



MfE priority: Urgent

Progressing amendments to the CCRA to repeal NZ ETS obligations for agriculture

Key messages

1. The National Party's manifesto and the Government's coalition agreements commit to "Keep agriculture out of the Emissions Trading Scheme and implement a fair and sustainable pricing system for on-farm agricultural emissions by 2030 that reduces emissions without sending production overseas." This briefing focuses on the part of the commitment that relates to the New Zealand Emissions Trading Scheme (NZ ETS).
2. Under current legislative settings, NZ ETS surrender obligations for agriculture will commence on 1 January 2025. Fertiliser and animal processors (e.g. Fonterra and Silver Fern Farms) will face surrender obligations for agricultural emissions associated with their products (e.g. milk and meat) from that date.
3. The Climate Change Response Act 2002 (CCRA) must be amended prior to 1 January 2025 if these surrender obligations are to be avoided. Therefore, Cabinet needs to make policy decisions in the first quarter of 2024.
4. We understand that progressing this repeal is only a part of your overall plan to support farmers to reduce their emissions. We recommend that you have a discussion with the Minister of Agriculture in the new year on the approach to reducing agricultural emissions. Engagement with stakeholders on this plan could be via either the emission reduction plan process or as part of delivering the Government's plan to reduce agricultural emissions as outlined in the manifesto and coalition agreements.
5. If the repeal process is delayed, the bill is likely to require being progressed under urgency to be passed prior to 1 January 2025.
6. You will also need to consider some specific risks in the context of emissions budgets and the emissions reduction plan. The impact of the repeal of NZ ETS obligations for agriculture activities on emissions budgets will need to be considered as part of the repeal process as pricing agriculture emissions from 2025 is one of the key actions in the current emissions reduction plan.

Recommendations

We recommend that you:

- a. **Agree** to progress amending the Climate Change Response Act 2002 (CCRA) to repeal all New Zealand Emissions Trading Scheme (NZ ETS) obligations for agriculture activities as listed in Part 5 of Schedule 3, including surrender and reporting obligations and associated sector-specific provisions.

Yes | No

- b. **Agree** to progress minor updates to the CCRA where there is confidence those changes will not impact timelines for the repeal of the agricultural emissions obligations.

Yes | No

- c. **Direct** officials to draft a Cabinet paper seeking approval of policy decisions and authorisation to issue drafting instructions. Note, to meet the draft timeframe and mitigate the risk of the CCRA amendments not occurring prior to 1 January 2025, Cabinet decisions are required during the first quarter of 2024.

Yes | No

- d. **Agree** to discuss priority for this bill with the Leader of the House in January 2024 ahead of the legislative bid process.

Yes | No

- e. **Note** officials consider the bill is likely to require being progressed under urgency to be passed prior to 1 January 2025 if the repeal process is delayed.

- f. **Agree** to forward this briefing to the Associate Minister of Climate Change.

Yes | No

- g. **Agree** to forward this briefing to the Minister of Agriculture.

Yes | No

Signatures



Hamish Slack
Acting Manager, Market Development
Climate Change Mitigation and Resource Efficiency
15/12/2023

Hon Simon WATTS
Minister of Climate Change
/12/2023

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Purpose

7. The National Party's manifesto and the Government's coalition agreements commit to "Keep agriculture out of the Emissions Trading Scheme and implement a fair and sustainable pricing system for on-farm agricultural emissions by 2030 that reduces emissions without sending production overseas."
8. We understand this to mean that all NZ ETS obligations for agriculture activities at both processor and farm-level, including reporting emissions and surrendering units, must be removed from the CCRA. We consider that the amendments should include repealing the current processor-level reporting as MPI compile the inventory using different data.
9. If our understanding is correct, the CCRA must be amended to repeal all NZ ETS obligations for agriculture activities as listed in Part 5 of Schedule 3, including reporting emissions and surrendering units, and associated sector-specific provisions, prior to surrender obligations commencing.
10. This briefing seeks your agreement to progress work to repeal the agriculture obligations in the NZ ETS.

Existing NZ ETS backstop

11. To help New Zealand meet its domestic targets, emissions budgets, and international obligations, the CCRA requires reporting and surrendering of units for emissions from specified activities through the NZ ETS. At present, all sectors in the NZ ETS apart from agriculture have surrender obligations.
12. Pricing agricultural emissions through the NZ ETS was set up as a backstop option to create a clear timeline for when agricultural emissions would be priced and to ensure progress towards reducing agricultural emissions.
13. Since 2011, the CCRA has required fertiliser and animal processors to monitor and report their agricultural emissions under the NZ ETS. In 2020, the CCRA was amended to require fertiliser and animal processors to pay for these emissions through the NZ ETS from 2025.
14. In October 2023, the Minister of Climate Change deferred NZ ETS obligations for animal farmers from 1 January 2024 to 1 January 2026 via an Order in Council [CAB-23-MIN-0457 refers]. This means that from 1 January 2026, the CCRA (as affected by the Climate Change (Animals–Farmer Activities) Order 2023) requires animal farmers to report their emissions, with surrender obligations

commencing on 1 January 2027. At this point surrender obligations for animal processors would cease.

Analysis and advice

Timeframes for amending the CCRA

15. The NZ ETS backstop consists of two parts:
 - processor-level pricing; and
 - farm-level pricing for animal-farmers activities.
16. To remove these obligations, a bill is required to amend the CCRA. The bill must be passed prior to 1 January 2025 if surrender obligations are to be avoided.
17. We anticipate that amending the CCRA in line with the recommendations in this paper will be relatively simple. However, should the complexity of the bill increase, there is a risk the timeframe will be delayed due to, for example:
 - additional time being required for drafting;
 - Select Committee requiring more time to consider submissions and prepare revisions to the bill; and
 - MfE requiring more time to advise on submissions and potentially seek further Cabinet decisions.
18. To meet the proposed draft timeframe included in Appendix 1, Cabinet decisions will be needed in the first quarter of 2024. Any slippage from the timeframe increases the risk of the bill needing to progress under urgency to pass prior to 1 January 2025.

Scope of the amendments

19. There is an opportunity to use the bill to progress other amendments unrelated to the repeal of the backstop. Officials recommend taking this opportunity to progress urgent and focussed updates, including relating to the operation of the NZ ETS. For example, technical improvements such as the following could be included as part of this bill:
 - Add importing CO₂ to the list of activities in CCRA Schedule 3. This will require importers (above a threshold) to become mandatory NZ ETS participants and incur emission costs. There is currently a competitive disadvantage between domestic producers of CO₂ and importers because of emissions pricing.
20. Larger and more contentious changes that expand the scope of the bill will delay us from introducing legislation to the House by the end of May 2024 and may impact the quality of the bill. They will also divert official and Ministerial time and focus away from other priorities. Given the tight timeframes to repeal the NZ ETS agriculture obligations, it would be very challenging to include matters that

require significant policy work and/or drafting, significant decisions, or that may be contentious and require a longer consultation and Select Committee process.

Engagement

21. There is no statutory obligation to consult to amend the CCRA in respect to these proposals.
22. Public consultation was undertaken in September 2023 on deferring NZ ETS obligations for animal farmers. We expect that many of the same themes heard during that consultation would be similar to any consultation undertaken on amending the CCRA to repeal NZ ETS agriculture obligations, given the context similarity. In addition, the Select Committee process of the bill will be an opportunity for the public to submit on these changes.
23. Engagement, however, will be important on your wider strategy for supporting farmers to reduce their emissions. Māori, the agricultural sector, and ENGOs have interests in this. There are options on how you could engage with these groups and the wider public going forward.
24. Option 1: You could tie engagement on reducing agricultural emissions to the Emissions Reduction Plan 2 (ERP2) process. This could be an appropriate vehicle for undertaking engagement with stakeholders and the public as it provides an avenue for Government to detail its plan to reduce agricultural emissions, coupled with New Zealand's emissions budgets and targets.
25. Option 2: You could undertake engagement as part of delivering the Government's plan to reduce agricultural emissions as outlined in the manifesto and coalition agreements.
26. You may also wish to engage with the sector and Māori at an earlier stage to set the foundation for future dialogue and partnership opportunities.

Sector engagement

27. Engagement with the sector is an opportunity to discuss in further detail the Government's plan to reduce agricultural emissions.
28. Farmers are directly affected by policy decisions on agricultural emissions and have engaged and submitted on policies related to this topic in previous consultations. Additionally, there are varying views across the sector (e.g. dairy, sheep and beef, processors and representative organisations) on how to reduce agricultural emissions. Engaging with the sector could help provide them certainty around any future obligations and presents an opportunity to discuss working in partnership moving forward.

Māori engagement

29. Engaging with Māori could help them to understand Government's plan to reduce agricultural emissions and presents an opportunity to gain an understanding of

Māori views, interests and concerns on the topic and on meeting New Zealand's emissions budgets and targets.

Legal issues

9(2)(h)

Next steps

33. If you agree to progressing amendments to the CCRA, officials will draft a Cabinet paper to obtain policy decisions and will provide this to you for your consideration in February 2024.
34. Officials will meet with you in the new year to discuss delivering your wider commitments related to agricultural emissions including farm-level emissions measurement system, sequestration and biogenic methane targets. We plan to shortly provide you a briefing on farm-level emissions measurement system to support these discussions.
35. We propose that you have a discussion with the Minister of Agriculture in the new year on the approach to reducing agricultural emissions. Engagement on this plan could be via either the ERP2 process or as part of delivering the Government's plan to reduce agricultural emissions as outlined in the manifesto and coalition agreements.
36. A separate Cabinet paper will be provided to you for your consideration on additional amendments as part of the bill in February 2024.

Appendix 1: Draft timeframe

Table 1- Draft timeframe to amend CCRA

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|-----------------------------|----------|--|
| January – mid-February 2024 | 5 weeks | Prepare policy decision Cabinet paper. Cabinet consideration of policy decision and authorisation to issue drafting instructions. |
| March – mid-May 2024 | 10 weeks | Preparing drafting instructions, PCO drafts bill to repeal agriculture from the NZ ETS. Prepare Cabinet paper. Risk: this is a short period for drafting, any complexity beyond complete repeal will likely require additional drafting time |
| End of May 2024 | - | Cabinet approves draft bill, introduction of bill to the House |
| June 2024 | 5 months | 1 st reading, Select Committee Note- any Select Committee period of less than 4 months will require an unlimited debate in the House. |
| November 2024 | 1 month | 2 nd reading, committee of the whole House, and 3 rd reading |
| December 2024 | - | Royal Assent of Bill |
| 1 January 2025 | | Processor-level surrender obligations commence unless repealed |