

12

Priority – High

Security Level – Sensitive

Distribution
Minister
Minister's Advisor
Minister's Office



Ministry for the
Environment
Manatū Mō Te Taiao

Ministry for Primary Industries
Manatū Ahu Matua



11 May 2012

Document Number: B11-542 /
MFE-12-B-00448

Emissions Trading Scheme: Forestry and agriculture settings

Purpose:

To brief Ministers on suggested amendments to the forestry and agriculture settings in the New Zealand Emissions Trading Scheme (ETS) for Cabinet to consider as part of a larger package of ETS amendments in May 2012.

Minister	Action Required:	Minister's Deadline
Minister for Climate Change Issues	Note recommendations and sign briefing	18 May 2012
Associate Minister for Climate Change Issues	Note recommendations	18 May 2012
Minister for Primary Industries	Note recommendations and sign briefing	18 May 2012
Associate Minister for Primary Industries	Note recommendations	18 May 2012

Ministry for the Environment Contacts

Name	Position	Telephone		1st Contact
		Work	Cell	
Peter Brunt	Responsible Manager	04 439 7575	027 498 2332	✓
Stuart Calman	Director, Climate and Risk	04 439 7571	021 662 162	

Ministry of Agriculture and Forestry Contacts

Name	Position	Telephone		1st Contact
		Work	Cell	
Kathy Perreau	Responsible Manager	04 894 0585	029 894 0585	✓
Mike Jebson	Director, Natural Resources	04 894 0696	029 894 0696	

Executive Summary

1. The New Zealand Emissions Trading Scheme (ETS) was reviewed in 2011. In response to the review, international developments and further analysis, the government has decided to amend the ETS in 2012. This briefing proposes a number of less significant changes to the ETS forestry and agricultural settings. A draft cabinet paper including these matters is being prepared and will be sent to Minister Groser shortly for Cabinet to consider 28 May 2012.

Forestry

2. Forestry was the first sector to join the ETS and a number of ways to improve the practical application of the Act have become evident. The suggested changes are consistent with the original policy intent. There will be a small reduction in revenue, if tree weed exemptions for pre-1990 forest lands are extended. The proposed changes will not materially affect international accounting under articles 3.3 or 3.4 of the Kyoto Protocol. ETS monitoring, compliance and enforcement provisions remain untouched by the proposals outlined in this briefing.
3. Key proposals to amend forestry settings in the ETS are:
 - allowing trustees appointed under the Te Ture Whenua Māori Act 1993, the Māori Trustee, and other sole trustees to apply for less than 50 hectare exemptions
 - ensuring existing forest management practices can be undertaken along forest land boundaries and are not counted as being deforested
 - extending application rounds for pre-1990 tree weed exemptions to the 2015/16 financial year
 - aligning the treatment of pre-1990 and post-1989 tree weeds under the Act
 - allowing best forest management practices, including natural regeneration and planting for erosion control, to be implemented without penalty
 - where forest land cannot be replanted due to natural disturbance that participants do not face a deforestation liability

Agriculture

4. Agriculture does not face surrender obligations until 2015 at the earliest, although participants must now report their emissions. The Agricultural ETS Advisory Committee was appointed by Ministers to provide advice on the implementation of the agriculture into the ETS. The proposals in this briefing are consistent with Agricultural ETS Advisory Committee's recommendations to the government. There is a small fiscal saving from excluding egg producers from the ETS of \$8,000 from 2012-2020 due to administrative savings.
5. Key proposals to amend agriculture settings in the ETS are:
 - removing egg producers from having to participate in the ETS
 - refining the definition of meat processors to better target ETS participants

Situation Analysis

6. The government is considering changes to the Emissions Trading Scheme (ETS) in response to the 2011 ETS Review and international developments, as well as improve the working of the ETS. This briefing sets out some forestry and agriculture proposals to amend the Climate Change Response Act 2002 for Cabinet to consider in May 2012. Minister Groser will shortly receive a draft cabinet paper addressing these and other matters relating to the ETS.
7. An outstanding question remains whether an enabling provision for agriculture removal activities (such as using nitrification inhibitors) should be specifically provided for in the Act now, or in the future. Officials will provide advice on this in a separate briefing shortly. This timing will still allow an amendment to the Act this year, if Ministers decide to proceed.

Advice

ETS Forestry settings

8. Forestry was the first sector to enter the ETS, with full obligations and entitlements applying from 1 January 2008. The pre-1990 forestry estate is approximately 1.3 million hectares. In comparison, the post-1989 estate is approximately 600,000 hectares.
9. The proposed changes are consistent with existing forestry policy and stem from experience gained in the practical application of the ETS. The changes will improve regulatory practice for both the government and the forestry sector by reducing compliance uncertainty and ensuring industry best practice can be implemented without penalty. There are no fiscal costs associated with the proposals. The proposals will not affect New Zealand's National Greenhouse Gas Inventory accounting under the Kyoto Protocol.

The Māori Trustee and less than 50 hectare exemptions for pre-1990 forests

10. If the total holdings of professional trustees are greater than 50 hectares then the trustee cannot apply for a less than 50 hectares exemption for pre-1990 forest lands. This means that the unrelated holdings of sole professional trustees may make a single block ineligible for the exemption. Examples are the Māori Trustee and companies such as Guardian Trustees Ltd, Public Trust Ltd, and Trustees Executors Ltd.
11. Similarly, the total holdings of lay trustees appointed under Te Ture Whenua Māori Act 1993 may also prevent a forestry block being eligible for a 50 hectare exemption. Essentially, a group of beneficiaries is ineligible because of the unrelated holdings of a professional trustee or a trustee appointed under the Te Ture Whenua Māori Act 1993.
12. The ETS Review Panel also noted that the Te Ture Whenua Māori Act 1993 places particular constraints Māori land owners and recommended the Government address the application requirements so that the Māori Trustee could apply for exemptions.

13. Officials recommend that the Act be amended so that the Māori Trustee and other sole professional trustees' landholdings do not prejudice unrelated trusts.

[Withheld under Section 59(2)(N)]

Other issues particular to Māori

14. A number of issues particular to Māori have become evident in the implementation of the ETS related to the Forestry Allocation Plan, the 50 hectare exemption and practical difficulties in managing multiply owned Māori land. The ETS Review Panel also raised a number of other Māori land issues.
15. The Ministry for Primary Industries is still receiving late applications for allocation and exemptions, and will do so to near the end of 2012. There are a considerable number of applications yet to be processed. The outstanding area and extent of the issue will only be known at the end of 2012. No new appropriation is required, as the existing appropriation already covers allocations and exemptions for all the estimated 1.3 million hectares of pre-1990 forest land.
16. The Ministry for Primary Industries has also been working with the Māori Trustee and Te Puni Kokiri to resolve these issues and has provided information to the Māori Land Court. Relief may be available via a number of avenues and no further amendments are recommended at this point. Further advice will be provided once all applications for allocations and exemptions have been processed.

Recommendation – Māori land and the ETS

17. Officials recommend that the Act be amended so that the Māori Trustee and other sole professional trustees' landholdings do not prejudice unrelated trusts.

***De minimus* deforestation and boundary management**

18. The ETS permits two hectares of deforestation over five years without penalty for pre-1990 forest land owners. The threshold is to avoid capturing small-scale deforestation, imposing unreasonable compliance costs and to avoid incurring unreasonable administrative costs. For post-1989, there is no threshold and no tolerance is permitted. Internal gaps less than one hectare or an average width of less than 15 metres are permitted, however, gaps along boundaries are not.
19. Most commercial forest land owners are likely to breach the threshold through routine forest management activities when replanting along outer boundaries. Routine forest management activities include access roading, set backs and meeting safety standards. These affected areas no longer meet the definition of 'forest land' under the Act, even though there is no change in land use. These areas then contribute cumulatively to the participant's two hectare deforestation threshold.

20. The ETS accounting treatment of these areas is different to the international accounting used in the LUCAS¹ system. Internationally, deforestation is considered to have occurred when there is a change in land use. Any small changes in an individual forest would be difficult to identify when compared against the whole of New Zealand's forested lands. Currently, New Zealand faces no penalty but individual foresters in New Zealand do under the current ETS settings.
21. Two elements contribute to this problem. [withheld under section 59(2)(h)] If forest land is not exactly replanted then any reduction in area, no matter how small must be treated as deforestation. Existing guidelines and mapping standards cannot be relaxed as they must also meet the Act's requirements. [withheld under section 59(2)(k)] Currently, a mapping unit (pixel) translates to an area of 22 x 22 m², whereas replanted rows are spaced 3-4 metres apart.
22. Forest owners want certainty and the Ministry for Primary Industries cannot provide them with the assurances they need. [withheld under section 59(2)(g)] The larger the forest, the larger the potential problem for the participant. The scale of the affected lands is difficult to assess, as each case is likely to be unique and will not become evident until replanting occurs.
23. The most important factor limiting the affected areas is the commercial incentive for landowners to maximise the productive forest area. Various forestry operators have already contacted the Ministry for Primary Industries outlining the problem and seeking assurances. Without clarity, officials believe this will be an ongoing concern for foresters. These issues have been raised previously, most recently in submissions to the 2011 ETS Review Panel.
24. To ensure that the boundary issue is addressed, officials recommend that the differences between the original boundary and the new planting are not treated as deforestation. The current threshold would remain unchanged at 2 hectares. The outer boundary would be compared to a baseline and subject to a number of checks to ensure deforestation has not occurred. Specifically, the replanted boundaries would be compared to those that existed on 31 December 2007 for pre-1990 forest land, or those registered for post-1989 forest land, and:
- each 'cleared area is less than 1 hectare, or less than 30m wide; and
 - the reduction is part of normal forest management; and
 - the cleared area is not used for any other land use
25. There is no change in the government's fiscal position as a result of this proposal, as no surrender obligation is triggered and revenue is not expected from business as usual planting. Similarly, revenue from any enforcement action is not accounted for. Should New Zealand decide to join a second

¹ Land Use and Carbon Analysis System maps the data and information required for international greenhouse gas reporting and is run by the Ministry for the Environment.

commitment period, there would be no additional costs, as these areas are not considered to be deforested in the cases outlined above.

Recommendation – boundary management

26. Officials recommend that the Act be changed to allow existing forest management practices to occur along boundaries, without these areas being treated as deforested. There would be no fiscal cost, either in foregone revenue or deforestation being accounted for internationally. Importantly, the overall deforestation signals remain in place in the ETS.

Tree Weeds

27. Tree weeds, such as wilding conifers, can adversely affect pastoral farming, biodiversity, conservation, landscape values and catchment water yields. Central and local government spend approximately \$6 million annually controlling wilding pine species. Tree weed stands can create a continual "seed rain" in the environment, if left untreated.
28. In November 2001, the Marrakesh Accord was adopted to ensure that the Kyoto Protocol's environmental integrity, including conserving biodiversity, was not undermined². The treatment of tree weeds in the ETS is consistent with this approach. Tree weed species are defined in the Act and designated by regulation for pre-1990 forests, although not for post-1989 forests. The Environmental Protection Agency (EPA) can set criteria and priorities for assessing the risk of tree weed spread under the Act.
29. In the case of tree weeds, the intent of the Climate Change Response Act 2002 and the Biosecurity Act 1993 are not well aligned to reduce tree weed risks. The Biosecurity Ministerial Advisory Committee and the New Zealand Wilding Conifer Management Group³ have identified tree weeds as a significant risk. An independent report has been commissioned and the Minister for Primary Industries will receive a briefing shortly outlining the issues and opportunities to address the problem. Proposals to amend the ETS in this briefing are consistent with future proposals to manage wilding conifers under the Biosecurity Act 1993.
30. The ETS can discourage the removal of tree weeds, as a participant could face a deforestation or harvesting liability. The ETS can also encourage tree weeds, as NZUs can be received for post-1989 forests. This section considers the existing pre-1990 tree weed ETS provisions, and then post-1989 tree weeds.

Pre-1990 tree weed exemptions

31. The Act allows for exemptions for clearing tree weeds on pre-1990 forest land so that tree weed clearance is not discouraged by owners facing a deforestation liability. An appropriation of 1 million New Zealand Units (NZUs) was set aside to cover deforestation emissions in the first commitment period. To date, two

² Refer United Nations Convention on Climate Change – Marrakesh Accord & COP7 website accessed 17 April 2012 (http://unfccc.int/methods_and_science/lulucf/items/3063.php)

³ The group includes stakeholders from the Forestry Industry, Federated Farmers, Department of Conservation, Regional and District Councils, Land Information New Zealand, research providers, New Zealand Defence Force, community groups and land owners.

rounds of tree weed exemptions have been run and exemptions have been granted for 783 hectares (approximately 490,000 NZUs, which equates to about \$5.1m @ a carbon price of \$10.41). The Ministry for Primary Industries intends to run a third application round during 2012.

32. Tree weeds will continue to be a management issue into the future. Uptake is dependant on the ability of land owners and councils to resource weed control and clearance will continue in the second commitment period and beyond. The ETS Review Panel considered the issue and recommended that tree weed exemptions be available after the first commitment period.
33. In the government's accounts, tree weed exemptions are treated as 'negative revenue' under a more general deforestation revenue category, rather than as an expense. That is, tree weed exemptions will be balanced against any revenue received from ETS participants that deforest. Extending the tree weed exemption will not require any changes to the existing appropriation but will have financial implications as it will negatively impact on ETS revenues.
34. Officials from the Ministry for Primary Industries recommend that an annual allocation of 200,000 NZUs per year to be made available for tree weed exemptions to 2015/16 (approximately \$2.1m @ a carbon price of \$10.41). The proposed amount has been adjusted downwards to a small extent, based on the slower uptake to date. The actual amount will be dependant on applications that may not reach the proposed annual amount. Extending the tree weed exemption will reduce deforestation revenue but this is considered immaterial compared with other ETS revenue surrender streams.

Post-1989 tree weeds

35. Before a post-1989 forest can be registered in the ETS, a declaration of compliance is required with plans and strategies prepared since 2008 under the Biosecurity Act 1993 and the Resource Management Act 1991 (RMA). However, plans and strategies prepared prior to the ETS may not consistently or adequately address tree weeds. In this case, post-1989 tree weeds may be registered in the ETS and earn carbon credits, which is in conflict with the treatment of pre-1990 tree weeds under the ETS.
36. Current settings make it difficult to change pest strategies as councils are required to consider the costs (removal costs and deforestation liabilities) and benefits (credit revenue) of plan changes to landowners. While landowners could use NZUs to control the tree spread or replace the forest with a less invasive species, there is no mechanism to require NZUs to be used in this way.
37. The potential extent of the problem is unclear, as it depends on how an area is classified as being affected by tree weeds, rather than whether an area meets the definition of forest land under the Act. For weed control purposes, an area may be identified as being affected by a tree weed, even though the densities are low (from 1 to 250 plants per hectare) and the plants themselves small, for instance, seedlings. These areas would need to reach the 30% tree crown cover per hectare to be brought into the ETS.
38. Approximately 380 hectares of *Pinus contorta* (a common tree weed) have been registered so far in the ETS. This figure does not include any applications that

are in the process of being assessed. However, it is clear that significant areas are at risk of future infestation⁴ and will, if untreated, be eligible to join the ETS.

39. Providing financial incentive for landowners to retain or allow tree weeds to spread is inconsistent with the approach taken for pre-1990 tree weeds and the Marrakesh Accord. Given this, and the potential for increasing tree weed control costs, officials recommend that the Act be amended to be consistent with the approach taken for pre-1990 tree weeds.
40. To more effectively manage tree weeds for post-1989 forests in the ETS, officials suggest that:
 - the pre-1990 forest land definition of a 'tree weed' (s184(9)) is used for post-1989 forest lands
 - if an area of post-1989 forest land comprises predominantly of naturally regenerated tree weed species, or is likely to comprise predominantly of tree weed species, then the area may not be registered in the ETS from 2013, unless the EPA is satisfied that the risk of spread is low.
41. There is no intention to remove existing participants that have post-1989 tree weeds from the ETS. The participation of post-1989 forestry in the ETS is voluntary and no additional costs are anticipated. Ensuring that the incentives are set to control tree weeds earlier rather than later will reduce the government's future tree weed costs, including having to account for carbon stocks in tree weed stands.
42. Some affected landowners may be vocal in objecting to a potential loss of revenue against ongoing weed control costs, on the basis that the government is retaining the credits (regardless of any international agreement) and other funding sources are negligible. Further, some landowners may also argue that the government has a responsibility to assist landowners [withheld under section 39(2)(j)]

Recommendation – tree weeds

43. Officials recommend that funding of pre-1990 tree weed exemptions be continued until the end of the 2015/2016 financial year. Additionally, post-1989 forest lands that are predominantly naturally regenerated tree weeds should no longer be eligible to participate in the ETS, unless the EPA is satisfied that the risk of spread is low. Officials do not recommend that areas of post-1989 tree weeds already registered be withdrawn from the ETS.

Natural regeneration of indigenous species

44. After harvest, forest land must have 500 stems per hectare at four years to be considered forested, otherwise the land is treated as deforested and participants must surrender NZUs to replace the carbon stocks. There is a second test at 20 years for indigenous species of 30 per cent crown cover from

⁴ Wilding Conifers In New Zealand: Current Situation, Policy and Management, and Options for the Future, V Froud, December 2011.

trees that reach 5 metres in height. Natural regeneration will not meet the test at four years.

45. Natural regeneration is a viable option for foresters to meet best practice or regulatory requirements for coastal, riparian, boundary or road setbacks. Co-benefits include increased biodiversity values and improved water quality. Landowners incur additional cost to replant indigenous species (\$10-15,000 per hectare) or face deforestation liabilities. This is even though the land use has not changed, regeneration is occurring and the land will be forested within 20 years.
46. Achieving 500 stems at four years is a generous timeframe for exotic plantation forests, as this is the accepted replanting density. However, natural regeneration of indigenous forest species takes longer, as these species have slower growth rates. A lack of seed sources, weeds, low rainfall or temperatures also slow regeneration, making it more difficult to meet the four year threshold. The current four year requirement therefore acts as a barrier to natural regeneration and realising the associated co-benefits.
47. The scale of the issue is relatively small, officials estimate that about 450 hectares of pre-1990 forest land could be affected, and less for post-1989 forest land. A pragmatic solution is to change the existing four year requirement from 500 stems to requiring the land to be used in a way that is consistent with the natural regeneration of predominately native species. It is also proposed that at 10 years there is an additional test that the land must have enough forest species to qualify as forest land. The deforestation signal would not be compromised, as the existing 20 year rule remains in place.
48. No cost to the government is anticipated from the recommended change. The four year rule is a domestic accounting approach and differs from the international accounting requirements that New Zealand has elected. So long as regeneration occurs and meets the definition of forest at 20 years, New Zealand's international position will not be adversely affected. Similarly, the reference level will not be affected, as the estimated 450 hectares is a very small proportion of the total pre-1990 forest estate (approximately 1.30 million hectares).

Recommendation – natural regeneration

49. Officials recommend that the Act should be amended so that the requirement of 500 stems per hectare at four years is changed to allow for slower indigenous natural regeneration and an additional test is added at 10 years.

Re-establishment of poplar and willow forest lands

50. Willows and poplars are common species to manage soil erosion, as they are cost effective with high root biomass at relatively low stocking rates⁵. Once established, these species usually meet the 30 per cent crown cover requirement for forest land. When these stands are replaced, however, they will not meet the requirement of 500 stems per hectare of forest species at 4 years,

as the recommended stocking rates are between 100 to 200 stems per hectare. Similar to the earlier example of indigenous regeneration, if the four year threshold is not met then the land will be treated as deforested, even though the land use has not changed.

51. Officials estimate that the poplar and willow forest land area is within the range of 1,000-5,000 hectares. If the forest lands are replaced at the higher stocking density then each hectare would require an additional 350 plants at a cost of \$10 per plant⁶. The four year rule was not designed to cover these species and does not achieve the purpose of the rule, namely as a test for deforestation.
52. Changing the requirement of 500 stems per hectare to a lower minimum at four years for poplars or willows that are re-established for erosion control purposes would achieve the rule's purpose for these species. The proposal would not affect deforestation signals: A minimum stocking rate of 100 stems per hectare is proposed and; a second test of 30 per cent crown cover from trees that have reached 5 m in height at 10 years would remain in place.
53. No cost to the government is anticipated from the recommended change. As with the preceding discussion, the four year rule is a domestic accounting approach. No change in land use has occurred and New Zealand would not account for this internationally as deforestation.

Recommendation – poplar and willow forest lands

54. Officials recommend that the requirement for 500 stems per hectare at four years for the re-establishment of poplar or willow trees planted for erosion control be replaced with a requirement to replant at 100 stems per hectare. This will remove unnecessary compliance costs for landowners and will have no effect on New Zealand's international accounting.

Natural disturbance events preventing forest land re-establishment

55. On occasion, forests cannot be re-established due to a natural disturbance. For example, where forest land is eroded to the substrate and there is no soil to replant in or where a river shifts and the land becomes an active riverbed. These events are beyond the landowners' control and land loss due to erosion cannot be insured against.
56. Under the ETS, landowners incur deforestation liabilities when land is lost in this way and the trees cannot be replanted. Approximately 20 hectares of exotic forests are affected annually but this figure could become higher, if there was a significant event.
57. There are no fiscal costs associated with the proposed change, although the government would receive less NZUs from participants as a result. However, the potential loss of revenue from 20 hectares annually is immaterial, when compared with a total forest estate of nearly 2 million hectares. Treasury does not include this activity as a separate revenue stream. Internationally, natural

⁶ The recommended average stocking required is 150 stems per hectare.

disturbance from non-anthropogenic sources is not accounted for under article 3.3 of the Kyoto Protocol.

Recommendation – natural disturbance

58. Officials recommend that the Act is amended so that pre-1990 forest land that cannot be re-established because of a natural event is not treated as deforested.

Forestry operational issues

Emission return period for post-1989 forest lands

59. Post-1989 forest participants in the ETS can submit voluntary emission returns annually from 1 January to 31 March. These returns must be processed in 20 working days. Emissions returns submitted to date are primarily for applicants to receive NZUs. The current value of emission returns submitted annually by post-1989 forest participants is approximately \$90-\$180 million (depending on carbon price).
60. Experience to date has shown this is too short a window, resulting in a large peak of emission returns that presents resourcing difficulties.

Recommendation – emissions return period

61. Officials recommend spreading post-1989 emissions returns processing over a longer period to 30 June each year, to smooth the peak and provide more flexibility for participants.

Using ETS forestry information for National Exotic Forest Description purposes

62. The National Exotic Forest Description (NEFD) data is the primary source of forestry sector statistics, and is used extensively within the Ministry for Primary Industries and by the industry. MfE's LUCAS team also use NEFD information to help meet New Zealand's United Nations Framework Convention on Climate Change and Protocol reporting requirements.
63. An important new source of data is the information ETS applicants and participants are required to provide. Section 99(4)(b) of the Act provides that, with the prior approval of the Minister for Climate Change Issues, statistical information to any person in a form that does not identify any individual can be prepared and supplied.
64. The Ministry for Primary Industries has previously consulted on the use of participant forest measurement data for purposes such as improving the default look-up tables. Most submitters supported this, provided data was not attributable to individuals. NEFD confidentiality protocols are rigorous, and there are broader economic benefits from good quality information for the sector.
65. NEFD managers wish to obtain access to ETS pre-1990 and post-1989 forest land information, and deforestation information held by the Ministry for Primary Industries. The use of the data would involve statistical or similar mathematical

analysis of the data in aggregate form and on a non-attributable basis. The data includes summaries, by territorial authority, of the area of post-1989 forest land, pre-1990 forest land, area of deforested pre-1990 forest land; and species and year of establishment.

Recommendation – information sharing

66. Officials recommend that the Minister for Climate Change Issues approve the supply of information on post-1989 forest land, pre-1990 forest land, and deforested pre-1990 forest land, in aggregate and in a non-attributable form, for the purpose of improving the National Exotic Forestry Description reporting.

ETS Agriculture settings

67. Agricultural emissions account for a significant proportion of New Zealand's greenhouse gas emissions (47% or 32.8 million tonnes CO₂-e). Agriculture processors (mainly milk and meat processors and nitrogen fertiliser importers/manufacturers) are participants in the ETS and already report agricultural emissions. From 2015, at the earliest, participants will be required to surrender units but will also receive a 90% allocation. Net liabilities⁷ equate to approximately 3.9 million tonnes from 2015 onwards (based on 10% of agricultural emissions from current production forecasts).
68. Government supports the entry of agricultural emissions into the scheme only under two conditions:
- there are technologies available to reduce emissions
 - international competitors are taking sufficient action on their emissions in general
69. The Government will undertake a review, reporting in 2014, on whether these conditions have been met. In 2010, Ministers appointed the Agriculture ETS Advisory Committee to look at the implementation of agriculture into the ETS. The following proposed changes are consistent with the Committee's recommendations to date.

Excluding egg producers from the ETS

70. The Agriculture ETS Advisory Committee recommended excluding egg producers from reporting and facing surrender obligations under the ETS. Ministers previously asked officials to explore legal options for excluding egg producers from the ETS [B10-629; 11-B-01189 refers]. The Agriculture ETS Advisory Committee recommended excluding egg producers from the ETS on the basis that:
- the layer hen sector accounts for an insignificant proportion of agricultural emissions (0.08%) annually;

⁷ Subject to the possible deferral powers currently being consulted on

- ii. inclusion in the ETS (with approximately 100 participants) would place a relatively large and costly administrative burden for reporting on a sector with a tiny level of emissions;
- iii. there are no greenhouse gas mitigation options currently available to this industry;
- iv. exclusion from the ETS provides the greatest benefit to New Zealand over the next 10 years, given the lack of mitigation options at the current time;
- v. exclusion does not provide a competitive advantage to the layer hen industry over other sectors that are included in the ETS;
- vi. exclusion will not undermine the primary purpose of the ETS which is to support global efforts to reduce greenhouse gas emissions by assisting New Zealand to meet its international obligations.

71. For the period 2012/13 to 2015/16, the fiscal cost to the Crown of excluding egg producers is estimated to be approximately \$41,000 (at a carbon price of \$10.41), due to forgone emissions revenue. Fiscal savings from administration are \$93,000. The net impact for the Crown is a saving of \$52,000 for the period 2012/13 to 2015/16, and a saving of \$8,000 for the period 2012/13 to 2019/20.

		2012/13	2013/14	2014/15	2015/16	Total 2012/13 to 2015/16	Total 2012/13 to 2019/20
Fiscal savings (administration)	\$ million	\$0.0025	\$0.028	\$0.038	\$0.025	\$0.093	\$0.191
Fiscal cost (forgone revenue) ¹	\$ million			(\$0.013)	(\$0.028)	(\$0.041)	(\$0.183)
	Units			1300	2700	4 000	17 550
Net	\$ million					\$0.054	\$0.008

¹ This value will halve when the national inventory is up-dated with New Zealand-specific data for layer hen emissions in April 2012.

72. Including egg producers in the ETS imposes significant administration and reporting costs on both the sector and government relative to the emissions charges recovered. At a low carbon price the cost of including egg producers in the ETS exceeds the value of the liabilities. On this basis, officials recommend that egg producers are excluded from participating in the ETS.

Recommendation – excluding egg producers

73. Officials recommend that the Act be amended to exclude egg producers from reporting and surrender obligations under the ETS, as the cost of including them exceeds the value of their liabilities.

Meat processors: de minimus threshold

74. Meat processors are participants in the ETS⁸ but retail butchers are excluded under schedule 3 of the Act. The original policy intent was to set a de minimus threshold for meat producers by excluding homekill, recreational catch, dual operator and retail only butchers. Homekill and recreational catch are already excluded as they do not need a risk management programme. Excluding retail butchers, as defined by the Animal Products Act 1999, appeared to meet the original intent.
75. Legal advice suggests that this exclusion inadvertently allows any meat processor participant with a "retail butchery" outlet to be excluded, which includes many of the larger slaughterhouses. Some meat processors are aware of this situation and may test the exclusion. While the potential impact is low in the reporting only period, the impact may be greater when surrender obligations are faced.
76. To make clear the exemption, officials recommend removing the retail butcher exemption from schedule 3. In addition, the existing activity definition would be clarified to include operators of a risk management programme *for the slaughter of animals*. This would have the effect of excluding homekill, recreational catch, dual operator and retail only butchers.
77. Officials estimate that few to none of the 60-70 risk management programme holders under the Animal Products Act that slaughter animals are retail only butchers. In practice, retail butchers do not carry out slaughter themselves, but instead use slaughter plants. An exemption could be provided under section 60 of the Act, if these small businesses were inadvertently caught.
78. There are no fiscal risks or costs associated with these changes. These are technical revisions and are not changes in policy, consultation is not recommended on this issue.

Recommendation – de minimus threshold for meat processors

79. Officials recommend that the retail butcher exemption from schedule 3 in the Act be removed as it is currently too broad. The existing activity definition should be clarified to include operators of a risk management programme *for the slaughter of animals*.

⁸ Meat producers that slaughter ruminant animals, pigs, horse or poultry under a risk management programme registered under the Animal Products Act 1999 are deemed to be ETS participants under the Climate Change Response Act 2002.

**Recommendations - Minister of Climate Change Issues and the
Minister for Primary Industries**

1)	Note the following recommendations 2 - 25 are suggested as the basis for a paper to Cabinet.	
		Noted

Māori Trustee and the less than 50 hectares exemption for pre-1990 forests

2)	Note that unrelated pre-1990 forest landholdings of a sole professional trustee, including the Māori Trustee, are counted towards the 50 hectare threshold for a less than 50 hectare exemption. This prevents an exemption being held for these unrelated land holdings.	
		Noted
3)	Agree that unrelated pre-1990 forest landholdings of a sole professional trustee, including the Māori Trustee, (i.e. landholdings of unrelated trusts or of a Trustee in personal/ non trustee capacity), are not counted towards the 50 hectare threshold for an exemption application by such trustee, in respect of a trust.	
		Agree/Disagree
4)	Note that a trustee appointed under the Te Ture Whenua Māori Act 1993 is not a professional trustee under the Climate Change Response Act 2002.	
		Noted
5)	Agree that for the purposes of an application for a less than 50 hectare exemption, a trustee appointed under the Te Ture Whenua Māori Act 1993 is treated as a professional trustee.	
		Agree/Disagree
6)	Agree that unrelated pre-1990 forest landholdings of a trustee appointed under the Te Ture Whenua Māori Act 1993, is not counted towards the 50 hectare threshold for an exemption application by such trustee, in respect of a trust.	
		Agree/Disagree

De minimus deforestation and boundary management

7)	Note that pre-1990 forest landowners are likely to breach the two hectare deforestation threshold through routine forest management activities; and that there is no <i>de minimus</i> threshold available to post-1989 forestry participants.	Noted
8)	Note that any deforested area on the outer boundary of an area of forest land counts towards a pre-1990 forest landowner's or post-1989 forestry participant's deforestation, but internal gaps that are less than 1 hectare or have an average width of less than 15 metres are permitted.	Noted
9)	Agree that clearing on the outer boundary of a forest land area that results in a reduction compared to the forest land area that existed on 31 December 2007 for pre-1990 forest land, or that was registered in the ETS for post-1989 forest land, is not treated as deforestation provided: <ul style="list-style-type: none"> • each cleared area is less than 1 hectare, or less than 30m wide; and • the reduction is part of normal forest management; and • the cleared area is not used for any other land use 	Agree/Disagree

Tree Weeds

10)	Note that the control of tree weeds on pre-1990 forest lands will be an ongoing activity	Noted
11)	Agree to continue funding pre-1990 tree weed exemptions with a multi-year allocation of 200,000 NZUs per year to 2015/16	Agree/Disagree
12)	Note that post-1989 tree weeds may be registered in the ETS and earn carbon credits, and this creates financial incentive for landowners to retain tree weeds.	Noted
13)	Agree to prevent the registration in the ETS of naturally regenerated tree weeds on post-1989 forest land, unless the EPA is satisfied that the risk of the tree spread is low	Agree/Disagree

Natural regeneration of indigenous species on pre-1990 forest lands

14)	Note that after clearing, land that is regenerating to indigenous forest often takes longer to meet the forest land definition than currently permitted in the Act, which inadvertently creates deforestation liabilities.	
		Noted
15)	<p>Agree that forest land that is regenerating to indigenous forest is not to be treated as deforested where:</p> <ul style="list-style-type: none"> o 4 years after clearing, the land is regenerating to forest land; and o 10 years after clearing the land is forest land; and o 20 years after clearing, predominantly indigenous forest species are growing that has tree crown cover of more than 30% from forest species that have reached 5 metres in height. 	
		Agree/Disagree

Re-establishing poplar and willow forest lands

16)	<p>Agree that land is not to be treated as deforested where the forest land was established for erosion control, and four years after clearing the land is forest land where the forest species are poplars or willows provided that at least 100 stems per hectare are established</p>	
		Agree/Disagree
17)	<p>Agree that where forest land is cleared due to natural cause or event and the area cannot be re-established due to the land conditions, then the land is not considered to be deforested</p>	
		Agree/Disagree

Forestry Operational Issues

18)	<p>Agree to amend the Act to extend the emissions return period for post-1989 forest land activities to be six months from the end of the period to which the return relates</p>	
		Agree/Disagree

Excluding egg producers from the ETS

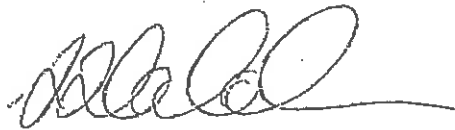
19)	Note that including egg producers in the ETS imposes significant administration and reporting costs on both the sector and government relative to future emissions charges recovered.	
		Noted
20)	Agree to remove egg producers as an activity under schedule 3 of the Climate Change Response Act 2002.	
		Agree/Disagree
21)	Note that the net fiscal impact for the Crown is a saving of \$50,000 for the period 2012/13 to 2015/16, and a saving of \$8,000 for the period 2012/13 to 2019/20.	
		Noted
22)	Agree that the above decisions form the basis for Cabinet to consider changes to the Climate Change Response Act 2002.	
		Agree/Disagree

Meat processors: de minimus threshold

23)	Note that the current exclusion of retail butchers in the Climate Change Response Act 2002 is too broad and may exclude a wider range of meat processors than intended.	
		Noted
24)	Agree to remove the retail butcher exemption from schedule 3 of the Climate Change Response Act 2002 and clarify the existing activity definition to the slaughter of ruminant animals, pigs horses or poultry by a person required under the Animal Products Act 1999 to operate under a risk management programme for that activity (i.e. the activity of slaughtering).	
		Agree/Disagree
25)	Note there are no fiscal risks or costs associated with changing the retail butcher exemption.	
		Noted

Recommendation for the Minister of Climate Change Issues

26)	Agree to approve the supply of information on post-1989 forest land, pre-1990 forest land, and deforested pre-1990 forest land, in aggregate and non-attributable form, for the purpose of improving the National Exotic Forestry Description reporting under section 99 (4) of the Climate Change Response Act 2002.	
		Agree/Disagree



Stuart Calman
Director, Climate and Risk
Ministry for the Environment

Hon Tim Groser
Minister for Climate Change Issues

/ / 2012



Mike Jebson
Director, Resource Policy
Ministry for Primary Industries

Hon David Carter
Minister for Primary Industries

/ / 2012

RELEASED UNDER THE OFFICIAL INFORMATION ACT

RELEASED UNDER THE
OFFICIAL INFORMATION ACT