



Australian Government



**NATIONAL
ARCHIVES
OF AUSTRALIA**

Records Authority

2015/00366284

Clean Energy Regulator

*Compliance, Investigation & Enforcement;
Scheme Regulation and Management*

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2016



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INTRODUCTION

The Clean Energy Regulator and the National Archives of Australia have developed this records authority to set out the requirements for keeping or destroying records for the core businesses of Compliance, Investigation & Enforcement; and Scheme Regulation and Management. It represents a significant commitment on behalf of the Clean Energy Regulator to understand, create and manage the records of its activities.

This records authority is based on the identification and analysis of the business of the Clean Energy Regulator. It takes into account the agency's legal and organisational records management requirements, and the interests of stakeholders, the agency and the National Archives.

The records authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. This records authority gives the Clean Energy Regulator permission under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired. Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are approved by the National Archives on the basis of information provided by the agency.

As changes in circumstances may affect future records management requirements, the periodic review of this records authority is recommended. All amendments must be approved by the National Archives.

APPLICATION OF THIS AUTHORITY

1. This records authority supersedes class 61455 in the core business of Climate Change Regulatory Administration in Records Authority 2013/00292349. The superseded class cannot be used after the date of issue of this records authority.
2. This records authority is to be used to determine how long records must be kept. Records are matched to the relevant core business and records class in the authority.
 - Where the minimum retention period has expired and the records are not needed for agency business they should be destroyed as authorised in this Authority.
 - Records that have not reached the minimum retention period must be kept until they do.
 - Records that are identified as 'retain as national archives' are to be transferred to the National Archives for preservation.
3. This records authority should be used in conjunction with general records authorities such as:
 - AFDA Express which covers administrative business processes and records common to many Australian Government agencies;
 - Governing Bodies General Records Authority 27;
 - General Records Authority 31 for source or original records after digitisation, conversion or migration.
4. The normal administrative practice (NAP) provision of the *Archives Act 1983* gives agencies permission to destroy certain records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in this records authority but can be used as a tool to assist in identifying records for destruction together with an agency's records authority or authorities, and with AFDA and AFDA Express. The National Archives recommends that agencies develop and implement a Normal Administrative Practice policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop an agency NAP policy is available from the National Archives' website at www.naa.gov.au.
5. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom of Information Act 1982* or any other relevant Act must not be destroyed until the action has been completed.
6. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. Further information about disposal freezes and whether they affect the application of this records authority is available from the National Archives website at www.naa.gov.au.
7. Where the method of recording information changes (for example from a manual system to an electronic system, or when information is migrated from one system to a new system) this records authority can still be applied, providing the records document the same core business. The information must be accessible for the period of time prescribed in this records authority. The agency will need to maintain continuing

access to the information, including digital information, for the periods prescribed in this records authority or until the information is transferred into the custody of the National Archives.

8. In general, retention requirements indicate a minimum period for retention. The Clean Energy Regulator may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where the Clean Energy Regulator believes that its accountability will be substantially compromised because a retention period or periods are not adequate, it should contact the National Archives for review of the retention period.
9. Records coming within 'retain as national archives' classes in this records authority have been determined to be part of the archival resources of the Commonwealth under Section 3C of the *Archives Act 1983*. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the National Archives when they cease to be current and, in any event, within 15 years of the records coming into existence, under Section 27 of the *Archives Act 1983*.
10. Records in the care of agencies should be appropriately stored, managed and preserved. Agencies need to meet this obligation to ensure that the records remain authentic and accessible over time. Under Section 31 of the *Archives Act 1983*, access arrangements are required for records that become available for public access including those records that remain in agency custody.
11. Appropriate arrangements should be made with the National Archives when records are to be transferred into custody. The National Archives accepts for transfer only those records designated as national archives.
12. Advice on how to use this records authority is available from the Clean Energy Regulator's records manager. If there are problems with the application of the records authority that cannot be resolved, please contact the National Archives.

CONTACT INFORMATION

For assistance with this authority or for advice on other records management matters, please contact the National Archives' Agency Service Centre.

Queen Victoria Terrace

Parkes ACT 2600

PO Box 7425

Canberra Business Centre ACT 2610

Tel: (02) 6212 3610

Fax: (02) 6212 3989

Email: recordkeeping@naa.gov.au

Website: www.naa.gov.au

AUTHORISATION

RECORDS AUTHORITY 2015/00366284

Person to whom notice of authorisation is given:

Ms Chloe Munro
Chief Executive Officer
Clean Energy Regulator
5 Farrell Place
Canberra ACT 2601

Purpose:

Authorises arrangements for the disposal of records in accordance with Section 24(2)(b) of the *Archives Act 1983*.

Determines records classed as 'retain as national archives' in this Records Authority to be part of the archival resources of the Commonwealth under Section 3C of the *Archives Act 1983*.

Application:

All core business records relating to Compliance, Investigation & Enforcement; and Scheme Regulation and Management.

This authority gives permission for the destruction, retention or transfer to the National Archives of Australia of the records described. This authority will apply only with the consent of the agency currently responsible for the business documented in the records described.

Authorised by

Christine Johnston
Assistant Director-General A/g
National Archives of Australia

Date of issue:

5 February 2016

COMPLIANCE, INVESTIGATION & ENFORCEMENT

The core business of monitoring and taking action to promote compliance with statutory obligations under legislation, regulations and standards administered by the agency. Includes carrying out investigations and managing enforcement actions in accordance with the regulatory powers, such as penalties, infringement notices, civil penalties and criminal sanctions. Also includes powers to inspect premises and require the production of information.

The **core activities** include:

- developing, implementing and reviewing programs, policies, strategies, frameworks and procedures;
- receiving and assessing enquiries;
- managing case plans;
- referring matters to other business units, regulators or appropriate agencies;
- negotiating, establishing and implementing agreements and contracts;
- collecting and securing evidence;
- conducting research;
- data analysis and checking;
- providing and receiving advice and other information;
- liaising with stakeholders, including scheme participants and regulatory and law enforcement agencies;
- conducting monitoring and surveillance of scheme participants;
- conducting inspections of premises, searches and examinations;
- undertaking compliance audits;
- identifying, assessing and managing risks;
- managing appeals and reviewing agency decisions, including appeals to higher authorities; and
- developing and conducting educational programs relating to compliance obligations, including developing educational materials.

The performance of the core business is supported by **general activities** such as:

- preparing and presenting speeches;
- managing and participating in internal meetings;
- delegating powers and authorising actions;
- planning, reporting and reviewing; and
- arranging and attending conferences, seminars, forums and workshops.

Cross references to AFDA Express Records Authority

For advice, briefs and submissions to the portfolio Minister, cabinet submissions and the organisation's participation in formal inquiries, use GOVERNMENT RELATIONS.

For development of new legislation and amendments to existing legislation, use GOVERNMENT RELATIONS and/or STRATEGIC MANAGEMENT.

For managing the acquisition of goods and services, including tendering and contracting arrangements, use PROCUREMENT.

For media releases, use COMMUNITY RELATIONS and/or GOVERNMENT RELATIONS.

Cross references to other records authorities

For the establishment and management of the agency's governing body (ie the Clean Energy Regulator body corporate), use GOVERNING BODIES.

For developing and executing contracts under seal or deeds, use CONTRACTS UNDER SEAL/DEEDS.

Class no	Description of records	Disposal action
61940	The following significant records documenting:	Retain as national

COMPLIANCE, INVESTIGATION & ENFORCEMENT

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • developing, implementing and reviewing high-level policies, strategies, frameworks, plans and programs. Includes final versions, major drafts, submissions, supporting reports and research; • investigation case records that: are precedent setting; controversial or of considerable public interest; or, result in major changes to agency or Government policies, programs or procedures, or changes in legislation. Includes originating enquiries that trigger investigations, risk assessment and audit documentation, reports on determinations and other outcomes of investigations such as enforcement actions, copies of records supplied or seized as evidence, legal proceedings, and supporting research. Also includes cases referred to internal teams or external agencies for further action; • summary records relating to investigation cases; • providing and receiving high-level advice. Includes position papers, briefs and reports; • final versions of significant agreements and contracts and supporting documents, that: relate to substantial funding agreements or the establishment of partnerships or cooperative arrangements with other governments, agencies and organisations; are controversial, of public interest or ground-breaking in nature; or have substantial implications for the conduct of agency business. Includes Memorandums of Understanding and bilateral agreements; • final versions of speeches presented by the portfolio Minister, the agency head or senior agency staff; • master versions of educational program materials; • outcomes of major research conducted or commissioned by the agency. Includes final research reports, statistical and trend analysis and supporting research datasets and associated reports; • development of high-level reports, including compliance and surveillance reports. Includes final versions, major drafts, stakeholder consultation and supporting research; • appeals or reviews of decisions made by the agency that: are precedent setting, controversial or of significant public interest; or, have substantial implications for the conduct of agency business. Includes appeals to higher authorities, such as the Administrative Appeals Tribunal or courts; • master versions of agency publications produced to support compliance, investigation and enforcement. 	archives
61941	Records documenting: <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • compliance, investigation and enforcement activities, other than those covered in class 61940. 	Destroy 7 years after action completed

SCHEME REGULATION AND MANAGEMENT

The core business of administering programs and schemes that regulate greenhouse gas emission reduction activities and increase the use of clean energy. Includes schemes such as the Carbon Pricing Mechanism, the National Greenhouse and Energy Reporting (NGER) scheme, the Carbon Farming Initiative, the Emissions Reduction Fund and the Renewable Energy Target (RET). Also includes tracking of units and certificates under these schemes and under the Kyoto Protocol.

The **core activities** include:

- implementing programs, schemes, and policies;
- developing, implementing and reviewing strategies, procedures, technical processes, methodologies and assessment and accreditation criteria;
- providing and receiving advice and other information;
- liaising, collaborating, consulting and receiving submissions from stakeholders, including exchanging information and coordinating representatives;
- managing and participating in committees, forums, working groups and other bodies;
- negotiating, establishing and implementing agreements and contracts, including Memorandums of Understanding;
- receiving, assessing and approving scheme registration applications administered by the agency. Includes registration of specific projects within schemes and registering entities to participate in schemes;
- planning, conducting and facilitating audits, including mandatory prescribed audits and site visits;
- managing accreditation and registration of auditors to conduct scheme regulation audits;
- accrediting renewable energy generation projects, power stations and retailers;
- creating and maintaining statutory and non-statutory registers;
- registering and deregistering corporations for the NGER scheme;
- receiving reports submitted by registered corporations under the NGER scheme;
- issuing, auctioning, managing, transferring, retiring, relinquishing and cancelling carbon units and Australian carbon credit units through the Australian National Registry of Emissions Units;
- managing certificates created by RET scheme participants, including validating, registering and accepting certificates for RET voluntary or liability surrender;
- determining and imposing shortfall charges for the RET;
- determining and acquitting liability for carbon price and the RET;
- developing and conducting educational programs, including external information and training sessions. Includes developing educational materials; and
- collecting, managing, analysing and disseminating datasets.

The performance of the core business is supported by **general activities** such as:

- developing routine operational policies;
- delegating powers and authorising actions;
- preparing and presenting speeches;
- arranging and attending conferences, seminars, discussion forums and workshops;
- planning, reporting and reviewing; and
- undertaking research and analysis.

Cross references to AFDA Express records authority

For advice, briefs and submissions to the portfolio Minister, cabinet submissions and the organisation's participation in formal inquiries, use GOVERNMENT RELATIONS.

For development of new legislation and amendments to existing legislation, use GOVERNMENT RELATIONS and/or STRATEGIC MANAGEMENT.

For the procurement of goods and services, including contract management activities, use PROCUREMENT.

For media releases, use COMMUNITY RELATIONS and/or GOVERNMENT RELATIONS.

SCHEME REGULATION AND MANAGEMENT

For supporting the strategic and broad systematic management of the agency, use STRATEGIC MANAGEMENT.

For legal advice relating to administered schemes, use LEGAL SERVICES.

Cross references to other records authorities

For the establishment and management of the agency's governing body (ie the Clean Energy Regulator body corporate), use GOVERNING BODIES.

For developing and executing formal contracts under seal or deeds, use CONTRACTS UNDER SEAL/DEEDS.

For development of schemes, programs and policies implemented by the agency and international liaison activities, use the Climate Change Records Authority 2013/00292349.

Class no	Description of records	Disposal action
61943	<p>The following significant records documenting:</p> <ul style="list-style-type: none"> • developing, implementing and reviewing high-level strategies, frameworks, plans and procedures. Includes final versions, major drafts, submissions, supporting reports and research; • developing, implementing and reviewing assessment and accreditation criteria relating to schemes administered by the agency. Includes final versions, major drafts, submissions, stakeholder consultation and supporting research; • developing, implementing and reviewing technical processes for conducting auctions of carbon units. Includes final technical processes and related procedures, major drafts, stakeholder consultation and supporting research; • developing, implementing and reviewing methodologies for calculating sequestered carbon amounts. Includes final versions, major drafts, stakeholder consultation and supporting research; • high-level committees and other bodies where the agency provides the secretariat, is the Australian Government's main representative, or plays a prominent or central role. Includes establishment documentation, agenda, final versions of minutes, reports and tabled papers; • high-level liaison and consultation with major stakeholders to discuss schemes administered by the agency. Includes stakeholder submissions; • development of high-level reports, including major statistical reports (eg statistical reporting on trading of energy certificates and reports to international bodies such as the United Nations). Includes final versions, major drafts, stakeholder consultation and supporting research; • providing and receiving high-level advice involving major stakeholders. Includes final versions of advice, position papers, opinions, submissions, supporting research and briefings; • final versions of significant agreements and supporting documents, that: relate to the establishment of partnerships and cooperative arrangements with other governments, agencies and organisations; are controversial, of public interest or ground-breaking in nature; or have substantial implications for the conduct of agency business. Includes joint venture agreements and Memorandums of Understanding; • successful registration of scheme participants and projects. Schemes include: carbon farming; emissions reduction fund; trading of carbon units; national energy and greenhouse reporting; carbon pricing emissions abatement and industry assistance; • renewable energy generation project accreditation and power station accreditation case records. Includes final decisions, conditions, 	Retain as national archives

SCHEME REGULATION AND MANAGEMENT

Class no	Description of records	Disposal action
	<p>applications, submissions, accreditation assessments, supporting research and validation of renewable energy certificates;</p> <ul style="list-style-type: none"> • greenhouse gas emissions reduction case records, such as carbon farming initiative sequestration projects and emissions reduction fund projects. Includes final decisions, assessing applications, issue of carbon credits for eligible emissions avoidance, regulatory and other approvals, rights, agreements, reporting histories and declarations made by landowners subject to carbon maintenance obligations; • emissions reduction fund safeguard mechanism case records. Includes assessments, submissions, final decisions and reports; • successful industry assistance case records for entities affected by carbon abatement programs. Includes assessing applications and reports; • submissions of final reports of registered entities (eg NGER scheme participants) listing greenhouse gas emissions and energy use; • major research and trend analysis undertaken or commissioned by the agency into greenhouse gas emissions and energy use. Includes final reports, statistical and trend analysis and research datasets and associated information; • major datasets collated by the agency (eg greenhouse gas emissions) and information about the data fields, for example data dictionaries, indexes, tables and registers; • summary records supporting scheme regulation processes, including statutory and non-statutory registers (eg Register of Offset Projects, Emissions Reduction Fund project register, Liable Entities Public Information Database, Australian National Registry of Emissions Units, Renewable Energy Certificates Registry, Register of Greenhouse and Energy Auditors and National Greenhouse and Energy Register); • master versions of educational program materials; • master versions of training materials for accrediting energy auditors; • final versions of speeches presented by the portfolio Minister, the agency head, or senior agency staff; • final versions of unpublished proceedings, reports, presentations and papers from conferences, seminars and workshops hosted by the agency; • master versions of agency publications produced to support the core business; and • appeals and reviews of decisions made by the agency that: are precedent setting, controversial or of significant public interest; or, have substantial implications for the conduct of agency business. Includes appeals to higher authorities, such as the Administrative Appeals Tribunal or courts. 	
61944	<p>Records documenting:</p> <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • scheme regulation and management activities, other than those covered in class 61943. 	Destroy 7 years after action completed