



Carbon Credits (Carbon Farming Initiative) Rule 2015

I, Greg Hunt, Minister for the Environment, make the following rule.

Dated 13 February 2015

Greg Hunt
Minister for the Environment

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Part 1—Preliminary

1 Name

This is the *Carbon Credits (Carbon Farming Initiative) Rule 2015*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

4 Definitions

(1) In this instrument:

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

annual average abatement amount has the meaning given by subsection 75(8).

approved form means a form approved, in writing, by the Regulator for a provision of this instrument.

audit schedule has the meaning given by subsection 73(2).

audit threshold means an audit threshold set in an audit thresholds instrument.

audit thresholds instrument means an instrument made under subsection 75(4).

authorised referee has the meaning given by subsection 18(4).

category A document has the meaning given by:

- (a) for an individual who is an Australian citizen or ordinarily resident in Australia—clause 1 of Schedule 1; and
- (b) for an individual who is not ordinarily resident in Australia—clause 3 of Schedule 1.

category B document has the meaning given by:

- (a) for an individual who is an Australian citizen or ordinarily resident in Australia—clause 2 of Schedule 1; and
- (b) for an individual who is not ordinarily resident in Australia—clause 4 of Schedule 1.

certified copy, of a document, means a copy of the document that has been certified as a true copy by:

- (a) if the document is provided under section 16 and paragraph (c) of this definition does not apply—one of the following persons who is in Australia:

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- (i) an officer of an authorised deposit-taking institution (within the meaning of the *Banking Act 1959*) with 5 or more continuous years of 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; or
- (b) if the document is not provided under section 16 and paragraph (c) of this definition does not apply—a person mentioned in Schedule 2 to the *Statutory Declarations Regulations 1993*; or
- (c) if the person who is required to provide the document is not in Australia at the time the document must be provided—one of the following:
 - (i) an Australian embassy, Australian High Commission or Australian consulate (other than a consulate headed by an honorary consul);
 - (ii) 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 (<http://www.hcch.net>).

Note 2: The Convention is in Australian Treaty Series 1995 No. 11 ([1995] ATS 11) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

CFI Mapping Guidelines has the meaning given by subsection 13(3).

CFI Regulations means the *Carbon Credits (Carbon Farming Initiative) Regulations 2011*.

child: without limiting who is a child of a person for the purposes of this instrument, someone is the **child** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

commencement day means the day this instrument commences.

ERF audit report has the same meaning as in the NGER Act.

facility has the same meaning as in the NGER Act.

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—the trust.

forward abatement estimate, for an eligible offsets project, means an estimate of the amount of carbon abatement, in tonnes of carbon dioxide equivalent, that corresponds to the number of Australian carbon credit units likely to be issued in relation to the project in respect of:

- (a) the crediting period for the project or, if the project has more than one crediting period, the last crediting period for the project; and
 (b) any extended accounting period for the project.

Note: The forward abatement estimate for a project must be given to the Regulator:

- (a) if the project is a transitioning project—within 60 days after the commencement day (see subsection 75(9)); or
 (b) otherwise—with the application for declaration of the project as an eligible offsets project (see paragraph 13(1)(m)).

initial audit means an audit covered by section 74.

large project has the meaning given by subsection 75(10).

monitoring requirements, for a project, means requirements to monitor the project that apply under:

- (a) the Act; or
 (b) the applicable methodology determination.

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.

NGER Act means the *National Greenhouse and Energy Reporting Act 2007*.

nominee: a project proponent is the **nominee** of multiple project proponents if:

- (a) the multiple project proponents have nominated the project proponent as their nominee under subsection 136(2) of the Act; and
 (b) the nomination is in force.

old CFI Regulations means the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* as in force immediately before the commencement day.

operational control has the same meaning as in the NGER Act.

ordinarily resident in Australia: 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

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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.

parent: without limiting who is a parent of a person for the purposes of this instrument, someone is the **parent** of a person if the person is his or her child because of the definition of **child** in this subsection.

project eligibility requirements, for a project, means requirements that, under any of the following, must be met for the project to be an eligible offsets project:

- (a) the Act;
(b) the CFI Regulations;
(c) this instrument;
(d) the applicable methodology determination.

project requirements, in relation to an eligible offsets project or a part of an eligible offsets project, means requirements under the Act, or an instrument made under the Act, that relate to the project or part.

qualified reasonable assurance conclusion has the same meaning as in the *National Greenhouse and Energy Reporting (Audit) Determination 2009*.

reasonable assurance conclusion has the same meaning as in the *National Greenhouse and Energy Reporting (Audit) Determination 2009*.

registered cooperative means a body that, under a law of the Commonwealth, a State, a Territory or a foreign country, is registered as a cooperative.

Registry account has the same meaning as in the Registry Act.

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 environmental notice has the meaning given by subsection 61(3).

relevant work health and safety notice has the meaning given by subsection 61(3).

reportable change has the meaning given by subsection 70(5).

scheduled audit has the meaning given by subsection 73(3).

scope 1 emission has the same meaning as in the NGER Act.

section 27 declaration means a declaration under section 27 of the Act in relation to an offsets project.

subsequent audit means an audit covered by section 75.

transitioning project means a project that was declared to be an eligible offsets project before the commencement day.

trigger audit threshold means a trigger audit threshold set in an audit thresholds instrument.

triggered audit means an audit covered by section 77, 78 or 79.

variance audit threshold means a variance audit threshold set in an audit thresholds instrument.

- (2) For the purposes of this instrument, if one person is the child of another person because of the definition of ***child*** in subsection (1), relationships traced to or through that person are to be determined on the basis that the person is the child of the other person.

5 Service of documents

If:

- (a) a document relating to an eligible offsets project is required or permitted by this instrument to be given to a project proponent; and
 - (b) there are multiple project proponents; and
 - (c) the document is given to the nominee of the multiple project proponents;
- the document is taken to have been given to each of the multiple project proponents.

6 Extended accounting period

For subsection 7A(1) of the Act, an eligible offsets project that is covered by the *Carbon Credits (Carbon Farming Initiative—Alternative Waste Treatment) Methodology Determination 2015* has an extended accounting period of 6 years.

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

7 Form of application for certificate of entitlement—information to accompany application

For paragraph 13(1)(d) of the Act, the following information must accompany an application for a certificate of entitlement in respect of an eligible offsets project for a reporting period:

- (a) the unique project identifier for the project;
- (b) the name of:
 - (i) the applicant; or
 - (ii) if there are multiple project proponents—the nominee of the project proponents;
- (c) the end date of the reporting period;
- (d) if the project is covered by item 387 of Schedule 1 to the *Carbon Farming Initiative Amendment Act 2014*—the carbon dioxide equivalent net sequestration amount for the project for the crediting period in which the reporting period is included, worked out in accordance with the applicable methodology determination;
- (e) if the project is not covered by item 387 of Schedule 1 to the *Carbon Farming Initiative Amendment Act 2014*—the carbon dioxide equivalent net abatement amount for the project for the reporting period, worked out in accordance with the applicable methodology determination;
- (f) whether, since the application for a section 27 declaration in relation to the project was made, any changes have occurred that may mean that a project proponent does not pass the fit and proper person test;
- (g) a signed statement by the applicant that the offsets report about the project for the reporting period meets the requirements in subsections 76(4) and (7) of the Act;
- (h) a signed statement by the applicant that all of the requirements in paragraphs 15(2)(a) to (h) of the Act that are relevant to the project have been met;
- (i) a signed statement by the applicant that the information included in, and the information accompanying, the application:
 - (i) meets the requirements in this section; and
 - (ii) is accurate.

8 Form of application for certificate of entitlement—audit requirements

For paragraph 13(1)(e) of the Act:

- (a) an application for a certificate of entitlement in respect of an eligible offsets project for a reporting period is subject to audit under the Act if the offsets report for the project for the reporting period is subject to audit under the Act; and

-
- (b) the audit report that must accompany the application is the audit report that must accompany the offsets report.

Note: For audit requirements in relation to offsets reports, see Division 3 of Part 6.

9 Issue of certificate of entitlement—eligibility requirements

- (1) For paragraph 15(2)(h) of the Act, this section specifies eligibility requirements that must be met in order for a certificate of entitlement to be issued in respect of an eligible offsets project for a reporting period.

Requirement relating to audit reports

- (2) It is an eligibility requirement that an audit report accompanying the application for the certificate of entitlement must set out, for each of the matters audited, one of the following results:

- (a) a reasonable assurance conclusion;
- (b) a qualified reasonable assurance conclusion.

Requirement relating to regulatory approvals

- (3) It is an eligibility requirement that, if:
- (a) a regulatory approval is required for the project because of a change in the way the project is being operated; and
 - (b) neither of the following apply:
 - (i) the application for a section 27 declaration in relation to the project was, in accordance with paragraph 13(1)(j), accompanied by information about the approval;
 - (ii) the section 27 declaration in relation to the project was, under subsection 28(2) of the Act, subject to the condition that the approval be obtained;

the approval must be obtained for the project.

Requirement relating to requirements in lieu of government program requirement

- (4) It is an eligibility requirement that, throughout the reporting period, the project met the requirements set out in section 21.

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Part 2A—Purchase of eligible carbon credit units by the Commonwealth

10 Duration of carbon abatement contracts

For paragraph 20CA(1)(a) of the Act, in setting the duration of a proposed carbon abatement contract, the Regulator must have regard to the following:

- (a) the principle that, in general, the duration of a carbon abatement contract for the purchase of Australian carbon credit units should not be longer than 7 years;
- (b) the principle that a longer duration of a carbon abatement contract for the purchase of Australian carbon credit units may be appropriate if the units are, or are to be, derived from an eligible offsets project that has a crediting period of more than 7 years;
- (c) the principle that, if a longer duration of a carbon abatement contract for the purchase of Australian carbon credit units is appropriate, the total duration of the contract should not be longer than 10 years.

11 Conduct of carbon abatement purchasing process

For paragraph 20G(2)(b) of the Act, if the Regulator publishes, on the Regulator's website, guidelines that deal with the following matters in respect of a carbon abatement purchasing process, the Regulator must have regard to the guidelines in conducting the process:

- (a) the terms and conditions for participation in the process;
- (b) the form of a bid or offer in the process;
- (c) the determination of successful bids or offers;
- (d) the consequences if a participant engages in conduct that may affect the integrity of the process;
- (e) the circumstances in which a participant may be disqualified from the process;
- (f) the circumstances in which a bid or offer, or the process as a whole, may be cancelled.

Part 3—Eligible offsets projects

Division 1—Application for declaration of eligible offsets project

Subdivision A—Preliminary

12 Operation of this Division

For paragraphs 23(1)(c) and (h) of the Act, this Division specifies information and documents that must accompany an application for the declaration of an offsets project as an eligible offsets project.

Subdivision B—General information and document requirements

13 Information and documents to accompany application

- (1) The following information must accompany an application for the declaration of an offsets project as an eligible offsets project, unless the Regulator advises the applicant, in writing, that the information is not required:
 - (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;
 - (b) a description of the offsets project;
 - (c) the name of the applicable methodology determination;
 - (d) details of the sub-methods (if any), set out in the applicable methodology determination, that will be used for the project;
 - (e) details of the manner in which the applicable methodology determination will be applied to the project;
 - (f) a description of the skills and expertise (of the project proponent and any other person) that the project proponent intends to use in carrying out the offsets project consistently with the applicable methodology determination;
 - (g) if the project is an area-based offsets project—for each project area for the project:
 - (i) a description of its geographical location; and
 - (ii) its street address; and
 - (iii) its lot numbers and land title details; and
 - (iv) its local government area; and
 - (v) the name and date of the regional natural resource management plan or plans (if any) that cover the project area;
 - (h) if the project is not an area-based project and the project will be undertaken at one or more physical locations—information identifying each of the locations;
 - (i) if the project is not an area-based project and the boundary of the project cannot be defined by reference to the project's location—details of how the boundary of the project will be defined and a description of that boundary;
 - (j) if one or more regulatory approvals are required for the project—for each approval:

Part 3 Eligible offsets projects

Division 1 Application for declaration of eligible offsets project

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- (i) a description of the approval, including the name of the regulatory authority responsible for issuing the approval; and
- (ii) whether or not the approval has been issued; and
- (iii) the applicant's authorisation that the Regulator may contact the regulatory authority to discuss whether the approval has been issued; and
- (iv) if approval has not been issued, details of what actions the applicant has taken, or is taking, to obtain the approval; and
- (v) if the approval has been issued, any reference number or other identifier for the approval;
- (k) whether the applicant passes the fit and proper person test;
- (l) information that shows that the applicant has the legal right to carry out the project;
- (m) a forward abatement estimate for the project;
- (n) details of how the project meets the requirements in:
 - (i) paragraph 27(4)(b) (which deals with being covered by a methodology determination); and
 - (ii) paragraph 27(4)(c) (which deals with requirements set out in the methodology determination); and
 - (iii) paragraph 27(4A)(a) (which deals with the newness requirement);
- (o) a signed declaration by the applicant that the information included in, and the information and any document accompanying the application:
 - (i) meets the requirements in this Division; and
 - (ii) is accurate.

Note 1: For subparagraph (1)(a)(ii), if the notice nominating a nominee accompanies an application, the nomination is taken to have been given immediately before the application was made (see subsection 136(4) of the Act).

Note 2: For paragraph (1)(i), examples of how the boundary of a project may be defined include the following:

- (a) the fleet of cars operated by the project proponent;
 - (b) the retail customers of an energy retailer;
 - (c) the lighting equipment in an industrial facility.
- (2) If the project is an area-based offsets project, the application must also be accompanied by a geospatial map that:
- (a) identifies each project area; and
 - (b) meets the requirements for identifying a project area that are set out in the CFI Mapping Guidelines.

(3) In this section:

CFI Mapping Guidelines means the document entitled “Carbon Farming Initiative (CFI) Mapping Guidelines”, published by the Department and as in force from time to time.

Note: The guidelines could in 2015 be viewed on the Department's website (<http://www.environment.gov.au>).

14 Information to accompany certain ERF transitional applications

- (1) This section applies to an application for the declaration of an offsets project as an eligible offsets project if the application is:
 - (a) an ERF transitional application (within the meaning of item 382 of Schedule 1 to the *Carbon Farming Initiative Amendment Act 2014*); and
 - (b) made after the commencement day.
- (2) If the applicant consents to the specification of an earlier day under old paragraph 27(15)(b) as the day the section 27 declaration in relation to the project takes effect, the application must include a statement confirming that the project conformed to the applicable methodology determination from the specified day to the day the declaration is made.
- (3) In this section:

old paragraph 27(15)(b) means paragraph 27(15)(b) of the Act as it continues to apply in relation to ERF transitional applications because of item 389 of Schedule 1 to the *Carbon Farming Initiative Amendment Act 2014*.
- (4) This section is repealed on 1 July 2015.

Subdivision C—Information and documents required to establish applicant’s identity

15 Information required to establish applicant’s identity

An application for the declaration of an offsets project as an eligible offsets project must be accompanied by the information set out in each item of the following table that applies to the applicant.

Information required to establish applicant’s identity		
Item	Applicant	Information
1	All applicants	The following: <ol style="list-style-type: none"> (a) the applicant’s full name, address and contact details; (b) the applicant’s status as: <ol style="list-style-type: none"> (i) an individual, including an individual who is a sole trader; or (ii) a body corporate; or (iii) a corporation sole; or (iv) a body politic; or (v) a local governing body; or (vi) a trust; (c) the applicant’s: <ol style="list-style-type: none"> (i) ABN; or (ii) ACN; or (iii) ARBN; or (iv) GST registration number; or (v) other unique number; (d) the applicant’s business name and, if different, trading name; (e) the address of the applicant’s principal place of business.

Part 3 Eligible offsets projects

Division 1 Application for declaration of eligible offsets project

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Information required to establish applicant's identity		
Item	Applicant	Information
2	An applicant who is an individual, including an individual who is a sole trader	The following: (a) the applicant's date of birth and residential address; (b) any other name by which the applicant is known; (c) the applicant's gender; (d) for an applicant who is a sole trader—each jurisdiction in which the applicant operates as a sole trader.
3	An applicant that is a body corporate	The following: (a) the full name and date of birth of each executive officer; (b) a description of the form in which the body has been incorporated; (c) each jurisdiction in which the body operates; (d) if the body is a foreign person—the name of any Australian agent through which the body conducts business.
4	An applicant that is an Aboriginal and Torres Strait Islander corporation (within the meaning of the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>)	The corporation's ICN (within the meaning of the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>).
5	An applicant that is a trust	The following: (a) the full name and address of each trustee; (b) a description of the kind of trust; (c) each jurisdiction in which the trust operates; (d) for each trustee who is an individual—the information mentioned in item 2; (e) for each trustee that is a body corporate—the information mentioned in items 3 and 4 (as applicable).
6	An applicant that is a trust other than a trust that 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	Either: (a) if the terms of the trust identify the beneficiaries by reference to membership of a class—details of the class; or (b) otherwise—the following: (i) for each beneficiary who is an individual, the full name and date of birth of the beneficiary; (ii) for each beneficiary that is not an individual, the business name and, if different, trading name of the beneficiary.
7	An applicant that is a corporation sole	The full name, date of birth and address of the individual constituting the corporation sole.

Information required to establish applicant's identity		
Item	Applicant	Information
8	An applicant that is an incorporated association, or a registered cooperative, that does not have a registered address or principal place of business	The full name and address of: (a) the public officer of the body; or (b) if there is no public officer—the secretary of the body; or (c) if there is no public officer or secretary—the president or treasurer of the body.
9	An applicant that is a proprietary or private company other than a company that is: (a) a publicly listed company in Australia or a wholly owned subsidiary of such a company; or (b) a company that is licensed and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a company	The name and address of any individual who owns, through one or more share holdings, over 25% of the issued capital in the company.

16 Documents required to establish applicant's identity

- (1) An application for the declaration of an offsets project as an eligible offsets project must be accompanied by a certified copy of the documents set out in each item of the following table that applies to the applicant.

Documents required to establish applicant's identity		
Item	Applicant	Documents
1	An applicant who is: (a) an Australian citizen; or (b) an individual ordinarily resident in Australia	Three documents, of a kind set out in Part 1 of Schedule 1, that identify the individual. At least one of the documents must be a category A document for the individual.
2	An applicant who is an individual not ordinarily resident in Australia	Three documents, of a kind set out in Part 2 of Schedule 1, that identify the individual. At least one of the documents must be a category A document for the individual.
3	An applicant who is an individual who has changed his or her name	A document that shows the change of name (for example, a marriage certificate, deed poll or certificate issued by a government authority that recognises the change of name).

Part 3 Eligible offsets projects

Division 1 Application for declaration of eligible offsets project

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Documents required to establish applicant's identity

Item	Applicant	Documents
4	An applicant that is a body corporate	The following: (a) the certificate of the body's incorporation (if any); (b) the certificate of the body's registration (if any) with the Australian Securities Investment Commission; (c) if the body is not registered in Australia—the certificate of the body's registration (if any) with a registry established under a law of a foreign country; (d) if there is no certificate of the body's incorporation—a document with similar effect; (e) if there is no certificate of the body's registration—a document with similar effect.
5	An applicant that is an incorporated association or a registered cooperative	Other documentary evidence that the body exists (for example, an annual report or the body's constitution).
6	An applicant that is a body corporate that does not have an ABN	The documents mentioned in items 1 to 3 (as applicable) for the following executive officers: (a) if the body is a private company, an incorporated association or a registered cooperative (whether or not a foreign person) that has 3 or more executive officers—3 of the body's executive officers; (b) if the body is a private company, an incorporated association or a registered cooperative (whether or not a foreign person) that has less than 3 executive officers—each of the body's executive officers; (c) if the body is a foreign person that is a public company—an executive officer who is not the same person the body nominates to be an authorised representative (within the meaning of the Registry Regulations).
7	An applicant that is a trust	The following: (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); (b) if there is no trust deed—either: (i) a document with similar effect to a trust deed; or (ii) the certificate of registration as a trust (if any); (c) for each trustee who is an individual—the documents mentioned in items 1 to 3 (as applicable); (d) for each trustee that is a body corporate—the documents mentioned in items 4 to 6 (as applicable).

Exceptions

- (2) An application is not required to be accompanied by a certified copy of a document under subsection (1) if:
- (a) immediately before 13 December 2014, the applicant was a recognised offsets entity (within the meaning of the Act as in force at that time); and

- (b) the applicant provided the document (or a certified copy of the document) to the Regulator in order to become a recognised offsets entity; and
 - (c) the document remains current.
- (3) An application is not required to be accompanied by a certified copy of a document under subsection (1) if:
- (a) the applicant is a registered person under:
 - (i) the NGER Act; or
 - (ii) the *Renewable Energy (Electricity) Act 2000*; and
 - (b) the applicant provided the document (or a certified copy of the document) to the Regulator in order to become a registered person under that Act; and
 - (c) the document remains current.
- (4) An application is not required to be accompanied by a certified copy of a document under subsection (1) if:
- (a) the applicant:
 - (i) has a Registry account; or
 - (ii) at the same time the applicant makes the application for the declaration of an offsets project as an eligible offsets project, the applicant also makes a request under the Registry Regulations to open a Registry account; and
 - (b) the applicant provided, or provides, the document (or a certified copy of the document) to the Regulator with the request to open the Registry account.

17 Form etc. of documents

- (1) If a certified copy of a document must, under section 16, accompany an application for the declaration of an offsets project as an eligible offsets project, the certified copy must be of an original document that is current at the time the application is made.
- (2) If the original document is not written in English, the application must be accompanied by:
 - (a) a certified copy of the original document; and
 - (b) an English translation that has been prepared and certified as a true copy of the original document by a translation service accredited by the National Accreditation Authority for Translators and Interpreters Ltd.

18 Aboriginal persons or Torres Strait Islanders

- (1) This section applies if:
 - (a) an application for the declaration of an offsets project as an eligible offsets project must, under item 1, 2 or 3 of the table in subsection 16(1), be accompanied by a document in respect of an individual; and
 - (b) the individual is an Aboriginal person or a Torres Strait Islander who does not have a document of the kind, or the required number of documents of the kind, mentioned in the item.

Part 3 Eligible offsets projects

Division 1 Application for declaration of eligible offsets project

Section 18

- (2) The application must be accompanied by 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 section:

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 chair, 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 (within the meaning of subsection 197(1) of the *Social Security Act 1991*) or a manager in an Aboriginal Medical Service;
 - (vii) a person who has been an officer in a Department of State of the Commonwealth or a State or Territory for at least 5 years.

Division 2—Declaration of eligible offsets project

Subdivision A—Content of declaration

19 Identification of project area

- (1) For paragraph 27(3)(b) of the Act, this section sets out how a project area for an area-based offsets project is to be identified for the purposes of a section 27 declaration in relation to the project.
- (2) The section 27 declaration must include the following information about each project area for the project:
 - (a) a brief description of its geographical location;
 - (b) its street address;
 - (c) its lot numbers and land title details;
 - (d) its local government area;
 - (e) its natural resource management region.
- (3) The section 27 declaration must also include a scale map identifying each project area for the project.

Subdivision B—Criteria for declaration

20 Eligibility requirements—consent

For paragraph 27(4)(l) of the Act, an eligibility requirement is that if:

- (a) an offsets project involves carbon abatement at a facility; and
 - (b) the amount of scope 1 emissions of one or more greenhouse gases from the operation of the facility is likely to be more than 100 000 tonnes of carbon dioxide equivalent for one or more years in the crediting period for the project; and
 - (c) the project proponent, or (if there are multiple project proponents) one of the project proponents, does not have operational control of the facility;
- the project proponent, or (if there are multiple project proponents) one of the project proponents, must have consent to carry out the project from the person who has operational control of the facility.

21 Additionality requirements—requirements in lieu of government program requirement

- (1) For subparagraph 27(4A)(c)(ii) of the Act, this section sets out requirements in lieu of the government program requirement.

Project must not include certain activities unless co-located with other activities

- (2) An offsets project must not include any of the following activities:
 - (a) the operation of an accredited power station within the meaning of the *Renewable Energy (Electricity) Act 2000*, except if:

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- (i) the project is an emissions avoidance project that primarily involves the avoidance of methane emissions; or
 - (ii) the power station uses waste coal mine gas that is eligible WCMG, within the meaning of that Act, to generate electricity; or
 - (iii) the power station does not use an eligible energy source, within the meaning of that Act, to generate electricity;
 - (b) the installation of a solar water heater or a small generation unit, within the meaning of the *Renewable Energy (Electricity) Act 2000*, in relation to which a small-scale technology certificate has been, or will be, created in accordance with that Act;
 - (c) a recognised energy saving activity, within the meaning of subsection 127(6) of the *Electricity Supply Act 1995* (NSW), in respect of which an energy savings certificate has been, or will be, created in accordance with that Act;
 - (d) a prescribed activity, within the meaning of the *Victorian Energy Efficiency Target Act 2007* (Vic.), in relation to which an energy efficiency certificate has been, or will be, created in accordance with that Act;
 - (e) an energy efficiency activity, within the meaning of subregulation 23(1) of the *Electricity (General) Regulations 2012* (SA) or subregulation 17(1) of the *Gas Regulations 2012* (SA), that contributes to the achievement of a retailer's target under those Regulations;
 - (f) an activity that contributes to the accrual of an energy credit, within the meaning of subregulation 23(1) of the *Electricity (General) Regulations 2012* (SA) or subregulation 17(1) of the *Gas Regulations 2012* (SA), that may be taken into account in determining whether a retailer's target under those Regulations has been achieved;
 - (g) an activity that contributes to the achievement of a retailer's energy savings obligation under the *Energy Efficiency (Cost of Living) Improvement Act 2012* (ACT).
- (3) For the purposes of subsection (2), an offsets project is taken not to include an activity (the **first activity**) mentioned in that subsection if:
- (a) the first activity is co-located with another activity (the **second activity**); and
 - (b) the second activity is undertaken as part of the project but is not an activity of a kind mentioned in subsection (2); and
 - (c) any carbon abatement that results from the first activity:
 - (i) will not be taken into account in ascertaining the carbon dioxide equivalent net abatement amount for the project under the applicable methodology determination; or
 - (ii) will only have a minor or trivial effect on the carbon dioxide equivalent net abatement amount for the project.

Project must not include certain activities

- (4) An offsets project must not include:
- (a) the installation of a device that heats water using solar energy but is not a solar water heater within the meaning of the *Renewable Energy (Electricity) Act 2000* because the device does not satisfy the conditions set

out in subregulation 3A(2) or (3) of the *Renewable Energy (Electricity) Regulations 2001*; or

- (b) the installation of a small generation unit, within the meaning of the *Renewable Energy (Electricity) Act 2000*, in relation to which a small-scale technology certificate cannot be created because the requirements set out in regulation 20AC of the *Renewable Energy (Electricity) Regulations 2001* have not been met for the unit.

Project must not receive funding under particular programs etc.

- (5) An offsets project must not have received, or be going to receive in accordance with the terms of a contract or other arrangement that has been entered into, funding by way of a grant or other payment under the program known as the 20 Million Trees Programme, administered by the Commonwealth Government, if the funding relates to activities that are, or are to be, undertaken as part of the project.

Division 3—Types of projects

50 Area-based emissions avoidance projects

For subsection 53A(1) of the Act, an emissions avoidance offsets project of any of the following kinds is an area-based emissions avoidance project:

- (a) a project to avoid emissions of greenhouse gases from the burning of savannas;
- (b) a project in relation to which it is necessary to determine the size of an area (expressly referred to in the applicable methodology determination as a project area) in order to work out the carbon dioxide equivalent net abatement amount for the project.

Part 4—Fit and proper person test

Division 1—Events that have happened

60 Operation of this Division

For subparagraphs 60(1)(a)(i), (2)(a)(i) and (2)(a)(ii) of the Act, this Division specifies events to which regard must be had for the purposes of the fit and proper person test for individuals and bodies corporate.

Note: Nothing in this Division affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

61 Events for individuals, bodies corporate and executive officers of bodies corporate

- (1) For individuals, bodies corporate and executive officers of bodies corporate (a **relevant person**), the following events are specified:
 - (a) the relevant person has been convicted of an offence against a law of the Commonwealth, a State or a Territory, where the offence relates to:
 - (i) dishonest conduct; or
 - (ii) the conduct of a business; or
 - (iii) the environment or the protection of the environment;
 - (iv) work health and safety;
 - (b) the relevant person has been convicted of an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
 - (c) an order has been made against the relevant person under section 76 of the *Competition and Consumer Act 2010*;
 - (d) an order has been made against the relevant person under section 224 of Schedule 2 to the *Competition and Consumer Act 2010*, as that section applies as a law of the Commonwealth, a State or a Territory;
 - (e) during the 3-year period preceding the making of the application that is under consideration, the relevant person engaged in conduct that:
 - (i) under a Commonwealth, State or Territory law relating to the environment or to work health and safety, was the subject of an enforceable undertaking, an infringement or penalty notice or criminal proceedings that have not been finally determined; and
 - (ii) is of a kind that the Regulator considers relevant given the nature of the offsets project that is the subject of the application;
 - (f) the relevant person has breached the Act or the associated provisions;
 - (g) the relevant person has breached the Registry Act or regulations under that Act;
 - (h) the relevant person has breached the NGER Act or regulations under that Act;
 - (i) the relevant person has breached the *Renewable Energy (Electricity) Act 2000* or regulations under that Act;

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- (j) the relevant person has:
 - (i) been refused registration in a renewable energy, or energy efficiency, scheme operating under a law mentioned in subsection 21(2); or
 - (ii) had their registration in such a scheme cancelled; or
 - (iii) been suspended from participating in such scheme;
- (k) any other events that the Regulator considers relevant.

(2) Paragraphs (1)(a) to (j) do not limit paragraph (1)(k).

62 Events for individuals

For individuals, the following events are also specified:

- (a) the individual has been convicted, under a law of a foreign country, of an offence that corresponds to an offence mentioned in paragraph 61(1)(a) or (b);
- (b) an order that corresponds to an order mentioned in paragraph 61(1)(c) or (d) has been made against the individual under a law of a foreign country;
- (c) the individual has been convicted of an offence against a law of a foreign country in respect of a matter that corresponds to a matter in relation to which an order mentioned in paragraph 61(1)(c) or (d) may be made;
- (d) during the 3-year period preceding the making of the application that is under consideration, the individual has been issued with a notice under a law of a foreign country that corresponds to a notice mentioned in paragraph 61(1)(e);
- (e) the individual has breached a law of a foreign country that corresponds to a law mentioned in any of paragraphs 61(1)(f) to (i).

63 Events for bodies corporate

For bodies corporate, the following events, if they occur overseas or under a law of a foreign country, are also specified:

- (a) the body corporate is, or is being, wound up;
- (b) a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting in respect of any property of the body corporate;
- (c) the body corporate is under administration;
- (d) the body corporate has executed a deed of company arrangement that has not yet terminated;
- (e) the body corporate has entered into a compromise or arrangement with a person the administration of which has not yet concluded.

64 Events for executive officers of bodies corporate

For executive officers of bodies corporate, the following events are also specified:

- (a) the officer has been convicted, under a law of a foreign country, of an offence that corresponds to an offence mentioned in paragraph 61(1)(a) or (b);
- (b) an order that corresponds to an order mentioned in paragraph 61(1)(c) or (d) has been made against the officer under a law of a foreign country;

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- (c) the officer has been convicted of an offence against a law of a foreign country in respect of a matter that corresponds to a matter in relation to which an order mentioned in paragraph 61(1)(c) or (d) may be made;
- (d) during the 3-year period preceding the making of the application that is under consideration, the officer has been issued with a notice under a law of a foreign country that corresponds to a notice mentioned in paragraph 61(1)(e);
- (e) the officer has breached a law of a foreign country that corresponds to a law mentioned in any of paragraphs 61(1)(f) to (i);
- (f) the officer has been disqualified from being a director of a body corporate under an order made by a court of a foreign country;
- (g) the officer has been disqualified from being concerned in the management of a body corporate under an order made by a court of a foreign country.

Division 2—Other matters

65 Operation of this Division

For subparagraphs 60(1)(a)(ii) and (2)(a)(iii) of the Act, this Division specifies other matters to which regard must be had for the purposes of the fit and proper person test for individuals and bodies corporate.

Note: Nothing in this Division affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

66 Other matters for individuals and bodies corporate

For individuals and bodies corporate, the following matters are specified:

- (a) the circumstances surrounding:
 - (i) an event mentioned in Division 1 that has happened in relation to the individual, body corporate or an executive officer of the body corporate; or
 - (ii) a series of such events; or
 - (iii) a pattern of behaviour by the individual, body corporate or an executive officer of the body corporate;
- (b) any other matters that the Regulator considers relevant.

Part 6—Reporting and notification requirements

Division 1—Minimum length of first and subsequent reporting periods

67 Operation of this Division

For subparagraphs 76(1)(c)(ii) and (2)(c)(ii) of the Act, this Division specifies the minimum number of months applicable to an offsets report.

Note: The reporting period that an offsets report is about must not be shorter than the minimum number of months applicable to the offsets report.

68 Minimum number of months applicable to offsets reports

The minimum number of months applicable to an offsets report about an eligible offsets project is 1 month, or such greater number of months that is less than 6 months, if the carbon dioxide equivalent net abatement amount for the project in relation to that month, or that number of months, is 2 000 tonnes of carbon dioxide equivalent or more.

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Division 2—General requirements for offsets reports

69 Manner and form of offsets reports

For paragraph 76(4)(a) of the Act, an offsets report must be in the approved form.

70 Information that must be set out in offsets reports

- (1) For paragraph 76(4)(b) of the Act, this section specifies information that must be set out in an offsets report about an eligible offsets project for a reporting period.

General information

- (2) The offsets report must set out the following information:
- (a) the unique project identifier for the project;
 - (b) the start and end dates of the reporting period;
 - (c) the name of:
 - (i) the project proponent; or
 - (ii) if there are multiple project proponents—the nominee of the project proponents;
 - (d) the amount of:
 - (i) each component of the equation or calculation that, under the applicable methodology determination, is the final equation or calculation to be used to work out the carbon dioxide equivalent net abatement amount, or the carbon dioxide equivalent net sequestration amount, for the project for the reporting period; and
 - (ii) if the Regulator publishes, on the Regulator’s website, guidelines about which equations and calculations for working out the carbon dioxide equivalent net abatement amount, or the carbon dioxide equivalent net sequestration amount, for the project are significant equations or calculations—each component of each of those significant equations and calculations;
 - (e) if the offsets report must be accompanied by a report of an initial audit, the extent and manner of the project’s compliance with project eligibility requirements and monitoring requirements during the period of time covered by the audit;
 - (f) if the offsets report must be accompanied by a report of a subsequent audit or a triggered audit and, under Subdivision C of Division 3 of this Part, the audit was required to be about a particular matter—a description of the matter and why it was required to be audited;
 - (g) whether an application for a certificate of entitlement in respect of the project for the reporting period has been, or will be, made under section 12 of the Act;
 - (h) whether the offsets report is included in the same document as another offsets report under subsection 76(8) of the Act;
 - (i) if the project proponent has chosen to divide the project into parts in accordance with section 77A of the Act—both:

- (i) a statement that the project has been divided into parts under that section; and
- (ii) a description of the part of the project that the offsets report is about;
- (j) a signed statement by the project proponent that the information included in, and any document accompanying, the offsets report:
 - (i) meets the requirements in this instrument and any requirements in the applicable methodology determination; and
 - (ii) is accurate;
- (k) a signed statement by the project proponent that all inputs used to work out the carbon dioxide equivalent net abatement amount, or the carbon dioxide equivalent net sequestration amount, for the project for the reporting period are accurate.

Note: The offsets report must also include any information that is required to be included in the report under the applicable methodology determination (see subsection 76(7) of the Act).

Information about changes to the project

- (3) The offsets report must also set out the following information:
 - (a) if, since an offsets report accompanied by an audit report was last given to the Regulator about the project, the extent or manner of the project's compliance with project eligibility requirements or monitoring requirements has changed—both:
 - (i) a description of the change; and
 - (ii) an explanation of how the project is continuing to comply with the requirements;
 - (b) if the offsets report must be accompanied by a report of an initial audit and the scope or location of the project has changed significantly since the application for a section 27 declaration in relation to the project was made—both:
 - (i) a description of the change; and
 - (ii) an explanation of how the changed scope, or the conduct of the project at any additional location, is consistent with the applicable methodology determination;
 - (c) if, since an offsets report accompanied by an audit report was last given to the Regulator about the project, the scope or location of the project has changed significantly—both:
 - (i) a description of the change; and
 - (ii) an explanation of how the changed scope, or the conduct of the project at any additional location, is consistent with the applicable methodology determination;
 - (d) if, in accordance with paragraph 13(1)(d), the application for a section 27 declaration in relation to the project was accompanied by details of a sub-method to be used for the project and a different sub-method is used in preparing the offsets report—details of the sub-method used;
 - (e) if, during the reporting period, a reportable change occurs to the kinds of activities included in the project—both:
 - (i) a description of the change; and

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- (ii) an explanation of how, following the change, the activities included in the project are consistent with the applicable methodology determination.

Note: For paragraphs (3)(b) and (c), examples of when the scope or location of a project may change significantly include the following:

- (a) if the project starts to be carried out at a greater number of sites or at sites not identified in the application for a section 27 declaration;
- (b) if the project undergoes a substantial expansion at an existing site;
- (c) if the overall scale of the project is significantly expanded.

Information about certain facilities

- (4) If:
- (a) the offsets report:
 - (i) is given to the Regulator on or after 1 July 2016; and
 - (ii) is for a reporting period that includes all or part of a financial year; and
 - (b) the project involves carbon abatement at a facility:
 - (i) that is, or is likely to be, a designated large facility, within the meaning of section 22XJ of the NGER Act, for the financial year; or
 - (ii) for which there is a monitoring period, within the meaning of section 22XJ of that Act, that includes all or part of the financial year;
- the offsets report must also set out what portion of the carbon dioxide equivalent net abatement amount for the project for the reporting period is attributable to carbon abatement at each facility that the project involves.

Meaning of reportable change

- (5) A **reportable change** occurs to the kinds of activities included in an eligible offsets project if:
- (a) the change is not minor or trivial; and
 - (b) following the change, the project includes activities that either:
 - (i) were not included in the description of the project that accompanied the application for a section 27 declaration in relation to the project; or
 - (ii) were included in the description of the project that accompanied the application for a section 27 declaration in relation to the project, but were the subject of a previous reportable change that was included in a previous offsets report about the project.

71 Documents that must accompany offsets reports

For paragraph 76(4)(d) of the Act, an offsets report about an eligible offsets project for a reporting period must be accompanied by the following documents:

- (a) any document that, under the applicable methodology determination, is required to be provided to the Regulator with the offsets report;
- (b) if the project is an area-based offsets project and the project proponent has chosen to divide the project into parts in accordance with section 77A of the Act—a scale map identifying the project area to which the offsets report relates.

Division 3—Audit reports to accompany offsets reports

Subdivision A—Operation of this Division

72 Operation of this Division

For paragraphs 76(4)(c), (ca) and (cb) of the Act, this Division sets out requirements in relation to audit reports that must accompany offsets reports.

Subdivision B—Audit schedules

73 Audit schedules

- (1) If the Regulator declares an offsets project to be an eligible offsets project, the Regulator must give an audit schedule for the project to the project proponent when the Regulator gives the copy of the declaration to the project proponent.
- (2) The *audit schedule* must set out:
 - (a) the number of scheduled audits for the project; and
 - (b) the method for determining the offsets report that the report of a scheduled audit must accompany; and
 - (c) the period of time to be covered by each scheduled audit that is not an initial audit.

Meaning of scheduled audit

- (3) A *scheduled audit* must be:
 - (a) an initial audit; or
 - (b) a subsequent audit.

Transitioning projects

- (4) As soon as practicable after the commencement day, the Regulator must:
 - (a) prepare an audit schedule for each transitioning project; and
 - (b) give the audit schedule to the project proponent.

Variation of audit schedule

- (5) The Regulator may vary an audit schedule for a project to do the following:
 - (a) if the Regulator amends the audit thresholds instrument—remove a subsequent audit;
 - (b) make any other change to which the project proponent agrees.

Note: The Regulator may also vary an audit schedule for a project under subsection 77(4).

- (6) As soon as practicable after an audit schedule for a project is varied under subsection (5) or 77(4), the Regulator must give the variation to the project proponent.

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Subdivision C—Scheduled (initial and subsequent) audits

74 Initial audits

- (1) The first scheduled audit for an eligible offsets project must be an initial audit.

Scope of initial audits

- (2) The audit must be about whether, in all material respects:
- (a) the project has, during the period of time covered by the audit, operated and been implemented in accordance with:
 - (i) the section 27 declaration that is in operation for the project; and
 - (ii) the methodology determination used for the project; and
 - (iii) the requirements of the Act; and
 - (b) the project proponent has, during the period of time covered by the audit, met the requirements specified in the applicable methodology determination under subsection 106(3) of the Act; and
 - (c) the offsets reports that cover the period of time covered by the audit have been prepared in accordance with section 76 of the Act.
- (3) The audit must cover the longest of the following periods:
- (a) the first reporting period for the project;
 - (b) the first 6 months of the project.

Transitioning projects

- (4) However, this section does not apply in relation to a transitioning project if an audit report for the project was given to Regulator in accordance with paragraph 76(4)(c) of the Act before the commencement day.

75 Subsequent audits—number

- (1) An eligible offsets project must have not less than 2 subsequent audits.
- (2) If the project is a transitioning project that is not required to have an initial audit, it must have not less than 3 subsequent audits.

Audit thresholds

- (3) If the annual average abatement amount for the project exceeds an audit threshold, the project must have the number of subsequent audits required for the threshold.
- (4) The Regulator may, by legislative instrument (the *audit thresholds instrument*), set out one or more of the following:
- (a) audit thresholds for eligible offsets projects;
 - (b) the number of subsequent audits required for projects that meet each audit threshold;
 - (c) trigger audit thresholds for eligible offsets projects;
 - (d) variance audit thresholds for eligible offsets projects.

Large projects

- (5) If the project is a large project, the number of subsequent audits for the project:
 - (a) may be decided by agreement between the Regulator and the project proponent; or
 - (b) if no such agreement is reached—is the number determined in accordance with the audit thresholds instrument.

Reducing number of subsequent audits

- (6) The Regulator may reduce the number of subsequent audits for the project in accordance with the audit thresholds instrument as amended from time to time, but must not increase the number.
- (7) Subsection (6) does prevent the Regulator from varying the number of subsequent audits for the project under subsection (5) (large projects).

Meaning of annual average abatement amount

- (8) The **annual average abatement amount**, for an offsets project, means the forward abatement estimate for the project divided by the number of years in:
 - (a) the crediting period for the project; or
 - (b) if the project has more than one crediting period—the last crediting period for the project.
- (9) For the purpose of working out the annual average abatement amount for a transitioning project, the forward abatement estimate for the project must be given to the Regulator within 60 days after the commencement day.

Meaning of large project

- (10) An eligible offsets project is a **large project** if the project has an annual average abatement amount of more than 250 000 tonnes of carbon dioxide equivalent.

76 Subsequent audits—scope

- (1) A subsequent audit must be about:
 - (a) whether, in all material respects, the offsets reports that cover the period of time covered by the audit have been prepared in accordance with section 76 of the Act; and
 - (b) if a change relating to the project's compliance with project eligibility requirements or monitoring requirements, or a change relating to the scope or location of the project, has been notified in an offsets report in accordance with paragraph 70(3)(a) or (c), and the change has not been audited—whether, following the change, the project met the project requirements in all material respects; and
 - (c) if a change in the way the project is being operated that is likely to result in the section 27 declaration for the project being revoked has been notified in accordance with section 87, and the change has not been audited—whether the reasons the section 27 declaration was likely to be revoked have been rectified in all material respects.

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- (2) The subsequent audit must also be about any of the following if requested in writing by the Regulator:
 - (a) whether, in all material respects, any matter identified as a qualification to an audit opinion in a previous audit of the project has met project requirements during the period of time covered by the audit;
 - (b) any matter that could be covered by an initial audit of the project if:
 - (i) the project is using a different methodology determination from that used when the project was last audited; or
 - (ii) the technology used by the project is in the early stages of commercialisation or not widely used in Australia; or
 - (iii) the methodology determination used for the project, or similar schemes for calculating and rewarding carbon abatement, have not been widely applied in Australia;
 - (c) by agreement between the Regulator and the project proponent—any matter identified by the Regulator in a risk-based assessment of the project.
- (3) Notice under subsection (2) must be given at a reasonable time before the report of the subsequent audit must be given to the Regulator.
- (4) The audit must cover a period of not less than 12 months.

Subdivision D—Triggered audits

77 Threshold audits

- (1) An eligible offsets project must be audited if the carbon dioxide equivalent net abatement amount for a reporting period for the project is greater than:
 - (a) 250 000 tonnes of carbon dioxide equivalent; or
 - (b) a trigger audit threshold for the project.
- (2) The audit (the *threshold audit*) must be about:
 - (a) whether, in all material respects, the offsets report about the project for the reporting period has been prepared in accordance with section 76 of the Act; and
 - (b) any other aspect of the project notified in writing by the Regulator.
- (3) The report of the audit must accompany the offsets report for the reporting period.

Threshold audit may replace subsequent audit

- (4) If a threshold audit is undertaken for a project in accordance with section 80, and the report of the audit meets the eligibility requirements set out in subsection 9(2), the Regulator may remove a subsequent audit from the audit schedule for the project.
- (5) In deciding whether or not to remove a subsequent audit because of the threshold audit, the Regulator must have regard to the following:
 - (a) the number of audits that have been undertaken in relation to the project;
 - (b) the scope of those audits;
 - (c) the results of those audits;

- (d) the number of subsequent audits remaining for the project.

78 Variance audits

- (1) An eligible offsets project must be audited if:
 - (a) the Regulator requests the audit in writing; and
 - (b) the carbon dioxide equivalent net abatement amount for a reporting period for the project is outside the variance audit threshold for the project.
- (2) The audit must be about:
 - (a) whether, in all material respects, the offsets report about the project for the reporting period has been prepared in accordance with section 76 of the Act; and
 - (b) any other aspect of the project notified in writing by the Regulator.
- (3) The report of the audit must accompany the offsets report for the reporting period specified in the request.

Note: This would generally be the next offsets report following the request.

79 Qualified or other conclusion audits

- (1) An eligible offsets project must be audited if:
 - (a) the Regulator requests the audit in writing; and
 - (b) a previous audit of the project did not give a reasonable assurance conclusion about a matter.
- (2) The audit must be about:
 - (a) whether, in all material respects, the matter in relation to which the reasonable assurance conclusion was not given has been appropriately addressed such that, during the period of time covered by the audit, the project has operated and been implemented in accordance with:
 - (i) the section 27 declaration that is in operation for the project; and
 - (ii) the methodology determination used for the project; and
 - (iii) the requirements of the Act; and
 - (b) any other aspect of the project notified in writing by the Regulator.
- (3) The report of the audit must accompany the offsets report for the reporting period specified in the request.

Subdivision E—Conduct of audits

80 Conduct of audits

An audit under this Division:

- (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

Part 6 Reporting and notification requirements

Division 3 Audit reports to accompany offsets reports

Section 80

(c) must be otherwise in accordance with subsection 75(1) of the NGER Act.

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

Division 4—Notification requirements

Subdivision A—Significant reversals

81 Significant reversals relating to natural disturbances

For subsection 81(3) of the Act, a reversal of the removal of carbon dioxide from the atmosphere that is caused, or likely to have been caused, by a natural disturbance is taken to be a significant reversal if the size of the project area in which the reversal occurs is at least 5% of the total project area.

82 Significant reversals relating to conduct

For subsection 82(4) of the Act, a reversal of the removal of carbon dioxide from the atmosphere that is caused, or likely to have been caused, by conduct engaged in by a person is taken to be a significant reversal if the size of the project area in which the reversal occurs is at least the smaller of the following:

- (a) 5% of the total project area;
- (b) 50 hectares.

Subdivision B—Other notification requirements

83 Operation of this Subdivision

For subsection 85(2) of the Act, this Subdivision sets out requirements for project proponents to notify the Regulator of certain matters.

84 Changes relating to project proponent

- (1) The project proponent for an eligible offsets project must notify the Regulator, in the approved form, of a change to:
 - (a) the project proponent's business name or trading name; or
 - (b) the project proponent's contact details.
- (2) The project proponent must notify the Regulator of the change within 30 days after the change occurs.

85 Errors in offsets reports

- (1) The project proponent for an eligible offsets project must notify the Regulator, in writing, of an error in an offsets report about the project that has been given to the Regulator if the error relates to:
 - (a) whether the project meets project eligibility requirements; or
 - (b) the carbon dioxide equivalent net abatement amount, or the carbon dioxide equivalent net sequestration amount, for the project in a way that affects the unit entitlement to be specified in a certificate of entitlement for the project.
- (2) The project proponent must notify the Regulator of the error within 60 days after the project proponent becomes aware of the error.

Section 86

86 Acts causing reversal of removal of carbon dioxide

- (1) The project proponent for an eligible offsets project must notify the Regulator, in writing, of an act that causes, or is likely to cause, a reversal of the removal of carbon dioxide from the atmosphere by the project if:
 - (a) the act is engaged in by the project proponent; and
 - (b) the size of the project area in which the reversal occurs is at least the smaller of the following:
 - (i) 5% of the total project area;
 - (ii) 50 hectares.
- (2) The project proponent must notify the Regulator of the act within 60 days after the act is engaged in.

87 Changes relating to operation of project

- (1) The project proponent for an eligible offsets project must notify the Regulator, in writing, of a change in the way the project is being operated if the change is likely to result in the section 27 declaration in relation to the project being revoked under regulations or legislative rules made for the purposes of subsection 35(1) of the Act.
- (2) The project proponent must notify the Regulator of the change within 60 days after the project proponent becomes aware of the change.

Part 17—Record-keeping and project monitoring requirements

100 Record-keeping requirements—general

- (1) For subsection 191(1) of the Act, this section sets out record-keeping requirements that a project proponent for an eligible offsets project must comply with.
- (2) The project proponent must make a record of the following, in a form that is readily accessible for inspection and audit:
 - (a) correspondence between the project proponent and the Regulator that is relevant to the project;
 - (b) information that substantiates the application for a section 27 declaration in relation to the project (unless the application was made before 13 December 2014 and the project proponent no longer has any such information);
 - (c) offsets reports about the project;
 - (d) ERF audit reports (if any) about the project proponent;
 - (e) information that shows that the project is, and continues to be, covered by the applicable methodology determination, including details of the emissions reduction, or sequestration, activities undertaken as part of the project;
 - (f) details of any significant change to the scope or location of the project;
 - (g) information that shows that the project is being implemented and operated in a manner that is consistent with project eligibility requirements;
 - (h) information that shows that the carbon dioxide equivalent net abatement amount for the project for a reporting period has been ascertained using a method specified in, or ascertained in accordance with, the applicable methodology determination;
 - (i) information that shows that any monitoring requirements for the project are being complied with;
 - (j) data that is collected while monitoring the project;
 - (k) information about any event that is reasonably likely to significantly increase or decrease the carbon abatement that results from the carrying out of the project;
 - (l) if the project is a sequestration offsets project and, during a reporting period, the project resulted in carbon abatement that is not eligible carbon abatement—the reasons for this;
 - (m) information that, under the applicable methodology determination, is required to be recorded for the project.

Note: For paragraph (2)(f), examples of when the scope or location of a project may change significantly include the following:

- (a) if the project starts to be carried out at a greater number of sites or at sites not identified in the application for a section 27 declaration;
- (b) if the project undergoes a substantial expansion at an existing site;
- (c) if the overall scale of the project is significantly expanded.

Section 101

- (3) The project proponent must retain:
 - (a) the record; or
 - (b) a copy of the record;for 7 years after the record is made.
- (4) If:
 - (a) under regulation 17.1 of the old CFI Regulations, the project proponent was required to retain a record, or a copy of a record, for 7 years after making the record; and
 - (b) on or before the commencement day, the 7-year period has not ended;the project proponent must retain the record or copy of the record for the remainder of the 7-year period.

101 Record-keeping requirements—preparation of offsets report

- (1) For subsection 192(2) of the Act, this section sets out record-keeping requirements that a project proponent for an eligible offsets project must comply with if the project proponent:
 - (a) makes a record of particular information; and
 - (b) uses the information to prepare an offsets report about the project.
- (2) The project proponent must retain:
 - (a) the record; or
 - (b) a copy of the record;for 7 years after the offsets report is given to the Regulator.
- (3) If:
 - (a) under regulation 17.2 of the old CFI Regulations, the project proponent was required to retain a record, or a copy of a record, for 7 years after an offsets report was given to the Regulator; and
 - (b) on or before the commencement day, the 7-year period has not ended;the project proponent must retain the record or copy of the record for the remainder of the 7-year period.

Part 26—Emissions Reduction Assurance Committee

110 Operation of this Part

For subsection 260(1) of the Act, this Part sets out the procedures to be followed at, and other matters relating to, meetings of the Emissions Reduction Assurance Committee.

111 Procedure at meetings

- (1) The Emissions Reduction Assurance 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 held face-to-face or via teleconference.
- (3) 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 request of the Chair of the Committee.

112 Quorum at meetings

- (1) At a meeting of the Emissions Reduction Assurance Committee, a quorum is constituted by 4 members of the Committee, one of whom must be the Chair of the Committee.
- (2) However, if:
 - (a) section 262 of the Act prevents a member from participating in the deliberations or decisions of the Committee with respect to a particular matter; and
 - (b) when the member leaves the meeting concerned there is no longer a quorum present; and
 - (c) the number of members still remaining at the meeting is 3;the remaining members at the meeting constitute a quorum for the purpose of any deliberation or decision at the meeting with respect to that matter.

113 Presiding at meetings

- (1) The Chair of the Committee must preside at all meetings.
- (2) However, if section 262 of the Act prevents the Chair from participating in the deliberations or decisions of the Committee with respect to a particular matter, the Committee may appoint an acting Chair from the members present to preside at the meeting concerned during any deliberation or decision with respect to that matter.

114 Manner of deciding questions

- (1) Any question arising at a meeting of the Emissions Reduction Assurance Committee must be determined by resolution.

Section 114

- (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—Documents required to establish applicant's identity

Note: See the definitions of *category A document* and *category B document* in subsection 4(1) and items 1 and 2 of the table in subsection 16(1).

Part 1—Documents for identifying individuals who are Australian citizens or residents

1 Category A documents

The following are *category A documents* for an individual who is an Australian citizen or ordinarily resident in Australia:

- (a) a birth certificate issued by a State or Territory;
- (b) a current passport issued by the Commonwealth;
- (c) 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;
- (d) a passport, or similar document issued for the purpose of international travel, that:
 - (i) contains a photograph and the signature of the individual; and
 - (ii) is issued by a foreign government, the United Nations or an agency of the United Nations; and
 - (iii) contains evidence of the individual's immigration status in Australia.

2 Category B documents

The following are *category B documents* for an individual who is an Australian citizen or ordinarily resident in Australia:

- (a) a driver's licence or a learner's permit that:
 - (i) is issued under a law of a State or Territory; and
 - (ii) includes a photograph of the individual and the individual's signature; and
 - (iii) includes a street address that is the same as the address stated for the individual in the application which the document is accompanying;
- (b) a Medicare card;
- (c) a notice that:
 - (i) is issued by a local government body or utilities provider in the 3 months before the application which the document is accompanying is made; and
 - (ii) contains the individual's name; and
 - (iii) contains the individual's street address; and
 - (iv) records the provision of services by the local government body or utilities provider to that address or the individual;
- (d) an Australian firearms licence issued under a law of a State or Territory that includes:
 - (i) the individual's signature; and

Schedule 1 Documents required to establish applicant's identity

Part 1 Documents for identifying individuals who are Australian citizens or residents

Clause 2

- (ii) a photograph of the individual; and
- (iii) a street address that is the same as the address stated for the individual in the application which the document is accompanying;
- (e) a secondary school or tertiary education student identification card that:
 - (i) includes a photograph of the individual; and
 - (ii) was issued by an education authority that has been accredited by the Commonwealth, a State or a Territory government.

Part 2—Documents for identifying individuals who are not residents

3 Category A documents

The following are *category A documents* for an individual who is not ordinarily resident in Australia:

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

4 Category B documents

The following are *category B documents* for an individual who is not ordinarily resident in Australia:

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