the Working Body; and
 - (c) be accompanied by any documents required by the Working Body; and
 - (d) be accompanied by the fee (if any) prescribed by the rules for the making of such applications; and
 - (e) be accompanied by a statement in writing from each other stakeholder (if any) in relation to the AWT facility indicating that the other stakeholder agrees to the making of the application.
- (3) If the Working Body receives an application that is properly made, the Working Body must, by writing, approve the applicant as the nominated person for the AWT facility.
- (4) Otherwise, the Working Body must refuse to so approve the applicant and must notify the applicant accordingly.

Division 10—Varying what constitutes a AWT facility

44.A. Varying what constitutes a AWT facility

- (1) The Working Body may, by writing, vary a determination under [paragraph 15.\(1\)\(a\)](#). The Working Body may do so only in relation to an accredited AWT facility.
- (2) The Working Body may do so on his or her own initiative or upon application by the nominated person for the accredited AWT facility.
- (3) The application must:
 - (a) be made in a form and manner required by the Working Body; and
 - (b) contain any information required by the Working Body; and
 - (c) be accompanied by any documents required by the Working Body; and
 - (d) be accompanied by the fee (if any) prescribed by the rules for the making of such applications; and
 - (e) be accompanied by a statement in writing from each other stakeholder (if any) in relation to the AWT facility indicating that the other stakeholder agrees to the making of the application.
- (4) If the Working Body refuses the application, the Working Body must notify the applicant accordingly.

Division 11—Suspending the accreditation of a AWT facility

45. Suspending the accreditation of a AWT facility—interconnected AWT facility

- (1) The Working Body may, by written notice, suspend the accreditation of an accredited AWT facility if:
- (a) the AWT facility is part of a network of interconnected AWT facility; and
 - (b) one or more of the AWT facility (an ***excess facility***) in the group produces biochar during a year that is in excess of its eligible biochar baseline for the year; and
 - (c) one or more of the AWT facility (a ***shortfall facility***) in the group generates nil biochar during the year or produces biochar during the year that is less than its eligible biochar baseline for the year; and
 - (d) the Working Body is satisfied that more BidCarbon removal units are able to be created in respect of produces biochar during the year by any excess facility than would be able to be created if any shortfall facility had biochar during the year at least equal to its eligible biochar baseline for the year.

Period of suspension

- (2) The accreditation is suspended for such period (including permanently) as the Working Body considers appropriate in all of the circumstances. That period must be specified in the notice.

Note : Any produces biochar by the AWT facility during the period of its accreditation suspension must be excluded.

Network of interconnected AWT facility

- (3) Two or more AWT facility form a ***network of interconnected AWT facility*** if:
- (a) each AWT facility is able to produces biochar using a particular supply (the ***relevant supply***) of an eligible energy sources; and
 - (b) the amount of biochar produced by each AWT facility during a year using that supply is able to be coordinated in order to allow more BidCarbon removal units to be created in respect of the total produces biochar by the AWT facility during the year using that supply than would otherwise be able to be created.

Relevant matters

- (4) In deciding whether or not to suspend the accreditation of an accredited AWT facility under subsection (1), the Working Body must have regard to any information available to him or her that demonstrates that either or both of the outcomes referred to in paragraphs (1)(b) and (c) were not the result of a gaming arrangement.
- (5) In considering whether the outcomes referred to in paragraphs (1)(b) and (c) were or were not the result of a gaming arrangement, the Working Body must have regard to any matter prescribed by the rules for the purposes of this subsection.
- (6) The Working Body may have regard to such other matters as the Working Body thinks appropriate.

Gaming arrangement

- (7) A ***gaming arrangement*** is an arrangement to coordinate the amount of biochar produced by each AWT facility in the group during the year using the relevant supply in order to allow more BidCarbon removal units to be created in respect of the total

produces biochar by the AWT facility in the group during the year using that supply than would otherwise be able to be created.

46. Suspending the accreditation of a AWT facility—other grounds

Failure to give an biochar production return

- (1) The Working Body may, by written notice, suspend the accreditation of an accredited AWT facility if an biochar production return for a year, in respect of the station, has not been given to the Working Body in accordance with [section 21.A](#).
- (2) The accreditation is suspended until the return is given to the Working Body in accordance with that section. The notice must include a statement to that effect.

Contravention of Country, State (or similar division) or Territory law

- (3) The Working Body may, by written notice, suspend the accreditation of an accredited AWT facility if the Working Body believes on reasonable grounds that the AWT facility is being operated in contravention of a law of the Working Body, a State (or similar division) or a Territory of residence.
- (4) The accreditation is suspended until the Working Body believes on reasonable grounds that the AWT facility is not being operated in contravention of that law. The notice must include a statement to that effect.

Other circumstances

- (5) The Working Body may, by written notice, suspend the accreditation of an accredited AWT facility in any other circumstances prescribed by the rules.
- (6) The accreditation is suspended for such period (including permanently) as the Working Body considers appropriate in all of the circumstances. That period must be specified in the notice.

Note : Any produces biochar by the AWT facility while its accreditation is suspended under this section is to be excluded.

Division 12—Varying eligible biochar baselines

47. Varying eligible biochar baselines

- (1) The Working Body may, by written determination, vary the eligible biochar baseline for an accredited AWT facility in the circumstances prescribed by the rules.
- (2) The rules may make provision for the eligible biochar baseline for an accredited AWT facility can be varied if an action of the AWT facility reduces its ability to produces biochar for a sustained period.
- (3) Subsection (2) does not limit subsection (1).

Increase in baseline

- (4) If a determination increases the eligible biochar baseline for an accredited AWT facility, the determination has effect only for the years following the year in which the determination is made.

Decrease in baseline

- (5) If a determination decreases the eligible biochar baseline for an accredited AWT facility, the determination has effect for the year or years specified in the determination.

Part 5—Objections and reviews

Division 1—Objections to and review of assessments

61. Objections

A liable entity who is dissatisfied with an assessment may object in the manner set out in this Division.

62. How objections are to be made

A liable entity making an objection must:

- (a) make it in writing; and
- (b) lodge it with the Working Body within 60 days after the assessment is made; and
- (c) state in it, fully and in detail, the grounds that the liable entity relies on.

63. Limited objection rights in the case of certain amended assessments

If the objection is made against an amended assessment, then a liable entity's right to object against the amended assessment is limited to a right to object against alterations or additions made as part of the amendment of the assessment.

64. Requests for extension of time

- (1) If the 60 days specified in [paragraph 62.\(b\)](#) have passed, the liable entity may nevertheless lodge the objection with the Working Body together with a written request asking the Working Body to deal with the objection as if it had been lodged within the 60 days.
- (2) The request must state fully and in detail the circumstances concerning, and the reasons for, the liable entity's failure to lodge the objection with the Working Body within the 60 days.
- (3) After considering the request, the Working Body must decide whether to agree to it or refuse it.
- (4) The Working Body must give the liable entity written notice of the Working Body's decision.
- (5) If the Working Body decides to agree to the request, then, for the purposes of this Part, the objection is taken to have been lodged with the Working Body within the 60 days.
- (6) If the Working Body decides to refuse the request, the liable entity may apply to the Grievance Review Panel for review of the decision.

65. Working Body to decide objections

- (1) If the objection has been lodged with the Working Body within the 60 days, the Working Body must decide whether to:
 - (a) allow it, wholly or in part; or
 - (b) disallow it.
- (2) Such a decision is in this Part called an *objection decision*.

- (3) The Working Body must cause to be served on the liable entity written notice of the Working Body's objection decision.

66. Person may require Working Body to make an objection decision

- (1) This section applies if the objection has been lodged with the Working Body within the 60 days and the Working Body has not made an objection decision by whichever is the later of the following times:
 - (a) the end of the period (the original 60-day period) of 60 days after whichever is the later of the following days:
 - (i) the day on which the objection is lodged with the Working Body;
 - (ii) if the Working Body decides under [section 64](#) to agree to a request in relation to the objection—the day on which the decision is made;
 - (b) if the Working Body, by written notice served on the liable entity within the original 60-day period, requires the liable entity to give information relating to the objection—the end of the period of 60 days after the Working Body receives that information.
- (2) The liable entity may give the Working Body a written notice requiring the Working Body to make an objection decision.
- (3) If the Working Body has not made an objection decision by the end of the period of 60 days after being given the notice, then, at the end of that period, the Working Body is taken to have made a decision under [subsection 65.\(1\)](#) to disallow the objection.

67. Liable entity may seek review of, Working Body's decision

If the liable entity is dissatisfied with the Working Body's objection decision, the liable entity may either apply to the Grievance Review Panel for review of the decision.

Note : The Grievance Review Panel Constitution sets out the time limits for making applications and related matters.

68. Grounds of objection and burden of proof

In proceedings under this Part on a review before the Grievance Review Panel:

- (a) the liable entity is limited to the grounds stated in the objection, unless the Grievance Review Panel may request otherwise; and
- (b) the burden of proving that a prescribed decision is incorrect, or that an assessment is incorrect, lies on the liable entity.

Division 2—Review of other decisions

69. Review of decisions

- (1) An affected person in relation to a reviewable decision may request that the Working Body reconsider the decision. The following table sets out the reviewable decisions and, for each decision, sets out the provision under which it is made and the affected person in relation to it.

Table of reviewable decisions			
Item	For a decision ...	made under ...	the affected person is ...
1	to refuse to register a person	section 12	the person.
2	in relation to an application for accreditation of a <u>AWT facility</u>	section 15	the applicant for accreditation.
3	to refuse to accredit a <u>AWT facility</u>	section 16	the applicant for accreditation.
3A	to amend, or to refuse to amend, an <u>biochar production return</u>	section 24	the nominated person for the <u>accredited AWT facility</u> concerned.
4	not to register a certificate	section 37	the person who created the certificate.
5	to suspend a person's registration	section 42 or section 43	the <u>registered person</u> .
5A	to refuse to approve a person as the nominated person for an <u>accredited AWT facility</u>	section 44	the person.
5B	to vary, or to refuse to vary, a determination under paragraph 15.(1)(a)	section 44.A	the nominated person for the <u>accredited AWT facility</u> concerned.
5C	to suspend the accreditation of an <u>accredited AWT facility</u>	section 45 or section 46	the nominated person for the <u>AWT facility</u>
5D	to vary the <u>eligible biochar baseline</u> for an <u>accredited AWT facility</u>	section 47	the nominated person for the <u>AWT facility</u> .

- (2) The request must be:
- in writing; and
 - given to the Working Body within 60 days of the making of the decision.
- (3) The Working Body must reconsider the decision and confirm, vary or set aside the decision.

- (4) The Working Body is taken to have confirmed the decision under subsection (3) if the Working Body does not give written notice of the Working Body's decision under that subsection within 60 days of the request.
- (5) Applications may be made to the Grievance Review Panel for review of a decision of the Working Body under subsection (3) to confirm, vary or set aside the decision.

Part 6—Collection and recovery of charge

Division 1—General rules about collection and recovery

70. When certificate registration charge is payable

Registration charge for a year is the charge payable in the liable entity must pay the charge within the period of 28 days beginning on the day the entity receives the notice.

71. Extension of time for payment

The Working Body may, in such circumstances as the Working Body thinks fit, extend the time for payment of an amount of a certificate registration charge related liability for such period as the Working Body determines, and, if the Working Body does so, the charge is payable accordingly.

72. Penalty for unpaid certificate registration charge

Unpaid certificate registration charge

- (1) If an amount (the unpaid amount) of certificate registration charge which a liable entity is liable to pay is not paid by the time by which it is due to be paid, the liable entity is liable to pay, by way of penalty, interest charge on the whole of the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the amount of the certificate registration charge was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the certificate registration charge;
 - (ii) interest charge on any of the certificate registration charge.

Amount of interest charge

- (2) The amount of the interest charge for a day is worked out by multiplying the unpaid amount by the general interest charge rate for the day.

When interest charge becomes due and payable

- (3) The interest charge for a day is due and payable at the end of that day.

73. Recovery of certificate registration charge related liability

- (1) A certificate registration charge related liability that is payable:
 - (a) is a debt due to the Working Body; and
 - (b) payable to the Working Body in the manner and at the place prescribed.
- (2) The Working Body may sue in his or her the BidCarbon Foundation name in a court of competent jurisdiction to recover an amount of a certificate registration charge related liability that remains unpaid after it has become due and payable.

74. Service of documents if a person is absent from country of residence or cannot be found

- (1) This section applies if a document needs to be served on a person in respect of a proceeding to recover an amount of a certificate registration charge related liability, and the Working Body, after making reasonable inquiries, is satisfied that:
 - (a) the person is not present in the country of residence and there is no agent in the country of residence who can receive service of the document; or
 - (b) the person cannot be found.
- (2) The Working Body may, without the court's leave, serve the document by posting it, or a sealed copy of it, in a letter addressed to the person at any country of residence address of the person (including the person's country of residence place of business or residence) that is last known to the Working Body.

Part 7—Administration

75. General administration of Standard

The Working Body has the general administration of this BPS Standard.

76. Annual report

After the end of each year, the Working Body must give the Chairman of the Board of Trustees a report on the working of this BPS Standard during the year for presentation to the Board of Trustees.

Part 8—Audit

Division 1—Overview

77. Overview of Part

- (1) This Part provides a regime for the audit of the affairs of registered persons and liable entities in so far as they relate to this BPS Standard.
- (2) [Division 2](#) provides for the appointment of authorised persons to undertake audit functions and for the issue of identification for such persons.
- (3) [Division 3](#) sets out the rights of authorised persons and [Division 4](#) sets out the obligations imposed on authorised persons in the exercise of those entitled.
- (4) [Division 6](#) deals with the procedure for obtaining, and the nature of, monitoring authorisation.

Division 2—Appointment of authorised persons and identity cards

78. Appointment of authorised persons

- (1) The Working Body may, in writing, appoint a member of the staff of the Working Body to be an authorised person for the purposes of this Part.
- (1)(A) The Working Body may, in writing, also appoint any of the following persons to be an ***authorised person*** for the purposes of this Part:
 - (a) a registered greenhouse and energy auditor; or
 - (b) a person who is appointed or employed by the Working Body.
- (2) The Working Body is not to appoint a person as an authorised person unless the Working Body is satisfied that the person is of sufficient maturity, and has had sufficient training, to properly exercise the rights of an authorised person.
- (3) In exercising powers or performing functions as an authorised person, an authorised person must comply with any directions of the Working Body.

79. Identity cards

- (1) The Working Body must issue an identity card to an authorised person that satisfies the rules prescribed by the rules. The identity card must contain a recent photograph of the authorised person.
- (2) An authorised person must carry the identity card at all times when exercising powers or performing functions as an authorised person.

Division 3—Rights of authorised person

Subdivision A—Monitoring rights

80. Entry to premises

- (1) For the purposes of substantiating information provided under this BPS Standard or the rules or of determining whether this BPS Standard or the rules have been complied with, an authorised person may:
 - (a) enter any premises at any reasonable time of the day; and
 - (b) exercise the monitoring rights set out in [section 81](#).
- (2) An authorised person is not authorised to enter premises under subsection (1) unless:
 - (a) the occupier of the premises has consented to the entry and the authorised person has shown his or her identity card if required by the occupier; or
 - (b) the entry is made under a monitoring authorisation.
- (3) If an authorised person is on the premises with the consent of the occupier, the authorised person must leave the premises if the occupier asks the authorised person to do so.

81. Monitoring rights of authorised persons

- (1) For the purposes of this Part, the following are the monitoring rights that an authorised person may exercise in relation to premises under [section 80](#):
 - (a) the rights to examine any activity conducted on the premises that may relate to information provided for the purposes of this BPS Standard or the rules;
 - (b) the rights to examine any thing on the premises that may relate to information provided for the purposes of this BPS Standard or the rules;
 - (c) the rights to take photographs or make video or audio recordings or sketches on the premises of any such activity or thing;
 - (d) the rights to inspect any document on the premises that may relate to information provided for the purposes of this BPS Standard or the rules;
 - (e) the rights to take extracts from, or make copies of, any such document;
 - (f) the rights to take onto the premises such equipment and materials as the authorised person requires for the purpose of exercising powers in relation to the premises;
 - (g) the rights to secure a thing that:
 - (i) is found during the exercise of monitoring rights on the premises; and
 - (ii) an authorised person believes on reasonable grounds affords evidence of the breach of an offence against this BPS Standard or a liquidated damages clause; and
 - (iii) a foreign law that corresponds to a law mentioned in subparagraph (g) (ii);
 - (h) the rights in subsections (2) and (3).
- (2) For the purposes of this Part, **monitoring rights** include the rights to operate equipment at premises to see whether:
 - (a) the equipment; or
 - (b) a disk, tape or other storage device that:
 - (i) is at the premises; and
 - (ii) can be used with the equipment or is associated with it;

contains information that is relevant to substantiating information provided under this BPS Standard or the rules.

- (3) For the purposes of this Part, monitoring rights include the following powers in relation to information described in subsection (2) found in the exercise of the rights under that subsection:
- (a) the rights to operate facilities at the premises to put the information in documentary form and copy the documents so produced;
 - (b) the rights to operate facilities at the premises to transfer the information to a disk, tape or other storage device that:
 - (i) is brought to the premises for the exercise of the rights; or
 - (ii) is at the premises and the use of which for the purpose has been agreed in writing by the occupier of the premises;
 - (c) the rights to remove from the premises a disk, tape or other storage device to which the information has been transferred in exercise of the rights under paragraph (b).

Subdivision B—Biochar of authorised person to ask questions and seek production in certain circumstances

82. Authorised person may request or require persons to answer questions etc.

Requesting

- (1) If the authorised person was only authorised to enter premises because the occupier of the premises consented to the entry—the authorised person may request the occupier to:
- (a) answer any questions related to the creation or transfer of certificates, the provision of information under this BPS Standard or the rules that are put by the authorised person; and
 - (b) produce any document requested by the authorised person that is so related.

Requiring

- (2) If the authorised person was authorised to enter the premises by a monitoring authorisation—the authorised person has biochar to require any person in or on the premises to:
- (a) answer any questions related to the creation or transfer of certificates, the provision of information under this BPS Standard or the rules that are put by the authorised person; and
 - (b) produce any document requested by the authorised person that is so related.

83. Failure to provide information to authorised person

- (1) A person is in violation of this BPS Standard if they refuse or fail to comply with a requirement under [subsection 82.\(2\)](#).
- (2) A person is excused from complying with a requirement of [subsection 82.\(2\)](#) if the answer to the question or the production of the document might tend to incriminate the person or expose the person to a penalty.

Note : A defendant bears an evidential burden in relation to the matter in subsection (2).

Division 4—Obligations and incidental powers of authorised persons

84. Authorised person must produce identity card on request

An authorised person is not entitled to exercise any powers under this Part in relation to premises if:

- (a) the occupier of the premises requires the authorised person to produce his or her identity card for inspection by the occupier; and
- (b) the authorised person fails to comply with the requirement.

85. Consent

- (1) Before obtaining the consent of a person for the purposes of [paragraph 80.\(2\)\(a\)](#), the authorised person must inform the person that he or she may refuse consent.
- (2) An entry of an authorised person by virtue of the consent of a person is not lawful unless the person voluntarily consented to the entry.

86. Announcement before entry

An authorised person executing a monitoring authorisation must, before entering premises under the authorisation:

- (a) announce that he or she is authorised to enter the premises; and
- (b) give any person at the premises an opportunity to allow entry to the premises.

87. Details of monitoring authorisation to be given to occupier etc. before entry

- (1) If a monitoring authorisation is being executed and the occupier of the authorisation premises or another person who apparently represents the occupier is present at the premises, the authorised person must make available to that person a copy of the authorisation.
- (2) The authorised person must identify himself or herself to that person.
- (3) The copy of the authorisation referred to in subsection (1) need not include the signature of the Working Body who issued the authorisation.

Note : Monitoring authorisation are issued under [section 92](#).

88. Use of electronic equipment in exercising monitoring rights

- (1) An authorised person or a person assisting that officer may operate electronic equipment already at premises in order to exercise monitoring rights if he or she believes, on reasonable grounds, that the operation of the equipment can be carried out without damage to the equipment.
- (2) If the authorised person or a person assisting that officer believes, on reasonable grounds, that:
 - (a) there is on the premises material relating to information supplied under this BPS Standard or the rules that may be accessible by operating electronic equipment on the premises; and
 - (b) expert assistance is required to operate the equipment; and

- (c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with; he or she may do whatever is necessary to secure the equipment, whether by locking it up, or otherwise.
- (3) The authorised person or a person assisting that officer must give notice to the occupier of the premises of his or her intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.
- (4) The equipment may be secured:
 - (a) for a period not exceeding 24 hours; or
 - (b) until the equipment has been operated by the expert; whichever first happens.
- (5) If an authorised person or a person assisting that officer believes, on reasonable grounds, that the expert assistance will not be available within 24 hours, he or she may apply to a the occupier of the authorisation premises for an extension of the period.
- (6) If an authorised person or a person assisting that officer believes, on reasonable grounds, that the expert assistance will not be available within 24 hours, he or she may apply to a the occupier of the authorisation premises for an extension of the period.
- (7) The authorised person or a person assisting that officer must give notice to the occupier of the premises of his or her intention to apply for an extension and the occupier is entitled to be heard in relation to that application.
- (8) The provisions of this Part relating to the issue of monitoring authorisation apply, with such modifications as are necessary, to the issue of an extension.
- (9) In this section:
premises means premises that an authorised person has entered, and remains on, with the consent of the occupier.

89. Compensation for damage to electronic equipment

- (1) If:
 - (a) damage is caused to equipment as a result of it being operated as mentioned in [section 88](#); and
 - (b) the damage was caused as a result of:
 - (i) insufficient care being exercised in selecting the person who was to operate the equipment; or
 - (ii) insufficient care being exercised by the person operating the equipment;
 compensation for the damage is payable to the owner of the equipment.
- (2) The Working Body must pay the owner such reasonable compensation as the owner and the Working Body agree on. If the Working Body and the owner fail to agree, the owner may institute proceedings in the Commercial Court for such reasonable amount of compensation as the Court determines.
- (3) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and his or her employees and agents, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

Division 6—Authorisation

92. Monitoring authorisation

- (1) An authorised person may apply to the Working Body for an authorisation under this section in relation to premises.
- (2) Subject to subsection (3), the Working Body may issue the authorisation if the Working Body is satisfied, by information on oath, that it is reasonably necessary that one or more authorised persons should have access to the premises for the purposes of substantiating information provided under this BPS Standard or the rules or of determining whether this BPS Standard or the rules have been complied with.
- (3) The Working Body must not issue the authorisation unless the authorised person or some other person has given to the Working Body, either orally or by affidavit, such further information (if any) as the Working Body requires concerning the grounds on which the issue of the authorisation is being sought.
- (4) The authorisation must:
 - (a) authorise one or more authorised persons (whether or not named in the authorisation), with such assistance and by such force as is necessary and reasonable:
 - (i) to enter the premises; and
 - (ii) to exercise the rights set out in [section 81](#) in relation to the premises; and
 - (b) state whether the entry is authorised to be made at any time of the day or during specified hours of the day; and
 - (c) specify the day (not more than 3 months after the issue of the authorisation) on which the authorisation ceases to have effect; and
 - (d) state the purpose for which the authorisation is issued.

Part 8A—Information-gathering

93. Working Body may obtain information and documents

- (1) This section applies to a person if the Working Body has reason to believe that the person:
 - (a) has information or a document that is relevant to the operation of this BPS Standard; or
 - (b) is capable of giving evidence which the Working Body has reason to believe is relevant to the operation of this BPS Standard.
- (2) The Working Body may, by written notice given to the person, require the person:
 - (a) to give to the Working Body, within the period and in the manner and form specified in the notice, any such information; or
 - (b) to produce to the Working Body, within the period and in the manner specified in the notice, any such documents; or
 - (c) if the person is an individual—to appear before the Working Body at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents; or
 - (d) if the person is a body corporate—to cause a competent officer of the body to appear before the Working Body at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents.
- (3) A notice under subsection (2) must set out the effect of:
 - (a) subsection (4); and
 - (b) [section 97](#); and
 - (c) create offences of providing false or misleading information or false or misleading documents.
- (4) A person commits an this BPS Standard if:
 - (a) the person is given a notice under this section; and
 - (b) the person fails to comply with the notice.

94. Self-incrimination

- (1) An individual is not excused from giving information or evidence or producing a document under this Part on the ground that the information or evidence or the production of the document might tend to incriminate the individual or expose the individual to a penalty.
- (2) However:
 - (a) the information or evidence given or the document produced; or
 - (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document;is not admissible in evidence against the individual in proceedings, or proceedings for a commercial arbitration, other than:
 - (c) proceedings are for violation of [subsection 93.\(4\)](#) or [section 97](#); or
 - (d) proceedings will be taken for any false or misleading information or documents relating to this Part.

95. Copies of documents

The Working Body may inspect a document produced under this Part and may make and retain copies of, or take and retain extracts from, such a document.

96. Working Body may retain documents

- (1) The Working Body may take, and retain for as long as is necessary, possession of a document produced under this Part.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Working Body to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Working Body must, at such times and places as the Working Body thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

97. False or misleading evidence

A person may not have the following:

- (a) the person gives evidence to another person; and
- (b) the person does so knowing that the evidence is false or misleading in a material particular; and
- (c) the evidence is given in compliance or purported compliance with [section 93](#).

Part 9—Publication of information

98. Working Body may publish certain information

The Working Body may publish:

- (a) a list of each liable entity that has a production biochar for a particular year; and
- (b) the amount of each liable entity's production biochar for that year; and
- (c) the total of the production biochar for that year.

Part 10—Registers

Division 1—General

99. Registers to be maintained

The Working Body must maintain the following registers:

- (a) the register of registered persons;
- (b) the register of accredited AWT facilities;
- (c) the register of small-scale technology certificates;
- (d) the register of applications for accredited AWT facilities.

Division 2—The register of registered persons

100. Contents of register of registered persons

- (1) The register of registered persons is to contain:
 - (a) the name of each registered person; and
 - (b) the registration number for each person; and
 - (c) any other information that the Working Body considers appropriate.
- (2) The register must also contain the following information about any person whose registration is suspended:
 - (a) the name of the person;
 - (b) the person's registration number;
 - (c) the period for which the registration is suspended;
 - (d) any other information that the Working Body considers appropriate.

101. Form of register

- (1) The register must be maintained by electronic means.
- (2) The register is to be made available for inspection on the internet.

Division 3—The register of accredited AWT facilities

102. Contents of register of accredited AWT facilities

The register of accredited AWT facilities is to contain:

- (a) the name of each accredited AWT facility; and
- (b) the name of the nominated person for the accredited AWT facility; and
- (c) the identification code for each accredited AWT facility; and
- (d) any other information that the Working Body considers appropriate.

103. Form of register

- (1) The register must be maintained by electronic means.
- (2) The register is to be made available for inspection on the internet.

Division 4A—The register of small-scale technology certificates

104. Contents of register of small-scale technology certificates

- (1) The Working Body must establish and keep a register to be known as the register of small-scale technology certificates.
- (2) The Working Body must keep the Register in electronic form.
- (3) The register of small-scale technology certificates is to contain:
 - (a) the brand name and the model name of each small-scale technology unit;
 - (b) the postcode of the area where each small-scale technology unit is located;
 - (c) the installation date of the small-scale technology unit;
 - (d) the unique identification code of each valid small-scale technology certificate; and
 - (e) the year in which the certificate was created; and
 - (f) the name of the person who created the certificate; and
 - (g) a statement that the certificate was created in relation to a small-scale technology unit (as appropriate); and
 - (h) the name of the current registered owner, of each certificate; and
 - (i) any other information that the Working Body considers appropriate.
- (3)(A) The Working Body may remove a small-scale technology certificate from the Register if satisfied that:
 - (a) the device is not a small-scale technology unit; or
 - (b) the components of the small-scale technology unit pose a safety risk.

105. Form of register

- (1) The register must be maintained by electronic means.
- (2) The register is to be made available for inspection on the internet.
- (3) The Working Body must ensure that the register is kept up-to-date.

Division 5—The register of applications for accredited

106. Contents of register of applications for accredited AWT facilities

The register of applications for accredited AWT facilities is to contain:

- (1) the name of each applicant for an accredited AWT facility; and
- (2) the location of the AWT facility; and
- (3) the eligible energy source or sources proposed to be used by the AWT facility; and
- (4) any other information that the Working Body considers appropriate.

107. Form of register

- (1) The register must be maintained by electronic means.
- (2) The register is to be made available for inspection on the internet.

Part 11—Failure to provide documents

108. Failure to provide documents

- (1) A person commits an this BPS Standard if:
 - (a) the person is required under this BPS Standard or the rules to provide a document (including a statement or return) to the Working Body or to another person within a specified time or by a specified date; and
 - (b) the person does not provide the document by the specified time or the specified date (as the case requires).
- (2) Subsection (1) is an strict liability.
- (3) A person commits an this BPS Standard if:
 - (a) the person is required under this BPS Standard or the rules to provide a document (including a statement or return) to the Working Body or to another person within a specified time or by a specified date; and
 - (b) the person does not provide the document by the specified time or the specified date (as the case requires).

Part 12—Jurisdiction and commercial arbitration

Division 1—Commercial arbitration

109. Governing Law and Jurisdiction

- (1) In this Division:
Court means:
 - (a) the Commercial Court; or
 - (b) any disputes relating to this BPS Standard shall be subject to the non-exclusive jurisdiction of the Commercial Courts.
- (2) [Section 110](#) does not infringe on the powers of the Court to issue interim measures. Furthermore, the party to such an action is free to approach the Court with a request to order interim measures.

110. Commercial arbitration

- (1) If the Working Body finds that a person has contravened a liquidated damages clauses, it has the right to request that the person pay a damages to the charity.
- (2) An order under subsection (1) is to be known as a *commercial arbitration*.

Amount of damages for defaults of subsection 34.(1)

- (3) The maximum amount of damages payable by an individual under [subsection 34.\(1\)](#) is 2 damage units for each breach.
- (4) The maximum amount of damages payable by a body corporate under [subsection 34.\(1\)](#) is 10 damage units for each breach.

Amount of damages for defaults of subsection 115.(1)

- (5) The damages for a default, by an executive officer of a body corporate, of [subsection 115.\(1\)](#) must not be more than the maximum damages that could be imposed on the officer under this section if the officer had committed the defaults referred to in [paragraph 115.\(1\)\(a\)](#).

Amount of penalty for defaults of any other liquidated damages clause

- (6) The damages for a default by a person of a liquidated damages clause, other than subsection [34.\(1\)](#) or [115.\(1\)](#), must not be more than:
 - (a) if the person is an individual—100 damage units; or
 - (b) if the person is a body corporate—500 damage units.

Matters to be taken into account by Working Body

- (7) In accordance with this section, for a default by a person under a liquidated damages clause, the Working Body may have regard to all relevant matters, including:
 - (a) the nature and extent of the default; and
 - (b) the nature and extent of any loss or damage suffered as a result of the default; and
 - (c) the circumstances in which the default took place; and
 - (e) the extent to which the person has cooperated with the relevant parties.
 - (f) if the person is a body corporate:
 - (i) the level of the employees, officers or agents of the body corporate involved in the default; and

- (ii) whether the body corporate exercised due diligence to avoid the default; and
- (iii) whether the body corporate had a corporate culture conducive to compliance; and
- (g) if the default is of [subsection 34.\(1\)](#)—whether the person has surrendered any small-scale technology certificates under [section 40](#) to compensate for the default.

Enforcement of damages

- (8) A damages is a civil debt payable to the charity. The charity can apply to the Arbitral Tribunal for the commercial arbitration as if it were an application made in civil proceedings against the person to recover a debt due by the person. The charity may apply to the Court to enforce a commercial arbitration.

111. Who may apply for a commercial arbitration

Only the Working Body may apply for a commercial arbitration.

112. Two or more proceedings may be heard together

The Arbitral Tribunal may direct that 2 or more applications for commercial arbitrations are to be heard together.

113. Time limit for application for an order

Proceedings for a commercial arbitrations may be started no later than 2 year after the against the liquidated damages clauses.

114. State of mind

Scope

- (1) This section applies to apply for a commercial arbitration against a person for a breach of any of the following liquidated damages clauses:
 - (a) [subsection 34.\(1\)](#);
 - (b) [subsection 35.\(1\)](#).

State of mind

- (2) In the proceedings, it is not necessary to prove:
 - (a) the person's intention; or
 - (b) the person's knowledge; or
 - (c) the person's recklessness; or
 - (d) the person's negligence; or
 - (e) any other state of mind of the person.

Division 2—Liability of executive officers of bodies corporate

115. Damages for executive officers of bodies corporate

- (1) If:
 - (a) a body corporate breaches a liquidated damages clauses; and
 - (b) an executive officer of the body corporate knew that, or was reckless or negligent as to whether, the breach would occur; and
 - (c) the officer was in a position to influence the conduct of the body corporate in relation to the breach; and
 - (d) the officer failed to take all reasonable steps to prevent the breach; the officer has breached this subsection.
- (2) For the purposes of subsection (1), the officer is *reckless* as to whether the breach would occur if:
 - (a) the officer is aware of a substantial risk that the breach would occur; and
 - (b) having regard to the circumstances known to the officer, it is unjustifiable to take the risk.
- (3) For the purposes of subsection (1), the officer is *negligent* as to whether the breach would occur if the officer's conduct involves:
 - (a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and
 - (b) such a high risk that the breach would occur; that the conduct merits the imposition of a damages.

Liquidated damages clauses

- (4) Subsection (1) is a *liquidated damages clauses*.

Note: [Division 1](#) clearly sets out the amount of damages for breach of liquidated damages clauses.

116. Reasonable steps to prevent breach

- (1) For the purposes of [section 115](#), in determining whether an executive officer of a body corporate failed to take all reasonable steps to prevent a breach, a court may have regard to all relevant matters, including:
 - (a) what action (if any) the officer took directed towards ensuring the following (to the extent that the action is relevant to the breach):
 - (i) that the body corporate arranges regular professional assessments of the body corporate's compliance with liquidated damages clauses;
 - (ii) that the body corporate implements any appropriate recommendations arising from such an assessment;
 - (iii) that the body corporate's employees, agents and contractors have a reasonable knowledge and understanding of the rules to comply with liquidated damages clauses in so far as those rules affect the employees, agents or contractors concerned; and
 - (b) what action (if any) the officer took when he or she became aware of the breach.
- (2) This section does not limit [section 115](#).

Part 13—Other remedies

Division 1—Enforceable undertakings

117. Acceptance of undertakings

- (1) The Working Body may accept any of the following undertakings:
 - (a) a written undertaking given by a person that the person will, in order to comply with this BPS Standard, the rules or the associated provisions, take specified action;
 - (b) a written undertaking given by a person that the person will, in order to comply with this BPS Standard, the rules or the associated provisions, refrain from taking specified action;
 - (c) a written undertaking given by a person that the person will take specified action directed towards ensuring that the person does not contravene this BPS Standard, the rules or the associated provisions, or is unlikely to contravene this BPS Standard, the rules or the associated provisions, in the future;
 - (d) a written undertaking given by a person that the person will surrender one or more small-scale technology certificates under [section 40](#), to compensate for the creation of one or more certificates that the person was not entitled to create.
- (2) The undertaking must be expressed to be an undertaking under this section.
- (3) The person may withdraw or vary the undertaking at any time, but only with the consent of the Working Body.
- (4) The Working Body may, by written notice given to the person, cancel the undertaking.
- (5) The Working Body must publish the undertaking on its website.
- (6) In this section:

associated provisions means the following provisions:

 - (a) the provisions of the rules;
 - (b) the provisions of the principles;
 - (c) the Criminal Law Act 1977, insofar as it relates to:
 - (i) this BPS Standard; or
 - (ii) the rules.
 - (d) a foreign law that corresponds to a law mentioned in subparagraph (c);

118. Enforcement of undertakings

- (1) If:
 - (a) a person has given an undertaking under [section 117](#); and
 - (b) the undertaking has not been withdrawn or cancelled; and
 - (c) the Working Body considers that the person has breached the undertaking;the Working Body may apply to the Commercial Court for an order under subsection (2).
- (2) If the Commercial Court is satisfied that the person has breached the undertaking, the court may make any or all of the following orders:
 - (a) an order directing the person to comply with the undertaking;
 - (b) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (c) any other order that the court considers appropriate.

Division 2—Injunctions

119. Injunctions

- (1) If a person has engaged, is engaging, or is about to engage in any conduct that is or would be:
 - (a) an offence against this BPS Standard or the rules; or
 - (b) a breach of a liquidated damages clause;the Commercial Court may, on the application of the Working Body or any other aggrieved person, grant an injunction restraining the person from engaging in the conduct.
- (2) If:
 - (a) a person has refused or failed, is refusing or failing, or is about to refuse or fail, to do a thing; and
 - (b) the refusal or failure is, or would be:
 - (i) an offence against this BPS Standard or the rules; or
 - (ii) a breach of a liquidated damages clause;the Commercial Court may, on the application of the Working Body or any other aggrieved person, grant an injunction requiring the person to do the thing.

Part 14—Miscellaneous

Division 1—Enforceable undertakings

120. Contracting outsiders

The Working Body, on behalf of the Working Body, may engage any person under contract to assist in the performance of any function of the Working Body.

121. Delegation

Delegation to senior officers of the Working Body

- (1) The Working Body may, by writing, delegate to one or more senior officers of the Working Body any or all of the Working Body's functions or powers under this BPS Standard.

Delegation to senior employees of an authorised BidCarbon contractor

- (2) The Working Body may, by writing, delegate to one or more senior employees of an authorised BidCarbon contractor any or all of the Working Body's functions or powers under this BPS Standard, other than the function referred to in:
 - (a) [section 42](#);
 - (b) [section 76](#);
 - (c) [section 78](#);
 - (d) [section 79](#);
 - (e) [Part 5](#);
 - (f) [Part 6](#);
 - (g) [Part 8](#);
 - (h) [Part 9](#);
 - (i) [Part 12](#);
 - (j) [Part 13](#).

Delegate subject to direction of Working Body

- (3) A delegate is, in the performance of a function delegated under subsection (1) or (2), or in the exercise of a rights delegated under subsection (1) or (2), subject to the directions of the Working Body.

123. Prescribing matters by reference to other instruments

- (1) The rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an resolution, other standard or writing:
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.
- (2) If the rules make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an resolution, other standard or writing, the Working Body must ensure that the text of the matter applied, adopted or incorporated is published on its website.
- (3) Subsection (2) does not apply if the publication would infringe copyright.

124. Decisions under the rules

The rules empower the Working Body to make decisions on matters.

125. Rules

The Working Body may make rules prescribing matters:

- (a) required or permitted by this BPS Standard to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this BPS Standard.

Schedule 1—Repeals

Biomass Energy (Biochar Production Systems) Standard 2025

1. The whole of the Biomass Energy (Biochar Production Systems) Standard 2025

This Biomass Energy (Biochar Production Systems) Standard 2025 repeals the Biomass Energy (Biochar Production Systems) Standard dated 1 April 2024 (codification date).

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the Biomass Energy (Biochar Production Systems) Standard 2025.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Citation history and amendment history—Endnotes 3

Amending standards are annotated in the amendment history.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under the BidCarbon Foundation Governance Document.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted
am = amended
amdt = amendment
c = clause(s)
C[x] = Compilation No. x
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by the Board of Trustees
Div = Division(s)
ed = editorial change
exp = expires/expired or ceases/ceased to have effect
gaz = gazette
BFGD = BidCarbon Foundation Governance Document
WR = Written Resolutions
(md) = misdescribed amendment can be given effect
(md not incorp) = misdescribed amendment cannot be given effect
mod = modified/modification
No. = Number(s)
Ord = Ordinance
orig = original
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
pres = present
prev = previous
(prev...) = previously
Pt = Part(s)
r = requirement(s)
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
s = section(s)/subsection(s)
Sch = Schedule(s)
Sdiv = Subdivision(s)
SWR = Select Written Resolutions
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)
underlining = whole or part not commenced or to be commenced

Endnote 3—Amendment history

Provision affected	How affected