



# Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2012 (No. 1)<sup>1</sup>

**Select Legislative Instrument 2012 No. 77**

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

Dated 24 May 2012

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

MARK DREYFUS  
Parliamentary Secretary for Climate Change and Energy Efficiency

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## Section 1

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### 1 Name of regulation

This regulation is the *Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2012 (No. 1)*.

### 2 Commencement

This regulation commences on the day after it is registered.

### 3 Amendment of *Carbon Credits (Carbon Farming Initiative) Regulations 2011*

Schedule 1 amends the *Carbon Credits (Carbon Farming Initiative) Regulations 2011*.

## Schedule 1 Amendments

(section 3)

### [1] Regulation 1.3

*omit*

In these Regulations:

*insert*

(1) In these Regulations:

### [2] Regulation 1.3

*insert*

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

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

### [3] Regulation 1.3

*insert*

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

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**[4] Regulation 1.3**

*insert*

***certified copy:***

- (a) for Division 4.1—has the meaning given by subregulation 4.1 (1); and
- (b) in all other cases, means:
  - (i) a copy of a document that has been certified as a true copy by a person mentioned in Schedule 2 to the *Statutory Declarations Regulations 1993*; or
  - (ii) if a person who is required to provide a document under these Regulations is not in Australia at the time the document must be provided—a copy of a document that has been certified as a true copy by:
    - (A) an Australian embassy, Australian High Commission or Australian consulate (other than a consulate headed by an honorary consul); or
    - (B) a competent authority under the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at The Hague on 5 October 1961.

*Note 1* Information about competent authorities under the convention can be found on the Hague Conference on Private International Law's website at [www.hcch.net](http://www.hcch.net).

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

**[5] Regulation 1.3**

*insert*

***non-CFI scheme*** means a carbon offsets scheme that:

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

**[6] Regulation 1.3**

*insert*

*prescribed audit report*: see regulation 1.11.

**[7] Regulation 1.3**

*insert*

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

**[8] Regulation 1.3**

*insert*

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

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

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

**[9] Regulation 1.3, note**

*insert*

- Kyoto Australian carbon credit units

**[10] Regulation 1.3, note**

*insert*

- net total number
- non-Kyoto Australian carbon credit units

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**[11] Regulation 1.3, after the note**

*insert*

- (2) A carbon dioxide equivalent amount of greenhouse gas abatement, generated by an offsets project under a prescribed non-CFI offsets scheme or a non-CFI scheme, is ***accounted for*** in the circumstances mentioned in subregulation (4).
- (3) However, the amount of abatement is not ***accounted for*** if:
- (a) on or after 1 July 2012, a person is subject to a requirement under a law of the Commonwealth, a State or a Territory to offset greenhouse emissions; and
  - (b) the person incurs, or would incur, a liability under the *Clean Energy Act 2011* or any of its associated provisions, in relation to greenhouse gases the person offsets, or would offset, under the requirement; and
  - (c) the person uses or intends to use the amount of abatement to meet the requirement.
- (4) For subregulation (2), the circumstances are:
- (a) the amount of abatement:
    - (i) has been sold or transferred; or
    - (ii) has otherwise been used to offset greenhouse gas emissions or discharge liabilities incurred because of greenhouse gas emissions; or
  - (b) an arrangement has been entered into (whether or not still in place):
    - (i) for the amount of abatement to be sold, transferred or otherwise used to offset greenhouse gas emissions or to discharge liabilities incurred because of greenhouse gas emissions; and
    - (ii) at the time the abatement was generated, the prescribed non-CFI offsets scheme or non-CFI scheme under which the arrangement was made was still in operation; or
  - (c) an arrangement has been entered into (whether or not still in place):
    - (i) for the sale or the transfer of carbon offsets credits associated with the abatement; and

- 
- (ii) at the time the abatement was generated, the prescribed non-CFI offsets scheme or the non-CFI scheme under which the arrangement was made was still in operation.

**[12] After regulation 1.8**

*insert*

**1.8A Specified statutory authorities**

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

- (a) an Aboriginal Land Council as defined in subsection 4 (1) of the *Aboriginal Land Rights Act 1983* of New South Wales;
- (b) a Trust as defined in section 2 of the *Aboriginal Lands Act 1970* of Victoria;
- (c) a land trust as defined in:
  - (i) Schedule 1 to the *Aboriginal Land Act 1991* of Queensland; and
  - (ii) Schedule 1 to the *Torres Strait Islander Land Act 1991* of Queensland;
- (d) the Aboriginal Lands Trust established by subsection 20 (1) of the *Aboriginal Affairs Planning Authority Act 1972* of Western Australia;
- (e) the Aboriginal Lands Trust constituted under subsection 5 (1) of the *Aboriginal Lands Trust Act 1966* of South Australia;
- (f) the Anangu Pitjantjatjara Yankunytjatjara as defined in subsection 4 (1) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* of South Australia;
- (g) the Maralinga Tjarutja as defined in section 3 of the *Maralinga Tjarutja Land Rights Act 1984* of South Australia;
- (h) the Council as defined in section 3 of the *Aboriginal Lands Act 1995* of Tasmania.

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**[13] After regulation 1.10**

*insert*

**1.11 Prescribed audit reports**

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

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

**1.12 Audit of an eligible offsets project**

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

- (b) must have an audit team leader who is registered as a Category 2 auditor or a Category 3 auditor under subregulation 6.25 (3) of the *National Greenhouse and Energy Reporting Regulations 2008*; and
- (c) must be otherwise in accordance with subsection 75 (1) of the *National Greenhouse and Energy Reporting Act 2007*.

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

### 1.13 Projects exempt from audit report requirements

#### *Exempt projects*

- (1) For subsections 13 (2) and 76 (5) of the Act, a project is specified if:
  - (a) the Regulator is satisfied that, under the applicable methodology determination for the reporting period, the total abatement for the project and any entity-related projects is likely to be, on average for the reporting period, less than 2 500 tonnes of carbon dioxide equivalent abatement annually; and
  - (b) the project is an eligible non-Kyoto project; and
  - (c) a prescribed audit report mentioned in regulation 1.11 has already been submitted for the project.

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

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



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**[14] After Part 1**

*insert*

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

**Division 2.1 Certificate of entitlement**

**2.1 Application for certificate of entitlement**

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

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

- (h) a signed statement by the applicant that the offsets report meets the requirements of subsection 76 (4) of the Act;
- (i) a signed statement by the applicant that the information contained in and accompanying the application:
  - (i) meets the requirements mentioned in paragraphs 15 (2) (a) to (h) of the Act as relevant to the project; and
  - (ii) meets the requirements under this regulation; and
  - (iii) is accurate.

## **2.2 Issue of certificate of entitlement—eligibility requirements**

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

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

- (3) For applications in relation to a project that is or was wholly or partly covered by a prescribed non-CFI offsets scheme, it is also a requirement that the Regulator must be satisfied that:
  - (a) greenhouse gas abatement generated under the scheme is documented in the offsets report as required under regulation 6.3; and
  - (b) the information that is documented is accurate.
- (4) In order to be satisfied of the requirements in subregulations (2) and (3), the Regulator may verify the matters in subregulation (5) with:
  - (a) the administrator of the prescribed non-CFI offsets scheme; or

- 
- (b) if the scheme is no longer in operation—the Commonwealth, State or Territory government agency that had responsibility for overseeing the scheme.
- (5) For subregulation (4), the matters are:
    - (a) the carbon dioxide equivalent net abatement amount generated by the project under the prescribed non-CFI scheme; and
    - (b) if carbon offsets credits have been issued or registered for abatement under the scheme—details of the circumstances in which the credits were issued or registered; and
    - (c) if abatement was accounted for under the scheme—details of the circumstances in which the abatement was accounted for.
  - (6) The Regulator must be satisfied that the evidence that has been provided for the prescribed audit report accompanying the application is sufficiently certain to enable the total number of tonnes of carbon dioxide equivalent net abatement for the project to be worked out for the reporting period.

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

### **2.3            Sequestration offsets projects other than native                   forest protection projects**

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

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

where:

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

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

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

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

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

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

## 2.4 Native forest protection projects

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

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

where:

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

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

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

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

## **2.5 Emissions avoidance offsets project**

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

## **[15] Paragraphs 3.1 (1) (n), (o), (p) and (q)**

*omit*

**[16] Paragraphs 3.1 (1) (r) and (s)**

*substitute*

- (n) a certified copy of the land title covering the project area, or the folio identifier for the land title;
- (o) a signed declaration by the applicant that the information contained in and accompanying the application meets the requirements under this regulation and is accurate.

**[17] Subregulation 3.1 (3), heading**

*substitute*

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

**[18] Subregulation 3.1 (3)**

*after*

offsets credits under

*insert*

a prescribed non-CFI offsets scheme or

**[19] Paragraph 3.1 (3) (a)**

*substitute*

- (a) the name of the scheme;

**[20] Subregulation 3.1 (4)**

*after*

accounted for under

*insert*

a prescribed non-CFI offsets scheme or

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[21] **Paragraph 3.1 (4) (a)**  
*substitute*  
(a) the name of the scheme;

[22] **Subparagraph 3.1 (4) (c) (ii)**  
*omit*  
in another way

[23] **Subregulation 3.1 (5)**  
*omit*  
an authorisation  
*insert*  
written authorisation

[24] **After Division 3.1**  
*insert*

## **Division 3.2 Voluntary variation of declaration of eligible offsets project**

### **3.6 General**

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

### **3.7 Definitions**

In this Division:

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

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

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

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

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

*variation application* means an application for variation under this Division.

### **3.8 Application required for voluntary variation**

- (1) The Regulator may vary a section 27 declaration.
- (2) However, the Regulator may vary the section 27 declaration only if:
  - (a) a variation applicant makes a variation application in accordance with this Division; and
  - (b) the Regulator is satisfied of any matter mentioned in subregulation 3.16 (1), 3.17 (1) or 3.18 (1), as applicable.

### **3.9 Voluntary variation of declaration—application requirements**

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



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### 3.10 Further information

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

### 3.11 Withdrawal of application

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

### 3.12 Timing

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

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

### 3.13 When variation takes effect

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

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

### **3.14 Copies of variation**

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

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

### **3.15 Written notice of refusal**

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

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

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

- (1) The Regulator may vary a section 27 declaration in relation to the project area of the project if the Regulator is satisfied of the requirements mentioned in subsections 27 (4) to (11) of the Act as relevant to the project in relation to the amended project area.
- (2) The following information or documentation must accompany a variation application that relates to the project area:
  - (a) the original project area;
  - (b) the amended project area, identified in accordance with regulation 3.3;
  - (c) confirmation that the variation applicant has a legal right to carry out the project in the amended project area;
  - (d) if the project is a sequestration offsets project—confirmation that the applicant holds the applicable carbon sequestration right in relation to the amended project area;

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- (e) a description of the project that includes the following:
    - (i) confirmation that the project, if conducted on the amended project area, would meet the requirements of the applicable methodology determination;
    - (ii) confirmation that the project, if conducted on the amended project area, would pass the additionality test;
  - (f) if the original project area and the amended project area are covered by the same regional natural resource management plan:
    - (i) the name and date of the plan; and
    - (ii) a statement about whether the project is consistent with the plan despite the proposed change to the project area;
  - (g) if the original project area and the amended project area are not covered by the same regional natural resource management plan:
    - (i) the name and date of any natural resource management plan covering the amended project area; and
    - (ii) a statement about whether the part of the project that is conducted on the amended project area is consistent with that plan;
  - (h) if the applicant intends to make a request under subsection 92 (1) of the Act—a signed statement that the amended project area was or is wholly or partly covered by a prescribed non-CFI offsets scheme;
  - (i) if regulatory approval has been obtained for the project, including in relation to the amended project area:
    - (i) the name of the regulatory authority responsible for issuing the approval; and
    - (ii) a description of the nature of the approval; and
    - (iii) if requested by the Regulator, a certified copy of the approval;
  - (j) if regulatory approval has yet to be obtained for the project, including in relation to the amended project area—a statement about what the applicant has done or will do to obtain the approval;

- (k) any certification in relation to the amended project area required under paragraph 27 (4) (h) or (i) of the Act;
- (l) any consent in relation to the amended project area required under paragraph 27 (4) (k) of the Act;
- (m) a statement that all requirements mentioned in subsections 27 (4) to (11) of the Act that are relevant to the amended project area have been met;
- (n) a certified copy of the land title covering the amended project area, or the folio identifier for the title;
- (o) if the project is mentioned in subregulation (3)—a geospatial map of the amended project area in accordance with the CFI Mapping Guidelines;
- (p) if, as a result of the variation, subsection 57 (1) of the Act applies to the project—an estimate of how many Australian carbon credit units would have been issued under Part 2 of the Act in relation to any sequestration occurring on the relevant area between:
  - (i) the end of the last reporting period for the project; and
  - (ii) the time when the relevant area ceases to be part of the project area.

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

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

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

- (1) The Regulator may vary a section 27 declaration in relation to the project proponent for the project if the Regulator is satisfied that the new project proponent is:
  - (a) the project proponent within the meaning of the Act; and
  - (b) a recognised offsets entity.

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

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

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

## **Division 3.3      Revocation of declaration of eligible offsets project**

### **3.19      General**

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

### **3.20      Copies of revocation**

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

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

### **3.21      Application for voluntary revocation**

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

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### 3.22 Requirements for revocation application

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

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

### 3.23 Voluntary revocation—units issued

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

- (b) if the project is a non-Kyoto offsets project—the applicant must have voluntarily relinquished non-Kyoto Australian carbon credit units equalling the net total number of Australian carbon credit units issued in relation to the project.

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

### **3.24 Voluntary revocation—no units issued**

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

#### **3.24A Further information**

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

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

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

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



### 3.26 Unilateral revocation—eligibility requirements not met

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

### 3.26A Unilateral revocation—all other cases

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

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

### [25] Regulation 3.27

*insert*

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

### [26] Regulation 3.27

*insert*

***mixed solid waste***—see subregulation 3.28 (4).

**[27] Regulation 3.27**

*insert*

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

**[28] Paragraph 3.28 (1) (k)**

*omit*

1 July 2012.

*insert*

1 July 2012;

**[29] After paragraph 3.28 (1) (k)**

*insert*

(l) the reduction of methane emissions before 1 July 2012 by diverting mixed solid waste, which would otherwise have entered a landfill facility, to an alternative waste treatment facility.

**[30] Subregulation 3.28 (2), at the foot**

*insert*

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

**[31] Subregulation 3.28 (3), note**

*omit*

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**[32] After subregulation 3.28 (3)**

*insert*

*Meaning of mixed solid waste*

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

**[33] After regulation 3.28**

*insert*

**3.29 Additionality test—requirements under other laws**

- (1) For subsection 41 (4A) of the Act, the following kinds of requirements are specified:
- (a) a requirement to conduct an activity under a conservation covenant entered into with:
    - (i) the Commonwealth, a State, a Territory or a local governing body; or
    - (ii) an authority of the Commonwealth, a State or a Territory;

(b) on and after 1 July 2012, a requirement under a law of the Commonwealth, a State or a Territory to offset greenhouse gas emissions if the circumstances in subregulation (2) apply.

(2) For paragraph (1) (b), the circumstances are that a person incurs, or would incur, a liability under the *Clean Energy Act 2011* or any of its associated provisions in relation to the greenhouse gas emissions it offsets, or would offset, under the requirement.

(3) In this regulation:

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

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

**[34] After Division 3.6**

*insert*

**Division 3.9 Eligible interest in an area of land**

**3.30 Land transferable to an Aboriginal land council**

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

(2) If:

(a) under a law of the Commonwealth, a State or a Territory, an Aboriginal land council makes a claim for an area of land to become land rights land; and

(b) the Minister who administers the law makes a decision that the land become land rights land;

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

(3) In this regulation:

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

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

**[35] Paragraph 3.37 (8) (a)**

*omit*

water entitlement

*insert*

water access entitlement

**[36] Paragraph 3.37 (8) (b)**

*omit*

water entitlements

*insert*

water access entitlements

[37] **After Division 3.12**

*insert*

**Division 3.13 Restructure of eligible offsets projects**

**3.38 General**

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

**3.39 Adjusting the net total number of Australian carbon credit units**

*Determination*

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

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

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

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

---

*Adjusting for reporting periods for which ACCUs have not been claimed*

- (2) Subregulation (3) applies if, before the relevant area ceases to be part of the transferor offsets project, the project proponent for the transferor offsets project:
- (a) has given the Regulator an offsets report for a reporting period for the project; and
  - (b) has not applied to the Regulator for the issue of a certificate of entitlement for the project for the reporting period.

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

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

*Adjusting for incomplete reporting periods*

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

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

*Amending the determination*

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

- 
- (b) that covers the period mentioned in subregulation (4).

### **3.40 Adjusting crediting period—transferee offsets project**

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

### **3.41 Adjusting reporting period—transferee offsets project**

- (1) The reporting period during which an eligible offsets project becomes a transferee offsets project must not extend beyond the following times, whichever occurs first:
- (a) 5 years after the start time of the reporting period for the transferee offsets project;
  - (b) 5 years after the start time of the reporting period for the transferor offsets project.
- (2) In this regulation:
- start time*, in relation to the relevant reporting period for a transferor offsets project or a transferee offsets project, means:
- (a) the time at which a declaration under section 27 of the Act came into force for the project; or



- 
- (b) if at least one offsets report for the project has been given to the Regulator under section 76 of the Act—the time immediately after the end of the previous reporting period for the project.

**[38] Subregulation 4.1 (1), definition of *certified copy*, paragraph (a)**

*substitute*

- (a) a copy of a document that has been certified as a true copy by one of the following persons who is in Australia:
- (i) a bank, building society or credit union officer with 5 or more continuous years service;
  - (ii) a commissioner for declarations;
  - (iii) a judge of a court;
  - (iv) a justice of the peace;
  - (v) a legal practitioner;
  - (vi) a medical practitioner;
  - (vii) a minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*;
  - (viii) a police officer;
  - (ix) a sheriff or a sheriff's officer; and

**[39] Subregulation 4.1 (1), definition of *certified copy*, subparagraph (b) (ii) and note**

*substitute*

- (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 at [www.hcch.net](http://www.hcch.net).

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

**[40] Paragraphs 4.3 (1) (a) and (b)**

*omit*

previously submitted

*insert*

provided

**[41] Paragraph 4.3 (2) (b)**

*omit*

submitted, or is submitting,

*insert*

provided, or is providing,

**[42] Paragraph 4.4 (1) (a)**

*omit*

submit

*insert*

provide

**[43] Subregulation 4.4 (3), definition of *authorised translation service***

*omit*

Interpreters.

*insert*

Interpreters Ltd.

**[44] Subregulation 4.5 (1), after item 8**

*insert*

- 8A For a body corporate that is an Aboriginal and Torres Strait Islander corporation within the meaning of section 16-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*—the body's Indigenous Corporation Number within the meaning of section 700-1 of that Act.

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**[45] Subregulation 4.7 (4), definitions of *Aboriginal person* and *Torres Strait Islander***

*omit*

**[46] After Part 4**

*insert*

## **Part 5 Crediting periods**

### **5.1 First crediting period**

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

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

### **5.2 Subsequent crediting period**

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

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

## **Part 6 Reporting and notification requirements**

### **Division 6.1 Offsets reports**

#### **6.1 Manner and form of offsets reports**

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

## 6.2 Information for offsets reports—general

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

- (a) the unique project identifier of the eligible offsets project;
- (b) the name of the applicable methodology determination;
- (c) if a report has been submitted previously for the project—the date the most recent report was submitted;
- (d) the name and contact details of:
  - (i) the project proponent; or
  - (ii) if there are multiple project proponents—the proponents' nominee;
- (e) as required by the applicable methodology determination, all of the calculations used to determine:
  - (i) for emissions avoidance projects and sequestration projects other than native forest protection projects—the carbon dioxide equivalent net abatement amount for the project; or
  - (ii) for native forest protection projects—the carbon dioxide equivalent net sequestration amount for the project;
- (f) whether the project has been implemented in accordance with the applicable methodology determination;
- (g) whether an application for a certificate of entitlement for the project has been, or is being, submitted under section 12 of the Act for the same reporting period;
- (h) if a project area for the project is covered by a regional natural resource management plan—whether the project is consistent with the plan;
- (i) the day on which the next reporting period for the project is to end;
- (j) any information required to be submitted in the report for the project under the applicable methodology determination;
- (k) whether the project proponent, under subsection 76 (8) of the Act, is setting out more than one offsets report in the same document;

- 
- (l) whether the project is, or has been, wholly or partly covered by a prescribed non-CFI offsets scheme;
  - (m) a signed declaration by the project proponent that the information contained in and accompanying the offsets report meets the requirements under this regulation and is accurate.

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

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

#### *Information*

- (3) The offsets report must set out the total number of tonnes of carbon dioxide equivalent net abatement generated by the project during the reporting period, for which either or both of the following apply:
  - (a) carbon offsets credits have been issued or registered for the abatement under the prescribed non-CFI offsets scheme;
  - (b) the abatement has been accounted for under the prescribed non-CFI offsets scheme.
- (4) If the project is a sequestration offsets project, the offsets report must also set out the total number of tonnes of carbon dioxide equivalent net abatement:
  - (a) generated by the project for the period:
    - (i) beginning when the project begins; and
    - (ii) ending when the reporting period ends; and
  - (b) for which either or both of the following apply:
    - (i) carbon offsets credits have been issued or registered for the abatement under the prescribed non-CFI offsets scheme;

- (ii) the abatement has been accounted for under the prescribed non-CFI offsets scheme.
- (5) If the project is a sequestration offsets project other than a native forest protection project, the offsets report must also include the following information:
  - (a) the number of Australian carbon credit units (if any) that have been issued for the project under section 11 of the Act;
  - (b) the number of Australian carbon credit units that would have been issued for the project under section 11 of the Act, from the beginning of the project until the beginning of the reporting period, if the project had been, from its beginning, an eligible offsets project wholly covered by a methodology determination made under the Act.

#### **6.4 Documentation for offsets reports**

- (1) This regulation is made for paragraph 76 (4) (d) of the Act.
- (2) An offsets report must be accompanied by any documentation that is required to be submitted with the report under the applicable methodology determination.
- (3) If a project is, or has been, covered wholly or partly by a prescribed non-CFI offsets scheme, the offsets report must also be accompanied by:
  - (a) any document the project proponent has, or had been given, relating to credits issued or registered under the scheme, or abatement accounted for under the scheme; and
  - (b) the documentary evidence mentioned in subregulation (4).
- (4) For paragraph (3) (b), the project proponent must give written authorisation that information in relation to the matters in subregulation (5) may be sought from:
  - (a) the administrator of the prescribed non-CFI scheme; or
  - (b) if the scheme is no longer in operation and it was a scheme which had Commonwealth, State or Territory government agency oversight—that agency.

- 
- (5) For subregulation (4), the matters are:
- (a) the carbon dioxide equivalent net abatement amount generated by the project under the prescribed non-CFI scheme; and
  - (b) if carbon offsets credits have been issued or registered for abatement under the scheme—details of the circumstances in which the carbon offsets credits were issued or registered; and
  - (c) if abatement was accounted for under the scheme—details of the circumstances in which the abatement was accounted for.

## **Division 6.2 Notification requirement**

### **6.10 Notification requirement—significant reversal**

#### *Natural disturbances*

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

#### *Reversal due to conduct*

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

### **6.11 Notification requirement**

- (1) This regulation is made for subsection 85 (2) of the Act.

- (2) If the project proponent discovers an error in an offsets report submitted to the Regulator, the project proponent must give the Regulator written notice of the error within 90 days of the discovery.
- (3) If:
  - (a) the project proponent commits a deliberate act that causes, or is likely to cause, a reversal of the removal of carbon dioxide from the atmosphere; and
  - (b) the reversal occurred on the smaller of the following areas:
    - (i) an area that is at least 5% of the project area or combined project areas;
    - (ii) an area that is at least 50 hectares of the project area or areas;

the project proponent must give the Regulator written notice of the act within 90 days of committing the act.
- (4) The recognised offsets entity must notify the Regulator, in the approved form, of any change to the following:
  - (a) the recognised offsets entity's name, business name or trading name;
  - (b) the recognised offsets entity's contact details;
  - (c) a criterion for recognition mentioned in subsection 64 (3) of the Act.
- (5) A change mentioned in subregulation (4) must be notified within 28 business days of the change occurring.



---

**[47] Before regulation 7.1**

*insert*

**7.1A Requirement to relinquish—significant reversal**

*Reversal other than from natural disturbance or conduct*

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

*Natural disturbance or conduct*

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

**[48] After regulation 9.1**

*insert*

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

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

*Note* The *Guidelines for Submitting Methodologies* is available from the Department's website at [www.climatechange.gov.au](http://www.climatechange.gov.au).

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

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

- 
- (d) a statement by the applicant that the project meets the requirements of the methodology determination mentioned in paragraph (b).

**[49] After Part 10**

*insert*

## **Part 11 Australian carbon credit units**

### **11.1 Transmission of Australian carbon credit units by operation of law**

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

*Example*

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

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

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

**11.5 Exchange of Kyoto Australian carbon credit units—conditions**

- (1) The conditions to be satisfied for paragraph 157 (1) (d) of the Act are the following:
  - (a) for the exchange of a Kyoto Australian carbon credit unit for an assigned amount unit—the assigned amount unit:
    - (i) must have been issued to the Commonwealth for the first commitment period under the Kyoto rules (the *first commitment period*); and
    - (ii) must be available for exchange in the relevant Commonwealth holding account;
  - (b) for the exchange of a Kyoto Australian carbon credit unit for a removal unit:
    - (i) the Kyoto Australian carbon credit unit must have been issued in relation to a sequestration offsets project; and
    - (ii) the removal unit must have been issued to the Commonwealth for the first commitment period; and
    - (iii) the removal unit must be available for exchange in the relevant Commonwealth holding account;
  - (c) for the exchange of a Kyoto Australian carbon credit unit for an emission reduction unit:
    - (i) the unit must have been issued in relation to a joint implementation project that is:
      - (A) approved by the National Authority; and
      - (B) conducted in Australia in accordance with the Kyoto rules; and
    - (ii) the person must tell the Regulator the ITL project ID for the project; and
    - (iii) for an emissions avoidance project—the emission reduction unit must have been converted from an assigned amount unit in accordance with regulation 38 of the Registry Regulations; and
    - (iv) for a sequestration offsets project—the emission reduction unit must have been converted from a removal unit in accordance with regulation 38 of the Registry Regulations.

(2) In this regulation:

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

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

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

#### **11.6 Exchange of Kyoto Australian carbon credit units—required steps**

- (1) The steps that the Regulator must take for subsection 157 (2) of the Act are the following:
- (a) for the exchange of a Kyoto Australian carbon credit unit for an assigned amount unit or a removal unit:
    - (i) cancel the Kyoto Australian carbon credit unit; and
    - (ii) remove the entry for the Kyoto Australian carbon credit unit from the Registry account; and
    - (iii) transfer the assigned amount unit or removal unit from the relevant Commonwealth holding account to the Registry account;
  - (b) for the exchange of the Kyoto Australian carbon credit unit for an emission reduction unit:
    - (i) for an emissions avoidance project—convert an assigned amount unit to an emission reduction unit as required by subparagraph 11.5 (1) (c) (iii); and
    - (ii) for a sequestration offsets project—convert a removal unit to an emission reduction unit as required by subparagraph 11.5 (1) (c) (iv); and
    - (iii) cancel the Kyoto Australian carbon credit unit; and
    - (iv) remove the entry for the Kyoto Australian carbon credit unit from the Registry account; and
    - (v) transfer the emission reduction unit from the relevant Commonwealth holding account to the Registry account.

---

## Part 15 Relinquishment of Australian carbon credit units

### 15.4 Market value of Kyoto Australian carbon credit units

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

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

- (2) In this regulation:

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

## Part 17 Record-keeping and project monitoring requirements

### 17.1 Record-keeping requirements—general

- (1) For subsection 191 (1) of the Act, if a project proponent is required to make a record of information specified in subregulation (2), the proponent must retain:
- (a) the record; or

(b) a copy of the record;  
for 7 years after the making of the record.

(2) The following information is specified:

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

including information about rights that vary from time to time;

*Examples of information*

- 1 Information concerning legal ownership of the project area.
- 2 Information about contractual rights to carry out the project in the project area.
- (d) information in relation to any decision made by the proponent in relation to the proponent's obligations under the Act or these Regulations, including the reasons for the decision;
- (e) information about any variations to the project;
- (f) information about regulatory approvals obtained in relation to the project;
- (g) offset reports and CFI audit reports (if any);
- (h) information about any uncertainties associated with data used to determine abatement, including information and procedures used to derive uncertainty estimates (if any);
- (i) information about any assumptions made in abatement calculations and the procedures used to derive the assumptions;
- (j) information about any event that is reasonably likely to significantly increase or decrease abatement;
- (k) if the proponent is not an individual—information about the following:
  - (i) the proponent's organisational structure, and any changes it undergoes;

- (ii) the individuals with decision-making authority within the organisation, and any change of those individuals;
- (l) information about all procedures used to collect, document and process data used in determining abatement for the project;
- (m) information about any abatement for which carbon offset credits have been issued or registered under the following kinds of scheme, and the circumstances in which that was done:
  - (i) a prescribed non-CFI offsets scheme; or
  - (ii) a non-CFI scheme;
- (n) if carbon offset credits were not issued for abatement mentioned in paragraph (m)—information about the circumstances in which the abatement was accounted for.

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

- (3) In this regulation:

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

## **17.2 Record-keeping requirements—preparation of offsets report**

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



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## Part 18 Monitoring powers

### 18.1 Identity cards

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

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

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

## Part 19 Audits

### 19.1 Compliance audits—requirements for reimbursement

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

**[50] Part 13, heading**

*substitute*

**Part 26 Domestic Offsets Integrity  
Committee**

**[51] Regulations 13.1 to 13.5**

*renumber as regulations 26.1 to 26.5*

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.comlaw.gov.au](http://www.comlaw.gov.au).