**EXPLANATORY STATEMENT**

*National Greenhouse and Energy Reporting Regulations 2008*

*National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2012*

**Introduction**

The *National Greenhouse and Energy Reporting Act 2007* (the Act) establishes a framework for the conduct of audits under the Act and the *Carbon Credits (Carbon Farming Initiative) Act 2011*(CFI Act). Section 75A of the Act requires the Clean Energy Regulator (the Regulator) to register an individual in the register of greenhouse and energy auditors that is kept for the purposes of the Act and the CFI Actif the individual meets specified requirements. The specified requirements are set out in the *National Greenhouse and Energy Reporting Regulations 2008* (the Regulations) or a legislative instrument made under regulation 6.72 of the Regulations, and relate to matters such as an applicant’s qualifications, knowledge, expertise, competence and independence. An instrument made under regulation 6.72 of the Regulations may also set out the ways in which requirements set out in the regulations may be met.

The purpose of the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2012* (the Instrument) is to set out the ways in which the requirements of the Regulations (in relation to the knowledge and experience an applicant for registration as a greenhouse and energy auditor must have) may be met. The Instrument also revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2010* (the 2010 Instrument).

The Instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The Instrument will commence on the day after it is registered in the Federal Register of Legislative Instruments.

Details of the Instrument are set out in Attachment A.

The statement of compatibility with human rights is set out in Attachment B.

**Consultation**

A consultation paper, *Amendments to the NGER Audit Determination and NGER Auditor Registration Instrument*, seeking comments on the proposed amendments to the Instrument was released on 5 April 2012. Two submissions were received, neither of which contained significant comments on the proposed amendments. No changes were made to the Instrument as a result of the consultation.

# Attachment A

# Details of the Instrument

###### Section 1 Name of Instrument

This section provides that the name of the Instrument is the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2012.*

###### Section 2 Commencement

This section provides that the Instrument commences the day after it is registered on the Federal Register of Legislative Instruments.

###### Section 3 Revocation

This section revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2010* (the 2010 Instrument).

###### Section 4 Definitions

This section defines certain terms used throughout the Instrument.

A number of the definitions incorporate by reference other documents. The documents incorporated by reference are:

* Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information,* issued by the Auditing and Assurance Standards Board, July 2007. The standard establishes requirements for undertaking and reporting on assurance engagements other than audits or reviews of historical financial information covered by Australian Auditing Standards or Standards on Review Engagements. At the time the Instrument was made the standard was available free of charge at <http://www.auasb.gov.au/Standards-and-Guidance/Standards-on-Assurance-Engagements.aspx>.
* Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*,issued by the Auditing and Assurance Standards Board, reissued September 2008. At the time the Instrument was made the standard was available free of charge at

<http://www.auasb.gov.au/admin/file/content102/c3/ASAE_3100_9-09-08.pdf>.

* Standard on Assurance Engagements ASAE 3410 *Assurance Engagements on Greenhouse Gas Statements*, issued by the Auditing and Assurance Standards Board, issued June 2012. At the time the Instrument was made, the standard was available free of charge at <http://www.auasb.gov.au/admin/file/content102/c3/Jun12_Standard_on_Assurance_Engagements_ASAE_3410.pdf>.
* *AS ISO 14064.2–2006, Greenhouse gases Part 2: Specification with guidance at the project level for quantification and reporting of greenhouse gas reduction and removal enhancements*, published by Standards Australia Limited, November 2006. This standard provides proponents of greenhouse gas emission reduction projects with an internationally agreed framework for reporting. The standard is available for purchase from Standards Australia Limited.
* AS ISO 14064.3–2006, *Greenhouse gases Part 3: Specification with guidance at the project level for quantification and reporting of greenhouse gas reduction and removal enhancements*, published by Standards Australia, November 2006. This standard provides a common approach to verification, validation and certification of greenhouse reductions and removals. The standard is available for purchase from Standards Australia Limited.
* AS/NZS 3598:2000, *Energy audits*, published by Standards Australia International Ltd and Standards New Zealand, November 2000. The standard sets out minimum requirements for commissioning and conducting energy audits which identify opportunities for cost-effective investments to improve efficiency and effectiveness in the use of energy. The standard is available for purchase from Standards Australia Limited.
* AS/NZS ISO 19011:2003, *Guidelines for quality and/or environmental management systems auditing*, published by Standards Australia International Ltd and Standards New Zealand, March 2003. The standard provides guidance on the principles of auditing, managing audit programmes, conducting quality management systems audits and environmental management system audits. It also provides guidance on the competence of quality and environmental management system auditors. The standard is available for purchase from Standards Australia Limited.
* Standard on Related Services ASRS 4400, *Agreed-Upon Procedures Engagements to Report Factual Findings*, issued by the Auditing and Assurance Standards Board, June 2011. At the time the Instrument was made, the standard was available free of charge from <http://www.auasb.gov.au/admin/file/content102/c3/ASRS_4400_08-06-11.pdf>.
* *Greenhouse Challenge Plus* *Independent Verification Guidelines*, published by the Australian Greenhouse Office, December 2005. The guidelines are availablefrom <http://pandora.nla.gov.au/pan/38445/20070210-0000/www.greenhouse.gov.au/ges/publications/iv-guidelines.html>. The guidelines provide the framework for Independent Verification in relation to greenhouse gas emissions and other elements of the Greenhouse Challenge Plus programme.
* *International Handbook of Universities*,twenty-third edition, published by Palgrave Macmillan on behalf of the International Association of Universities, September 2011. The handbook provides detailed information on higher education institutions across the world and can be purchased from Palgrave MacMillan at <http://www.palgrave.com/home/index.asp>.
* International Standard on Assurance Engagements 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*, published by theInternational Auditing and Assurance Standards Board, revised March 2008.The purpose of the standard is to establish principles and procedures for, and to provide guidance to, accountants for the performance of assurance engagements other than audits or reviews of historical financial information. At the time the Instrument was made, the standard was available free of charge from <http://www.ifac.org/sites/default/files/downloads/2008_Auditing_Handbook_A270_ISAE_3000.pdf>.
* International Standard on Assurance Engagements 3410, *Assurance Engagements on Greenhouse Gas Statements*, published by theInternational Auditing and Assurance Standards Board, March 2012. The standard provides guidance for assurance engagements to report on an entity’s Greenhouse Gas statement. The standard does not deal with, or provide specific guidance for, assurance engagements to report emissions other than Greenhouse Gas emissions. The standard is available at [http://www.ifac.org/sites/default/files/publications/files/B010%202012%20IAASB%20Handbook%20ISAE%203410%20Final%20(revised%20IFAC%20logo%20placement).pdf](http://www.ifac.org/sites/default/files/publications/files/B010%202012%20IAASB%20Handbook%20ISAE%203410%20Final%20%28revised%20IFAC%20logo%20placement%29.pdf) or at short URL <http://bit.ly/RQYytV>.
* ISO 14064-2:2006, *Greenhouse gases -- Part 2: Specification with guidance at the project level for quantification, monitoring and reporting of greenhouse gas emission reductions or removal enhancements*, published by the International Organisation for Standardisation, March 2006. The standard specifies principles and requirements and provides guidance at the project level for quantification, monitoring and reporting of activities intended to cause greenhouse gas emission reductions or removal enhancements. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.
* ISO 14064-3:2006 *Greenhouse gases -- Part 3: Specification with guidance for the validation and verification of greenhouse gas assertions*, published by the International Organisation for Standardisation, March 2006. The document specifies principles and requirements and provides guidance for those conducting or managing the validation and/or verification of greenhouse gas assertions. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.
* ISO 19011:2011 *Guidelines for auditing management systems,* published by the International Organisation for Standardisation, November 2011. The document provides guidance on auditing management systems, including the principles of auditing, managing an audit programme and conducting management system audits. It also provides guidance on the evaluation of competence of individuals involved in the audit process, including the person managing the audit programme, auditors and audit teams. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.
* ISO/IEC 17024:2012 *Conformity assessment -- General requirements for bodies operating certification of persons*, published by Standards Australia International Ltd, June 2004. The standard specifies requirements for those bodies operating the certification of persons. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.

###### Section 5 Object

The object of the Instrument is to set out ways to meet the requirements for knowledge and experience suitable for registration as a greenhouse and energy auditor.

The Regulations establish three categories of registered greenhouse and energy auditors—Category 1 auditors; Category 2 auditors and Category 3 auditors. There are three types of Category 1 auditors—NGER technical; CFI technical and non-technical. The categories and types of auditor have different requirements as to qualifications, knowledge and experience.

###### Section 6 Degree or equivalent to be conferred by appropriate institution

Regulation 6.11 of the Regulations requires that an individual applying for registration as a greenhouse and energy auditor must have a bachelor’s, master’s or doctoral degree (or equivalent) conferred by an appropriate university or an equivalent institution of higher learning.

This section specifies that an appropriate qualification will be a relevant degree (or equivalent) obtained from either:

* in the case of Australian qualifications—table A and B providers (as listed in section 16-15 and section 16-20 of the *Higher Education Support Act 2003*); or

in the case of international qualifications—an international institution listed in the *International Handbook of Universities.*

The Regulator will be able to accept a qualification which is equivalent to a degree if satisfied the qualification is equivalent, such as a professional qualification attained prior to formal degrees being offered in certain disciplines.

Similarly, if an applicant has obtained a qualification from an institution which does not meet one of these criteria (for example, if an applicant has obtained a qualification from an Australian institution which was subsequently renamed, amalgamated with another body, or closed), the Regulator may accept a qualification from an institution which is equivalent to those specified.

In the case of a qualification obtained from an international institution, the Regulator will need to be satisfied that the institution is equivalent to one of those named in the International Handbook of Universities. One method which might provide satisfactory evidence would be an education assessment of the qualification by the National Office of Overseas Skills Recognition within the Department of Education, Employment and Workplace Relations.

###### Section 7 Knowledge of relevant legislation for category and type of auditor

Regulations 6.14 (1) and 6.14A (1) of the Regulations provide that an applicant must have knowledge of the NGER legislation and the CFI legislation which is relevant to the category of auditor for which the applicant has applied to be registered. The terms “NGER legislation” and “CFI legislation” are defined by regulation 1.03 of the Regulations.

Section 7 sets out which provisions of the NGER legislation and CFI legislation are relevant to an applicant for Category 1 registration of the CFI technical, NGER technical and non-technical type and Category 2 registration.

The intention of specifying different knowledge requirements is to ensure that an applicant is not obliged to become familiar with all provisions of the NGER and CFI legislation, but rather only with those provisions which will be relevant to the category of registration and, if an applicant has applied for registration as a Category 1 auditor, the type of Category 1 auditor for which the individual is applying.

Unlike the equivalent section of the 2010 Instrument, the section does not specify the provisions in the NGER or legislation or CFI legislation that an applicant for Category 3 registration must have knowledge of. This is because an applicant for registration as a Category 3 auditor must previously have been registered as a Category 2 or Category 3 auditor (see subsection 20 (1) of the Instrument) and has therefore already demonstrated his or her knowledge of the relevant provisions.

###### Section 8 Evidence of NGER legislation knowledge

Subregulation 6.14 (2) of the Regulations specifies that an applicant must provide appropriate evidence that he or she has knowledge of the NGER legislation relevant to the category of auditor for which the applicant has applied to be registered.

This section specifies that appropriate evidence will consist of a statement provided by the applicant in their application for registration setting out details of their knowledge of the legislation and how this was obtained.

###### Section 9 Evidence of CFI legislation knowledge

Subregulation 6.14A (2) of the Regulations specifies that an applicant must provide appropriate evidence that he or she has knowledge of the CFI legislation relevant to the category of auditor for which the applicant has applied to be registered.

This section specifies that appropriate evidence will consist of a statement provided by the applicant in their application for registration setting out details of their knowledge of the CFI legislation and how this was obtained.

**Section 10 Evidence of technical knowledge—requirements for registration as a Category 1 CFI technical auditor**

Section 10 sets out the technical knowledge an applicant for registration as a Category 1 CFI technical auditor must have obtained. In broad terms, an applicant may obtain technical training and experience by participating in at least one of four specified activities for at least 150 hours.

*Participation in a technical working group*

The first way an applicant may obtain the necessary technical training and experience is by participating in a technical working group convened by the Department on the development of a proposal for a methodology determination. Subsection 19A (3) of the *Acts Interpretation Act 1901* explains how a provision of an Act that uses the expression “the Department” without specifying which Department is referred to is to be interpreted. At the time the Instrument was made, “the Department” is a reference to the Department of Climate Change and Energy Efficiency.

The term “methodology determination” is defined by section 4 of the Instrument to have the same meaning as in the CFI Act. In broad terms, a methodology determination is a legislative instrument that applies to a specified kind of offsets project and sets out requirements that must be met for such a project to be an eligible offsets project. A methodology determination also specifies the method to be used to ascertain the carbon dioxide equivalent net abatement amount or, if the methodology determination is for a native forest protection project, the carbon dioxide equivalent net sequestration amount for the project in relation to a reporting period.

*Participation in a technical expert review*

Second, an applicant may obtain technical training and experience by participating in a technical expert review of a proposal for a methodology determination undertaken on behalf of the Domestic Offsets Integrity Committee. Section 4 of the Instrument defines “Domestic Offsets Integrity Committee” to mean the committee established by section 254 of the CFI Act and the Interim Domestic Offsets Integrity Committee. The committee established by section 254 of the CFI Act is known as the Domestic Offsets Integrity Committee (DOIC). Under section 106(4) of the CFI Act, the Minister cannot make a methodology determination unless the determination gives effect to a particular proposal for a methodology determination and the DOIC has endorsed the proposal and advised the Minister of the endorsement. The Interim Domestic Offsets Integrity Committee was established under the executive power of the Commonwealth before the commencement of section 5 of the CFI Act and was known as the Domestic Offsets Integrity Committee.

*Participation in a technical project that estimates abatement under a non-CFI scheme*

Third, an applicant may obtain technical training and experience by participating in a technical project undertaken for the purpose of estimating the carbon dioxide equivalent amount of greenhouse gas abatement generated by a project that is an emissions avoidance offsets project or a sequestration offsets project within the meaning of the CFI Act. The technical project could, for example, have been undertaken in order to comply with a requirement under the New South Wales Government’s Greenhouse Gas Reduction Scheme, the Commonwealth Government’s Greenhouse Friendly Scheme or a an international standard or scheme such as the Gold Standard or the Clean Development Mechanism.

The term “emissions avoidance offsets project” is defined by section 53 of the CFI Act to mean an agricultural emissions avoidance offsets project; a landfill legacy emissions avoidance project or a project of a kind specified in the regulations made under the CFI Act. The term “sequestration offsets project” is defined by section 54 of the CFI Act to mean a project that is a sequestration offsets project if it is a project to remove carbon dioxide from the atmosphere by sequestering carbon in living biomass, dead organic matter or soil. A project will also be a sequestration offsets project if it is a project to remove carbon dioxide from the atmosphere by sequestering carbon in, and to avoid emissions of greenhouse gases from the atmosphere by sequestering carbon in, and to avoid emissions of greenhouse gases from living biomass, dead organic matter or soil.

*Participation in training*

Fourth, an applicant may obtain the necessary technical training and experience by participating in a specified training course in greenhouse gas emission reductions and removal enhancement.

###### Section 11 Demonstrating knowledge of auditing

Subregulation 6.15 (1) provides that an applicant must have knowledge of auditing. Subregulation 6.15 (2) provides that to demonstrate that knowledge, the applicant must, in or with the application, provide the Regulator with appropriate evidence.

Section 11 of the Instrument provides that an applicant can demonstrate knowledge of auditing by successfully completing a training course specified in section 12 or is qualified in accordance with section 13.

###### Section 12 Evidence of knowledge of auditing—training

This section specifies the training courses that will satisfy the requirement in regulation 6.15 (1) of the Regulations that an applicant must have knowledge of auditing. Such a training course must be delivered by a “competent training provider” within the meaning of section 3 of the Instrument.

###### Section 13 Evidence of knowledge of auditing—qualifications

This section specifies the qualifications that will satisfy the requirement in regulation 6.15 (1) of the Regulations that an applicant must have knowledge of auditing.

###### Section 14 Evidence of knowledge of auditing—experience

Subregulation 6.15 (3) of the Regulations specifies that if an applicant does not supply evidence of having audit knowledge referred to in subsection 6.15 (2) (in other words, does not supply evidence of having completed one of the training courses listed in section 12 or holding one of the qualifications listed in section 13 of this Instrument), the applicant may demonstrate his or her knowledge of auditing by complying with regulation 6.15(4).

In order to comply with regulation 6.15 (4) of the Regulations, an applicant must have participated in the appropriate kind and number of audits for the appropriate period and provide written reports by two eligible referees attesting to the quality of that participation.

Section 14 of the Instrument specifies that for paragraph 6.15 (4) (a) of the Regulations, an applicant must have participated for 700 hours in at least five of the kinds of audits mentioned in that section.

###### Section 15 Knowledge of audit team leadership and assurance—Category 2 and Category 3 applicants

Subregulation 6.16 (1) of the Regulations provides that an applicant for registration as a Category 2 or a Category 3 auditor must have knowledge of audit team leadership and assurance. To demonstrate that knowledge, the applicant must, in or with the application, provide the Regulator with appropriate evidence (subregulation 6.16 (2)).

The effect of section 15 (1) of the Instrument is that an applicant will satisfy the requirements provided for in subregulation 6.16 (1) if he or she is registered as an auditor under section 1280 of the *Corporations Act 2001* or has successfully completed one of the specified training courses.

If an applicant does not satisfy the requirements in subsection 15 (1), an applicant must satisfy the requirements in subsections 15 (2) and 15 (3) of the Instrument. Subsection 15 (2) provides that an applicant has knowledge of audit team leadership if she or he meets the requirements set out in that subsection. Subsection 15 (3) provides that an applicant has knowledge of assurance if he or she has successfully completed a specified course.

###### Sections 16 and 17 Auditing experience requirements for applicants for Category 1 registration—auditing and preparing audit reports

The effect of subregulation 6.19 (1) of the Regulations is that an applicant for registration as a Category 1 auditor must have the appropriate kind, and the appropriate period, of experience of auditing and preparing audit reports. Subregulation 6.19 (2) provides that the experience must have been obtained during the five years immediately preceding the day the application is made. To demonstrate the experience, the applicant must, in or with the application, provide the Regulator with appropriate evidence.

Section 16 of the Instrument specifies the requirements that must be met by an individual who applies for registration as Category 1 auditor of the NGER technical type.

Section 17 of the Instrument specifies the requirements that must be met by an individual who applies for registration as a Category 1 auditor of the CFI technical type.

###### Section 18 Auditing experience requirements for applicants for Category 2 registration—auditing and preparing audit reports

The effect of subregulation 6.20 (1) of the Regulations is that an applicant for registration as a Category 2 auditor must have the appropriate kind, and the appropriate period, of experience of auditing and preparing audit reports. Subsection 18 (1) of the Instrument sets out the ways in which these requirements can be met.

In broad terms, the section provides that an applicant must have obtained at least 700 hours experience in the last 5 years as an audit team leader or a professional member of an audit team in auditing and preparing audit reports in 5 or more specified kinds of audits. The experience must be equivalent to conducting a reasonable assurance engagement or a limited assurance engagement under the Audit Determination.

Section 1.5 of the Audit Determination provides that an “assurance engagement”is a greenhouse and energy audit the purpose of which is to provide the audit team leader’s independent opinion as to the reliability, accuracy and completeness of the matter being audited. There are two kinds of assurance engagement—a reasonable assurance engagement and a limited assurance engagement.

###### Section 19 Auditing experience requirements for applicants for Category 2 registration—audit team leadership

The effect of subregulation 6.20 (2) of the Regulations is that an individual who applies for registration as a Category 2 auditor must have had at least the appropriate kind, and the appropriate period, of experience of audit team leadership. Subregulation 6.20(3) of the Regulations provides that the experience of auditing and preparing audit reports and of audit team leadership must have been obtained during the 5 years immediately preceding the day the application is made.

Section 19 sets out the ways in which the requirements of this subregulation may be met. In broad terms, section 19 of the Instrument provides that an applicant must have obtained at least 490 hours experience as an audit team leader of an audit team that has three or more other members in 1 or more of the following kinds of specified audits. The purpose of this requirement is to ensure that an applicant for Category 2 registration has significant experience in leading large audit teams.

###### Section 20 Auditing experience requirements for applicants for Category 3 registration

Paragraph 6.21 (1) (a) of the Regulations provides that an applicant for registration as a Category 3 auditor must demonstrate that she or he has at least the appropriate kind, and the appropriate period, of experience of auditing and preparing audit reports. Subregulation 6.21 (3) provides that the experience must have been obtained during the 5 years immediately preceding the day the application is made.

Subsection 20(1) of the Instrument specifies that an applicant for Category 3 registration must demonstrate that he or she is registered as a Category 2 auditor or has previously been registered as a Category 3 auditor.

Paragraph 6.21 (1) (b) of the Regulations provide that an applicant for registration as a Category 3 auditor must demonstrate that he or she has experience as an audit team member or as an audit team leader in at least 2 greenhouse and energy audits. The effect of subsection 20 (2) of the Instrument is that if the experience is as an audit team leader, the applicant must demonstrate that he or she has 20 hours of experience. If the experience is as an audit team member, the applicant must demonstrate 60 hours of experience. Paragraph 20 (2) (a) of the Instrument provides that the experience relied on by the applicant must be equivalent to conducting a reasonable assurance engagement or a limited assurance engagement under the Audit Determination. The Audit Determination describes the requirements for both types of engagement.

Attachment B

**Statement of compatibility with human rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2012**

The National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2012 (the Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Instrument**

The *National Greenhouse and Energy Regulations 2008* establish three categories of registered greenhouse and energy auditors—Category 1 auditors; Category 2 auditors and Category 3 auditors. There are three types of Category 1 auditors—NGER technical; CFI technical and non-technical. The categories and types of auditor have different requirements as to qualifications, knowledge and experience.

The Instrument sets out the ways in which the requirements of the *National Greenhouse and Energy Regulations 2008* in relation to auditing knowledge and experience may be met. The Instrument also revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2010.*

**Human rights implications**

The Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

The Instrument is compatible with human rights as it does not raise any human rights issues.