



## Follow up advice on implementation agency arrangements for agriculture emissions pricing system.

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Security Level	CLASSIFICATION	MfE Priority:	Urgent

	Action sought:	Response by:
Hon James SHAW, Minister of Climate Change	Provide recommendation and feedback to officials	20 February 2023

Actions for Minister's Office Staff	Return the signed report to MfE.
Number of appendices and attachments	Appendix One: Functions and roles of emissions pricing systems

### Key contacts

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# Follow up advice on implementation agency arrangements for agriculture emissions pricing system

## Key Messages


1. Ministerial decisions are urgently required regarding implementation arrangements for the agriculture emissions pricing system. This is necessary to support Cabinet decisions to progress the legislative process and enable budget bids to support implementation work programmes.
2. In response to a joint briefing with MPI and IR proposing implementation arrangements (BRF-2502) you requested additional advice on options for implementation arrangements including greater consideration of the role of the Environmental Protection Agency (EPA). You also sought additional advice of the proposed agriculture emissions calculator.
3. This briefing provides additional information on current arrangements for the NZ ETS and the synthetic greenhouse gas levy and the potential role of the EPA. We have provided additional advice on rationale for proposed roles and functions of various agencies in the agriculture emissions pricing system. . More detail on the calculator is provided.
4. We seek to discuss this advice with you in order to progress finalisation of the cabinet paper. Cabinet decisions are needed in March 2023 to support the pricing system to be in place in 2025.

## Recommendations

We recommend that you:

- a. **Meet** with officials for to discuss this advice on 20 February 2023  
Yes/No
- b. **Note** that the Chief Executive of EPA will need to be consulted and agree to any role of the EPA being included in the upcoming agriculture emissions pricing Cabinet paper.  
Yes/No



Signature

Sara Clarke Director Implementation	
Hon James SHAW, Minister of Climate Change	
Date:	

## Purpose

1. This briefing provides additional information on implementation agency arrangements for the agriculture emissions pricing system.
2. We will discuss the content of this briefing and seek further direction from you in your meeting with officials on 20 February 2023.
3. Your direction is required to progress the necessary functions that will ensure the agriculture emissions pricing system can be in place before 2025. This includes Cabinet decisions in March 2023 to enable us to start drafting legislation.

## Context

4. A joint brief from Ministry for Environment (MfE), Ministry for Primary Industries (MPI) and Inland Revenue (IR) provided advice to Ministers on proposed implementation agency arrangements for the agriculture emissions pricing system (BRF-2502). This advice proposed MPI as the lead implementation agency, with MfE and IR being delegated particular responsibilities.
5. In a meeting with officials on 7 February 2023, you did not support the recommended implementation arrangements. You sought additional advice from officials on how the arrangements for the agriculture emissions pricing system could mirror those for other emissions pricing systems. In particular, you asked us to explore how this works for the New Zealand Emissions Trading Scheme (NZ ETS) and the role of the Environmental Protection Agency (EPA).
6. You also sought additional advice on the agricultural emissions calculator and potential role of government and the private sector in the design and management of this tool as part of the pricing system.
7. The analysis and advice below address the written and verbal feedback you provided. Officials will need to incorporate your feedback in the agriculture emissions pricing cabinet paper seeking final policy decisions in March 2023.
8. 9(2)(g)(i)   

10. Decisions on implementation arrangements need to be made promptly to enable finalisation of cabinet paper policy decisions and budget bids across agencies to

ensure implementation by 2025 can be achieved. MPI is currently developing an implementation cabinet paper to support a budget bid for implementing the system in the 2023-24 financial year. This assumes that MPI will carry out the operational functions. Funding for EPA involvement has not been incorporated in the MPI-led Budget 2023 bid on implementation arrangements. If it was decided that the EPA were to be involved in the agriculture emissions pricing system, we would need to consider mechanisms for obtaining the necessary funding for the EPA.

11. We support continuation of the 2022/23 work programme and the progress towards a pilot of the farm-level accounting and reporting system by 1 January 2024. However, MPI's funding for developing the pilot and preparing a business case expires on 30 June 2023. Implementation decisions by Cabinet are needed before the Budget moratorium to provide the authority and funding for the implementation agencies to proceed.

## **Analysis and advice Analysis and advice**

12. This advice is based on an assumption that agriculture emissions pricing is included within the Climate Change Response Act 2002 (CCRA). It has not yet been decided what the most appropriate legislative vehicle is for the agriculture emissions pricing system. However, for consistency with emissions pricing of other sectors, MfE would recommend that the CCRA provides the most suitable framework for amendment. Other options include a new act specifically focused on agriculture emissions pricing.
13. The advice is also based on the assumption of joint Ministerial decision-making across the Minister of Climate Change and Minister of Agriculture. This is the basis on which the cabinet paper has been drafted. The rationale for joint Ministerial decision making is that this has been the legislative approach to date for the report on the agriculture emissions pricing system and aligns with the in-practice approach for other sectors (e.g., Forestry) where decisions are made jointly between the Minister of Climate Change and Minister of Forestry. Officials note it will be important to clarify the span of this decision making with you as we move towards legislative drafting if the CCRA is the preferred legislative instrument.

## **Need for strategic governance of emissions pricing**

14. Appropriate cross-agency governance systems need to be put in place to weave together components of various emissions pricing mechanisms and monitor progress towards targets. MfE has a leadership role in this space.
15. Governance and system stewardship of the agriculture emissions pricing system is considered a core role of MfE in being the key administrative agency for the CCRA in meeting the broader objectives regarding emissions reductions targets. Given the core policy role that MPI plays with the agriculture sector, links with the sector, and implementation of complementary programmes such as the Centre for Climate Action on Agriculture Emissions, the agriculture emissions inventory, and extension

programmes, it is proposed that MPI has a joint governance/stewardship function alongside ongoing policy work. This aligns with governance and policy settings of ETS forestry.

16. Currently governance of operational matters for the NZ ETS is managed through an Operational Executive Group with membership made up of MfE, EPA and MPI. This primarily deals with operational matters, including the necessary link to put new policy and legislative matters into practice.
17. In the lead up to the implementation of agriculture emissions pricing, there is a need to re-evaluate existing cross-agency governance arrangements to ensure they are fit-for-purpose. For agriculture, this will need to cover elements such as bedding in the new system, reviewing impacts of pricing on behaviour change and tracking towards targets, alignment with complementary policies, review of levy prices and other policy settings. The Climate Change Chief Executive Inter-Agency Executive Board has a likely role in this space.

### **Operations of the agriculture emissions pricing system and alignment with existing systems**

18. The previous proposal for governance and operational functions and roles for the agriculture emissions pricing system was that:
  - a. MfE and MPI jointly carry out governance and system stewardship and policy management including ensuring sufficiency of pricing to meet targets, setting regulations, revenue recycling strategy and stakeholder engagement.
  - b. MPI has responsibility for implementing and administering the operational functions including participant registration, the emissions calculator and reporting and data management;
  - c. IR has responsibility for levy collection and assessment; and
  - d. MPI and IR jointly responsible for compliance monitoring and enforcement, including audit and verification.
19. Having MfE and MPI jointly provide system stewardship and policy management aligns with how things are managed in practice for NZ ETS forestry.
20. MPI's proposed operational role in managing the participant register, emissions calculation and data management aligns with their current role in ETS forestry. The EPA carries out these roles for other sectors in the NZ ETS.
21. IR is proposed as the organisation to manage levy payment based on the scale and complexity of building a system by 2025, and alignment with existing platforms (e.g., the tax system).
22. The primary considerations in determining preferred agencies for leading particular functions were ensuring the system was operational by 2025; minimising the number

of agencies involved; and building on existing platforms given the scale and complexity of implementing a farm level system with 23,000 participants.

### **Potential role for the EPA in agriculture emissions pricing**

23. MfE officials, with support from the EPA, do not consider there is a strong case for operational involvement of the EPA in the agriculture emissions pricing system at this stage.
24. Having the EPA carry out operational functions as part of the agriculture system was dismissed in previous analysis due to tight implementation timeframes, the current funding for MPI in delivering implementation, and limited capacity of EPA to step into this role.
25. MPI was preferred as leading on core operational functions due to having existing involvement in managing other agriculture levy systems including participant registers, which includes compliance and enforcement, their role in leading the agriculture emissions inventory, and sector relationships.
26. While having the EPA involved explicitly in some functions provides an opportunity for consistency of operational policy across emissions pricing systems, it does add complexity through the inclusion of another agency to an already crowded implementation space. Good governance and policy processes across MfE and MPI should support the achievement of alignment without the need for direct EPA involvement.
27. The EPA has advised that they do not have the capacity to pick up any additional operational functions for the agriculture emissions pricing system at this stage without an immediate increase in funding and would struggle to resource delivery of any additional operations in time to deliver in 2025. The EPA have advised that if we recommend any operational role for them in the agriculture emissions pricing system this must be approved by their Chief Executive before progressing.
28. If the EPA does not carry out any major operational functions, the EPA will have a nominal role in agriculture emissions pricing regardless of the legislative options set out below. If the EPA did need have an operational role, officials consider this would jeopardise the critical pathway for introducing agriculture emissions pricing legislation and the necessary implementation work programmes to ensure the pricing system is operational in 2025.

### **Existing roles of EPA in emissions pricing – primarily operational**

29. The EPA is responsible for the administration of the NZ ETS as set out in Sub-part 3 of Part 4 of the CCRA. Under s87 and 87a, the EPA can delegate the specified functions. The EPA holds the New Zealand Emissions Trading Register (the Register). As such it registers participants or eligible entities, calculates emissions, generates returns and takes units as payment for emissions liabilities. It also receives applications for allocation by eligible entities or participants carrying out removal activities.

30. The Board of the EPA delegates powers to the Chief Executive and the CE has the power under section 74 of the Crown Entities Act to delegate (with the consent of the Board). The CE of the EPA has delegated specific functions related to ETS forestry functions to the CE of MPI. This includes functions related to registration, calculation of emissions liabilities or entitlements, and compliance and enforcement. This framework is supported by a Memorandum of Understanding that sets out each agencies delegated responsibilities.
31. There will be some overlap between the way the NZ ETS functions and how the agriculture emissions pricing system is proposed to operate. Alignment of functions across various pricing systems is covered in Appendix One, including potential future arrangements. Operational functions that overlap where the EPA has an existing role in the NZ ETS include the participant register, emissions calculator, reporting and compliance. The role of the EPA in the NZ ETS for functions such as unit allocation and collection will not be required for agriculture emissions pricing as there is no trading of units. The agriculture emissions pricing system will require a cash transfer payment which the EPA is not currently set up to receive. The agricultural emissions system will also require approving and processing deductions to reward the uptake of sequestration and mitigation technologies.
32. The EPA also has regulatory responsibility for the synthetic greenhouse gas levy (SGG levy). The SGG levy was brought in instead of putting a large amount of individual car importers into the NZ ETS. Importers do not get registered on the ETS Register, and the payment is money – not units. Under s226 of the CCRA, there are specific roles of the EPA, New Zealand Customs Service and the New Zealand Transport Authority (NZTA). The EPA has the role of collating and publishing information, as well as monitoring overall compliance and retains the debt collection function.
33. The regulatory role the EPA plays here is some monitoring of Customs and the NZTA. It is a light touch regulatory approach given the collection and assessment of who needs to comply are carried out by other agencies whose roles are set out in s226 of the CCRA. This approach to compliance may not be sufficient for the agricultural emissions pricing scheme.
34. There is some alignment between the agriculture emissions pricing system and the SGG levy as these both require emissions calculation, reporting, levy payment, compliance, and enforcement. New Zealand Customs is the agency that collects the SGG levy.

### *Legislative options for inclusion of EPA*

35. We understand your preference is to align implementation agency arrangements with the approach taken to emissions pricing across the rest of the economy, with the EPA having a specific legislative and/or operational role.
36. There are two potential legislative options for inclusion of the EPA based on existing implementation arrangements outlined in the CCRA for the NZ ETS and the SGG levy.



37. **Option One:** Building on previous advice from BRF-2502, the CCRA is amended to include a **new section which outlines the specific functions and roles of each agency** involved along the lines of s226 for the SGGL. This would explicitly reference the roles and responsibilities of the MPI, IR and MfE as above.
38. Given the agriculture emissions pricing system, as currently designed, more closely resembles the SGG levy than the NZ ETS, this option would present a similar legislative framework.
39. There is potential to include some operational functions for the EPA that could be jointly delivered to maintain consistency across the pricing systems e.g., register, emissions calculation, or compliance. However as noted above, we recommend that these are carried out by one agency given the complementary nature of the functions.
40. Option One explicitly builds the functions of particular agencies into legislation which provides certainty of roles and responsibilities. There is opportunity within this approach to be explicit about governance roles and responsibilities across agencies.
41. **Option Two:** The **EPA remain the primary administrative agency** for all emissions pricing through amendments to the CCRA to include additional functions for the EPA to deliver the agriculture emissions pricing system. As is the case for the NZ ETS, the EPA could then delegate (or deliver jointly) the specific operational functions to other agencies.
42. In this case, we continue to support all operational tasks being delegated, including the register, emissions calculation and reporting and data management to MPI as is the case for ETS Forestry. We support levy invoicing and collection being maintained through the IR system due to the scale and complexity of this task.
43. This option would enable the EPA to maintain a regulatory administrative role across emissions pricing systems and the monitoring and performance of agencies involved. This arrangement makes sense for the NZ ETS where the EPA has a significant operational function and does not delegate all functions. In practice operational oversight is currently managed across EPA, MPI and MfE for the NZ ETS.
44. This option retains greater overall implementation arrangement coherency with emissions pricing through the legislative framework. It provides for the opportunity for future adjustments to delegations for particular functions, which also means greater uncertainty of a future role for some agencies.

*Officials seek your feedback on these options at officials meeting on 20 February 2023 to support finalisation of the Cabinet paper.*

### *Agriculture emissions calculator*

45. You also raised concerns around the proposed approach for the agriculture emissions calculator. The current proposal is that government will build and manage a centralised agriculture emissions calculator and this to be managed by MPI. You

noted in the officials' meeting that the approach could be similar to that for accounting principles and standards that are set by one body (this could be a Ministry, or an external group like Manaaki Whenua or Toitu) and then individual firms can apply those standards to their own calculator.

46. MfE considers that the outcomes that need to be achieved through the operation of the emissions calculator include:
  - a. Implementable: system is built before 2025
  - b. Transparent: participants and the public understand how an emissions return is calculated
  - c. Auditable: government can maintain confidence that scheme participants have used an approved methodology to calculate their emissions
  - d. Consistent: all calculators should result in same emissions number
  - e. Independent: not influenced by those with vested interests
  - f. Adaptable: can build in modifications and updates relatively easily
  - g. Universal access: needs to be available to all participants for free
  - h. Efficient: end-to-end cost effectiveness
47. Reasons for government overseeing the development and management of the emissions calculator are:
  - a. This supports delivery by 2025 start date. The level of private sector interest in developing and managing a calculator is uncertain and presents a risk to system delivery.
  - b. This aligns with the NZ ETS, whereby the central calculator was built and is managed by government agency (EPA). This enables ease of updates and a continual ongoing maintenance relationship with the calculator provider.
  - c. Government overseeing the calculator enables ease of government collection and management of critical data to monitor emissions reductions such as uptake of mitigation technologies or practices. This enables continuous improvement of the policy system (such as incentives and sequestration), that would not be possible if government didn't have access to the data.
  - d. A government agency holding the calculator also adds a level of robustness and transparency – lessons from the review of the nutrient management tool Overseer should be applied to how this tool is governed and maintained.
  - e. Government management of input data also facilitates audit, and verification and compliance systems, reducing scheme administration costs.

- f. It reduces the need for government to audit outsourced calculators to ensure they comply with standards.
  - g. This does not preclude private sector involvement and innovation. For example, the tax system requires IR to provide tax calculators for free but encourages innovation by tax and accounting service providers. Current plans for the calculator incorporates mechanisms to facilitate private sector third-party access.
48. Rationale for government setting development standards and outsourcing the calculator to private providers to support achievement of outcomes include:
- a. Reduced cost to government in the build and management of the emissions calculator.
  - b. Enabling innovation in delivery of the calculator through private sector expertise and connection to end users.
  - c. Builds on and does not crowd out the existence of multiple private sector calculators.
49. On balance, given some of the critical implementation aspects such as guaranteed establishment and links to data management, we consider that building the calculator within government is the most appropriate option at this stage.
50. Officials from the three agencies explored having the calculator sit within IR alongside the self-assessment and payment functionality. However, IR advised that although this was feasible at the current level of complexity, there would be constraints on any potential enhancements to the scheme (e.g. new categories of low-emissions livestock, consideration of farm systems/slope).
51. Next steps: Following Cabinet's approval of the scheme, implementation agencies will engage with farm accountants, farm accounting software providers and the suppliers of other farm management tools on how we can best support participants to meet their obligations. One potential area of exploration is how existing software can integrate with the central calculator rather than embed their own version of the levy rules. This work forms part of the Business Case development process.

## Appendix 1. Functions and roles of emissions pricing systems

		<b>NZ ETS</b>	<b>SGG levy</b>	<b>Ag emissions pricing (Option One)</b>	<b>Ag emissions pricing incl. EPA * (Option Two)</b>
<b>Governance &amp; system stewardship</b>	System monitoring, review & allocation	ETS Operational Executive Group – MfE, MPI & EPA  EPA with delegation to MfE	ETS Operational Executive Group – MfE, MPI & EPA  MfE	MfE & MPI	ETS Operational Executive Group – MfE, MPI & EPA  EPA, MfE & MPI
	Ensuring pricing system meets objectives of emissions reductions targets	EPA with delegation to MfE, and delegation to MPI for Forestry	MfE	MfE	EPA with delegation to MfE
<b>Policy management</b>	System level policy settings	EPA with delegation to MfE, with delegations to MPI for Forestry	MfE	MfE & MPI	EPA with delegation to MfE & MPI
	Operational policy settings	EPA with delegation to MfE, and delegation to MPI for Forestry	MfE	MPI	EPA with delegation to MPI
	Participant levy registration	EPA with delegation to MPI for forestry	EPA	MPI	EPA with delegation to MPI

<b>Participant registration</b>	Relationship management	EPA with delegation to MPI for forestry	EPA	MPI with IR having supporting role	EPA with delegation to MPI with IR having supporting role
<b>Unit allocation and surrender</b>		EPA with delegation to MPI for Forestry and MfE as inventory agency	N/A	N/A	N/A
<b>Emissions calculation</b>	Calculator design & data interoperability considerations	EPA	EPA	MfE & MPI	EPA with delegation to MfE & MPI
	Data collection, calculation and transfer of data for levy assessment	EPA with delegation to MPI for forestry	EPA	MPI with delegation to IR	EPA with delegation to IR
<b>Emissions reporting</b>		EPA with delegation to MPI for forestry	EPA	MPI with delegation to IR	EPA with delegation to IR
<b>Levy assessment &amp; collection</b>	Calculation of levy assessment	EPA	EPA with delegation to NZTA for motor vehicle levy, and Customs NZ for goods levy	MPI with delegation to IR	EPA with delegation to IR
	Invoicing, collection of payment & penalties for non-compliance	EPA with delegation to MPI for forestry	EPA with delegation to NZTA for motor vehicle levy, and Customs NZ for goods levy	MPI with delegation to IR	EPA with delegation to IR
	Desk top auditing & verification	EPA with delegation to MPI for forestry	EPA	MPI with delegation to IR	EPA with delegation to IR

<b>Compliance, monitoring &amp; enforcement,</b>	In-person auditing & verification	EPA with delegation to MPI for forestry	EPA	MPI	EPA with delegation to MPI
	Compliance, monitoring & enforcement	EPA with delegation to MPI for forestry, and MfE as inventory agency	EPA	MPI	EPA with delegation to MPI
<b>Revenue recycling &amp; investment</b>	Operational settings	N/A	N/A	MPI	EPA with delegation to MPI
	Policy settings for revenue recycling strategy	N/A	N/A	MPI & MfE	EPA with delegation to MPI & MfE
<b>Extension services</b>	Provide information & advice on emissions reductions innovations & strategies	EPA - marketing	EPA - marketing	MfE, MPI & private sector	EPA with delegation to MfE, MPI & private sector
<b>Reporting &amp; publishing</b>		MfE as inventory agency, EPA as registrar & MCC	EPA & MfE	MPI & IR	EPA, MPI & IR

\*Progressing with this option would require by-in with all the agencies and Ministers including the EPA who have noted they don't currently have capability.