

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 223

Issued by the Authority of the Parliamentary Secretary for Climate Change, Innovation and Industry

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and Other Measures) Regulation 2013

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act), together with the *Australian National Registry of Emissions Units Act 2011* and the *Carbon Credits (Consequential Amendments) Act 2011*, implements the Carbon Farming Initiative (the CFI). The CFI is a voluntary scheme that aims to provide incentives for the agricultural, forestry and landfill sectors to minimise greenhouse gas emissions or maximise carbon storage by altering their agricultural, forestry and landfill practices.

Section 307 of the CFI Act provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the CFI Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the CFI Act. The sections of the CFI Act that require or permit the relevant regulations to be made are set out in [Attachment A](#).

The *Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and Other Measures) Regulation 2013* (the Regulation) amends the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Principal Regulations) to further support the implementation and administration of the CFI Act. Background information about the CFI Act and the Regulation is set out in [Attachment B](#).

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required.

A statement of the Regulation's compatibility with human rights is set out in [Attachment C](#).

Details of the Regulation are set out in [Attachment D](#).

Consultation

The CFI Act, the Principal Regulations and the Regulation reflect the outcomes of comprehensive consultation with stakeholders that has been ongoing since October 2010.

An exposure draft of the Regulation was released for public comment on 12 June 2013. Eight submissions were received from industry organisations, businesses, government entities and other stakeholders.

After consideration of the submissions received, refinements were made to some of the positive list activities contained within the Regulation and to the list of Kyoto offsets projects, consistent with the results of consultation. Some minor technical amendments were also made to other provisions of the Regulation consistent with the results of ongoing consultation. Changes were also made to the explanatory statement to more clearly explain key regulations.

The Domestic Offsets Integrity Committee (DOIC) has provided advice to the Minister that it is satisfied that the positive list activities introduced through this Regulation are suitable for inclusion on the positive list because they are not common practice and meet the requirements of section 41(3) of the CFI Act.

Authority: Section 307 of the *Carbon Credits
(Carbon Farming Initiative) Act 2011*

Glossary

The following terms, abbreviations and acronyms are used throughout this explanatory statement.

<i>Abbreviation</i>	<i>Definition</i>
ACCU	Australian carbon credit unit
CFI	Carbon Farming Initiative
CFI Act	<i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>
Kyoto ACCU	A type of ACCU, defined in section 5 of the CFI Act
non-Kyoto ACCU	An ACCU other than a Kyoto ACCU
positive list	The list of activities eligible under the CFI, as prescribed in regulation 3.28 of the Principal Regulations
Principal Regulations	<i>Carbon Credits (Carbon Farming Initiative) Regulations 2011</i> , as amended
Regulation	<i>Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and Other Measures) Regulation 2013</i>
Regulator	Clean Energy Regulator

Sections of the CFI Act supporting the Regulation

The Regulation is supported by the following provisions of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the CFI Act):

- section 5, which allows the regulations to specify a date later than 30 June 2012 as the ‘Kyoto abatement deadline’;
- paragraph 41(1)(a), which allows the regulations to specify kinds of projects that pass part of the additionality test;
- paragraph 55(1)(c), which allows the regulations to specify a kind of offsets project that is a Kyoto offsets project;
- subsection 304(1), which allows the regulations to make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an instrument or writing as in force or existing at a particular time or from time to time;
- section 305, which allows the regulations to make provision in relation to a matter by conferring a power to make a decision of an administrative character on the Regulator; and
- section 307, which allows the Governor-General to make regulations prescribing matters required or permitted by the CFI Act and matters necessary or convenient to be prescribed for carrying out or giving effect to the CFI Act.

Background information

The Carbon Farming Initiative (CFI) enables crediting of greenhouse gas abatement in the land sector. Greenhouse gas abatement is achieved by:

- reducing or avoiding emissions, for example, through capture and destruction of methane emissions from landfill or livestock manure; or
- removing carbon from the atmosphere and storing it in soil or trees, for example, by growing a forest or adding biochar to soil.

Australian carbon credit units (ACCUs) are issued in respect of abatement generated by these activities. ACCUs can be sold into a variety of domestic markets. All units from Kyoto offsets projects are eligible for surrender under the carbon pricing mechanism. All Kyoto and non-Kyoto ACCUs can also be sold into voluntary markets, for example to businesses or individuals wishing to offset their greenhouse gas emissions.

Abatement activities are undertaken as eligible offsets projects. The processes involved in establishing and operating an eligible offsets project are set out in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act), and include the following requirements:

- the project proponent must satisfy the fit and proper person test and become recognised as an offsets entity;
- the project must be for an activity on the positive list and must be covered by a methodology determination;
- the project must be declared by the Clean Energy Regulator (Regulator) to be an eligible offsets project for the purposes of the CFI Act. The Regulator must not declare that the offsets project is an eligible offsets project unless the Regulator is satisfied that the project meets the criteria specified in subsection 27(4) of the CFI Act;
- the project must be undertaken in accordance with the applicable methodology determination; and
- reports on the conduct of the project must be independently audited and submitted to the Regulator at least every five years and not more than annually.

The Principal Regulations include provisions to deal with:

- the declaration of an eligible offsets project, including the process for applying for declaration as an eligible offsets project, and the variation, revocation and restructure of an eligible offsets project;

- auditing, reporting, notification and record-keeping requirements;
- the processes for applying for an ACCU, including the calculation of unit entitlement;
- the activities that are included in, and excluded from, the CFI (the ‘positive’ and ‘negative’ lists);
- ascertaining who holds an ‘eligible interest’ in an area of land;
- classification of projects;
- the recognition of offsets entities;
- crediting periods;
- the relinquishment of ACCUs;
- the processes for applying for the endorsement of a methodology proposal, the variation of a methodology determination and the application of a varied methodology determination to a project;
- the conditions and processes for the exchange of Kyoto ACCUs for Kyoto units;
- the conditions under which information on the co-benefits of a project may be published on the Register of Offsets Projects; and
- procedures of the Domestic Offsets Integrity Committee.

This Regulation amends the Principal Regulations by inserting or amending provisions that deal with:

- when a project may generate Kyoto ACCUs;
- the types of projects that are Kyoto offsets projects; and
- the activities that are included in the CFI (the ‘positive’ list).

Statement of Compatibility with Human Rights

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

Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and Other Measures) Regulation 2013

The *Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and other Measures) Regulation 2013* (the Regulation) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Regulation amends the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Principal Regulations) by inserting or amending provisions dealing with:

- when a project may generate Kyoto ACCUs;
- the types of projects that are Kyoto offsets projects; and
- the activities that are included in the CFI (the ‘positive’ list).

Human rights implications

The Regulation engages Article 17(1) of the International Covenant on Civil and Political Rights (ICCPR). Article 17(1) of the ICCPR provides for the right of every individual to be protected against arbitrary or unlawful interference with the individual’s privacy. The term ‘privacy’ has not been defined by international human rights law but it is generally accepted that it encompasses ‘information privacy’—the right to privacy of information about a particular individual. An interference with an individual’s privacy will not be considered ‘unlawful’ if it is authorised by a law that complies with the provisions, aims and objective of the ICCPR and specifies in detail the precise circumstances in which such interferences may be permitted. An interference with an individual’s privacy will not be considered ‘arbitrary’ if it is reasonable in the particular circumstances and the law is in accordance with the provisions, aims and objectives of the ICCPR.¹

The Regulation engages the right to privacy because the Regulation expands the scope of project proponents who are required to keep particular records and provide the Regulator with specified information about the conduct of an eligible offsets project. It is essential to the integrity of the CFI that a project proponent keeps records and provides reports about an eligible offsets project so that the Regulator is able to verify claims made by the proponent about the success of the project.

¹ Human Rights Committee, General Comment 16: The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17)

These requirements are reasonable and the Regulation is therefore not ‘arbitrary’ within the meaning of Article 17(1) of the ICCPR.

Furthermore, the Regulation does not authorise an unlawful interference with an individual’s privacy because the Regulation adequately specifies the circumstances in which information may be collected or published. Moreover, the Regulator is required to handle all personal information in accordance with the Privacy Act 1988 and is bound by the secrecy provisions in the *Clean Energy Regulator Act 2011*. The Regulation is therefore compatible with Article 17(1) of the ICCPR because it does not unlawfully or arbitrarily interfere with an individual’s privacy.

Conclusion

The Regulation is compatible with human rights because it does not limit any human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

YVETTE D’ATH
Parliamentary Secretary for Climate Change, Innovation and Industry

Details of the Regulation

Section 1 Name of regulation

1. Section 1 provides that the name of the Regulation is the *Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and Other Measures) Regulation 2013*.

Section 2 Commencement

2. Section 2 provides that the Regulation commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 Authority

3. Section 3 provides that the Regulation is made under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the CFI Act).

Section 4 Schedule(s)

4. Section 4 provides that the Regulation amends the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (the Principal Regulations) in the manner set out in Schedule 1.

Schedule 1 - Amendments

Item [1]: Subregulation 1.3(1) – Definition of ‘deforestation’

5. This item amends the definition of ‘deforestation’ for the purposes of abatement after 1 January 2013. Subregulation 1.3(1) is intended to ensure that the scope of avoided deforestation projects under the CFI is consistent with reporting of deforestation and related activity within Australia’s National Inventory Report and its Kyoto accounts, contained in that Report, for the purposes of compliance with Australia’s international obligations under the Kyoto Protocol.

6. For the first commitment period of the Kyoto Protocol, deforestation was limited to areas that had forest on 31 December 1989. As a result of the broadening of international guidance for the second commitment period of the Kyoto Protocol, the definition of deforestation within the CFI regulations has been updated to apply to all areas that meet the definition of forest either on, or after, 31 December 1989.

7. Therefore, for projects commencing after 1 January 2013 (the commencement of the second commitment period) CFI avoided deforestation projects will be able to occur on land that has forest, regardless of the date on which the forest grew.

Item [2]: Paragraph 1.5(a) – Kyoto abatement deadline

8. The Kyoto abatement deadline is intended to ensure that any accounting and subsequent crediting of activities under the CFI is consistent with Australia’s National Inventory Report and Kyoto accounts contained in this Report for the purposes of compliance with Australia’s international obligations under the Kyoto Protocol. The estimates for the National Inventory Report are for the most part calculated on a financial year basis, since most Australian data is available and thus collected on this basis.

9. The exception to this rule is estimates of emissions and removals from land use, land-use change and forestry activities, which are calculated on a calendar year basis. For this reason, the Kyoto abatement deadline for CFI land sector Kyoto offsets projects also aligns with the calendar year. CFI land sector Kyoto offsets projects are listed, for the purpose of paragraph 55(1)(c) of the CFI Act, in existing regulation 3.35 and new regulation 3.35A. Paragraphs 55(1)(a) and (b) specify other types of Kyoto offsets projects that are accounted for on a financial year basis.

10. Item [2] amends paragraph 1.5 to take into account new regulation 3.35A. This item ensures that the Kyoto abatement deadline for different activities is consistent with the calculation of Australia’s Kyoto accounts:

- for all CFI land sector Kyoto offsets projects (i.e. those activities mentioned in new regulation 3.35A – see item [13] below), the Kyoto abatement deadline is the end of the second Kyoto commitment period (31 December 2020);
- for all other abatement that is reflected in Australia’s Kyoto accounts for the first and second commitment periods, the Kyoto abatement deadline is 30 June 2020 (as per existing paragraph 1.5(b)).

11. The Kyoto abatement deadline for regulation 3.35 (those activities contained in Australia’s Kyoto accounts for the first commitment period only) is specified as 31 December 2012 (the end of the first commitment period of the Kyoto Protocol). However new regulation 3.35A effectively replaces regulation 3.35 from the start of the second commitment period of the Kyoto Protocol. For the second commitment period of the Kyoto Protocol, activities in existing regulation 3.35 are included in new regulation 3.35A (see items [12] and [13] below).

Item [3]: paragraph 1.13(1A)(a) – Projects exempt from audit report requirements

12. This item makes a technical amendment to subregulation 1.13(1A). The amendment ensures that, as originally intended, the exemption relates only to Greenhouse FriendlyTM waste diversion projects, not permanent plantings or forestry projects which by definition do not include any “diversion of waste” as specified in paragraph 1.13(1A)(b).

Items [4]-[7]: Regulation 3.27 – Definitions

Item [8]: Subparagraph 3.28(1)(c)(vi) – Specified offsets projects

13. These items insert new definitions into regulation 3.27 of the Principal Regulations and amend existing definitions.

14. The definitions of ‘hardwood’ and ‘new long rotation hardwood plantation’ are relevant to the positive list entry relating to increasing long rotation forestry (new regulation 3.28(1)(q), see paragraphs 33-39 below).
15. The definitions of ‘pyrolysis’, ‘gasification’ and ‘torrefaction’ are relevant to the positive list entry relating to pyrolysis of manure (new regulation 3.28(1)(r), see paragraphs 40-49 below).
16. The definition of ‘residual feed intake’ is relevant to the positive list entry relating to selective breeding for residual feed intake (new regulation 3.28(1)(s), see paragraphs 50-55 below).
17. The definition of ‘rangeland’ (item [6]) has been deleted and instead replaced with a new definition for ‘semi-arid rangeland’ (in item [7]). This gives effect to stakeholder feedback which suggested that the definition of ‘rangeland’ included in the Principal Regulation was too narrow and only covered a subset of the types of land that are commonly referred to as rangelands. The content of that previous definition has therefore been retained as a definition for ‘semi-arid rangeland’. This would allow for the possibility that other types of land that are also commonly referred to as rangelands to be included in the CFI in the future, under a different subcategory of rangelands.
18. In line with the amendments to the definitions of ‘rangeland’ and ‘semi-arid-rangeland’ above, item [8] amends the positive listing for human-induced regeneration activities on rangelands to refer to semi-arid rangelands instead.

Items [9] and [10]: Regulation 3.28 – Specified offsets projects

19. Paragraph 41(1)(a) of the CFI Act provides that an offsets project passes the first part of the additionality test if the project is of a kind specified in the regulations. The Regulator must not declare that an offsets project is an eligible offsets project unless the project passes the additionality test (paragraph 27(4)(d) of the CFI Act). The list of projects that have been specified for the purposes of paragraph 41(1)(a) of the CFI Act is known as the ‘positive list’. The following items amend existing activities on the positive list and insert additional activities.

Reduction of emissions from ruminants – expansion of existing positive list activity

20. Regulation 3.28(1)(i) of the Principal Regulations makes reducing emissions from ruminants by feeding them a range of possible supplements an eligible activity under the CFI. Under existing regulations, three different feed supplements are currently eligible to reduce livestock emissions.

21. Item [9] inserts two more feed supplementation activities that the Domestic Offsets Integrity Committee has advised are suitable for inclusion on the positive list. These are: feeding fats and/or oils to pasture grazed livestock and feeding nitrate supplements to any livestock. The government is also investigating other techniques to reduce livestock emissions that are not common practice and the assessment of these activities will continue over time.

Reduction of emissions from ruminants by feeding fats and oils to pasture grazed livestock

22. New subparagraph 3.28(1)(i)(iv) under item [9] provides for the inclusion of feeding fats and oils to pasture grazed livestock to reduce emissions as an eligible activity under the CFI.

23. During the drier seasons, pasture grasses in grazing systems can be depleted. This affects the amount of fats and oils available to livestock which in turn affects their ability to digest feed. The lack of fats and oils in livestock diet leads to increased methane production in the ruminant's digestive system.

24. The addition of fats and oils as a feed supplement can enhance the efficiency with which cattle convert feed to weight gain. This leads to a reduction in the release of methane from enteric fermentation per unit of production.

25. Fats and oils are expected to reduce methane emissions irrespective of the specific type of fats and oils used. Fats and oils might include canola oil, cold pressed canola, hominy meal, dried distiller grain, brewers' grains, cotton seed oil and meal, sunflower oil, soya oil, linseed oil, and coconut oil.

26. The activity is only eligible where livestock are exclusively pasture grazed. This occurs where livestock are held in paddocks all-year round. Livestock are exclusively pasture fed even where there is occasional supplementary feeding of hay or grain in the paddock, for example during times of drought. Livestock are not exclusively pasture fed if they are held in feedlots or other circumstances where they receive supplementary feeding on a routine basis.

Reduction of emissions from ruminants by feeding nitrate supplements

27. New subparagraph 3.28(1)(i)(v) under item [9] provides for the inclusion of feeding nitrates to livestock to reduce their emissions as an eligible activity under the CFI.

28. Feeding nitrate supplements to livestock has been found to reduce methane emissions from beef and dairy cattle, and sheep.

29. Nitrates are mineral based supplements and when used as feed supplements for livestock can be calcium, potassium, or ammonium based. Nitrate supplements allow some microbes in the rumen to outcompete methane-forming microbes which leads less methane production.

30. Nitrate supplements can replace the feeding of urea, which promotes methane-forming microbes. Urea is typically fed to livestock when there is poor quality pasture, for example during the dry season. Urea impacts on rumen microbes to allow feed to be more easily digested and more feed to be eaten.

31. Urea is an important supplement in northern Australia as it aids the digestion of grazing cattle of these dry grasses (essentially dry matter). Urea is commonly fed to free range cattle due to the lack of nutritional value of grasses during the dry seasons. For this reason, this activity does not include feeding urea to livestock.

32. When first introduced into an animal's diet, or when introduced in large quantities, nitrate supplements have the potential to be toxic. However, studies have shown that slow introduction over an adaptation period overcomes the risk of toxicity to the animal. Urea also has the potential to be toxic and potential health effects have been addressed by feeding urea in a lick block, which reduces the amount that livestock can consume. Nitrates can be fed in the same way. Any methodology for

this activity would need to ensure that the project is carried out in such a way as to ensure any adverse impact to livestock is properly managed.

Increasing long rotation hardwood plantations

33. New paragraph 3.28(1)(q) under item [10] provides for the inclusion of an increase in long-rotation hardwood forestry through the establishment of new long rotation hardwood forestry plantations after 1 July 2010 as an eligible activity under the CFI.

34. Over multiple harvest rotations, long-rotation hardwood plantations sequester more carbon than short-rotation plantations. A ‘long rotation’ involves a harvest cycle of at least 25 years.

35. Hardwood plantations are established as both long and short rotation plantations and comprise any of the generally broadleaved flowering trees (angiosperms), including *Eucalyptus* species. Short rotation plantations are usually established to produce pulp for paper products, whilst long rotation plantations generally produce timber products including veneer, plywood or sawn timber.

36. Including this on the positive list will provide an incentive for forestry enterprises to increase the amount of long-rotation hardwood plantations relative to the amount that would have been established in the normal course of business.

37. The activity is only eligible on land not previously used for long rotation forestry and so does not include the re-establishment of an existing long rotation plantation after harvest. The activity also does not include simply swapping the locations of long and short rotation plantations following harvest as this would not achieve an increase in the total area of long rotation plantations.

38. Farm forestry is already on the positive list and is not included as part of this activity. Establishing softwood long-rotation plantations is not covered by this activity.

39. Consistent with the negative list, a long rotation hardwood forestry plantation cannot be or have been established under a forestry managed investment scheme for Division 394 of Part 3–45 of the *Income Tax Assessment Act 1997* (existing subregulation 3.36(c)). The negative list also specifies that projects cannot be established on land that has been cleared of native forest within the past seven years, or five years if ownership of the property has changed hands (existing subregulation 3.36(f)). Where projects will occur in areas of more than 600mm rainfall, they must be undertaken in accordance with the specified tree planting provisions described in the negative list.

Torrefaction, pyrolysis or gasification of livestock manure

40. New paragraph 3.28(1)(r) under item [10] provides for the inclusion of the pyrolysis, gasification or torrefaction of manure as an eligible activity under the CFI.

41. Methane or nitrous oxide emissions are produced from the biodegradation of manure. The quantity of these gases released is related to the availability of oxygen and variations in microbial activity. While both gases are created under either anaerobic or aerobic decomposition, anaerobic conditions (such as manure ponds) increase the amount of methane released while aerobic conditions

(such as windrows) increase the amount of nitrous oxide released. Similarly, the release of methane and nitrous oxide occurs when manure is stockpiled, or stockpiled and then applied to soils.

42. When manure is subject to pyrolysis, gasification or torrefaction, the processes of decomposition are largely immobilised and thus emissions are avoided. Biochar also has the potential to increase crop yields and provide other benefits. It is worth noting that the application of biochar to soil is already listed a separate activity on the positive list.

43. This abatement activity is the pyrolysis, gasification or torrefaction of manure to avoid greenhouse gas emissions.

44. Torrefaction is a form of pyrolysis undertaken at temperatures lower than those typical of pyrolysis and at near-ambient pressure.

45. Pyrolysis involves the thermal decomposition of organic feed stocks, such as manure, within an oxygen depleted environment. The outputs from the pyrolysis process are a 'producer gas' and tar, which can both be used as combustible energy sources, along with charcoal. This charcoal can be used as a highly stable, carbon rich soil amendment called biochar, or as a solid fuel for combustion, known as bio-coal.

46. The key difference between pyrolysis, gasification and combustion is the level of oxygen or oxidising agent introduced into the process. For the definition of pyrolysis, "in the absence of oxygen" means that the oxygen level in the environment in which pyrolysis occurs must be reduced as close to zero as practically possible.

47. Gasification occurs when levels of oxygen are sufficient to allow for some combustion but insufficient for complete combustion. Processes designed for combustion introduce an abundance of oxygen to promote complete combustion with the intention of generating heat and light as the main products. Pyrolysis and gasification aim to maximise production of material products (gas, liquid and solids) rather than heat and light.

48. For clarity, gasification does not include processes intended to obtain complete or near complete combustion of the feedstocks.

49. This activity can be undertaken at any location other than at a landfill, wastewater treatment or waste incineration facility. These facilities are covered under the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* and may be liable under the carbon pricing mechanism. The CFI does not cover sequestration and reductions in emissions from sources that are covered by the carbon pricing mechanism.

Selective breeding for improved residual feed intake

50. New paragraph 3.28(1)(s) under item [10] provides for the use of selective breeding for improved residual feed intake as an eligible activity under the CFI.

51. Breeding for productivity has been a key objective of traditional livestock improvement. However, increased productivity is usually linked to increased feed intake and results in higher emissions if feed quality remains constant.

52. This activity is for the improvement of the efficiency of feed utilisation by livestock, using residual feed intake (RFI) as a measure for genetic selection. RFI is the measure of how efficiently an animal utilizes its feed and is the difference between an animal's actual feed intake and its expected feed intake (i.e. baseline feed intake) based on size and growth of the animal over a specified period of time.

53. Animals that are more efficient have lower (more negative) RFI values meaning the animals consume less feed for the same body weight gain and level of production compared to other livestock.

54. Research has shown that lower methane emissions result from selective breeding of livestock for improved RFI. This is because a greater proportion of energy from feed consumed is directed towards putting on weight or producing milk in livestock with a lower RFI and a lower proportion of feed is used to produce energy for general body maintenance.

55. This activity does not include the traditional on-farm practice of visually selecting livestock for ongoing breeding on the basis of size, body proportions or weight gain, because this kind of selective breeding is common practice.

Items [11]-[13]: Regulations 3.35 and 3.35A – Kyoto offsets projects

56. These items amend regulation 3.35 of the Principal Regulations to specify kinds of projects that are Kyoto offsets projects, and may therefore be eligible to generate Kyoto ACCUs.

57. Paragraph 55(1)(c) of the CFI Act provides that an offsets project is a Kyoto offsets project if it is of a kind specified in the regulations. Existing regulation 3.35 already specifies certain kinds of project for this purpose.

58. Kyoto offsets projects under the CFI receive credits that are eligible for surrender under the carbon pricing mechanism. As such, these are expected to trade at a higher market value than credits issued to non-Kyoto offsets projects.

59. Whether or not a project is a Kyoto offsets project is defined by section 55 of the CFI Act and existing regulation 3.35. In essence, a project is a Kyoto offsets project if the abatement generated by the project can be used to meet Australia's climate change targets under the Kyoto Protocol or a successor international agreement.

60. Regulation 3.35 has been drafted to reflect activities included in Australia's Kyoto accounts for the first commitment period of the Kyoto Protocol. For most activities, the first commitment period ran until 30 June 2012. However, for land sector Kyoto offsets projects, specified in existing regulation 3.35, the commitment period ran until 31 December 2012. This reflects a difference in how different activities are captured in Australia's Kyoto accounts (see also item [2] above).

61. For the second commitment period of the Kyoto Protocol, the Australian Government has made the decision to include additional land sector activities in its Kyoto accounts. These additional activities are grazing land management, cropland management and revegetation. Amendments to the

Kyoto Protocol rules mean that Australia must also account for forest management activities in its Kyoto accounts for the second commitment period of the Kyoto Protocol.

62. New regulation 3.35A, under item [13], provides that all land sector activities that were covered by Australia's Kyoto accounts for the first commitment period of the Kyoto Protocol, plus the additional activities of grazing land management, cropland management, revegetation and forest management, will be recognised as CFI Kyoto offsets projects for the second commitment period of the Kyoto Protocol.

63. In practice, the inclusion of these new activities as Kyoto offsets projects means that CFI credits generated from activities such as enhancing soil carbon, applying biochar to agricultural soils and restoring Australia's rangelands will now be eligible offsets under the carbon pricing mechanism and can be sold to businesses that must pay for, or offset, their emissions.

64. These additional activities will be eligible to receive Kyoto ACCUs for abatement from 1 January 2013, that is from the start of the second commitment period of the Kyoto Protocol. New regulation 3.35A therefore replaces existing regulation 3.35 for the second commitment period of the Kyoto Protocol. Existing regulation 3.35 continues to apply to land sector Kyoto offsets projects for abatement up to 31 December 2012.

65. It is expected that there will be few potential project types under the CFI that will not be included in Australia's Kyoto accounts for the second commitment period of the Kyoto Protocol. Examples of these non-Kyoto project types could include the reduction of methane emissions from the management of feral animals.