



Carbon Credits (Carbon Farming Initiative) Regulations 2011

Select Legislative Instrument No. 268, 2011 as amended

made under the

Carbon Credits (Carbon Farming Initiative) Act 2011

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About this compilation

The compiled instrument

This is a compilation of the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* as amended and in force on 17 May 2013. It includes any amendment affecting the compiled instrument to that date.

This compilation was prepared on 17 May 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending Acts and instruments and the amendment history of each amended provision.

Uncommenced provisions and amendments

If a provision of the compiled instrument is affected by an uncommenced amendment, the text of the uncommenced amendment is set out in the endnotes.

Application, saving and transitional provisions for amendments

If the operation of an amendment is affected by an application, saving or transitional provision, the provision is identified in the endnotes.

Modifications

If a provision of the compiled instrument is affected by a textual modification that is in force, the text of the modifying provision is set out in the endnotes.

Provision ceasing to have effect

If a provision of the compiled instrument has expired or otherwise ceased to have effect in accordance with a provision of the instrument, details of the provision are set out in the endnotes.

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Part 1—Preliminary

1.1 Name of Regulations

These Regulations are the *Carbon Credits (Carbon Farming Initiative) Regulations 2011*.

1.2 Commencement

These Regulations commence on the commencement of section 3 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

1.3 Definitions

(1) In these Regulations:

Aboriginal person means a person of the Aboriginal race of Australia.

accounted for, in relation to greenhouse gas abatement under a prescribed non-CFI offsets scheme or a non-CFI scheme: see subregulations (2) and (3).

Act means the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

approved form means a form approved, in writing, by the Regulator for a provision of these Regulations.

associated provisions, of the *Clean Energy Act 2011*, has the meaning it has in section 5 of that Act.

authorised representative has the same meaning as in the Registry Regulations.

certified copy:

- (a) for Division 4.1—has the meaning given by subregulation 4.1(1); and

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(b) in all other cases, means:

- (i) a copy of a document that has been certified as a true copy by a person mentioned in Schedule 2 to the *Statutory Declarations Regulations 1993*; or
- (ii) if a person who is required to provide a document under these Regulations is not in Australia at the time the document must be provided—a copy of a document that has been certified as a true copy by:
 - (A) an Australian embassy, Australian High Commission or Australian consulate (other than a consulate headed by an honorary consul); or
 - (B) a competent authority under the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at The Hague on 5 October 1961.

Note 1: Information about competent authorities under the convention can be found on the Hague Conference on Private International Law's website at www.hcch.net.

Note 2: In 2012, the text of the Convention was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

deforestation means the direct human-induced conversion of forest to a non-forest land use if:

- (a) the conversion occurred on or after 1 January 1990; and
- (b) the land on which the conversion occurred was forest on 31 December 1989.

entity means a person who is not an individual.

forest means land of a minimum area of 0.2 of a hectare on which trees:

- (a) have attained, or have the potential to attain, a crown cover of at least 20% across the area of land; and
- (b) have reached, or have the potential to reach, a height of at least 2 metres.

Greenhouse FriendlyTM initiative means the program known by that name and administered by the Commonwealth Government.

landscape planting means a planting in an urban centre or locality as follows:

- (a) in a residential place (for example, in a backyard, park or on a nature strip);
- (b) on the grounds of a sporting facility, factory or other commercial facility;
- (c) on the grounds of a hospital, school or other institution;
- (d) in a car park or cemetery.

locality means a population cluster of at least 200 people.

multiple project proponents has the meaning given by subsection 136(1) of the Act.

nominee, in relation to multiple project proponents, has the meaning given by subsection 136(2) of the Act.

non-CFI scheme means a carbon offsets scheme that:

- (a) is not carried out under the Act or these Regulations; and
- (b) is not a prescribed non-CFI offsets scheme.

permanent planting means a planting:

- (a) that is not harvested other than:
 - (i) for thinning for ecological purposes; or
 - (ii) to remove debris for fire management; or
 - (iii) to remove firewood, fruits, nuts, seeds, or material used for fencing or as craft materials, if those things are not removed for sale; or
 - (iv) in accordance with traditional indigenous practices or native title rights; and
- (b) that is not a landscape planting.

prescribed audit report: see regulation 1.11.

prescribed non-CFI offsets scheme—see regulation 1.7.

reforestation means the direct human-induced conversion of non-forested land to forest by any of the following:

- (a) planting;

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(b) seeding;

if the land on which the conversion occurs was not forest on 31 December 1989.

Registry Act means the *Australian National Registry of Emissions Units Act 2011*.

Registry Regulations means the *Australian National Registry of Emissions Units Regulations 2011*.

relevant area has the meaning given by subsection 57(1) of the Act.

section 27 declaration means a declaration under subsection 27(2) of the Act that an offsets project is an eligible offsets project of a kind specified in paragraph 27(2)(a) or (b) of the Act.

specified tree planting—see regulation 3.34.

Torres Strait Islander means a descendant of an indigenous inhabitant of the Torres Strait Islands.

transferee offsets project has the meaning given by subsection 57(1) of the Act.

transferor offsets project has the meaning given by subsection 57(1) of the Act.

tree means a perennial plant that has primary supporting structures consisting of secondary xylem.

wetlands are areas of marsh, fen, peatland or water:

- (a) that are either temporary or permanent; and
- (b) which have water that can be static or flowing, fresh, brackish or salty;

and includes areas of marine water the depth of which at low tide is not more than 6 metres.

Note: Other words and expressions used in these Regulations are defined in section 5 of the Act. For example:

- applicable methodology determination

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- Australian carbon credit unit
- baseline
- carbon maintenance obligation
- certificate of entitlement
- crediting period
- eligible Kyoto project
- eligible non-Kyoto project
- eligible offsets project
- Kyoto abatement deadline
- Kyoto Australian carbon credit units
- methodology determination
- native forest
- net total number
- non-Kyoto Australian carbon credit units
- offsets report
- project area
- project proponent
- recognised offsets entity
- regional natural resource management plan
- Registry account
- Regulator
- relevant land registration official
- reporting period
- sequestration offsets project
- voluntary automatic unit cancellation regime

- (2) A carbon dioxide equivalent amount of greenhouse gas abatement, generated by an offsets project under a prescribed non-CFI offsets scheme or a non-CFI scheme, is ***accounted for*** in the circumstances mentioned in subregulation (4).
- (3) However, the amount of abatement is not ***accounted for*** if:
- (a) on or after 1 July 2012, a person is subject to a requirement under a law of the Commonwealth, a State or a Territory to offset greenhouse emissions; and
 - (b) the person incurs, or would incur, a liability under the *Clean Energy Act 2011* or any of its associated provisions, in relation to greenhouse gases the person offsets, or would offset, under the requirement; and

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- (c) the person uses or intends to use the amount of abatement to meet the requirement.
- (4) For subregulation (2), the circumstances are:
 - (a) the amount of abatement:
 - (i) has been sold or transferred; or
 - (ii) has otherwise been used to offset greenhouse gas emissions or discharge liabilities incurred because of greenhouse gas emissions; or
 - (b) an arrangement has been entered into (whether or not still in place):
 - (i) for the amount of abatement to be sold, transferred or otherwise used to offset greenhouse gas emissions or to discharge liabilities incurred because of greenhouse gas emissions; and
 - (ii) at the time the abatement was generated, the prescribed non-CFI offsets scheme or non-CFI scheme under which the arrangement was made was still in operation; or
 - (c) an arrangement has been entered into (whether or not still in place):
 - (i) for the sale or the transfer of carbon offsets credits associated with the abatement; and
 - (ii) at the time the abatement was generated, the prescribed non-CFI offsets scheme or the non-CFI scheme under which the arrangement was made was still in operation.

1.4 Crown lands Minister

For paragraphs (a) to (d) of the definition of ***Crown lands Minister*** in section 5 of the Act, the following table sets out the Crown lands Minister in relation to each State and Territory.

Item	State or Territory	Crown lands Minister
1	New South Wales	The Minister for Primary Industries

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Item	State or Territory	Crown lands Minister
2	Victoria	The Minister who administers Part 5 of the <i>Climate Change Act 2010</i> (Vic)
3	Queensland	The Minister who administers the <i>Land Act 1994</i> (Qld) (other than subsections 452A(2) and (3) of that Act)
4	Western Australia	The Minister who administers the <i>Land Administration Act 1997</i> (WA)
5	South Australia	The Minister who administers the <i>Crown Land Management Act 2009</i> (SA)
6	Tasmania	The Minister who administers the <i>Forestry Rights Registration Act 1990</i> (Tas)
7	Australian Capital Territory	The Minister who administers the <i>Land Titles Act 1925</i> (ACT)
8	Northern Territory	The Minister who administers the <i>Crown Lands Act</i> (NT)
9	Jervis Bay Territory, and all external Territories	The Commonwealth Minister responsible for territories

1.5 Kyoto abatement deadline

For paragraph (b) of the definition of ***Kyoto abatement deadline*** in section 5 of the Act, 31 December 2012 is specified in relation to the kinds of project mentioned in regulation 3.35.

1.6 Meaning of *tree*

For the definition of ***native forest*** in section 5 of the Act, tree has the meaning given in these Regulations.

1.7 Prescribed non-CFI offsets scheme

For the definition of ***prescribed non-CFI offsets scheme*** in section 5 of the Act, prescribed non-CFI offsets scheme means any of the following:

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- (a) the Commonwealth Government's Greenhouse FriendlyTM initiative;
- (b) the New South Wales Government's Greenhouse Gas Reduction Scheme;
- (c) the Australian Capital Territory Government's Greenhouse Gas Abatement Scheme;
- (d) the Verified Carbon Standard, a standard for voluntary carbon offsets projects, administered by the organisation known as the VCS Association.

Note: Information about the Verified Carbon Standard is accessible on the VCS Association's webpage at <http://www.v-c-s.org/>.

1.8 Meaning of *regional natural resource management organisation*

For the definition of *regional natural resource management organisation* in section 5 of the Act, Schedule 1 lists the organisations that are regional natural resource management organisations.

1.8A Specified statutory authorities

For subparagraph (d)(ii) of the definition of *statutory authority* in section 5 of the Act, the following are specified:

- (a) an Aboriginal Land Council as defined in subsection 4(1) of the *Aboriginal Land Rights Act 1983* of New South Wales;
- (b) a Trust as defined in section 2 of the *Aboriginal Lands Act 1970* of Victoria;
- (c) a land trust as defined in:
 - (i) Schedule 1 to the *Aboriginal Land Act 1991* of Queensland; and
 - (ii) Schedule 1 to the *Torres Strait Islander Land Act 1991* of Queensland;
- (d) the Aboriginal Lands Trust established by subsection 20(1) of the *Aboriginal Affairs Planning Authority Act 1972* of Western Australia;
- (e) the Aboriginal Lands Trust constituted under subsection 5(1) of the *Aboriginal Lands Trust Act 1966* of South Australia;

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- (f) the *Anangu Pitjantjatjara Yankunytjatjara* as defined in subsection 4(1) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* of South Australia;
- (g) the *Maralinga Tjarutja* as defined in section 3 of the *Maralinga Tjarutja Land Rights Act 1984* of South Australia;
- (h) the Council as defined in section 3 of the *Aboriginal Lands Act 1995* of Tasmania.

1.9 Approved forms

The Regulator may approve a form for a provision of these Regulations.

1.10 Electronic notices transmitted to Regulator

- (1) For subsection 7(2) of the Act, an electronic notice must be transmitted using the Regulator's website.
- (2) The electronic notice must be transmitted by:
 - (a) an individual who is a registered holder of the Registry account to which the notice relates; or
 - (b) an authorised representative of the registered holder who has been given access to a Registry account under subregulation 31(2) of the Registry Regulations.

1.11 Prescribed audit reports

For paragraphs 13(1)(e) and 76(4)(c) of the Act, a report of an audit that complies with regulation 1.12 is a ***prescribed audit report*** if the report sets out, for each of the matters audited, one of the following results:

- (a) a reasonable assurance conclusion in the terms of paragraph 3.17(1)(a) of the *National Greenhouse and Energy Reporting (Audit) Determination 2009*;
- (b) a qualified reasonable assurance conclusion, in the terms of paragraph 3.17(1)(b) of that Determination.

Regulation 1.12

1.12 Audit of an eligible offsets project

- (1) For regulation 1.11, an audit of an eligible offsets project must cover:
 - (a) whether the project is in accordance with:
 - (i) the section 27 declaration that is in operation for the project; and
 - (ii) the applicable methodology determination; and
 - (iii) the requirements of the Act;
for the reporting period in relation to which the Australian carbon credit units are being sought; and
 - (b) whether the project proponent meets the requirements under the applicable methodology determination, mentioned in subsection 106(3) of the Act, for that reporting period.
- (2) The audit:
 - (a) must be conducted in accordance with the relevant requirements for reasonable assurance engagements under the *National Greenhouse and Energy Reporting (Audit) Determination 2009*; and
 - (b) must have an audit team leader who is registered as a Category 2 auditor or a Category 3 auditor under subregulation 6.25(3) of the *National Greenhouse and Energy Reporting Regulations 2008*; and
 - (c) must be otherwise in accordance with subsection 75(1) of the *National Greenhouse and Energy Reporting Act 2007*.

Note: The term **audit team leader** is defined in the Act.

1.13 Projects exempt from audit report requirements

Exempt projects

- (1) For subsections 13(2) and 76(5) of the Act, a project is specified if:
 - (a) the Regulator is satisfied that, under the applicable methodology determination for the reporting period, the total abatement for the project and any entity-related projects is likely to be, on average for the reporting period, less than

2 500 tonnes of carbon dioxide equivalent abatement annually; and

- (b) the project is an eligible non-Kyoto project; and
- (c) a prescribed audit report mentioned in regulation 1.11 has already been submitted for the project.

*Meaning of **entity-related project***

- (2) For this regulation, if:
 - (a) a recognised offsets entity for an offsets project (the **first offsets project**) is also a project proponent for another offsets project (the **second offsets project**); and
 - (b) the second offsets project is covered by the same methodology determination that is the applicable methodology determination for the first offsets project;the second offsets project is an **entity-related project**.

Part 2—Issue of Australian carbon credit units in respect of offsets project

Division 2.1—Certificate of entitlement

2.1 Application for certificate of entitlement

For paragraph 13(1)(d) of the Act, the following information must accompany an application for a certificate of entitlement under section 12 of the Act:

- (a) the unique project identifier of the eligible offsets project to which the application relates;
- (b) the name and contact details of:
 - (i) the applicant; or
 - (ii) the nominee of multiple project proponents;
- (c) the end date of the relevant reporting period;
- (d) if the project is not a native forest protection project—the carbon dioxide equivalent net abatement amount for the project, achieved by the project for the relevant reporting period, worked out in accordance with the applicable methodology determination;
- (e) if the project is a native forest protection project—the carbon dioxide equivalent net sequestration amount for the crediting period of the project, worked out in accordance with the applicable methodology determination;
- (f) whether the application is in respect of the issue of:
 - (i) Kyoto Australian carbon credit units; or
 - (ii) non-Kyoto Australian carbon credit units; or
 - (iii) Kyoto and non-Kyoto Australian carbon credit units;
- (g) whether the project is subject to the voluntary automatic unit cancellation regime;
- (h) a signed statement by the applicant that the offsets report meets the requirements of subsection 76(4) of the Act;

- (i) a signed statement by the applicant that the information contained in and accompanying the application:
 - (i) meets the requirements mentioned in paragraphs 15(2)(a) to (h) of the Act as relevant to the project; and
 - (ii) meets the requirements under this regulation; and
 - (iii) is accurate.

2.2 Issue of certificate of entitlement—eligibility requirements

- (1) This regulation sets out eligibility requirements for paragraph 15(2)(h) of the Act.
- (2) It is a requirement that the Regulator must be satisfied that the application is not for the issue of Australian carbon credit units for greenhouse gas abatement in the following circumstances:
 - (a) carbon offsets credits have been issued or registered for the abatement under a prescribed non-CFI offsets scheme; or
 - (b) the abatement has been accounted for under a prescribed non-CFI offsets scheme.

Note: The term *accounted for* is defined in subregulation 1.3(1).

- (3) For applications in relation to a project that is or was wholly or partly covered by a prescribed non-CFI offsets scheme, it is also a requirement that the Regulator must be satisfied that:
 - (a) greenhouse gas abatement generated under the scheme is documented in the offsets report as required under regulation 6.3; and
 - (b) the information that is documented is accurate.
- (4) In order to be satisfied of the requirements in subregulations (2) and (3), the Regulator may verify the matters in subregulation (5) with:
 - (a) the administrator of the prescribed non-CFI offsets scheme; or
 - (b) if the scheme is no longer in operation—the Commonwealth, State or Territory government agency that had responsibility for overseeing the scheme.

Regulation 2.2

- (5) For subregulation (4), the matters are:
 - (a) the carbon dioxide equivalent net abatement amount generated by the project under the prescribed non-CFI scheme; and
 - (b) if carbon offsets credits have been issued or registered for abatement under the scheme—details of the circumstances in which the credits were issued or registered; and
 - (c) if abatement was accounted for under the scheme—details of the circumstances in which the abatement was accounted for.
- (6) The Regulator must be satisfied that the evidence that has been provided for the prescribed audit report accompanying the application is sufficiently certain to enable the total number of tonnes of carbon dioxide equivalent net abatement for the project to be worked out for the reporting period.

Division 2.2—Unit entitlement for projects affected by a prescribed non-CFI offsets scheme

2.3 Sequestration offsets projects other than native forest protection projects

- (1) For subsection 16(2A) of the Act, the number is worked out using the formula:

$$\left(\begin{array}{c} \text{credits under} \\ \text{the CFI} \end{array} \right) + \left(\begin{array}{c} \text{abatement under} \\ \text{prescribed non-CFI} \end{array} \right) - \left(\begin{array}{c} \text{notional} \\ \text{CFI credits} \end{array} \right)$$

where:

credits under the CFI means the total number of Australian carbon credit units issued for the project under section 11 of the Act.

abatement under prescribed non-CFI means the total number of tonnes of carbon dioxide equivalent net abatement generated by the project for which either or both of the following apply:

- (a) carbon offsets credits have been issued or registered for the abatement under a prescribed non-CFI offsets scheme;
- (b) the abatement has been accounted for under a prescribed non-CFI offsets scheme.

notional CFI credits means the number of Australian carbon credit units that would have been issued for the project under section 11 of the Act, from the beginning of the project until the beginning of the reporting period, if the project had been, from its beginning, an eligible offsets project wholly covered by a methodology determination under the Act.

- (2) If the number worked out using the formula is less than zero, the number is zero.
- (3) If a number worked out under the formula is not a whole number, the number is to be rounded to the nearest whole number (with a number ending in .5 being rounded down).

Regulation 2.4

- (4) For the purposes of subregulation (3), zero is taken to be a whole number.

Note: The unit entitlement calculation for sequestration offsets projects requires a project proponent, in the offsets report for the project, to include information about matters arising before the reporting period (see subregulations 6.3(4) and (5)).

2.4 Native forest protection projects

- (1) For subsection 17(3A) of the Act, the number is worked out using the formula:

$$\left(\frac{\text{reporting period number}}{\text{crediting period number}} \right) \times \left(\frac{\text{abatement under}}{\text{prescribed non-CFI}} \right)$$

where:

reporting period number means the number of years in the reporting period.

crediting period number means the number of years in the crediting period in which the reporting period is included.

abatement under prescribed non-CFI means the total number of tonnes of carbon dioxide equivalent net abatement generated by the project for which either or both of the following apply:

- (a) carbon offsets credits have been issued or registered for the abatement under a prescribed non-CFI offsets scheme;
 - (b) the abatement has been accounted for under a prescribed non-CFI offsets scheme.
- (2) If a number worked out under the formula is not a whole number, the number is to be rounded to the nearest whole number (with a number ending in .5 being rounded down).
- (3) For the purposes of subregulation (2), zero is taken to be a whole number.

2.5 Emissions avoidance offsets project

- (1) For subsection 18(3) of the Act, the number is the total number of tonnes of carbon dioxide equivalent net abatement, generated by the project during the reporting period, for which either or both of the following apply:
 - (a) carbon offset credits have been issued or registered for the abatement under a prescribed non-CFI offsets scheme;
 - (b) the abatement has been accounted for under a prescribed non-CFI offsets scheme.
- (2) If the number mentioned in subregulation (1) is not a whole number, the number is to be rounded to the nearest whole number (with a number ending in .5 being rounded down).
- (3) For the purposes of subregulation (2), zero is taken to be a whole number.

Part 3—Eligible offsets project

Division 3.1—Application for declaration of eligible offsets project

3.1 Application for declaration of eligible offsets project—information and documents

General

- (1) For paragraphs 23(1)(c) and 23(1)(h) of the Act, the following information and documentation must accompany an application for a section 27 declaration:
- (a) the name and contact details of the applicant, and whether the applicant is:
 - (i) the project proponent; or
 - (ii) the nominee of multiple project proponents;

Note: Subsection 136(4) of the Act provides that a notice nominating one of multiple project proponents as nominee may accompany an application under the Act or the regulations and that, if so, the nomination is taken to have been given immediately before the application was made.

- (b) a description of the offsets project to which the application relates;
- (c) the project area, identified in accordance with regulation 3.3;
- (d) the name of the applicable methodology determination;

Note: In relation to the applicable methodology determination, see sections 124 to 130 of the Act.

- (e) whether the applicant:
 - (i) is a recognised offsets entity; or
 - (ii) has applied to become a recognised offsets entity;
- (f) if subparagraph (e)(ii) applies—the reference number of that application;
- (g) the name and date of any regional natural resource management plan that covers the project area;

Regulation 3.1

- (h) if regulatory approvals must be obtained for the project:
 - (i) the name of each regulatory authority responsible for issuing an approval; and
 - (ii) a description of the nature of any approval that has been, or must be, obtained; and
 - (iii) if requested by the Regulator, a certified copy of the approval; and
 - (iv) the applicant's authorisation that the Regulator may contact all relevant regulatory bodies to discuss whether approvals have been obtained;
 - (i) if regulatory approval has yet to be obtained for the project—a statement about what the applicant has done or will do to obtain the approval;
 - (j) if certification by the Crown lands Minister is required under paragraph 27(4)(h) of the Act in relation to the project—the certification;
 - (k) if certification by the Minister is required under paragraph 27(4)(i) of the Act in relation to the project—the certification;
 - (l) if written consent is required under paragraph 27(4)(k) of the Act in relation to the project—the consent in accordance with subsections 27(7) to (9) of the Act;
 - (m) a statement that each of the requirements mentioned in subsection 27(4) of the Act for the project has been met;
 - (n) a certified copy of the land title covering the project area, or the folio identifier for the land title;
 - (o) a signed declaration by the applicant that the information contained in and accompanying the application meets the requirements under this regulation and is accurate.
- (2) If an applicant consents to the specification of an earlier day under paragraph 27(15)(b) of the Act as the day on which the section 27 declaration takes effect, the applicant must confirm that the project conformed to the applicable methodology determination from the specified day to the day the declaration is made.

Regulation 3.1

*Prescribed non-CFI offsets schemes and non-CFI schemes—
additional information and documents*

- (3) If the project had been issued with carbon offsets credits under a prescribed non-CFI offsets scheme or a non-CFI offsets scheme, the application must also include the following:
 - (a) the name of the scheme;
 - (b) whether the project continues to be eligible to be credited under that scheme;
 - (c) documentary evidence of the number of carbon offsets credits that had, before an application was made under section 22 of the Act for the project, been issued under that scheme for the project;
 - (d) documentary evidence of the periods of time for which credits mentioned in paragraph (c) were issued;
 - (e) the documentary evidence mentioned in subregulation (5).
- (4) If the project has not been issued with carbon offsets credits but the project has generated greenhouse gas abatement that has been accounted for under a prescribed non-CFI offsets scheme or a non-CFI offsets project, the application must also include the following:
 - (a) the name of the scheme;
 - (b) whether the abatement that has been generated under the project continues to be eligible to be sold, or accounted for in another way, under that scheme;
 - (c) documentary evidence of the amount of abatement that, before an application was made under section 22 of the Act for the project, had been:
 - (i) sold; or
 - (ii) accounted for under that scheme;
 - (d) documentary evidence of the periods of time during which the abatement mentioned in paragraph (c) occurred;
 - (e) the documentary evidence mentioned in subregulation (5).
- (5) For paragraphs (3)(e) and (4)(e), the applicant must give written authorisation that personal and other information about the

Regulation 3.2

applicant, in relation to the applicant's participation in the scheme, may be sought from:

- (a) the administrator of the scheme, if an administrator is still available; or
- (b) if the scheme is no longer in operation and it was a scheme which had Commonwealth, State or Territory government agency oversight—that agency.

Requirement to provide geospatial map

- (6) If the project is:
 - (a) a sequestration offsets project; or
 - (b) an emissions avoidance offsets project in relation to which it is necessary to determine the size of the project area in order to estimate the abatement;

the application must also be accompanied by a geospatial map of the project area that meets the requirements of the CFI Mapping Guidelines.

- (7) In this regulation:

CFI Mapping Guidelines means the guidelines used for mapping projects, published by the Department on the commencement of these Regulations and as in force from time to time.

Note: The guidelines are accessible at <http://www.climatechange.gov.au>.

3.2 Prescribed non-CFI offsets schemes that are specified

For subparagraph 23(1)(e)(ia) of the Act, the following prescribed non-CFI offsets schemes are specified:

- (a) the Commonwealth Government's Greenhouse FriendlyTM initiative;
- (b) the New South Wales Government's Greenhouse Gas Reduction Scheme;
- (c) the Australian Capital Territory Government's Greenhouse Gas Abatement Scheme.

Regulation 3.3

3.3 Declaration of eligible offsets project—project area

- (1) For paragraph 27(3)(b) of the Act, a section 27 declaration must provide the following information about the project area:
 - (a) a brief physical description of its geographical location;
 - (b) its street address;
 - (c) its lot numbers and land title;
 - (d) its local government area;
 - (e) its natural resource management region.
- (2) If the project is:
 - (a) a sequestration offsets project; or
 - (b) an emissions avoidance offsets project in relation to which it is necessary to determine the size of the project area in order to estimate the abatement;the declaration must be accompanied by a scale map identifying the project area.
- (3) In this regulation:

natural resource management region, for a project area, means the region to which a regional natural resource management plan that covers the project area applies.

3.4 Declaration of eligible offsets project—project attributes

For paragraph 27(3)(d) of the Act, a section 27 declaration must specify the following:

- (a) whether the project has operated or continues to operate under a prescribed non-CFI offsets scheme, and if so:
 - (i) the name of the scheme; and
 - (ii) whether the project has received credits under the scheme;
- (b) the crediting period for the project;
- (c) the applicable methodology determination for the project.

3.5 Eligibility requirement for declaration of eligible offsets project

For paragraph 27(4)(l) of the Act, a specified eligibility requirement is that the project area, or any part of it, is not used to meet an obligation under a Commonwealth, State or Territory law to offset or compensate for the adverse impact of an action on vegetation.

Division 3.2—Voluntary variation of declaration of eligible offsets project

3.6 General

The regulations in this Division are made for subsections 29(1), 30(1), and 31(2) of the Act.

3.7 Definitions

In this Division:

amended project area means the project area following a successful application to vary a section 27 declaration in relation to the project area.

new project proponent means the project proponent following a successful application to vary a section 27 declaration in relation to the project proponent.

original project area means the project area specified in the section 27 declaration for the project.

original project proponent means the project proponent specified in the section 27 declaration for the project.

variation applicant means a project proponent or a nominee of multiple project proponents who applies for a variation under this Division.

variation application means an application for variation under this Division.

3.8 Application required for voluntary variation

- (1) The Regulator may vary a section 27 declaration.
- (2) However, the Regulator may vary the section 27 declaration only if:

- (a) a variation applicant makes a variation application in accordance with this Division; and
- (b) the Regulator is satisfied of any matter mentioned in subregulation 3.16(1), 3.17(1) or 3.18(1), as applicable.

3.9 Voluntary variation of declaration—application requirements

- (1) A variation application must be in the approved form.
- (2) The approved form may provide for verification by statutory declaration of statements in the application.
- (3) The following information must accompany the application:
 - (a) the name and contact details of the variation applicant;
 - (b) the unique project identifier;
 - (c) a signed statement by the applicant that the information contained in and accompanying the application meets the requirements for the application and is accurate.

3.10 Further information

- (1) The Regulator may, by written notice, require a variation applicant to give the Regulator further information relating to the variation application by the date specified in the notice.
- (2) If the applicant breaches the requirement, the Regulator may, by written notice, inform the applicant that the Regulator:
 - (a) refuses to consider the application; or
 - (b) refuses to take any action, or any further action, in relation to the application.

3.11 Withdrawal of application

- (1) A variation applicant may withdraw the variation application at any time before the Regulator makes a decision on the application.
- (2) The withdrawal does not prevent the applicant from making a fresh application.

Regulation 3.12

3.12 Timing

The Regulator must take all reasonable steps to ensure that a decision is made on a variation application:

- (a) within 90 days after the application was made; or
- (b) if the Regulator requires the variation applicant to give further information under regulation 3.10—within 90 days after the giving of the information.

3.13 When variation takes effect

- (1) A variation made under this Division takes effect:

- (a) when it is made; or
- (b) if:
 - (i) an earlier day is specified in the variation; and
 - (ii) the variation applicant has consented to the earlier day; on the day specified.

- (2) The specified day must not be a day that is earlier than 1 July 2010.

3.14 Copies of variation

The Regulator must give a copy of a variation made under this Division to:

- (a) the variation applicant; and
- (b) if the variation relates to a sequestration offsets project—the relevant land registration official.

3.15 Written notice of refusal

If the Regulator refuses to vary a section 27 declaration, the Regulator must give the variation applicant written notice of the refusal.

Note: Further requirements relating to particular types of variations are set out in regulations 3.16 to 3.18.

**3.16 Voluntary variation of declaration of eligible offsets project—
project area**

- (1) The Regulator may vary a section 27 declaration in relation to the project area of the project if the Regulator is satisfied of the requirements mentioned in subsections 27(4) to (11) of the Act as relevant to the project in relation to the amended project area.
- (2) The following information or documentation must accompany a variation application that relates to the project area:
 - (a) the original project area;
 - (b) the amended project area, identified in accordance with regulation 3.3;
 - (c) confirmation that the variation applicant has a legal right to carry out the project in the amended project area;
 - (d) if the project is a sequestration offsets project—confirmation that the applicant holds the applicable carbon sequestration right in relation to the amended project area;
 - (e) a description of the project that includes the following:
 - (i) confirmation that the project, if conducted on the amended project area, would meet the requirements of the applicable methodology determination;
 - (ii) confirmation that the project, if conducted on the amended project area, would pass the additionality test;
 - (f) if the original project area and the amended project area are covered by the same regional natural resource management plan:
 - (i) the name and date of the plan; and
 - (ii) a statement about whether the project is consistent with the plan despite the proposed change to the project area;
 - (g) if the original project area and the amended project area are not covered by the same regional natural resource management plan:
 - (i) the name and date of any natural resource management plan covering the amended project area; and

Regulation 3.16

- (ii) a statement about whether the part of the project that is conducted on the amended project area is consistent with that plan;
- (h) if the applicant intends to make a request under subsection 92(1) of the Act—a signed statement that the amended project area was or is wholly or partly covered by a prescribed non-CFI offsets scheme;
- (i) if regulatory approval has been obtained for the project, including in relation to the amended project area:
 - (i) the name of the regulatory authority responsible for issuing the approval; and
 - (ii) a description of the nature of the approval; and
- (iii) if requested by the Regulator, a certified copy of the approval;
- (j) if regulatory approval has yet to be obtained for the project, including in relation to the amended project area—a statement about what the applicant has done or will do to obtain the approval;
- (k) any certification in relation to the amended project area required under paragraph 27(4)(h) or (i) of the Act;
- (l) any consent in relation to the amended project area required under paragraph 27(4)(k) of the Act;
- (m) a statement that all requirements mentioned in subsections 27(4) to (11) of the Act that are relevant to the amended project area have been met;
- (n) a certified copy of the land title covering the amended project area, or the folio identifier for the title;
- (o) if the project is mentioned in subregulation (3)—a geospatial map of the amended project area in accordance with the CFI Mapping Guidelines;
- (p) if, as a result of the variation, subsection 57(1) of the Act applies to the project—an estimate of how many Australian carbon credit units would have been issued under Part 2 of the Act in relation to any sequestration occurring on the relevant area between:
 - (i) the end of the last reporting period for the project; and

- (ii) the time when the relevant area ceases to be part of the project area.

Note: For the meaning of *transferor offsets project* and *relevant area*, see subregulation 1.3(1).

- (3) For paragraph (2)(o), the project is:
 - (a) a sequestration offsets project; or
 - (b) an emissions avoidance offsets project in relation to which it is necessary to determine the size of the project area in order to estimate the abatement.

3.17 Voluntary variation of declaration of eligible offsets project— project proponent

- (1) The Regulator may vary a section 27 declaration in relation to the project proponent for the project if the Regulator is satisfied that the new project proponent is:
 - (a) the project proponent within the meaning of the Act; and
 - (b) a recognised offsets entity.
- (2) The following information or documentation must accompany a variation application that relates to the project proponent:
 - (a) the name and contact details of:
 - (i) the original project proponent; and
 - (ii) the new project proponent; and
 - (iii) if applicable, the nominee of the original or new project proponents;
 - (b) confirmation that the new project proponent is the project proponent within the meaning of the Act.
- (3) The Regulator may require the variation applicant to give security to the Commonwealth in relation to the fulfilment of any requirements to relinquish Australian carbon credit units imposed on the applicant under the Act.

Regulation 3.18

3.18 Voluntary variation of declaration of conditional eligible offsets project—removal of condition

- (1) If:
 - (a) a section 27 declaration is subject to a condition under subsection 28(2) of the Act (a ***conditional section 27 declaration***); and
 - (b) the Regulator is satisfied that the condition has been met; the Regulator may vary the declaration by removing the condition.
- (2) A variation application that relates to a conditional section 27 declaration must be accompanied by:
 - (a) confirmation that all regulatory approvals for the project have been obtained; and
 - (b) the following information about each approval:
 - (i) a description of the nature of the approval;
 - (ii) the name of the regulatory authority that issued the approval; and
 - (c) if requested by the Regulator, a certified copy of the approval; and
 - (d) the variation applicant's authorisation that the Regulator may contact all relevant regulatory bodies to discuss whether approvals have been obtained.

Division 3.3—Revocation of declaration of eligible offsets project

3.19 General

The regulations in this Division are made for subsections 32(1), 33(1), 34(1), 35(1), 36(1), 37(1), 38(1) and 139(1) of the Act.

3.20 Copies of revocation

The Regulator must give a copy of any revocation made under this Division to:

- (a) the project proponent for the offsets project; and
- (b) if the revocation relates to a sequestration offsets project—the relevant land registration official.

3.21 Application for voluntary revocation

- (1) An application under this Division for voluntary revocation of a section 27 declaration must be in the approved form.
- (2) The approved form may provide for verification by statutory declaration of statements in the application.
- (3) The following information must accompany the application:
 - (a) the name and contact details of:
 - (i) the project proponent; and
 - (ii) if applicable, the nominee of multiple project proponents;
 - (b) the unique project identifier;
 - (c) a signed declaration by the applicant that the information contained in and accompanying the application meets the requirements for the application and is accurate.

Regulation 3.22

3.22 Requirements for revocation application

The following information or documentation must accompany an application for revocation of a section 27 declaration:

- (a) if one or more Australian carbon credit units have been issued, in accordance with Part 2 of the Act, in relation to the project the subject of the declaration:
 - (i) confirmation that the project has been issued with one or more certificates of entitlement; and
 - (ii) a statement setting out the type and number of Australian carbon credit units issued for the project; and
 - (iii) confirmation that any relinquishment under subregulation 3.23(2) has occurred; or
- (b) if no units have been issued—confirmation that no units have been issued.

3.23 Voluntary revocation—units issued

- (1) The Regulator may revoke a section 27 declaration concerning a project in relation to which one or more Australian carbon credit units have been issued in accordance with Part 2 of the Act only if:
 - (a) the project proponent, or the nominee of multiple project proponents, is the applicant for the revocation; and
 - (b) if the project is a sequestration offsets project—before making the application, the applicant has voluntarily relinquished Australian carbon credit units in accordance with subregulation (2).
- (2) For paragraph (1)(b):
 - (a) if the project is a Kyoto offsets project—the applicant must have voluntarily relinquished Kyoto Australian carbon credit units equalling the net total number of Australian carbon credit units issued in relation to the project; or
 - (b) if the project is a non-Kyoto offsets project—the applicant must have voluntarily relinquished non-Kyoto Australian carbon credit units equalling the net total number of Australian carbon credit units issued in relation to the project.

Regulation 3.24

Note: Under sections 177 and 178 of the Act, the applicant may transfer certain units instead of fulfilling the voluntary relinquishment requirements in this regulation.

3.24 Voluntary revocation—no units issued

The Regulator may revoke a section 27 declaration concerning a project in relation to which no Australian carbon credit units have been issued only if the project proponent, or a nominee of multiple project proponents, is the applicant for the revocation.

3.24A Further information

- (1) The Regulator may, by written notice, require an applicant for a revocation under regulation 3.23 or 3.24 to give the Regulator further information relating to the application by the date specified in the notice.
- (2) If the applicant fails to comply with the notice, the Regulator may, by further written notice, inform the applicant that the Regulator:
 - (a) refuses to consider the application; or
 - (b) refuses to take any action, or any further action, in relation to the application.

3.25 Unilateral revocation of declaration of eligible offsets project—consultation requirement

Before revoking a section 27 declaration under regulation 3.26 or 3.26A, the Regulator must:

- (a) give the relevant project proponent written notice of the proposed revocation; and
- (b) invite the proponent to make a submission about the proposed revocation within 28 days after the date of the notice.

Part 3 Eligible offsets project

Division 3.3 Revocation of declaration of eligible offsets project

Regulation 3.26

3.26 Unilateral revocation—eligibility requirements not met

The Regulator may revoke a section 27 declaration for failure to meet eligibility requirements only if the requirements in paragraphs 27(4)(a) to (c), (j) and (l) of the Act are not met.

3.26A Unilateral revocation—all other cases

The Regulator may revoke a section 27 declaration for a reason mentioned in column 2 of the following table only if the requirements mentioned in column 3 of the table are met.

Item	For unilateral revocation for the following reason ...	the relevant requirements are those mentioned in ...
1	regulatory approvals have not been obtained	paragraphs 34(2)(a) and (b) of the Act
2	the project proponent is no longer a recognised offsets entity	paragraphs 36(2)(a) and (b) of the Act
3	the person responsible for the project is no longer the project proponent	paragraphs 37(2)(a) and (b) of the Act
4	false or misleading information was provided in relation to the project	paragraphs 38(2)(a) to (c) of the Act
5	multiple project proponents failed to nominate a nominee in relation to the project	paragraphs 139(2)(a) to (e) of the Act

Division 3.6—Additionality test

3.27 Definition

In this Division:

alternative waste treatment facility means a facility that converts putrescible waste to energy or any other product.

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

mixed solid waste—see subregulation 3.28(4).

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

3.28 Specified offsets projects

- (1) For paragraph 41(1)(a) of the Act, the following kinds of project are specified:
 - (a) the establishment of permanent plantings on or after 1 July 2007;
 - (b) a project mentioned in subregulation (2);
 - (c) the human-induced regeneration, on or after 1 July 2007, of native vegetation, on land that is not conservation land, by:
 - (i) the exclusion of livestock; or
 - (ii) the management of the timing and the extent of grazing; or
 - (iii) the management, in a humane manner, of feral animals; or
 - (iv) the management of plants that are not native to the project area; or
 - (v) the cessation of mechanical or chemical destruction, or suppression, of regrowth;

Regulation 3.28

- (d) the restoration, on land that is not conservation land, of natural wetlands that had been drained;
 - (e) the application of biochar to soil;
 - (f) the capture and combustion of methane from livestock manure;
 - (g) early dry season burning of savanna areas greater than 1 km²;
 - (h) the reduction of methane emissions through the management, in a humane manner, of feral goats, feral deer, feral pigs or feral camels;
 - (i) the reduction of emissions from ruminants by manipulation of their digestive processes;
 - (j) the application of urease or nitrification inhibitors to, or with, livestock manure or fertiliser;
 - (k) the capture and combustion of methane from waste deposited in a landfill facility before 1 July 2012;
 - (l) the reduction of methane emissions before 1 July 2012 by diverting mixed solid waste, which would otherwise have entered a landfill facility, to an alternative waste treatment facility.
- (2) For paragraph (1)(b) a project is any of the following:
- (a) a forestry project accredited under the Commonwealth Government's Greenhouse FriendlyTM initiative;
 - (b) until 1 July 2012, a waste diversion project accredited under the Commonwealth Government's Greenhouse FriendlyTM initiative;
 - (c) permanent plantings accredited under:
 - (i) the New South Wales Government's Greenhouse Gas Reduction Scheme; or
 - (ii) the Australian Capital Territory Government's Greenhouse Gas Abatement Scheme; and
 - (d) permanent plantings established before 1 July 2007 for which there is documentary evidence of a kind mentioned in subregulation (3) that demonstrates, to the satisfaction of the Regulator, that the primary purpose of the plantings was generation of carbon offsets.

Regulation 3.29

Note: The terms *permanent planting* and *wetlands* are defined in subregulation 1.3(1).

- (3) Documentary evidence, for paragraph (2)(d):
- (a) must be dated no later than 2 years after the date the plantings were established; and
 - (b) may include contracts for the sale of offsets; and
 - (c) must show that carbon sequestration rights had been registered for the plantings; and
 - (d) must include a statutory declaration that the plantings were entirely privately funded.

Meaning of mixed solid waste

- (4) For paragraph (1)(l), ***mixed solid waste*** means solid waste that:
- (a) contains both putrescible and non-putrescible waste; and
 - (b) if the waste is separated at the point of generation to form waste of a kind mentioned in subregulation (5) (***non-landfill waste***)—comprises only waste that is residual after non-landfill waste is removed.
- (5) For paragraph (4)(b), a kind of non-landfill waste is any of the following:
- (a) waste comprised of recyclable plastic, glass, metal or paper;
 - (b) waste known as green waste or wood waste, comprised of garden waste, timber or similar materials from the natural environment;
 - (c) organic waste from the livestock industry, for example, straw bedding and manure mixes;
 - (d) any other kind of waste that is not intended for a landfill facility.

3.29 Additionality test—requirements under other laws

- (1) For subsection 41(4A) of the Act, the following kinds of requirements are specified:
- (a) a requirement to conduct an activity under a conservation covenant entered into with:

Regulation 3.29

- (i) the Commonwealth, a State, a Territory or a local governing body; or
 - (ii) an authority of the Commonwealth, a State or a Territory;
 - (b) on and after 1 July 2012, a requirement under a law of the Commonwealth, a State or a Territory to offset greenhouse gas emissions if the circumstances in subregulation (2) apply.
- (2) For paragraph (1)(b), the circumstances are that a person incurs, or would incur, a liability under the *Clean Energy Act 2011* or any of its associated provisions in relation to the greenhouse gas emissions it offsets, or would offset, under the requirement.
- (3) In this regulation:

conservation covenant has the meaning it has in section 995-1 of the *Income Tax Assessment Act 1997*.

Note: The term ***associated provisions*** is defined in subregulation 1.3(1).

Division 3.9—Eligible interest in an area of land

3.30 Land transferable to an Aboriginal land council

(1) This regulation is made for subsections 44(5) and 45(5) of the Act.

(2) If:

- (a) under a law of the Commonwealth, a State or a Territory, an Aboriginal land council makes a claim for an area of land to become land rights land; and
- (b) the Minister who administers the law makes a decision that the land become land rights land;

the Aboriginal land council holds an eligible interest in the area of land.

(3) In this regulation:

Aboriginal land council, for an area of land, means a body corporate that:

- (a) is established under a Commonwealth, State or Territory Act for the purpose of holding, for the benefit of Aboriginal persons or Torres Strait Islanders:
 - (i) title to land vested in it by or under that Act; or
 - (ii) an estate or interest in land granted under that Act; and
- (b) has functions relating to land that may be claimed under legislation mentioned in subregulation (2); and
- (c) consists of Aboriginal persons or Torres Strait Islanders who:
 - (i) live in an area to which one or more of the body's functions relate; or
 - (ii) are registered as traditional owners of land in an area to which one or more of the body's functions relate; or
 - (iii) have an association with an area to which one or more of the body's functions relate if the persons or Islanders are accepted as members of the land council on the basis of that association.

Division 3.12—Types of projects

3.33 General

The regulations in this Division are made for paragraph 55(1)(c) and subsection 56(1) of the Act.

3.34 Definitions

In this Division:

CFI rainfall map means the map, published on the Department's website on the commencement of these Regulations and as in force from time to time, that shows long-term average annual rainfall using data collected by the Bureau of Meteorology for the period from at least 1921 to 1995 as processed by the Department of Climate Change and Energy Efficiency.

Note: The map is accessible at <http://www.climatechange.gov.au>.

dryland salinity means a build-up of salt in soil occurring on land not subject to irrigation.

environmental planting means a planting that consists of species that:

- (a) are native to the local area of the planting; and
- (b) are sourced from seeds:
 - (i) from within the natural distribution of the species; and
 - (ii) that are appropriate to the biophysical characteristics of the area of the planting; and
- (c) may be a mix of trees, shrubs, and understorey species where the mix reflects the structure and composition of the local native vegetation community.

natural distribution, for a species of vegetation, means the areas within which that species would naturally occur.

forestry managed investment scheme has the meaning given by subsection 394-15(1) of the *Income Tax Assessment Act 1997*.

known weed species means a plant species which:

- (a) is on the Weeds of National Significance list or another list produced by the Australian Government for the purpose of identifying weeds; or
- (b) is declared under any of the following Acts:
 - (i) the *Noxious Weeds Act 1993* of New South Wales;
 - (ii) the *Catchment and Land Protection Act 1994* of Victoria;
 - (iii) the *Land Protection (Pest and Stock Route Management) Act 2002* of Queensland;
 - (iv) the *Plant Diseases Act 1914* of Western Australia;
 - (v) the *Agriculture and Related Resources Protection Act 1976* of Western Australia;
 - (vi) the *Natural Resources Management Act 2004* of South Australia;
 - (vii) the *Weed Management Act 1999* of Tasmania;
 - (viii) the *Pest Plants and Animals Act 2005* of the Australian Capital Territory;
 - (ix) the *Weeds Management Act 2001* of the Northern Territory.

Note: The weeds lists produced by the Australian Government are accessible at <http://www.weeds.gov.au/weeds/lists/index.html>.

National Water Commission has the meaning given by section 4 of the *National Water Commission Act 2004*.

National Water Initiative has the meaning given by section 4 of the *National Water Commission Act 2004*.

plantation means a forest established for harvest.

Salinity Guidelines means the guidelines, published on the Department's website on the commencement of these Regulations and as in force from time to time, to assist project proponents to determine whether the planting of trees is an excluded offsets project for subsection 56(1) of the Act.

Note: The guidelines are accessible at www.climatechange.gov.au.

Regulation 3.35

specified tree planting means the planting of trees in an area that, according to the CFI rainfall map, receives more than 600 mm long-term average annual rainfall.

water access entitlement means an entitlement to water held in accordance with the relevant law in the jurisdiction in which the project area is located.

water interception means the interception of surface water or ground water that would otherwise flow, directly or indirectly, into a watercourse, lake, wetland, aquifer, dam or reservoir.

3.35 Kyoto offsets projects

- (1) The following kinds of project are Kyoto offsets projects:
 - (a) reforestation projects;
 - (b) the protection of native forest from deforestation;
 - (c) the establishment of vegetation on land that was subject to deforestation, by:
 - (i) seeding; or
 - (ii) planting; or
 - (iii) human-induced regeneration by means of an activity mentioned in subregulation (2).
- (2) For paragraph (1)(c), the activities are as follows:
 - (a) the exclusion of livestock;
 - (b) the management of the timing and the extent of grazing;
 - (c) the management, in a humane manner, of feral animals;
 - (d) the management of plants that are not native to the project area;
 - (e) the cessation of mechanical or chemical destruction, or suppression, of regrowth.

Note 1: There are restrictions about when the deforestation of the land the subject of a reforestation project occurred: see subsection 56(1) of the Act and regulation 3.36.

Note 2: The Regulator must be satisfied that an offsets project meets the requirements of a Kyoto offsets project before declaring it to be an eligible Kyoto project: see subsection 27(12) of the Act.

3.36 Excluded offsets projects

The following kinds of project are excluded offsets projects:

- (a) a project that:
 - (i) was mandated under a law of the Commonwealth or a State or Territory; and
 - (ii) is no longer mandatory because the law was repealed after 24 March 2011;
- (b) the planting of a species in an area where it is a known weed species;
- (c) the establishment of a forest under a forestry managed investment scheme for Division 394 of Part 3-45 of the *Income Tax Assessment Act 1997*;
- (d) the cessation or avoidance of the harvest of a plantation;
- (e) the establishment of vegetation on land that has been subject to illegal clearing of a native forest, or illegal draining of a wetland;
- (f) the establishment of vegetation on land that has been subject to clearing of a native forest, or draining of a wetland (that was not an illegal clearing or draining), within:
 - (i) 7 years of the lodgement of an application for the project to be declared an eligible offsets project; or
 - (ii) if there is a change in ownership of the land that constitutes the project area, after the clearing or the draining—5 years of the lodgement of an application for the project to be declared an eligible offsets project.

3.37 Excluded offsets projects—specified tree planting

- (1) Specified tree planting is an excluded offsets project unless it is mentioned in subregulations (2) to (6) or subregulation (8).
- (2) Specified tree planting is not an excluded offsets project if the planting is a permanent planting that is also an environmental planting.
- (3) Specified tree planting is not an excluded offsets project if the project proponent demonstrates that the planting contributes to the

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mitigation of dryland salinity in accordance with the Salinity Guidelines.

- (4) Specified tree planting is not an excluded offsets project if the project area is in a region in relation to which the National Water Commission has determined that the commitments by the relevant State or Territory government under the National Water Initiative to manage water interception by plantations have been adequately implemented.
- (5) Specified tree planting is not an excluded offsets project if the project proponent holds a water access entitlement that:
 - (a) grants or confers an entitlement to water in the project area; and
 - (b) relates to either groundwater or surface water, or both, depending on the water resource management arrangements applicable in the project area; and
 - (c) is held from the date that is no later than 2 years after the forest is first planted for the duration of the project; and
 - (d) provides a long-term average yield, per year, of at least 90% of the volume of water required as an offset, calculated in accordance with the formula in subregulation (7).
- (6) However, subregulation (5) does not apply if the water to which the water access entitlement relates is held, taken, intercepted, stored or used for any purpose other than to offset the water intercepted by the forest.
- (7) The volume of water (in megalitres) required as an offset per year for the life of the project is to be calculated using the following formula:

$$A \times 0.9 + B \times 1.2 + C \times 1.5 + D \times 1.8 + E \times 2.1$$

where:

A is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 600–700 mm long-term average annual rainfall;

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B is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 700–800 mm long-term average annual rainfall;

C is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 800–900 mm long-term average annual rainfall;

D is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 900–1 000 mm long-term average annual rainfall;

E is the area (in hectares) of the project area that, according to the CFI rainfall map, receives more than 1 000 mm long-term average annual rainfall.

Note: The figures in the formula are based on the following volumes of water required as an offset per hectare per year in each of the areas of long-term average annual rainfall as indicated by the CFI rainfall map:

0.9 ML of water—600–700 mm of rain

1.2 ML of water—700–800 mm of rain

1.5 ML of water—800–900 mm of rain

1.8 ML of water—900–1 000 mm of rain

2.1 ML of water—greater than 1 000 mm of rain.

- (8) Specified tree planting is not an excluded offsets project if:
- (a) the project area is in a region in which it is not possible to obtain a water access entitlement; and
 - (b) the Regulator, after seeking the advice of the relevant State or Territory agency that manages the water resource and other expert advice as necessary, is satisfied that there is no material impact on water availability, or on the reliability of existing water access entitlements, in or near the project area, for the duration of the project.
- (9) However, paragraph (8)(a) does not apply to a project in relation to which it is not possible to obtain a water access entitlement because the relevant catchment is fully allocated.

Division 3.13—Restructure of eligible offsets projects

3.38 General

The regulations in this Division are made for subsection 57(2) of the Act.

3.39 Adjusting the net total number of Australian carbon credit units

Determination

- (1) The Regulator may determine that, whenever it is necessary to work out the net total number of Australian carbon credit units issued in relation to a transferee or a transferor offsets project, the Act has effect, in relation to the project, as if the net total number of Australian carbon credit units issued in relation to the project in accordance with Part 2 of the Act were:
 - (a) for a transferee offsets project—increased by the number specified in the determination; and
 - (b) for a transferor offsets project—decreased by the number specified in the determination.

Note 1: The term **net total number** has the meaning given by section 42 of the Act.

Note 2: The net total number of Australian carbon credit units issued in relation to an offsets project is required for working out relinquishment requirements in relation to sequestration offsets projects.

Note 3: For the meaning of **transferee offsets project** and **transferor offsets project**, see subregulation 1.3(1).

Adjusting for reporting periods for which ACCUs have not been claimed

- (2) Subregulation (3) applies if, before the relevant area ceases to be part of the transferor offsets project, the project proponent for the transferor offsets project:

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- (a) has given the Regulator an offsets report for a reporting period for the project; and
- (b) has not applied to the Regulator for the issue of a certificate of entitlement for the project for the reporting period.

Note: For the meaning of *relevant area*, see subregulation 1.3(1).

- (3) In making a determination under subregulation (1), the Regulator must also take into account the Australian carbon credit units that would have been issued under Part 2 of the Act for the reporting period mentioned in subregulation (2) if the proponent had applied for, and been issued, a certificate of entitlement for the reporting period.

Adjusting for incomplete reporting periods

- (4) In making a determination under subregulation (1), the Regulator must also take into account the Australian carbon credit units that would have been issued for the sequestration of carbon in the relevant carbon pool on the relevant area during the period:
 - (a) beginning on the day immediately following the end of the last reporting period; and
 - (b) ending at the time the relevant area ceases to be part of the transferor offsets project.

Note: The term *relevant carbon pool* is defined in section 5 of the Act.

Amending the determination

- (5) The Regulator may amend a determination in which the Regulator took account of matters mentioned in subregulation (3) or (4) if the Regulator receives an application for a certificate of entitlement:
 - (a) for the reporting period mentioned in subregulation (3); or
 - (b) that covers the period mentioned in subregulation (4).

3.40 Adjusting crediting period—transferee offsets project

- (1) The crediting period for a transferee offsets project ends when the crediting period for the relevant transferor offsets project ends, if the circumstances in subregulation (2) or (3) apply.

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- (2) For subregulation (1), the circumstances are:
 - (a) the transferee offsets project continues to meet the requirements in subsection 74(3) of the Act; and
 - (b) the crediting period for the transferor offsets project begins later than the crediting period for the transferee offsets project.
- (3) For subregulation (1), the circumstances are:
 - (a) the transferee offsets project no longer meets the requirements in subsection 74(3) of the Act; and
 - (b) the crediting period for the transferor offsets project begins earlier than the crediting period for the transferee offsets project.

3.41 Adjusting reporting period—transferee offsets project

- (1) The reporting period during which an eligible offsets project becomes a transferee offsets project must not extend beyond the following times, whichever occurs first:
 - (a) 5 years after the start time of the reporting period for the transferee offsets project;
 - (b) 5 years after the start time of the reporting period for the transferor offsets project.
- (2) In this regulation:

start time, in relation to the relevant reporting period for a transferor offsets project or a transferee offsets project, means:

 - (a) the time at which a declaration under section 27 of the Act came into force for the project; or
 - (b) if at least one offsets report for the project has been given to the Regulator under section 76 of the Act—the time immediately after the end of the previous reporting period for the project.

Part 4—Recognised offsets entities

Division 4.1—Application for recognition as an offsets entity

Subdivision 4.1.1—General

4.1 Definitions

(1) In this Division:

certified copy means:

- (a) a copy of a document that has been certified as a true copy by one of the following persons who is in Australia:
 - (i) a bank, building society or credit union officer with 5 or more continuous years service;
 - (ii) a commissioner for declarations;
 - (iii) a judge of a court;
 - (iv) a justice of the peace;
 - (v) a legal practitioner;
 - (vi) a medical practitioner;
 - (vii) a minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*;
 - (viii) a police officer;
 - (ix) a sheriff or a sheriff's officer; and
- (b) if a person who is required to provide a document under these Regulations is not in Australia at the time the document must be provided—a copy of a document that has been certified as a true copy by:
 - (i) an Australian embassy, Australian High Commission or Australian consulate (other than a consulate headed by an honorary consul); or
 - (ii) a competent authority under the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at The Hague on 5 October 1961.

Part 4 Recognised offsets entities

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Note 1: Information about competent authorities under the convention can be found on the Hague Conference on Private International Law's website at www.hcch.net.

Note 2: In 2012, the text of the Convention was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

foreign person means any of the following:

- (a) an individual who is not ordinarily resident in Australia;
- (b) a body corporate or a corporation sole that:
 - (i) is incorporated outside Australia; or
 - (ii) is an authority of a foreign country;
- (c) a body politic or a local governing body of a foreign country;
- (d) if paragraph (a), (b) or (c) applies to the trustee, or a majority of the trustees, of a trust—that trust.

registered co-operative means a body registered under legislation as a co-operative.

registered holder has the meaning given in section 4 of the Registry Act.

Registry account has the meaning given in section 4 of the Registry Act.

- (2) An individual is **ordinarily resident in Australia** if, at a particular time:
 - (a) one of the following applies to the individual:
 - (i) the individual is in Australia and has permission to remain in Australia indefinitely;
 - (ii) the individual is not in Australia but has a right to re-enter Australia and, on re-entry, to be granted permission to remain in Australia indefinitely;
 - (iii) the individual is in Australia and has a special category visa under section 32 of the *Migration Act 1958*;
 - (iv) the individual is not in Australia, is a New Zealand citizen, holds a new Zealand passport and, on re-entry to Australia, would have the right to be granted a special

category visa under section 32 of the *Migration Act 1958*; and

- (b) the individual was in Australia for 200 or more days in the 12 months immediately preceding that time.

4.2 Information and documents for offsets entity applications

- (1) The regulations in this Division are made for paragraphs 61(1)(c) and (d) of the Act.
- (2) An application made by a person under subsection 60(1) of the Act must be accompanied by the information and the documentation set out in this Division.
- (3) If this Division requires a person to provide documentation:
 - (a) any document required must be current; and
 - (b) the person must provide a certified copy of the original document.
- (4) For documentation provided in relation to an application that is:
 - (a) signed by the person no later than 29 May 2012; and
 - (b) given to the Regulator no later than 12 June 2012;

certified copy has the meaning given by subregulation 4.1(1) as in force immediately before 29 May 2011.

4.3 When documents need not be given under this Division

Entities already identified

- (1) An applicant who is an entity is not required to provide a document identifying the entity under this Division if:
 - (a) the entity has provided the document in accordance with the registration requirements under:
 - (i) the *Greenhouse and Energy Reporting Act 2007*; or
 - (ii) the *Renewable Energy (Electricity) Act 2000*; and
 - (b) the entity is currently registered under the Act in relation to which the document was provided; and

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Regulation 4.4

- (c) the document is still current.

Documents already provided under the Registry Regulations

- (2) An applicant is not required to provide a document under this Division if:
 - (a) either:
 - (i) the applicant is a registered holder of a Registry account; or
 - (ii) at the time of making an application under subsection 60(1) of the Act, the applicant is also making a request to open a Registry account under regulation 9 of the Registry Regulations; and
 - (b) the applicant has provided, or is providing, a document under Division 2.2 of those regulations; and
 - (c) the applicant is required to provide the same document to accompany the application under this Division.

4.4 English translation of documents

- (1) This regulation applies if:
 - (a) a person is required to provide a document under this Division; and
 - (b) the document is not written in English.
- (2) The person must provide an English translation of the document that has been prepared and certified as a true copy of the original document by an authorised translation service.
- (3) In this regulation:

authorised translation service means a translation service accredited by the National Accreditation Authority for Translators and Interpreters Ltd.

Subdivision 4.1.2—Information to accompany offsets entity applications

4.5 Information to accompany applications

- (1) An application made by a person under subsection 60(1) of the Act must be accompanied by the information set out in the table, as relevant to the person making the application.

Item	Information
1	The person's full name, address and contact details
2	The person's status as one of the following: (a) an individual, including an individual who is a sole trader; (b) a body corporate; (c) a corporation sole; (d) a body politic; (e) a local governing body; (f) a trust
3	The person's ABN, ACN, ARBN, GST registration number or other unique number
4	The person's business name and, if different, trading name
5	The address of the person's principal place of business
6	For the person who is an individual, including an individual who is a sole trader: (a) the individual's date of birth and residential address; (b) if the individual is known by any other name—the other name; (c) the individual's gender; (d) if the individual is a sole trader—each jurisdiction in which the individual operates as a sole trader
7	For the person that is a body corporate: (a) the full name, and the date of birth, of each executive officer; and (b) a description of the form in which the body has been incorporated; and (c) each jurisdiction in which the body operates

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Regulation 4.5

Item	Information
8	For a body corporate that is a foreign person—the name of any Australian agent through which the body conducts business
8A	For a body corporate that is an Aboriginal and Torres Strait Islander corporation within the meaning of section 16-5 of the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> —the body's Indigenous Corporation Number within the meaning of section 700-1 of that Act.
9	For the person that is a trust: (a) the full name and the address of each trustee; and (b) a description of the type of trust; and (c) each jurisdiction in which the trust operates; and (d) for each trustee who is an individual—the information required in item 6; and (e) for each trustee that is a body corporate—the information required in item 7
10	The full name, date of birth and address of the person that is an individual constituting a corporation sole
11	If there is no registered address or principal place of business for the person that is an incorporated association or an incorporated co-operative, the full name and address of that body's: (a) public officer; or (b) if there is no public officer—secretary; or (c) if the body does not have an officer mentioned in paragraph (a) or (b)—president or treasurer

- (2) If the person making the application is a proprietary or private company the person must also provide the name and address of any beneficial owner with the application.
- (3) However, subregulation (2) does not apply to a proprietary company if the company is:
- (a) a publicly listed company in Australia, or a wholly owned subsidiary of such a company; or
 - (b) licensed and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a company.

- (4) If the person making the application is a trust, the person must also provide with the application:
 - (a) the full name, and the date of birth, of each beneficiary of the trust; or
 - (b) if the terms of the trust identify the beneficiaries of the trust by reference to membership of a class—details about the class.
- (5) However, subregulation (4) does not apply to a trust if the trust is:
 - (a) a government superannuation fund established by legislation; or
 - (b) registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust.
- (6) For this regulation:

beneficial owner, in relation to a company, means an individual who owns, through one or more share holdings, over 25% of the issued capital in the company.

Subdivision 4.1.3—Documents to accompany applications— individuals

4.6 Documents for individuals

Scope

- (1) This regulation applies to:
 - (a) a person making an application under subsection 60(1) of the Act who is an individual; and
 - (b) an individual associated with an entity, if documentary proof of the individual's identity is required under:
 - (i) paragraph (d) of item 4 of the table in regulation 4.9; or
 - (ii) item 2 or 3 of the table in regulation 4.10.

Regulation 4.7

Requirements

- (2) If the individual is an Australian citizen or is ordinarily resident in Australia, the application must be accompanied by 3 documents identifying the individual, of a kind set out in Schedule 2, at least one of which must be a category A document.
- (3) If the individual is a foreign person, the application must be accompanied by 3 documents identifying the individual, of a kind set out in Schedule 3, at least one of which must be a category A document.
- (4) If the individual has changed his or her name, the application must be accompanied by a document that shows the change of name (in addition to any document the individual submits under subregulations (2) or (3)).

Examples of documents: A marriage certificate; a deed poll; a certificate issued by a government authority that recognises the change of name.

4.7 Aboriginal persons or Torres Strait Islanders

- (1) This regulation applies to an individual who is an Aboriginal person or a Torres Strait Islander if the individual does not have enough documents to meet the requirements of regulation 4.6.
- (2) The individual must submit a reference by an authorised referee that verifies the individual's identity.
- (3) The authorised referee may confirm the individual's identity from any records within the referee's keeping or control.
- (4) In this regulation:

authorised referee, for an individual, means a person who:

- (a) is not the individual's parent, grandparent, sibling, child or grandchild; and
- (b) has known the individual for at least 12 months; and
- (c) is one of the following:
 - (i) the chairperson, Secretary or chief executive officer of an incorporated indigenous organisation, including a

- land council, community council or housing organisation;
- (ii) the individual's employer;
- (iii) a school principal or a school counsellor;
- (iv) a minister of religion;
- (v) a medical practitioner;
- (vi) a treating health professional or a manager in an Aboriginal Medical Service;
- (vii) a person who has been an officer in a Department of State in the Commonwealth or a State or Territory for at least 5 years.

treating health professional has the meaning given by section 197 of the *Social Security Act 1991*.

Subdivision 4.1.4—Documents to accompany applications—entities

4.8 Scope of this Subdivision

This Subdivision applies to the following:

- (a) a person making an application under subsection 60(1) of the Act who is an entity (the *project proponent*);
- (b) if item 3 of the table in regulation 4.10 requires documentary evidence of any other entity associated with the project proponent—that entity.

4.9 Applicant that is a body corporate

An application from an entity of a kind mentioned in an item of the following table must be accompanied by the documentation mentioned in the item.

Part 4 Recognised offsets entities

Division 4.1 Application for recognition as an offsets entity

Regulation 4.9

Item	If the entity is ...	the documents that must accompany an application are ...
1	a body corporate	(a) the certificate of the entity's incorporation (if any); and (b) the certificate of the entity's registration (if any) with the Australian Securities Investment Commission; and (c) if the entity is not registered in Australia—the certificate of the entity's registration (if any) with a registry established under a foreign law; and (d) if there is no certificate of the entity's incorporation—a document with similar effect; and (e) if there is no certificate of the entity's registration—a document with similar effect
2	a body corporate that is an incorporated association or a registered co-operative	(a) a document mentioned in item 1; and (b) other documentary evidence that the entity exists (for example, an annual report or the entity's constitution)
3	a local governing body	(a) a document mentioned in item 1; and (b) documentary evidence that the entity is a local governing body
4	a body corporate that does not have an ABN	(a) a document mentioned in item 1; and (b) if the body corporate is of a kind mentioned in item 2—the documents mentioned in item 2; and (c) if the body corporate is of a kind mentioned in item 3—the documents mentioned in item 3; and (d) the following documentary evidence of the identity of executive officers: (i) if the body corporate is a private company, incorporated association or registered co-operative (whether or not a foreign entity):

Regulation 4.10

Item	If the entity is ...	the documents that must accompany an application are ...
		(A) if that entity has at least 3 executive officers—3 executive officers; or (B) if that entity has one or 2 executive officers—those officers; and (ii) if the body corporate is a foreign company that is a public company—documentary evidence of the identity of an executive officer who is not the same person the entity nominates to be an authorised representative under the Registry Act

4.10 Applicant that is a trust

If the applicant is a trust, an application must be accompanied by the documents mentioned in the table for the trust.

Item	The documents that must accompany an application are ...
1	(a) if there is a trust deed—the deed, or an extract of the deed that identifies the trustees and beneficiaries (or classes of beneficiary); or (b) if there is no trust deed: (i) a document with similar effect to a trust deed; or (ii) the certificate of registration as a trust (if any)
2	documentary evidence of the identity of each trustee who is an individual
3	for each trustee that is a body corporate—the documentary evidence mentioned in the table in regulation 4.9 that is relevant to the kind of body corporate

Division 4.2—Additional eligibility requirements and grounds for cancellation

4.11 Recognition as an offsets entity—additional eligibility requirements

- (1) For paragraph 64(3)(d) of the Act, this regulation sets out additional eligibility requirements for a person who makes an application under subsection 60(1) of the Act.
- (2) If the applicant is a person who is an individual, the Regulator must be satisfied that the applicant is a fit and proper person, having regard to:
 - (a) whether the applicant has been convicted of an offence; and
 - (b) whether an order has been made against the applicant; under a foreign law that corresponds to a law mentioned in subparagraphs 64(3)(a)(i) to (viii) of the Act.
- (3) If the applicant is a person who is a body corporate, the Regulator must be satisfied of the following:
 - (a) that the applicant is a fit and proper person, having regard to:
 - (i) whether an executive officer of the applicant has been convicted of an offence; and
 - (ii) whether an order has been made against an executive officer of the applicant; under a foreign law that corresponds to a law mentioned in subparagraphs 64(3)(a)(ix) to (xvi) of the Act;
 - (b) that the applicant is not a body corporate which, overseas or under a foreign law:
 - (i) is being wound up; or
 - (ii) in respect of property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting; or
 - (iii) is under administration; or
 - (iv) has executed a deed of company arrangement that has not yet terminated; or

Regulation 4.12

- (v) has entered into a compromise or arrangement with another person the administration of which has not been concluded;
- (c) that no executive officer of the applicant has been disqualified from:
 - (i) being a director of a body corporate; or
 - (ii) being concerned in the management of a body corporate;under an order made by a foreign court.

4.12 Cancellation of recognition

For paragraph 65(1)(d) of the Act, it is a ground for cancellation if the Regulator is no longer satisfied that a person is able to meet an eligibility requirement mentioned in regulation 4.11.

Part 5—Crediting periods

5.1 First crediting period

For subparagraph 69(1)(b)(ii) of the Act, the period of 15 years is specified for the following:

- (a) a reforestation project;
- (b) a project that, by seeding or planting, establishes forest on land that was subject to deforestation.

5.2 Subsequent crediting period

For paragraph 70(4)(b) of the Act, the period of 15 years is specified for the following:

- (a) a reforestation project;
- (b) a project that, by seeding or planting, establishes forest on land that was subject to deforestation.

Part 6—Reporting and notification requirements

Division 6.1—Offsets reports

6.1 Manner and form of offsets reports

For paragraph 76(4)(a) of the Act, an offsets report must be in the approved form and be posted or sent electronically to the Regulator.

6.2 Information for offsets reports—general

For paragraph 76(4)(b) of the Act, an offsets report must set out the following information:

- (a) the unique project identifier of the eligible offsets project;
- (b) the name of the applicable methodology determination;
- (c) if a report has been submitted previously for the project—the date the most recent report was submitted;
- (d) the name and contact details of:
 - (i) the project proponent; or
 - (ii) if there are multiple project proponents—the proponents' nominee;
- (e) as required by the applicable methodology determination, all of the calculations used to determine:
 - (i) for emissions avoidance projects and sequestration projects other than native forest protection projects—the carbon dioxide equivalent net abatement amount for the project; or
 - (ii) for native forest protection projects—the carbon dioxide equivalent net sequestration amount for the project;
- (f) whether the project has been implemented in accordance with the applicable methodology determination;
- (g) whether an application for a certificate of entitlement for the project has been, or is being, submitted under section 12 of the Act for the same reporting period;

Regulation 6.3

- (h) if a project area for the project is covered by a regional natural resource management plan—whether the project is consistent with the plan;
- (i) the day on which the next reporting period for the project is to end;
- (j) any information required to be submitted in the report for the project under the applicable methodology determination;
- (k) whether the project proponent, under subsection 76(8) of the Act, is setting out more than one offsets report in the same document;
- (l) whether the project is, or has been, wholly or partly covered by a prescribed non-CFI offsets scheme;
- (m) a signed declaration by the project proponent that the information contained in and accompanying the offsets report meets the requirements under this regulation and is accurate.

6.3 Information for offsets reports—projects affected by a prescribed non-CFI offsets scheme

- (1) This regulation applies to a project that is, or has been, wholly or partly covered by a prescribed non-CFI offsets scheme.
- (2) For paragraph 76(4)(b) of the Act, an offsets report about the project must include the information required under this regulation in addition to the information required under regulation 6.2.

Information

- (3) The offsets report must set out the total number of tonnes of carbon dioxide equivalent net abatement generated by the project during the reporting period, for which either or both of the following apply:
 - (a) carbon offsets credits have been issued or registered for the abatement under the prescribed non-CFI offsets scheme;
 - (b) the abatement has been accounted for under the prescribed non-CFI offsets scheme.

Regulation 6.4

- (4) If the project is a sequestration offsets project, the offsets report must also set out the total number of tonnes of carbon dioxide equivalent net abatement:
 - (a) generated by the project for the period:
 - (i) beginning when the project begins; and
 - (ii) ending when the reporting period ends; and
 - (b) for which either or both of the following apply:
 - (i) carbon offsets credits have been issued or registered for the abatement under the prescribed non-CFI offsets scheme;
 - (ii) the abatement has been accounted for under the prescribed non-CFI offsets scheme.
- (5) If the project is a sequestration offsets project other than a native forest protection project, the offsets report must also include the following information:
 - (a) the number of Australian carbon credit units (if any) that have been issued for the project under section 11 of the Act;
 - (b) the number of Australian carbon credit units that would have been issued for the project under section 11 of the Act, from the beginning of the project until the beginning of the reporting period, if the project had been, from its beginning, an eligible offsets project wholly covered by a methodology determination made under the Act.

6.4 Documentation for offsets reports

- (1) This regulation is made for paragraph 76(4)(d) of the Act.
- (2) An offsets report must be accompanied by any documentation that is required to be submitted with the report under the applicable methodology determination.
- (3) If a project is, or has been, covered wholly or partly by a prescribed non-CFI offsets scheme, the offsets report must also be accompanied by:

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- (a) any document the project proponent has, or had been given, relating to credits issued or registered under the scheme, or abatement accounted for under the scheme; and
 - (b) the documentary evidence mentioned in subregulation (4).
- (4) For paragraph (3)(b), the project proponent must give written authorisation that information in relation to the matters in subregulation (5) may be sought from:
 - (a) the administrator of the prescribed non-CFI scheme; or
 - (b) if the scheme is no longer in operation and it was a scheme which had Commonwealth, State or Territory government agency oversight—that agency.
- (5) For subregulation (4), the matters are:
 - (a) the carbon dioxide equivalent net abatement amount generated by the project under the prescribed non-CFI scheme; and
 - (b) if carbon offsets credits have been issued or registered for abatement under the scheme—details of the circumstances in which the carbon offsets credits were issued or registered; and
 - (c) if abatement was accounted for under the scheme—details of the circumstances in which the abatement was accounted for.

Division 6.2—Notification requirement

6.10 Notification requirement—significant reversal

Natural disturbances

- (1) For subsection 81(3) of the Act, a reversal of the removal of carbon dioxide from the atmosphere is taken to be a significant reversal if the natural disturbance that caused, or is likely to have caused, the reversal occurred on at least:
 - (a) 5% of the project area, or project areas in total; or
 - (b) 50 hectares of the project area or areas;whichever area is the smaller.

Reversal due to conduct

- (2) For subsection 82(4) of the Act, a reversal of the removal of carbon dioxide is taken to be a significant reversal if the conduct of a person (other than the project proponent) caused, or is likely to have caused, the reversal on at least:
 - (a) 5% of the project area, or project areas in total; or
 - (b) 50 hectares of the project area or areas;whichever area is the smaller.

6.11 Notification requirement

- (1) This regulation is made for subsection 85(2) of the Act.
- (2) If the project proponent discovers an error in an offsets report submitted to the Regulator, the project proponent must give the Regulator written notice of the error within 90 days of the discovery.
- (3) If:
 - (a) the project proponent commits a deliberate act that causes, or is likely to cause, a reversal of the removal of carbon dioxide from the atmosphere; and

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- (b) the reversal occurred on the smaller of the following areas:
 - (i) an area that is at least 5% of the project area or combined project areas;
 - (ii) an area that is at least 50 hectares of the project area or areas;
- the project proponent must give the Regulator written notice of the act within 90 days of committing the act.
- (4) The recognised offsets entity must notify the Regulator, in the approved form, of any change to the following:
 - (a) the recognised offsets entity's name, business name or trading name;
 - (b) the recognised offsets entity's contact details;
 - (c) a criterion for recognition mentioned in subsection 64(3) of the Act.
 - (5) A change mentioned in subregulation (4) must be notified within 28 business days of the change occurring.

Part 7—Requirements to relinquish Australian carbon credit units

7.1A Requirement to relinquish—significant reversal

Reversal other than from natural disturbance or conduct

- (1) For paragraph 90(1)(d) of the Act, a reversal of the removal of carbon dioxide from the atmosphere is taken to be a significant reversal if the event caused, or is likely to have caused, the reversal on at least:
 - (a) 5% of the project area, or project areas in total; or
 - (b) 50 hectares of the project area or areas;whichever area is the smaller.

Natural disturbance or conduct

- (2) For paragraph 91(1)(d) of the Act, a reversal of the removal of carbon dioxide from the atmosphere is taken to be a significant reversal if:
 - (a) the natural disturbance that caused, or is likely to have caused, the reversal occurred on at least:
 - (i) 5% of the project area, or the project areas in total; or
 - (ii) 50 hectares of the project area or areas;whichever area is the smaller; or
 - (b) the conduct of a person (other than the project proponent) caused, or is likely to have caused, the reversal on at least:
 - (i) 5% of the project area, or the project areas in total;
 - (ii) 50 hectares of the project area or areas;whichever area is the smaller.

Regulation 7.1

7.1 Transition of offsets projects from prescribed non-CFI offsets schemes—request for determination

For paragraph 93(1)(c) of the Act, a request for a determination under section 95 of the Act in relation to an offsets project must be accompanied by the following information:

- (a) identification, in accordance with regulation 3.3, of the project area or areas that are or were wholly or partly covered by a prescribed non-CFI offsets scheme;
- (b) the number of credits issued under the prescribed non-CFI offsets scheme for the project area or areas;
- (c) the project proponent's authorisation that personal and other information about the proponent, in relation to the proponent's participation in a prescribed non-CFI offsets scheme, may be sought from:
 - (i) the administrator of the scheme; or
 - (ii) if the scheme is no longer in operation—the Commonwealth, State or Territory government agency that had responsibility for overseeing the scheme.

7.2 Determination

For subsection 95(4) of the Act, the number specified by the Regulator must be equal to the number of credits that had been issued under a prescribed non-CFI offsets scheme for the project area or areas identified under paragraph 7.1(a) for the relevant eligible offsets project.

Part 9—Methodology determinations

9.1 Application for endorsement of proposal for methodology determination

- (1) This regulation is made for paragraphs 109(1)(d) and (e) of the Act.
- (2) An application for the endorsement of a specified proposal for a methodology determination must be accompanied by the information and the documentation mentioned for that kind of application in the *Guidelines for Submitting Methodologies* published by the Department and as in force from time to time.

Note: The *Guidelines for Submitting Methodologies* is available from the Department's website on www.climatechange.gov.au.

9.2 Application for endorsement of proposal for variation of a methodology determination

- (1) This regulation is made for paragraphs 117(1)(d) and (e) of the Act.
- (2) An application must be accompanied by the following information and documentation:
 - (a) the name of the methodology determination the subject of the application;
 - (b) the reasons why the methodology determination should be varied;
 - (c) the information and the documentation specified for making an application under section 116 of the Act in the *Guidelines for Submitting Methodologies*, published by the Department and as in force from time to time;
 - (d) a copy of the methodology determination that includes all of the proposed variations, and with the proposed variations clearly marked.

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Note: The *Guidelines for Submitting Methodologies* is available from the Department's website at www.climatechange.gov.au.

9.3 Request to approve application of methodology determination to a project with effect from the start of a reporting period

- (1) For paragraph 128(2)(c) of the Act, a request must be accompanied by the following information:
 - (a) the unique project identifier;
 - (b) the title and the date of commencement of the applicable methodology determination made under section 106 of the Act or varied under section 114 of the Act, for which the approval of application is being requested;
 - (c) a description of the project;
 - (d) a statement by the applicant that the project meets the requirements of the methodology determination mentioned in paragraph (b).

Part 10—Multiple project proponents

10.1 Designation of nominee account

For paragraph 140(3)(c) of the Act, the following information is specified:

- (a) the nominee's full name, date of birth, and contact details;
- (b) the project name for which the nomination is in force;
- (c) the nominee's ABN, ACN, ARBN, and GST registration number (if any).

Part 11—Australian carbon credit units

11.1 Transmission of Australian carbon credit units by operation of law

- (1) For paragraph 153(2)(b) of the Act, the transferee must give the Regulator a certified copy of a document showing transmission of the title to the Australian carbon credit units to the transferee.

Example: If an Australian carbon credit unit has been transmitted on the making of an order by a court, including a sequestration order, the evidence of the transmission would be a certified copy of the order.

- (2) For subsection 153(3) of the Act, a declaration of transmission must:
- (a) be made in writing; and
 - (b) identify the serial numbers of the Australian carbon credit units transmitted; and
 - (c) set out the name, address and Registry account number of the transferor; and
 - (d) set out the name, address and Registry account number (if any) of the transferee; and
 - (e) include a brief description of the circumstances that resulted in the transmission; and
 - (f) be signed by the transferee.

Note: If the transferee does not already have a Registry account, the transferee must request that one be opened in the transferee's name—see subsection 153(4) of the Act.

11.2 Outgoing international transfers of Australian carbon credit units

For subsection 154(3) of the Act, the Regulator must:

- (a) take the following steps:
 - (i) confirm that, at the time the instruction is received, an international arrangement that allows the direct transfer

Regulation 11.5

- of the Australian carbon credit unit from the Registry account to the foreign account is operational;
- (ii) ensure that the transfer of the unit from the Registry account to the foreign account is in accordance with the arrangement; or
- (b) if either of the steps in paragraph (a) cannot be taken, notify the person who gave the instruction that the instruction is declined.

11.5 Exchange of Kyoto Australian carbon credit units—conditions

- (1) The conditions to be satisfied for paragraph 157(1)(d) of the Act are the following:
 - (a) for the exchange of a Kyoto Australian carbon credit unit for an assigned amount unit—the assigned amount unit:
 - (i) must have been issued to the Commonwealth for the first commitment period under the Kyoto rules (the ***first commitment period***); and
 - (ii) must be available for exchange in the relevant Commonwealth holding account;
 - (b) for the exchange of a Kyoto Australian carbon credit unit for a removal unit:
 - (i) the Kyoto Australian carbon credit unit must have been issued in relation to a sequestration offsets project; and
 - (ii) the removal unit must have been issued to the Commonwealth for the first commitment period; and
 - (iii) the removal unit must be available for exchange in the relevant Commonwealth holding account;
 - (c) for the exchange of a Kyoto Australian carbon credit unit for an emission reduction unit:
 - (i) the unit must have been issued in relation to a joint implementation project that is:
 - (A) approved by the National Authority; and
 - (B) conducted in Australia in accordance with the Kyoto rules; and

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- (ii) the person must tell the Regulator the ITL project ID for the project; and
- (iii) for an emissions avoidance project—the emission reduction unit must have been converted from an assigned amount unit in accordance with regulation 38 of the Registry Regulations; and
- (iv) for a sequestration offsets project—the emission reduction unit must have been converted from a removal unit in accordance with regulation 38 of the Registry Regulations.

(2) In this regulation:

international transaction log has the same meaning as in the Registry Regulations.

ITL project ID, for a joint implementation project, means the project identification number used by the international transaction log.

National Authority means the National Authority for the clean development mechanism (CDM) and joint implementation (JI), established in accordance with the Kyoto Protocol.

11.6 Exchange of Kyoto Australian carbon credit units—required steps

- (1) The steps that the Regulator must take for subsection 157(2) of the Act are the following:
 - (a) for the exchange of a Kyoto Australian carbon credit unit for an assigned amount unit or a removal unit:
 - (i) cancel the Kyoto Australian carbon credit unit; and
 - (ii) remove the entry for the Kyoto Australian carbon credit unit from the Registry account; and
 - (iii) transfer the assigned amount unit or removal unit from the relevant Commonwealth holding account to the Registry account;

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- (b) for the exchange of the Kyoto Australian carbon credit unit for an emission reduction unit:
 - (i) for an emissions avoidance project—convert an assigned amount unit to an emission reduction unit as required by subparagraph 11.5(1)(c)(iii); and
 - (ii) for a sequestration offsets project—convert a removal unit to an emission reduction unit as required by subparagraph 11.5(1)(c)(iv); and
 - (iii) cancel the Kyoto Australian carbon credit unit; and
 - (iv) remove the entry for the Kyoto Australian carbon credit unit from the Registry account; and
 - (v) transfer the emission reduction unit from the relevant Commonwealth holding account to the Registry account.

Regulation 15.4

Part 15—Relinquishment of Australian carbon credit units

15.4 Market value of Kyoto Australian carbon credit units

- (1) For subsection 179(6) of the Act, the table sets out the market value of a Kyoto Australian carbon credit unit at the compliance deadline.

Item	If the compliance deadline is ...	the market value of the unit is ...
1	before 1 August 2013	\$23.00
2	between 1 August 2013 and 31 July 2014	\$24.15
3	between 1 August 2014 and 31 July 2015	\$25.40
4	after 31 July 2015	(a) If an amount is specified in regulations made for subparagraph 212(2)(d)(i) of the <i>Clean Energy Act 2011</i> for the financial year in which the compliance deadline occurs—50% of that amount; or (b) otherwise—an amount equal to the benchmark average auction charge for the previous financial year

- (2) In this regulation:

benchmark average auction charge has the meaning given by section 114 of the *Clean Energy Act 2011*.

Part 17—Record-keeping and project monitoring requirements

17.1 Record-keeping requirements—general

- (1) For subsection 191(1) of the Act, if a project proponent is required to make a record of information specified in subregulation (2), the proponent must retain:
- (a) the record; or
 - (b) a copy of the record;
- for 7 years after the making of the record.

- (2) The following information is specified:
- (a) correspondence between the proponent and the Regulator in relation to an eligible offsets project;
 - (b) information that an applicable methodology determination requires to be recorded;
 - (c) information about:
 - (i) the proponent's legal right to carry out a project; and
 - (ii) the applicable carbon sequestration right held by the proponent;including information about rights that vary from time to time;

Example 1: Information concerning legal ownership of the project area.

Example 2: Information about contractual rights to carry out the project in the project area.

- (d) information in relation to any decision made by the proponent in relation to the proponent's obligations under the Act or these Regulations, including the reasons for the decision;
- (e) information about any variations to the project;
- (f) information about regulatory approvals obtained in relation to the project;
- (g) offset reports and CFI audit reports (if any);

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- (h) information about any uncertainties associated with data used to determine abatement, including information and procedures used to derive uncertainty estimates (if any);
- (i) information about any assumptions made in abatement calculations and the procedures used to derive the assumptions;
- (j) information about any event that is reasonably likely to significantly increase or decrease abatement;
- (k) if the proponent is not an individual—information about the following:
 - (i) the proponent's organisational structure, and any changes it undergoes;
 - (ii) the individuals with decision-making authority within the organisation, and any change of those individuals;
- (l) information about all procedures used to collect, document and process data used in determining abatement for the project;
- (m) information about any abatement for which carbon offset credits have been issued or registered under the following kinds of scheme, and the circumstances in which that was done:
 - (i) a prescribed non-CFI offsets scheme; or
 - (ii) a non-CFI scheme;
- (n) if carbon offset credits were not issued for abatement mentioned in paragraph (m)—information about the circumstances in which the abatement was accounted for.

Note: The terms ***accounted for*** and ***non-CFI scheme*** are defined in subregulation 1.3(1).

- (3) In this regulation:

CFI audit report has the meaning given by section 7 of the *National Greenhouse and Energy Reporting Act 2007*.

17.2 Record-keeping requirements—preparation of offsets report

- (1) For subsection 192(2) of the Act, subregulation (2) applies if a project proponent:
 - (a) made a record of particular information; and
 - (b) used the information to prepare an offsets report.
- (2) The project proponent must retain:
 - (a) the record; or
 - (b) a copy of the record;for 7 years after the offsets report was given to the Regulator.

Part 18—Monitoring powers

18.1 Identity cards

For paragraph 197(2)(a) of the Act, an identity card issued to an inspector must display the following:

- (a) a statement that the cardholder is an inspector for the purposes of the Act;
- (b) the date of expiry of the card;
- (c) a statement that the inspector is authorised to exercise powers under Part 18 of the Act.

Note: Paragraph 197(2)(b) requires the card to contain a recent photograph of the inspector.

Part 19—Audits

19.1 Compliance audits—requirements for reimbursement

- (1) For paragraphs 214(9)(c) and (d), the following information and documentation is specified:
 - (a) the full name, contact details and bank account details of the person who received an audit notice;
 - (b) the unique project identifier of the eligible offsets project to which the audit notice relates;
 - (c) evidence of the costs incurred in complying with the audit notice;
 - (d) a statement, supported by evidence, of the financial hardship caused by compliance with the audit notice;
 - (e) if it has not already been submitted to the Regulator—the audit report;
 - (f) a signed declaration that the specified information and documentation meets the requirements of this subregulation and is accurate.
- (2) In this regulation:

audit notice means a notice given to a person under subsection 14(2) of the Act.

Regulation 26.1

Part 26—Domestic Offsets Integrity Committee

26.1 General

The regulations in this Part are made for subsection 260(1) of the Act.

26.2 Meetings of the Domestic Offsets Integrity Committee— procedure

- (1) The Domestic Offsets Integrity Committee must hold such meetings as are necessary for the performance of its functions under the Act.
- (2) The meetings of the Committee may be face-to-face or via teleconference.
- (3) The Chair of the committee must preside over the meetings.
- (4) The Secretariat of the committee:
 - (a) must take minutes of the meetings; and
 - (b) may convene a meeting at any time; and
 - (c) must convene a meeting at the Chair's request.

26.3 Meetings of the Domestic Offsets Integrity Committee— quorum

A quorum for meetings of the Domestic Offsets Integrity Committee is 3 members of the Committee.

26.4 Meetings of the Domestic Offsets Integrity Committee—acting Chair

If:

- (a) the Chair of the Domestic Offsets Integrity Committee cannot attend a meeting; and

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- (b) the Minister has not appointed an acting Chair under section 259 of the Act;
the Committee may appoint an acting Chair for the meeting from the members present.

**26.5 Meetings of the Domestic Offsets Integrity Committee—
resolution**

- (1) Any question arising at a meeting of the Domestic Offsets Integrity Committee must be determined by resolution.
- (2) A resolution is taken to have been passed if:
 - (a) more than half the present and voting members vote for the resolution; and
 - (b) either:
 - (i) all members were informed of the proposed resolution;
or
 - (ii) reasonable efforts were made to inform all members of the proposed resolution.

Schedule 1—Regional natural resource management organisations

(regulation 1.8)

1. An organisation established under:
 - (a) section 6 of the *Catchment Management Authorities Act 2003* (NSW); or
 - (b) section 11 of the *Catchment and Land Protection Act 1994* (Vic); or
 - (c) section 23 of the *Natural Resources Management Act 2004* (SA); or
 - (d) section 9 of the *Natural Resource Management Act 2002* (Tas).
2. The ACT Natural Resource Management Council (ABN 41 231 195 571).
3. Natural Resource Management Board (NT) Inc (ABN 52 624 459 784).
4. Queensland Murray-Darling Committee Inc (ABN 46 082 833 823).
5. NQ Dry Tropics Ltd (ABN 18 101 770 601).
6. Burnett Mary Regional Group for Natural Resource Management Inc (ABN 22 019 142 308).
7. Cape York Natural Resource Management Ltd (ABN 89 146 770 167).
8. Condamine Catchment Natural Resource Management Corporation Ltd (ABN 25 100 958 272).
9. Desert Channels Queensland Inc (ABN 38 323 082 163).
10. Fitzroy Basin Association Inc (ABN 30 802 469 401).
11. Reef Catchments Mackay Whitsunday Inc (ABN 26 873 357 348).

12. Northern Gulf Resource Management Group Ltd (ABN 94 106 450 355).
13. SEQ Catchments Ltd (ABN 91 115 662 989).
14. South West Natural Resource Management Group (ABN 95 111 225 293).
15. Southern Gulf Catchments Ltd (ABN 15 030 795 778).
16. Torres Strait Regional Authority (ABN 57 155 285 807).
17. FNQ NRM Ltd (ABN 53 106 385 899).
18. Wheatbelt NRM Inc (ABN 61 661 518 664).
19. Northern Agricultural Catchments Council Inc (ABN 15 441 877 135).
20. Rangelands Natural Resource Management Inc (ABN 53 032 039 445).
21. South Coast Natural Resource Management Inc (ABN 43 781 945 884).
22. South West Catchment Council Inc (ABN 86 724 656 359).
23. Perth Region NRM Inc (ABN 13 565 953 466).

Schedule 2—Documents for identifying Australian citizens or residents

(subregulation 4.6(2))

Category A documents

1. A birth certificate issued by a State or Territory.
2. A current passport issued by the Commonwealth.
3. A citizenship certificate issued by the Commonwealth, or documentary evidence that the individual has been registered by the Commonwealth as an Australian citizen by descent.
4. A passport or similar document issued for the purpose of international travel, that:
 - (a) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (b) is issued by a foreign government, the United Nations or an agency of the United Nations; and
 - (c) has evidence of the individual's immigration status in Australia.

Category B documents

1. A driver's licence or a learner's permit, issued under a law of a State or Territory, that includes:
 - (a) a photograph of the individual and the individual's signature; and
 - (b) a street address that is the same as the address stated in the application.
2. A Medicare card.
3. A notice issued within the previous 3 months to the individual by a local government body or utilities provider, which:
 - (a) contains the individual's name; and
 - (b) contains the individual's street address; and

- (c) records the provision of services by the local government body or utilities provider to that address or the individual.
- 4. An Australian firearms licence issued under a law of a State or Territory that includes:
 - (a) the individual's signature; and
 - (b) a photograph of the individual; and
 - (c) a street address that is the same as the address stated in the application.
- 5. A secondary school or tertiary education student identification card that:
 - (a) includes a photograph of the individual; and
 - (b) was issued by an education authority that has been accredited by the Commonwealth, a State or Territory government.

Schedule 3—Documents for identifying individuals who are foreign persons

(subregulation 4.6(3))

Category A documents

1. A passport or similar document issued for the purpose of international travel, that:
 - (a) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (b) is issued by a foreign government, the United Nations or an agency of the United Nations.
2. A birth certificate issued by a foreign government, the United Nations or an agency of the United Nations.
3. A national identity card issued for the purpose of identification, that:
 - (a) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (b) is issued by a foreign government, the United Nations or an agency of the United Nations.

Category B documents

1. A document issued by a foreign government that identifies the individual.
2. A marriage certificate issued by a foreign government.
3. A driver's licence issued by a foreign government for the purpose of driving a vehicle that contains:
 - (a) a photograph of the individual in whose name the licence is issued; and
 - (b) a street address that is the same as the address stated in the application.

Endnote 1—Legislation history

Endnotes

Endnote 1—Legislation history

This endnote sets out details of the legislation history of the *Carbon Credits (Carbon Farming Initiative) Regulations 2011*.

Number and year	Gazettal or FRLI registration date	Commencement date	Application, saving and transitional provisions
2011 No. 268	8 Dec 2011 (<i>see</i> F2011L02583)	8 Dec 2011 (<i>see</i> r. 2 and F2011L02581)	
2012 No. 33	23 Mar 2012 (<i>see</i> F2012L00672)	2 Apr 2012 (<i>see</i> s. 2 and F2011L02617)	—
2012 No. 77	28 May 2012 (<i>see</i> F2012L01086)	29 May 2012	—
2012 No. 125	4 July 2012 (<i>see</i> F2012L01505)	29 May 2012	—
77, 2013	20 May 2013 (<i>see</i> F2013L00800)	(<i>see</i> s. 2 and Endnote 3)	—
78, 2013	16 May 2013 (<i>see</i> F2013L00778)	Schedule 1 (item 11): 17 May 2013	—

Endnotes

Endnote 2—Amendment history

Endnote 2—Amendment history

This endnote sets out the amendment history of the *Carbon Credits (Carbon Farming Initiative) Regulations 2011*.

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
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Part 1

r. 1.3	am. 2012 No. 77
Note to r. 1.3.....	am. 2012 Nos. 33 and 77
r. 1.8A	ad. 2012 No. 77
r. 1.9	am. 2012 No. 33
Heading to r. 1.10	am. 2012 No. 33
r. 1.10	am. 2012 No. 33
r. 1.11	ad. 2012 No. 77
r. 1.12	ad. 2012 No. 77
r. 1.13	ad. 2012 No. 77

Part 2

Part 2	ad. 2012 No. 77
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Division 2.1

r. 2.1	ad. 2012 No. 77
r. 2.2	ad. 2012 No. 77

Division 2.2

r. 2.3	ad. 2012 No. 77
r. 2.4	ad. 2012 No. 77
r. 2.5	ad. 2012 No. 77

Part 3

Division 3.1

Subhead. to r. 3.1(3)	rs. 2012 No. 77
r. 3.1	am. 2012 Nos. 33 and 77

Division 3.2

Div. 3.2 of Part 3	ad. 2012 No. 77
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Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
r. 3.6	ad. 2012 No. 77
r. 3.7	ad. 2012 No. 77
r. 3.8	ad. 2012 No. 77
r. 3.9	ad. 2012 No. 77
r. 3.10	ad. 2012 No. 77
r. 3.11	ad. 2012 No. 77
r. 3.12	ad. 2012 No. 77
r. 3.13	ad. 2012 No. 77
r. 3.14	ad. 2012 No. 77
r. 3.15	ad. 2012 No. 77
r. 3.16	ad. 2012 No. 77
r. 3.17	ad. 2012 No. 77
r. 3.18	ad. 2012 No. 77

Division 3.3

Div. 3.3 of Part 3	ad. 2012 No. 77
r. 3.19	ad. 2012 No. 77
r. 3.20	ad. 2012 No. 77
r. 3.21	ad. 2012 No. 77
r. 3.22	ad. 2012 No. 77
r. 3.23	ad. 2012 No. 77
r. 3.24	ad. 2012 No. 77
r. 3.24A.....	ad. 2012 No. 77
r. 3.25	ad. 2012 No. 77
r. 3.26	ad. 2012 No. 77
r. 3.26A.....	ad. 2012 No. 77

Division 3.6

r. 3.27	am. 2012 No. 77
r. 3.28	am. 2012 Nos. 33 and 77
Note to r. 3.28(2).....	ad. 2012 No. 77
Note to r. 3.28(3).....	rep. 2012 No. 77

Endnotes

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
r. 3.29	ad. 2012 No. 77
Division 3.9	
Div. 3.9 of Part 3	ad. 2012 No. 77
r. 3.30	ad. 2012 No. 77
Division 3.12	
Note 2 to r. 3.35	am. 2012 No. 33
r. 3.37	am. 2012 Nos. 33 and 77
Division 3.13	
Div. 3.13 of Part 3	ad. 2012 No. 77
r. 3.38	ad. 2012 No. 77
r. 3.39	ad. 2012 No. 77
r. 3.40	ad. 2012 No. 77
r. 3.41	ad. 2012 No. 77
Part 4	
Division 4.1	
Subdivision 4.1.1	
r. 4.1	am. 2012 No. 77
Note to r. 4.1	rep. 2012 No. 77
Note 1 to r. 4.1	ad. 2012 No. 77
Note 2 to r. 4.1	ad. 2012 No. 77
r. 4.2	am. 2012 No. 125
r. 4.3	am. 2012 Nos. 33 and 77
r. 4.4	am. 2012 No. 77
Subdivision 4.1.2	
r. 4.5	am. 2012 No. 77
Subdivision 4.1.3	
r. 4.7	am. 2012 No. 77
Division 4.2	
r. 4.11	am. 2012 No. 33
r. 4.12	am. 2012 No. 33

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
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Part 5

Part 5	ad. 2012 No. 77
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r. 5.1	ad. 2012 No. 77
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r. 5.2	ad. 2012 No. 77
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Part 6

Part 6	ad. 2012 No. 77
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Division 6.1

r. 6.1	ad. 2012 No. 77
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r. 6.2	ad. 2012 No. 77
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r. 6.3	ad. 2012 No. 77
--------------	-----------------

r. 6.4	ad. 2012 No. 77
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Division 6.2

r. 6.10	ad. 2012 No. 77
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r. 6.11	ad. 2012 No. 77
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Part 7

r. 7.1A	ad. 2012 No. 77
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r. 7.2	am. 2012 No. 33
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Part 9

r. 9.2	ad. 2012 No. 77
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r. 9.3	ad. 2012 No. 77
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Part 11

Part 11	ad. 2012 No. 77
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r. 11.1	ad. 2012 No. 77
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r. 11.2	ad. No. 78, 2013
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r. 11.5	ad. 2012 No. 77
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r. 11.6	ad. 2012 No. 77
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Part 13

Heading to Part 13	rep. 2012 No. 77
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r. 13.1	
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Renumbered r. 26.1	2012 No. 77
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Endnotes

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
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r. 13.2	
Renumbered r. 26.2.....	2012 No. 77

r. 13.3	
Renumbered r. 26.3.....	2012 No. 77

r. 13.4	
Renumbered r. 26.4.....	2012 No. 77

r. 13.5	
Renumbered r. 26.5.....	2012 No. 77

Part 15

Part 15	ad. 2012 No. 77
r. 15.4	ad. 2012 No. 77

Part 17

Part 17	ad. 2012 No. 77
r. 17.1	ad. 2012 No. 77
r. 17.2	ad. 2012 No. 77

Part 18

Part 18	ad. 2012 No. 77
r. 18.1	ad. 2012 No. 77

Part 19

Part 19	ad. 2012 No. 77
r. 19.1	ad. 2012 No. 77

Part 26

Heading to Part 26.....	ad. 2012 No. 77
r. 26.1	
(formerly r. 13.1).....	2012 No. 77
r. 26.2	
(formerly r. 13.2).....	2012 No. 77
r. 26.3	
(formerly r. 13.3).....	2012 No. 77
r. 26.4	
(formerly r. 13.4).....	2012 No. 77

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
 exp. = expired or ceased to have effect

Provision affected	How affected
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r. 26.5 (formerly r. 13.5).....	2012 No. 77
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Endnote 3—Uncommenced amendments

This endnote sets out amendments of the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* that have not yet commenced.

Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2013 (No. 1) (No. 77, 2013)

Schedule 1

1 Subregulation 1.3(1)

Insert:

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

Note: The report is accessible at www.ipcc.ch/.

CFI rainfall map means the map:

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

Note: The map is accessible at www.climatechange.gov.au.

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

consent, for Divisions 3.6 and 3.12, means approval to commence clearing or conversion to a plantation, required by Commonwealth, State or Territory law, issued by the relevant Commonwealth,

Endnote 3—Uncommenced amendments

State, Territory or local regulatory authority responsible for giving the approval.

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

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

plantation means a forest established for harvest.

2 Regulation 1.5

Repeal the regulation, substitute:

1.5 Kyoto abatement deadline

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

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

3 After subregulation 1.13(1)

Insert:

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

4 Subregulation 3.1(3)

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

5 Subregulation 3.1(4)

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

6 At the end of regulation 3.16

Add:

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

7 Regulation 3.27

Repeal the regulation, substitute:

3.27 Definitions

In this Division:

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

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

biocover, for a landfill, means a cover:

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

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

- (a) consists of a flow control system, a gravel layer and an overlying oxidation layer of a mixture of:
 - (i) woodchips or shredded wood, or a combination of both; and
 - (ii) compost; and

Endnote 3—Uncommenced amendments

- (b) receives gas from a landfill through an active gas extraction or passive drainage system; and
- (c) is designed to microbially oxidise methane in the gas.

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

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

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

farm means:

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

mixed solid waste—see subregulation 3.28(4).

new farm forestry plantation means a plantation:

- (a) established on or after 1 July 2010 for the harvest of wood products; and
- (b) occupying land that has been cleared of trees and used for agricultural purposes for at least 5 years prior to the establishment of the plantation; and

Endnotes

Endnote 3—Uncommenced amendments

- (c) in an area that, according to the CFI rainfall map, receives the amount of long term average annual rainfall mentioned in an item in the following table; and
- (d) occupies the area mentioned in the item.

Farm forestry plantations		
Item	Rainfall	Area
1	400mm or more	No more than the smaller of the following areas: (a) no more than 100 ha; (b) no more than 30% of a farm.
2	less than 400mm	No more than the smaller of the following areas: (a) no more than 300 ha; (b) no more than 30% of a farm.

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

rangeland means land:

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

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

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

Endnote 3—Uncommenced amendments

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

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

Add:

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

9 Paragraph 3.28(1)(i)

Repeal the paragraph, substitute:

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

10 Paragraph 3.28(1)(l)

Repeal the paragraph, substitute:

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

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

- (n) the establishment of a new farm forestry plantation;
- (o) the protection of native forest on freehold or leasehold land, on or after 1 July 2010, in relation to which:
 - (i) a Commonwealth, State or Territory law prohibits clearing, or conversion to a plantation, without consent; and

Endnote 3—Uncommenced amendments

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

11 Subregulations 3.28(4) and (5)

Repeal the subregulations, substitute:

- (4) For paragraph (1)(l), ***mixed solid waste*** means waste from sources such as offices, community organisations, sporting facilities, households, retail and catering businesses and institutions (including schools, hospitals and prisons), but excludes the following:
 - (a) recyclable paper, paperboard, glass, metal or plastic that has been separated at the point of generation;
 - (b) green waste or wood waste, including waste from gardens or parks, that has been separated at the point of generation;

Endnote 3—Uncommenced amendments

- (c) biosolids;
 - (d) organic waste from the livestock industry, such as straw bedding and manure mixes;
 - (e) commercial and industrial waste comprising only putrescible waste when it is received by an alternative waste treatment plant;
 - (f) construction and demolition waste.
- (5) For subregulation (4), a type of waste is separated at the point of generation even if it is separated into a container that may contain some other types of waste.

12 At the end of subregulation 3.29(1)

Add:

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

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

Repeal the definitions.

14 At the end of subregulation 3.35(2)

Add:

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

15 Regulation 3.36

Before “The”, insert “(1)”.

16 Paragraph 3.36(a)

Repeal the paragraph, substitute:

- (a) a project that involves an activity that:

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

17 At the end of regulation 3.36

Add:

- ; (g) a project that protects native forest on freehold or leasehold land, for which a clearing consent or harvest approval plan was granted on the basis that the clearing or harvesting of the native forest:
 - (i) would lead to an environmental improvement or benefit, or would maintain an environmental outcome; or
 - (ii) was for fire management purposes.
- (2) Subparagraph (1)(a) does not apply to a project to which paragraph 3.29(1)(c) also applies.
- (3) Subparagraph (1)(g)(i) does not apply to a project if:
 - (a) the clearing consent or harvest approval plan provides options for vegetation management; and
 - (b) the project provides active and on-going management of the project area in accordance with one of those options.

18 Regulation 5.1 (after the heading)

Insert:

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

19 Regulation 5.1

Before “For”, insert “(2)”.

20 Regulation 5.1

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

21 At the end of regulation 5.1

Add:

Endnote 3—Uncommenced amendments

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

22 Regulation 5.2 (after the heading)

Insert:

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

23 Regulation 5.2

Before “For”, insert “(2)”.

24 Regulation 5.2

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

25 At the end of regulation 5.2

Add:

- (3) The period of 0 years is specified for a project if:
- (a) the project is a specified offsets project mentioned in paragraph 3.28(2)(b); and
 - (b) the *Carbon Credits (Carbon Farming Initiative) (Conservative Estimates, Projections or Assumptions: Greenhouse FriendlyTM Initiative Transitional Crediting Calculation (Alternative Waste Treatment)) Determination 2012* applies, or has ever applied, to the methodology determination that is, or has ever been, the applicable methodology determination for the project; and

- (c) Australian carbon credit units have been issued in relation to the diversion of mixed solid waste that is eligible for crediting under the project.

26 At the end of Division 6.1

Add:

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

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

27 Subregulation 9.1(2) (including the note)

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

28 Paragraph 9.2(2)(c)

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

29 Subregulation 9.2(2) (note)

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

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

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

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

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

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

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

33 After Part 11

Insert:

Part 12—Publication of information**12.5 Entries in the Register**

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

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

34 Before regulation 15.4 of Part 15

Insert:

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

- (1) For subsection 177(4) of the Act, the transfer of a substitute unit (other than a substitute unit mentioned in paragraph 177(6)(e)) may only occur during a flexible charge year.

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

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

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

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

Endnote 3—Uncommenced amendments

(3) In this regulation:

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

Endnotes

Endnote 4—Misdescribed amendments [none]

Endnote 4—Misdescribed amendments [none]

There are no misdescribed amendments.