



Carbon Credits (Carbon Farming Initiative) Regulations 2011¹

Select Legislative Instrument 2011 No. 268

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Dated 7 December 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

GREG COMBET
Minister for Climate Change and Energy Efficiency

Contents

Part 1	Preliminary	
1.1	Name of Regulations	5
1.2	Commencement	5
1.3	Definitions	5
1.4	Crown lands Minister	8
1.5	Kyoto abatement deadline	8
1.6	Meaning of <i>tree</i>	8
1.7	Prescribed non-CFI offsets scheme	9
1.8	Meaning of <i>regional natural resource management organisation</i>	9
1.9	Approved forms	9
1.10	Electronic notices transmitted to Administrator	9
Part 3	Eligible offsets project	
Division 3.1	Application for declaration of eligible offsets project	
3.1	Application for declaration of eligible offsets project — information and documents	10
3.2	Prescribed non-CFI offsets schemes that are specified	13
3.3	Declaration of eligible offsets project — project area	14
3.4	Declaration of eligible offsets project — project attributes	14
3.5	Eligibility requirement for declaration of eligible offsets project	15
Division 3.6	Additionality test	
3.27	Definition	15
3.28	Specified offsets projects	15
Division 3.12	Types of projects	
3.33	General	17
3.34	Definitions	17
3.35	Kyoto offsets projects	19
3.36	Excluded offsets projects	20

	Page
3.37 Excluded offsets projects — specified tree planting	20
Part 4	Recognised offsets entities
Division 4.1	Application for recognition as an offsets entity
Subdivision 4.1.1	General
4.1	Definitions 23
4.2	Information and documents for offsets entity applications 24
4.3	When documents need not be given under this Division 25
4.4	English translation of documents 25
Subdivision 4.1.2	Information to accompany offsets entity applications
4.5	Information to accompany applications 26
Subdivision 4.1.3	Documents to accompany applications — individuals
4.6	Documents for individuals 28
4.7	Aboriginal persons or Torres Strait Islanders 29
Subdivision 4.1.4	Documents to accompany applications — entities
4.8	Scope of this Subdivision 30
4.9	Applicant that is a body corporate 30
4.10	Applicant that is a trust 32
Division 4.2	Additional eligibility requirements and grounds for cancellation
4.11	Recognition as an offsets entity — additional eligibility requirements 33
4.12	Cancellation of recognition 34
Part 7	Requirements to relinquish Australian carbon credit units
7.1	Transition of offsets projects from prescribed non-CFI offsets schemes — request for determination 35
7.2	Determination 35
Part 9	Methodology determinations
9.1	Application for endorsement of proposal for methodology determination 36

		Page
Part 10	Multiple project proponents	
10.1	Designation of nominee account	37
Part 13	Domestic Offsets Integrity Committee	
13.1	General	38
13.2	Meetings of the Domestic Offsets Integrity Committee — procedure	38
13.3	Meetings of the Domestic Offsets Integrity Committee — quorum	38
13.4	Meetings of the Domestic Offsets Integrity Committee — acting Chair	38
13.5	Meetings of the Domestic Offsets Integrity Committee — resolution	39
Schedule 1	Regional natural resource management organisations	40
Schedule 2	Documents for identifying Australian citizens or residents	42
Schedule 3	Documents for identifying individuals who are foreign persons	44

Part 1 Preliminary

1.1 Name of Regulations

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

1.2 Commencement

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

1.3 Definitions

In these Regulations:

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

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

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

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

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

entity means a person who is not an individual.

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

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

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

Regulation 1.3

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

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

locality means a population cluster of at least 200 people.

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

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

permanent planting means a planting:

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

prescribed non-CFI offsets scheme — see regulation 1.7.

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

- (a) planting;
- (b) seeding;

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

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

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

Regulation 1.3

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

specified tree planting — see regulation 3.34.

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

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

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

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

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

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

Regulation 1.4

1.4 Crown lands Minister

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

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

1.5 Kyoto abatement deadline

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

1.6 Meaning of tree

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

Regulation 1.10

1.7 Prescribed non-CFI offsets scheme

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

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

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

1.8 Meaning of regional natural resource management organisation

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

1.9 Approved forms

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

1.10 Electronic notices transmitted to Administrator

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

Regulation 3.1

Part 3 Eligible offsets project

Division 3.1 Application for declaration of eligible offsets project

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

General

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

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

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

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

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

Regulation 3.1

- (h) if regulatory approvals must be obtained for the project:
 - (i) the name of each regulatory authority responsible for issuing an approval; and
 - (ii) a description of the nature of any approval that has been, or must be, obtained; and
 - (iii) if requested by the Administrator, a certified copy of the approval; and
 - (iv) the applicant's authorisation that the Administrator may contact all relevant regulatory bodies to discuss whether approvals have been obtained;
- (i) if regulatory approval has yet to be obtained for the project — a statement about what the applicant has done or will do to obtain the approval;
- (j) if certification by the Crown lands Minister is required under paragraph 27 (4) (h) of the Act in relation to the project — the certification;
- (k) if certification by the Minister is required under paragraph 27 (4) (i) of the Act in relation to the project — the certification;
- (l) if written consent is required under paragraph 27 (4) (k) of the Act in relation to the project — the consent in accordance with subsections 27 (7) to (9) of the Act;
- (m) a statement that each of the requirements mentioned in subsection 27 (4) of the Act for the project has been met;
- (n) whether the project is a Kyoto offsets project;
- (o) whether the project is a non-Kyoto offsets project;
- (p) whether the project area is subject to a carbon maintenance obligation;
- (q) whether paragraph 27 (11) (e) of the Act applies to the applicant;
- (r) a certified copy of the land title covering the project area, or the folio identifier for the land title;
- (s) a signed declaration by the applicant that the information contained in and accompanying the application meets the requirements under this Regulation and is accurate.

Regulation 3.1

- (2) If an applicant consents to the specification of an earlier day under paragraph 27 (15) (b) of the Act as the day on which the section 27 declaration takes effect, the applicant must confirm that the project conformed to the applicable methodology determination from the specified day to the day the declaration is made.

Non-CFI offsets schemes — additional information and documents

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

Regulation 3.2

- (e) the documentary evidence mentioned in subregulation (5).
- (5) For paragraphs (3) (e) and (4) (e), the applicant must give an authorisation that personal and other information about the applicant, in relation to the applicant's participation in the scheme, may be sought from:
 - (a) the administrator of the scheme, if an administrator is still available; or
 - (b) if the scheme is no longer in operation and it was a scheme which had Commonwealth, State or Territory government agency oversight — that agency.

Requirement to provide geospatial map

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

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

- (7) In this regulation:

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

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

3.2 Prescribed non-CFI offsets schemes that are specified

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

- (a) the Commonwealth Government's Greenhouse FriendlyTM initiative;
- (b) the New South Wales Government's Greenhouse Gas Reduction Scheme;

Regulation 3.3

- (c) the Australian Capital Territory Government's Greenhouse Gas Abatement Scheme.

3.3 Declaration of eligible offsets project — project area

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

3.4 Declaration of eligible offsets project — project attributes

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

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

3.5 Eligibility requirement for declaration of eligible offsets project

For paragraph 27 (4) (1) of the Act, a specified eligibility requirement is that the project area, or any part of it, is not used to meet an obligation under a Commonwealth, State or Territory law to offset or compensate for the adverse impact of an action on vegetation.

Division 3.6 Additionality test

3.27 Definition

In this Division:

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

3.28 Specified offsets projects

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

Regulation 3.28

- (e) the application of biochar to soil;
 - (f) the capture and combustion of methane from livestock manure;
 - (g) early dry season burning of savanna areas greater than 1 km²;
 - (h) the reduction of methane emissions through the management, in a humane manner, of feral goats, feral deer, feral pigs or feral camels;
 - (i) the reduction of emissions from ruminants by manipulation of their digestive processes;
 - (j) the application of urease or nitrification inhibitors to, or with, livestock manure or fertiliser;
 - (k) the capture and combustion of methane from waste deposited in a landfill facility before 1 July 2012.
- (2) For paragraph (1) (b) a project is any of the following:
- (a) a forestry project accredited under the Commonwealth Government's Greenhouse FriendlyTM initiative;
 - (b) until 1 July 2012, a waste diversion project accredited under the Commonwealth Government's Greenhouse FriendlyTM initiative;
 - (c) permanent plantings accredited under:
 - (i) the New South Wales Government's Greenhouse Gas Reduction Scheme; or
 - (ii) the Australian Capital Territory Government's Greenhouse Gas Abatement Scheme; and
 - (d) permanent plantings established before 1 July 2007 for which there is documentary evidence of a kind mentioned in subregulation (3) that demonstrates, to the satisfaction of the Administrator, that the primary purpose of the plantings was generation of carbon offsets.
- (3) Documentary evidence, for paragraph (2) (d):
- (a) must be dated no later than 2 years after the date the plantings were established; and
 - (b) may include contracts for the sale of offsets; and
 - (c) must show that carbon sequestration rights had been registered for the plantings; and

- (d) must include a statutory declaration that the plantings were entirely privately funded.

Note The terms *permanent planting* and *wetlands* are defined in regulation 1.3.

Division 3.12 Types of projects

3.33 General

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

3.34 Definitions

In this Division:

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

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

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

environmental planting means a planting that consists of species that:

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

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

Regulation 3.34

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

known weed species means a plant species which:

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

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

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

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

plantation means a forest established for harvest.

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

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

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

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

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

3.35 Kyoto offsets projects

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

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

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

Regulation 3.36

3.36 Excluded offsets projects

The following kinds of project are excluded offsets projects:

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

3.37 Excluded offsets projects — specified tree planting

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

Regulation 3.37

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

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

where:

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

Regulation 3.37

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

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

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

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

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

0.9 ML of water — 600–700 mm of rain

1.2 ML of water — 700–800 mm of rain

1.5 ML of water — 800–900 mm of rain

1.8 ML of water — 900–1 000 mm of rain

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

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

Part 4 Recognised offsets entities

Division 4.1 Application for recognition as an offsets entity

Subdivision 4.1.1 General

4.1 Definitions

(1) In this Division:

certified copy means:

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

Note Information about competent authorities under the Convention can be found on the Hague Conference on Private International Law's website at <http://www.hcch.net>.

foreign person means any of the following:

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

Regulation 4.2

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

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

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

- (2) An individual is **ordinarily resident in Australia** if, at a particular time:
- (a) one of the following applies to the individual:
 - (i) the individual is in Australia and has permission to remain in Australia indefinitely;
 - (ii) the individual is not in Australia but has a right to re-enter Australia and, on re-entry, to be granted permission to remain in Australia indefinitely;
 - (iii) the individual is in Australia and has a special category visa under section 32 of the *Migration Act 1958*;
 - (iv) the individual is not in Australia, is a New Zealand citizen, holds a new Zealand passport and, on re-entry to Australia, would have the right to be granted a special category visa under section 32 of the *Migration Act 1958*; and
 - (b) the individual was in Australia for 200 or more days in the 12 months immediately preceding that time.

4.2 Information and documents for offsets entity applications

- (1) The regulations in this Division are made for paragraphs 61 (1) (c) and (d) of the Act.
- (2) An application made by a person under subsection 60 (1) of the Act must be accompanied by the information and the documentation set out in this Division.
- (3) If this Division requires a person to provide documentation:
 - (a) any document required must be current; and
 - (b) the person must provide a certified copy of the original document.

4.3 When documents need not be given under this Division

Entities already identified

- (1) An applicant is not required to provide a document under this Division if the applicant is an entity that:
 - (a) is registered under the *Renewable Energy (Electricity) Act 2000* or is a registered corporation under the *National Greenhouse and Energy Reporting Act 2007*; and
 - (b) has previously submitted the document to the Department.

Documents already provided under the Registry Regulations

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

4.4 English translation of documents

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

Regulation 4.5

(3) In this regulation:

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

Subdivision 4.1.2 Information to accompany offsets entity applications

4.5 Information to accompany applications

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

Item	Information
1	The person's full name, address and contact details
2	The person's status as one of the following: <ul style="list-style-type: none">(a) an individual, including an individual who is a sole trader;(b) a body corporate;(c) a corporation sole;(d) a body politic;(e) a local governing body;(f) a trust
3	The person's ABN, ACN, ARBN, GST registration number or other unique number
4	The person's business name and, if different, trading name
5	The address of the person's principal place of business
6	For the person who is an individual, including an individual who is a sole trader: <ul style="list-style-type: none">(a) the individual's date of birth and residential address;(b) if the individual is known by any other name — the other name;(c) the individual's gender;(d) if the individual is a sole trader — each jurisdiction in which the individual operates as a sole trader

Regulation 4.5

Item	Information
7	For the person that is a body corporate: <ul style="list-style-type: none">(a) the full name, and the date of birth, of each executive officer; and(b) a description of the form in which the body has been incorporated; and(c) each jurisdiction in which the body operates
8	For a body corporate that is a foreign person — the name of any Australian agent through which the body conducts business
9	For the person that is a trust: <ul style="list-style-type: none">(a) the full name and the address of each trustee; and(b) a description of the type of trust; and(c) each jurisdiction in which the trust operates; and(d) for each trustee who is an individual — the information required in item 6; and(e) for each trustee that is a body corporate — the information required in item 7
10	The full name, date of birth and address of the person that is an individual constituting a corporation sole
11	If there is no registered address or principal place of business for the person that is an incorporated association or an incorporated co-operative, the full name and address of that body's: <ul style="list-style-type: none">(a) public officer; or(b) if there is no public officer — secretary; or(c) if the body does not have an officer mentioned in paragraph (a) or (b) — president or treasurer

- (2) If the person making the application is a proprietary or private company the person must also provide the name and address of any beneficial owner with the application.
- (3) However, subregulation (2) does not apply to a proprietary company if the company is:
 - (a) a publicly listed company in Australia, or a wholly owned subsidiary of such a company; or

Regulation 4.6

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

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

Subdivision 4.1.3 Documents to accompany applications — individuals

4.6 Documents for individuals

Scope

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

Regulation 4.7

Requirements

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

Examples of documents

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

4.7 Aboriginal persons or Torres Strait Islanders

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

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

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

Regulation 4.8

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

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

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

Subdivision 4.1.4 Documents to accompany applications — entities

4.8 Scope of this Subdivision

This Subdivision applies to the following:

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

4.9 Applicant that is a body corporate

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

Regulation 4.9

Item	If the entity is ...	the documents that must accompany an application are ...
1	a body corporate	<ul style="list-style-type: none">(a) the certificate of the entity's incorporation (if any); and(b) the certificate of the entity's registration (if any) with the Australian Securities Investment Commission; and(c) if the entity is not registered in Australia — the certificate of the entity's registration (if any) with a registry established under a foreign law; and(d) if there is no certificate of the entity's incorporation — a document with similar effect; and(e) if there is no certificate of the entity's registration — a document with similar effect
2	a body corporate that is an incorporated association or a registered co-operative	<ul style="list-style-type: none">(a) a document mentioned in item 1; and(b) other documentary evidence that the entity exists (for example, an annual report or the entity's constitution)
3	a local governing body	<ul style="list-style-type: none">(a) a document mentioned in item 1; and(b) documentary evidence that the entity is a local governing body

Regulation 4.10

Item	If the entity is ...	the documents that must accompany an application are ...
4	a body corporate that does not have an ABN	<ul style="list-style-type: none">(a) a document mentioned in item 1; and(b) if the body corporate is of a kind mentioned in item 2 — the documents mentioned in item 2; and(c) if the body corporate is of a kind mentioned in item 3 — the documents mentioned in item 3; and(d) the following documentary evidence of the identity of executive officers:<ul style="list-style-type: none">(i) if the body corporate is a private company, incorporated association or registered co-operative (whether or not a foreign entity):<ul style="list-style-type: none">(A) if that entity has at least 3 executive officers — 3 executive officers; or(B) if that entity has one or 2 executive officers — those officers; and(ii) if the body corporate is a foreign company that is a public company — documentary evidence of the identity of an executive officer who is not the same person the entity nominates to be an authorised representative under the Registry Act

4.10 Applicant that is a trust

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

Regulation 4.11

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

Division 4.2 Additional eligibility requirements and grounds for cancellation

4.11 Recognition as an offsets entity — additional eligibility requirements

- (1) For paragraph 64 (3) (d) of the Act, this regulation sets out additional eligibility requirements for a person who makes an application under subsection 60 (1) of the Act.
- (2) If the applicant is a person who is an individual, the Administrator must be satisfied that the applicant is a fit and proper person, having regard to:
 - (a) whether the applicant has been convicted of an offence; and
 - (b) whether an order has been made against the applicant; under a foreign law that corresponds to a law mentioned in subparagraphs 64 (3) (a) (i) to (viii) of the Act.

Regulation 4.12

- (3) If the applicant is a person who is a body corporate, the Administrator must be satisfied of the following:
- (a) that the applicant is a fit and proper person, having regard to:
 - (i) whether an executive officer of the applicant has been convicted of an offence; and
 - (ii) whether an order has been made against an executive officer of the applicant;
under a foreign law that corresponds to a law mentioned in subparagraphs 64 (3) (a) (ix) to (xvi) of the Act;
 - (b) that the applicant is not a body corporate which, overseas or under a foreign law:
 - (i) is being wound up; or
 - (ii) in respect of property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting; or
 - (iii) is under administration; or
 - (iv) has executed a deed of company arrangement that has not yet terminated; or
 - (v) has entered into a compromise or arrangement with another person the administration of which has not been concluded;
 - (c) that no executive officer of the applicant has been disqualified from:
 - (i) being a director of a body corporate; or
 - (ii) being concerned in the management of a body corporate;
under an order made by a foreign court.

4.12 Cancellation of recognition

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

Part 7 Requirements to relinquish Australian carbon credit units

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

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

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

7.2 Determination

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

Regulation 9.1

Part 9 Methodology determinations**9.1 Application for endorsement of proposal for methodology determination**

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

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

Part 10 Multiple project proponents

10.1 Designation of nominee account

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

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

Regulation 13.1

**Part 13 Domestic Offsets Integrity
Committee****13.1 General**

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

**13.2 Meetings of the Domestic Offsets Integrity
Committee — procedure**

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

**13.3 Meetings of the Domestic Offsets Integrity
Committee — quorum**

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

**13.4 Meetings of the Domestic Offsets Integrity
Committee — acting Chair**

If:

- (a) the Chair of the Domestic Offsets Integrity Committee cannot attend a meeting; and
- (b) the Minister has not appointed an acting Chair under section 259 of the Act;

Regulation 13.5

the Committee may appoint an acting Chair for the meeting from the members present.

13.5 Meetings of the Domestic Offsets Integrity Committee — resolution

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

Schedule 1 Regional natural resource management organisations

(regulation 1.8)

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

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

Schedule 2 Documents for identifying Australian citizens or residents

(subregulation 4.6 (2))

Category A documents

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

Category B documents

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

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

Schedule 3 Documents for identifying individuals who are foreign persons

(subregulation 4.6 (3))

Category A documents

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

Category B documents

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

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.