



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Hon Simon Watts	<b>Portfolio</b>	Climate Change
<b>Name of package</b>	Annual process to update NZAS and NZ Steel's allocative baselines March 2025	<b>Date to be published</b>	20/03/2025

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
12 December 2024	BRF-5639: Approval to issue call for data notices to New Zealand Aluminium Smelters Limited and NZ Steel Development Group	Ministry for the Environment
13 February 2025	BRF-5843: Approval to issue drafting instructions for the annual update to the allocative baselines for NZAS and NZ Steel	Ministry for the Environment
5 March 2025	BRF-5917: Approval to lodge LEG paper to update NZAS and NZ Steel's allocative baselines	Ministry for the Environment
13 March 2025	CAB-539: Climate Change (Eligible Industrial Activities) Amendment Regulations 2025	Ministry for the Environment
13 March 2025	LEG-25-MIN-0027 Climate Change (Eligible Industrial Activities) Amendment Regulations 2025	Cabinet Office
17 March 2025	CAB-25-MIN-0070 Report of the Cabinet Legislation Committee Minute	Cabinet Office

#### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

#### Summary of reasons for redaction

Some information has been withheld from *BRF-5639: Approval to issue call for data notices to New Zealand Aluminium Smelters Limited and NZ Steel Development Group* and *BRF-5843: Approval to issue drafting instructions for the annual update to the allocative baselines for NZAS and NZ Steel* under Section 9(2)(f)(iv) of the Official Information Act to maintain the confidentiality of advice tendered by Ministers of the Crown.

Information has also been withheld from *BRF-5843: Approval to issue drafting instructions for the annual update to the allocative baselines for NZAS and NZ Steel* and *CAB-539: Climate Change (Eligible Industrial Activities) Amendment Regulations 2025* under Section 9(2)(h) to maintain legal professional privilege.

*BRF-5917: Approval to lodge LEG paper to update NZAS and NZ Steel's allocative baselines* also has some information withheld under Section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions.



# Briefing: Approval to issue call for data notices to New Zealand Aluminium Smelters Limited and NZ Steel Development Group

Date submitted: 12 December 2024

Security level: CLASSIFICATION

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Simon WATTS Minister of Climate Change	Approve the publication of the attached Gazette notices	17 December 2024

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> )
Publish attached draft notices in the Gazette.

Appendices and attachments
1. Draft Gazette notice: Call for the Provision of Electricity Contract Related Information (Aluminium Smelting) Notice 2024
2. Draft Gazette notice: Call for the Provision of Electricity Contract Related Information (Manufacture of Iron and Steel from Iron Sand) Notice 2024

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Alex Hunter		
Acting General Manager	Simon Mandal-Johnson		✓

Minister's comments

# Approval to issue call for data notices to New Zealand Aluminium Smelters Limited and NZ Steel Development Group

## Key messages

---

1. This briefing seeks your approval to publish the attached Gazette notices before 24 December 2024. The notices request electricity contract related information from New Zealand Aluminium Smelters Limited (NZAS) and New Zealand Steel Development Group Limited (NZ Steel).
2. This information is needed as part of the annual regulatory process to update final and provisional allocative baselines for these two emitters. The baselines are used to calculate final and provisional industrial allocations of New Zealand Units provided via the New Zealand Emissions Trading Scheme (NZ ETS).
3. This process has become routine for NZAS, 2024 will be the first time NZ Steel has been involved [BRF-5636 refers]. We have engaged with NZ Steel and NZAS as part of preparing this briefing and have considered their feedback on the draft notices.
4. The update to NZAS's and NZ Steel's allocative baselines will ensure that the amount of industrial allocation the firms receive for 2024 reflects their actual emissions costs from operation. The new baseline calculations will apply Cabinet's recent decision to change the treatment of NZ Steel's cogenerated electricity purchased under contract with Alinta [ECO-24-MIN-0201 refers] and the upcoming decision on a new electricity contracts allocation factor (ECAAF) for NZAS resulting from the new electricity contracts it recently signed [BRF-5526 refers].
5. We need to issue the Gazette notices now so that the data can be collected in time to amend the allocative baselines for these firms in the Climate Change (Eligible Industrial Activities) Regulations 2010 (the Regulations) in March next year. The updated baselines need to be in place when the two firms apply for their final 2024 allocations, which they are required to do by 30 April 2025.<sup>1</sup>
6. If this data is not called for, we would not be able to implement the Cabinet decisions noted above and ensure these firms' allocations accurately reflect their emissions costs. If their allocative baselines are not updated, both NZ Steel and NZAS's final 2024 allocations would be substantially greater than they would be under updated baselines, at significant cost to the Crown.
7. Cabinet agreement is not required to issue these Gazette notices as they are part of a routine process and support implementation of Cabinet's previous decisions.

---

<sup>1</sup> Climate Change Response Act 2002 section 86(1A)

## Analysis and advice

---

### **Allocation recipients receive a provisional allocation and an allocation adjustment**

8. Recipients of industrial allocation receive an allocation of units near the start of the year to cover their expected emissions costs for that calendar year (i.e. after applications close 30 April, a recipient receives its expected allocation for that entire calendar year based on its expected production). This is called a provisional allocation.
9. In this same application process, recipients have their provisional allocation from the previous calendar year 'trued-up' to take into account the final production that occurred. This is called an allocation adjustment and determines the final allocation received for that previous calendar year.

### **NZAS' and NZ Steel's final allocations will depend on their electricity consumption**

10. NZAS and NZ Steel are special cases because their annual emissions exposure is coupled to their sources of electricity. The amount of electricity consumed from different sources changes from year to year. These changes need to be reflected each year in the allocative baselines used to determine the allocations for these firms.
11. The update to the allocative baselines involves finalising the baselines for the previous year in line with the actual emissions costs faced by NZAS and NZ Steel for that year and prescribing provisional baselines for future years.

### **Gazette notices must be issued to call for electricity contract related information to inform updates to allocative baselines**

12. Applications for allocations (including final 2024 allocations and provisional 2025 allocations) are due by 30 April 2025.<sup>2</sup> To ensure NZAS and NZ Steel receive the correct allocations, their updated baselines need to be specified in the Regulations before this date.
13. To do this we need to obtain information related to NZAS's and NZ Steel's purchases of electricity under their various electricity contracts:
  - i For NZAS this includes electricity purchased under its previous contract with Meridian (for the first six months of the 2024 calendar year), and electricity purchased under the new three electricity contracts with Meridian, Contact and Mercury (for the last six months).
  - ii For NZ Steel this includes electricity generated from waste gases and natural gas purchased under contract with Alinta.
14. This is achieved through your issuing of notices in the New Zealand Gazette that requests data on purchases of electricity under section 161D(1)(e)(ii) of the Act. Copies of the Gazette notices have been appended to this briefing.

---

<sup>2</sup> The Act does not allow applications to be accepted after this date.

15. Issuing the notices in the New Zealand Gazette in December will allow the two firms enough time to provide their 2024 electricity usage information early in the new year, updated baselines to be agreed by Cabinet in March 2025.

## **Other considerations**

---


### **Consultation and engagement**

16. Both NZAS and NZ Steel are aware of the process for updating their allocative baselines early next year and are anticipating the call for electricity consumption data. We have provided drafts of the Gazette notices to NZAS and NZ Steel for review to ensure the notices will lead to the right data being collected. We have made specific changes on operational matters in response to feedback from NZ Steel.
17. We will continue to engage with NZAS and NZ Steel as part of the process to update the allocative baselines.

### **Risks and mitigations**

18. There are timing risks associated with this work. Firms receiving industrial allocation must submit applications to the Environmental Protection Authority (EPA) between 1 January 2025 and 30 April 2025, as required by the Act.
19. The updates to NZAS's and NZ Steel's allocative baselines need to occur before 30 April so that correct allocations can be received and Cabinet's previous decisions treatment of electricity costs are given effect. The baseline amendment regulations will require approval from Cabinet. Publishing the Gazette notice before 24 December allows time for the updates to be drafted and approval to be sought from Cabinet before 30 April 2025.

9(2)(f)(iv)



### **Regulatory implications**

### **Next steps**

---

22. The Gazette notices will be published before 24 December 2024, pending your approval. Section 161D(4) of the Act also requires the Gazette notices to be presented to the

House of Representatives no later than 16 sitting days after publication in the NZ Gazette. We will work with your office to arrange this.

23. Once the electricity usage information is collected from NZAS and NZ Steel next year, we will calculate their new allocative baselines and seek your approval to issue drafting instructions to the Parliamentary Counsel Office to include these in draft amendment Regulations.
24. The draft amendment regulations will need to be considered by the Cabinet Legislation Committee early next year prior to submission to Executive Council and publication in late March 2025. The table below sets out the proposed timeline for this work.

### Proposed timeline

Task	Date
Publish Gazette notices calling for data from NZAS and NZ Steel	Before 24 December 2024
Present Gazette notices to House of Representatives	Early February 2025
Calculate new allocative baselines	Early February 2025
Instruct the PCO to draft regulations	Early February 2025
Circulate draft LEG paper for Ministerial consultation	Early March 2025
Lodge LEG paper	Mid - March 2025
LEG considers regulations	Mid - Late March 2025
Cabinet and Executive Council	Late March 2025
Notification of amendment regulations in the NZ Gazette	Week of 24 March 2025
NZAS and NZ Steel apply to EPA for their allocation of NZUs using new allocative baselines	By 30 April 2025

## Recommendations

We recommend that you:

- a. **note** that updating the allocative baselines for New Zealand Aluminium Smelters Limited (NZAS) and New Zealand Steel Development Group (NZ Steel) will ensure that their 2024 final allocations accurately reflect the emissions costs they face through the prices they pay for electricity.
- b. **note** that calling for data on 2024 electricity usage is a necessary step towards updating the allocative baselines for these firms in March 2025, before they submit applications for their final 2024 and provisional 2025 allocations by 30 April 2025.
- c. **agree** to sign and publish the attached draft Gazette notices calling for electricity contract related information from NZAS and NZ Steel by 24 December 2024.

Yes/No

**Signatures**

---



Simon Mandal-Johnson  
Acting General Manager  
**Markets Unit, CCMRE**  
**12/December/2024**

Hon Simon WATTS  
**Minister of Climate Change**  
  
**Date**



# Briefing: Approval to issue drafting instructions for the annual update to the allocative baselines for NZAS and NZ Steel

Date submitted: 13 February 2025

Tracking number: BRF-5843

Sub Security level: CLASSIFICATION

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Simon WATTS <b>Minister of Climate Change</b>	<b>Agree</b> to issue drafting instructions to the Parliamentary Counsel Office to update the allocative baselines for NZAS and NZ Steel	17 February 2025

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment ( <a href="mailto:advice@mfe.govt.nz">advice@mfe.govt.nz</a> ).

Appendices and attachments
1. Explanation of new allocative baselines for NZAS and NZ Steel

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Alexandra Hunter		
Responsible Manager	Simon Mandal-Johnson	027 288 0142	✓
General Manager	Mark Vink		

Minister's comments



# Approval to issue drafting instructions for the annual update to the allocative baselines for NZAS and NZ Steel

## Key messages

---

1. This paper seeks your approval to instruct the Parliamentary Counsel Office (PCO) to draft amendment regulations for the Climate Change (Eligible Industrial Activities) Regulations 2010 to update the allocative baselines for two firms:
  - i New Zealand Aluminium Smelters Ltd (NZAS)
  - ii New Zealand Steel Ltd (NZ Steel)
2. Allocative baselines are used to calculate final and provisional industrial allocations of New Zealand Units under the New Zealand Emissions Trading Scheme (NZ ETS). There is a bespoke annual process for setting NZAS and NZ Steel's baselines because their electricity contracts mean they are not exposed to the same emissions costs for using electricity as other firms [see BRF-5639, BRF-5526 etc.].
3. The proposed allocative baselines in this briefing implement two recent Cabinet decisions on these firms' industrial allocations. The methodology for calculating the baselines is otherwise highly technical and follows a prescribed formula – no further policy decisions are being sought here.
  - i On 3 February 2025 Cabinet agreed to a new electricity contracts allocation factor (ECAAF) for NZAS in the light of the new electricity contracts it signed last year [CAB-25-MIN-0014 refers].
  - ii In September 2024 Cabinet agreed that NZ Steel will no longer receive an allocation for its use of cogenerated electricity [CAB-24-MIN-0381 refers]. The baselines for NZ Steel presented here implement this decision. This is the first time NZ Steel has gone through this bespoke process, but it will now become annual as agreed by Cabinet.
4. This briefing seeks your agreement to the next step in implementing these decisions, which is to issue drafting instructions to PCO so the updated baselines can be set in regulation. Cabinet approved an ongoing delegation to the Minister of Climate Change to issue drafting instructions for updates to allocative baselines in accordance with annual data updates [CAB-24-MIN-0381 refers].
5. For NZAS, the proposed final 2024 allocative baseline for aluminium smelting is 2.9353. This is significantly higher than the provisional 2024 baseline currently in the regulations (2.042) because the new electricity contracts contain more emission costs than the previous contract.
6. NZ Steel produces five iron and steel products from iron sand at Glenbrook. Each has its own allocative baseline. These are listed in the appendix. On average the new allocative baselines for NZ Steel's Glenbrook products are 23% lower than the allocative baselines that were used previously.

7. The new baselines will be used to determine the final 2024 allocations for these two firms, along with their provisional allocations for 2025. Using confirmed 2024 production data from the two firms, the new baselines result in the following changes in allocations:

2024	Provisional NZU allocation	Final NZU allocation	Change
NZAS	586,316	731,276 \$46.8m	144,960 NZUs \$9.3m
NZ Steel	1,830,267	1,612,770 \$103.2m	(217,497) NZUs (\$13.9m)

8. We have worked closely with both firms to determine their new baselines. NZAS agreed with MfE’s calculation of its baselines. NZ Steel identified a minor error in the initial calculation of its baselines which officials then corrected, resulting in slightly lower final calculation. Both firms are aware of the expected impacts on their final 2024 and provisional 2025 allocations. Officials will contact both firms to advise them of the expected publication date of the amended regulations once agreed by Cabinet.
9. The regulations containing the new allocative baselines need to enter into force in time for both firms to submit their applications for final 2024 allocations before the statutory deadline of 30 April 2025. To achieve this, we will provide you with draft Cabinet paper next week seeking agreement to the regulations, for Cabinet’s consideration in mid-March.
10. 9(2)(f)(iv) [redacted] his briefing reflects the ‘business as usual’ part of the industrial allocation work programme. 9(2)(f)(iv) [redacted]
11. A more detailed explanation of the proposed new allocative baselines is included at Appendix 1.

9(2)(h) [redacted]

---

[redacted]

[redacted]

## Next steps

---

14. In order to meet timelines, we will provide you with a draft LEG paper next week seeking agreement to the regulations once drafted by PCO. The regulations need to be approved by the Executive Council in late March so firms can submit their applications for final 2024 and provisional 2025 allocations using the new baselines before the statutory deadline of 30 April.
15. We will work with your office to develop a proactive communications plan for this decision and relevant documents once the regulations are made.

Task	Date
Draft LEG paper for feedback	Late February 2025
Circulate draft LEG paper for Ministerial consultation	Late February - Early March 2025
Lodge LEG paper	Early March 2025
LEG considers regulations	Mid March 2025
Cabinet and Executive Council	Mid March 2025
Notification of amendment regulations in the NZ Gazette	Late March 2025
NZAS and NZ Steel apply to EPA for their allocation of NZUs using new allocative baselines	By 30 April 2025

## Recommendations

---

We recommend that you:

- a. **agree** to instruct the Parliamentary Counsel Office to draft amendments to the Climate Change (Eligible Industrial Activities) Regulations 2010 to:
  - i. prescribe the final allocative baseline for aluminium smelting by NZAS for 2024 as 2.9353 and the provisional allocative baselines for 2025 and 2026 as 2.9353  
Note: a technical correction was later made to these provisional baselines.
  - ii. prescribe the final and provisional allocative baselines for manufacture of iron and steel from iron sand by NZ Steel according to the following table:

Product	Final 2024 allocative baseline	Provisional 2025 and 2026 allocative baseline
<b>A</b>	2.8574	2.8574
<b>B</b>	0.1113	0.1113
<b>C</b>	0.0983	0.0983

<b>D</b>	0.1409	0.1409
<b>E</b>	0.1193	0.1193

Yes | No

- b. **Note** that officials will prepare a Cabinet paper for you to seek Cabinet agreement to these regulations.
- c. **Note** that amendments to the regulations must be finalised and published in the New Zealand Gazette in time for NZAS and NZ Steel to apply for their allocations by 30 April 2025.

## Signatures

---



Mark Vink  
**General Manager, Markets**  
**12 February 2025**

Hon Simon WATTS  
**Minister of Climate Change**

**Date**

# Appendix 1: Explanation of new allocative baselines for NZAS and NZ Steel

Note: a technical correction was later made to the provisional baselines for NZAS to account for its new contracts being in effect for the whole year, unlike 2024.

## NZAS allocative baseline update

1. The proposed 2024 baseline amendment is based on actual 2024 electricity consumption data provided by NZAS. The provisional baseline for 2025 and 2026 are set using the same 2024 data. This is usual practice. Actual data, when available in years will be used to set final baselines and update provisional baselines.

Year	Provisional Allocative Baseline	Proposed Final 2024 Allocative Baseline
2024	2.042	2.9353
2025	2.9353	
2026	2.9353	

2. The final 2024 allocative baseline is higher than was set provisionally as it applies Cabinet’s recent decision on a new electricity contracts allocation factor for NZAS [CAB-25-MIN-0014 refers], which increases the allocation NZAS receives for electricity purchased under its 2024 electricity contracts.
3. The impact of confirmed 2024 production data, and the amended allocative baseline will result in NZAS receiving 731,276 NZUs, which is 144,960 NZUs more than the 586,316 NZUs that it received last year for its 2024 provisional allocation. This impact is below the 882,125 NZUs that were expected when Cabinet took decisions on how to account for the new electricity contracts in NZAS’s industrial allocation. This difference is due to reduced production in late 2024 because of the electricity demand response call made by Meridian Energy Limited on NZAS.
4. This increased allocation for 2024 will be part of the EPA’s industrial allocation ‘true-up’ process implemented after April.

## NZ Steel allocative baseline update

5. The proposed final 2024 baselines for NZ Steel’s Glenbrook products are based on actual 2024 electricity consumption data provided by NZ Steel. The provisional baselines for 2025 and 2026 are set using the same 2024 data.
6. NZ Steel’s activity of manufacturing iron and steel from iron sand at Glenbrook produces five products eligible for industrial allocation, each with their own allocative baseline. A sixth product (‘F’) is made offsite by NZ Steel’s subsidiary, Pacific Steel and is unaffected by the policy decision regarding cogeneration. The current and proposed allocative baselines for each product are set out in the table below:

Year	Product	Provisional Allocative Baselines	Proposed Final 2024 Allocative Baselines
2024	A	3.2613	2.8574
	B	0.1190	0.1113
	C	0.2800	0.0983

	D	0.1630	0.1409
	E	0.1493	0.1193
2025	A	2.8574	
	B	0.1113	
	C	0.0983	
	D	0.1409	
	E	0.1193	
2026	A	2.8574	
	B	0.1113	
	C	0.0983	
	D	0.1409	
	E	0.1193	

7. The largest allocative baseline change for NZ Steel is for Product C (vanadium bearing materials), as most of the emissions from its production arise from electricity use. Only 0.1% of NZ Steel's total allocation is for Product C however.
8. The impact of confirmed 2024 production data, and the amended allocative baselines will result in NZ Steel paying back approximately 217,497 NZUs of the 1,830,267 it received last year for its 2024 provisional allocation. This change will be part of the EPA's 'true-up' process implemented after April. This impact is almost exactly as forecast when Cabinet made policy decisions on the treatment of cogenerated electricity in industrial allocation rules [CAB-24-MIN-0381].
9. Allocations are made according to this formula. Electricity is part of the allocative baseline (the emissions intensity of production) along with emissions from other fossil fuel use and any emissions from chemical processes on site. The level of assistance for both NZ Steel and NZAS is 85% in 2025 and is being phased out 1 percentage point each year until 2030.

Allocation (NZUs) = allocative baseline (tCO<sub>2</sub>e/unit of product) × annual production (units of product) × level of assistance (%)



## Briefing: Approval to lodge LEG paper to update NZAS and NZ Steel's allocative baselines

**Date submitted:** 5 March 2024

**Tracking number:** BRF-5917

**Sub Security level:** In-Confidence

**MfE priority:** Urgent

Actions sought from Ministers		
<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Simon WATTS <b>Minister of Climate Change</b>	Approve the updated provisional allocative baselines for NZAS Agree to lodge the LEG paper updating NZAS and NZ Steel's allocative baselines	6 March 2025

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment ( <a href="mailto:advice@mfe.govt.nz">advice@mfe.govt.nz</a> ).

Appendices and attachments
1. CAB-539 – Climate Change (Eligible Industrial Activities) Amendment Regulations 2025
2. Draft Climate Change (Eligible Industrial Activities) Amendment Regulations 2025
3. Talking points for LEG meeting 13 March 2025 <small>Withheld in full under section 9(2)(g)(i) of the Act</small>

Key contacts at Ministry for the Environment			
<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Alexandra Hunter		
Responsible Manager	Simon Mandal-Johnson		✓
General Manager	Mark Vink		

Minister's comments

# Approval to lodge LEG paper to update NZAS and NZ Steel's allocative baselines

## Key messages

---

1. This briefing seeks your approval to lodge the attached Cabinet paper *Emissions Trading Scheme Climate Change (Eligible Industrial Activities) Amendment Regulations 2025* (Appendix 1) for the Cabinet Legislation Committee (LEG) meeting on 13 March 2025.
2. The Regulations are to set the final 2024 and provisional 2025 and 2026 allocative baselines for NZAS and NZ Steel's products.

### *Confirming NZAS's allocative baselines*

3. Through this briefing, we seek your formal agreement to a minor adjustment to the provisional 2025 and 2026 allocative baselines for NZAS.
4. The baselines you previously approved [BRF-5843 refers] followed the standard approach to setting the provisional baseline, where the 2024 final baseline number is used as the provisional baseline for future years.
5. However, through the Ministry's quality assurance process we have since identified that this would result in a lower provisional allocation to NZAS than they would eventually receive for 2025 when their final allocation is 'trued-up' in 2026. This is because from 2025, NZAS's new electricity contracts will apply for the whole year. In 2024, the new contracts were only in effect for half the year and so the final 2024 allocative baseline is based on a combination of the new and old contracts.
6. When this difference is accounted for, it results in provisional 2025 and 2026 allocative baselines of 4.0818 for NZAS, compared to its final 2024 baseline of 2.9353.
7. This change more accurately reflects Cabinet's policy intent. Although it results in a higher provisional allocation to NZAS for 2025, there is no additional fiscal cost because the extra NZUs would have been allocated to NZAS as part of the true up process in 2026 anyway. The change solely ensures that the provisional allocation is more accurate.
8. Officials have consulted with NZAS on this change and it aligns with their expectations. The updated baselines are already reflected in the Cabinet paper and draft Regulations that were consulted on, so no reconsultation will be necessary.

### *Next Steps*

9. Your office consulted on this Cabinet paper on 27 February. No feedback was received and there have been no changes to the Cabinet paper other than minor editorial fixes.
10. Cabinet approval to authorise the submission of the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 to the Executive Council is needed to meet necessary timeframes. The amendment regulations need to be notified in the New



Zealand Gazette before 2 April 2025 to allow sufficient time for NZAS and NZ Steel to meet the 30 April deadline to submit industrial allocation applications.

11. The draft Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 are attached at Appendix 2. The final amendment regulations will be lodged by the Parliamentary Counsel Office in time for your LEG meeting on 13 March 2025.
12. The process for updating NZAS and NZ Steel's allocative baselines is highly technical, and the current paper does not seek any new policy decisions. 9(2)(g)(i)

## Recommendations

---

We recommend that you:

- a. **Agree** to lodge the Cabinet paper *Climate Change (Eligible Industrial Activities) Amendment Regulations 2025* on 6 March 2025 for the Cabinet Legislation Committee meeting on 13 March.

Yes | No

- b. **Note** the provisional 2025 and 2026 allocative baselines you approved for NZAS on 16 February 2025 have been updated.

- c. **Agree** that NZAS's provisional allocative baselines for 2025 and 2026 will be 4.0818

Yes | No

- d. **Note** the draft Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 are attached at Appendix 2.

- e. **Note** talking points to support your attendance at Cabinet Legislation Committee on 13 March are attached at Appendix 3.

## Signatures

---



Mark Vink  
**General Manager, Markets**  
**5 March 2025**

Hon Simon WATTS  
**Minister of Climate Change**

**Date**

**Policy and Privacy**

CLASSIFICATION

Office of the Minister of Climate Change

LEG - Cabinet Legislation Committee

**Climate Change (Eligible Industrial Activities) Amendment Regulations 2025**

**Proposal**

- 1 This paper seeks authorisation for submission to the Executive Council of the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025.

**Executive Summary**

- 2 The NZ ETS prices emissions across the economy, with emitters surrendering an emissions unit (New Zealand Unit or NZU) for every tonne of emissions. Some industries are more impacted by the NZ ETS where they have high levels of emissions costs compared to revenue and operate in international markets (referred to as emissions intensive and trade exposed industries, or EITE).
- 3 The Government provides allocations<sup>1</sup> of New Zealand Units (NZUs) to firms in EITEs to help meet some of their emissions costs. Free allocation mitigates the risk that production in EITE industries shifts offshore to countries with weaker climate policy. This is known as emissions leakage and could result in global emissions increasing.
- 4 The amendment regulations give effect to recent Cabinet decisions on industrial allocation for New Zealand Aluminium Smelters and New Zealand Steel. Both have been consulted on the changes to the regulations and have agreed with the calculations underpinning them.
- 5 The amendment regulations need to be notified in the New Zealand Gazette by 2 April 2025 to allow them to come into effect following the 28-day notification period and for NZAS and NZ Steel to meet the 30 April deadline for allocation applications.

*New Zealand Aluminium Smelters Limited*

- 6 The New Zealand Aluminium Smelters Limited (NZAS) receives an allocation of units annually for carrying out the EITE activity of aluminium smelting.

---

<sup>1</sup> Industrial allocation policy is legislated under the Climate Change Response Act 2002 and the Climate Change (Eligible Industrial Activities) Regulations 2010.

## CLASSIFICATION

- 7 There is an annual process for updating NZAS' allocative baseline<sup>2</sup> to account for its unique electricity pricing arrangements. This process has been carried out since 2010 and ensures that NZAS' annual allocation fairly reflects the emissions costs it faces.
- 8 NZAS signed new electricity contracts in 2024. In February 2025 Cabinet agreed the Minister of Climate Change will adjust NZAS's allocative baselines using an emissions factor of 0.137 tonnes of carbon dioxide per megawatt hour for any electricity consumed under those contracts [CAB-25-MIN-0014 refers].
- 9 Based on electricity data recently provided by NZAS, and applying Cabinet's decision, the proposed final allocative baseline for 2024 is 2.9353 and the provisional allocative baselines for 2025 and 2026 is 4.0818.

### *New Zealand Steel Limited*

- 10 New Zealand Steel Limited (NZ Steel) receives an allocation of units annually for producing five iron and steel products from iron-sand at its Glenbrook plant.
- 11 A large proportion of NZ Steel's electricity needs are met from an onsite cogeneration plant. In September 2024 Cabinet agreed that NZ Steel would no longer receive an allocation for its use of cogenerated electricity [CAB-24-MIN-0381 refers]. Consequently, an annual process will adjust the five allocative baselines according to NZ Steel's sources of electricity at Glenbrook over the year.
- 12 Based on electricity data provided by NZ Steel, and applying Cabinet's decision, the proposed and final allocative baselines for the five products are as follows:
  - Product A – Molten iron – 2.8574
  - Product B – Steel slab – 0.1113
  - Product C – Vanadium-bearing materials – 0.0983
  - Product D – Flat hot-rolled steel – 0.1409
  - Product E – Steel billet – 0.1193

### **Background**

- 13 Several regulatory changes are required each year to keep the NZ ETS operating effectively and efficiently. The amendment regulations attached to this paper are one of those annual operational updates.
- 14 Aluminium smelting and producing iron and steel from iron-sand are both emissions intensive and internationally trade exposed activities. Both qualify as eligible EITE activities under the Climate Change Response Act 2002 (the Act). As a result, NZAS

---

<sup>2</sup> An allocative baseline is the rate at which a firm undertaking an EITE activity receives an allocation of units. It can be expressed as NZUs per tonne of output produced. Firms carrying out an eligible activity receive a provisional allocation in advance based on forecast levels of output for the upcoming year. The allocation is corrected a year later once actual output levels are confirmed.

## CLASSIFICATION

and NZ Steel are entitled to receive industrial allocation of New Zealand Units (NZUs) to offset the costs of the NZ ETS.

- 15 Both firms incur emissions costs associated with direct emissions from onsite chemical transformations as well as indirect emissions cost of electricity purchases and using natural gas.
- 16 Section 161C(4) of the Act grants the Minister of Climate Change powers to adjust allocation calculations to take account of electricity-related contracts. Section 161A provides the power to recommend the making of regulations that give effect to the adjustments made under section 161C(4).
- 17 This is a routine annual process for NZAS because of its significant electricity use. This is the first year that NZ Steel will also use this bespoke process due to its new use of cogenerated electricity.
- 18 The amendment regulations contain updates to allocative baselines. Allocations to firms in EITE industries are based on three variables: the quantity of production, the emissions intensity (the allocative baseline) of that product, and the assistance rate applicable to the EITE industry. Both NZAS and NZ Steel have an assistance rate of 0.85 for 2025. This is being phased down by 1 percentage point per year this decade.
- 19 Cabinet authorised the Minister of Climate Change to make decisions and issue drafting instructions for amendment regulations to the Climate Change (Eligible Industrial Activities) Regulations 2010 in accordance with annual data updates [CAB-24-MIN-0381 refers].

### Analysis

#### NZAS allocative baseline update

- 20 Updates to the final and provisional baselines in the following table are based on electricity consumption data provided by NZAS.

<b>Year</b>	<b>Current Allocative Baseline (NZUs / tonne of product)</b>	<b>Proposed Allocative Baseline (NZUs / tonne of product)</b>
<b>2024</b>	2.042 (provisional)	2.9353 (final)
<b>2025</b>	2.042 (provisional)	4.0818 (provisional)
<b>2026</b>	Not set	4.0818 (provisional)

- 21 The final 2024 allocative baseline is higher than was set provisionally because NZAS entered into a new set of electricity contracts during the year. Cabinet agreed to an emission factor of 0.137 tCO<sub>2</sub>e/MWh for electricity consumed under those contracts [CAB-25-MIN-0014 refers]. Updates to the provisional baselines for 2024 and 2025 are based on the last six months of NZAS' 2024 consumption data which they noted as a reasonable forecast of their electricity purchases. The provisional baselines differ from the final 2024 baseline due to containing full years of electricity consumption under the new contracts, whereas 2024 only has six months.

**NZ Steel allocative baseline update**

- 22 A large part of NZ Steel’s electricity demand is supplied under contract with a third party from an on-site cogeneration plant. A review of that arrangement in 2024 found that almost all of this cogenerated electricity is not affected by emissions pricing. Consequently, Cabinet authorised the Minister of Climate Change to determine an annual emissions factor for electricity consumed by NZ Steel at Glenbrook that considers emission costs from cogenerated electricity [CAB-24-MIN-0381 refers].
- 23 Final and provisional baselines for the five products made by NZ Steel at Glenbrook are set out in the following table. The values are based on electricity consumption data provided by NZ Steel for calendar year 2024.

Product	Final 2024 allocative baseline	Provisional 2025 and 2026 allocative baseline
A	2.8574	2.8574
B	0.1113	0.1113
C	0.0983	0.0983
D	0.1409	0.1409
E	0.1193	0.1193

9(2)(h)



**Timing and 28-Day rule**

- 25 It is intended that the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 come into force 28 days after the date of their notification in the New Zealand Gazette. The amendment regulations need to be in force to allow sufficient time for NZAS to meet the 30 April 2025 deadline for allocation applications.
- 26 Consideration of this paper at the 13 March LEG Committee meeting means that no waiver from the 28-day rule is required.

## Compliance

- 27 The regulations comply with each of the following:
- 27.1 the principles of the Treaty of Waitangi;
  - 27.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 27.3 the principles and guidelines set out in the Privacy Act 2020;
  - 27.4 relevant international standards and obligations;
  - 27.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 28 The Minister of Climate Change may recommend the making of regulations under s 161A(1)(c) of the Climate Change Response Act 2002 to prescribe allocative baselines. In accordance with s 161C(4) of the Act, the Minister may adjust a specified emissions figure (and consequently, their allocative baseline) after taking into account certain electricity-related contracts. No specific statutory prerequisite exists for the making of regulations under s 161A(1)(c). However, s 3(2) of the Act requires persons exercising a power or discretion under the Act to do so in a manner that is consistent with the purpose of the Act. This requirement has been met.

## Regulations Review Committee

- 29 No grounds have been identified for the Regulations Review Committee to draw the disallowable instrument or regulations to the attention of the House of Representatives as a Standing Order requirement.

## Certification by Parliamentary Counsel

- 30 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

## Impact Analysis

### *Regulatory Impact Statement*

- 31 Regulatory impact assessments were prepared in accordance with the necessary requirements when Cabinet considered policy decisions regarding industrial allocation treatment of NZAS's new electricity contracts and the use of cogenerated electricity and NZ Steel's Glenbrook plant [CAB-24-MIN-0381 and CAB-25-MIN-0014 refer].

## Publicity

- 32 The amended regulations will be notified in the New Zealand Gazette and published on the NZ Legislation website following Cabinet approval.
- 33 I intend to release a suite of materials relating to Cabinet's decision on the industrial allocation treatment of NZAS's new electricity contracts following the publication of

the amendment regulations. This will be performed using the established protocols for market sensitive information.

### **Proactive Release**

- 34 I propose to proactively release this paper on the Ministry for the Environment's website in full, subject to redactions equivalent to those under the Official Information Act 1982, once amendment regulations are published.

### **Consultation**

- 35 There are no statutory consultation requirements for these regulations in the Act. In line with Cabinet Manual requirements, both NZAS and NZ Steel were consulted about, and agreed with, the calculation of the baselines in the proposed amendment regulations.
- 36 The Treasury, Ministry for Primary Industries, Ministry of Business, Innovation and Employment, and Ministry of Foreign Affairs and Trade were consulted on this paper. No comments were received.

### **Recommendations**

I recommend that the Cabinet Legislation Committee:

- 37 note that Cabinet has previously authorised the Minister of Climate Change to make adjustments to allocative baselines in accordance with annual data updates [CAB-24-MIN-0381 refers];
- 38 note that on 25 September 2024 the Cabinet Economic Policy Committee agreed that the Minister of Climate Change can determine a unique electricity allocation factor for NZ Steel each year from electricity consumption and generation data at the Glenbrook site [ECO-24-MIN-0201];
- 39 note that on 29 January 2025, the Cabinet Economic Policy Committee agreed that the Minister of Climate Change can annually adjust NZAS's allocative baselines using an electricity contracts allocation factor of 0.137 tCO<sub>2</sub>-e / MW [ECO-25-MIN-0004];
- 40 note that I have determined recommended adjustments to the allocative baselines for NZAS and NZ Steel consistent with Cabinet's decisions in recommendations 2 and 3, the purpose of industrial allocation policy and the statutory objectives of the NZ ETS;
- 41 note that NZAS and NZ Steel have been consulted on the proposed adjustments to allocative baselines and agree with the adjustments;
- 42 note that the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 will give effect to the decisions referred to in recommendation 4 above;
- 43 authorise the submission to the Executive Council of the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025;

- 44 note that it is intended that the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 come into force 28 days after the date of their notification in the New Zealand Gazette.

Authorised for lodgement

Hon Simon Watts

Minister of Climate Change



**Appendices**

Appendix 1: Emissions Trading Scheme Climate Change (Eligible Industrial Activities)  
Amendment Regulations 2025



# Cabinet Legislation Committee

## Minute of Decision

---

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

---

### Climate Change (Eligible Industrial Activities) Amendment Regulations 2025

**Portfolio**                      **Climate Change**

On 13 March 2025, the Cabinet Legislation Committee:

- 1        **noted** that in September 2024, the Cabinet Economic Policy Committee (ECO) authorised the Minister of Climate Change (the Minister) to make adjustments to allocative baselines in accordance with annual data updates [ECO-24-MIN-0201];
- 2        **noted** that ECO also agreed that the Minister can determine a unique electricity allocation factor for NZ Steel Limited (NZ Steel) each year from electricity consumption and generation data at the Glenbrook site;
- 3        **noted** that in January 2025, ECO agreed that the Minister can annually adjust New Zealand Aluminium Smelters Limited's (NZAS) allocative baselines using an electricity contracts allocation factor of 0.137 tCO<sub>2</sub>-e / MW [ECO-25-MIN-0004];
- 4        **noted** that the Minister has determined recommended adjustments to the allocative baselines for NZAS and NZ Steel, consistent with the decisions in paragraphs 2 and 3 above, the purpose of industrial allocation policy and the statutory objectives of the New Zealand Emissions Trading Scheme;
- 5        **noted** that NZAS and NZ Steel have been consulted on the proposed adjustments to allocative baselines and agree with the adjustments;
- 6        **noted** that the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 (the Regulations) will give effect to the decisions referred to in paragraph 4 above;
- 7        **authorised** the submission to the Executive Council of the Climate Change (Eligible Industrial Activities) Amendment Regulations 2025 [PCO 27203/3.0];
- 8        **noted** that the Regulations will come into force on 17 April 2025.

Tom Kelly  
Committee Secretary

---

**Attendance (See over)**

**Present:**

Rt Hon Winston Peters  
Hon Louise Upston (Chair)  
Hon Brooke van Velden  
Hon Judith Collins KC  
Hon Simon Watts  
Hon Casey Costello  
Hon Chris Penk  
Hon Penny Simmonds  
Stuart Smith, MP  
Jamie Arbuckle, MP  
Tod Stephenson, MP

**Officials present from:**

Officials Committee for LEG



# Cabinet

## Minute of Decision

---

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

---

### Report of the Cabinet Legislation Committee: Period Ended 14 March 2025

On 17 March 2025, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 14 March 2025:

Out of scope



LEG-25-MIN-0027


**Climate Change (Eligible Industrial Activities)  
Amendment Regulations 2025**  
Portfolio: Climate Change

CONFIRMED

Out of scope



Out of scope



Rachel Hayward  
Secretary of the Cabinet