

New Zealand Government



The New Zealand Emissions Trading Scheme

❖ Consultation on proposed technical updates to New Zealand Emissions Trading Scheme (NZ ETS) regulations for 2016

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Purpose

The purpose of this consultation document is to seek views from affected parties on proposed technical updates to three regulations under the New Zealand Emissions Trading Scheme (NZ ETS).

The regulations are:

- Climate Change (Eligible Industrial Activities) Regulations 2010 (EIA Regulations)
- Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (SEIP Regulations)
- Climate Change (Forestry Sector) Regulations 2008 (Forestry Regulations).

We are also seeking views on whether future reviews of default emissions factors (DEFs) contained in the Climate Change (Liquid Fossil Fuels) Regulations 2008 (LFF Regulations) should include both local refined and imported product.

Scope

A set of 11 regulations (and several orders) provide for the efficient and accurate operation of the NZ ETS. The proposed regulation changes in this document affect three of these regulations.

NZ ETS regulations require amendment from time to time. This is to update technical factors which change over time, to keep the regime up-to-date and address anomalies when they arise. This ensures the NZ ETS remains fit for purpose and is as accurate as possible.

Summary of proposed changes

1. Eligible Industrial Activities Regulations

The integration of some Pacific Steel assets into NZ Steel requires changes to the scope of activity 23 the 'Manufacture of iron and steel from iron sand' in the EIA Regulations.

These changes directly affect participants undertaking activity 23 from the EIA Regulations. Those undertaking or potentially undertaking activity 19 the 'Manufacture of carbon steel from cold ferrous feed' should also consider the proposed changes.

2. Stationary Energy and Industrial Processes Regulations

Updating of natural gas DEFs in the SEIP Regulations potentially affects both gas mining and gas purchasing (opt-in) participants.

Gas mining participants will be separately contacted to put in place data access arrangements. This is required to enable the inclusion of field specific DEFs in regulations.

3. Forestry Regulations

A set of minor administrative and technical changes are proposed for the Forestry Regulations. These changes potentially affect both post-89 and pre-1990 forestry participants.

4. Liquid Fossil Fuels Regulations

We are also seeking views on the outcome of a review of obligation fuel DEFs, included in Schedule 1 of the LFF Regulations, which indicates no changes to DEFs are required at this time. This is relevant to all liquid fossil fuel participants.

Consultation period

This consultation will run from 17 June to 6 July 2016. Following consideration of submissions, final proposals will be put to the Minister for Climate Change Issues for approval. Following Cabinet approval, it is planned that the amendment regulations are published in the New Zealand Gazette during September 2016.

Consultation information and questions

1. Eligible Industrial Allocations Regulations: Changes to the scope for the eligible activity 'Manufacture of iron and steel from iron sand'

Background

Eligible activities receive an allocation of New Zealand Units (NZUs). Eligible activities are both emissions-intensive and trade-exposed.

The steel industry is covered by two activities in NZ ETS Eligible Industrial Allocations Regulations (EIA Regulations):

- Regulation 19 covers the activity 'Manufacture of carbon steel from cold ferrous feed' and downstream products. This activity was previously undertaken by Pacific Steel (a division of Fletcher Building Limited) at Otahuhu in South Auckland.
- Regulation 23 covers the activity 'Manufacture of iron and steel from iron sand' and downstream eligible products by NZ Steel (a subsidiary of BlueScope Steel) at its Glenbrook site also in South Auckland.

Please note where we refer to activity 19 or activity 23 we are referring to the activities covered by the corresponding regulations.

When the EIA regulations were established, the two steel industry activities were operated separately. Activity 19 was for carbon steel and specified downstream products made from cold ferrous feed. Activity 23 was for iron, steel and specified downstream steel products, all of which are derived from iron sand.

Downstream products in activity 19 were manufactured from billet, and in activity 23 downstream products were manufactured from steel slab. Billet and slab have different properties, and the downstream products also differ between the two activities.

In 2014 NZ Steel purchased the long-products rolling mill and marketing assets of Pacific Steel. Pacific Steel's steel-making assets, which produced billet from melted scrap steel, were decommissioned. A new billet caster was constructed by NZ Steel to supply the purchased Otahuhu rolling mill.

Some imported billet may also be used as an input to the purchased Otahuhu rolling mill.

The original wording of Regulation 19 did not envisage NZ Steel's Glenbrook mill and the Otahuhu mill being operated in an integrated way. The product descriptions in activity 19 include an explicit exclusion for 'relevant products', where they are defined as the products from activity 23.

Problem definition

Following the integration of the two activities, billet and downstream products that originate from iron sand are no longer eligible to receive an allocation under activity 19.

No fundamental change has occurred to either the emissions intensity or trade exposure of the activities.

Objectives and assessment criteria

The objective of an industrial allocation is to reduce the exposure of activities that are both emissions-intensive and trade-exposed.

To develop effective regulations, the Government has established the following criteria:

- **Efficiency** – adopt and maintain only regulations for which the costs on society are justified by the benefits to society
- **Effectiveness** – regulation should be designed to achieve the desired policy objectives
- **Transparency** – the regulation making process should be clear
- **Clarity** – regulatory processes and requirements should be as understandable and accessible as practicable
- **Equity** – regulation should be fair and treat those affected equally
- **Environmental Integrity** – the environmental integrity of the ETS should be maintained.

Options analysis

The following three options were considered to address the consequences of the ownership and operational changes of the two activities.

- **Option one:** Amend activity 23 to include relevant steel products (from activity 19) originated from iron sand. This requires expanding the product list and adjusting product descriptions and baselines accordingly.
- Industrial allocation for steel products made from iron sand would be made under a revised activity 23. Products made in the Otahuhu rolling mill from imported billet would continue to be eligible under an unchanged activity 19.
- **Option two:** Amend Regulation 19 to remove the definition of a ‘relevant product’ which excludes iron and steel manufactured from iron sand. Industrial allocations for all relevant Otahuhu mill products would be made under the amended activity 19. Activity 23 would remain unchanged.
- **Option three:** Amend the EIA Regulations to amalgamate activities 19 and 23 to cover the manufacture of all iron, steel and the relevant downstream products.

A table summarising the assessment of options is included below:

Summary of options to address the consequences of the ownership and operational changes of the manufacture of iron and steel from iron sand

	Option 1	Option 2	Option 3
Efficiency	✓	–	–
Effectiveness	✓	✓	
Transparency	✓	✓	✓
Clarity	✓	✓	–
Equity	✓	✓	✓
Environmental integrity	✓	–	✓

Preferred option

Option one outlined above is preferred. It is an administrative change, adding products from activity 19 into activity 23 so all eligible steel products made from iron sand come under activity 23.

This improves clarity and transparency following the integration of the two activities under a single company. It has efficiency and effectiveness benefits and does not adversely affect other parties.

This option involves minimal policy decisions and technical reassessments. It can also be achieved in time to apply to the final 2016 allocation which aligns with the physical operation of the new equipment.

Option two requires more significant policy decisions and has greater risk of unintended spill-over effects. The existing activity 19 billet baseline is inaccurate for billet made from iron sand so reduces environmental integrity.

Option three also involves more significant policy decisions, potentially creates precedents and has unintended consequence risks. It would be difficult to achieve in time to retrospectively apply to 2016.

Impact assessment

It is expected that total allocations for an expanded activity 23 would be very close to the previous allocations for activities 19 and 23. The emissions expected to occur from NZ Steel's new billet caster replace emissions previously caused by Pacific Steel.

Officials are working with NZ Steel to estimate marginal emissions (and hence baseline) for the new billet caster. We consider it more accurate to assess the new billet baseline from a technical analysis than to transfer the baseline from a technically different piece of equipment.

NZ Steel is the only directly affected party for the preferred option, as the operator of the integrated process. Other existing or potential parties undertaking activity 19 have been considered during this assessment.

Implementation timetable

The amendments to Regulation 23 need to apply to the finalisation of the 2016 allocation (which occurs early in 2017) because the business integration occurred late in 2015. This requires the regulation change to retrospectively apply from the beginning of the year in which the regulation was made as allowed under the Climate Change Response Act 2002.

The steps for implementation include:

Consultation	17 June to 6 July 2016
Regulations amended	September 2016
Regulations in force	1 January 2016

Questions

1. Have we correctly identified affected parties? Yes/No/Unsure.

If not, please describe how the proposed changes impact you.

2. We are proposing that the range of products included under the eligible activity 'Manufacture of iron and steel from iron and sand' (activity 23) be expanded to include products B and C from the eligible activity 'Manufacture of carbon steel from cold ferrous feed' (activity 19). Do you have any concerns with this? Yes/No/Unsure

Please explain your answer.

3. There are currently no proposed regulation changes to the eligible activity 'Manufacture of carbon steel from cold ferrous feed' (activity 19). Do you believe that changes are required to this activity following the integration of Pacific Steel assets into NZ Steel? Yes/No/Unsure

Please explain your answer.

2. Stationary Energy and Industrial Processes Regulations: Updating natural gas default emissions factors

Background

Table 10 of the Stationary Energy and Industrial Processes Regulations (SEIP Regulations) in Schedule 2 includes field specific and national average DEFs. These are provided to assist gas purchasing (opt-in) participants and users of gas storage facilities to report their emissions.

The provision of field specific DEFs was included to ensure that an opt-in purchaser could report on their emissions without requiring detailed information from the gas miner. This potentially lowers administrative costs for both parties and increases certainty.

This table has been regularly updated so that it reflects current field operations and remains accurate. This involves exchange of data between agencies.

Problem definition

To reflect operational experience updating natural gas DEFs, a formalisation of data exchange procedures is considered good practice.

Good practice meets legal and transparency requirements while also being efficient for participants and administering agencies.

Proposal

To continue to regularly update Table 10 and conform to good practice, we propose to contact gas mining participants to establish data access arrangements.

Once data access is finalised, then affected participants will be provided with a draft Table 10 for comment.

Other issues

We also seek your feedback on the need for and benefits of continuing to include field specific natural gas DEFs in regulations.

Next steps

The Ministry for the Environment will contact gas mining participants to put in place data access arrangements. This is expected to occur soon after you receive this consultation document. We ask that you respond promptly to the request.

Once data access arrangements are in place, we will conclude the updating of the Table 10 and a copy will be separately forwarded to all affected NZ ETS participants for comment.

Following this, the Minister for Climate Change Issues will be asked to approve drafting of the amendment regulations.

Implementation timetable

The following timetable is conditional on the prompt establishment of appropriate data supply and use arrangements.

The steps for implementation include:

Consultation	17 June to 6 July 2016
Regulations amended	Prior to 30 September
Regulations in force	1 January 2017

Questions

4. Do you consider it necessary to maintain field specific natural gas DEFs (as well as a national average DEF) in the Stationary Energy and Industrial Processes Regulations? Yes/No/Unsure

Please explain your answer.

3. Forestry Regulations: technical changes

Background

Forestry in the NZ ETS includes both pre-1990 and post-1989 forest land and is subject to the Forestry Regulations.

The Government is proposing to make several minor amendments to the Forestry Regulations to simplify calculations, improve implementation and clarify rules.

The proposed changes are outlined as follows:

(i) Rounding rules for forestry sub-areas:

Problem definition

There is ambiguity in relation to how forest area, carbon emissions and removals, and unit balance values should be rounded and calculated in the following situations.

- Removal of post-1989 forest land from a Carbon Account Area (CAA)
- Calculation of discrete areas of forest land which form part of a sub-area
- Calculation of harvesting residues
- Pre-1990 offsetting forest land applications.

Preferred option

The Government's preferred option is to clarify the rounding rules and calculation methodology to resolve the ambiguity and avoid misunderstanding.

This will be achieved by:

- rounding the unit balance to the nearest whole number
- truncating the discrete forest area (hectares) to two decimal places and then rounding to one decimal place
- removing complexity in relation to calculation of harvesting residue in the Forestry Sector Regulations
- clarifying calculation methodology for carbon equivalency in the Forestry Regulations.

(ii) Defining the year of planting:

Problem definition

There is ambiguity in determining the tree age for post-1989 forestry emissions returns.

Preferred option

The ambiguity will be resolved by including a definition in the Forestry Regulations.

Tree age will be determined as starting from the time of planting; not propagation. This will resolve concerns with the way the current rule accounts for trees that have been grown in a nursery for one or more years prior to planting.

(iii) Update to the Field Management Approach

Problem definition

The Forestry Regulations assume that the relevant regulations are followed in a stepwise and sequential manner. This places restrictions on the administrative practices that are available to correct cases where there is contravention of rules relating to allocation of permanent sample plots.

Preferred option

The proposed changes will remove the restrictions imposed by regulation 22F(1)(b) which currently prevent simple reinstatement of the Field Measurement Approach (FMA) participants to a compliance state in relation to allocation of permanent sample plots.

Should you require further clarification on the proposed changes to the Forestry Regulations please contact the Ministry for Primary Industries at 0800 CLIMATE (254 628) or climatechange@mpi.govt.nz.

Implementation timetable

The following implementation timetable relates to the proposed changes to Forestry Regulations.

The steps for implementation include:

Consultation	17 June to 6 July 2016
Regulations amended	Prior to 30 September 2016
Regulations in force	1 January 2017

Questions

5. To remove ambiguity, we propose to clarify rounding rules and calculations methodology for forestry sub areas. Will you be affected by this proposal? Yes/No/Unsure.

If yes, please describe how and the impact.

6. To remove ambiguity, we propose to define tree age as starting from the time of planting. Will you be affected by this proposal? Yes/No/Unsure.

If yes, please describe how and describe the impact.

Example: A tree spends one year in a nursery and is subsequently planted on 1 January 2016. It will be three years old on 1 January 2019.

4. Liquid Fossil Fuels Regulations: Review of liquid fossil fuel default emissions factors

Background

Periodic reviews of the liquid fossil fuels default emissions factors (DEFs) are required to maintain the accuracy of emissions reporting in the NZ ETS.

When the Liquid Fossil Fuels Regulations (LFF Regulations) were established, a process was developed to determine if an update was required to the DEFs. A change to a DEF is considered when the three-year average energy content of a LFF product varies by more than 0.5%.

The last review of DEFs occurred in 2014 and a small change was made to the diesel DEF (2.670 tCO₂/kl to 2.685 tCO₂/kl).

The Ministry for the Environment recently commissioned Hale and Twomey (H&T) to analyse 2014 and 2015 fuel quality data and review the existing LFF DEFs. The review is available as an attachment from the landing page of this publication.

Problem definition

The review analysed product data for 2014 and 2015 along with data from earlier analyses. A review of fuel quality data indicated that a DEF based on regular petrol refined in New Zealand had moved outside the +/- 0.5% band.

An analysis of imported regular grade petrol indicated the imports were less dense than local refinery sourced product. Combining the fuel quality properties on an average pool quality basis the regular petrol properties were within the +/- 0.5% band.

Preferred option

Since the overall pool product quality for regular petrol remains within the acceptable range, no change to the DEF is proposed. However, we are taking this opportunity to seek participants' views on whether future reviews of default emissions factors contained in the Climate Change (Liquid Fossil Fuels) Regulations 2008 should include both local refined and imported product

Updating the petrol DEF now based on assumed future product mixes and quality, following the installation of the continuous catalytic reformer at Marsden Point is considered unnecessarily speculative. Analysis of 2016 and 2017 data in the 2018 review of liquid fossil fuel DEFs will clarify if any change to petrol DEFs is justified.

Other issues

Application of overall pool product quality for other fuels produced the surprising result that premium petrol quality fell outside the range for the three years ending in 2014, of which 2014 was a particular outlier.

When reviewing DEFs the initial analysis is based on properties of locally sourced product. Imported fuel properties are considered if a change to a DEF appears necessary.

Recent data for diesel has confirmed that the 2014 change to the DEF was justified.

Implementation timetable

As no liquid fossil fuel DEF update is proposed in 2016, no regulation amendments are required. It is expected the DEFs will next be reviewed in 2018.

The steps for implementation include:

Consultation	17 June to 6 July 2016
Regulations amended	N/A
Regulations in force	N/A

Questions

7. We do not propose to change the regular petrol DEF at this time. Are there any matters you would like considered on this?

Yes/No/Unsure

Please explain your answer.

8. Officials are considering whether in future liquid fossil fuels DEF reviews, both imported and local refinery data should be used to improve accuracy. The data would be combined in a way that reflects average fuel properties sold in New Zealand. What issues would you like considered when making this decision?

Please explain your answer

Summary of consultation questions

Eligible Industrial Allocations Regulations: Changes to the scope for the eligible activity 'Manufacture of iron and steel from iron sand'

1. Have we correctly identified affected parties? Yes/No/Unsure.
If not, please describe how the proposed changes impact you.

2. We are proposing that the range of products included under the eligible activity 'Manufacture of iron and steel from iron and sand' (activity 23) be expanded to include products B and C from the eligible activity 'Manufacture of carbon steel from cold ferrous feed' (activity 19). Do you have any concerns with this? Yes/No/Unsure.

Please explain your answer

3. There are currently no proposed regulation changes to the eligible activity 'Manufacture of carbon steel from cold ferrous feed' (activity 19). Do you believe that changes are required to this activity following the integration of Pacific Steel assets into NZ Steel? Yes/No/Unsure.

Please explain your answer.

Stationary Energy and Industrial Processes Regulations: Updating natural gas default emissions factors

The Ministry for the Environment will soon be requesting that NZ ETS natural gas participants (both mining and opt-in) establish data access arrangements. Please respond promptly to the request.

4. Do you consider it necessary to maintain field specific natural gas DEFs (as well as a national average DEF) in the Stationary Energy and Industrial Processes Regulations? Yes/No/Unsure.

Please explain your answer.

Changes to Forestry Sector regulations

5. To remove ambiguity, we propose to clarify rounding rules and calculations methodology for forestry sub areas. Will you be affected by this proposal? Yes/No/Unsure.

If yes, please describe how and the impact.

6. To remove ambiguity, we propose to define tree age as starting from the time of planting. Will you be affected by this proposal? Yes/No/Unsure

If yes, please describe how and describe the impact.

Example: A tree spends one year in a nursery and is subsequently planted on 1 January 2016. It will be three years old on 1 January 2019.

Review of liquid fossil fuel default emissions factors

7. We do not propose to change the regular petrol DEF at this time. Are there any matters you would like considered on this? Yes/No/Unsure.

Please explain your answer.

8. Officials are considering whether in future liquid fossil fuels DEF reviews, both imported and local refinery data should be used to improve accuracy. The data would be combined in a way that reflects average fuel properties sold in New Zealand. What issues would you like considered when making this decision?

Please explain your answer

Consultation process

How to make a submission

The Government welcomes your feedback on this consultation document. You do not have to answer all the questions. To make sure your point of view is clearly understood, you should explain your rationale and provide supporting evidence where appropriate.

Email your submission to: ETSRegsupdate2016@mfe.govt.nz as a Microsoft Word document (2003 or later version)

Post your submission to: ETS Regulations updates 2016, Ministry for the Environment, PO Box 10362, Wellington 6143

Submissions close at 5.00 pm on Wednesday 6 July 2016.

Contact for queries

For information on the proposed changes (except to the Forestry Regulations):

Phone: 0800 Climate (254 628).

Email: ETSRegsupdate2016@mfe.govt.nz

Postal: ETS Regulations update 2016, Ministry for the Environment, PO Box 10362, Wellington 6143.

For further information on the proposed changes to the Forestry Regulations:

Phone: 0800 CLIMATE (254 628).

Email: climatechange@mpi.govt.nz

Publishing and releasing submissions

All or part of any written submission (including names of submitters), may be published on the Ministry for the Environment's website www.mfe.govt.nz. Unless you clearly specify otherwise in your submission, we will consider that you have consented to website posting of both your submission and your name.

Contents of submissions may be released to the public under the Official Information Act 1982 following requests to the Ministry for the Environment (including via email). Please advise if you have any objection to the release of any information contained in a submission and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. We will take into account all such objections when responding to requests for copies of, and information on, submissions to this consultation under the Official Information Act.

The Privacy Act 1993 applies certain principles about the collection, use and disclosure of information about individuals by various agencies, including the Ministry for the Environment. It governs access by individuals to information about themselves held by agencies. Any

personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in relation to the matters covered by this consultation. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.

What happens next?

Submissions will be analysed by the Ministry for the Environment and reported to the Minister for Climate Change Issues for final decisions. Updates will be provided on the Ministry for the Environment website: www.mfe.govt.nz.