



PROACTIVE RELEASE COVERSHEET

Minister	Hon Simon Watts	Portfolio	Climate Change
Name of package	Policy decisions for a Climate Change Response Amendment Bill	Date to be published	04/11/2025

List of documents that have been proactively released

Date	Title	Author
17 September 2025	Cabinet Economic Policy Committee Minute ECO-25-0151	Cabinet Office
22 September 2025	Cabinet Minute of Decision CAB-25-MIN-0324	Cabinet Office
22 September 2025	Cabinet paper: Policy decisions for a Climate Change Response Amendment Bill	Ministry for the Environment
22 September 2025	Appendix 1: Proposed changes to the CCRA to increase the efficiency and effectiveness of climate policy	Ministry for the Environment
22 September 2025	Appendix 2: Industrial allocation proposals	Ministry for the Environment
22 September 2025	Appendix 3a: Assessment Framework for Carbon Removals	Ministry for the Environment
22 September 2025	Appendix 3b: (Draft document) Assessment Framework for Carbon Removals	Ministry for the Environment
22 September 2025	Appendix 4: Proposed changes to the CCRA to improve the effectiveness of the NZ ETS	Ministry for the Environment
22 September 2025	Appendix 5: Regulatory Impact Statement: Proposal to remove NDC accordance requirement for NZ ETS settings	Ministry for the Environment
22 September 2025	Appendix 6: Regulatory Impact Statement: Reducing investment uncertainty and disincentives to decarbonise created by industrial allocation	Ministry for the Environment
22 September 2025	Appendix 7: Regulatory Impact Statement: Improvements to the administration of the Emissions Trading Scheme through amendments to the Climate Change Response Act 2002	Ministry for Primary Industries
22 September 2025	Appendix 8: Regulatory Impact Statement: Adjusting the penalty calculation for incorrect emissions returns through adjustments to the	Ministry for Primary Industries

	Climate Change Response Act 2002	
22 September 2025	Appendix 9: Importing CO2 as new Mandatory Activity in the New Zealand Emissions Trading Scheme	Ministry for the Environment
22 September 2025	Appendix 10: Overview of the Carbon Neutral Government Programme	Ministry for the Environment
22 September 2025	Appendix 11: Findings of Climate Implications of Policy Assessment (CIPA) review	Ministry for the Environment
9 October 2025	Briefing: Final policy advice on biennial ETS settings	Ministry for the Environment

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:

- *Cabinet Economic Policy Committee Minute ECO-25-0151;*
- *Cabinet Minute of Decision CAB-25-MIN-0324;*
- *Cabinet paper: Policy decisions for a Climate Change Response Amendment Bill;*
- *Appendix 1: Proposed changes to the CCRA to increase efficiency and effectiveness of climate policy;*
- *Appendix 2: Proposed industrial allocation proposals;*
- *Appendix 4: Proposed Changes to the CCRA to improve the effectiveness of the NZ ES;*
- *Appendix 5: Regulatory Impact Statement: Improvements to the administration of the Emissions Trading Scheme through amendments to the Climate Change Response Amendment Act;*
- *Appendix 6: Regulatory Impact Statement: Reducing investment uncertainty and disincentives to decarbonise created by industrial allocation;*
- *Appendix 9: Regulatory Impact Statement: Importing CO2 as new Mandatory Activity in the New Zealand Emissions Trading Scheme;*
- *BRF-6903: Final policy advice on biennial ETS settings.*

Material from these documents have been withheld under the following sections of the Official Information Act 1982:

- section 9(2)(a) to protect the privacy of natural persons;
- section 9(2)(b)(ii), to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- section 9(2)(ba)(i), to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied;
- section 9(2)(h), to maintain legal professional privilege;
- section 9(2)(f)(iv), to maintain the constitutional conventions for the time being which

protect the confidentiality of advice tendered by Ministers of the Crown and officials;

- section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty; and
- section 9(2)(k), to prevent the disclosure or use of official information for improper gain or improper advantage.

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Cabinet Economic Policy 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 Response Amendment Bill: Policy Decisions

Portfolio Climate Change

On 17 September 2025, the Cabinet Economic Policy Committee:

Increasing the efficiency and effectiveness of climate policy

- 1 **agreed** to amend the Climate Change Response Act 2002 (the Act) to ensure reference to efficient and effective policies forms part of the key requirements for the Act, including in the Act's purpose;
- 2 **agreed** to the amendments in Appendix 1, attached under ECO-25-SUB-0151, to improve the efficiency of the Act, including by streamlining and clarifying the processes for emissions reduction plans;
- 3 **agreed in principle** to move to biennial decisions on New Zealand Emissions Trading Scheme settings, as proposed in Appendix 1, subject to paragraph 4 below;
- 4 **authorised** the Minister of Climate Change to make final policy decisions about the frequency of New Zealand Emissions Trading Scheme settings, to make further related policy decisions needed to implement the above, and to issue drafting instructions to Parliamentary Counsel Office, subject to the outcome of targeted engagement;

Clarifying or removing unclear statutory provisions

- 5 **agreed** to remove the requirement that New Zealand Emissions Trading Scheme unit settings must accord with New Zealand's nationally determined contributions;
- 6 **agreed** to remove the reference to contributing to the global effort under the Paris Agreement from section 5W(a), which relates to setting emissions budgets;

Changes to the industrial allocation scheme

- 7 **agreed** to the amendments in Appendix 2, attached under ECO-25-SUB-0151, that make changes to industrial allocation settings;

Recognising and rewarding carbon removals

- 8 **agreed** to add carbon removal activities to the Act as an activity with respect to which a person may participate in the New Zealand Emissions Trading Scheme;
- 9 **agreed** to implement the Assessment Framework for Carbon Removals, attached as Appendix 3 under ECO-25-SUB-0151, as Government policy, and that it be published on the Ministry for the Environment's website by the end of October 2025;
- 10 **authorised** the Minister of Climate Change to approve minor changes to the Assessment Framework for Carbon Removals prior to public release;
- 11 **authorised** the Minister of Climate Change, in consultation with the Minister of Agriculture, Minister of Conservation, and Associate Minister for the Environment, to amend and publish an updated version of the *Interim guidance for voluntary climate change mitigation* on the Ministry for the Environment's website;

Improvements to the effectiveness of the NZ ETS

- 12 **agreed** to the amendments in Appendix 4, attached under ECO-25-SUB-0151, to improve the effectiveness of the New Zealand Emissions Trading Scheme;
- 13 9(2)(f)(iv) 

Progressing legislative amendments to the Act

- 14 **noted** that the Climate Change Response (Efficiency and Effectiveness) Amendment Bill holds a category 5 priority on the 2025 Legislation Programme (to proceed to select committee by the end of 2025), with first reading expected in early 2026, and that the Minister of Climate Change intends to progress the above amendments through this Bill;
- 15 **noted** that, through the reassessment of legislative priorities, agreement has been sought to add a Climate Change Response (2050 Target and Other Matters) Amendment Bill to the 2025 Legislation Programme with a category 2 priority (must be passed by the end of 2025);
- 16 **authorised** the Minister of Climate Change to make decisions to progress some of the above amendments through the Climate Change Response (2050 Target and Other Matters) Amendment Bill as an alternative, if the Minister determines this is appropriate;
- 17 **invited** the Minister of Climate Change to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 18 **authorised** the Minister of Climate Change, and the Minister of Forestry where the proposals relate to the administration of forestry in the New Zealand Emissions Trading Scheme, to make further policy decisions if needed to clarify the detail of the above amendments consistent with Cabinet's decisions, during the drafting process and up to and including the Committee of the Whole House stage;
- 19 **agreed** to share the draft amendment Bill and drafting instructions with the Environmental Protection Agency in advance of it becoming publicly available, as per Cabinet Office Circular CO (19) 2, noting that officials have sought the required approval from the Attorney General;

The Carbon Neutral Government Programme and Climate Implications of Policy Assessment

- 20 **agreed** to amend the Carbon Neutral Government Programme's aim to make the Government carbon neutral by 2050 (from the current 2025), noting that the Minister of Climate Change will update the Carbon Neutral Government Programme guidance and other materials to implement this change following Cabinet decisions;
- 21 **authorised** the Minister of Climate Change to update Climate Implications of Policy Assessment guidance and Cabinet Office Circular CO (20) 3 to reflect the proposals in Appendix 11, attached under ECO-25-SUB-0151.

Rachel Clarke
Committee Secretary

Present:

Hon David Seymour (Chair)
Rt Hon Winston Peters
Hon Brooke van Velden
Hon Shane Jones
Hon Louise Upston
Hon Dr Shane Reti
Hon Simon Watts
Hon Chris Penk
Hon Andrew Hoggard
Hon Nicola Grigg
Hon James Meager
Simon Court MP

Officials present from:

Office of the Prime Minister
Office of Hon Simon Watts
Officials Committee for ECO



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 Economic Policy Committee: Period Ended 19 September 2025

On 22 September 2025, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 19 September 2025:

Out of Scope



ECO-25-MIN-0151

Climate Change Response Amendment Bill: Policy Decisions

Portfolio: Climate Change

CONFIRMED

Out of Scope



Rachel Hayward
Secretary of the Cabinet

Policy and Privacy

Classification

Office of the Minister of Climate Change

Cabinet Economic Policy Committee

Policy decisions for a Climate Change Response Amendment Bill

Proposal

- 1 This paper seeks Cabinet's agreement to amendments to the Climate Change Response Act 2002 (CCRA) that will reduce costs to government and business and improve the efficiency and effectiveness of the CCRA. I also propose to streamline some non-regulatory processes to better align with the Government's climate strategy.

Relation to government priorities

- 2 The policy proposals in this paper support the Government's climate strategy through targeted changes to the CCRA to improve its efficiency and operation. The proposals align with the Prime Minister's 28 January 2025 statement to Parliament and initiatives in the second emissions reduction plan (ERP2).

Executive Summary

- 3 This Government is working to grow our economy faster, to increase living standards and opportunities for all New Zealanders. Government has an important role to play in reducing unnecessary costs by ensuring legislation is efficient and effective.
- 4 I seek Cabinet's agreement to a package of amendments to the CCRA that will reduce costs to government and business, provide greater certainty to businesses to support investment and economic growth, and reduce regulation and red tape. The changes are consistent with the Government's climate strategy, in particular its emphasis on cost effectiveness. My proposals achieve these outcomes by:
 - a. **Increasing the efficiency and effectiveness of climate policy** by removing low value work and streamlining statutory processes. Changes include emphasising the need for policy to be effective and efficient (including in the CCRA's purpose) and reducing unnecessary or duplicative processes. I also propose to refocus the Climate Change Commission's (the Commission) function on its role as a system monitor and seek in-principle agreement for biennial New Zealand Emissions Trading Scheme (NZ ETS) settings decisions, which are currently made annually.
 - b. **Clarifying or removing unclear or unsuitable statutory provisions**, including removing the requirement for NZ ETS settings to 'accord with' our nationally determined contributions (NDCs) under the Paris Agreement, instead focusing on alignment with domestic budgets and targets.
 - c. **Amending industrial allocation settings** to reduce disincentives to invest and provide greater certainty for emissions-intensive and trade-exposed firms that receive industrial allocation. The firms supported by this change include some of our largest manufacturers.

- d. **Expanding removal activities** that can be recognised and rewarded in the NZ ETS to support investment and innovation.
- e. **Making it easier for stakeholders** to comply with the requirements in the CCRA and ensuring the legislation is working effectively. For example, by providing more flexibility for foresters to comply with statutory obligations after significant disruptions such as severe weather events.

5 9(2)(f)(iv)

I also intend to progress a small number of non-legislative proposals that will reduce administrative burden.

Background

- 6 In January 2025, the Prime Minister committed to a review of the CCRA to identify opportunities to increase its efficiency. Officials completed this review, and I have identified areas where requirements can be streamlined and improvements made.
- 7 The NZ ETS is the Government’s main tool for reducing New Zealand’s emissions and it is a core part of the CCRA. In addition to the CCRA efficiency changes, I have identified several opportunities to improve the operation of the NZ ETS.

Increasing the efficiency and effectiveness of climate policy

- 8 My experience is that some CCRA requirements are overly complex and contain prescriptive process requirements that divert focus and resources away from delivering climate change priorities. I am also concerned that the CCRA currently lacks a focus on ensuring that policy is efficient and effective. This should be a key consideration, particularly when considering the interaction of targeted policy initiatives with the net emissions cap provided by the NZ ETS.
- 9 I propose changes that will emphasise the need for policy to be effective and efficient (including in the CCRA’s purpose) and reduce unnecessary or duplicative processes. Among other things, the changes reduce some of the Commission’s reporting and advice requirements to focus their role as a monitor of the climate change system. I propose to reduce the number of board members of the Commission. Additionally, I seek in principle agreement to replace the current annual ETS price control and unit volumes review frequency with a biennial review frequency, along with delegations to make final decisions after confidential targeted engagement has been conducted with key stakeholders. These proposals are discussed in more detail in **Appendix 1**.

10 9(2)(f)(iv)

Clarifying or removing unclear or unsuitable statutory provisions

- 11 Currently, the CCRA links NZ ETS settings with our international commitments, by requiring that all settings decisions ‘accord with’ our NDCs. In recent settings

decisions, the Government has argued that NZ ETS settings decisions meet this requirement because NDC1 is to be met through purchasing offshore units.

12 9(2)(h)

13 I propose to remove the requirement that NZ ETS settings accord with the NDC. I consider it more appropriate that the test for the NZ ETS, which is a domestic policy instrument, be focused on alignment with domestic budgets and targets. 9(2)(g)(i)

14 I also propose to make other amendments to:

- a. clarify and create more efficient processes for amending ERPs and NAPs
- b. remove the requirement for the Minister of Climate Change to set emissions budgets with a view to contributing to the global effort to limit warming to 1.5 degrees. Parliament has set the 2050 target as the contribution to the global 1.5 degrees temperature goal under the CCRA and emissions budgets must be set with a view to meeting the 2050 target. It is unnecessary to additionally require consideration of the temperature goal for each emissions budget setting decision.

Amendments to the industrial allocation scheme to reduce disincentives for firms to invest in decarbonisation

15 Industrial allocation is the system of providing free NZUs to emissions-intensive and trade-exposed firms. It provides a declining level of assistance to these firms over time, encouraging them to reduce their emissions costs while remaining commercially viable. Current settings allow for reviews of firms' emissions intensity and eligibility for industrial allocation. If a firm invests to substantially reduce its emissions intensity, these reviews mean that its industrial allocation entitlement will decrease.

16 9(2)(ba)(i)

17 To address this problem, I propose to remove the legislative provisions that allow the Government to review allocative baseline and eligibility for participating firms. While in theory this change gives me less flexibility to address over-allocation, in practice these provisions are counterproductive due to the disincentives described above. The existing phase out provisions – which I propose to retain with some minor improvements to support their effectiveness – are a more appropriate tool. I also propose clarifying my power to review electricity contracts to provide more certainty to firms on how I will use that power.

- 18 These proposals, and other minor changes, are discussed in more detail in **Appendix 2**. The changes will simplify the scheme's administration and are not expected to create any additional fiscal or financial costs. They may lead to long-term savings if firms undertake decarbonisation sooner as a result of these changes.

I have directed officials to undertake work to inform the future of industrial allocation

- 19 The changes I am recommending will improve incentives for firms to decarbonise. However, they will not fully eliminate the distortion caused by industrial allocation settings or address wider issues about the long-term suitability of the scheme that have been raised by recipient firms and the Commission in its latest emissions reduction monitoring (ERM) report. 9(2)(f)(iv)

- 20 9(2)(f)(iv) 9(2)(h)

Enabling the recognition and financial reward of more carbon removal activities

- 21 Incentivising activities that remove carbon from the atmosphere is an important part of the Government's climate change strategy, providing businesses with more options to reduce the impact of their emissions. Currently, forestry is the main removals activity that is recognised and rewarded in the NZ ETS. Work is underway to enable carbon capture and storage activities to be recognised and rewarded.
- 22 Other forms of removal activities are not currently sufficiently incentivised. Our coalition agreements commit to progressing work to recognise forms of carbon removals other than forestry and to enable farmers and landholders to offset their on-farm emissions.
- 23 I seek agreement to add 'carbon removal activities' to the CCRA as a removal activity for which a person may participate in the NZ ETS. This will not enable new carbon removal activities to be immediately recognised and rewarded under the NZ ETS¹, but it will simplify and speed up the process to enable this in future. It will also signal to the market that investment in carbon removals is a priority for this Government.

- 24 9(2)(f)(iv)

¹ Before any activities can be credited in the NZ ETS, activity-specific regulations must be developed and consulted on (via s163) and added to the Climate Change (Other Removal Activities) Regulations 2009. Activity-specific regulatory impact analyses will be undertaken as part of this process.

- 25 In addition, I have developed an Assessment Framework for Carbon Removals, which is discussed further and attached as **Appendix 3**. I seek Cabinet's agreement to publish this framework and implement it as Government policy.
- 26 To support potential applicants, I also seek delegated authority from Cabinet to update the *Interim guidance for voluntary climate change mitigation* that is currently published on MfE's website and provides information about the functioning of voluntary carbon markets. This will be done in consultation with the Minister of Agriculture, Minister of Conservation and Associate Minister for the Environment.

Changes that will improve the effectiveness of the NZ ETS

Improvements to the administration of forestry in the NZ ETS and other technical amendments

- 27 Forestry is the main emissions removal activity currently recognised and rewarded in the NZ ETS. Over time, operational issues have arisen, and opportunities have been identified to improve the way that forestry is administered in the NZ ETS, alongside wider changes to support compliance and consistency across all NZ ETS participants.
- 28 A full list of my proposals is outlined in **Appendix 4**. They include increasing flexibility for NZ ETS participants to meet deadlines following a significant disruption such as a cyclone, improving processes for foresters such as how quickly transmission of interest notices are processed when ownership or land agreements for post-1989 forests change, and amending some penalty provisions.

Other changes to improve the operation of the NZ ETS

- 29 Emissions from imported carbon dioxide (CO₂) are not currently captured by the NZ ETS. There is one domestic supplier of CO₂ and emissions from domestic supply are priced by the NZ ETS. This creates inequality between domestic suppliers and importers, undermining the goal of the NZ ETS to reduce greenhouse gas emissions. I propose to make importing CO₂ a mandatory activity under the NZ ETS. This proposal is discussed further in **Appendix 4**.
- 30 I also seek agreement to several minor and technical changes that will improve the effectiveness of the NZ ETS. Details of these proposals are included in **Appendix 4**.

Improving non-regulatory processes and streamlining requirements

Ensuring the Carbon Neutral Government Programme delivers in a cost-effective way

- 31 The Carbon Neutral Government Programme (CNGP) provides a framework for government organisations to measure, report, and reduce emissions (see **Appendix 10**). Often, actions to reduce emissions also generate cost savings.²
- 32 The CNGP has a goal of carbon neutrality from 2025. This is out of step with expectations of the wider economy and our legislated 2050 target and carries risks that the Government will spend unnecessarily on carbon offsets. I seek Cabinet's agreement to amend this to 2050 and to update CNGP guidance and other materials to implement this change.

² For example, in 2024 the Ministry of Education saved \$2 million over five years through ongoing electrification of their vehicle fleet.

Ensuring the Climate Implications of Policy Assessment process supports our climate strategy

- 33 The climate implications of policy assessment (CIPA) requires central government agencies to estimate and disclose the greenhouse gas emission implications when policy proposals are presented to Cabinet. I was invited by Cabinet to review the CIPA requirements to better align with the Government's priorities. The review and its findings are included as **Appendix 11**.
- 34 There is an opportunity to emphasise that a CIPA must consider interactions between individual policy initiatives and our net emissions cap, given the potential for the emissions cap to effectively neutralise the net impact of individual policy changes. I seek Cabinet's authorisation to:
- a. update the primary objective of the CIPA to reference emissions budgets
 - b. update the CIPA threshold so that fewer proposals trigger a CIPA, but those which do are material to an emissions budget, or directly relevant to an ERP
 - c. clarify (and narrow) the role of MfE, to enable more efficient use of resource by MfE and streamline the process for wider agencies
 - d. more explicitly include consideration of the NZ ETS and the emissions cap, in particular how they affect the efficiency and effectiveness of policies.

Cost-of-living Implications

- 35 The proposals in this paper are expected to have insignificant impacts on cost of living.

Financial Implications

- 36 9(2)(f)(iv)

- 37 The changes in this paper are not expected to create any additional costs.

Legislative Implications

- 38 I intend to progress these changes through a Category 5 Climate Change Response (Efficiency and Effectiveness) Amendment Bill, noting that this Bill is not expected to have its first reading until early 2026. I intend for this Bill to also include amendments to the CCRA set out in the Cabinet paper *Establishing a National Adaptation Framework* that is being considered alongside this paper. The amended CCRA will bind the Crown.
- 39 I have also sought inclusion on the legislative programme for a Category 2 Climate Change Response (2050 Target and Other Matters) Amendment Bill. I seek Cabinet's agreement for delegated authority to progress some of these proposals in this vehicle, if I consider it appropriate.

- 40 9(2)(h)

9(2)(h)

Impact Analysis

Regulatory Impact Statements

- 41 Regulatory Impact Statements (RIS) have been completed for proposals to remove the NDC accordence requirement for NZ ETS settings (**Appendix 5**); amend industrial allocation settings (**Appendix 6**); improve the administration of the NZ ETS (**Appendix 7**); adjust the penalty calculation for incorrect emissions returns (**Appendix 8**); and make the import of CO₂ a mandatory activity in the NZ ETS (**Appendix 9**). Quality assurance statements are included in the RIS attached.
- 42 The Ministry for Regulation (MfR) has determined that the proposals that form the efficiency review of the CCRA (see **Appendix 1**), the proposals for carbon removal activities, and some of the proposals in **Appendix 4** (as indicated in that appendix) are exempt from the requirement to provide a RIS on the grounds that they have no or only minor economic, social, or environmental impacts.
- 43 Cabinet's impact analysis requirements apply to the proposal for biennial NZ ETS settings reviews, but there is no accompanying RIS as this proposal was included late in the process at my direction. MfR has not exempted the proposal and therefore it does not meet Cabinet's requirements for regulatory proposals. MfR and MfE have agreed that supplementary analysis will be provided before LEG.

Climate Implications of Policy Assessment

- 44 The CIPA team confirms that the CIPA requirements only apply to the development of an assessment framework for carbon removals (see **Appendix 3**). This is because an explicit objective of the policy proposal is to decrease greenhouse gas emissions. However, the potential emissions impact of this proposal cannot be quantified at this stage due to its high-level nature. Any future decision to include a new removal activity in the NZ ETS or to be counted towards an NDC would require a separate Cabinet decision, for which a CIPA assessment would be undertaken.
- 45 The other proposals in this paper introduce changes to improve climate legislation, which are central to emissions reductions.

Legal issues

46 9(2)(h)

Population Implications

47 The proposals in this paper are not expected to have significant population impacts.

Human Rights

48 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Use of external resources

49 MfE employed two contractors to support the development of this work, including supporting preparation of this paper.

Consultation

50 Targeted engagement with stakeholders was carried out as part of the development of many of the proposals in this paper. This is discussed in the RIS attached as appendices to this paper. Officials engaged with the Commission, climate change experts, and industry bodies in developing the efficiency proposals in **Appendix 1**.

51 The following agencies were consulted on this Cabinet paper and provided feedback that has been considered: the Treasury, Ministry for Primary Industries, the Environmental Protection Authority, Ministry of Business, Innovation and Employment, Ministry for Regulation, Ministry for Foreign Affairs and Trade, the Climate Change Interdepartmental Executive Board Unit, and the Parliamentary Counsel Office. The Department of Prime Minister and Cabinet was informed.

Communications

52 I will consider announcing these proposals in September, following Cabinet decisions. These proposals will be treated as market sensitive.

Proactive Release

53 As soon as practicable after decisions being confirmed by Cabinet and public announcements being made, I intend to proactively release this paper, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Climate Change recommends that the Committee:

Increasing the efficiency and effectiveness of climate policy

- 1 **agree** to amend the Climate Change Response Act to ensure reference to efficient and effective policies forms part of the key requirements for the Act, including in the Act's purpose;
- 2 **agree** to the proposed amendments in Appendix 1 to improve the efficiency of the Climate Change Response Act, including by streamlining and clarifying the processes for emissions reduction plans;
- 3 **agree** in principle to move to biennial decisions on New Zealand Emissions Trading Scheme settings, as proposed in Appendix 1;

- 4 **authorise** the Minister of Climate Change to make final policy decisions about the frequency of New Zealand Emissions Trading Scheme settings, to make further related policy decisions needed to implement this proposal, and to issue drafting instructions, subject to the outcome of targeted engagement;

Clarifying or removing unclear statutory provisions

- 5 **agree** to remove the requirement that New Zealand Emissions Trading Scheme unit settings must accord with New Zealand's nationally determined contributions;
- 6 **agree** to remove the reference to contributing to the global effort under the Paris Agreement from section 5W(a) which relates to setting emissions budgets;

Changes to the industrial allocation scheme

- 7 **agree** to the proposed amendments in Appendix 2 for changes to industrial allocation settings;

Recognising and rewarding carbon removals

- 8 **agree** to add carbon removal activities to the Climate Change Response Act as an activity with respect to which a person may participate in the New Zealand Emissions Trading Scheme;
- 9 **direct** the Ministry for the Environment to publish the Assessment Framework for Carbon Removals attached as Appendix 3 on their website by the end of October 2025 and agree to implement it as Government policy;
- 10 **authorise** the Minister of Climate Change to approve minor changes to the Assessment Framework for Carbon Removals prior to public release;
- 11 **authorise** the Minister of Climate Change, in consultation with the Minister of Agriculture, the Minister of Conservation and the Associate Minister for the Environment, to amend and publish an updated version of the *Interim guidance for voluntary climate change mitigation* on the Ministry for the Environment's website;

Improvements to the effectiveness of the NZ ETS

- 12 **agree** to the proposed amendments to improve the effectiveness of the New Zealand Emissions Trading Scheme listed in Appendix 4;
- 13 9(2)(f)(iv)

Progressing legislative amendments to the CCRA

- 14 **note** that the Climate Change Response (Efficiency and Effectiveness) Amendment Bill is Category 5 on the legislation programme with first reading expected in early 2026, and I intend to progress the proposals in this paper through this Bill;
- 15 **note** that through the reassessment of legislative priorities, I have also sought agreement to a Category 2 Climate Change Response (2050 Target and Other Matters) Amendment Bill;

- 16 **authorise** the Minister of Climate Change to make decisions to progress some of the proposals in this paper through the Category 2 Bill as an alternative, if the Minister determines this is appropriate;
- 17 **invite** the Minister of Climate Change to issue drafting instructions to the Parliamentary Counsel Office to amend the Climate Change Response Act 2002 to give effect to these decisions;
- 18 **authorise** the Minister of Climate Change, and the Minister of Forestry where the proposals relate to the administration of forestry in the New Zealand Emissions Trading Scheme, to make further policy decisions if needed to clarify the detail of these proposals consistent with Cabinet's decisions, during the drafting process and up to and including the Committee of the Whole House stage;
- 19 **agree** to share the draft amendment Bill and drafting instructions with the Environmental Protection Agency in advance of the Bill becoming publicly available, as per Cabinet Office Circular CO (19) 2, noting officials have sought the required approval from the Attorney General;

The Carbon Neutral Government Programme and Climate Implications of Policy Assessment

- 20 **agree** to amend the Carbon Neutral Government Programme's aim to make the Government carbon neutral by 2050 (from the current 2025), noting the Minister of Climate Change will update the Carbon Neutral Government Programme guidance and other materials to implement this change following Cabinet decisions;
- 21 **authorise** the Minister of Climate Change to update Climate Implications of Policy Assessment guidance and Cabinet Office Circular CO (20) 3 to reflect the proposals in Appendix 11.

Authorised for lodgement

Hon Simon Watts

Minister of Climate Change

Appendix 1 – Proposed changes to the CCRA to increase the efficiency and effectiveness of climate policy

Current situation	Issue	Change	Proposed amendment
Emissions Reduction Plans (ERP) and National Adaptation Plans (NAP)			
The Commission must provide the Minister advice on the direction of the policy required in the ERP.	The value of this high-level, direction of policy advice has declined since it was first introduced as the governmental climate policy system has matured with improvements to capability and capacity across relevant agencies. Aspects of this function are also captured by the Commission's emissions budget advice and the annual ERM report. Separate ERP advice can contribute to policy uncertainty for businesses as it is unclear if, and how, that advice might be actioned.	Remove the requirement for the Commission to provide separate advice on the direction of policy for each ERP. If the Government of the day wishes to receive policy advice from the Commission, it could still do so by special request under s5K of the CCRA.	1. Remove the requirement for the Climate Change Commission to provide separate advice on the direction of policy for each emissions reduction plan.
An ERP must set out the policies and strategies for meeting the relevant emissions budget and include: sector-specific policies; a multi-sector strategy for both meeting emissions budgets and improving the ability of sectors to adapt; and a strategy to mitigate the wider impacts of emissions reductions and removals, including the funding for any action.	Some of these content requirements are relatively general and ill-defined. In practice, they have added complexity to the development of an ERP and require additional processes and resourcing to interpret the requirements and develop content to satisfy them.	Simplify ERP content requirements to allow Ministers to develop and articulate their own overarching climate change strategy and publish a simpler, more concise plan. The current requirement to set out a strategy to mitigate the impact on iwi and Māori needs to be retained to maintain consistency with the obligation under section 3A(ad) of the CCRA, which is a way in which the Crown seeks to give effect to the principles of the Treaty of Waitangi. Any aspects of the current formal requirements could still be included at the discretion of the Minister.	2. Simplify content requirements to only require emissions reduction plans to include the policies and strategies for meeting the relevant emissions budget, a strategy to mitigate the impact on iwi and Māori, and any other policies or strategies that the Minister considers necessary.

Current situation	Issue	Change	Proposed amendment
<p>An ERP may be amended at any time to maintain its currency using the same process as required for preparing the plan. This process is not required for minor or technical changes. Any amendments to an ERP are noted in the Minister's response to the Commission's annual monitoring report.</p>	<p>9(2)(h) [redacted] [redacted] [redacted] [redacted] In addition, being required to follow the same detailed and resource-intensive process as required for producing a new ERP is a disproportionate requirement and precludes more regular updating of an ERP to reflect policy changes.</p>	<p>Retain the ability to make minor or technical changes to an ERP and supporting policies and strategies without any process requirements.</p> <p>Require any changes to an ERP's supporting policies and strategies to be noted in the government's response to the Commission's annual monitoring report, and include the emissions impact and impact on iwi and Māori. Changes are subject to first considering the impact on emissions for the relevant emissions budget, and the impact on iwi/Māori (to give effect to the principles of the Treaty of Waitangi). There will be no requirement to consult.</p> <p>Create a discretionary ability to amend or replace an ERP and its supporting policies and strategies at any time subject to the Minister first considering the impact on emissions for the relevant emissions budget, and the impact on iwi/Māori (to give effect to the principles of the Treaty of Waitangi). There will be no requirement to consult. Provide discretion on how changes are documented including, but not limit to:</p> <ul style="list-style-type: none"> making the amended or new ERP publicly available and a copy presented to the House noting the amendments in an appendix to the next Government Response to the ERM report. 	<p>3. Clarify the processes for amending an emissions reduction plan and supporting policies and strategies by:</p> <p>3.1 Allowing minor or technical changes to an emission reduction plan and supporting policies and strategies to continue to be made without any process or considerations requirements.</p> <p>3.2 Allowing the Minister of Climate Change to change an emissions reduction plan's supporting policies and strategies at any time with no consultation requirement and subject to first considering the impact on emissions for the relevant emissions budget, and the impact on iwi/Māori.</p> <p>3.3 Providing discretion for the Minister of Climate Change to amend or replace an emissions reduction plan and supporting policies and strategies with no consultation requirement and subject to first considering the impact on emissions for the relevant emissions budget, and the impact on iwi/Māori.</p> <p>3.4 Requiring that changes to individual policies and strategies within an emissions reduction plan are recorded through the response to the annual monitoring report, including noting the emissions impact and impact on iwi and Māori.</p>
<p>There is no legislative avenue for the Minister to amend a NAP for more than 'minor or technical change'. The Minister may make minor or technical changes to a NAP and must make any new version publicly available.</p>	<p>Some of the NAP1 actions were updated as part of the Government's response to the Commission's recommendations in the Progress Report, but there were no legislative requirements guiding this process. In addition, this only happens every two years so relying on that mechanism does not provide a sufficient opportunity to update a NAP in a timely manner.</p>	<p>A NAP's objectives, strategies, policies and proposals can be amended at any time subject to the Minister considering the impact on addressing the most significant risks in the National Climate Change Risk Assessment (NCCRA) and the impact on iwi/Māori. Any amendments to the NAP are also to be noted in the Minister's responses to the Commission's regular NAP progress reports (and thereby drawn to the attention of the Parliament).</p>	<p>4. Allow that a national adaptation plan can be amended at any time subject to the Minister of Climate Change first considering the implications for addressing the most significant risks in the National Climate Change Risk Assessment and the impact on iwi and Māori.</p>

Timing and sequencing of Commission advice and reports and Government decisions and responses			
<p>The legislation requires five years of NZ ETS settings to be in place at all times and for the Commission to provide advice to the Minister early each year on settings for the next five years. NZ ETS settings for the next two years can only be updated in narrow circumstances.</p>	<p>Historically, the annual review cadence of NZ ETS settings has not contributed to market stability, confidence, or administrative efficiency, despite the existing limitations on the Minister's ability to update the next two years of NZ ETS settings.</p>	<p>Replace the current annual NZ ETS review frequency with biennial processes for both the Commission and the Government. Require the Commission to provide recommendations on settings covering more than five years ahead and for the Minister to make NZ ETS settings for at least the next five years. Other con changes may also be required to enable this change. For example, will consider extending the requirement that NZ ETS settings can only be changed for the next two years, to three years, when decisions are taken if prescribed circumstances are met.</p> <p><i>These changes to be subject to confidential targeted engagement with key stakeholders</i></p>	<p><i>In principle, and subject to the results of targeted engagement</i></p> <ol style="list-style-type: none"> 5. Require New Zealand Emissions Trading Scheme settings for at least the next five years to be made in regulations every two calendar years, not annually 6. Require the Commission to provide advice to the Minister on New Zealand Emissions Trading Scheme settings for at least the next five years every two calendar years, not annually 7. Make other related changes required to enable these amendments, such as extending the requirement that New Zealand Emissions Trading Scheme settings can only be changed for the next two years, to three years, when decisions are taken if prescribed circumstances are met.
<p>In a 5-year cycle, the 2050 target review occurs in year 4, 2050 target decision occurs in year 5, emissions budget advice occurs in year 4, emission budget decisions occur in year 5, and publishing an ERP occurs in year 4.</p>	<p>The overall timing creates a resourcing peak in these years and connected advice and decisions are not well sequenced.</p>	<p>Better connect relevant decisions and smooth resourcing peaks by ordering them:</p> <ul style="list-style-type: none"> • 2050 target advice • 2050 target decision • Emissions budget advice • Emissions budget decisions • ERP publication 	<ol style="list-style-type: none"> 8. Adjust the timing of key advice and decisions so that the: <ol style="list-style-type: none"> 8.1 Climate Change Commission advice on 2050 target is next due in 2031 and in the first year of each emissions budget period thereafter 8.2 Minister of Climate Change's decision on the 2050 target is next due in 2032 and in the second year of each emissions budget period thereafter 8.3 Climate Change Commission advice on emission budgets is next due in 2028 and in the third year of each emissions budget period thereafter 8.4 Minister of Climate Change's decision on emissions budgets is next due in 2029 and in the fourth year of each emissions budget period thereafter 8.5 Emissions reduction plan is next due in 2030 and in the fifth year of each emissions budget period thereafter.
<p>The Commission's annual NZ ETS advice is provided in March/April and its annual ERM report is due in July based on the requirement to be published within three months of the Greenhouse Gas Inventory (the GHG Inventory) being released.</p>	<p>Projections are more important than the GHG Inventory in understanding progress towards an EB and assessing if corrective action is needed. This is because the GHG Inventory is published approximately 16 months after a calendar year ends. The timing of the NZ ETS settings advice, which also relies on emissions projections, are not triggered by their publication.</p>	<p>Adjust the timing of the Commission's ERM Report and NZ ETS settings advice so they can be provided together up to six months after emissions projections are normally published (in October each year). This will help to ensure they are a consistent and coherent package in years when NZ ETS settings decisions are made, using the same projections and risk assessments.</p>	<ol style="list-style-type: none"> 9. Require the Climate Change Commission's biennial (tbc, pending targeted engagement) advice on New Zealand Emissions Trading Scheme settings and their annual emissions reduction monitoring report to be delivered by 30 April, i.e. six months after the publication of government's emissions projections.

Government's annual decisions on NZ ETS settings occur in August and the Minister's response to the Commission's annual ERM report falls due in October.	Current legislative timing requirements mean that despite being connected, NZ ETS settings decisions and the response to the Commission's ERM report are unable to be considered as a coherent and consistent package of decisions by Cabinet.	Align timing to allow both decisions to happen together, in years when NZ ETS settings decisions are made.	10. Remove the 3-month lead in time for New Zealand Emissions Trading Scheme unit supply and price control settings regulations coming into force so that only the standard 28-day rule applies. 11. Extend the timeframe for the Minister of Climate Change to respond to the Climate Change Commission's Emissions Reduction Monitoring Report to any time in that calendar year.
The Minister is required to respond within three months of the Commission publishing their end of emission budget report.	Experiences from responses to the annual ERM report suggest that three months is a very tight timeframe to make key decisions such as banking of overachievement or borrowing to address underachievement.	Extend the timing of the Minister's response to the end of emissions budget report to six months.	12. Extend the timeframe for the Minister of Climate Change to respond to the Climate Change Commission's end of emission budget report to within six months.
The Commission's NAP progress reports are due two, four and six years after the NAP is published. A Government response is required to each of these.	The third progress report is due at the same time as the next NAP and will not be useful in informing a new NAP.	Require only one progress report (and Government Response) to be delivered 2 years after the NAP is published.	13. Reduce the frequency of National Adaptation progress reports and Government Responses so one progress report is due two years after the national adaptation plan is published.
Consultation Requirements			
The Commission has general consultation requirements where they "must proactively engage with persons the Commission considers relevant...and where the Commission considers it is necessary, provide for participation by the public". However, for emissions budget and ERP advice they are required to undertake public consultation.	The Commission's role is to provide independent, expert advice so gains most value through engaging with experts, rather than public consultation. Reverting to their general consultation requirement provides discretion to allow the Commission to determine what engagement will best balance time and resourcing with the quality of information gathered. This approach would align with requirements for NZ ETS settings and 2050 target advice.	Remove the public consultation requirements on emission budgets and ERPs. ERP advice is proposed to be removed under proposed amendment 1 so if agreed, the only change will be for emissions budget advice.	14. Remove the Climate Change Commission's specific public consultation requirements for emission budgets and emissions reduction plans so that the Commission's general consultation requirements to proactively engage with relevant parties apply and consider if it is necessary for public participation apply to all of their advice.
The Minister is required to have regard to the results of public consultation when setting an emissions budget, be satisfied that there has been adequate consultation, and consider if additional consultation is needed if the proposed emissions budget departs from the advice of the Commission.	There is a complex set of processes for the Minister to satisfy. Any subsequent public consultation is likely to provide limited benefit as emission budgets must be set with a view to meeting the 2050 Target and the Commission would have gathered and considered information and evidence and tested these through targeted engagement with experts and potential public consultation.	No specific consultation requirements for setting emissions budgets. A Minister can still choose to consult.	15. Remove the Minister of Climate Change's public consultation requirements before making decisions on emissions budgets.
Minor and technical amendments			
The CCRA requires the board of the Commission to have between five and nine members.	This is relatively high compared to similar entities. The most similar entity to the Commission in terms of its advisory role and functions is the Mental Health and Wellbeing Commission who have a board of three to seven members. The Energy Efficiency and Conservation Authority has six to eight members, the Electricity Authority has five to seven members, and the Environmental Protection Authority has six to eight members.	Reduce the number board member to between five and seven.	16. Reduce the number of board members of the Commission to between five and seven
There are no formal standards for emissions projections or binding inter-agency agreements in place to ensure their quality and timeliness and that ongoing improvements are made.	Work has continued across agencies to strengthen the ongoing consistency, timeliness and robustness of projections. Given the importance of projections, there is an opportunity to strengthen processes over time.	Create an enabling provision to be able to set standards for emissions projections produced across government to provide options for future strengthening of the projections process across agencies.	17. Create an enabling provision to allow the Secretary for the Environment to formalise standards for emissions projections.

No prescribed approach on how to consider the impact of annual revisions to the GHG Inventory when revising emissions budgets, tracking progress towards an emissions budget or determining if an emissions budget has been met.	The GHG Inventory is updated each year to incorporate methodological improvements to measuring emissions. This can have a significant impact on the level of reported emissions, but does not represent actual changes in emissions. This can create a false perception of progress or failure toward meeting emission budgets and the 2050 target, and creates uncertainty over how the Commission will factor the GHG Inventory revisions into its advice and monitoring reports.	Allow the Minister to set appropriately robust and scientific approaches to account for method improvements to help provide clarity and consistency.	18. Ensure the Minister of Climate Change is able to set the approaches that will be followed by all agencies to take into account changes in emissions accounting that are due solely to methodological improvements to the Greenhouse Gas Inventory when revising emissions budgets, tracking progress towards an emissions budget or determining if an emissions budget has been met.
Each year, the Commission provides advice, and the Minister of Climate Change makes decisions, about price control and unit limit settings for the NZ ETS. Settings are set for the following five years. To provide market predictability, settings for the following two years can be revised under specified circumstances, including if price controls have been triggered at auctions <u>in the same year</u> that the amendments are being made.	The restricted ability to consider only price control settings triggered in the same calendar year means that the results of auctions that fall in the later part of each calendar year can never be taken into account. Expanding the timeframe for which auctions can be considered to include all auction outcomes that occurred since the last decision on NZ ETS settings would address this inconsistency	Allow NZ ETS settings for the following two years to be able to be amended if price control settings have been triggered at auctions at any point since the Minister last made amendments to price control settings. This creates a longer window of time for the Minister and Commission to consider all relevant evidence from relevant auction results to support analysis on changes to NZ ETS settings.	19. Allow New Zealand Emissions Trading Scheme auction results that triggered price controls since the last amendment to New Zealand Emissions Trading Scheme settings to be within scope of the considerations of the Commission and the Government when considering changes to New Zealand Emissions Trading Scheme settings for the following two years.
The CCRA requires the Commission to act independently in performing its functions and duties. However, the Minister of Climate Change may direct the Commission to have regard to Government policy when recommending unit supply settings for the NZ ETS.	The original policy intent of this section was that the Commission could be directed to have regard to Government policy when recommending both unit supply settings and price control settings for the NZ ETS. However, the legislation does not include reference to price controls, although unit settings and price controls must be considered together.	Enable the original policy intent that the power to direct the Commission to consider government policy when recommending NZ ETS settings should include auction price controls as well as unit supply settings, as these are closely related to each other.	20. Clarify that the Minister's power to direct the Commission to have regard to Government policy when recommending unit supply settings also includes auction price control settings.
In preparing NZ ETS advice, the Commission requests non-identifiable data on forestry allocations from MPI to determine how many of the units in the Registry are surplus.	Existing confidentiality obligations limit the Commission's ability to publish this non-identifiable information when releasing their NZ ETS advice. In practice this creates an inefficient process and additional steps for the Commission when preparing for publication.	Allow the Commission to release non-identifiable statistical information.	21. Allow the Commission to publish non-identifiable statistical information when performing a function or duty.
The Minister must advise the Commission in writing of the Government's response to the 2050 target review and each progress report on the NAP. These responses must also be made public and presented to the House of Representatives.	Responding directly to the Commission before a public response is an additional step not required for other advice and reports.	Remove the requirement to respond directly to the Commission and instead allow the response to be made public and presented to the House of Representatives.	22. Remove the additional requirement for the Minister to respond directly to the Commission on their 2050 target advice and national adaptation plan progress report ahead of a public response and presentation to the House of Representatives.
The EPA receives data that is required by MfE for the purpose of reporting for fiscal forecasts and under the Public Finance Act.	The current information-sharing provisions only require the EPA to share information that is required to carry out a function of power under the CCRA. The provisions do not require the EPA to share information for the purposes of fiscal forecasting or Public Finance Act reporting.	I propose to amend the CCRA so that MfE can obtain information from the EPA to support fiscal forecasting and reporting requirements under the Public Finance Act.	23. Amend the information-sharing provisions in the Climate Change Response Act to enable MfE to obtain the information it needs from the Environmental Protection Authority to support Public Finance Act processes and non-statutory Treasury processes, including the economic and fiscal update and baseline update processes.

Classification

Classification

Appendix 2 – Proposed industrial allocation proposals

54 Industrial allocation entitlements are calculated based on settings in the CCRA. These include:

- a. **An allocative baseline** is the amount of emissions attributed to a unit of product of an eligible activity. Allocative baselines are one of several key variables for determining a firm’s entitlement to NZUs through the industrial allocation scheme. The Minister of Climate Change has discretion to review a firm’s allocative baseline after five years and is required to review it after 10 years. If a firm reduces their emissions significantly (and the overallocation test is triggered, see below), a subsequent review of allocative baselines will likely result in a reduction in their industrial allocation entitlement. As part of this, the overallocation test creates a threshold under which emissions reductions will not result in a reduced allocative baseline after a review. This creates a perverse incentive to defer, scale back or sequence larger decarbonisation investments, to avoid losing industrial allocation under an allocative baseline review.
- b. **Eligibility for industrial allocation** is determined by a firm being both emissions-intensive and trade-exposed. Emissions-intensive means the emissions generated from the activity that the firm undertakes are above a specified threshold relative to the firm’s revenue for the activity. An activity is considered trade-exposed if there is international trade of the activity output. The Minister of Climate Change can review a firm’s eligibility for industrial allocation at any time.
- c. **Phase out rates** are the amount by which the level of industrial allocation assistance reduces each year. Currently, increases in the rate of phase-out may only occur prior to the start of an emissions budget period, every five years. The current phase-out rates are: 1 percentage point reduction in the level of assistance each year in the 2030s, 2 percentage points in the 2040s, and 3 percentage points in the 2050s and 2060s.

55 The combined effect of allocative baseline reviews, eligibility reviews and the overallocation test is to reduce the incentive for a decarbonisation investment to proceed, as doing so will result in a reduced entitlement to NZUs, affecting the return on investment. As a result, firms’ emissions could be staying higher than they otherwise would, leading to missed opportunities to improve economic performance, efficiency outcomes and fiscal costs.

56 9(2)(b)(ii) [redacted]
 [redacted]
 [redacted]. The largest 6 firms account for over 80 per cent of industrial allocation, with the total allocation of 4.7 million NZUs through to 2027 valued at about \$275 million per year. 9(2)(b)(ii) [redacted]
 [redacted]
 [redacted]

57 I therefore recommend that the allocative baseline reviews (and hence also the overallocation test) and eligibility reviews are removed from the CCRA (with the exception that certain technical adjustments may be made). Instead, Government will have the ability to consider firms’ decarbonisation investments and appropriate industrial allocations during a phase-out rate review, alongside other legislated

considerations. Phase-out reviews, as at present, will need to be initiated by the Minister.

- 58 Phase-out reviews are a better process for reviews: they allow for ‘in the round’ judgements on the right level to phase out industrial allocation, balancing up multiple criteria (set out in statute) and with appropriate consultation with the firm and advice from the Commission.
- 59 I propose to make minor adjustments to the provisions for phase-out reviews to improve process efficiency and to ensure the legislative criteria adequately incorporate decarbonisation incentives, including by providing greater flexibility on the timing of the phase-out rate reviews (no longer being tied with the emissions budget period, but still only able to be changed no more than every five years) and including explicit recognition of a firm’s decarbonisation investments as a legislated consideration for reviewing phase-out.

Clarifying the Minister of Climate Changes power to call for electricity contracts

60 The Minister also has a power to call for copies of in-force electricity contracts between industrial allocation firms and electricity retailers to review the suitability of the general Electricity Allocation Factor (EAF). The EAF reflects the embedded cost of the NZ ETS in the price of electricity from the grid and is an important part of calculating firms’ industrial allocation entitlements.

61 The reason a contract might be ‘called for’ is because some firms may use electricity with a different emissions cost compared with grid electricity. Calling for copies of electricity contracts enables these contracts to be reviewed, to determine if firms should have an EAF set to reflect these contracts – known as an Electricity Contract Allocation Factor (ECAF). Where an ECAF is set, a firm’s entitlement would change and would likely be reduced. 9(2)(b)(ii)

62 I propose to clarify my power to call for in-force electricity contracts by creating a new legal requirement for the Minister to publish guidelines on how they will use this power. In addition, I propose to provide the ability for firms to seek preclearance, and submit its contract/s for review, prior to the contract/s coming into force, with a binding resolution as to whether the contract would be called for if it came into force, and what the ECAF value would be. I propose to achieve this binding resolution by limiting my existing power to reflect an ECAF when setting firm-specific allocative baselines in regulations, based on any preclearance determination. 9(2)(ba)(i)

Proposed amendments to industrial allocation settings

- 63 I propose to amend the CCRA to:
- a. remove the requirement to review allocative baselines and make corresponding updates to baselines, and
 - b. remove the ability to undertake eligibility reviews of existing industrial allocation activities

- 64 The two proposals above will not apply to adjustments to allocative baselines and eligibility where other provisions require them but they do not have significant disincentive effects. This includes, but is not limited to, the ability to update allocative baselines annually for prescribed reasons (annual change to the general EAF, updates to emission factors, unique EAFs, new exemptions) and correcting settings for new activities on the basis of actual operating data (including eligibility).
- 65 I also propose:
- a. that increased phase-out rates for an industrial allocation activity may be made once in a five-year period and not be limited to occurring before the commencement of the relevant emissions budget period
 - b. to introduce decarbonisation, including capital and operating expenditure related to decarbonisation investments, as an addition to the list of factors that must be considered before an increase in phase-out rates may occur
 - c. to create a new ability for affected industrial allocation firms to seek a binding preclearance decision on whether the Minister of Climate Change would use their ability to call for the electricity contracts once in force and set an ECAF, and what the value would be, and limit the Minister's ability to apply an electricity contract allocation factor when setting regulations based on this determination, and
 - d. to amend the CCRA to require the Minister of Climate Change to publish guidelines on how the Minister will use the power to call for in-force electricity contracts.

Appendix 3 – Assessment Framework for Carbon Removals

- 1 I have been progressing work to provide clear information and support to interested parties on options to monetise removal activities, through either voluntary markets or the NZ ETS. I have developed the Assessment Framework for Carbon Removals, which has two key functions:
 - a. to help individuals and businesses understand the robustness of the science underpinning a removal activity they are developing or investing in and make informed decisions about what market structures may be best for them to pursue, and
 - b. to standardise and communicate the process by which the government will consider removal activities for inclusion in the NZ ETS and to be counted toward New Zealand's NDC under the Paris Agreement.
- 2 I seek Cabinet's agreement to implement the framework as Government policy. I intend to publish it on MfE's website in September 2025, with the framework opening for applications in March 2026.
- 3 To support potential applicants, I also seek delegated authority from Cabinet to update the *Interim guidance for voluntary climate change mitigation* that is currently published on MfE's website and provides information about the functioning of voluntary carbon markets. This will be done in consultation with the Minister of Agriculture, Minister of Conservation and Associate Minister for the Environment.



**Subject to editing,
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Assessment Framework for Carbon Removals

Anga Aromatawai mō te Tango Hauhā



Ministry for the
Environment
Manatū Mō Te Taiao



Te Kāwanatanga o Aotearoa
New Zealand Government

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Removals are a vital tool to tackle climate change

This document explains the Assessment Framework for Carbon Removals (the Assessment Framework). The Assessment Framework outlines the options available to people and organisations for having their activities that remove carbon dioxide (CO₂) from the atmosphere recognised and rewarded.

The Assessment Framework aligns with the Government’s Climate Strategy, which organises the approach to reducing the impacts of climate change and preparing for its future impacts under five pillars (see figure 1). Actions to harness nature to remove greenhouse gases from the atmosphere support three of these pillars:

- Pillar 2: Credible markets support the climate transition
- Pillar 4: World-leading climate innovation boosts the economy
- Pillar 5: Nature-based solutions address climate change.

Figure 1: Five pillars of the Government’s Climate Strategy



Removing greenhouse gases like CO₂ from the atmosphere is a vital part of New Zealand’s climate change response. Vegetation and soils do this naturally in the environment and are examples of ‘nature-based’ removals. Other types of removals include technological removal activities, such as direct air capture and storage. Removal activities can occur on land or in the ocean.¹

In Aotearoa New Zealand, our focus is on reducing emissions and making the most of the country’s unique environment to remove greenhouse gases from the atmosphere. This is often referred to as a ‘net-based’ approach to climate change (see [figure 2](#))² and makes sure we use

¹ Intergovernmental Panel on Climate Change. 2022. *Carbon dioxide removal (CDR): IPCC AR6 WGIII fact sheet*. Geneva, Switzerland: IPCC.

² Gross emissions include all emissions from all sectors of the New Zealand economy, except for land use, land-use change and forestry (LULUCF). Net emissions represent emissions and removals from all sectors of the New Zealand economy, including LULUCF.

all the tools available to meet the country's nationally determined contribution (NDC)³ and domestic targets.

Figure 2: Net-based approach



New Zealand has a target of net zero emissions by the year 2050. As stepping stones towards this target, emissions budgets place limits on emissions for specific periods. The first emissions budget covers the period 2022–25, and the second emissions budget covers the period 2026–30.

There are a range of potential removal activities

Forestry is currently the removal activity with the largest impact in New Zealand. This is because forestry removals are well understood, scientifically robust, measurable, verifiable and cost efficient. A range of people and organisations in New Zealand are already actively exploring other nature-based projects, new technologies and opportunities to diversify the types of removal activities that happen here.

The second emissions reduction plan,⁴ released in December 2024, is the Government's plan to meet the second emissions budget. In it the Government recognises the importance of encouraging a variety of removal methods and signalled it would develop this framework to help the recognition and rewarding of removal activities.

³ For a description of New Zealand's nationally determined contribution (NDC), see the section [How this framework interacts with the wider removal activity landscape](#).

⁴ Ministry for the Environment. 2024. *New Zealand's second emissions reduction plan 2026–30*. Wellington: Ministry for the Environment.

The Assessment Framework for Carbon Removals

Who this framework is for

The Assessment Framework is for anyone, including businesses, landholders, sector groups, environmental groups, iwi, hapū, interested in:

- pursuing some kind of removal activity project and wanting assurance of its scientific validity
- investigating the best way to get rewarded and recognised for carbon removal activities through voluntary markets or the New Zealand Emissions Trading Scheme (NZ ETS).

What this framework covers

The framework process has three key stages:

- Preparation stage (which will include a self-assessment process being made available)
- Assessment stage in two parts - a science assessment and an inclusion assessment
- Decision - making and implementation stage.

The science assessment can be used regardless of whether someone is interested in voluntary markets or the Government including it in the NZ ETS or NDC. Removal activities need to meet high scientific standards before they can be included in voluntary markets and traded with integrity and confidence, included in the NZ ETS, or counted towards the NDC.

How this framework helps

The framework process has several important benefits for project owners/interested parties:

- helps them understand the robustness of the science needed to underpin a removal activity before it is likely to be considered for a high integrity voluntary market or by the Government for some form of recognition
- helps them make informed decisions about what market structures may suit their project best
- helps them understand the process by which the Government will review and consider any removal activity before taking decisions on if it should be included in the NZ ETS or NDC.

The Ministry for the Environment (the Ministry) will use the framework to review the scientific basis of any new removal activities that applicants request an assessment of, or that the Government has an interest in. The Ministry can then give potential project owners and methodology developers insights into how suitable, reliable and fit for purpose the activity is.

Benefits for New Zealand of diverse removal activities

- More diverse avenues to address climate change and manage risks
- Co-benefits like biodiversity improvements, habitat development for native species, water quality or climate resilience
- Economic benefits through job creation, creation of new markets or trade opportunities
- Potential to expand the activities that count towards New Zealand's climate change targets
- Climate resilience in New Zealand communities and environment

How this framework interacts with the wider removal activity landscape

This Assessment Framework is part of a wider landscape of policies, processes and schemes focused on carbon removals nationally and internationally. There are voluntary markets that groups and companies can access which the Government does not regulate. Landholders and project owners can use these markets to monetise removal activities.

There is also the NZ ETS, where removal activities can be translated into units and traded, including through purchases from emitters. Currently, forestry is the main removal activity traded on the NZ ETS. The Government regulates the NZ ETS, and any decision to credit a new activity via the scheme requires a Cabinet decision and the making of legislation.

Under the Paris Agreement, every country has an NDC,⁵ which is the contribution each country will make towards meeting the goals from the Paris Agreement, including limiting global temperature rise. We can include removal activities in the accounting for our NDC, though the activity must be occurring at a scale at which it can be measured and reported on across the whole country.

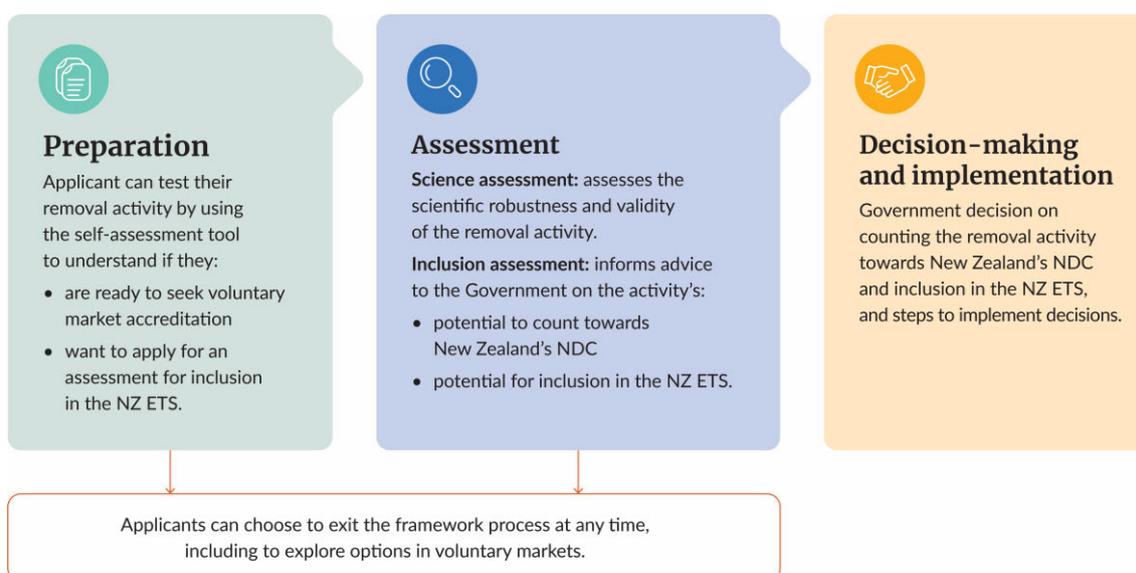
[Appendix 1](#) has more detail about the interaction between the Assessment Framework, voluntary markets, the NZ ETS and the NDC.

⁵ See the Ministry webpage [Nationally Determined Contribution](#), for more information.

The Assessment Framework process

The Assessment Framework will cover a range of removal activities, and people will be able to choose to exit the framework process at any time to explore options in voluntary markets. The main stages in the framework are preparation, assessment, and decision-making and implementation (see figure 3 for an overview and [Appendix 2](#), for more detail). A self-assessment tool will be available from 2026 to support the preparation stage.

Figure 3: Main stages in the Assessment Framework process



Note: NDC = nationally determined contribution; NZ ETS = New Zealand Emissions Trading Scheme.

Each part of the assessment may take several months, and timeframes will depend on:

- the availability of appropriate assessors (for the science assessment)
- what the activity is and the implications of adding this activity to the NZ ETS, including updating New Zealand's NDC (for the inclusion assessment).

Following assessment, the Government will make final decisions on whether new removal activities can be included in the NZ ETS or NDC. [Appendix 2](#) outlines the process flow for a removals assessment.

Preparation stage

The preparation stage will help people understand what is needed for a successful removal project and decide the best pathway for recognition. This can be a complex decision, so people should take the time to understand how different markets work, which scientific evidence is needed and what the various considerations are before they pursue a particular pathway.

A self-assessment will be available for people who want to understand how the information and evidence they have currently aligns with the assessment criteria, or with the kind of information that voluntary markets require.

The main steps that people should take to prepare themselves for the assessment are outlined in table 1.

Table 1: Steps to prepare for the assessment

Step	Details
1. Understand the markets	<p>Read information about the voluntary markets⁶ and New Zealand Emissions Trading Scheme to understand how they work. Information is available on the following Ministry webpages: Voluntary nature credits market in New Zealand⁷ and the New Zealand Emissions Trading Scheme.</p> <p>Consider existing standards for removal activities, which assessors may also refer to during an assessment. Examples of existing standards include the Peatland Code developed by the IUCN UK Peatland Programme,⁸ as well as those from leading international standard-setting bodies such as Verra⁹ and Gold Standard.¹⁰</p>
2. Understand the scientific criteria	<p>The scientific criteria outline the areas of evidence required for any application, which apply regardless of the kind of removal activity. Become familiar with the scientific criteria and review the information that you currently have for your activity.</p> <p>Consider how your information lines up with each of the criteria and whether any gaps exist.</p>
3. Collate information	<p>Once you have an understanding of how your information aligns with the criteria, collate the relevant information in preparation for the self-assessment.</p> <p>Because a variety of methods and processes are used to remove and store carbon, the exact nature of the information needed will be different for each application.</p>
4. Complete the self-assessment	<p>Use the information you have collated to complete the self-assessment once it is made available.</p>

⁶ Information is available on websites from organisations, including the [Integrity Council](#) for the Voluntary Carbon Market, [Ekos](#) and [Toitū Envirocare](#).

⁷ As work continues in the VNCM, more information will become available.

⁸ For more information, see the National Committee United Kingdom's webpage on the [Peatland Code](#).

⁹ For more information, see the [Verra](#) website.

¹⁰ For more information, see the [Gold Standard](#) website.

Step	Details
5. Decide whether to apply for the assessment	Informed by your self-assessment, choose either: <ul style="list-style-type: none"> • to apply for assessment through the framework, or • not to proceed through the framework and instead use the information from the self-assessment to investigate other options, including voluntary markets.
6. Complete the application	If you decide to continue in the framework, complete an application once this is made available.

Before applying, potential applicants are strongly encouraged to become familiar with the markets they are interested in and the scientific criteria outlined in [table 2](#) and [table 3](#).

Assessment stage

The assessment gives people a clear idea of whether a removal activity is scientifically robust. It has two parts: the science assessment and the inclusion assessment, each with underlying criteria. For some activities, the result of the science assessment (see [table 4](#)) may mean the inclusion assessment cannot proceed. In such cases, or at any other stage of the assessment process, people can exit the process and investigate voluntary market options.

Scientific criteria

Scientific credibility of removal activities is vital for the integrity of any market and for the inclusion of any activity into New Zealand's NDC. The science assessment outlined below will help applicants test the scientific readiness and sufficiency of an activity to support that credibility.

Readiness means a carbon removal activity is backed by science to show it can effectively take carbon dioxide out of the atmosphere and keep it stored.

Sufficiency means that a carbon removal activity works in a robust enough way to count toward New Zealand's nationally determined contribution or earn carbon credits.

Outcome of the science assessment

An applicant who requests an assessment will receive a report indicating whether the **type** of removal activity they are considering undertaking is scientifically sound in the New Zealand environment.

The assessment will **not** provide a government endorsement for an **individual project**, because that would require a much more thorough assessment of many areas of a project's management, finances and ways of operating.

Using established standards for assessing evidence

The integrity of any carbon market requires high standards for the generation of any credits traded. Internationally recognised, high-integrity standards are in place for various forms of carbon removal that align with the scientific expectations of the Paris Agreement and United Nations Framework Convention on Climate Change (UNFCCC).

The Government is working with various sectors across New Zealand to establish domestic government-endorsed standards for removals generated in New Zealand, for use in voluntary markets. Where suitable, the standards used by assessors under the science assessment will align with the endorsement approach for domestic standards that the Government is developing for the voluntary nature credit market (VNCM).¹¹ This provides assurance that

¹¹ The voluntary nature credits market (VNCM) programme refers to the specific government work programme to bolster voluntary market activity. Voluntary markets refer to the broader landscape in which participants buy and sell nature, carbon and biodiversity credits.

removal activities are scientifically robust and have been assessed consistently, regardless of their intended market.

This also means that, if an application does not result in a new activity being added into the NZ ETS or counted towards New Zealand’s NDC, the applicant could use the evidence gathered to support participation in voluntary markets.

What if no standard is available?

If no standard is available, removal activities will still be able to progress through the science assessment within the Assessment Framework. Applicants can work with the science assessor and the Ministry for the Environment to understand what evidence will be required for their initiative to be assessed against the scientific criteria.

Readiness criteria

Because the Earth’s system contains a set amount of carbon, a removal activity is one that moves CO₂ from the atmosphere into another carbon pool and can ensure that the CO₂ does not then return to the atmosphere. The readiness criteria, outlined in table 2, focus on evidence that the activity does have the potential to affect CO₂ in this way, safely and effectively.

Table 2: Criteria and required information for the readiness part of the science assessment

Criteria	Information required
<p>Measurable</p> <p>How clearly evidenced is it that there is a quantifiable net reduction in a carbon dioxide equivalent (CO₂e) gas?¹²</p>	<ul style="list-style-type: none"> • Explanation of the methods, approaches, tools or technologies that can identify the change in carbon levels that can then be attributed to the activity being considered • Evidence that these methods, approaches and techniques are reliable and appropriate for use with the activity in the New Zealand location and environment
<p>Validated</p> <p>Is it possible to cross-check proposed measurements against currently available techniques?</p> <p>What is the outcome of this cross-check?</p>	<ul style="list-style-type: none"> • Detail of chosen measurements, the tools, techniques and protocols used, and how they were applied • Explanation for the chosen measurements, covering: <ul style="list-style-type: none"> – how they do or do not align with established techniques – what makes them appropriate for the carbon pool or flux involved and the context of the activity • If new or innovative measures are being proposed, evidence of how their results align with established methods
<p>Additional</p> <p>What does the evidence show about how the reduction is caused by the activity?</p> <p>How is it being shown that the carbon dioxide (CO₂) being removed and stored is additional to the amount of CO₂ that would have been removed and stored over time without the activity?</p>	<ul style="list-style-type: none"> • Quantified baseline of the relevant carbon stocks • Quantified status quo forecast or prediction of the CO₂ sequestration trajectories (the likely changes in CO₂ over time from natural causes and human activities that are already likely to occur) • Comparison of the status quo forecast to various other scenarios that, at a minimum, include the deployment of the activity • Explanation of how additionality is being calculated (eg, land-use change models or counterfactual processes or analyses calibrated with field data)

¹² A net reduction in CO₂e gas includes carbon dioxide removals and any emissions of greenhouse gases.

Criteria	Information required
<p>Permanent</p> <p>What evidence is there of long-term storage of CO₂ in one or more carbon pools because of the activity?</p> <p>What is the timeframe of the storage?</p>	<ul style="list-style-type: none"> Evidence that the storage of CO₂ under this activity is long term (generally considered a minimum of 50 years or in line with a scientifically agreed 'best case scenario' for the carbon pool in question)¹³ Clarification of how the storage of CO₂ through this activity may be affected by changes in the environment (ie, whether the CO₂ will remain embodied as temperatures rise, or when geological disturbances or biogeochemical changes occur in the location and/or process of the storage)

Sufficiency criteria

Once an activity has been assessed under the readiness criteria, assessment then focuses on whether an activity can be translated into real-world outcomes that warrant further consideration. Table 3 outlines these sufficiency criteria and the information required for assessment.

Table 3: Criteria and required information for the sufficiency part of the science assessment

Criteria	Information required
<p>Material</p> <p>What evidence is there that the volume of carbon dioxide (CO₂) potentially being removed and stored such that it is detectable at a meaningful national scale?</p>	<ul style="list-style-type: none"> Current baseline data or measurements that would allow identification of the impact of the activity at a national scale
<p>Carbon dioxide leakage</p> <p>Is there a clear assessment of the risk of leakage with this form of removal activity?</p> <p>Is there a clear explanation of how such leakage can be mitigated?</p>	<ul style="list-style-type: none"> Detail on how leakage could occur from this activity and how it could be detected, measured and monitored Evidence of effective strategies project owners could use to mitigate and manage the risk of leakage
<p>Sustainable</p> <p>Is there a clear understanding of how the proposed activity could affect the wider ecosystem or biodiversity etc, of the areas where it would occur?</p>	<ul style="list-style-type: none"> Clear evidence and description of the likely positive and negative impacts of this activity on biodiversity, habitats, ecosystems etc. Where negative impacts are possible, an outline of: <ul style="list-style-type: none"> the scale of risk of this impact effective strategies for mitigating and managing this risk the relative size and scale of the trade-off between the impact and the potential for CO₂ removal Description of any ecosystems or environmental conditions where the activity would be inappropriate and explanation of why

¹³ This does not mean that the carbon only needs to be stored for 50 years. Rather, this is a minimum amount that is required as evidence for the science assessment. If a removal were entered into the NZ ETS, surrender obligations would still be owed if the carbon were emitted after 50 years (this aligns with the permanent forestry category in the NZ ETS).

Criteria	Information required
<p>Transparent</p> <p>Are records of the evidence used to quantify the effect of the proposed activity well documented and accessible?</p>	<ul style="list-style-type: none"> • Clear and accessible documentation setting out: <ul style="list-style-type: none"> – scientific methods, approaches used to measure and monitor removals – underlying assumptions, data and inputs used in any calculations or modelling – any statistical models or analytical approaches used • Assurance that, where relevant, the underlying assumptions, data and calculations have been tested and scrutinised by appropriate experts, peer reviewed and tested for reproducibility of results or predictions • Demonstrated efforts to ensure the evidence underlying the proposed activity is in the public realm, open to review and consideration
<p>Scalable</p> <p>Is it clear that the measures and their proposed deployment are effective across various spatial scales?¹⁴</p>	<ul style="list-style-type: none"> • Detail about the sampling methods and monitoring regimes associated with all preferred measurement approaches at various scales • Outline of any data used as inputs to support measurement or build accurate predictive forecasts or models of effects at scale (eg, land use data, vegetation coverage information or soil quality assessments).

Assessing the scientific evidence

Table 4 outlines options for the assessor’s recommendations, following the science assessment. Each criterion will be assessed independently to support an overall assessment of the scientific evidence.

Table 4: Summary of evidence assessment for each criterion, which will be considered in context of other criteria to support an overall recommendation¹⁵

Assessment of evidence ¹⁶	Description	Recommendation
Insufficient evidence	<p>A lack of robust, well-documented, or scientifically sound evidence or data in line with criteria</p> <p>Evidence suggests a hypothesis of effective carbon dioxide (CO₂) sequestration from this activity in the New Zealand context is unlikely</p>	<p>A significant amount of new work is required (new studies, data collection or modelling) before the applicant can resubmit for assessment</p> <p>Applicant should also consider undertaking new work before exploring voluntary market</p>
Lacks consensus	<p>Some promising evidence and data available in line with criteria, but overall evidence is inconclusive, highly variable, not replicable, or uses methods that are not in line with best practice</p>	<p>Some additional research, data or evidence required</p> <p>Applicant should also consider undertaking new work before exploring voluntary markets</p>

¹⁴ The same removal activity may occur across areas of various size and scale. Measurement approaches need to work at all scales to accurately identify the effect of the activity.

¹⁵ This table is adapted from table 2 in Bioeconomy Science Institute. **Forthcoming**. *Science framework for assessing new forms of natural carbon sequestration*, based on the summary of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) (2018) qualifiers of confidence.

¹⁶ The terms assigned here are adapted from IPBES. 2019. *Global assessment report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services*. Bonn, Germany: IPBES Secretariat.

Assessment of evidence ¹⁶	Description	Recommendation
	Evidence suggests the hypothesis is plausible	
Partially established	Multiple studies, datasets or independent lines of evidence demonstrate potential of activity in line with criteria Data available at a scale and to requirements that could support inclusion	Evidence may be adequate for the voluntary market May be considered under inclusion criteria
Well established	Outcome is well supported by multiple studies or lines of evidence, and by independent investigators Demonstrable evidence base for activities and outcomes for carbon High level of confidence that the proposed activity results in an effective method of sequestration in a New Zealand context	Applicant could consider participating in voluntary market with confidence Should be considered under inclusion criteria

Inclusion considerations

The inclusion assessment sets out considerations on the suitability of including any new removal activity in the NZ ETS or counting it towards New Zealand's NDC. Any final decision will be made by the Government on a case-by-case basis. This part of the assessment will be completed by the Ministry with input from other agencies and the science assessors as required.

Data and reporting considerations

Once a science assessment has been completed, the Ministry will work with any other relevant government agencies (such as the Ministry for Primary Industries or Land Information New Zealand) to consider if and how the activity could be measured and monitored nationally and in such a way that it can be calculated as part of target accounting. This may require additional discussions with the applicant. Table 5 outlines the inclusion considerations.

Table 5: Inclusion considerations – data and reporting

Consideration	Description
Monitoring and measuring	Are data available, or able to be developed, that will enable this activity to be included in the Greenhouse Gas (GHG) Inventory and target accounting? That is, do the data trend over time back to a nominated base year, and can the data be measured nationally? Are there internationally recognised methods and guidance for inclusion of this activity or associated category in the GHG Inventory?
Emissions impact	What would the impact be of adding this activity on New Zealand's overall emissions profile?
Data costs	What are the costs of the necessary improvements to monitoring and measuring regimes to incorporate this new activity into the GHG Inventory and target accounting? What are the ongoing costs of yearly data collection, monitoring and measuring for reporting?

The ability to measure the emissions impact **at a national level** is an important difference between counting something towards New Zealand’s nationally determined contribution and including it in the New Zealand Emissions Trading Scheme, compared with it being appropriate for a voluntary market.

The Assessment Framework will establish whether measurement and monitoring data for the new activity are, or can be, generated and reported to allow inclusion in the NZ ETS and to count towards New Zealand’s NDC. The Ministry and other relevant agencies will then analyse and provide advice to the Minister of Climate Change and the Government on the implications of doing so.

Impact considerations

Depending on the activity and the context, analysis will involve reviews of regulatory and legislative settings and an assessment of the likely implementation requirements. Table 6 outlines the considerations that will definitely be assessed. Other factors may be considered if they are found to be important. The analysis could include economic modelling, scenario modelling of the projected trajectory for achieving New Zealand’s emissions budgets, and reviews of international agreements.

Table 6: Inclusion considerations - impact on NZ ETS and NDC

Consideration	Description
Contribution to climate goals	<p>In adding this activity, what would be the impact on progress towards achieving New Zealand’s budgets, targets and nationally determined contribution?</p> <p>Is the potential volume of removals generated through this activity adequate to justify inclusion?</p> <p>How does the activity align with the Government’s approach to meeting its targets and budgets?</p>
Market credibility	<p>Would adding this activity create any risks to the credibility of the New Zealand Emissions Trading Scheme (eg, how will it affect the supply of units, price and confidence of market participants)?</p> <p>Does the market have capacity for these removals (potentially over other removals)?</p>
Liability	<p>Is a reliable and valid plan in place for managing any future liability from this activity (eg, any leak of stored carbon)?</p>
Economic impacts	<p>Does including this activity generate significant economic growth opportunities?</p> <p>What are the workforce implications?</p>
Māori-owned land	<p>Does this activity have any impacts on Māori- or iwi-owned land, land claims or interests?</p> <p>Does this proposal meet legal obligations under Te Ture Whenua Māori Act 1993?¹⁷</p>
Community impacts	<p>Will localised community impacts occur if this activity is encouraged?</p> <p>Will social, equity, health or other impacts occur that need to be mitigated?</p>

¹⁷ For more information see the [Land Information New Zealand](#) website.

Consideration	Description
Mitigation	Are any potentially negative effects on environments, ecosystems etc being adequately managed and mitigated?
Trade and international agreements	Do any considerations need to be taken into account around this activity from a trade or international agreement perspective?
Administrative costs	<p>What are the administrative costs of developing regulation?</p> <p>What are the costs to the market of measuring, monitoring, reporting and processing activities and units?</p> <p>What are the costs of making updates to the New Zealand Emissions Trading Scheme Registry and implementing resourcing at the Environmental Protection Authority to manage the new activity?</p>
Other required changes	<p>Are any other changes (such as regulatory changes or resource management considerations) needed to enable this activity in the New Zealand context?</p> <p>If so, what is required to make those changes, and are they appropriate?</p>

Decision-making and implementation stage

A positive outcome from the science assessment and a completed analysis of all inclusion considerations do not guarantee that a new activity will be allocated units in the NZ ETS or counted towards New Zealand's NDC.

Once the full assessment process has been completed the Ministry may provide advice to the Minister of Climate Change (and other relevant Ministers) about the suitability and implications of adding a new removal activity into the NZ ETS or counting it towards our NDC. Ministers, and Cabinet, will then decide if they wish to pursue these changes and direct the relevant agencies to take steps to make it happen.

When can units be traded in the NZ ETS for a new activity?

If the Government approves a new activity, steps are still needed before an individual can gain credits, including:

- drafting of new regulations for that specific activity
- consultation on the regulations
- changes to the NZ ETS Register and associated processes
- development of any verification or monitoring process for registered entities in the NZ ETS.

Creating this infrastructure is vital to ensure integrity in the trading of the activity, so this process will likely take 12 to 18 months, depending on the activity and complexity.

Next steps for the Assessment Framework for Carbon Removals

This document provides an introduction to the Assessment Framework for people interested in understanding their options for having their removal activities recognised and rewarded. It provides a high-level overview of the three stages of the Assessment Framework: preparation, assessment, and decision-making and implementation.

People can use this information to start considering their options and understanding the scientific evidence for their removal activity, which is part of the preparation stage. A self-assessment tool and the application process will subsequently be made available.

Appendix 1 – how the Assessment Framework interacts with voluntary markets, the NZ ETS and the NDC

How the framework helps with units and carbon credits

Carbon removals can be incentivised and funded by issuing a ‘unit’ or ‘credit’ equivalent to the carbon being stored, which can then be sold on a market. Each unit or credit represents 1 tonne of CO₂ or its equivalent for other greenhouse gases (known as CO₂e) that has been either removed from the atmosphere or prevented from being emitted. More specifically, units, or New Zealand Units (NZUs), are used in the NZ ETS. Carbon credits can also be created and issued under various voluntary market schemes for purchase by companies wishing to make voluntary claims in support of climate action.

These units or credits have a market value and can be traded like financial assets. Markets create an incentive for removal activities and provide a mechanism for reducing greenhouse gas emissions, supporting governments, businesses and individuals to invest in climate action. Activities that significantly improve the biodiversity of an area can also be incorporated and priced into voluntary carbon credits, or bundled with voluntary or compliance credits to demonstrate support for nature action. Assigning a financial value to removals and biodiversity improvements incentivises cleaner technologies, conservation efforts and sustainable practices, as well as supporting businesses to meet regulatory or voluntary climate targets.

Voluntary markets

Groups and companies in New Zealand can access voluntary markets. The Government does not regulate these markets or directly control what kinds of activities or projects can be credited and traded. However, the Government is developing an endorsement approach for domestic voluntary market project standards that can demonstrate integrity, to help landowners deliver nature and carbon projects to a New Zealand VNCM that credit buyers can trust.

Prices vary across voluntary credit markets. When an applicant can demonstrate that a strong scientific base underpins their credits, they will have greater opportunities to trade at a premium unit price. The Assessment Framework provides an avenue for scientific testing that can help groups that are unsure about their scientific evidence.

For more information about the VNCM, see the Ministry webpage [Voluntary nature credits market in New Zealand](#).

New Zealand Emissions Trading Scheme

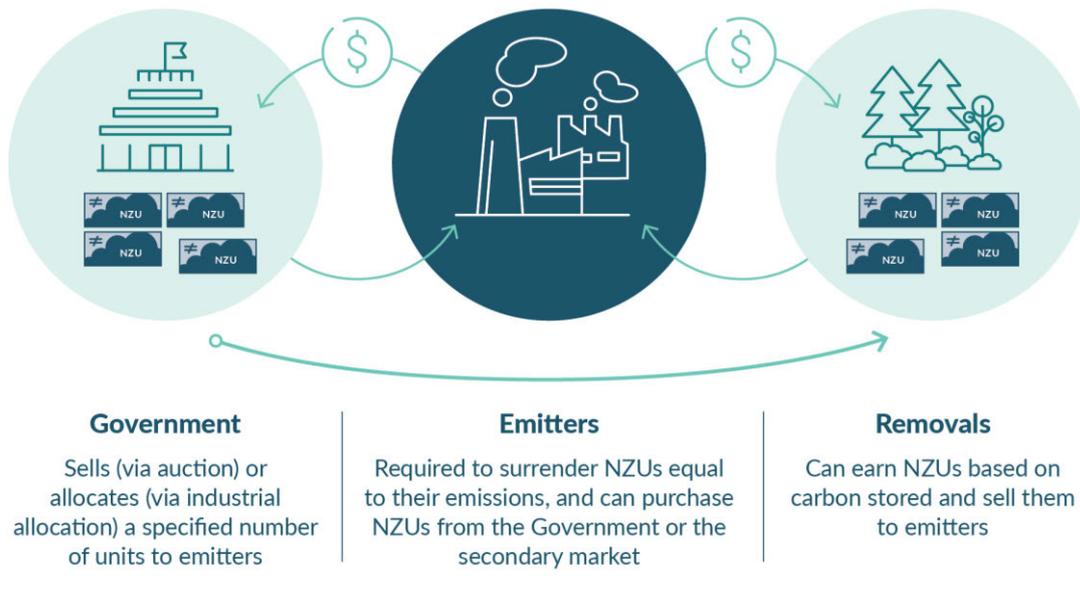
Legislation for the NZ ETS requires some companies to buy and surrender units in relation to the amount of greenhouse gases their activities produce (see [figure A1](#)). It is intended that the number of NZUs¹⁸ in circulation will decrease over time, to reduce emissions in line with New Zealand’s emissions budgets. Because forestry is the largest removal activity in New Zealand, most removals recognised in the NZ ETS are from forestry (though not all forestry is eligible, because activities must meet certain conditions).

The Climate Change Response Act 2002 sets out which activities are included in the NZ ETS. Before adding any new removal activity into the NZ ETS, the Government needs assurance that the activity is underpinned by robust scientific evidence and would support New Zealand to meet its NDC. Any activity included in the NZ ETS is subject to monitoring, reporting and compliance requirements.

The Assessment Framework provides the evidence to support the Government’s policy development pathway when considering whether to include a new removal activity in the NZ ETS or count it towards New Zealand’s NDC.

For more information, see the Ministry webpage on the [New Zealand Emissions Trading Scheme](#).

Figure A1: How the NZ ETS market works



Note: NZUs = New Zealand Units.

¹⁸ New Zealand Units represent tonnes of emissions of carbon dioxide equivalent (CO₂e) in the NZ ETS.

How removal activities interact with New Zealand's GHG Inventory reporting and NDC

Greenhouse Gas Inventory

New Zealand's Greenhouse Gas (GHG) Inventory is the official annual report of all emissions and removals of greenhouse gases from human activities in New Zealand since 1990.¹⁹ The GHG Inventory is a core reporting requirement of the Paris Agreement and the United Nations Framework Convention on Climate Change (UNFCCC).

The GHG Inventory reports emissions at national and category or activity levels. If a category or activity is included, the GHG Inventory reports on all emissions and removals from that category or activity within New Zealand's land area that have occurred since 1990.

Target accounting

Target accounting²⁰ is used to measure progress towards domestic emissions budgets and targets, as well as progress towards New Zealand's nationally determined contribution (NDC) (see below).

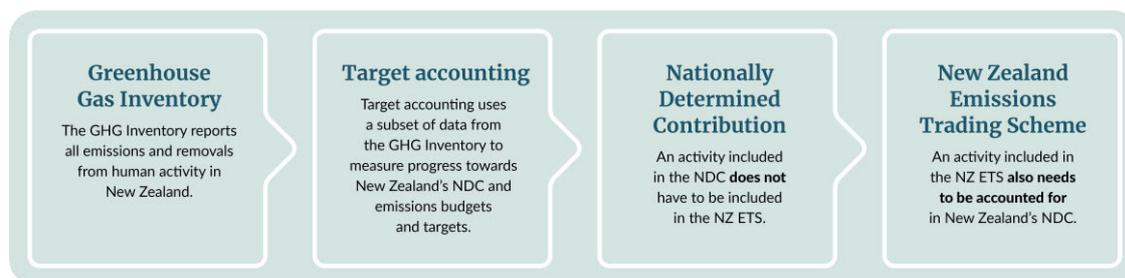
This method includes all New Zealand's gross emissions, but only a subset of emissions and removals from the land use, land-use change and forestry sector.

Nationally determined contribution

Under the Paris Agreement, every country has an NDC,²¹ which is the contribution each country will make towards meeting the goals from the Paris Agreement, including limiting global temperature rise.

The Greenhouse Gas (GHG) Inventory and target accounting are important in the way they apply to any activity that is counted towards New Zealand's NDC or included in the NZ ETS. Figure A2 outlines how these all interact.

Figure A2: Interactions between the GHG Inventory, target accounting, the NZ ETS and New Zealand's NDC



Evidence of a national impact over time is important when deciding which carbon market an activity fits into. For an activity to be considered for inclusion in the NZ ETS, it must be included in the GHG Inventory, which requires national-scale reporting. By contrast, for inclusion in voluntary markets, the scale of an activity can vary, with only evidence of project and/or site -specific impact being required.

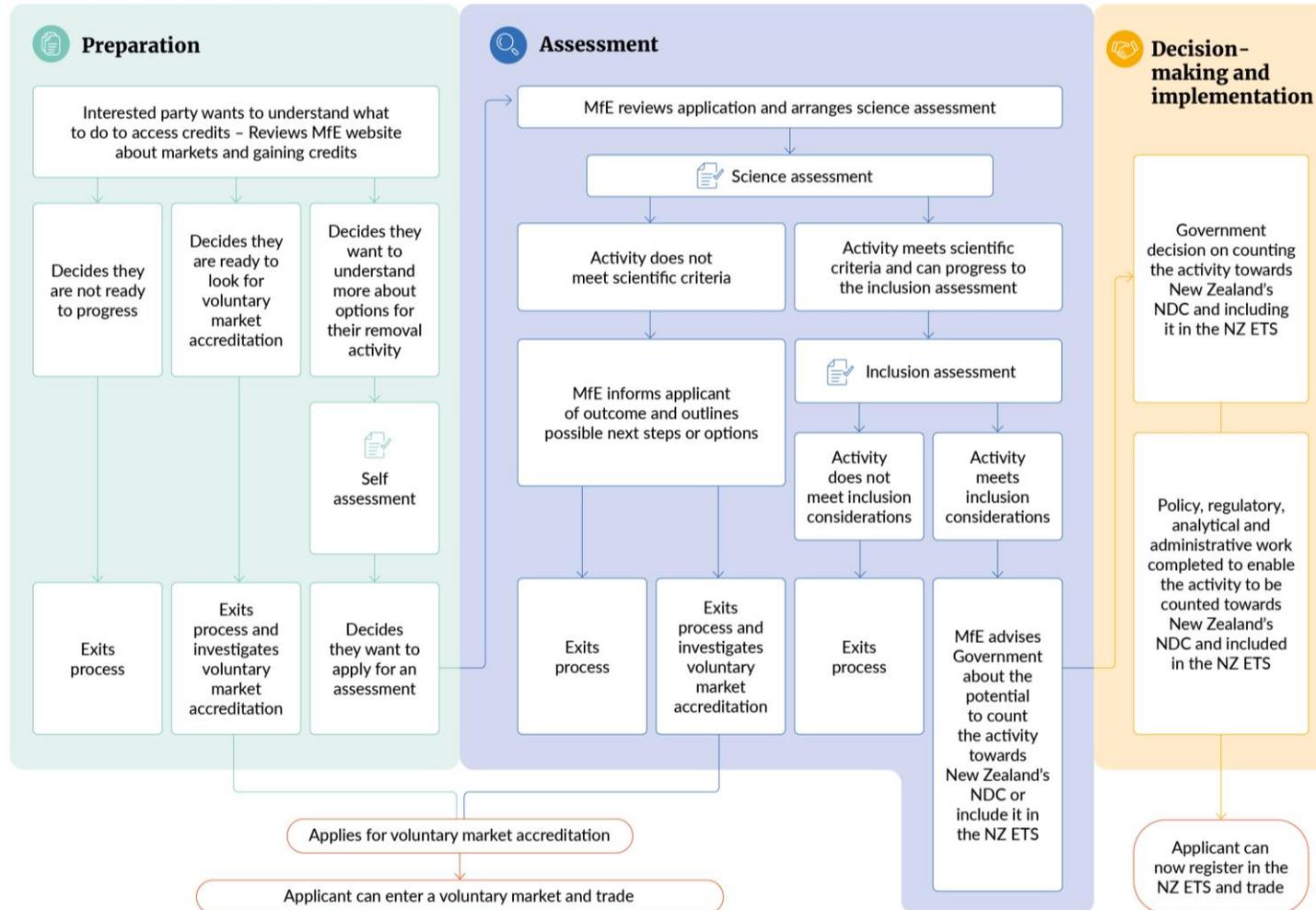
¹⁹ Ministry for the Environment. 2025. *New Zealand's Greenhouse Gas Inventory 1990–2023*. Wellington: Ministry for the Environment.

²⁰ See the Ministry webpage [Greenhouse gas emissions targets and reporting](#), for a definition of target accounting emissions.

²¹ See the Ministry webpage [Nationally Determined Contribution](#), for more information.

Appendix 2 – the Assessment Framework process

Figure A3: Assessment Framework for Carbon Removals process



Note: MfE = Ministry for the Environment; NDC = Nationally Determined Contribution; NZ ETS = New Zealand Emissions Trading Scheme.

Glossary

Term	Description
Accreditation	The process of having an independent body verify and certify that a project or activity has generated verifiable reductions in greenhouse gas emissions, ensuring the credits are real, measurable and permanent.
Additionality	Demonstration that emissions reductions achieved through carbon market mechanisms are truly additional to what would have happened anyway (under the status quo).
Biodiversity	The variety of living organisms from all domains, including land, marine and freshwater ecosystems. This includes diversity within species (including genetic diversity), between species, and of ecosystems.
Carbon removal	Also known as ‘emissions removal’ – the process of removing CO ₂ from the atmosphere and locking it away for decades, centuries or millennia.
Carbon sequestration	The capture and long-term storage of atmospheric CO ₂ (eg, through establishing forests).
Climate Strategy	The Government’s approach to delivering on New Zealand’s climate goals.
Coastal blue carbon	Coastal blue carbon is the carbon captured and stored by coastal ecosystems, such as salt marshes, mangroves and seagrass beds.
Greenhouse gas emissions	The release into the atmosphere of gases that trap heat and contribute to global warming. These gases are emitted from both natural sources and human activities.
Emissions budgets	A total quantity of human-induced greenhouse gas emissions that is allowed to be released during an emissions budget period. In New Zealand, each emissions budget covers five years (except the first emissions budget, which covers 2022–25).
Emissions leakage (leakage, carbon dioxide leakage)	The risk that reducing emissions in one location causes emissions to increase elsewhere so that global emissions overall do not reduce.
Forest land	New Zealand defines forest land as land that has a: <ul style="list-style-type: none"> • minimum area of 1 hectare • crown cover of at least 30 per cent • minimum height of 5 metres at maturity in situ • minimum forest width of 30 metres from canopy edge to canopy edge.
Gross emissions	The total of greenhouse gas emissions from the agriculture, energy, industrial processes and product use, and waste sectors.
Inclusion assessment	An assessment that forms advice on a removal activity’s potential to be included in the New Zealand Emissions Trading Scheme, and its suitability to be included in New Zealand’s target accounting.
Indigenous forest	A forest ecosystem composed primarily of tree species that are indigenous to a specific geographic area.
Nationally determined contribution (NDC)	A representation of efforts by each country to reduce national emissions and adapt to the impacts of climate change, as part of the country’s obligations under the Paris Agreement. New Zealand’s second NDC aims to reduce emissions from 51 per cent to 55 per cent, compared with 2005 levels, by 2035.
Net emissions	Gross emissions combined with the emissions and removals from land use, land-use change and forestry.

Term	Description
New Zealand Emissions Trading Scheme (NZ ETS)	A market-based policy to reduce emissions of greenhouse gases. The NZ ETS puts a price on emissions, charging certain sectors of the economy for the greenhouse gases they emit, and rewarding activities that remove emissions from the atmosphere.
New Zealand's Greenhouse Gas Inventory (GHG Inventory)	New Zealand's official annual report of all human-induced emissions and removals of greenhouse gases. The GHG Inventory is a core reporting requirement of the Paris Agreement and the United Nations Framework Convention on Climate Change. It enables New Zealand to track progress towards its emissions reduction targets.
Readiness	When a carbon removal activity is backed by science to show it can effectively take carbon dioxide out of the atmosphere and keep it stored for a long time.
Removals	The result of activities (such as forestry) that take greenhouse gases from the atmosphere and store them.
Removal activities	Actions that remove greenhouse gases from the atmosphere and keep them stored for a long time. Planting new forests or restoring wetlands are examples of 'nature-based' removal activities. Abiotic (not from living organisms) or technological removal activities also exist, such as direct air capture and storage. Removal activities can occur on land or in the ocean.
Science assessment	An assessment of the scientific validity and robustness of a removal activity.
Second emissions reduction plan	The plan setting out how New Zealand will meet its second emissions budget (2026–30) and move towards meeting long-term climate change targets.
Sufficiency	When a carbon removal activity can be monitored and managed robustly enough to count toward climate change targets or earn carbon credits.
Surrender	The transfer of one or more units to the Crown surrender account in the NZ ETS Register to meet an emissions obligation in the NZ ETS.
Target accounting	Target accounting is used to measure progress towards domestic emissions budgets and targets, as well as under New Zealand's NDC. This method includes all gross emissions, but only a subset of emissions and removals from the land use, land-use change and forestry sector.
Voluntary market	A market for the voluntary buying and selling of biodiversity or carbon credits that represent the reduction or removal of emissions achieved through mitigation actions, such as afforestation or avoided deforestation. This is distinct from compliance markets, such as the NZ ETS, where entities have obligations to participate and surrender emissions units.
Voluntary nature credits market (VNCM)	A voluntary market governance framework that the Government is developing to encourage increased investment and activity in actions to protect and restore biodiversity, remove carbon, and drive other environmental improvements over time.

Appendix 4 – Proposed changes to the CCRA to improve the effectiveness of the NZ ETS

Current situation	Issue	Change	Proposed amendment
Administration of forestry in the NZ ETS and other technical amendments			
<p>Participants can apply for a 20-working-day extension to an emissions return deadline if they are unable to submit the emissions return by the deadline.</p> <p>Extensions are not available for notice deadlines.</p> <p><i>See RIS attached as Appendix 7.</i></p>	<p>The North Island severe weather events of early 2023 revealed gaps in the CCRA's provisions to meet foresters needs when they are negatively affected by significant disruptions such as severe weather.</p> <p>Significant disruptions may leave residences, farms, forests, production facilities or office buildings damaged or cause access issues to relevant information.</p> <p>Without extensions, participants may become non-compliant solely due to their being affected by a significant disruption. Non-compliance may result in fees, fines or penalties which have financial implications for participants. Determining whether compliance action should be taken is also resource intensive for the regulator.</p> <p>Extensions currently available are not long enough and not available for deadlines that participants may not be able to meet due to being affected by a significant disruption. There is also insufficient flexibility for some participants when significant disruptions are ongoing or occur shortly before the relevant deadline.</p> <p>Any changes to extension provisions should also apply to participants eligible to receive industrial allocations and participants who use Unique Emissions Factors (UEFs) to ensure fairness across the NZ ETS.</p>	<p>I seek agreement to add to existing provisions in the CCRA to:</p> <ul style="list-style-type: none"> • provide the option for all participants to apply for a 60-working-day extension to deadlines for emissions returns and appropriate notices if a person is affected by a significant disruption. • provide for the surrender or repayment deadline for participants who receive a 60-working-day extension to be 60 working days after the EPA gives the person notice requiring the surrender or repayment. • provide the option for a person to apply for a 60-working-day extension to the deadline for industrial allocations if a person is affected by a significant disruption. • provide the option for a person to apply for a 20-working-day extension for unique emissions factor applications if a person is affected by a significant disruption. • provide for an automatic 20-working-day extension to the associated emissions return deadline for a person who received an extension to their unique emissions factor application. • provide for the option for forestry participants to apply for extensions up to 20 working days after the deadline for the notice for a transmission of interest where the significant disruption is ongoing or occurs shortly before the deadline. <p>I propose to define a significant disruption as occurring:</p> <ul style="list-style-type: none"> • when a person is affected by a state of emergency for example, declared under the Civil Defence Emergency Management Act 2002; or • in situations set out in a notice with Ministerial oversight. 	<ol style="list-style-type: none"> 1. The Environmental Protection Authority may approve an application for an extension of 60 working days, when a person is affected by a significant disruption, to deadlines for: <ol style="list-style-type: none"> i. emissions returns ii. appropriate notices iii. applications for industrial allocations 2. The surrender or repayment deadline for participants who receive a 60-working-day extension for an emissions return deadline will be 60 working days after the Environmental Protection Authority gives notice to the person requiring the surrender or repayment. 3. The Environmental Protection Authority may approve an application for an extension of 20 working days for unique emissions factor applications. 4. A person who receives an extension to their unique emissions factor application will receive an automatic 20-working-day extension for the associated emissions return deadline. 5. Allow forestry participants to apply for extensions up to 20 working days after the deadline for the notice of a transmission of interest (including the emissions return) when a significant disruption is ongoing or occurs in the 20 working days before the deadline. 6. A significant disruption would be where there is a state of emergency declaration or in a situation specified by a notice made with Ministerial oversight. 7. A person will be eligible to apply for any of the extensions in proposals 1-5 if their home, business or forest land is located in an area directly affected by a significant disruption.
<p>There is no extension available for meeting the timeframes to re-establish forest land when a forester is affected by a disruption that prevents them from re-establishing their forest (such as a cyclone or flooding) by timeframes set in the CCRA.</p>	<p>The North Island severe weather events of early 2023 revealed gaps in the CCRA's provisions to meet foresters needs when they are affected by a disruption that delays forest land re-establishment.</p>	<p>I seek agreement to add to existing provisions in the CCRA to:</p> <ul style="list-style-type: none"> • allow foresters up to three years longer to meet the requirements of the 4, 10, and 20 years deforestation tests set out in the CCRA (as relevant) when forests have been cleared or severely damaged or where foresters are unable 	<ol style="list-style-type: none"> 8. The Environmental Protection Authority may approve an application for an extension of up to 3 years to any of the section 179 deforestation tests when a person is affected by a disruption that delays forest land re-establishment and applies for the extension before the next applicable deforestation test.

Current situation	Issue	Change	Proposed amendment
<p>The CCRA allows post-1989 forestry participants to pause carbon accounting while the forest land recovers the equivalent amount of carbon after being damaged by the adverse event.</p> <p>In that context, adverse events are defined in regulations.</p> <p>See RIS attached as Appendix 7.</p> <p>9(2)(f)(iv) [Redacted]</p>	<p>Events, such as natural events, may damage forests or may disrupt the re-establishment of forest land within the timeframes set out in the CCRA.</p> <p>There is currently no extension available to the re-establishment timeframes set out in the CCRA. This may lead foresters to become responsible for meeting deforestation liabilities. The costs of these liabilities can exceed \$48,000 per hectare.</p> <p>9(2)(f)(iv) [Redacted]</p>	<p>to re-establish forest in time due to a disruptive event.</p> <p>In addition, I propose to:</p> <ul style="list-style-type: none"> empower regulations with a similar approach to the existing definition of adverse event in regulations. <p>9(2)(f)(iv) [Redacted]</p>	<p>9. Insert an empowering provision to make regulations that prescribe the type of events that are disruptions preventing forest re-establishment and to prescribe other administrative requirements necessary to enable Environmental Protection Authority to implement this extension.</p>
<p>When land ownership or land agreements change, NZ ETS forestry responsibilities go through a transmission of interest (TOI).</p> <p>See RIS attached as Appendix 7.</p>	<p>When property rights change, NZ ETS responsibilities for post-1989 forest land cannot move to the new person before a TOI notice is processed. Officials have identified opportunities to increase efficiencies in processing TOI notices.</p>	<p>I seek agreement to modify existing provisions in the CCRA to speed up the resolution of non-compliant TOI notices:</p> <ul style="list-style-type: none"> to shorten the timeframe for EPA acting to correct TOI notices from 90 to 20 working days so that compliant parties can participate in or leave the NZ ETS more quickly by making an explicit requirement for a new participant to open a holding account before the TOI notice is submitted if they do not already have one, and to extend the notice period by 10 days to reflect the extra timeframe for new participants in the NZ ETS undertaking forestry activities to notify the EPA of their holding account number. 	<p>10. The deadline for giving or correcting a failure to give transmission of interest notice be amended from the end of the 90th working day to the end of the 20th working day after the Environmental Protection Authority gives its notice of intent to act.</p> <p>11. The transmission of interest provisions be amended to explicitly require a transferee to open a holding account before the transmission of interest notice is submitted.</p> <p>12. Amend the transmission of interest provisions so that the transferor and transferee must give notice of the transmission to the Environmental Protection Authority within 30 working days, not 20 working days, of the date of transmission.</p>
<p>An input return helps participants to calculate the carbon stored in their forest land based on information they provide to the EPA about forestry activities they have undertaken. The results can</p>	<p>Input return functionality is provided in Tupu-ake (the NZ ETS online system for forestry participants)</p>	<p>I seek agreement to modify existing provisions to remove the deadline for use of input returns to make input returns available for all emissions</p>	<p>13. Amend the input return provisions to remove the deadline for using input returns so that all participants who submit an emissions return,</p>

Current situation	Issue	Change	Proposed amendment
<p>then be submitted as the participant's emissions return.</p> <p><i>This proposal has a RIS exemption</i></p>	<p>through an optional carbon calculator, which automates the calculations for emissions returns.</p> <p>Currently input return functionality cannot be used after the date set in regulations nor after an emissions return deadline.</p>	<p>returns, not only those completed before the due date.</p>	<p>including after the deadline, may submit an input return.</p>
<p>The Permanent Forest Sink Initiative (PFSI) was one of the government's sustainable forestry programmes, enabling landowners to receive NZUs through the creation of permanent forests. The PFSI was phased out on 31 December 2023 and was replaced by the permanent forestry activity in the NZ ETS.</p> <p><i>This proposal has a RIS exemption</i></p>	<p>All former PFSI land has now either been moved to the permanent forestry category in the NZ ETS or removed from the NZ ETS. This means the majority of PFSI provisions in the CCRA are now redundant aside from those outlined in the change column.</p>	<p>Repeal PFSI provisions in the CCRA. However, the CCRA will need to retain the original PFSI covenant date, as this is the start of the permanent forestry period (50-year term registration period).</p>	<p>14. Repeal redundant references to the Permanent Forest Sink Initiative.</p>
<p>Permanent post-1989 forestry must remain in the NZ ETS for 50 years, except in certain specified circumstances.</p> <p>One of these exceptions – unreasonableness in the circumstances – requires the approval of the Minister of Climate Change.</p> <p>Section 190A of the CCRA lists the exceptions. The list was developed in 2019 and based on what was known at the time [B25-0337/BRF-6378 refers].</p> <p>9(2)(f)(iv) [Redacted]</p>	<p>MPI has received six requests to remove permanent post-1989 forest land to-date [B25-0337/BRF-6378 refers].</p> <p>This has assisted officials to identify further circumstances where early removal should be permitted without requiring specific Ministerial approval.</p>	<p>I propose to:</p> <ul style="list-style-type: none"> • Enable removal of land from the NZ ETS if the activity of post-1989 forestry was never undertaken and removal is in accordance with section 186D; • Add a clause to reflect that small areas of less than one hectare that extend over a title boundary due to subdivision or LINZ mapping changes may be removed; • Add to the circumstances described in section 186D to section 182F(6) and (7), which outline removing registration as participant in standard or permanent forestry for whole or part carbon accounting areas. • 9(2)(f)(iv) [Redacted] 	<p>15. Extend the list of circumstances in which permanent post-1989 forest land may be removed from the New Zealand Emissions Trading Scheme in section 190A:</p> <ol style="list-style-type: none"> a reference to circumstances where the participant has never carried out activity in carbon accounting area; small areas of less than one hectare which occur over a title boundary due to subdivision or LINZ mapping changes. <p>9(2)(f)(iv) [Redacted]</p>
<p>The discharged Regulatory Systems (Climate Change Response) Amendment Bill includes minor and technical amendments relating to the administration of forestry in the NZ ETS.</p> <p><i>This proposal has a RIS exemption</i></p>	<p>When it was discharged in 2024 to free up Select Committee time, the expectation was that these changes would be deferred to the next opportunity to make amendments.</p>	<p>I propose to progress the relevant changes from the discharged Regulatory Systems (Climate Change Response) Amendment Bill, modified to address any other amendments made via the current amendment Bill.</p>	<p>17. Progress the relevant forestry-related changes from the discharged Regulatory Systems (Climate Change Response) Amendment Bill, modified to address any other amendments made via the current amendment Bill.</p>
<p>Adding the import of carbon dioxide to the NZ ETS</p>			
<p>Emissions from imported carbon dioxide (CO₂) are not currently captured by the NZ ETS.</p> <p><i>See RIS attached as Appendix 9.</i></p>	<p>There is one domestic supplier of CO₂ and emissions from domestic supply are priced by the NZ ETS. This creates inequality between domestic suppliers and importers, undermining the goal of the NZ ETS to reduce greenhouse gas emissions.</p>	<p>I propose to make importing CO₂ a mandatory activity under the NZ ETS. As already occurs for domestic suppliers, this will impose some additional small costs on importers which will likely be recovered through sales to users. A popular consumer brand of carbon dioxide refill tanks might increase by 0.05%, or \$0.02, as a result. There are</p>	<p>18. Add the import of carbon dioxide, from a commencement date to be determined by the Minister of Climate Change by order in council, as a mandatory activity under the New Zealand Emissions Trading Scheme.</p>

Current situation	Issue	Change	Proposed amendment
		<p>choices about when this requirement should come into force and the threshold at which it should apply. I propose those matters be determined by orders in council following consultation as part of implementation.</p>	
Changes to penalties and other minor and technical amendments			
<p>The penalty for failure to surrender or repay units (section 134) by the due date incurs a penalty of three times the units that were not surrendered. This means that in practice, the penalty applies in a similar way to an absolute liability offence.</p> <p><i>See RIS attached as Appendix 7.</i></p>	<p>There is no discretion to waive the penalty if the person fails to surrender or repay units through no fault of their own. For example, participants may receive a penalty if they are unable to surrender or repay units by the deadline solely due to their being affected by a significant disruption. The penalty is intended to discourage non-compliance in relation to failing to surrender or repay units and protect the integrity of the NZ ETS. However, penalizing participants for failing to surrender or repay units by the deadline when this occurs through no fault of their own does not achieve these objectives.</p> <p>This leads to unfairness because similar penalty provision section 134AA does contain a 'no fault' provision.</p>	<p>I seek agreement to add to existing provisions in the CCRA so that the EPA may be satisfied a person is not liable to pay a penalty if the failure to surrender or repay units occurred through no fault of the person.</p>	<p>19. Insert a provision so that a person is not liable to pay a penalty for failure to surrender or repay units by the due date if the Environmental Protection Authority is satisfied that the failure to surrender or repay units occurred through no fault of the person.</p>
<p>Penalties may apply when a person reports incorrect amounts of emissions, removals or units in an emissions return, allocation, or adjustment. Using the current penalty equation, a person receives a penalty of \$0.00 if they report an incorrect amount of emissions, removals or units where they should have reported zero.</p> <p><i>See RIS attached as Appendix 8.</i></p>	<p>Persons who report incorrect emissions, removals or units when they should have reported zero effectively do not receive a penalty.</p> <p>A penalty of \$0.00 is not effective in deterring non-compliance and encouraging persons to comply voluntarily. If a person considers the risk of compliance action is low, they may continue to incorrectly report emissions and removals which would undermine the integrity of the NZ ETS.</p> <p>In addition, persons who report incorrect emissions, removals or units where they should have reported an amount that is larger than 0 receive a penalty larger than \$0.00. This means that participants who make similar errors may receive different penalties.</p>	<p>I seek agreement to modify existing provisions in circumstances where a person reported incorrect emissions, removals or units; instead of the amount the person should have reported (zero).</p>	<p>20. Amend the calculation for determining the penalty for submitting an incorrect emissions return, allocation or adjustment in circumstances where the amended outcome is zero so that factor (a) is the difference between what the person submitted and zero multiplied by 0.2.</p>

9(2)(f)(iv)

9(2)(k)

Current situation	Issue	Change	Proposed amendment
		9(2)(k)	
<p>Under the CCRA, the Minister of Climate Change can issue notices to compel firms to provide accurate information and data on emissions, production and revenue within certain timeframes. The Minister uses this power to make decisions about eligibility for industrial allocation and allocative baselines.</p> <p><i>This proposal has a RIS exemption</i></p>	<p>If a notice is not complied with by the due date without reasonable excuse, a firm will be ineligible for industrial allocation only if the activity they carry out is <u>subsequently</u> prescribed as an activity that is eligible for industrial allocation. The CCRA does not allow this decision for firms in activities currently prescribed as eligible. This allows such firms to keep receiving allocation even if they have not complied with requirements to provide information.</p>	<p>I propose to clarify that a firm that fails to comply with a notice without reasonable excuse should be ineligible for industrial allocation, whether the activity was already an eligible activity or is subsequently prescribed as eligible. This correction will support the accuracy and operation of the NZ ETS and no significant impacts are anticipated.</p>	<p>23. Clarify that if a firm does not comply with a notice to provide accurate information and data on emissions, they are ineligible for industrial allocation, whether the activity they carry out was already an eligible industrial allocation activity or is subsequently prescribed as one.</p>
<p>NZ ETS participants must pay penalties if they fail to meet their obligations under the CCRA. These penalties are payable to the Crown. However, if a penalty needs to be refunded, the payment including any interest, is made by the EPA. Penalties accrue interest at 8.5 per cent if paid late. The same 8.5 per cent interest rate applies if the EPA is required to refund a penalty it has received, even if the original payment (and any interest) has already been transferred to the Crown before the refund obligation arises.</p> <p><i>This proposal has a RIS exemption</i></p>	<p>This arrangement can leave the EPA in the position of refunding large penalty amounts plus significant interest, from its baseline funding. This is becoming increasingly unsustainable, particularly for large NZ ETS penalties, where interest costs can be substantial.</p>	<p>I propose to amend the CCRA so that the Crown can establish a separate interest rate for the EPA penalty repayments, set by a new Order in Council. Officials will progress further policy work to determine the appropriate interest rate settings for EPA penalty repayments.</p> <p>I also propose to amend the CCRA to clarify that the EPA can hold NZ ETS penalties until the expiration of the window for a participant to request a review, or if a review has been requested, until the review has been completed. Further details on the process and timeframes will be described in operational policy and agreements between agencies.</p>	<p>24. Enable an interest rate for Environmental Protection Authority penalty repayments to be set through a separate Order in Council, distinct from the interest rate that applies to New Zealand Emissions Trading Scheme participants who are late to pay penalties.</p> <p>25. Clarify that the Environmental Protection Authority can hold New Zealand Emissions Trading Scheme penalties up until the expiration of the window for a participant to request a review, or if a review has been requested, until the review has been completed, according to the process and timeframes to be agreed in an inter-agency agreement between Ministry for the Environment, Environmental Protection Authority, and Ministry for Primary Industries.</p>
<p>Drafting errors have been identified which the Bill provides an opportunity to amend.</p> <p><i>This proposal has a RIS exemption</i></p>	<ul style="list-style-type: none"> • Correct the reference in section 161D(7) to notices issued under sub-section (1)(a) so that notices can be issued for any of the purposes in sub-section (1) are in scope of the power in sub-section (7). • Amend section 35 so that the reports that MfE is responsible for publishing are the same as those that the Ministry is responsible for preparing under section 32(1)(b). • Amend section 30GC(2)(a) so that the Minister must be satisfied, when setting unit limit and price controls for the NZ ETS, that these are in accordance with the emissions budget and Nationally Determined Contribution (NDC) for the period for which the settings are being prescribed and any period after that, instead of or any period after that. This will ensure the legislation reflects current practice and the original policy intent. • Amend section 137 to align with section 134, so that interest accrues on penalties if the person has not paid the penalty by the due date or the person has not surrendered or repaid the NZUs that the penalty related to, where relevant. • Remove an incorrect cross-reference from section 157(1)(b) and correct an incorrect cross reference in Schedule 1AA. 		<p>26. Make minor and technical drafting amendments to the Climate Change Response Act.</p>

Classification

Classification



Regulatory Impact Statement: Proposal to remove NDC accordancy requirement for NZ ETS settings

Decision sought	<i>Cabinet approval for removal of the requirement for New Zealand Emissions Trading Scheme settings to accord with New Zealand’s nationally determined contributions.</i>
Agency responsible	<i>Ministry for the Environment</i>
Proposing Ministers	<i>Hon Simon Watts, Minister of Climate Change</i>
Date finalised	<i>01 August 2025</i>

The Minister of Climate Change proposes to progress an amendment to the CCRA to remove the requirement for the New Zealand Emissions Trading Scheme (NZ ETS) settings to accord with Nationally Determined Contributions (NDCs) under the Paris Agreement.

Summary: Problem definition and options

What is the policy problem?

- The current requirement for New Zealand Emissions Trading Scheme settings to ‘accord’ with New Zealand’s NDCs risks undermining the proper functioning of the NZ ETS because of uncertainty around timelines for securing future offshore mitigation. Additionally, the requirement is misaligned with the NZ ETS as a domestically focused instrument .

What is the policy objective?

- To ensure legislative provisions for NZ ETS settings support the NZ ETS in providing credible and predictable markets to reduce domestic emissions.

What policy options have been considered, including any alternatives to regulation?

- We have considered three options:
 - Option One: Status quo
 - Option Two: Removing the requirement for the NZ ETS settings to accord with NDCs (preferred)
 - Option Three: Changing the NDC accordancy requirement to specify that NZ ETS settings must accord with the expected domestic contribution to NDCs

What consultation has been undertaken?

- None

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

- Yes

Summary: Minister’s preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

- The proposal is an amendment to the CCRA and has no direct costs.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

- The proposal will improve the certainty of processes related to NZ ETS settings, with flow on benefits for credible and stable carbon markets. We have not quantified this benefit.
- Additionally, the proposal has significant benefits by avoiding risks or potential costs that could arise under the status quo legislation. Specifically, the proposal will reduce the risk of negative impacts that could occur if future NZ ETS settings decision could not accord with an NDC because of uncertainty in securing sufficient offshore mitigation. Some of the potential costs that are avoided by this proposal in this situation include:
 - Difficulty for some NZ ETS compliance participants to source units in the short term and meet compliance obligations, because of the unanticipated and sudden reduction in auction volumes. The exact impact will depend on the liquidity of the existing stockpile of units.
 - Higher NZU prices and price volatility with associated increased costs for firms and negative aggregate impacts on economic productivity and competitiveness.
 - Pass through of higher NZ ETS costs to consumers and households increasing inflation and cost of living.
 - Negative impact on confidence in NZ ETS markets by participants and the overall integrity of the NZ ETS.
 - A sharp reduction in future auction volumes, with direct financial costs to the Government. The central model projection for cash receipts from NZU auctions is \$1.4 billion over the EB2 period. This would be offset somewhat by lower domestic emissions reducing the level of offshore purchasing needed to meet NDC1.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Ministers’ preferred option are likely to outweigh the costs?

- The benefits exceed the costs, although these have largely not been quantified.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

- The proposed change will be progressed as part of legislation to amend the 2050 domestic emissions target in the CCRA (as discussed in the main regulatory impact statement).

Limitations and Constraints on Analysis

- The main limitation on the analysis in this paper is that there has been no public consultation on this proposal.
 - 9(2)(h) [Redacted]
 - There are limited suitable legislative vehicles for making a change to NZ ETS accordance requirements, and the timing for the next did not allow time for consultation. Meaningful public consultation therefore could not take place.
- There are also limitations on the cost and benefit analysis because of the significant uncertainties involved in the likelihood of the inability for NZ ETS settings to accord with NDC1, and the possible market impacts that would stem from the resulting reduction in auction volumes, which would be relatively unprecedented and difficult to predict.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature: 

**Simon Mandal-Johnson
 Manager, Emissions Trading
 Scheme Policy
 7 August 2025**

Quality Assurance Statement <i>[Note this isn't included in the four-page limit]</i>	
Reviewing Agency: Ministry for the Environment	QA rating: Partially meets
<p>Panel Comment: <i>An independent quality assurance panel with members from the Ministry for the Environment has reviewed the Regulatory Impact Statement (RIS): "Proposal to remove NDC accordance requirement for NZ ETS settings". The Panel considers the proposal 'Partially meets' the standard.</i></p> <p><i>There is a clear problem relating to current ETS settings posing significant risk of destabilising the domestic ETS market in relation to offshore mitigation opportunities. The paper presents</i></p>	

suitable options for the Minister to address this risk. Qualitative costs and benefits and hypothetical financial implications of the preferred options versus the status quo are discussed.

However, there has been no consultation on the proposals and minimal quantified financial costs and benefits, which would be appropriate given the potential scale of impacts. This is because of shorter timeframes for the chosen legislative vehicle. Given more time, the RIS should identify these figures and views where possible, to show a better understanding of the scale, likelihood and impacts of the risk on stakeholders, including for New Zealand's overall climate change response.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The NZ ETS is the key tool to help New Zealand meet its emissions budgets, NDCs and the 2050 target. The NZ ETS supports net emissions reductions by:
 - requiring businesses to measure and report on their greenhouse gas emissions
 - pricing emissions and removals
 - requiring businesses to surrender one 'emissions unit' – a New Zealand Unit (NZU or unit) – to the Government for each tonne of emissions they are responsible for under the NZ ETS
 - limiting the number of units supplied into the NZ ETS through auctioning and industrial allocation.
2. The NZ ETS cap outlines the total emissions for NZ ETS-covered sectors, and is determined based on the projected emissions necessary to meet our emissions budgets. In line with the NZ ETS cap, the Government sets the number of units supplied into the NZ ETS over time through auctions and industrial allocation and reduces the number over time. This incentivises reduction of net emissions from participants in the NZ ETS, in line with New Zealand's emissions reduction targets.
3. Every year the Government is required to review settings for the NZ ETS for the next five years. It must decide on the appropriate supply of New Zealand Units (NZUs or units) and price control settings that accord with emissions reduction targets, including NDCs.
4. The ETS contributes to domestic action towards NDCs. However, NDCs can also be met through the use of offshore mitigation as provided by the Paris Agreement. We have set two NDCs under the Paris Agreement:
 - NDC1 - our first NDC for the period 2021 to 2030, was set on the basis that it would require offshore mitigation (i.e. purchasing emission reductions from other countries).
 - NDC2 – for 2031 to 2035 was set to align with emissions budget 3, meaning that it may be met without offshore mitigation.

What is the policy problem or opportunity?

5. Under the s30GC of the CCRA, the Minister of Climate Change must be satisfied that the limits and price control settings are in accordance with:

- a. the emissions budget, and the nationally determined contribution for New Zealand under the Paris Agreement, that applies to:
 - i. the period for which the limits or price control settings are being prescribed; or
 - ii. any period after that, if a budget or contribution exists for that period; and
 - b. the 2050 target.
6. However, ETS settings need not strictly accord with the budgets or NDCs as long as the Minister is satisfied that the discrepancy is justified, after considering a range of other matters, including the international climate change obligations and instruments or contracts that New Zealand has with other jurisdictions to access emissions reductions through carbon markets.
 7. These accordance requirements play an important role in ensuring NZ ETS settings are aligned with our climate targets and the NZ ETS will play a role in helping achieve NDCs by driving domestic emissions reduction.
 8. The Paris Agreement provides for countries to meet their NDCs through international cooperation including the use of offshore mitigation. The Government remains committed to achieving NDC1 and officials are currently exploring international cooperation and carbon market mechanisms under Article 6 of the Paris Agreement, including bilateral agreements, plurilateral collaborations and participation in global forums to enhance New Zealand climate action. However, timelines for securing offshore mitigation remain uncertain.
 9. The NDC accordance requirement inadvertently creates uncertainty for NZ ETS settings by making them subject to review based on progress in advancing offshore mitigation. For NDC1 this means accordance is dependent on the extent to which access to offshore mitigation is successful. This risks the proper functioning of the market.
 10. 9(2)(h)
[Redacted text]
 11. This is likely to result in higher ETS prices and volatility and negative impacts on businesses and households.
 12. More generally, the possibility of needing to reduce NZ ETS auction volumes based on NDC accordance could undermine confidence in the ongoing stability of the NZ ETS, hampering business planning and investment decisions. This risk becomes more likely as the end of the NDC1 period draws closer, by which the extent to which arrangements for offshore mitigation are in place will be clearer.
 13. In its advice on NZ ETS unit limits and price control settings for 2026–2030, the Commission highlighted that meeting the first NDC with domestic action only would require a scale and pace of economic, social and technological change over the next five years that would be highly disruptive. The accordance test could therefore result in ETS settings that go well beyond what the Commission thought reasonable or desirable to do domestically.
 14. Additionally, the ETS as currently designed is purely a domestic instrument, meaning that it only places a cost and surrender obligation on domestic emissions. It has no ability to account for or contribute to the offshore mitigation component of an NDC. The accordance requirement is therefore disconnected from the design and capabilities of the ETS and the nature of NDCs under the Paris Agreement.

15. The accordance requirement for NZ ETS settings is unique amongst domestically focused Government decisions. For example, there is no similar requirement for emissions reduction plans (ERPs), reflecting the domestic focus of decisions for ERPs (though, as with the NZ ETS, they are also a key contributor to meeting New Zealand's NDCs).

What objectives are sought in relation to the policy problem?

16. Our objective for this proposal is to ensure legislative provisions for NZ ETS settings support the NZ ETS in providing credible and predictable markets to reduce domestic emissions.

What consultation has been undertaken?

17. There has been no consultation on this proposal.

9(2)(h)

20. There are limited suitable legislative vehicles for making a change to NZ ETS accordance requirements, and the timing for the next did not allow time for consultation. Meaningful public consultation therefore could not take place.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

The options have been assessed based on the extent to which they support the proper functioning of the NZ ETS by addressing the identified problem and reducing the risk to the stability of NZ ETS settings. None of the options would impact on the options or decisions for 2025 NZ ETS settings, which are already designed assuming the use of offshore mitigation.

What scope will options be considered within?

21. Options have been considered that will address the identified problem in an enduring manner. An option to remove the accordance requirement only for NDC1 was considered but discounted because it would not address the underlying problem of the disconnect between the accordance requirement and the design and capabilities of the NZ ETS. It also does not address the risk of accordance if future NDCs do not align with emissions budgets or if EB3 was changed, resulting in a gap between EB3 and NDC2.

What options are being considered?

22. We have considered three options:
- a. Option One: Status quo
 - b. Option Two: Removing the requirement for the NZ ETS settings to accord with NDCs
 - c. Option Three: Changing the NDC accordance requirement to specify that NZ ETS settings must accord with the expected domestic contribution to NDCs

Option One – Status quo

23. This option maintains the current requirement for NZ ETS settings to accord with NDCs. It would not clarify the expected domestic role of the NZ ETS in line with the Government's direction or address the identified problem that legislative provisions for the NZ ETS create a risk that auction volumes may need to be reduced because of uncertainty in securing sufficient offshore mitigation.

Option Two – Removing the requirement for the NZ ETS settings to accord with NDCs – Preferred option

24. This option removes the requirement for NZ ETS settings to accord with NDCs. It would remove the risk that auction volumes may need to be reduced because of uncertainty in securing sufficient offshore mitigation, improving confidence for participants in the stability of the NZ ETS. It would also clarify that the NZ ETS is a domestic instrument that should be required only to align with domestic targets, specifically emissions budgets and the 2050 target.

Option Three – Changing the NDC accordancy requirement to specify that NZ ETS settings must accord with the expected domestic contribution to NDCs

25. This option would change the requirement for NZ ETS settings to accord with NDCs, clarifying that NZ ETS is only responsible for addressing the domestic component of NDCs. This option would require the government to state expected domestic and offshore contributions to NDCs. The Government could choose to use emissions budgets as the expected domestic contribution or develop a separate process for determining the expected domestic contribution.
26. It would remove the risk that auction volumes may need to be reduced because of uncertainty in securing sufficient offshore mitigation, improving confidence for participants in the stability of the NZ ETS. It would also clarify that the NZ ETS is a domestic instrument that should be required only to align with domestic targets, specifically emissions budgets and the 2050 target.

How do the options compare to the status quo/counterfactual?

27. While both Options 2 and 3 better support the proper functioning of the NZ ETS, Option 2 provides certainty to market participants more quickly and clearly than Option 3. The Government has already set out our level of domestic ambition through emissions budgets. It is therefore likely that the expected domestic contribution under Option 3 would likely be set at the same level as emissions budgets. This would unnecessarily duplicate the emissions budget accordancy requirements, which could be confusing for participants. Alternatively, it would require a separate process for determining the expected domestic contribution, delaying certainty for market participants and adding an administrative burden.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

28. Option 2, for the reasons set out above.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

29. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

30. The proposal will improve the certainty of processes related to NZ ETS settings, with flow on benefits for credible and stable carbon markets. We have not quantified this benefit.
31. Additionally, the proposal has significant benefits by avoiding risks or potential costs that could arise under the status quo legislation. Specifically, the proposal will reduce the risk of negative impacts that could occur if future NZ ETS settings decision could not accord with an NDC because of uncertainty in securing sufficient offshore mitigation. This benefit is difficult to quantify. We have listed below some of the potential costs that are avoided by this proposal in this situation:
 - a. Difficulty for some NZ ETS compliance participants to source units in the short term and meet compliance obligations, because of the unanticipated and sudden reduction in auction volumes. The exact impact will depend on the liquidity of the existing stockpile of units.
 - b. Higher NZU prices and price volatility with associated increased costs for firms and negative aggregate impacts on economic productivity and competitiveness. This is difficult to quantify given the nature of the market shock has little precedent.
 - c. Pass through of higher NZ ETS costs to consumers and households increasing inflation and cost of living. A \$10 increase in NZU prices is estimated to increase annual household expenditure on emissions costs by approximately \$90 per year to the average household's expenditure, mostly through its impacts on fuel and electricity prices. This impact is proportionally higher on lower-income households. The exact impact will depend on the level of increase in NZU price as a result of the change in auction volumes.
 - d. Negative impact on confidence in NZ ETS markets by participants and the overall integrity of the NZ ETS.
 - e. A sharp reduction in future auction volumes, with direct financial costs to the Government. The central model projection for cash receipts from NZU auctions is \$1.4 billion over the EB2 period. This would be offset somewhat by lower domestic emissions reducing the level of offshore purchasing needed to meet NDC1.
32. Costs are relatively limited. In the situation outlined above, maintaining the status quo accordance requirements is expected to result in lower emissions, though not enough to meet NDC1.

Section 3: Delivering an option

How will the proposal be implemented?

33. The proposed change will be progressed as part of legislation to amend the 2050 domestic emissions target in the CCRA (as discussed in the main regulatory impact statement).

How will the proposal be monitored, evaluated, and reviewed?

34. ETS settings will continue to be monitored through the annual review of settings. Consideration of accordance with the NDC specifically will no longer be included, but the settings process will still require accordance with the 2050 target and emissions budget

and will continue to drive domestic emissions reductions that will support meeting NDCs.

Regulatory Impact Statement: Reducing investment uncertainty and disincentives to decarbonise created by industrial allocation

Decision sought	<p>Amending the Climate Change Response Act 2002 (CCRA) to:</p> <ul style="list-style-type: none"> • remove industrial allocation settings for allocative baseline and eligibility reviews, and strengthen phase-out reviews • require the Ministry for the Environment to publish guidance clarifying the Minister of Climate Change’s ability to ‘call for contracts’ and set an electricity contract allocation factor, and introduce a voluntary, binding pre-clearance process <p>These decisions on industrial allocation are part of a wider package of improvements to the CCRA.</p>
Agency responsible	Ministry for the Environment
Proposing Minister	Minister of Climate Change
Date finalised	9 September 2025
Appendices	<ul style="list-style-type: none"> • Appendix A – Industrial Allocation overview • A1 Allocation <ul style="list-style-type: none"> ○ A2 Eligibility ○ A3 Allocative baselines • A4 Over-allocation test • A5 Level of assistance and phase-out rates • Appendix B - IA Scheme activities, participants, allocations <ul style="list-style-type: none"> ○ B1 Industrial activities ○ B2 Participants ○ B3 Allocations • Appendix C - IA scheme costs <ul style="list-style-type: none"> ○ C1 Forecast baseline ○ C2 Assumptions

	<ul style="list-style-type: none"> ○ C3 Comment on costs ● Appendix D – Problem Analysis: investment incentives <ul style="list-style-type: none"> ○ D1 Base case: a firm does not receive IA ○ D2 Investment incentives for IA firm ○ D3 Impact of over-allocation test on investment ● Appendix E – Targeted engagement
<p>Glossary</p>	<p>Industrial allocation policy is a technical area that involves terms that may not be familiar. Those used frequently in this RIS are set out below.</p> <p>Industrial allocation (IA) - An industrial allocation is a free allocation of New Zealand Units (NZUs) given to businesses carrying out an activity that is impacted by the New Zealand Emissions Trading Scheme (ETS).</p> <p>Eligibility - An activity must be both <i>emissions intensive</i> and <i>trade exposed</i> (EITE) to be eligible for IA. An activity is considered emissions intensive if the emissions generated from the activity are above specified thresholds relative to the firm’s revenue for the activity (see emissions-intensive definition below). An activity is considered trade-exposed if there is international trade of the activity output.</p> <p>Allocative baselines - Allocative baselines are a key IA setting. They measure the emissions intensity of production, or the amount of emissions per unit of product of an eligible activity. They are one of several key variables for determining a firms total IA.</p> <p>Emissions-intensive – An activity is emissions-intensive if the emissions generated from an activity relative to its revenue meets defined thresholds:</p> <ul style="list-style-type: none"> ● <i>moderately emissions-intensive</i> (emissions are equal to or greater than to 800 t but less than 1,600 t CO₂-e /\$1 million revenue) ● <i>highly emissions-intensive</i> (emissions equal to or greater than 1,600 t CO₂-e/ \$1 million revenue). <p>Phase-out rate – the phase-out rate is the amount by which the level of IA assistance reduces each year. The current phase-out rates are: 1 percentage point in the 2030s, 2 percentage points in the 2040s, and 3 percentage points in the 2050s and 2060s. In 2025 the level of assistance for moderately emissions-intensive firms is 55 percent, and for highly emissions-intensive firms it is 85 percent.</p> <p>Electricity Allocation Factor (EAF) – a key IA setting used to calculate allocative baselines for firms that use electricity in their IA</p>

	<p>activities. It is a set value based on the estimated embedded cost of the NZ ETS in the price of electricity. This is determined annually by the Electricity Authority.</p> <p>Electricity Contracts Allocation Factor (ECAAF) - a value that is set by the Minister of Climate Change when there is a significant difference in emissions costs for a specific electricity contract, compared with the grid price. EITE firms are often energy intensive (such as heavy industries) which can result in large electricity contracts, with a different (lower) price to standard grid pricing negotiated with the supplier (generator). A firm’s ECAF is used to annually calculate a unique EAF reflecting its total electricity emissions cost for the year.</p> <p>Call for contracts – refers to the Minister of Climate Change’s power as set out in the CCRA to call for copies of in-force electricity contracts, to help decide if an ECAF is needed and what it should be.</p> <p>Emissions leakage – leakage occurs where production of an industrial activity in New Zealand reduces or ceases and is replaced by imports (or production moves offshore). The replacement production may then be subject to a lower level of (or no) emissions pricing offshore. As a result, the emissions reduction in New Zealand is offset to an extent by increased emissions offshore.</p> <p>Over-allocation – for allocative baselines, this is where firms receive allocation according to the legislated formula that is greater than the amount that they would receive if based on current emissions intensity. The same concept applies by analogy to other settings such as eligibility or the EAF.</p> <p>Decarbonisation – for allocative baselines, this means an investment that reduces a firm’s emissions intensity – their industrial process becomes more efficient and creates less emissions per unit of product.</p>
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Briefly describe the Minister’s proposal

The proposal is to reduce the disincentives to decarbonise for firms receiving IA. This is achieved through two sets of changes to the Minister’s current powers in the CCRA.

Resolving issues with the Minister’s IA settings review powers

The Minister of Climate Change currently has various powers to review specific elements of the formula that decides a firm’s IA. The result of these powers is to reduce the expected return on potential decarbonising investments, creating a disincentive for firms to invest in decarbonisation technology.

The proposal is to consolidate and simplify the Minister’s powers by:

- Removing existing provisions for the Minister to review allocative baseline and eligibility of participating firms
- Refining the powers to review the phase-out rate by allowing reviews of phase-out rates to be carried out once in any five-year period and by requiring firms' decarbonising investments to be explicitly considered during any such review.

Clarifying when and how the Minister might exercise the 'call for contracts' power

The Minister of Climate Change currently has the power to 'call for contracts'. It is currently unclear when and how that power might be exercised and the effect it might have on a firms' allocation, which creates uncertainty for firms about their future levels of IA. This uncertainty is a disincentive to invest in a decarbonisation project where the investment relies on assumptions about electricity prices and IA levels.

The proposal is to:

- require the Minister to publish guidance clarifying the circumstances under which the Minister may exercise their power to 'call for contracts'
- provide firms with the ability to undertake a voluntary contract pre-clearance process with a legally binding resolution about whether their contract may be called in and the resultant ECAF, if any.

Summary: Problem definition and options

What is the policy problem?

Some current IA settings reduce the expected return on decarbonising investments, creating a disincentive for firms to invest in decarbonisation technology.

There are two main groupings of settings with disincentive effects (repeated in the body below):

Summary of IA settings review problem:

- IA is made to firms based on a legislated formula. There are elements of the formula that create disincentives for decarbonisation investment:
 - The Minister of Climate Change's ability to review a firm's allocative baseline after five years and a requirement to do so after 10 years, which includes an 'over-allocation' test. The test constrains the ability of the Minister to adjust allocative baselines where a change in emissions intensity is less than a certain threshold. The threshold is set by legislation and will increase significantly over time.
 - The ability to review a firm's eligibility for IA at any time.
- If a decarbonising investment proceeds, a firm's emissions intensity would reduce.
- The allocative baseline reviews, overallocation test and eligibility reviews each create disincentives to decarbonise, as firms reducing their emissions intensity would result in:

- A reduction in allocation from a new allocative baseline, following a Ministerial review (where the reduction in emissions intensity is greater than the threshold in the overallocation test).
- There is a risk of a loss of eligibility altogether if the emissions intensity fell below the threshold for eligibility, or a move to a lower intensity tier (ie, moderate or high) with a reduction in the level of assistance and thus in allocation.
- The overallocation test also creates a perverse incentive for firms to delay, or scale-back an investment to ensure that their reduction in emissions intensity falls below the overallocation threshold.
- The net result of the reduced incentive to invest in decarbonisation is that firms' emissions could be staying higher than they otherwise would, leading to missed opportunities to improve economic performance, efficiency outcomes and fiscal costs.

Summary of 'call for contracts' and ECAF problem:

- The Minister has the power to 'call for' firms' in-force electricity contracts to assess whether the standard Electricity Allocation Factor (EAF) is an accurate measure of a firm's exposure to NZ ETS costs from consuming electricity.
- Following the 'call for' contract, the Minister may set an Electricity Contract Allocation Factor (ECAF). The ECAF reflects the difference in actual emissions costs faced by firms (as a result of their electricity contracts), and the emissions costs determined using the standard EAF, which is based on the grid price. Firms may negotiate a contract with a lower electricity price (eg, due to the size or length of the contract).
- Setting an ECAF results in a unique EAF (with a different value than the standard EAF), calculated annually to inform firm-specific IA.
- There are elements of the current legislation and this process causing uncertainty for firms and disincentivising their decarbonisation investments:
 - It is currently unclear when the Minister might 'call for contracts'. There are no publicly stated criteria for a contract being called in.
 - It is also unclear on what basis the Minister might decide to set an ECAF, and how this might affect a firm's allocation through the unique EAF value
- Firms' decarbonisation efforts may affect their electricity use, and therefore their electricity contracts.
- The uncertainty means that firms cannot effectively assess whether their decarbonising investment might result in an electricity contract being called in, and hence an ECAF set (at an unknown value), which could reduce their allocation and thus the investment's expected return.

What is the policy objective?

Reduce the disincentives that the IA settings place on a firm to invest efficiently in decarbonisation and thereby improve associated emission reduction, economic and fiscal outcomes.

What policy options have been considered, including any alternatives to regulation?

A range of initial options were considered during targeted engagement.

Resolving issues with the Minister’s IA settings review powers:

- 1.1 Status quo/counterfactual
- 1.2 Remove ability to review allocative baselines and eligibility, and strengthen phase-out reviews [preferred]
- 1.3 Minimal change (10-year review of allocative baselines and eligibility)
- 1.4 Status quo with overallocation test removed and with provision for early reset/freeze

Clarifying when and how the Minister might exercise the ‘call for contracts’ power:

- 2.1 Status quo/counterfactual
- 2.2 Publish guidance on the Minister’s power to ‘call for contracts’; pre-clearance is not binding
- 2.3 Guidance informs Minister’s decision to ‘call for contracts’; pre-clearance is legally binding [preferred]
- 2.4 Minister must only ‘call for contracts’ in accordance with the Guidance; pre-clearance is legally binding

What consultation has been undertaken?

Officials undertook targeted engagement with IA recipient firms and with other stakeholders. Initial options were set out in engagement materials for stakeholder feedback. The final options presented were refined from that feedback.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes – refer below.

Summary: Minister’s preferred option in the Cabinet paper

Costs (Core information)

Resolving issues with the Minister’s IA settings review powers:

- **Financial costs to firms:** There would be minimal or no costs to firms, which is the same as the status quo.
- **Emissions reductions:** There would be no negative impacts on emissions. Even if the removal of disincentives does not result in additional decarbonization, this would be no worse than under the status quo.

- **Fiscal costs:** This proposal is unlikely to have additional costs to the Crown relative to the status quo, given the effects of the current regime to disincentive investment in decarbonisation. Where little or no decarbonisation takes place under current legislation, allocative baseline reviews cannot have fiscal benefits. This conclusion rests on the assumption that future governments will actively use their power to review phase-out rates to fully correct any overallocation, in balance with other legislated considerations. We note that no phase out rate review was conducted at the start of Emissions Budget 2, nor has eligibility been reviewed since 2010.

Clarifying when and how the Minister might exercise the ‘call for contracts’ power

- **Financial costs to firms:** There would be minimal or no costs to firms, which is the same as the status quo.
- **Fiscal risk:** There is a new risk that comes from the binding pre-clearance process ‘locking in’ a decision about setting an ECAF, as this decision cannot be re-reviewed for the contract’s duration. There could be foregone savings if a binding, but sub-optimal decision was made on a pre-cleared contract as this decision could not be undone by a subsequent government without further legislative changes. This can be mitigated by managing firms’ appropriate allocation through phase-out reviews.
- **Resourcing cost to government:** Developing guidance and ensuring it remains current has some resourcing costs for MfE. Some firms already seek voluntary pre-clearance; legislating the process might lead to more firms taking this offer up at low (but likely increased) administrative and resourcing cost to the Crown.

Benefits (Core information)

Resolving issues with the Minister’s IA settings review powers

- The main benefit from removing and reducing disincentives is that there is more potential for major decarbonisation projects to proceed. This has longer term benefits for both firms (eg, competitiveness) and the Crown (firms can transition from the IA scheme more quickly or pose less risk of needing ongoing support).
- Simpler administration as there are fewer types of reviews, and more robust consideration of relevant factors before any changes are made that impact a firm’s allocation. Phase-out reviews can address the underlying intent of both allocative baseline and eligibility reviews.

Clarifying when and how the Minister might exercise the ‘call for contracts’ power

- Legislated voluntary pre-clearance process and guidance provides improved information about the process and greater certainty around potential impacts on investment.

Balance of benefits and costs (Core information)

Resolving issues with the Minister’s IA settings review powers

- **The proposals are more likely to support the current phase-out track and long-term fiscal savings:** With reduced disincentives to decarbonise, firms are more likely to reduce their emissions sooner. This means their emissions costs will be lower, helping them to remain competitive (without the need for IA). This outcome would

support the current IA phase-out track and reduce risks of a slower phase-out, potentially leading to fiscal savings sooner.

- **Phase-out reviews can ensure that allocations are appropriate:** Under both the new settings and the status quo, the Minister may carry out a phase-out review to determine whether a faster phase-out (with lower allocations) is appropriate.
- **Forgone reviews unlikely to have a fiscal cost:** In our assessment, it is unlikely that removing allocative baseline and eligibility reviews will lead to significant fiscal costs, noting the above assumptions that the Minister will act to use phase out reviews to manage fiscal risk. The ability to review phase-out rates will remain and is able to correct an overallocation, although there is a risk that a future Minister decides not to use that power, or will not do so fully.

Clarifying when and how the Minister might exercise the ‘call for contracts’ power

- The benefits of improving certainty about when a particular contract might be called in and an ECAF set, are greater than the costs of reducing ministerial discretion and the potentially greater administrative cost and complexity of the new system (eg, the guidance and managing the binding pre-clearance process)
- The additional resourcing costs for the Ministry of supporting the legally binding pre-clearance decision are minor given the small number of affected firms. Other costs relate to the risk of overallocation ‘lock in’ described above and are mitigated by a robust advice process to support the Minister’s decision and Cabinet’s agreement (which is currently the convention). As under the status quo, the risk can also be mitigated by the Minister’s ability to review allocations through a phase-out review.

Implementation

Both issues require legislative changes. There are also operational considerations particularly for the guidance on the ‘call for contracts’ power. Some risks are identified but are mitigated.

Legislation

- The amendments in relation to *the Minister’s IA settings review powers* are technically simple.
- The new ability for firms to seek a Cabinet pre-clearance decision may be more complex to incorporate in legislation, especially the nature of change to a pre-cleared contract that would allow the Minister to seek a new decision (where the contract has materially changed from the draft materials first shared).

Operational

- The pre-clearance process and guidance will be finalised through technical consultation with firms.
- The Ministry would need to resource analysis in support of Cabinet’s decision on pre-clearance, and in support of phase-out reviews.

Limitations and Constraints on Analysis

Targeted engagement rather than general public consultation

Wider public consultation was not carried out at the direction of the Minister of Climate Change. This meant some stakeholders with an interest in the IA proposals have not had an opportunity to provide feedback. We consider that targeted engagement was appropriate in the circumstances: the proposals are highly technical and impact IA recipients most directly; targeted engagement included the firms comprising the significant bulk of IA; other consultations were underway at the time; in 2023 there had been significant consultation on IA; and a diverse set of informed perspectives was obtained. Furthermore, the general public will have an opportunity to provide feedback through the select committee process. We do not consider that the extent of consultation is a material constraint on the analysis.

Ministerial direction on the second emissions reduction plan (ERP2)

The scope of the investigation, and analysis on the issues and evidence for this, were constrained by the scope of the ERP2 action. The scope of the action was to investigate the effects of IA settings and the provision of allocative baseline reviews after 5 years on decarbonisation investment disincentives. We aimed to improve the IA regime within this scope using the levers available. This work did not consider more fundamental questions around the suitability of IA over the medium-to-long term.

IA is one of many factors influencing decarbonisation plans

Decisions to invest in decarbonisation are made by firms based on a variety of factors, not only IA. 9(2)(ba)(i)

Evidence of the policy problem

There is limited historical evidence of the delays, scaling back, or firms' not proceeding with specific projects due to the disincentive effect of some IA settings (eg, allocative baseline and eligibility reviews). However, we demonstrate the potential for these disincentives analytically – ie, how certain settings impact firms' allocation due to decarbonisation -and demonstrate how they will change over time. 9(2)(ba)(i)

Overall, there is sufficient information to be confident that current settings create disincentives, and that the preferred option is likely to remove disincentives relative to the status quo.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



**Simon Mandal-Johnson
Manager Emissions Trading
Scheme Policy
9 September 2025**

Quality Assurance Statement	
Reviewing Agency:	QA rating: Meets
<p>Panel Comment:</p> <p><i>A quality assurance panel from the Ministry for the Environment has reviewed the Regulatory Impact Statement (RIS): Reducing investment uncertainty and disincentives to decarbonise created by industrial allocation. The QA panel considers that it meets the Quality Assurance criteria.</i></p> <p><i>The panel found the RIS to be complete and convincing. It presents two sufficiently developed problems and a clear objective, and it evaluates a suitable range of policy options for each issue. The RIS is generally pitched at the right level for a broad audience and makes a commendable effort to explain complex and technical aspects of the Emissions Trading Scheme and industrial allocation policy. Overall, the RIS provides a solid basis for decision-making.</i></p> <p><i>While the panel noted some limitations — particularly the limited concrete evidence supporting the problem definitions and the absence of public consultation on the preferred options — these issues are transparently acknowledged in the RIS and do not significantly affect the overall analysis or advice.</i></p>	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The industrial allocation (IA) scheme supports firms where there is a risk of emissions leakage

1. The New Zealand Emissions Trading Scheme (ETS) requires firms to pay for their emissions. It is a key tool within the Government's climate response.
2. Under the IA scheme, firms that are emissions-intensive and trade-exposed (EITE), receive 'free' New Zealand Units (NZUs) from the Crown to cover a portion of their emissions costs imposed on them by the NZ ETS (reducing their net costs).
3. The provision of free IA units (ie, allocation) minimises the risk of emissions leakage. This could occur where firms would struggle to remain competitive while paying the full cost of their emissions, and, as a result, production could reduce or cease and be replaced by imports, or production would move offshore – with associated emissions offshore - as such production would likely be subject to a lower level of emissions pricing. New Zealand's economy and labour market would also be affected by business moving offshore.
4. A description of the IA scheme's key provisions is set out **Appendix A**. Current industrial activities, participants, and allocations are set out in **Appendix B**. The largest 10 firms receive about 90% of the allocation. Scheme costs are set out in **Appendix C**.

The IA scheme provides for a gradual transition

5. IA provides support at a declining rate and is legislated to phase out by 2050 for moderately emissions-intensive activities, and by 2060 for highly emissions-intensive activities.
6. Changes to the scheme introduced in 2023 – especially the provision for reviews of allocative baselines after 5 years of the changes coming into force and the requirement that they are reviewed at 10 years – generated concerns from some participating companies that IA settings are creating disincentives for firms to undertake decarbonisation investments.
7. This prompted the addition of an action in the second emissions reduction plan (ERP2): *“The Government is investigating the provision in the Climate Change Response Act 2002 that gives the Minister of Climate Change discretion to review IA baselines every 5 to 10 years. Several large firms have indicated this could create uncertainty and discourage investment in decarbonisation. It is important that we balance keeping the allocation up to date, managing leakage risk, providing investment certainty and managing the fiscal cost of IA”.*¹

What is the policy problem or opportunity?

IA distorts incentives for firms to invest in decarbonisation

8. Incentives affect a firm's investment decisions. The NZ ETS creates incentives to reduce emissions by requiring firms to pay for them. In contrast, IA creates different incentives for EITE firms as allocations have financial benefits. The problem(s) identified below relate to how different IA settings affect an IA firms' incentives to invest in decarbonisation due to their effect on IA.
9. We analyse the impact of certain decisions upon allocation under current scheme settings. This includes that there is a difference in investment incentives between an IA firm and a non-IA firm, that being the risk of losing allocation due to decarbonisation. Further, given its

¹ [New Zealand's second emissions reduction plan 2026–30 | Ministry for the Environment](#)

fiscal cost, the Crown must have a lever to review the appropriateness of IA, currently being allocative baselines, eligibility, and phase-out reviews.

10. The investigation in ERP2 identified two groupings of IA settings creating significant disincentives. They are summarised for simplicity below. More information can be found in **Appendix D**.

Summary of IA settings review problem:

- IA is made to firms based on a legislated formula. There are elements of the formula that create disincentives for decarbonisation investment:
 - The Minister of Climate Change’s ability to review a firm’s allocative baseline after five years and a requirement to do so after 10 years, which includes an ‘over-allocation’ test. The test constrains the ability of the Minister to adjust allocative baselines where a change in emissions intensity is less than a certain threshold. The threshold is set by legislation and will increase significantly over time.
 - The ability to review a firm’s eligibility for IA at any time.
- If a decarbonising investment proceeds successfully, a firm's emissions intensity would reduce.
- The allocative baseline reviews, overallocation test and eligibility reviews each create disincentives to decarbonise, as firms reducing their emissions intensity would result in:
 - A reduction in allocation from a new allocative baseline, following a Ministerial review (where the reduction in emissions intensity is greater than the threshold in the overallocation test).
 - There is a risk of a loss of eligibility altogether if the emissions intensity fell below the threshold for eligibility, or a move to a lower intensity tier (ie, moderate or high) with a reduction in the level of assistance and thus in allocation.
 - The overallocation test also creates a perverse incentive for firms to delay, or scale-back an investment to ensure that their reduction in emissions intensity falls below the overallocation threshold.
- The net result of the reduced incentive to invest in decarbonisation is that firms’ emissions could be staying higher than they otherwise would, leading to missed opportunities to improve economic performance, efficiency outcomes and fiscal costs.

Allocative baseline and eligibility reviews affect expected investment returns

11. Any form of allocative baseline review reduces a firm’s allocation where successful decarbonisation has occurred. As allocations have financial benefits for firms, reductions expected due to firm's decarbonisation would lead to a reduced forecast return on an

investment and would be factored into an assessment about whether to proceed with the project.

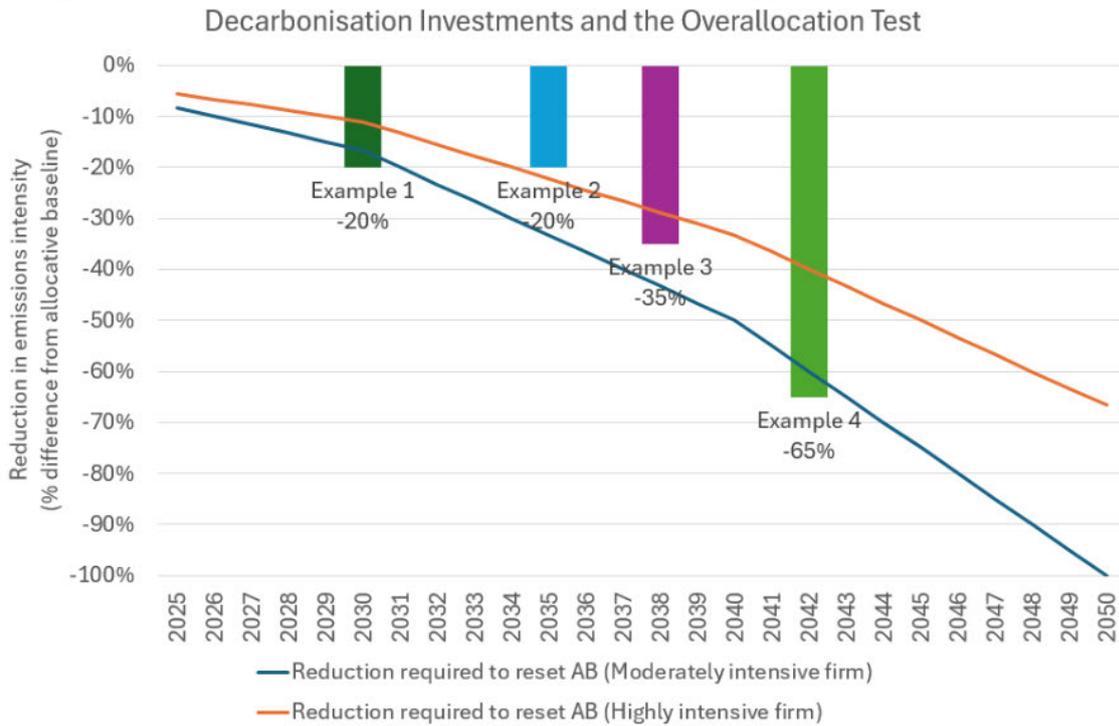
12. In addition to the potential for lower returns of a decarbonising investment due to a review, there are also alignment and timing issues between review and investments periods, which are multilayered. Where there is a definite review period (eg, at 5 years, or at 10 years), firms expect a reduced allocation at this time – which is accounted for in their investment analysis and may influence the timing of the investment as well. For example, a review might commence soon after a firm’s decarbonisation is delivering emissions reductions. This means that a firm would be losing allocation much sooner than if the investment occurred just after such a review. Where the timing of the review is flexible (ie, between 5 and 10 years) there is an additional uncertainty effect where firms cannot anticipate precisely when the changes to allocation will occur, which also acts as a disincentive to investment.
13. Current settings for allocative baseline reviews create a perverse incentive for firms to avoid losing allocation where investment hurdles would not be met due to timing or alignment issues. For example, firms could be incentivised to scale back, abandon or change the timing of decarbonisation investments.

Issues with over-allocation test (part of allocative baseline reviews)

14. The over-allocation test (section 161A(4C)(b)) is a part of the allocative baseline review introduced in 2023. Its purpose was to prevent firms automatically losing allocation for smaller-scale emissions reductions due to a review by creating a threshold test, defined as a percentage of their emission intensity. If a review of a firm’s allocative baseline leads to a change that is less than this percentage, then the test is not ‘satisfied’, and the Minister cannot reduce the baseline as a result. This threshold will increase year-on-year as the level of assistance reduces according to the phase-out rate in Section 81(2A). Only large decarbonisation that exceeds the threshold may satisfy the test, allowing for a reduced baseline.
15. Figure 1 demonstrates how hypothetical decarbonisation projects of different scales and timings (the coloured bars) interact with the over-allocation test (orange and dark blue lines).² The orange line is the over-allocation test threshold for reducing an allocative baseline for highly emissions-intensive firms – firms receiving the most IA (dark blue is the threshold for a moderately emissions-intensive firm).

² These hypothetical projects do not represent or correspond with specific projects indicated by firms during targeted engagement; instead, they illustrate the general impact and incentive effect of the over-allocation test on such projects.

Figure 1: Decarbonisation decision for an IA firm (hypothetical)



16. Example 1 (dark green bar) is a firm that plans a 20% reduction in its emissions per unit output by 2029/30. As a result, the over-allocation test threshold would be exceeded irrespective of whether the firm was highly or moderately emissions intensive. This could reduce the firm’s allocation to units (through a lower allocative baseline). In Example 1, the firm would have an incentive to delay the investment (eg, until 2035/36) to avoid this, as represented by the investment occurring in Example 2 (light blue bar). The firm might also select a less ambitious project that is less likely to trigger the test.
17. The over-allocation test creates an incentive to delay large investments, while the declining level of assistance gradually reduces the scheme’s disincentives. The over-allocation test has a much stronger disincentive in the near term.
18. There are fiscal costs when such projects are scaled back or delayed to avoid the over-allocation threshold. In general, the larger the emissions reduction, the later the firm is incentivised to deliver the project. The strongest disincentive is for very large decarbonisation projects as illustrated by Example 3 (35% reduction) and Example 4 (65% reduction).

Most large decarbonising projects are being disincentivised by IA settings reviews

19. 9(2)(b)(ii) [Redacted] The largest 6 firms account for over 80% of IA, with the total allocation of 4.7 million NZUs through to 2027 valued at about \$275 million per year.
9(2)(b)(ii) [Redacted]
20. 9(2)(b)(ii) [Redacted]

9(2)(b)(ii)

Summary of 'call for contracts' and ECAF problem:

- The Minister has the power to 'call for' firms' in-force electricity contracts to assess whether the standard Electricity Allocation Factor (EAF) is an accurate measure of a firm's electricity related costs.
- Following the assessment, the Minister may set an Electricity Contract Allocation Factor (ECAF). The ECAF reflects the difference in actual emissions costs faced by firms (as a result of their electricity contracts), and the emissions costs determined using the standard EAF, which is based on the grid price. Firms may negotiate a contract with a lower electricity price (eg, due to the size or length of the contract).
- Setting an ECAF results in a unique EAF (with a different value than the standard EAF), calculated annually to inform firm-specific allocation.
- There are elements of the current legislation and this process causing uncertainty for firms and disincentivising their decarbonisation investments:
 - It is currently unclear when the Minister might 'call for contracts'. There are no publicly stated criteria for a contract being called in.
 - The reasons why the Minister might decide to set an ECAF, and how this might affect a firm's allocation through the unique EAF value are also unclear.
- Firms' decarbonisation efforts may affect their electricity use, and therefore their electricity contracts.
- The uncertainty means that that firms cannot effectively assess whether their decarbonising investment might result in an electricity contract being called in, and hence an ECAF set (at an unknown value) which could reduce their allocation and thus the investment's expected return.

Calling for contracts allows the Minister to verify firms' electricity use to manage allocation

21. The Minister's power to call for in-force electricity contracts enables the collection of information for assessing whether an adjustment to their allocation is required.
22. Firms' electricity can be priced differently than the grid price (market rate) as firms may negotiate contracts with electricity generators (suppliers) at a fixed rate (different to market rate) due to the length or size of the contract. This would result in a potential overallocation to the firm, if their allocation was made on the basis of the standard EAF.
23. The 'call for contracts' power enables the Minister to request firms' in-force electricity contracts that provide the necessary information to decide whether to set an ECAF (see: Glossary). The ECAF is used to calculate an annual unique EAF, reflecting the firm's actual electricity costs, reducing over-allocation.
24. There is no description of the circumstances when the Minister may exercise their power to 'call for contracts', in guidance or legislation, except that the power exists. In some cases, firms have pre-emptively approached the Minister seeking an indication of the likelihood of

an ECAF and its value based upon their draft contract. Currently, this pre-clearance request process exists only at the Ministers’ discretion and does not result in a binding decision.

25. 9(2)(ba)(i)

[Redacted]

[Redacted] For example, in the process of a firm transitioning from fossil fuels in their industrial processes to electricity (through implementation of low-emissions technology such as turbines, electric arc furnaces, or hydrogen fuel), firms’ electricity use might increase. When decarbonising investments result in changes to a firm’s energy use (and updated or new contracts), firms cannot fully assess this risk of reduced investment returns as the ultimate decision on setting an ECAF is discretionary.

26. The extent to which firms are affected by an ECAF is dependent on the electricity intensity of their activity or investment, or potential for this activity to be electrified. 9(2)(ba)(i)

[Redacted]

[Redacted] The scale and materiality of the problem remains unclear, though affected firms are large allocation recipients and would be heavily influenced by the decision.

What objectives are sought in relation to the policy problem?

27. The objective of this work is to reduce the disincentives that the IA settings place on a firm to invest efficiently in decarbonisation and thereby improve associated emission reduction, economic and fiscal outcomes.

28. The objective and therefore scope of this work has evolved over time. The original objective for this work was to investigate the effects of 5/10-year allocative baseline reviews on incentives to decarbonise. During this investigation we identified several other related disincentives (see: What is the policy problem or opportunity? section above) and have expanded the scope accordingly.

What consultation has been undertaken?

29. Targeted engagement (see **Appendix E**) was undertaken with around 20 stakeholders including large IA recipient firms (in total responsible for 90% of IA) as well as non-IA firms and other selected stakeholders over May and June 2025. Initial options were set out in engagement materials for stakeholder feedback through in-person and video call meetings. A small number also provided written comments.

30. Engagement was based on official’s proposals. The final options presented here were substantively refined as a result of stakeholder feedback. Some ‘ad hoc’ further testing occurred but, due to time constraints, there was not an opportunity for a further round of stakeholder engagement.

31. Wider public consultation was not carried out at the direction of the Minister of Climate Change. This meant some stakeholders with an interest in the IA proposals have not had an opportunity to provide feedback. We consider that targeted engagement was appropriate given the technical nature of the proposals and the impacts directly affect IA recipients. Furthermore, the general public will have an opportunity to provide feedback through the select committee process.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

Criteria	Explanation
Effectiveness in achieving policy objective	Effectiveness of the option in reducing the disincentives on IA firms to decarbonise. Disincentives are described in Section 1: Diagnosing the policy problem.
Fiscal costs	Impact of the option on the fiscal costs and benefits to the Crown (including risks of such impacts in the future). Fiscal cost rises or falls with the change in allocation of ‘free’ IA units.
Predictability and administrative simplicity	Impact of the option on the complexity of the IA scheme. Complexity can result in reduced predictability for participating firms and higher compliance costs as well as higher administrative costs for the Crown.

What scope will options be considered within?

ERP2 expanded scope

32. As noted above, the ERP scope was the starting point for investigation, which focussed only on 5/10-year allocative baseline reviews and their effects on investment incentives³. This has constrained our scope, aside from a slight expansion to include the ‘call for contracts’ and ECAF problem, eligibility reviews, and overallocation test.
33. We seek to remove disincentives to decarbonise from IA settings as much as possible. We do this by evaluating the specific provisions that could have disincentive effects and considering how they could be adjusted to address this without creating other negative consequences (such as emissions leakage).

Non-legislative options

34. Non-legislative options were not considered for the IA settings reviews problem, as the issues are caused by provisions in legislation and non-legislative options, such as guidance, would not be effective.
35. Non-legislative options were considered for the ‘call for contracts’ and ECAF problem.

Options for the IA settings reviews problem

Option 1.1 – Status Quo / Counterfactual

36. Allocative baseline reviews can occur at any time within a 5-to-10-year period and must occur after 10 years. The overallocation test applies.
37. Eligibility reviews may occur at any time at the discretion of the Minister of Climate Change, with any changes to eligibility taking effect two years later⁴. No review has been carried out since the scheme was introduced.

³ Covered above, but for reference: “Investigate the potential for 5- and 10-year allocative baseline reviews, including the effects of such reviews on investment incentives and decarbonisation.”

⁴ Eligible firms are trade-exposed (face import competition) and emissions intensive (measured as emissions per \$1m revenue).

38. Phase-out reviews have not yet occurred. A phase-out increase may only be applied at the start of an emissions budget period (five-yearly cycle), and must follow a process set out in statute, including addressing specified considerations⁵ (eg, emissions leakage risk, cost to taxpayer, climate targets, etc). The process includes advice by the Climate Change Commission and consultation with impacted parties before an overall decision by the Minister is made.

Option 1.2 – Only phase-out reviews (with strengthened provisions) [preferred option]

39. No allocative baseline reviews would occur in the future. As a result, the overallocation test would not apply. No eligibility reviews would occur.

40. Phase-out reviews would occur as under the status quo, but with two changes:

- timing of a review would not be limited to prior to the start of an emissions budget period (instead could happen during any 5-year period); and
- ‘decarbonisation investments’ would be added to the mandatory considerations that must be addressed in any potential decision to increase phase-out rates.

Option 1.3 – Minimal change (10-year review of allocative baselines and eligibility)

41. This option is the same as the status quo except that allocative baseline reviews and eligibility reviews must occur at 10 years (instead of between 5 and 10 years, or at any time in the case of eligibility).

Option 1.4 – Status quo with overallocation test removed and with provision for early reset/freeze

42. This option retains the 5- and 10-year allocative baseline reviews, and eligibility at any time, but removes the overallocation test.

43. Additionally, prior to commencing a decarbonisation project, firms would be able to apply for an early review (reset) of their baseline and eligibility, and their baselines would be frozen for the ten years following. This would allow them to complete a smaller decarbonisation project during this period without any impact on their investment’s returns due to changes to allocations.

Options for ‘call for contracts’ & ECAF problem

Option 2.1 - Status Quo/Counterfactual

44. The Minister has the power to ‘call’ for copies of any in-force electricity contracts. There is not sufficient clarity in legislation or guidance for firms to assess the risk of the Minister using this power resulting from, or during an investment’s return period. This lack of clarity contributes to uncertainty.

45. A voluntary process exists where firms can approach the Minister with information about their contracts, resulting in a pre-assessment and early indication of the resulting ECAF likelihood and effect.

Option 2.2 – Publish guidance on the Minister’s power to ‘call for contracts’; pre-clearance is not legally binding

46. Guidance, published on MfE’s website, would specify the circumstances when the Minister would call for contracts. This process exists ad-hoc but would be formalised in the

⁵ s84C(3), CCRA

guidance, including the addition of the pre-clearance process and some information on the advice process for setting an ECAF.

47. The guidance would likely include a quantitative threshold based on contract size; and qualitative exceptions to capture unusual circumstances. It would not have any legal effect.

Option 2.3 – Guidance informs Minister’s power to ‘call for contracts’; pre-clearance is legally binding [preferred]

48. New ability for firms to receive a Cabinet decision as to whether an ECAF would be set, and if so, at what value, through a pre-clearance process (before the contract is signed). This decision would be made based on the review of draft electricity contract/s, provided by the firm.
49. The decision would be binding, provided the contract is the same once it is signed(excluding minor changes that are not likely to affect Cabinet’s resolution).
50. A requirement for guidance, and what this guidance must cover, will support firms’ understanding of the process steps, and may include clarification of any elements of the pre-clearance, thresholds and materiality for calling for contracts (criteria) and other relevant non-confidential information.

Option 2.4 – Minister must only ‘call for contracts’ in accordance with the guidance; pre-clearance is legally binding

51. This option is the same as Option 2.3, except the except the contents of the guidance (especially the criteria that will be followed) would be set out in primary legislation.

Problem with IA settings reviews: comparison with the status quo/counterfactual

- All assessments are *relative to the status quo*.
- This is a **qualitative** assessment. It is not possible to quantify the effects. The qualitative effects are judged in terms of the potential to reduce a disincentive to decarbonize.
- The **rating** scale discriminates between options and provides a ranking relative to the other options. It does not indicate the scale of the differences. Three plusses, for example, does not imply 3 times the potential or the benefit relative to one plus - it merely means some degree better.

	Option 1.1 – Status Quo / Counterfactual	Option 1.2 – Only phase-out reviews (with strengthened provisions) [preferred option]	Option 1.3 - Minimal change (10-year review of allocative baselines and eligibility)	Option 1.4 – Status quo with overallocation test removed and provision for early reset and freeze of baselines
Effectiveness in achieving policy objective:	<ul style="list-style-type: none"> • Uncertainty of allocative baseline review timing and reduced investment rate of return • Disincentive from overallocation test for large investments <p>0</p>	<ul style="list-style-type: none"> • The removal of allocative baseline (and overallocation test) and eligibility reviews removes disincentives to decarbonise (but does not guarantee firms’ decarbonisation) • Having only phase-out reviews increases the likelihood of firms making decarbonising investments (ie, not changing decarbonisation plans to avoid automatic or likely allocation reductions within a ten-year period) <p>+++</p>	<ul style="list-style-type: none"> • Removal of earliest 5-year reviews provides more investment certainty over longer periods • Misalignment with longer-term investment horizons, often 20 or 30 years • Incentives are improved over the status quo, but less than Options 1.2 and 1.4 <p>+</p>	<ul style="list-style-type: none"> • Removing the overallocation test disincentivises smaller decarbonisation but is balanced by a new provision to reset and freeze baselines. This prevents changes to firms’ allocations for 10 years • Freeze does not go beyond 10 years, disincentivising investments that need a longer payback period • Disincentive is reduced further by aligning review timing to the start of the project <p>++</p>
Predictability and administrative simplicity:	<ul style="list-style-type: none"> • Administration costs of allocative baseline reviews, eligibility reviews, and phase-out reviews (burden of three types of reviews) • Each of these reviews involve the collection and assessment of data and updating legislative provisions 	<ul style="list-style-type: none"> • Streamlined process only has phase-out reviews (burden of only one type of review) • Phase-out reviews (increases) must address wide range of considerations (wider than allocative baseline and eligibility). These reviews may be more, or less complicated administratively than AB and 	<ul style="list-style-type: none"> • Burden of three types of reviews, but AB reviews and eligibility reviews are less frequent <p>+</p>	<ul style="list-style-type: none"> • Same as for Option 1.3 but increased complexities from managing new early reset and freeze regime <p>0/-</p>

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	<ul style="list-style-type: none"> Phase-out reviews and eligibility have not yet been tested (so the burden is unclear) <p>0</p>	<p>eligibility reviews and have a greater role for administrative judgement.</p> <p>++</p>		
Fiscal cost:	<ul style="list-style-type: none"> Savings unlikely from large scale emissions reduction projects, and no fiscal savings from small scale projects – both results due to the overallocation test <p>0</p>	<ul style="list-style-type: none"> Should projects now proceed, it will give space for Ministers to increase the rate of phase out reduction compared to the status quo over the long run and with resulting fiscal benefit. For example, following a major decarbonisation project, IA support for an activity may phase-out by 2050 rather than 2060. There is a new fiscal risk created from relying solely on discretionary phase out rate reviews to manage fiscal costs <p>+</p>	<ul style="list-style-type: none"> Unlikely to be materially different from status quo: most firms have told us that payoff periods are greater than 10 years and overallocation test will continue to disincentivise smaller-scale investment <p>0</p>	<ul style="list-style-type: none"> Similar mechanism to option 1.2 (potential for fiscal savings from increasing the rate of phase out) plus subsequent allocative baseline reviews following the freeze. The impact is likely lower due to remaining disincentives to decarbonisation Reduced fiscal risk compared to option 1.2 due to not relying on phase rate reviews to manage fiscal risk <p>+</p>
Overall:	0	++	+	+

Problem with ‘call for contracts’ and ECAF power: comparison with the status quo/counterfactual

	Option 2.1 – Status Quo / Counterfactual	Option 2.2 – Publish guidance on the Minister’s power to ‘call for contracts’ and pre-clearance is not binding	Option 2.3 – Guidance informs Minister’s decision to ‘call for contracts’ and pre-clearance is legally binding [preferred]	Option 2.4 – Minister must only ‘call for contracts’ in accordance with the guidance and pre-clearance is legally binding
Effectiveness in achieving policy objective:	<ul style="list-style-type: none"> No clarity for firms as to when a contract may be called for or the outcome of that call, increasing risk to future investment returns on a decarbonisation investment <p>0</p>	<ul style="list-style-type: none"> Guidance: Provides some additional certainty to participating firms as to when the power will be used Preclearance: Does not provide ability to receive certainty on an ECAF prior to signing a contract, hence risk to future investment returns remain <p>+</p>	<ul style="list-style-type: none"> Guidance: As Option 2.2 Preclearance: Provides certainty prior to signing, increasing likelihood of investment occurring <p>++</p>	<ul style="list-style-type: none"> Guidance: Similar to Option 2 and 3 but additional certainty as guidance now in legislation Preclearance: As 2.3 <p>+++</p>
Predictability and administrative simplicity:	<ul style="list-style-type: none"> No predictability for participating firms <p>0</p>	<ul style="list-style-type: none"> Guidance: more predictable for firms than status quo Preclearance: Publishing the process provides slight advantage of predictability vs status quo <p>+</p>	<ul style="list-style-type: none"> Guidance: Requires government by law to maintain guidance - slightly more predictable than Option 2.2. Preclearance: much more predictable outcome for firms who participate <p>++</p>	<ul style="list-style-type: none"> Guidance: More stable guidance but creates new risks around maintaining currency and potential gaming Preclearance: as Option 2.3 <p>-</p>
Fiscal cost:	<ul style="list-style-type: none"> Continuing disincentive to invest in decarbonisation reduces potential for fiscal savings <p>0</p>	<ul style="list-style-type: none"> To the extent that it encourages additional decarbonisation investment, likely to lead to lower fiscal costs over project lifetime <p>+</p>	<ul style="list-style-type: none"> Similar to Option 2.2 but with greater potential for decarbonisation and hence lower fiscal costs over project lifetime Binding determination prevents Minister from resetting an ECAF during the contract duration, creating risk that ECAF is set inappropriately. Mitigated by requirement for Cabinet decision and a higher degree of scrutiny. <p>++</p>	<ul style="list-style-type: none"> Similar to Option 2.3 <p>++</p>

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Overall:	0	+	++	+
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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Part 1: Removing disincentives to invest in decarbonisation as a result of allocative baseline and eligibility reviews

52. Option 1.2: Only phase-out reviews (with strengthened provisions) is preferred.
53. No other in-scope option reduces disincentives to the same extent. This is because, under the preferred option, the root causes of the disincentive – the effects of the allocative baseline and eligibility review provisions - are removed.
54. In our assessment, removing these reviews will not have a significant future fiscal cost. This is because the status quo is unlikely to result in any large reductions in allocative baselines or allocations because these require two things to happen which, as we outline above, are disincentivised by current settings (eg, decarbonisation to be undertaken by firms; and that decarbonisation to be greater than the overallocation test).
55. The existing phase-out review provisions will become the only mechanism for managing fiscal costs of the scheme. A phase-out review is triggered by the Minister, involving an ‘in the round’ judgement which explicitly balances fiscal costs and risks with other factors. Phase-out increases, for example, consider climate targets, emissions leakage risk, costs to the taxpayer, availability of decarbonisation technology, among other factors, and may draw upon the same information used in allocative baseline and eligibility reviews. They also require public consultation and advice from the Climate Commission.
56. Using phase out reviews in this way may lead to long-run fiscal benefits, if additional decarbonisation investment is incentivised and Ministers choose to accelerate the rate of phase out in response. However, it creates a new fiscal risk if a phase out review is not undertaken or results in an allocation that is higher than it otherwise would be. Under this proposal, as now, there would be no legislated requirement to carry out a phase-out review. We note that the Government chose not to conduct a phase out review at the start of Emissions Budget 2. In our judgement, this risk is manageable: future Governments will continue to have interests in ensuring fiscal savings through the scheme. We also balance this risk against the longer-term advantage of enabling decarbonisation to occur which otherwise might not.
57. Two additional legislative changes will strengthen phase-out reviews to make them more fit for purpose: timing of a phase-out change would not be limited to prior to the start of an emissions budget period, and a requirement would be added to ensure that firms’ decarbonisation investments are specifically considered. This approach also better prepares us for future carbon pricing and responding to emissions leakage risk.

Part 2: Guidance provides more clarity on process on ‘calling for contracts’

58. Option 2.3: Guidance informs Minister’s decision to ‘call for contracts’ and pre-clearance is legally binding is preferred.
59. For the first part of this option, guidance provides certainty on the circumstances when the Minister would exercise their ‘call for contracts’ power, while reserving flexibility to update criteria as needed. Guidance would likely include:
 - a quantitative materiality threshold, above which a contract would be called in
 - qualitative factors that will be considered when calling in a contract.
60. Together, the qualitative and quantitative variables outline when a contract may be called in. Further information could also be provided in the guidance on the individual process

elements, including but not limited to the purpose of the power, pre-clearance and assessment process, and other relevant non-confidential information.

61. Aside from the direct benefits from firms being able to better understand the Minister's 'call for contract' powers in the CCRA, firms would also be more certain about the circumstance when this process might be triggered (based on the threshold and assessment in the guidance). Firms may use this information to 'self-assess' if a contract may be likely to be called in.
62. Guidance retains flexibility for the Crown to respond to an evolving market, whereas legislated criteria may become out of date (ie, a contract-size threshold may become outdated if energy generators start to offer contracts based on a different metric) and allowing for unforeseen contracts.
63. Development of the guidance will be informed by further technical consultation with stakeholders. Some aspects are intentionally open-ended to allow for this process.

A legally binding resolution on pre-clearance ensures no unexpected changes to allocations

64. The pre-clearance process provides certainty around when a specific contract would be called in, and what if any ECAF would be set, as the Minister's decision to seek Cabinet agreement would be legally binding and taken in advance of the contract coming into force. A version of the pre-clearance process already exists but without the binding resolution.
65. The pre-clearance process is described in full in Section 3 below. During the pre-clearance process (prior to the contract coming into force), the Minister would decide to seek Cabinet's agreement on whether an ECAF would be set and at what level. Equally, the Minister may decide an ECAF is not necessary and would not seek Cabinet's agreement. Under this option, this decision is legally binding on the Minister's ability to then call for contracts (thus proceeding with the ECAF process or not). A contract that has been varied in a way that materially affects the pre-clearance assessment would override the pre-clearance decision.
66. There is a risk that the pre-clearance decision leads to an overallocation which creates a new fiscal cost as, under the proposal, this cannot be reviewed later. This risk can be mitigated, at least in part, by the ability of phase-out reviews to set appropriate allocations for electricity related costs as needed.
67. As with the first option set, fiscal benefits depend on firms' responses to reduced disincentives.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

68. Yes.

Marginal costs and benefits of preferred option on issues with the Minister’s IA settings review powers

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Nil	Nil	High
Regulators	Costs of delivering phase-out reviews, should they occur. If phase-out reviews do not occur to manage appropriate allocations, there is a risk of higher long-term fiscal costs. This risk is low as we assume future Ministers will use the power to manage allocations	Low	High
Others (eg, wider government, consumers, etc.)	Nil	Nil	High
Non-monetised costs		Low	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Reduced disincentive to make large decarbonisation investment. This will facilitate investment analysis and increase the potential for financial benefits for firms.	Medium (dependent on later decarbonisation)	High
Regulators	Potential fiscal savings over project lifetime due to potential for increased decarbonisation investment. It is not possible to quantify these effects. No allocative baseline or eligibility reviews, reducing administrative burden, but also removing the current ability	Medium (dependent on later decarbonisation)	High

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	<p>to review allocative baselines and eligibility. There are no forgone savings from removing these reviews.</p> <p>Additional fiscal savings assumes Ministers' willingness to correct overallocation through an adjusted phase out rate.</p>		
Others (eg, wider government, consumers, etc.)	Potential fiscal savings (benefit to taxpayers) through lower Crown IA contribution long term. We cannot quantify effects.	Low	Low
Non-monetised benefits		Medium/High	

69. 9(2)(b)(ii)

70. Nonetheless, the potential scale of impact can be illustrated by a hypothetical example. Suppose a firm receives 235,000 NZUs (about 5% of the total IA allocation) calculated as follows: 276,471 tonnes of product x 1.0 (allocative baseline) x 0.85 (level of assistance). A 40% reduction in its emissions would create the potential for a long-term reduction in allocation of about 94,000 units. At \$60/unit this is a reduction in cost of about \$5.6 million annually. This provides a reference point for the size of impact should the reduction in disincentives contribute to such projects being implemented.

Marginal costs and benefits of preferred option on clarifying when and how the Minister might exercise the ‘call for contracts’ power

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Nil	Nil	High
Regulators	<p>Potential for fiscal risk from overallocation being ‘locked in’.</p> <p>Administration and analysis to support the Cabinet decision would need to be made earlier in the process.</p> <p>Increased administration costs for pre-clearance process if more applications received.</p>	<p>Medium impact — mitigated by phase-out reviews and Cabinet decision</p> <p>Administrative costs are low – small number of firms</p>	<p>Medium</p> <p>High</p>
Others (eg, wider govt, consumers, etc.)	Nil	Nil	High
Non-monetised costs		Nil/low	

Additional benefits of the preferred option compared to taking no action			
Regulated groups	Better incentives to invest in decarbonisation where this relates to electricity contracts. We cannot be certain this will have financial benefits for firms.	Medium or high (depending on the scale of investment)	High
Regulators	Consistent and predictable approach to considering contracts. Potential fiscal savings from improved incentives. We cannot be certain of these savings.	Low	Low
Others (eg, wider govt, consumers, etc.)	As above.	Low	Low
Non-monetised benefits		Medium	

Section 3: Delivering an option

How will the proposals be implemented?

71. Both issues require changes in primary legislation. The proposals will be included in the Climate Change Response Act Amendment Bill. The Bill is likely to be introduced by the end of 2025 and passed by mid-2026. The preferred options will be implemented in tandem (and are therefore merged for analysis).
72. There are some technical exceptions to the removal of allocative baseline and eligibility reviews. These relate to when there are adjustments to allocative baselines and eligibility where other provisions require them, but they do not have significant disincentive effects, or are otherwise out of scope, such as:
- the ability to update allocative baselines annually for prescribed reasons (annual change to the general electricity allocation factor, updates to emission factors, unique electricity allocation factors, new exemptions); and
 - correcting settings for new activities on the basis of actual operating data (including eligibility).

More information on the legally binding pre-clearance process

73. To provide more clarity around how the pre-clearance process will work, the process steps are broadly described below:
- A firm considering entering an electricity contract may approach the Minister of Climate Change with a draft contract (or group of contracts) and seek a determination as to whether the contract/s (if signed and once in-force) would be called for to set an ECAF, and/or an assessment for what the ECAF value would be.
 - The Minister may decide to seek Cabinet's agreement on whether or not to set an ECAF, and if so, at what value. The Minister's decision would be binding for the contract's duration, effectively reducing the discretion of the Minister (and future Ministers) to call in the contract again for this purpose.
 - If Cabinet's decision was to set an ECAF, the Minister would be able to call for the contract, once it comes into force, to confirm that the contract is the materially the same as previously shared. The Minister would formally notify the firm (party to the contract) of the ECAF decision (if agreed).
 - If it became known then, or at a later point, that the contract has changed since Cabinet's decision, in a way that would affect the decision (such as a change that materially increases overallocation risk), Cabinet's previous decision would no longer stand and the ECAF could be remade.
74. This process would be voluntary for firms. Similarly, the Minister would have the power to decline an ECAF where it is clearly not applicable. If pre-clearance is undertaken, the Minister would seek to provide a decision as quickly as reasonably possible, to support the firm's deadlines to finalise the contract.
75. The associated guidance will be developed by the Ministry as the legislation progresses through parliament. We anticipate that further technical consultation would be held with affected interested stakeholders. It is anticipated that both the quantitative threshold – the materiality test to ensure the power only captures significant contracts – and qualitative

criteria to ensure discretion to review unusual cases would benefit from further consultation. It is intended that this guidance should be published, on the Ministry website following Ministerial approval, shortly after the Bill passes.

76. To ensure that all electricity contracts that meet the thresholds outlined in the published guidance are considered equally, MfE intends to establish a process with the Electricity Authority to systematically identify these contracts. This process will likely use data available via the Hedge Disclosure System or similar.

How will the proposal be monitored, evaluated, and reviewed?

77. Firms are required to submit annual returns to the EPA, covering their production, with penalties attached for non-compliance and incomplete or false reporting. These returns are published annually by the EPA.
78. This process provides information on industrial activities including decarbonisation. In this way, the progress of firms in reducing their emissions can be assessed, alongside other information gained from our engagement with industry. Firms' emissions reductions would demonstrate an improvement in investment conditions for these firms' decarbonisation. IA, as noted, is not the only barrier to investment. The changes proposed are designed to reduce disincentives caused by IA while remaining in scope of the ERP2 action.
79. There will be opportunities through future regulatory reviews to assess whether other changes are required. In particular, phase-out reviews are available to ensure that IA allocation are appropriate during the phase-down. Moreover, phase-out reviews can target specific groups of activities or products, or single activities and products, and can recommend different levels of assistance. Further advice on how phase-out reviews could be communicated and managed may clarify the nature and timing of these reviews.
80. For the preferred option on the Clarifying when and how the Minister might exercise the 'call for contracts' power issue, the guidance will be reviewed and updated as necessary to ensure the call-in criteria are reflecting the appropriate threshold/s to capture contracts that may pose a risk of allocations being higher than they ought to be in future.

INDUSTRIAL ALLOCATION OVERVIEW**A1. Allocation****Calculation of allocation**

Firms carrying out an eligible activity can receive an annual allocation of New Zealand Units (NZUs) for their production during a calendar year. New Zealand Units are used (surrendered) to meet a firm's obligations under the Emissions Trading Scheme (ETS) for its emissions during the year.

The number of NZ Units allocated is calculated using the formula:

$$A = P \times AB \times LA$$

where:

- A is the firm's allocation for a single product
- P is the firm's total output of the product
- AB is the allocative baseline for the product of an eligible activity
- LA is the level of assistance a particular activity receives

Example

Suppose:

- The firm produces 100 tonnes of the eligible product for the year
- The AB for the product is 1.2 (tonnes of carbon emissions per tonne of product)
- The level of assistance is 0.85

The firm will then receive an allocation in NZ units (NZUs) as follows:

$$\begin{aligned} A &= P \times AB \times LA \\ &= 100 \times 1.2 \times 0.85 \\ &= 102 \text{ NZUs} \end{aligned}$$

A2. Eligibility

Tests for eligibility

There are two tests in the Act (see section 161A(2)) that determine which industrial activities are eligible for industrial allocation (IA):

- trade exposure, and
- emissions intensity.

An activity must be both *trade exposed* and *emissions intensive* to be eligible.

Trade exposure test

Trade exposure tests whether products from an activity are exposed to international trade. The Act defines trade exposure broadly. An activity is considered trade-exposed (see section 161C(1)) unless in the Minister's opinion:

- there is no international trade of the activity output across oceans, or
- it is not economically viable to import or export it.

Emissions intensity test

Emissions relative to revenue

The emissions intensity test is based on the emissions generated from an activity relative to the revenue generated from the sale of the activity's output (eg, steel, cement). This is used as a proxy for the impact of an emissions price on an activity's profitability. The greater the emissions, and therefore emissions cost, relative to the revenue generated by an activity's output, the more a change in the emissions price affects the profitability of the firm carrying out the activity.

The emissions intensity test does not test whether emissions costs are faced by the activity. The level of emissions costs faced is calculated from the allocative baseline which is described further below. The outcome of the emissions intensity test determines the extent to which these emissions costs are compensated for by IA.

Thresholds and emissions-intensive categories

The emissions intensity test thresholds are (see section 161C(1)):

- not emissions-intensive* (emissions are less than 800 t CO₂-e /\$1 million revenue)
- moderately emissions-intensive* (emissions are equal to or greater than to 800t but less than 1,600t CO₂-e /\$1 million revenue)
- highly emissions-intensive* (emissions equal to or greater than 1,600 t CO₂-e/ \$1 million revenue).

If a firm is either moderately or highly emissions-intensive it meets the eligibility test. Consequently, whether a firm is moderately or highly emissions-intensive determines the level of assistance it is eligible to receive (level of assistance is discussed in section A.5).

A3. Allocative baselines

A measure of emissions per unit product

Allocative baselines (ABs) are the amount of emissions attributed to a unit of product of an eligible activity.

An allocative baseline can include two components:

- direct emissions - emissions that result from the direct use of certain fossil fuels, direct use of geothermal fluids and those that result directly from industrial processes
- indirect emissions, associated with the use of electricity – this is calculated using the electricity allocation factor (EAF), a standard quantity of emissions that is attached to each megawatt hour of electricity used. The EAF is used as a proxy for emissions intensity.

Prescribed in regulations

Allocative baselines for each industrial activity product are specified in Schedule 2 of the Climate Change (Eligible Industrial Activities) Regulations 2010. Schedule 2 also specifies whether the activity is moderately or highly emissions-intensive (according to the eligibility test for emissions intensity).

Schedule 2 is excerpted overleaf.

Reviews of ABs and changes in ABs

Allocative baselines were set in regulations in 2010 and based on activity data from the financial years 2006/07, 2007/08 and 2008/09. The baselines were calculated at the national sector level as industry averages, noting that some activities are only carried out by a single firm.

Allocative baselines were updated in 2025 based on data collected in 2023 for the years: 2016/2017, 2017/2018, 2018/2019, 2019/2020, 2020/2021. In this last update, the over-allocation test (described in section A4) was not applied [see clause 41 of Schedule 1AA of the CCRA].

Changes in ABs over time provide an insight into decarbonisation: the reductions in emissions per unit of output that have occurred. Over the last 10 years, the annualised change in ABs over the IA scheme as a whole, weighted by production volumes (based on data collected in 2023), was close to zero (within plus or minus 0.5%). There were three examples of material decarbonisation with efficiency gains over a ten-year period greater than 11% although some part of these gains may be explained by access firms had to financial support from the Government Investment in Decarbonising Industry (GIDI) fund.

The historical levels of decarbonisation under the IA scheme, together with the fact that GIDI is no longer in operation and that the over-allocation test (see section A.4) has been introduced, suggest that only smaller to moderate levels of decarbonisation are likely to be expected under the status quo. Further analysis of potential for future decarbonisation relating to the overallocation test (introduced in 2023) are discussed in (D1) below.

Excerpt from Schedule 2 of the Climate Change (Eligible Industrial Activities) Regulations 2010:

Classification

Eligible industrial activity	Column A Emissions intensity	Column B Allocative baseline
Aluminium smelting	High	10.2560
Manufacture of carbon steel from cold ferrous feed	High	Product A: 0.3693 Product B: 0.1470 Product C: 0.0940
Manufacture of iron and steel from iron sand	High	Product A: 3.1787 Product B: 0.1423 Product C: 0.2078 Product D: 0.1839 Product E: 0.1593 Product F: 0.1654
Production of burnt lime	High	1.3028
Production of carbamide (urea)	High	Product A: 1.6152 Product B: 1.5581
Production of cartonboard	High	Product A: 0.7436 Product B: 0.6465 Product C: 0.0755
Production of caustic soda	High	1.4962
Production of cementitious products	High	Product A: 0.8300 Product B: 0.0235
Production of clay bricks and field tiles	Moderate	Product A: 0.0726 Product B: 0.4156 Product C: 0
Production of cut roses	High	0.0004
Production of ethanol	Moderate	1.8716
Production of fresh capsicums	Moderate	3.0099
Production of fresh cucumbers	Moderate	0.7714
Production of fresh tomatoes	Moderate	1.4964
Production of gelatine	Moderate	0
Production of glass containers	Moderate	0.6126
Production of hydrogen peroxide	High	1.2862
Production of lactose	Moderate	1.3084
Production of market pulp	High	Product A: 0.7323 Product B: 0 Product C: 0.8298
Production of methanol	High	0.8191
Production of newsprint	High	Product A: 0 Product B: 0
Production of packaging and industrial paper	High	Product A: 0.5422 Product B: 0.5270 Product C: 0.1110
Production of protein meal	Moderate	1.1289
Production of reconstituted wood panels	Moderate	0.2090
Production of tissue paper	Moderate	Product A: 0.9176 Product B: 0
Production of whey powder	Moderate	0.6379

A4. Over-allocation test

Test introduction and purpose

In August 2023 sections 161(3A) and 161(4C) of the Act were inserted with the effect that an over-allocation test was introduced as one of three pre-requisites that had to be met before an allocative baseline could be amended. (The other prerequisites are that 5 years need to have passed since the AB was last updated or established, and that a notice calling information has been issued.)

The purpose of the test is to encourage small to moderate scale decarbonisation investments. The test was intended to mean that business-as-usual investments, unlike large scale investments, would not be disincentivised. Large scale investments, however, would trigger the test and lead to ABs being reduced (reducing also the number of units a firm receives).

Formula

The Act specifies that in order for an allocative baseline to be reduced, the following condition must be satisfied:

$$\text{CAS} > \text{PAS} \quad [\text{s161(3A)(c) and s161A(4C)}]$$

where

$$\begin{aligned} \text{CAS} &= \text{AB} \times \text{LA} \\ \text{PAS} &= \text{PB} \times \text{OLA} \end{aligned}$$

and

CAS is the current allocation setting
 PAS is prospective allocation setting
 AB is the allocative baseline
 PB is the prospective allocation baseline
 LA is the current level of assistance
 OLA is the original level of assistance

Further, where $\text{CAS} > \text{PAS}$:

$$\begin{aligned} \Rightarrow \text{AB} \times \text{LA} &> \text{PB} \times \text{OLA} \\ \Rightarrow \text{OLA} / \text{LA} &< \text{AB} / \text{PB} \end{aligned}$$

Effect of the test

When the proportional reduction in emissions intensity is greater than the proportional change in the level of assistance [i.e., $\text{OLA} / \text{LA} < \text{AB} / \text{PB}$], the baseline can be reduced.

The following table shows the minimum emissions intensity reductions by year for this inequality to be true. Because there are different levels of assistance for *moderately* emissions-intensive and *highly* emissions-intensive firms, there are two sets of thresholds reflecting the different levels of support (ie, allocation) intended for each tier. The prospective allocative baseline must be below the current allocative baseline by at least the following percentages for the baseline to be reduced:

Firm	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Moderately emissions-intensive	8.3%	10.0%	11.7%	13.3%	15.0%	16.7%	20.0%	23.3%	26.7%	30.0%
Highly emissions-intensive	5.6%	6.7%	7.8%	8.9%	10.0%	11.1%	13.3%	15.6%	17.8%	20.0%

Suppose a firm reduces its emissions intensity (per unit of output for a product). Other things being equal this would reduce its PB below its current AB. The over-allocation test, however, will allow the firm to maintain its AB (and hence its unit allocation) unless its emissions reductions exceed the thresholds. For example, provided the reduction does not exceed 15% in 2029 or 30% in 2034 (a moderately emissions-intensive firm), or 10% in 2029 or 20% in 2034 (a highly emissions-intensive firm) the firm's baseline will not change. The next allocative baseline review is in 2029 and the earliest a follow-up review could occur is 2034.

The over-allocation test also means that baselines cannot be increased

The test ($CAS > PAS$) means that ABs cannot be increased for factors subject to the test:

- Since LA is always less than OLA, AB must always be greater than PB (a necessary condition) to trigger a new (reduced) allocative baseline.
- If AB is higher than PB the allocative baseline may decrease (depending on the percentage difference).
- If AB is higher than PB, the allocative baseline cannot increase (by definition).

A5. Level of assistance and phase-out rates

Level of assistance

The level of assistance is specified in section 83(2) of the CCRA as being:

- for a *moderately emissions-intensive* eligible industrial activity -
 - 0.6 in each year until and including 2020, and
 - in each year after 2020, the level of assistance from the previous year **less** the applicable phase-out rate.
- for a *highly emissions-intensive* eligible industrial activity -
 - 0.9 in each year until and including 2020, and
 - in each year after 2020, the level of assistance from the previous year **less** the applicable phase-out rate.

Phase-out rates

In 2020, the Government amended the Act to introduce phase-out rates which have the effect of reducing the levels of assistance each year.

Unless regulations have been made setting different phase-out rates (i.e., under section 84A or 84B of the Act), the *applicable phase-out rate* is:

- 0.01 for each year after 2020 until and including 2030, and
- 0.02 for each year after 2030 until and including 2040, and
- 0.03 for each year after 2040.

The effect of these phase-out rates is that the levels of assistance reduce by one percentage point a year in the 2020s, by two percentage points a year in the 2030s, and by three percentage points a year in the 2040s and beyond.

This means that the levels of assistance reduce to zero by:

- 2050 for a moderately emissions-intensive firm
- 2060 for a highly emissions-intensive firm.

Changes to phase-out rates

The provisions for change are not symmetrical between rate increases and decreases:

- phase-out rate increases (i.e., resulting in lower levels of assistance) may occur after 2025, and rate decreases after 2030
- rate increases must occur before the start of an emissions budget period to apply to that period, and decreases must occur before the start of a year to apply to that year
- the extent of rate increase is not limited, but the extent of decrease is limited (see section 84A(4) of the CCRA).
- rate increases require specified considerations to be addressed (see below).

Considerations for phase-out rate increases

The process is governed by section 84C of the Act.

Phase-out rates may be changed at the recommendation of the Minister of Climate Change and based on recommendations from the Climate Change Commission.

Before recommending the making or amendment of regulations to increase phase-out rates the Minister must consider:

- (a) any targets or budgets set for reducing emissions of greenhouse gases, and
- (b) New Zealand's nationally determined contributions under the Paris Agreement, and
- (c) the level of risk of emissions leakage (increased emissions overseas as a result of emissions reductions in New Zealand, for example, an activity being relocated outside of New Zealand to reduce the emissions-related costs for the activity), based on -
 - (i) the emissions-related costs and policies in competing jurisdictions; and
 - (ii) the markets for international trade in the products produced by the activity; and
 - (iii) the ability of affected eligible persons to pass on increased costs to customers; and
- (d) the risk that the value of the allocation for the activity will exceed the cost of meeting the emissions trading scheme obligations in relation to the activity, and
- (e) other sources of supply into the emissions trading scheme, including offshore emissions reductions, and
- (f) the availability of low-emission technologies related to the activity, and
- (g) international climate change obligations, and

- (h) the proper functioning of the emissions trading scheme, and
- (i) the cost to the taxpayer of providing allocations for the activity, and
- (j) the recommendations made by the Climate Change Commission under [section 5ZOB](#), and
- (k) any other matters that the Minister considers relevant.

**INDUSTRIAL ALLOCATION SCHEME:
ACTIVITIES, PARTICIPANTS, ALLOCATIONS**

B1. Industrial activities

Eligible industrial activities are defined in the Climate Change (Eligible Industrial Activities) Regulations 2010 to include the following:

Regulation	Eligible industrial activities
7	Aluminium smelting
8	Production of burnt lime
9	Production of carbamide (urea)
10	Production of cartonboard
11	Production of caustic soda
12	Production of ethanol
13	Production of hydrogen peroxide
14	Production of market pulp
15	Production of methanol
16	Production of newsprint
17	Production of packaging and industrial paper
18	Production of tissue paper
19	Manufacture of carbon steel from cold ferrous feed
20	Production of cementitious products
21	Production of clay bricks and field tiles
22	Production of glass containers
23	Manufacture of iron and steel from iron sand
24	Production of gelatine
25	Production of protein meal
26	Production of fresh capsicums
27	Production of fresh cucumbers
28	Production of cut roses
29	Production of fresh tomatoes
30	Production of reconstituted wood panels
31	Production of lactose
32	Production of whey powder

Of these 26 activities, in 2024 there were three activities for which there was no industrial allocation:

- Production of newsprint (regulation 16)
- Manufacture of carbon steel from cold ferrous feed (regulation 19)
- Production of gelatine (regulation 24).

Final allocations for 2024, as published by the Environmental Protection Agency (EPA) on 13 August 2025, provide information on participants and allocations as illustrated in sections B2 and B3 below.

B2. Participants

For 2024, allocations were received by the following participants for the following activities as published by the EPA:

Industrial activity	Participants receiving allocation
Aluminium smelting	New Zealand Aluminium Smelters Limited
Burnt lime	Graymont (NZ) Limited
Burnt lime	Websters Hydrated Lime Company Limited
Burnt lime	Lee Processors Limited
Carbamide (urea)	Ballance Agri-Nutrients (Kapuni) Limited
Cartonboard	Whakatane Mill Limited
Caustic soda	Oji Fibre Solutions (NZ) Limited
Cementitious products	Fletcher Building Group
Clay bricks and field tiles	W.D. BOYES & SONS LIMITED
Cut roses	BH FLOWERS LIMITED
Cut roses	Van Lier Nurseries Ltd
Cut roses	Moffatts Flower Company Limited
Cut roses	The Flower Farm Limited
Cut roses	Royal Roses Limited
Ethanol	Lactanol Limited
Fresh capsicums	Southern Paprika Limited
Fresh capsicums	Gourmet Paprika Limited
Fresh capsicums	Gourmet Waiuku Limited
Fresh capsicums	Whakatane Growers Limited
Fresh capsicums	Gourmet Mokai Limited
Fresh capsicums	J.S.Ewers Ltd
Fresh capsicums	Fresh West (2004) Limited
Fresh capsicums	Taaza Green Limited
Fresh capsicums	Poppas Peppers 2009 Limited
Fresh capsicums	BMAK EVERGREEN LIMITED
Fresh cucumbers	NZ HOT HOUSE LIMITED
Fresh cucumbers	Sharma Produce Limited
Fresh cucumbers	Karaka Park Produce Limited
Fresh cucumbers	Meenakshi Devi Sharma, Raj Kumar Sharma
Fresh cucumbers	J.S. Mahey Limited
Fresh cucumbers	Island Horticulture Limited
Fresh cucumbers	Jai Shankar Growers Limited
Fresh cucumbers	BMAK EVERGREEN LIMITED
Fresh cucumbers	Prash Associates Limited
Fresh cucumbers	Nova Trust Board
Fresh cucumbers	B.S.K. Growers Limited
Fresh cucumbers	Clarkville Horticulture Limited
Fresh cucumbers	GK Farming Limited
Fresh cucumbers	Lee Wang Hothouse Limited
Fresh cucumbers	Southern Paprika Limited
Fresh cucumbers	Balvinder Singh, Pawan Kumari Singh

Industrial activity	Participants receiving allocation
Fresh cucumbers	Balwinder Kaur, Gurshinder Singh
Fresh cucumbers	Uppal Growers Limited
Fresh cucumbers	Wing Shing Farms Limited
Fresh cucumbers	Parkgard Growers 2000 Limited
Fresh tomatoes	Turners & Growers Fresh Limited
Fresh tomatoes	NZ HOT HOUSE LIMITED
Fresh tomatoes	Gourmet Mokai Limited
Fresh tomatoes	J.S.Ewers Ltd
Fresh tomatoes	P H Kinzett Ltd
Fresh tomatoes	Vege Fresh Growers Limited
Fresh tomatoes	BMAK EVERGREEN LIMITED
Fresh tomatoes	KDB Growers Limited
Fresh tomatoes	Jai Shankar Growers Limited
Fresh tomatoes	A1 TOMS LIMITED
Fresh tomatoes	GK Farming Limited
Fresh tomatoes	Karamea Tomatoes Limited
Fresh tomatoes	Ting-Yuan Robert Wu
Fresh tomatoes	YTK LIMITED
Fresh tomatoes	M.K Bhoondpal Limited
Fresh tomatoes	Chae Shin Ahn, Il Kyu Ahn
Fresh tomatoes	Kakanui Tomatoes Limited
Fresh tomatoes	MJ Fresh Limited
Fresh tomatoes	Gourmet Paprika Limited
Fresh tomatoes	Heongreall Lee, Jung Woo Byun
Fresh tomatoes	New Zealand Fresh Floria Limited
Fresh tomatoes	Wing Shing Farms Limited
Fresh tomatoes	Paroma Farm Limited
Fresh tomatoes	Balvinder Singh, Pawan Kumari Singh
Fresh tomatoes	Tae Sook Kim, Yong Jin Hwang
Fresh tomatoes	Do Hwan Kim, Seong Hee Lee
Fresh tomatoes	Sky Vege Farm Limited
Fresh tomatoes	H Y Cho Limited
Glass containers	VISY GLASS OPERATIONS (NZ) LIMITED
Hydrogen peroxide	EVONIK PEROXIDE LIMITED
Iron and steel manufacturing from iron sand	New Zealand Steel Development Limited
Iron and steel manufacturing from iron sand	Pacific Steel (NZ) Limited
Lactose	Fonterra Limited
Market pulp	Oji Fibre Solutions (NZ) Limited
Market pulp	Winstone Pulp International Limited
Market pulp	Pan Pac Forest Products Limited
Methanol	Methanex New Zealand Ltd
Packaging and industrial paper	Oji Fibre Solutions (NZ) Limited
Packaging and industrial paper	Hawk Group Limited
Protein meal	Wallace Proteins Limited
Protein meal	Taranaki By-Products Ltd
Protein meal	Affco New Zealand Limited
Protein meal	Alliance Group Limited
Protein meal	Hawkes Bay Protein Limited
Protein meal	CMP Canterbury Limited

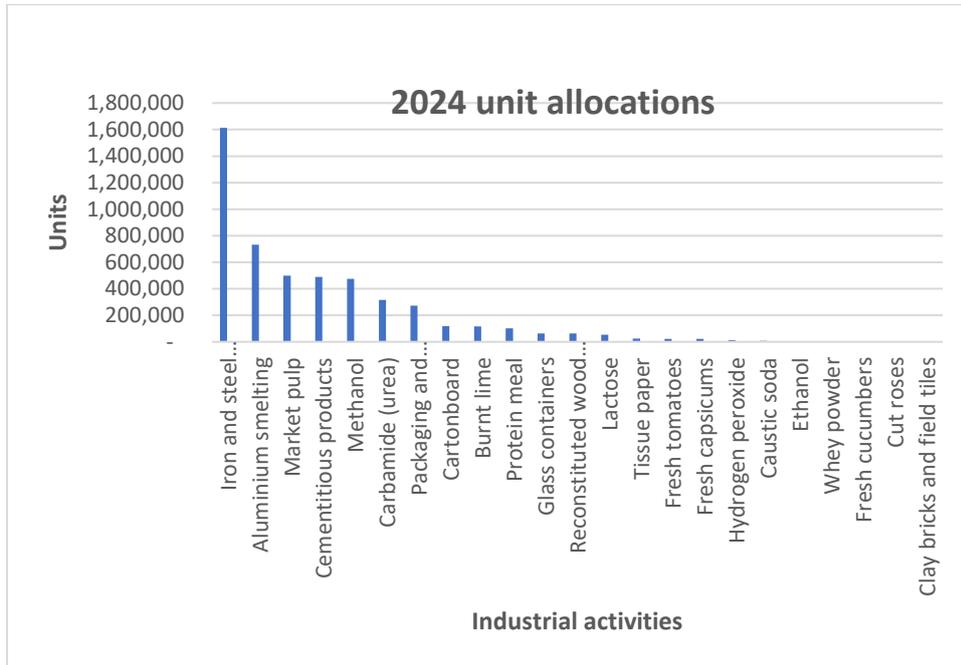
Industrial activity	Participants receiving allocation
Protein meal	PVL Proteins Limited
Protein meal	Kakariki Proteins Limited
Protein meal	Tegel Foods Limited
Protein meal	Blue Sky Meats (N.Z.) Limited
Protein meal	Prime Range Meats Limited
Reconstituted wood panels	Nelson Pine Industries Limited
Reconstituted wood panels	Daiken Southland Limited
Reconstituted wood panels	Daiken New Zealand Limited
Reconstituted wood panels	Juken New Zealand Ltd
Reconstituted wood panels	Fletcher Building Group
Tissue paper	Essity Australasia Limited
Whey powder	Fonterra Limited

B3. Allocations

The final 2024 industrial allocations by activity and relative shares are as follows:

Industrial activity	2024 final unit allocation	Share
Iron and steel manufacturing from iron sand	1,612,733	32.17%
Aluminium smelting	731,276	14.59%
Market pulp	499,640	9.97%
Cementitious products	488,575	9.75%
Methanol	473,815	9.45%
Carbamide (urea)	315,101	6.28%
Packaging and industrial paper	271,785	5.42%
Cartonboard	118,492	2.36%
Burnt lime	115,634	2.31%
Protein meal	101,990	2.03%
Glass containers	64,359	1.28%
Reconstituted wood panels	62,858	1.25%
Lactose	52,470	1.05%
Tissue paper	23,789	0.47%
Fresh tomatoes	22,871	0.46%
Fresh capsicums	21,475	0.43%
Hydrogen peroxide	13,282	0.26%
Caustic soda	7,509	0.15%
Ethanol	5,024	0.10%
Whey powder	4,657	0.09%
Fresh cucumbers	4,334	0.09%
Cut roses	1,479	0.03%
Clay bricks and field tiles	404	0.01%
Total	5,013,552	100.00%

The following charts illustrate the relative shares:

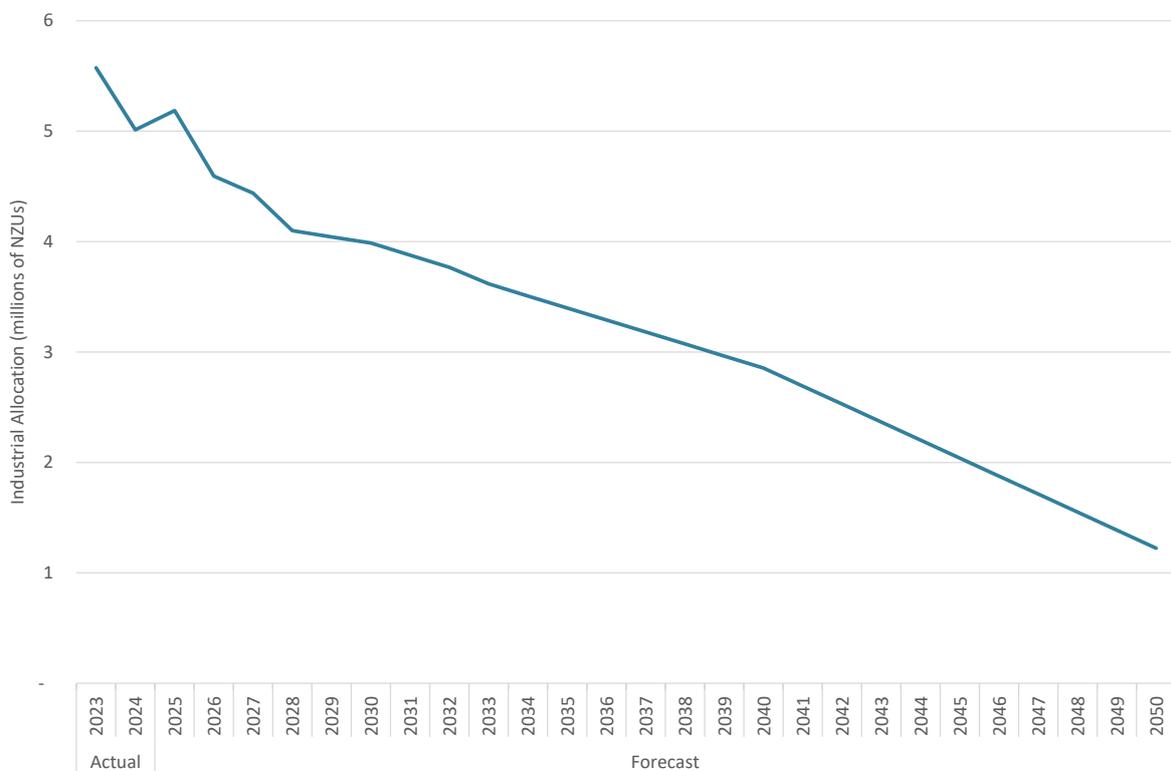


INDUSTRIAL ALLOCATION SCHEME COSTS

C1. Forecast baseline

The Government will issue approximately 4.7 million NZUs per annum of IA in the period through to 2027, valued at about \$275 million per annum (at \$58.35 per NZU), and then declining in the years beyond (see below). The decline reflects production changes that are reasonably likely to occur over the next five years, and the impact of the phase-out rates over time.

The following graph shows the declining total allocation for all eligible activities (Source: MfE and EPA):



C2. Assumptions

Requirement of reasonable certainty

The forecast baseline reflects what is known with reasonable certainty about future industrial activity.

The forecast baseline does not include any effects from potential changes in IA eligibility or allocative baselines arising from future reviews of those settings. Such changes are not known with any reasonable degree of certainty.

Downward trend in forecast baseline

The main reasons for the downward trend in the forecast baseline outlined above, as reported in MBU, include the combined effects of:

- production (volume changes, including company closures)

- the impact of new electricity contracts on emissions levels
- updated historical data
- phase-out rates (which gradually reduce the level of assistance to zero by 2050 or 2060 for moderately emissions-intensive and highly emissions-intensive activities respectively).

C3. Comment on costs

IAs are a cost to the Crown

Industrial units allocated are recorded as a core Crown expense.

The allocation of a unit increases the stockpile liability and has no impact on cash, so it is a non-cash expense. The liability involves a right for the holder of the unit to emit.

IAs have real effects

Although there are no direct cash flow effects, the allocation of a unit is a real economic cost relative to the counterfactuals of selling a unit or, in theory, of not making it available.

Through the ETS settings process, when the Government determines how many units it will make available through auctions, it subtracts the number of units expected to be allocated. Reducing units allocated could allow for more units to be auctioned with an immediate cash inflow (assuming auctions clear). Auctioned units would also eventually be recorded as revenue once they are surrendered.

Alternatively, the Government could choose not to auction those units, effectively tightening up unit supply in the ETS. Tighter supply could mean auctions clear at a higher price. This could also mean the Government would not need to invest in other initiatives to reduce emissions, and the costs of reducing emissions would be met more through industry rather than the taxpayer.

Decline in value

Industrial allocations had a fiscal cost to the Government of \$600 million in 2022, reducing to \$400 million in 2023, and, as noted in the chart above, to around \$275 million per annum in the period through to 2027.

PROBLEM ANALYSIS: DECARBONISATION INVESTMENT INCENTIVES

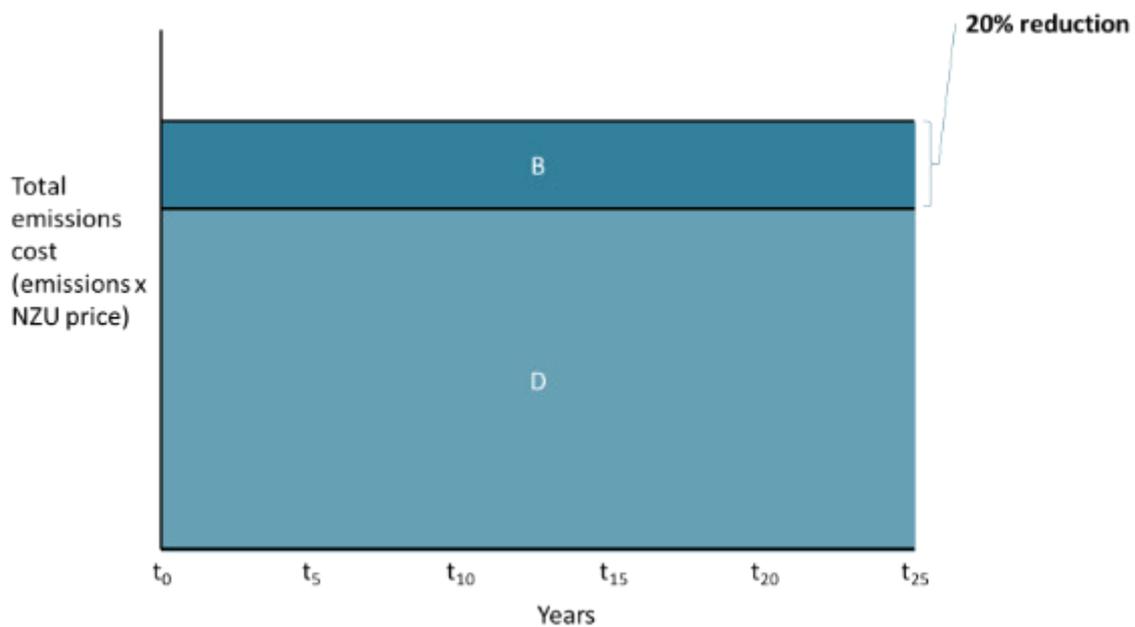
D1. Base case – a firm that does not receive IA

A firm that does not receive IA (non-IA firm) faces a relatively straightforward decarbonisation investment incentive. All else being equal, the firm will receive the full benefit of avoided future emissions costs as a result of the investment, plus any other benefits that may come from the investment (such as lower operating costs or higher consumer premiums).

Provided the net present value of these benefits exceeds the net present value of the cost of the investment, it would be rational and efficient for the firm to proceed with the project. The firm’s management and shareholders can then weigh the merits of the project against alternative uses for the firm’s capital.

Figure 1 illustrates this situation. The non-IA firm is considering making an investment that comes into effect at year 0 (t_0). Prior to the investment, its expected total emissions cost is $B + D$. The investment would yield a total benefit in terms of avoided emissions equivalent to B . It would be rational to make this investment if the savings from the avoided emissions of B (plus any other benefits) are greater than the cost of the investment.

Figure 1: Avoided emissions costs for non-IA firm from a decarbonisation investment



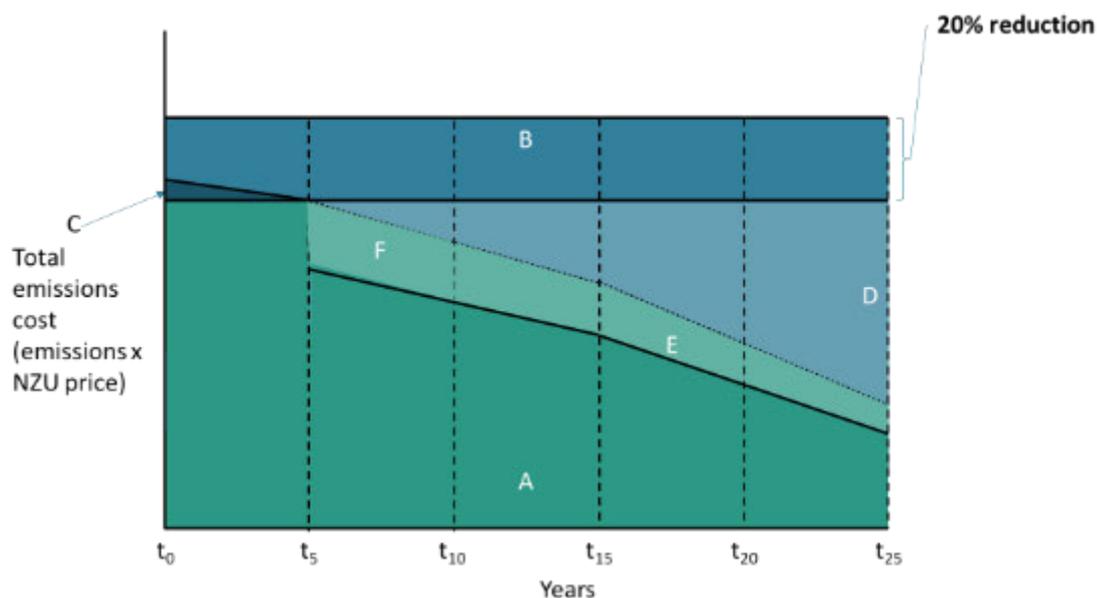
Note: NZU = New Zealand Units.

D2. Investment incentives for an IA firm

The decarbonisation investment incentive is different for an IA firm. The IA firm must also consider how the future reduction in IA offsets some of the expected benefits of the investment.

Figure 2 illustrates this situation. Before making an investment, the IA firm receives allocation equivalent to the area A, the area C, and the areas E and F (E is the area between years 10 and 25, and F the area between years 5 and 10). The amount of IA received reduces over time in line with the phase-out rates (dotted line) assuming unchanged production levels.

Figure 2: Decarbonisation decision for an IA firm



Note: NZU = New Zealand Units. T0 is 2025 for the purpose of which phase-out rate to use in the figure. This then decreases in line with the current policy – by 1 percentage point per year in the 2020s (up to t5), by 2 percentage points per year in the 2030s, and by 3 percentage points per year in the 2040s.

The IA firm is considering making a decarbonisation investment that comes into effect at year 0 (t0). The investment would yield a total benefit in terms of avoided emissions costs equivalent to area B + C. Part of the benefit is a small excess of IA above actual emissions in the short term (area C). This excess occurs due to the delay from emissions intensity reducing to when this is reflected in the allocative baseline that is applied to the firm.

However, the firm knows that its future IA will be updated at some point to reflect the change in its emissions intensity from the investment. This will shift its IA from the dotted downward sloping black line to the solid black line. If that review occurs after five years (at t5), the firm will no longer receive IA equivalent to area E + F. This area is also the reduced fiscal cost to the Crown. The net benefit of the investment is now area (B + C) – (E + F), impacting on the incentive to invest.

A later review at 10 years (t10) would have similar, although smaller, impacts on the incentive. In this case, the firm would continue to receive IA equivalent to area F until the review at t10. The firm's reduction in future IA is equivalent to area E. The net benefit of the investment is therefore area (B + C) – E.

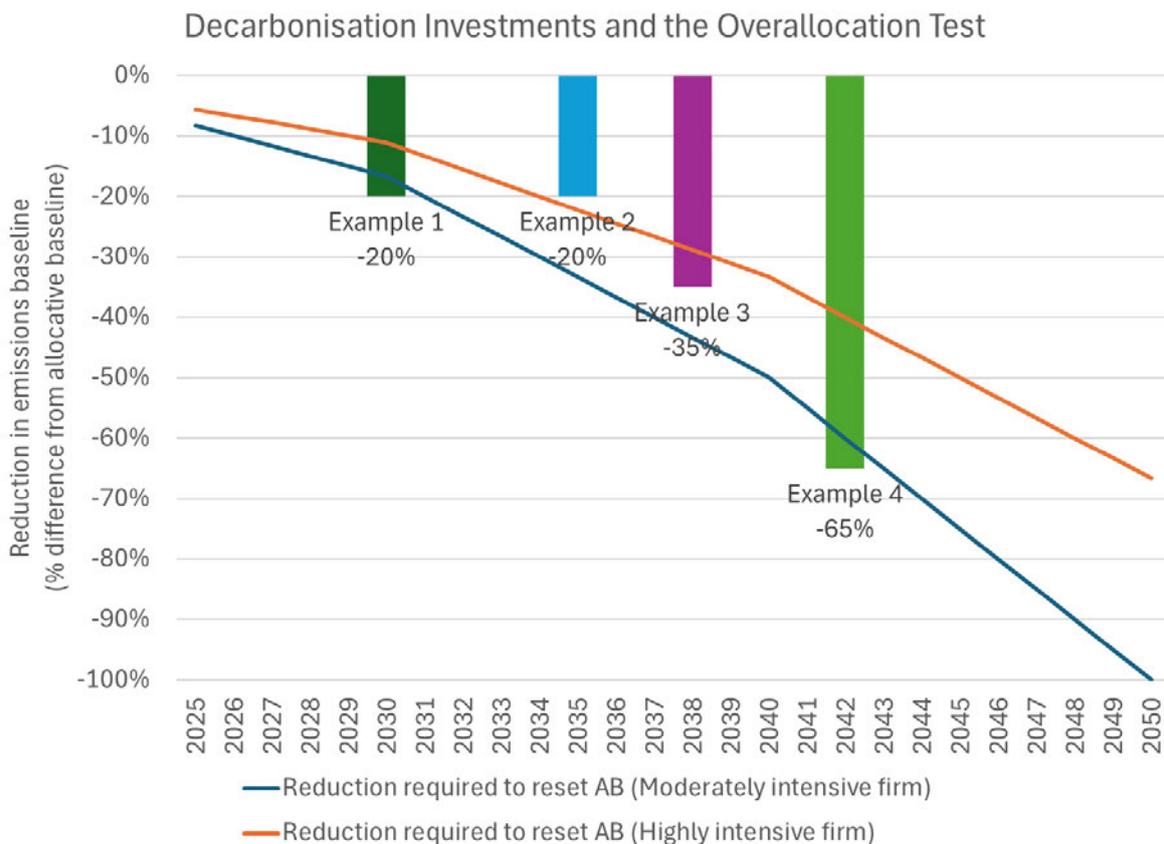
How critical the reduction in incentive is depends on the timeframe of the investment. For investments with a payoff period under 10 years, the reduction in future IA is less critical or may even be irrelevant. The reduction becomes more critical for investments whose payoff period exceeds the expected review date.

D3. Impact of over-allocation test on investment

In reference to the low levels of expected decarbonisation under the status quo described in (A3) above, this is in part because of the overallocation test (A4). Large scale decarbonisation investment decisions are expected to be distorted by the overallocation test – investments abandoned, delayed or scaled back to avoid triggering the test and the consequential reduction in unit allocation a firm receives.

Figure 3 shows the relationship between hypothetical decarbonisation projects (the coloured bars), and the over-allocation test (orange and dark blue lines). Note: These hypothetical projects do not represent or correspond with specific projects indicated by firms during targeted engagement; instead, they illustrate the general impact and incentive effect of the over-allocation test on such projects.

Figure 3: Decarbonisation decision for an IA firm (hypothetical)



In Figure 3, the orange line is the over-allocation test threshold for reducing an allocative baseline for highly emissions-intensive firms – firms receiving the significant majority of industrial allocation. (The dark blue is the threshold for a moderately emissions-intensive firm.)

Example 1 (dark green bar) is a firm that plans a 20% reduction in its emissions per unit output by 2029/30. As a result, the over-allocation test threshold would be exceeded irrespective of whether the firm was highly or moderately emissions-intensive.

This would result in a reduction in the firm's allocation of units (through a lower AB), therefore increasing the prospect of the investment being delayed or scaled back due to a reduced rate of return. In Example 1, the firm would have an incentive to delay the investment (e.g., until 2035/36) to avoid this, as represented by the investment occurring in Example 2 (light blue bar). The firm might also select a less ambitious project that is less likely to trigger the test.

Where projects are scaled back or delayed to avoid baseline reductions triggered by the over-allocation threshold, the Crown will not benefit from baseline reviews.

In general, the larger the emissions reduction, the later the firm is incentivised to deliver the project. Very large decarbonisation projects as illustrated by Example 3 (35% reduction) and Example 4 (65% reduction) are also disincentivised by the over-allocation test.

The effects of the over-allocation test on investment are poor both from an economic perspective, and for emissions reduction. Firms are discouraged from making beneficial investments. In some cases, those investments may not occur, while in other cases they may be reconfigured or retimed purely to avoid the regulatory threshold effect on allocation.

TARGETED ENGAGEMENT AND POTENTIAL DECARBONISATION**E1. Targeted engagement****Stakeholders**

Engagement included the circulation of material on the initial options to the targeted engagement group and follow-up meetings in person or by video link.

Stakeholders and interest groups included 12 of the largest recipient industrial allocation firms representing about 95% of industrial allocation.

Engagement also included a small number of interest and representative groups and individuals.

Initial Options

Two broad options were developed for testing:

- *Package A* involved removing the ability to review allocative baselines and eligibility after five years while retaining the mandatory 10-year review. Phase-out reviews could occur at any time, with a slightly changed list of considerations guiding phase-out decisions.
- *Package B* involved solutions by means of exemption from review for large emitters (B1 for 10 years, B2 for shorter or longer periods as agreed). Subject to materiality and necessity/additionality thresholds, the Government would provide exemptions from reviews for firms undertaking to deliver large decarbonisation projects that, without the exemptions, would not meet the required rate of return and therefore not otherwise be possible (i.e., the projects would not occur but for the exemptions provided).

Feedback

Feedback on Package A – mandatory 10-year reviews (ABs and eligibility)

9(2)(b)(ii)



9(2)(b)(ii)



Feedback on Package B - negotiated exemption agreements

9(2)(b)(ii)



Feedback from non-firm stakeholders

One concern was that Package A is not targeted and benefits participants that have no plans to use the extra allocation they retain for decarbonisation. A concern with Package B was that it should be limited to 10 years or capped to reflect a maximum government contribution as a proportion of project cost.

Overall non-firm stakeholders 9(2)(ba)(i)

preferred Package B over Package A. They preferred an approach that was designed to encourage more decarbonisation.

E2. Potential decarbonisation projects

Basis of feedback 9(2)(b)(ii)

To assess the overall impact of options relative to the status quo or counterfactual, we sought forward-looking activity and product-specific information from industrial allocation participants to help inform this assessment.

It was recognised that such information may be difficult to estimate. It was stated in the engagement material that:

- firms were not expected to incur significant costs in this task, but to use their best information, experience and judgements given what they know now about their industry and products
- information will be treated in strict commercial confidence and used only for the purposes of making aggregate assessments of the relative merits and impacts of the IA changes being considered.

9(2)(b)(ii)

Indicative decarbonisation projects

9(2)(b)(ii)

Caveats

9(2)(b)(ii)



Regulatory Impact Statement: Improvements to the administration of the Emissions Trading Scheme through amendments to the Climate Change Response Act 2002 (2026)

Decision sought	<i>Analysis produced for the purpose of informing: final Cabinet decisions</i>
Agency responsible	<i>Ministry for Primary Industries</i>
Proposing Ministers	<i>Minister of Forestry and Minister of Climate Change</i>
Date finalised	<i>18 August 2025</i>

The Minister of Forestry and Minister of Climate Change propose to make changes to the Climate Change Response Act 2002 (the Act) to make the following amendments to the New Zealand Emissions Trading Scheme (NZ ETS) to:

1. Create flexibility for participants following events, such as a cyclone, by:
 - a) Allowing the Environmental Protection Authority (EPA) to approve applications for 60 working day extensions for emissions return, notice and industrial allocation (IA) application deadlines, and 20 working day extensions for Unique Emissions Factor (UEF) applications.
 - b) Introducing a three-year extension to the timing of deforestation tests.
2. Improve how quickly transmission of interest (TOI) notices are processed when ownership or land agreements change, by:
 - a) Shortening the 90 working day timeframe for resolving non-compliant TOI notices to 20 working days so that compliant parties can participate in or leave the NZ ETS more quickly.
 - b) Making it explicit that new people must open holding accounts at the time of submitting the required TOI notice.
3. These proposals are part of a wider package of proposals to amend the Act through a legislative amendment Bill.

Summary: Problem definition and options

What is the policy problem?

4. Participants need flexibility following significant disruptions:
 - The North Island weather events of early 2023 (e.g. Cyclones Gabrielle and Hale) revealed gaps in the Act's provisions to provide those affected the required flexibility. Events like

severe weather may damage residences, farms, forests, production facilities or office buildings and limit participants' ability to meet the deadlines for their obligations.

- Failing to meet deadlines for emissions returns and submitting notices can result in fees, fines or penalties, and the process of determining what those should be is resource intensive for the regulator. Failing to meet deadlines for IA and UEF applications can result in financial implications for entities.
 - Significant disruptions can also hinder the wider forestry sector (e.g., nurseries, clearing and planting crews), which makes it harder for participants to re-establish forest land. If land becomes deforested participants become responsible for liabilities unless complex section 60 exemptions, and/or bespoke new emergency legislation apply.
 - Targeted engagement with forestry and non-forestry stakeholders and Māori foresters supported the problem definition and proposed amendments.
 - Government intervention is required because flexibility for obligation deadlines and forest re-establishment can only be increased through changes to the Act.
5. When property rights change, NZETS responsibilities for post-1989 forest land cannot move to the new person before a TOI notice is processed. Officials have identified opportunities to increase efficiencies in processing TOI notice:
- Targeted engagement with forestry stakeholders and Māori foresters found that they recognise TOI processes hold up the operation of forestry in the NZ ETS and are unfair for the compliant party who cannot leave or enter the NZ ETS until a TOI notice is processed.
 - Government intervention is required because existing legislative provisions are not driving intended outcomes and there are limited compliance options when transferees do not open a holding account.
 - Non-regulatory options have been explored and increased education will be undertaken in addition to legislative change, but education alone has not achieved desired outcomes.

What is the policy objective?

6. The proposed amendments seek to:
- reduce complexity and operational burden for participants in the NZ ETS and the Crown;
 - address known gaps in the regulatory framework following events that prevent persons from meeting deadlines set out in the Act; and
 - maintain the integrity of the NZ ETS through continuity of participation.
7. The proposals aim to support delivery of a statutory framework that better supports participants in circumstances beyond their control and improve compliance with TOI notices to reduce adverse effects on compliant TOI parties. Success or failure will be measured through existing monitoring and reporting functions (e.g., monthly compliance reports) and operational interactions with participants.

What policy options have been considered, including any alternatives to regulation?

8. **Proposal 1A:** Extending deadlines for emissions returns, notifying the regulator, making IA and UEF applications after a significant disruption

Applicability and duration of extensions

- Option 1 (status quo): Participants can apply for a 20 working day extension to an emissions return deadline.
- Option 2 (preferred): Allow EPA to approve 60 working day extensions for emissions returns, notices and IA applications, and 20 working days extensions for UEF applications.
- Option 3: A new mechanism for group extensions.

Defining a significant disruption

- Option 1 (status quo): Make no changes to the Act and define it in operational policy or guidance.
- Option 2: (preferred): Define significant disruptions in the Act as occurring when a state of emergency is declared or in situations set in notices with ministerial oversight.

Providing sufficient flexibility where landownership or land agreements change

- Option 1 (status quo): Make no changes to the Act so forestry participants and transferees will only be able to receive an extension if they apply before the deadline of the TOI notice.
- Option 2: (preferred): Allow forestry participants and transferees to apply for extensions to the deadline for notifying the regulator up to 20 working days after the deadline.

9. **Proposal 1B:** Adjust the penalty for failure to surrender or repay units by the due date

- Option 1 (status quo): Make no changes to the Act. Participants remain liable for penalties even if the failure to surrender or repay units occurred through no fault of their own.
- Option 2 (preferred): Change the Act so that participants are not liable for a penalty if their failure occurred through no fault of the person.

10. **Proposal 1C:** Timing for forest re-establishment

- Option 1 (status quo): Participant must surrender units or pay liabilities if they cannot re-establish forest and meet deforestation test criteria at 4, 10 or 20 years following clearance.
- Option 2 (preferred): Allow participants to apply for a three-year extension to the deforestation tests.
- Option 3: A new mechanism for group extensions

11. **Proposal 2A:** Transferees without a holding account

- Option 1 (status quo): The law is not explicit about when transferees must open a holding account and compliance tools are limited for incentivising desired behaviour.
- Option 2 (preferred): Make it explicitly clear that a transferee must open a holding account before submitting the TOI notice process and to make more compliance tools available to incentivise the desired outcome.
- Non-regulatory options including education will be used alongside the preferred option.

12. **Proposal 2B:** Timeframes for non-compliant TOI notices

- Option 1 (status quo): The current 90-working day timeframe for resolving non-compliant TOI notices can slow the resolution process, which may take up to six months in total.
- Option 2 (preferred): Shorten the non-compliance notice timeframe to 20 working days, which will reduce the resolution timeframe to three months or less in total.
- Non-feasible option: Shortening the timeframe to 60 working days as it would only speed up the resolution process by a month.

What consultation has been undertaken?

13. Targeted engagement was undertaken on the proposals outlined in this RIS. This included:

- an email to Māori forestry stakeholders outlining the proposals invited stakeholders to participate in a hui; one hui was held with foresters from Tairāwhiti;
- a discussion with the ETS Technical Advisory Group (forestry stakeholders and consultants);
- email questionnaires sent to post-settlement governance entities (PSGEs) and a cross-section of non-forestry participants in the NZ ETS;
- engagement with pan-Māori groups.

14. Stakeholders support the Ministers' preferred options.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

15. The proposals have small, unquantified, potential financial implications for the Ministry for Primary Industries (MPI) and the EPA resulting from the introduction of new extensions, new ability to take compliance action when new participants do not open a holding account. The Ministers expect MPI to continue delivering their responsibilities through baseline funding (Crown or cost recovery). Non-compliant TOI parties could incur cost for non-compliance. Greater availability of compliance tools incentivises compliant behaviour.
16. The distributional impacts of the proposed intervention fall on non-compliant regulated parties. Māori stakeholders indicated that the change from 90 to 20 working days for the non-compliant TOI notice could be a challenge for trustees if the TOI notice correction cannot be turned around quickly, but that the proposal will not exacerbate the current challenges for Māori trusts with the TOI notice process.

Benefits (Core information)

17. Proposals 1A, 1B and 1C will benefit participants who are affected by events like severe weather that would otherwise negatively impact their ability to meet reporting, IA or UEF application, notice or forest re-establishment obligations. The proposals will support them to participate in the NZ ETS, remain compliant and avoid liabilities.
18. Proposals 2A and 2B will likely bring about faster resolution of TOI notices. This will benefit compliant TOI parties because they will be able to leave/join the NZ ETS in respect of the forest land involved in a timelier manner. This increases certainty for business planning and reduces the potential liability carried by the person/business. Increased continuity of participation supports the integrity of the NZ ETS.

Balance of benefits and costs (Core information)

19. The anticipated benefits outweigh the costs when considering quantitative and qualitative evidence. The proposed interventions are not anticipated to have any impact on competition.

Implementation

20. Ongoing operation and enforcement of the new arrangements will be implemented by MPI and EPA. Officials are confident arrangements can be implemented effectively and efficiently. The proposals will be progressed through the Climate Change (Market Governance and Other Efficiencies) Amendment Bill, which is intended to come into effect mid-2026. Transitional arrangements are not anticipated to be required.

Limitations and Constraints on Analysis

21. The tightly constrained timeline for policy development and limits on consultation means stakeholder engagement on the options discussed is not exhaustive. Some of the proposals were informed by MPI's operational experience of administering forestry in the NZ ETS and developing the Severe Weather Emergency Recovery (Climate Change—Forestry) Order 2023 and Order (No. 2) 2023 and communications with participants.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



Bronwyn Kropp
Manager (Acting) Operational Policy - Forestry Incentives
Te Uru Rākau – New Zealand Forest Service
Ministry for Primary Industries
15 August 2025

Quality Assurance Statement <i>[Note this isn't included in the four-page limit]</i>	
Reviewing Agency: Ministry for Primary Industries and Department of Corrections	QA rating: Partially meets
<p>Panel Comment:</p> <p>A quality assurance panel with members from MPI and the Department of Corrections has reviewed the Regulatory Impact Statement: Improvements to the administration of the Emissions Trading Scheme through amendments to the Climate Change Response Act 2002 (2026), produced by MPI and dated 18 August 2025. The panel considers that it partially meets the Quality Assurance criteria. This rating is attributable to the limited consultation undertaken on the recommended option. This limits the availability of information to support cost/benefit analysis, and fully informed comparison between the options.</p>	

Terms used in this impact statement

Clearance means to clear the forest species that are on the land, for example by felling, harvesting, burning, removing by mechanical means, killing (including spraying with a herbicide), uprooting, or destroying by a natural cause or event.

Deforestation means to either convert forest land to other land uses such as pasture or housing, or failing to adequately re-establish forest at 4-, 10- and 20- years following a clearance event.

Disruption preventing forest land re-establishment means an event that prevents a person from re-establishing their forest land. This event may clear the forest, or damage the forest so that it requires clearing, or interrupt the forester in re-establishing the forest.

Emissions return means a report that outlines a participant's emission of greenhouse gasses into (emissions), or removal of greenhouse gasses (removals) from the atmosphere during a set period.

ETS TAG, means the technical advisory group (TAG) who support MPI in the development of NZ ETS policy through technical input from the perspective of experienced practitioners of forestry in the NZ ETS.

Holding account means an account in the Register for the purpose of holding and trading units.

Industrial Allocations (IAs): Allocations are units that are given free of charge to certain emissions intensive and trade exposed eligible persons by the government. This is to mitigate the financial effect of the New Zealand Emissions Trading Scheme (NZ ETS) on these participants. Participants can choose to receive their allocation either in advance (provisional) or in arrears (final allocation). Provisional allocations are checked at the end of the year to align with actual industrial activity during that year.

New Zealand Units (NZUs) are the primary domestic unit of trade in respect of the NZ ETS.

Participant means a legal person (e.g. an individual, business, or unincorporated body) who carries out an activity covered by the NZ ETS.¹

Notice means a form the participant is required to submit to the regulator in specific situations, such as when landownership changes, or when a person deforests forest land.

Register means the New Zealand Emissions Trading Register established in New Zealand for the accounting of the issue, holding, transfer, surrender, and cancellation of New Zealand Units and approved overseas units.²

Significant disruption means an event that prevents a person from meeting the deadline to submit an emissions return, apply for an IA or UEF, or notify the regulator.

SWERLA means the Severe Weather Emergency Recovery Legislation Act 2023, emergency legislation with the purpose of assisting communities and local authorities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events Cyclone Hale, (8-12 January 2023), heavy rainfall in the Northland, Auckland, Waikato, and Bay of Plenty regions (26 January - 3 February 2023) and Cyclone Gabrielle (12-16 February 2023).

¹ Section 54 of the Act. For the avoidance of doubt, the terms participant and person are used interchangeably in this RIS for ease of understanding.

² Section 10 of the Act.

Transmission of interest (TOI) means forest land in the NZ ETS transfers from one person or party to another person or party because the land, a forestry right, or a forestry lease, or a Crown conservation contract is granted, expires or is sold.

Unique Emissions Factors (UEFs) some activities in the NZ ETS have been assigned a Default Emissions Factor (DEF), based on an industry-wide average. However, participants in some sectors have an option of either using this DEF, or obtaining a Unique Emissions Factor (UEF) if they believe their emissions are lower than the industry average. Using a UEF will usually mean that a participant's emissions total is lowered.

Unincorporated body includes (but is not limited to) a partnership, a joint venture, or the trustees of a trust.

Section 1: Diagnosing the policy problem

22. This section introduces the package of proposed technical amendments to the Climate Change Response Act 2002 (the Act). For each of the specific proposals that require a Regulatory Impact Statement (RIS), detailed problem statements are provided in Section 2.
23. The package of proposals in this RIS are part of a wider collection of proposed changes through the Climate Change Response Amendment (Market Governance and Other Integrity and Efficiency Changes) Amendment Bill (the Bill). The Bill is intended to make the administration of the Act easier and to support the New Zealand Emissions Trading Scheme (NZ ETS) to function as intended. The wider collection of changes includes annual updates to wider NZ ETS settings and an efficiency review of the Act.³
24. The other RISs prepared for the wider collection of proposed changes to the Act are:
- a) Technical amendments to the NZ ETS.
 - b) Adjusting the penalty calculation for incorrect emissions returns through amendments to the Climate Change Response Act 2002 (2026).

What is the context behind the policy problem and how is the status quo expected to develop?

The New Zealand Emissions Trading Scheme

25. The NZ ETS is a market-based tool to encourage a reduction in emissions of greenhouse gasses. The purpose of the NZ ETS is to assist New Zealand in meeting its international climate change obligations and 2050 target and emissions budgets. The Act and Climate Change (Forestry) Regulations 2022 (Forestry Regulations) provide the statutory framework for NZ ETS.
26. The NZ ETS is a unique emissions trading scheme because it not only includes participants that emit carbon (non-forestry participants) but also includes participants that are able to remove carbon from the atmosphere (forestry participants). Including forestry in the scheme provides financial incentives to establish new forests, and to replace older forests if they are cleared.
27. The Ministry for Primary Industries (MPI) is the regulator for forestry in the NZ ETS under delegation from the EPA. Te Uru Rākau – New Zealand Forest Service is the branch within MPI responsible for carrying out operational regulation for forestry in the NZ ETS.

Forestry participants in the NZ ETS

28. In New Zealand, the baseline date for greenhouse gas emissions is 1990. This has resulted in two categories of forest land in the NZ ETS: pre-1990 and post-1989. A forester may choose to voluntarily register in the scheme with post-1989 forest land to earn NZUs. Subsequent owners or leaseholder of that land are required to participate in the scheme in relation to that land. Owners of pre-1990 forest land can harvest and re-establish their forests without registering. However, if they deforest the land, they are required to participate in the scheme and surrender units to the Crown. The differences are summarised in **Table 1**.

³ The wider review does not include the cost recovery and efficiencies review for forestry with the Minister of Forestry's Registry Group.

Table 1: Summary of differences amongst types of forest land involved in the NZ ETS

Forest type	What forestry activities are allowed?	When must foresters become participants in the NZ ETS?
Post-1989 standard	Clearing (harvesting) and re-establishing (replanting)	When the land is first entered in the NZ ETS or when ownership* for land already entered in the NZ ETS changes
Post-1989 permanent	Must not be fully cleared for 50 years	When the land is first entered in the NZ ETS or when ownership* for land already entered in the NZ ETS changes
Pre-1990	Clearing (harvesting) and re-establishing (replanting)	When exotic forest is cleared and not replanted (deforestation) occurs. Units must be surrendered to the Crown.

* If land or a forestry right or a forestry lease is purchased

29. Forestry participants in the NZ ETS are required to report the amount of carbon their forest removed or emitted through emissions returns. These emissions returns are usually required to be submitted at intervals set out in the Act, when changes occur on the forest land, such as changes to landownership, rights and leases, or when participants wish to remove land from the NZ ETS. Participants obligations can differ by forest type, these are outlined in **Table 2**.

Table 2: Summary of obligations for different types of forest land involved in the NZ ETS

Obligations for participants in forestry in the NZ ETS	Forest type		
	Post-1989 standard	Post-1989 permanent	Pre-1990
Submit an emissions return at set intervals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Emissions returns must report removals (when trees are growing) and emissions (when trees are cleared)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Notify the regulator and submit an emissions return when landownership, rights or leases change	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Surrender units equal to the carbon emitted when trees are cleared ⁴	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Surrender units equal to the carbon emitted when trees are deforested	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Foresters must not fully clear their forest		<input checked="" type="checkbox"/>	

30. If a participant’s emissions return reports removal of carbon during the relevant period, they will receive NZUs. Removals occur when a participant’s forest absorbs carbon from the atmosphere while the trees are growing. Participants are required to surrender units if the emissions return reports that carbon was emitted due to forest land being cleared or deforested during the relevant period. The amount of NZUs the participant receives or is required to surrender is equal to the tonnes of carbon removed or emitted during the relevant period.

⁴ This is only true for forests on stock change accounting, for which trees earn NZUs as they grow until the trees are harvested. For forests under averaging accounting, first rotation trees earn carbon credits up to the "average age" for their species. These carbon credits do not have to be surrendered when the trees are harvested, provided the forest is replanted within four years of harvesting.

Non-forestry participants in the NZ ETS

31. Non-forestry participants in the NZ ETS report on the greenhouse gases they emitted during the previous year through emissions returns.⁵ They are required to surrender an amount of units equivalent to the emissions reported in the emissions return. Some participants can also receive units for their removal activities or may be eligible to apply for an allocation of units if they are emissions intensive and trade exposed. Some participants also have the option of applying for a UEF if their emissions are lower than the industry average. **Table 2** outlines obligations for non-forestry and forestry participants.

Table 3: Summary of obligations for different types of participants in the NZ ETS

Obligations for participants in the NZ ETS	Participant type	
	Forestry	Non-forestry
Submit an emissions return to report on emissions of the previous year	☑	☑
Submit an emissions return to report on emissions or removals (depending on whether forest is growing or cleared) ⁶	☑	☑
Surrender units equal to the greenhouse gas emissions in the emissions return	☑	☑
Submit an industrial allocation application to receive units from the government		☑
Submit an application to use a unique emissions factor		☑
Submit an adjustment which reports on the difference between the units received ahead of the year, and the actual units required based on emissions of the year.		☑

Non-compliance and administrative penalties in the NZ ETS

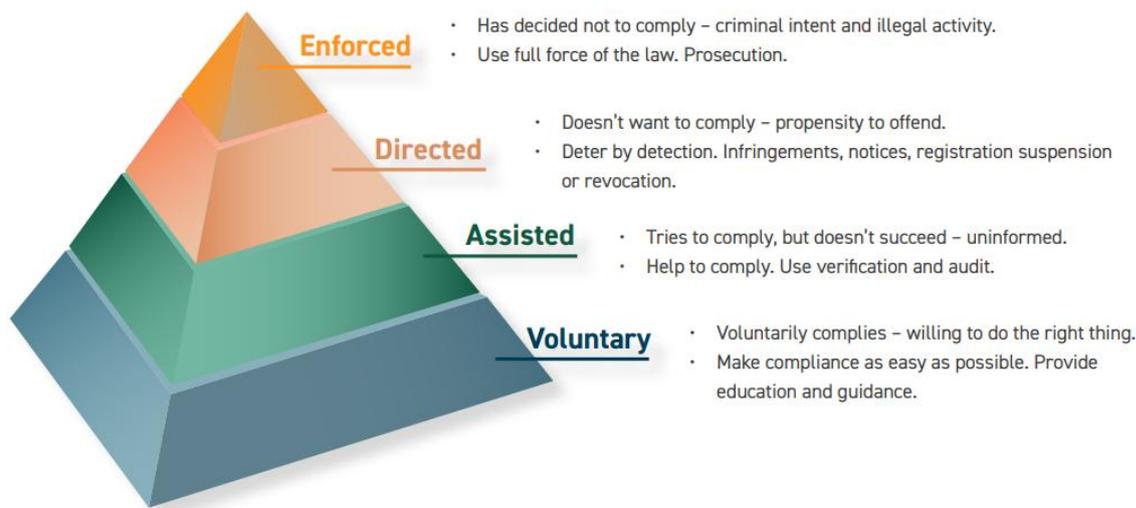
32. The NZ ETS relies on “self-assessment” for reporting emissions and removals through emissions returns, allocation applications and adjustments. The objectives of the NZ ETS are undermined by participants reporting incorrect amounts of emissions and removals, as well as by incorrect allocation applications or adjustments.
33. MPI uses the VADE model for education and compliance for forestry in the NZ ETS. VADE is an acronym: voluntary, assisted, directed, enforced (outlined in **Figure 1**). The VADE model spans the full range of compliance interventions and is based on the principle that enforcement action acts as the incentive for voluntary compliance. The model allows MPI to exercise discretion and upholds the principle that any compliance intervention is proportionate to the level of non-compliance.⁷

⁵ Non-forestry participants are made up of the following sectors: liquid fossil fuels, stationary energy, industrial processes, waste, and other removal activities.

⁶ This also applies for some non-forestry participants if they have voluntarily registered.

⁷ [Forestry in the Emissions Trading Scheme: Education and compliance strategy](#)

Figure 1: VADE model showing scale of cases in comparison to severity of the intervention



Source: Ministry for Primary Industries (2023), *Forestry in the ETS – Education and Compliance Strategy*, p.6.

Recent amendments to the Act

34. The Climate Change Response (Emission Trading Reform) Amendment Act 2020 made several changes to the Act. The aim of the Amendment Act was to better enable the NZ ETS to drive emissions reductions and help New Zealand reach its domestic and international climate change targets. It also intended to improve certainty for businesses, make the scheme more accessible, and improve its administration.
35. Changes that are relevant to this RIS are:
- The introduction of compliance powers in relation to non-compliant transmissions of interest notices. This provides MPI with the option to process non-compliant transmissions of interest after giving participants a 90 working day notice.
 - The introduction of temporary adverse event suspensions. This allows post-1989 forestry participants to apply to pause the carbon accounting for forest land damaged by an adverse event until the forest is re-established and carbon levels have recovered.
36. In 2023 a new online system was introduced to administer forestry in the NZ ETS called Tupu-ake. One of the objectives of this system was to provide more assistance for participants to encourage voluntary compliance. This is achieved through functions like input returns, which allow for emissions returns to be calculated by the system instead of manually. The system also provides for better data capturing to inform where improvements could be made.

What is the policy problem or opportunity?

37. Opportunities for technical administrative improvements to the NZ ETS were identified through operational data, operational experience following severe weather events, and MPI's experience in operating forestry in the NZ ETS since the last changes went live on 1 January 2023.⁸
38. The package of proposals in this RIS are part of a wider collection of changes intended to make the administration of the Act easier and ensure the NZ ETS is fit for purpose and functioning as intended. Many of the proposals are minor and technical, some relate only to a specific part of the

⁸ Specifically, Cyclone Gabrielle and Cyclone Hale.

Act or NZETS, and others are more wide-ranging. The wider collection of changes includes annual updates to wider NZ ETS settings and efficiency review of the Act.⁹

39. This RIS covers five proposals to amend the Act, which are listed in **Table 3**.
40. The Ministry for Regulation has determined that the proposal to make input returns for all forestry emissions returns is exempt from the requirement to provide a RIS on the grounds that it has no or only minor economic, social, or environmental impacts.

Table 4: Summary of proposals

Topic	Proposal	Exempt from RIS
Responding with flexibility to significant disruptions	1A: Extending deadlines for emissions return, notices and making applications for IAs and UEFs.	No
	1B: Adjust the penalty for failure to surrender or repay units by the due date	
	1C: Delaying forest re-establishment tests	No
Improving how quickly transmissions of interest (TOI) notices are processed	2A: Shortening timeframes for non-compliant TOI notices	No
	2B: Clarifying that transferees need a holding account	No
Improving availability of input return functionality through the online carbon calculator	3: Making input returns available for all forestry emissions returns, including overdue returns	Yes

What objectives are sought in relation to the policy problem?

41. The broad policy objectives for this package of proposals are to:
- Reduce complexity and operational burden for participants in the NZ ETS and the Crown.
 - Address known gaps in the regulatory framework following events that prevent persons from meeting deadlines set out in the Act.
 - Maintain the integrity of the NZ ETS in support of New Zealand's domestic and international targets and emissions budgets.

What consultation has been undertaken?

42. Targeted engagement was undertaken on earlier iterations of these proposals specifically, and alongside other proposals to amend the Act. Specific feedback for each proposal is described in Section 2.

Engagement with Māori forestry stakeholders

43. A large portion of participants in forestry in the NZ ETS are Māori or Māori entities.
44. As part of targeted engagement, Māori forestry stakeholders were contacted via email with a summary of the proposals and invited to meet with officials via online hui to discuss the proposals. Those contacted included Māori forestry landowners (trusts, rūnanga, iwi authorities and incorporations) representing 90% of all Māori forest land, as well as Māori forestry

⁹ The wider review does not include the cost recovery and efficiencies review for forestry with the Minister of Forestry's Registry Group.

stakeholders such as Ngā Pou a Tāne. No feedback was received via email, but one group indicated they would like to meet to discuss the proposals. An online hui was held with the Māori forestry representatives from Tairāwhiti who expressed interest. Those who attended the hui were supportive of the proposals.

45. The proposals outlined in this RIS were circulated, alongside other proposals to amend the Act, to pan-Māori groups representative of experts in Treaty of Waitangi and Te Ao Māori and Post-Settlement Governance Entities (PSGEs) via email for feedback, but no feedback was received.

Targeted engagement with other stakeholders

46. The proposals were discussed with MPI's Forestry NZ ETS Technical Advisory Group (ETS TAG) which supports the development of NZ ETS policy through technical input from the perspective of experienced practitioners of forestry in the NZ ETS.
47. Proposal 1A was circulated for feedback via an email to a selection of non-forestry participants in the NZ ETS alongside other proposals to amend the Act.

Other relevant consultation

48. Consultation on technical improvements to the Climate Change (Forestry) Regulations 2022 was held between 15 April and 16 May 2025, with late submissions accepted until 23 May. One of the items consulted on directly relates to proposal 2A, *Transferees without a holding account*, and feedback on that proposal is outlined in the analysis of Proposal 2A.¹⁰

¹⁰ [Summary of Submissions: Technical improvements to the Climate Change \(Forestry\) Regulations 2022](#)

Section 2: Policy problems and options assessment

What criteria will be used to compare options to the status quo?

49. All options are assessed against the criteria outlined in **Table 4**. These same assessment criteria were used for all three impact statements informing policy decisions on the proposed Amendment Bill.

Table 5: Assessment criteria

Criterion	Description
Consistency with purpose of NZ ETS	The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets.
Ease of implementation and cost	The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants.
Clarity and transparency	The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied.
Consistency for participants	The extent to which the option ensures that NZ ETS participants are treated consistently.

50. A qualitative judgement is made of the effectiveness of each option using the following rubric:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

What scope will options be considered within?

51. Most of the proposed amendments are to existing provisions in the Act based on operational observations and suggestions for improvement from forestry in the NZ ETS participants. Following targeted engagement, some of the proposals under proposal 1 are also applied to non-forestry participants. The proposed changes are anticipated to increase compliance rates and make administration of the NZ ETS clearer for participants and more efficient for the regulator. This will improve the experience of participants and other stakeholders in the NZ ETS. The changes are anticipated to have minimal negative effects for participants, other stakeholders, and the New Zealand public.

1: Creating flexibility for participants following events that prevent participants from meeting deadlines set in the Act

What is the context for the policy problems?

52. Participants in the NZ ETS have obligations that need to be met by the deadlines set out in the Act. Obligations include reporting on emissions and removals, notifying the regulator, repaying or surrendering units, and meeting timeframes for re-establishing forest land after trees are cleared. Additionally, there are statutory deadlines for making IA and UEF applications. Some non-forestry participants may also be entitled to receive units for their removal activities or apply for an allocation of units if they are affected by the rules of the NZ ETS.

Reporting on emissions and removals, notifying the regulator and surrendering or repaying units

53. There are several deadlines related to reporting emissions and removals, notifying the regulator and surrendering or repaying units. Examples of these deadlines are:

- a) submission of an emissions return to report on emissions or removals at intervals set in the Act
 - for post-1989 forestry participants the deadline is six months after the end of the period covered in the emissions return;
 - for pre-1990 forestry and non-forestry participants the deadline is 31 March in the year following the activity;
- b) notifying the regulator within 20 working days of a transmission of interest (e.g. a landownership change, or change in rights or leases);
- c) surrendering units equal to the carbon emissions reported in the emissions return
 - for post-1989 forestry participants the deadline is 60 working days after the submission of the emissions return;
 - for pre-1990 forestry and non-forestry participants the deadline is 31 May in the year the emissions return was submitted.

54. Failure to meet these deadlines may result in significant financial penalties, including:

- a) Penalties for failing to submit emissions returns, which are linked to:
 - the amount of emissions or removals the regulator determined should have been reported in the emissions return;
 - the carbon price; and
 - the culpability level.¹¹
- b) Penalties for failing to surrender or repay units, which are linked to:
 - the amount of emissions; and
 - the carbon price.

Meeting timeframes for re-establishing forest land after clearing

55. The NZ ETS disincentivises deforestation through the obligation to surrender a unit liability when forest land is deforested. Forest land in the NZ ETS is considered deforested if it:

- a) is converted to a non-forest land use (e.g. into pasture or housing);¹² or

¹¹ If a person fails to take reasonable care, the person's behaviour is categorised in three levels of culpability: the person did not take reasonable care, the person was grossly careless, and the person knowingly failed.

¹² Sections 4(1) and 180A of the Act.

- b) fails to re-establish into forest species at 4, 10 or 20 years of clearance¹³ (e.g. harvesting).

56. The re-establishment timeframes to determine whether forest land is re-established into forest species are outlined in **Table 5**. These apply in the same way, regardless of how the forest was cleared, and whether the approach to re-establishing the forest involves planting or allowing natural regeneration. Longer timeframes apply for indigenous forest to get to the same 'state' as exotic forest species.

Table 6: *Deforestation tests and their application (section 179 of the Act)*

Year after clearance	Exotic species	Indigenous species
4	Either: <ul style="list-style-type: none"> at least 500 stems per hectare of exotic forest species, or replanted with at least 100 stems of willow or poplar species for managing soil erosion, where the local authority has determined the risk of erosion is at least moderate. 	Predominantly indigenous forest species, growing in a way that the land is likely to be forest within 10 years of clearance.
10	Predominantly exotic species growing, with a tree crown cover of more than 30% from trees that are at least 5 metres high.	Predominantly indigenous forest species, growing in a way that meets the definition of forest land in the NZ ETS.
20	Not applicable	Predominantly indigenous forest species; each hectare of forest must have more than 30% crown cover from trees that are at least 5 metres high.

57. Deforestation liabilities arise differently for pre-1990 forest land and post-1989 forest land:

- Pre-1990 forest land does not earn units. Units equal to the amount of carbon stock in the forest upon clearing must be surrendered if it is deforested. The cost can exceed \$48,000 per hectare.¹⁴
- Pre-1989 forest land that is registered must be removed from the NZ ETS if it is deforested and any units earned on that land must be surrendered.

Events that prevent meeting of deadlines and implications for participants in the NZ ETS

58. Since the NZ ETS was introduced, several events, such as severe weather and a pandemic, have affected participants' ability to meet their NZ ETS obligations by the relevant deadline. Currently, the effects of these events are addressed through the use of:

- Existing operational flexibility in the Act,
- Emergency legislation to vary obligations in the Act

¹³ Sections 4(1) and 179 of the Act.

¹⁴ Based on the 2025 carbon price of \$68 set in the Climate Change (Auctions, Limits, and Price Controls for Units) Regulations 2020 and 704 tonnes per hectare, which is the carbon stock at age 28 years for pre-1990 forest in the Bay of Plenty (the median yield in the default tables in the Climate Change (Forestry) Regulations 2022).

59. In response to the damage from the North Island severe weather events in early 2023, emergency legislation called the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) was passed. Two orders were made under SWERLA relating to forestry in the NZ ETS:¹⁵

- a) The Severe Weather Emergency Recovery (Climate Change—Forestry) Order 2023 provided:
 - An extension for deadlines such as for the submission of an emissions return at the end of a reporting cycle, or notifying the regulator of a transmission of interest.¹⁶ Approximately 770 participants (from a nationwide total of 3,900) used the extension to reporting deadlines provided by emergency legislation.
 - An extension for the deadline to surrender units in relation to emissions returns or because of error.¹⁷
- b) The Severe Weather Emergency Recovery (Climate Change—Forestry) Order (No 2) 2023 provided for the deferral of dates on which forest land is treated as deforested and pre-1990 offsetting dates. Participants received three extra years for the test 4 years after the forest is cleared, and 10 years after the forest is cleared.

60. Relying on emergency legislation presents high risk to the regulator because:

- a) The passing of emergency legislation is quite rare. For example, storms in the Tasman area in 2022 did not lead to emergency legislation;
- b) Creating emergency legislation is complex and slow – depending on when an event occurs in the reporting cycle, it may not be timely enough to assist with ETS obligations;
- c) It is unlikely to capture all situations where participants require assistance due to restraints on scope. For example, a forestry participant with 4,400 hectares of forest damaged by Cyclone Gabrielle was not able to use extensions provided by SWERLA Order 2 because they were not in the regions covered by the Order.

61. Events that prevent persons from meeting their obligations by the deadline interact differently with different obligations in the Act. Because of this they will be defined separately for the purpose of proposal 1A, 1B, and 1C.

- a) For the purpose of proposal 1A and 1B events that prevent persons are defined as ‘significant disruptions’.
- b) For the purpose of proposal 1C events that prevent persons from re-establishing forest land are defined as ‘disruptions preventing forest re-establishment’

¹⁵ Severe Weather Emergency Recovery (Climate Change—Forestry) Order 2023, and Severe Weather Emergency Recovery (Climate Change—Forestry) Order (No 2) 2023 were passed under the Severe Weather Emergency Response Legislation Act 2023.

¹⁶ These deadlines were extended to the earlier of 100 working days after the deadline under the Act, or 20 November 2023.

¹⁷ These emissions returns cover deforestation of pre-1990 forest land, pre-1990 offsetting land, post-1989 forest land, amendment or assessments (compliance action).

1A: Extending deadlines for reporting on emissions and removals, applying for IAs and UEFs, and notifying the regulator after a significant disruption

What is the policy problem or opportunity?

62. Significant disruptions may leave residences, farms, forests, production facilities or office buildings damaged or cause access issues to relevant information. These issues can significantly limit participants' ability to submit emissions returns, apply for an IA or UEF, or notify the regulator within the timeframes set out in the Act.
63. If participants are not able to access extensions, they may become non-compliant solely due to their being affected by a significant disruption. This non-compliance may result in them receiving infringement fees or fines, or penalties. The process of determining whether fees, fines or penalties apply is also resource intensive for the regulator.¹⁸ Persons who are unable to submit their IA or UEF application by the deadline may experience financial impacts.
64. A lack of ability to respond to participant needs during significant disruptions presents reputational and financial risks for the regulator because it forces participants into non-compliance. Non-compliance also presents a significant financial risk for participants.
65. There are several related problems to ensuring that extensions are available to participants who experience significant disruptions.

Applicability and duration of extensions

66. Severe weather events in 2023 and targeted engagement illustrated that the current extensions available do not provide sufficient flexibility for the regulator to respond to participant needs. The application of extensions is too narrow because they are only available for certain deadlines (emissions returns). The timeframes of extensions that are available are also not long enough to support participants to meet their obligations when they are affected by a significant disruption. This is because they only provide an additional 20 working days.
67. Currently, the Act does not provide for extensions for persons submitting IA or UEF applications. This means that if a person is affected by a significant disruption, they may be unable to submit their application by the statutory deadline. The inability to extend these deadlines in response to a significant disruption can have serious consequences.
68. Applicants who miss the deadline may become ineligible to receive units or may be unable to use a site-specific emissions factor for reporting. This can result in financial costs or lost opportunities that they would not otherwise have incurred, such as having to use a default emissions factor or missing out on the allocation altogether. Allowing for extensions for significant disruption would improve fairness across the scheme and reduce the risk of inequitable outcomes.
69. **Table 6** shows an overview of situations where an extension may be required and where extensions are currently not available.

¹⁸ Penalties are linked to the amount of emissions and carbon price.

Table 7: Gap analysis of types of extensions available for different participants

Types of extensions participants might need	Participants		Comments
	Forestry participants	Non-forestry participants	
Extension to the deadline for submission of an emissions return ¹⁹	☑	☑	The maximum extension that can be granted is 20 working days
Extension to the deadline of notices			Not available
Extension to the deadline for surrenders or repayments			Not available
Extension to the deadline for IA applications			Not applicable for forestry participants, not available for other participants
Extension to the deadline for UEF applications			Not applicable for forestry participants, not available for other participants

Defining a significant disruption

70. Lack of clarity around when participants can apply for and receive extensions, would undermine the ability of extensions to aid participants in remaining compliant with their NZ ETS obligations and may cause additional stress. To provide clarity significant disruptions should be clearly defined so that participants know when they are able to apply for and receive extensions if they require them.

Providing sufficient flexibility where landownership or land agreement changes

71. Forestry participants and transferees are required to notify the regulator when landownership or land or forestry agreements change (transmissions of interest).²⁰ The notice provided to the regulator must include an emissions return. TOI may occur at any point in a year, and as such there is no set deadline to submit the notice, instead the deadline is 20 working days from the date of the TOI.
72. Significant disruptions may occur close to the 20 working day deadline after the transmission of interest, or may commence prior to the 20 working day deadline for notice and be enduring. This means participants and transferees may be unable to either notify the regulator or request an extension before the notice deadline. Enduring disruptions may occur where there is severe weather over a prolonged period of time as has recently occurred in the Tasman area.

¹⁹ Under section 119 of the Act.

²⁰ The deadline in the Act is currently 20 working days.

Assumptions

73. For the purpose of testing the options for this problem the criterion ‘consistency with purpose of NZ ETS’ has been considered in the broadest sense. This statement assumes that changes that enable participants to comply with their obligations to report on emissions, removals and units positively affects the NZ ETS meeting its objectives. It also includes avoiding perverse incentives and unintended outcomes.
74. Accurate reporting of emissions and removals is a fundamental aspect of the NZ ETS. This is because persons are either entitled to units or required to surrender units based on their emissions or removals. Both receiving and surrendering units incentivise businesses to reduce emissions. Receiving units incentivises participants to remove greenhouse gasses from the atmosphere and surrendering units incentivises participants to emit less greenhouse gasses.
75. It is important that eligible participants are able to submit IA applications to help mitigate the impact of ETS costs on emissions intensive industries with trade exposures .
76. Potential cost recovery of applications will be considered as part of the periodical cost recovery review for the NZ ETS.

What options are being considered

Applicability and duration of extensions

Option 1: Make no changes to the Act (status quo)

77. Key features: extensions of up to 20 working days are only available for the deadlines for emissions returns. Extensions are not available for applications for IAs or UEFs, nor for the requirement to notify the regulator.
78. Addressing the problem: the regulator cannot provide longer extensions or provide extensions to deadlines for notifying the regulator. Emergency legislation can be passed to create more flexibility in response to large scale significant disruptions. However, emergency legislation is not able to resolve all issues due to its limited scope. The future use of emergency legislation is uncertain as it requires the event be of ‘sufficient’ magnitude for Parliament to make emergency legislation. It also poses a significant administrative burden on Ministers and Cabinet to implement.

Option 2: Amend the existing provisions to allow EPA to approve extensions to more deadlines for participants

79. Key features: the Act is amended to allow EPA to approve extensions for participants and transferees affected by a significant disruption of:
- a) up to 60 working days for emissions return and notice deadlines for all participants affected by a significant disruption; and
 - b) up to 60 working days for industrial allocation applications; and
 - c) up to 20 working days for UEF applications.
80. Addressing the problem: participants and transferees are able to access extensions for all deadlines as required when they are affected by a significant disruptions, as long as they apply before the relevant deadline has passed. Extensions can be granted for a period of up to 60 working days to ensure participants have enough time to meet their obligations.

Option 3: Introduce a new mechanism for group extensions

81. Key features: Establish a mechanism in the Act for group extensions to emissions return and notice deadlines decided by the Minister or Cabinet as and when required in the face of a significant disruption. The Minister or Cabinet decision would outline those who are part of the group and will receive an extension due to a significant disruption. For example, participants who are located in a defined area where a natural event has occurred. Participants would not need to apply for the extension as it would automatically apply to everyone in the group.
82. Addressing the problem: participants who are in the group as defined in the Minister or Cabinet decision would be able to access extensions for emissions return and notice deadlines. Participants who are not part of that group but are still affected by a significant disruption are not able to access the extensions.

How do the options compare to the status quo/counterfactual?

	Option One – [Status Quo / Counterfactual]	Option Two – Amend the existing provisions to allow EPA to approve extensions to more deadlines	Option Three - A new mechanism for extensions as a group
Consistency with purpose of NZ ETS The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets	0 Participants can only receive a 20 working day extension for emissions returns and are unable to report on emissions, removals or units if this does not provide sufficient time.	++ Participants are provided more time to meet obligations, but obligations remain the same. They can report on emissions and removals, notify the regulator as required, and submit their industrial allocation or UEF application.	+ Participants in the group as defined in the decision made by the Minister or Cabinet are provided more time to meet obligations, but obligations remain the same. Participants in the group can report on emissions and removals, apply for UEFs and IAs, notify the regulator.
Ease of implementation and cost The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants	0 Participants become non-compliant if they cannot submit by the deadline set out in the Act which increases compliance related cost for the government.	++ Updating processes and operational policies is considered low cost and can be achieved with current resources. This option provides extensions to all participants who require it which minimises compliance costs for government and participants.	- Processes and operational policies for these extensions will have to be implemented. The process itself is time and resource intensive for Ministers and Cabinet and decisions around extensions may be low risk and highly administrative. The option would minimise compliance cost for government and some participants.
Clarity and transparency The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied	0 Participants can only receive extensions for certain deadlines.	++ Provides the option for participants affected by a significant disruption to apply for an extension. Applications for extensions will likely resemble applications for the extension currently available.	- Prior to the decision being made it may not be clear to participants whether they will receive an extension. Procedures for decisions made by the Minister may take some time due to development of advice and receiving priority for decision making. Once the Minister has decided participants may need to check whether their circumstances fall within the group. This may not be sufficiently clear resulting in participants incorrectly determining they will receive an extension.
Consistency for participants The extent to which the option ensures that NZ ETS participants are treated consistently	0 Participants can only receive extensions for certain deadlines. Participants are also not able to submit UEF and industrial allocations applications which creates unfairness across the NZ ETS.	++ Participants, transferees and UEF and IA applicants who experience a significant disruption can apply for an extension. Decisions are made under the Act in accordance with any notices made with ministerial oversight.	- Only participants who experience a significant disruption and are in the defined group will receive extensions. Likely to only cover significant disruptions at regional or national level.
Overall assessment	0	++	-

*Defining a significant disruption**Limitations, constraints, and non-feasible options*

83. There are several mechanisms available to define significant disruptions. Two mechanisms were deemed non-feasible:

- a) defining significant disruptions solely in the Act; and
- b) defining significant disruptions in the Regulations.

84. These options were deemed non-feasible as they are not flexible enough to allow the regulator to respond to unpredictable significant disruptions. If significant disruptions are defined in the Act or Regulations it would take too long to update these definitions if required due to an unpredicted significant disruption. This may mean that the regulator has to rely on emergency legislation, or that participants become non-compliant due to reasons outside of their control.

Option 1: Make no changes to the Act (status quo)
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85. Key features: If no changes are made to the Act, significant disruptions would be defined in operational policy or guidance developed to support implementation of the changes to extensions in the Act.

86. Addressing the problem: This would mean the term is defined by the regulator, but the definition could be subject to change causing a lack of clarity for participants.

Option 2: Define significant disruptions as occurring when a state of emergency is declared or in situations set in notices with ministerial oversight

87. Key features: A significant disruption would be defined as occurring:

- a) when a state of emergency is declared and a person's home, business or forest land is located in a directly affected area; or
- b) in situations set out in a notice with Ministerial oversight.

88. Addressing the problem: participants in areas where a state of emergency has been declared would be able to access extensions for emissions return, notice, and surrender and repayment deadlines. Participants who are affected by a significant disruption where no state of emergency is declared may still be eligible for an extension in situations set out under a notice with Ministerial oversight. This will increase clarity on when a significant disruption occurs, and extensions would apply.

	Option One – [<i>Status Quo / Counterfactual</i>]	Option Two – Define significant disruptions as occurring when a state of emergency is declared or in situations set in notices with ministerial oversight
Consistency with purpose of NZ ETS The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets	0 Introducing extensions without defining what qualifies as a significant disruption may mean that it is unclear for participants whether they are able to access an extension. This would mean that they are not enabled to report on emissions, removals or units as required for the NZ ETS to drive emissions reductions.	++ Participants are provided more time to meet obligations if they are affected by a state of emergency or a situation as set out in a notice, but obligations remain the same. They can report on emissions and removals and notify the regulator as required as required for the NZ ETS to drive emissions reductions.
Ease of implementation and cost The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants	0 There is currently no definition of significant disruption. Without emergency legislation participants who experience significant disruptions are not able to access sufficient extensions. This leads to non-compliance and associated costs for the government and NZ ETS participants.	++ Updating processes and operational policies is considered low cost and can be achieved with current resources. This option provides extensions to most participants who require it which minimises compliance costs for government and participants.
Clarity and transparency The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied	0 It is unclear for participants whether they will be able to receive support when they experience a significant disruption. Situations where participants may receive extensions are currently mostly dependent on emergency legislation.	++ Provides the option for all participants affected by a significant disruption to apply for an extension. Applications for extensions will likely resemble applications for the extension currently available. Participants can identify whether a state of emergency applies to their area, or look up what situations are covered in a notice with ministerial oversight.
Consistency for participants The extent to which the option ensures that NZ ETS participants are treated consistently	0 Operational policy and guidance are easier to update meaning that they are more likely to change, leading to less consistency.	++ Most participants who experience a significant disruption can apply for an extension. Decisions are made based on the Act in accordance with any operational policy or guidance developed to support implementation of the Act.
Overall assessment	0	++

*Providing sufficient flexibility where landownership or land agreement changes***Option 1: Make no changes to the Act (status quo)**

89. Key features: forestry participants will only be able to receive an extension if they apply before the deadline of the TOI notice.
90. Addressing the problem: forestry participants who are affected by a significant disruption close to the deadline, or who are experiencing an ongoing significant disruption may not be able to access an extension. This means they may become non-compliant solely due to being affected by a significant disruption.

Option 2: Allow forestry participants to apply for extensions to notify the regulator up to 20 working days after the deadline

91. Key features: allow forestry participants to apply for an extension to the deadline to notify the regulator of a TOI within 20 working days after the TOI date.
92. Addressing the problem: forestry participants who are affected by a significant disruption close to the deadline, or who are experiencing an ongoing significant disruption will also be able to access an extension.

	Option One – Status Quo / Counterfactual	Option Two - Allow forestry participants to apply for extensions to notify the regulator up to 20 working days after the TOI date
Consistency with purpose of NZ ETS The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets	0 Participants may not be able to request an extension on time and may not be able to notify the regulator of a TOI.	+ Participants that are affected by a significant disruption close to the deadline are also able to report on emissions and removals, notify the regulator and surrender and repay units as required.
Ease of implementation and cost The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants	0 If participants are not able to request an extension, they will become non-compliant which will increase compliance costs for government and NZ ETS participants.	- More difficult to implement as allowing participants to apply for an extension after the deadline for the notice may complicate compliance processes making them more resource intensive. However, it will help participants remain compliant and so would minimise total compliance cost for government and some participants.
Clarity and transparency The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied	0 The regulator does not have the option to be flexible in allowing participants to request extensions.	- Participants may request an extension until 20 working days have passed since the notice deadline which provides clarity for when the extension must be submitted by. Allowing extensions may lead to less clarity regarding compliance actions as the action will be taken at least 20 working days after the non-compliance has occurred.
Consistency for participants The extent to which the option ensures that NZ ETS participants are treated consistently	0 No participant receives flexibility to allow participants to request extensions. However, it is harder for participants required to notify of a TOI occurring to comply if the disruption occurs close to the deadline or is ongoing.	++ Participants who experience a significant disruption close to the deadline or who experience a significant disruption that is enduring would also be able to apply for an extension.
Overall assessment	0	+

Targeted engagement

93. This proposal to introduce longer extensions for more deadlines was discussed with the ETS TAG. The group was supportive of creating these longer extensions for emissions return, notice and surrender and repayment deadlines. They expressed a need for clarity around when extensions definitely apply, and flexibility to consider 'edge cases'.
94. The proposed options do not apply to surrender and repayment deadlines. This is because consequential amendments will ensure that participants have more time to meet these deadlines. Additionally, problem 1B aims to address issues around persons receiving penalties when they fail to meet surrender and repayment deadlines through no fault of the person. This may include situations where participants are affected by a significant disruption.
95. At the time of engagement, it was expected that defining significant disruptions in operational policy would best meet these requirements. Upon further analysis defining significant disruptions as occurring when a state of emergency is declared or in situations set in notices with ministerial oversight would better meet the requirements.
96. The regulator became aware of the gaps in the regulatory framework due to the experience of foresters following the 2023 Severe Weather Events. Engagement with non-forestry participants illustrated that they may also require extensions following significant disruptions. Following this feedback and to ensure fairness for participants across the NZ ETS the extensions will also apply to non-forestry participants.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Applicability and duration of extensions

97. The preferred option is *Option Two – Amend the existing provisions to allow EPA to approve extensions to more deadlines for participants* because it best addresses the policy problem and delivers the highest net benefits.

Defining a significant disruption

98. The preferred option is *Option Two – Define significant disruptions as occurring when a state of emergency is declared or in situations set in notices with ministerial oversight* because it best addresses the policy problem and delivers the highest net benefits.

Providing sufficient flexibility where landownership or land agreement changes

99. The preferred option is *Option Two – Allow forestry participants to apply for extensions to notify the regulator up to 20 working days after the deadline* because it best addresses the policy problem and delivers the highest net benefits.

100. The preferred options are most likely to meet the policy objectives because:

- a) the integrity of the NZ ETS is maintained. Participant obligations remain the same and participants are supported to meet these obligations. This means participants are able to report on emissions, removals and notify the regulator. There is a clear definition of significant disruptions which ensures that extensions are provided consistently.

- b) known gaps in the regulatory framework are addressed. Participants are able to apply for the extensions they need to remain compliant following a significant disruption. This includes access to longer extensions for emissions returns, notices, industrial allocations and extensions for UEF applications. Participants submitting TOI notices are provided sufficient flexibility to access extensions where significant disruptions occur close to the TOI notice deadline, or where significant disruptions are enduring.
- c) it reduces complexity and operational burden for forestry participants in the NZ ETS and the Crown.
 - Participants: all participants affected by a significant disruption can apply for an extension in a manner similar to the currently available extensions. The burden of recovery and from a significant disruption and the cost of compliance is reduced as participants have more time to meet their obligations;
 - The Crown:
 1. the preferred options are likely to minimise compliance costs the most for the regulator. Participants who require extensions can access them and meet their obligations instead of becoming non-compliant;
 2. the preferred options will reduce or avoid the need to rely on creating emergency legislation which is high risk; and
 3. the preferred options are easy to implement and operationalise due to the clear definition of significant disruptions and the existence of processes for approving existing extensions applications.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact.	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Ongoing - Regulated groups will bear the cost of preparing an application and any application fee (if there is one).	Low: Any potential cost of preparing and application and any applicable fee (if there is one) is likely to be substantively less than an instance of non-compliance. ²¹	High
Regulators	One-off - Processes and operational policies will require updating. System may require minimal updates. Cost recovery analysis may need to be carried out for any potential fee. Ongoing – processing applications if these are not cost-recovered.	Low: Any cost from processing applications is likely to be lower than addressing non-compliance if an extensions were not available.	Medium
Others (e.g., wider govt, consumers, etc.)	Wider government is unlikely to be affected by the proposed extensions.	Low	High
Total monetised costs	<i>Not available.</i>	<i>Not applicable.</i>	<i>Not applicable.</i>
Non-monetised costs	<i>One-off costs associated with updating existing processes and implementing operational policy. Potential ongoing cost incurred for processing extension applications if they are not cost-recovered.</i>	<i>Low to medium</i>	<i>Medium</i>
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Ongoing - Regulated groups return to compliance as quickly as possible and do not incur costs of non-compliance.	High	High
Regulators	Ongoing – Reduced cost of addressing low risk non-compliance which is resource intensive for the regulator. This means the regulator can focus resources on high-risk non-compliance.	High	High
Others	The integrity of the NZ ETS is protected and contributes to the Government meeting its domestic and international climate change goals.	Medium	High
Total monetised benefits	<i>Not available.</i>	<i>Not applicable.</i>	<i>Not applicable.</i>
Non-monetised benefits	<i>Participants avoid the costs of becoming non-compliant. Regulators avoid the cost of addressing low risk non-compliance and can focus on high-risk non-compliance instead.</i>	<i>High</i>	<i>High</i>

²¹ Low costs are expected to be under \$10,000.

Assumptions

101. Data to consider the marginal impacts of these changes is limited. Total compliance costs for regulated parties and the regulator incurred by a significant disruption is difficult to predict. Analysis is also limited by the time available to progress the proposal.

The benefits of the proposal outweigh the costs.

102. The benefits of the proposed changes are expected to outweigh the costs. Participants who want to comply but are focussed on securing property and resuming business following the disruption are given the opportunity to do so.

103. Overall compliance costs for regulators and participants will be reduced because participants who are willing to comply return to compliance as soon as possible. The costs of implementation are expected to be low, although operational policies, processes and systems will require updating.

1B: Adjust the penalty for failure to surrender or repay units by the due date

What is the context for the policy problem?

105. Participants are required to submit emissions returns to report on their emissions and removals during periods set in the Act. If a participant reports that the activity they carried out resulted in emissions they must surrender units in relation to those emissions. Participants may be required to repay units if they have received too many units in their emissions return, or their industrial allocation.
106. Participants who are affected by a significant disruption, such as severe weather, may have difficulty meeting the deadline for surrender and repayment obligations. If a participant fails to surrender or repay units they are liable to pay the penalty set out in the Act.
107. The penalty for failing to surrender or repay units differs from the penalty for failing to submit an emissions return or submitting an incorrect emissions return. The Regulatory Impact Statement – NZ ETS tranche two: Improving compliance and penalties set out the reasons for the introduction of administrative penalties in the NZ ETS.²²
108. In relation to penalties for failing to surrender or repay units it states ‘*Failing to surrender or repay units is a more straight-forward failure to comply than errors in reporting emissions or claiming allocations. It also carries with it a higher risk to the Crown as ultimately the Crown is responsible for New Zealand meeting its domestic and international emissions targets. A failure to surrender or repay units undermining the emissions cap.*’
109. There is no discretion in determining whether the penalty applies if a person fails to surrender or repay units. The policy decisions and drafting are silent as to whether this penalty was intended to be absolute liability. Generally, New Zealand Courts will not infer absolute liability in the absence of clear Parliamentary intent. Although administrative penalties are civil offences, guidance from LDAC on liability in criminal law is persuasive.²³
110. Absolute liability offences are "almost never used: it is rarely justifiable to create an offence for which there is no defence. The starting point is always to consider what defences should be open to the defendant." Given that the policy decision and drafting are silent it is unlikely that there was an intention to introduce a penalty that would apply with absolute liability. It is more likely that the penalty was intended to apply with strict liability with liability avoided in certain circumstances, for example, where there was no fault.

What is the policy problem or opportunity?

111. The regulator does not have discretion in determining whether a person is liable to pay a penalty if they fail to surrender or repay units by the deadline. Most participants who are unable to surrender or repay units due to a significant disruption or otherwise through no fault of their own will receive a penalty under section 134. This means that in practice the penalty applies with absolute liability.
112. Section 134AA applies to small foresters and specifies that a person is not liable to pay a penalty if the EPA is satisfied that failure to surrender or repay units occurred through no

²² Regulatory Impact Statement – NZ ETS tranche two: Improving compliance and penalties [Impact Statement - NZ ETS Tranche two: Improving Compliance and Penalties - 16 May 2019 - Ministry for the Environment - Regulatory Impact Assessment](#).

²³ From LDAC: <https://www.ldac.org.nz/guidelines/legislation-guidelines-2021-edition/compliance-and-enforcement-2/chapter-24>.

fault of their own. Because this only applies to some participants, it creates inconsistencies and unfairness between participants in the NZ ETS.²⁴

Assumptions

113. Surrendering and repaying units by the deadline is an important part of the NZ ETS. 'There is a risk to the Crown because the Crown is ultimately responsible for New Zealand meeting its domestic and international emissions targets. A failure to surrender or repay units risks undermining the emissions cap.'²⁵
114. The application of penalties encourages participants to surrender and repay units by the deadline and change their behaviour if they fail to do so and be compliant in future. In the situations described in the problem above, the failure to meet the due date for surrender or repayment obligations has been caused through no fault of the person. This means that a penalty is unlikely to encourage a person to become compliant.

²⁴ The Act currently contains a 'no fault' clause for 'small forestry participants' with a surrender or repayment obligation of less than 25,000 units in section 134AA(5).

²⁵ Regulatory Impact Statement – NZ ETS tranche two: Improving compliance and penalties [Impact Statement - NZ ETS Tranche two: Improving Compliance and Penalties - 16 May 2019 - Ministry for the Environment - Regulatory Impact Assessment](#).

What options are being considered?

Option 1: Make no changes to the Act (status quo)

115. Key features: Most participants will be liable to pay a penalty for failing to surrender or repay units, even if the failure to surrender or repay units occurred through no fault of their own. Small forestry participants are not liable to pay a penalty if they failed to surrender or repay units through no fault of their own.
116. Addressing the problem: Most participants remain liable to pay a penalty if they fail to surrender or repay units even if this occurred through no fault of their own.

Option 2: Change the Act to prevent participants from being liable for a penalty if the failure occurred through no fault of the person

117. Key features: Participants are not liable to pay a penalty if they fail to surrender or repay units by the deadline if the failure occurred through no fault of the person. This means participants may not be liable to pay a penalty if they fail surrender or repay solely due to being affected by a significant disruption.
118. Addressing the problem: If a participant fails to surrender or repay units by the deadline, through no fault of their own, they will not be penalised. Extending no fault provisions to apply to all participants in the NZ ETS will increase consistency and fairness in the application of penalties.

How do the options compare to the status quo/counterfactual?

	Option One – [<i>Status Quo / Counterfactual</i>]	Option Two – Change the Act to prevent participants from being liable for a penalty if the failure occurred through no fault of the person
<p>Consistency with purpose of NZ ETS</p> <p>The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets</p>	<p>0</p> <p>Participants receive penalties even if the failure occurred through no fault of their own. This may undermine voluntary participation in the NZ ETS.</p>	<p>++</p> <p>Participants receive penalties when they fail to surrender or repay units by the deadline due to circumstances in their control.</p>
<p>Ease of implementation and cost</p> <p>The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants</p>	<p>0</p> <p>The option means that ETS participants will incur compliance costs as penalties will be applied regardless of whether the offence occurred through no fault of the person.</p>	<p>+</p> <p>Participants do not incur compliance costs if the failure to surrender or repay units by the deadline occurred through no fault of their own. This reduces compliance costs for participants. Though the overall compliance costs for government are expected to stay around the same, there will be initial costs and resources needed to update operational policies, processes and systems.</p>
<p>Clarity and transparency</p> <p>The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied</p>	<p>0</p> <p>The Act is silent, making it unclear, as to whether the penalty was intended to be an absolute liability offence.</p>	<p>++</p> <p>Application of the penalty in general will not change. The option clarifies that the penalty is not an absolute liability penalty.</p>
<p>Consistency for participants</p> <p>The extent to which the option ensures that NZ ETS participants are treated consistently</p>	<p>0</p> <p>The application of penalties for surrender and repayment obligations are not consistent for all participants, as the ‘no fault’ provisions are only available for small forestry participants.</p>	<p>++</p> <p>The application of penalties is the same for all participants. All participants are not liable to pay a penalty if the failure to surrender or repay by the due date occurred through no fault of their own.</p>
<p>Overall assessment</p>	<p>0</p>	<p>++</p>

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

119. The preferred option is *Option Two – Change the Act to prevent participants from being liable for a penalty if the failure occurred through no fault of the person* because it best addresses the policy problem and delivers the highest net benefits.
120. The preferred option addresses the problem because it ensures that persons who fail to surrender or repay units by the deadline through no fault of their own are not liable to pay a penalty.
121. The preferred option meets the policy objectives by:
- a) Reducing complexity and operational burden for participants in the NZ ETS and the Crown. There will no longer be a difference between participants because no fault provisions apply to all participants.
 - b) Maintain the integrity of the NZ ETS in support of New Zealand's domestic and international targets and emissions budgets. Penalties still apply to all situations other than where the failure occurred through no fault of the person. This ensures that non-compliance is deterred.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Ongoing – Regulated groups will bear the cost of showing the regulator that the offence occurred through no fault of the person.	Low, any potential cost of preparing this information is likely to be substantively less than a penalty.	High
Regulators	One-off – Processes and operational policies will require updating. System may require minimal updates.	Low	Low
Others	The Crown may receive less revenue through penalties if less people receive a penalty due to the failure occurring through no fault of the person. However, penalties should not be a revenue stream for the Crown they should be used to address non-compliance.	Low	Medium
Total monetised costs	<i>Not available.</i>	<i>Not applicable.</i>	<i>Not applicable.</i>
Non-monetised costs	<i>One-off costs associated with updating existing processes and implementing operational policy and ongoing costs of assessing information to determine whether the failure occurred through no fault of the person.</i>	<i>Low</i>	<i>Medium</i>
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Ongoing – Regulated groups will not incur penalties if the failure occurred through no fault of the person.	High	High
Regulators	Ongoing - Reduced reputational risk and challenging of decisions.	Medium	Medium
Others	None.	Low	Medium
Total monetised benefits	<i>Not available.</i>	<i>Not available.</i>	<i>Not applicable.</i>
Non-monetised benefits	Regulated groups will not incur penalties if the failure occurred through no fault of the person. Reduced reputational risk and risk of challenging of decisions for the regulator.	<i>Medium</i>	<i>High</i>

Assumptions

122. Data to consider the marginal impacts of these changes is limited. Total costs incurred by participants and the regulator if penalties applied is difficult to predict. Analysis is also limited by the time available to progress the proposal.

The benefits of the proposal outweigh the costs.

123. The benefits of the proposed change are expected to outweigh the cost. Persons who fail to surrender or repay units through no fault of their own, will not receive a penalty. This will significantly reduce costs for some regulated parties and reduce reputational risk and the risk of challenge of decisions for the regulator. The costs are expected to be low.

124. Most participants receive penalties if they fail to surrender or repay units ensuring continued deterrence of non-compliant behaviour.

1C: Delaying forest re-establishment tests after certain disruptions

What is the policy problem or opportunity?

125. The 2023 Severe Weather Events have highlighted that some events make it difficult for participants to meet re-establishment timeframes. There is currently no flexibility in the Act for the regulator to extend re-establishment timeframes to avoid participants becoming responsible for deforestation liabilities due to circumstances outside of their control.

126. The regulator is currently able to provide flexibility in specific circumstances that do not always apply when foresters are affected by events such as severe weather. **Table 7** shows an overview of situations where an extension may be required following an event that prevents the forester from re-establishing forest and they are currently not available.

127. Specific challenges for foresters with regular or offsetting forest land dealing with disruptive events are that:

- a) Foresters who cleared their forest prior to the event occurring may be interrupted in the re-establishment of their forest land. Interruptions are caused by damage to the land or forest species, or impacts on the supply chain and operations.²⁶
- b) Damage to forest land may directly clear the forest or require the forest to be cleared before the land is re-established. This means that it is more difficult for foresters to meet the re-establishment timeframes, because:
 - Damaged forest land may require salvaging.
 - The damaged area may be larger than areas foresters would usually harvest.
 - Future income may be lower as the damaged forests will not be available for harvest in future

128. Māori may be disproportionately affected by this problem, as nearly half of Māori freehold land is pre-1990 forest land. Targeted engagement also highlighted that some whenua

²⁶ Examples of impact on supply chains or operations are damage to roads prevents access to the forest, or seedlings damaged in the nursery.

Māori is landlocked or otherwise difficult to access.²⁷ This further complicates meeting re-establishment timeframes.

²⁷ In this context landlocked means that the land is surrounded my land owned by other persons or entities and there is no road access to the land.

Table 7: Gap analysis

Situation	Flexibility currently provided in the Act?	Who can use it currently?		Comments
		Post-1989	Pre-1990	
Forest is damaged by a natural event, which permanently prevents re-establishment of forest (e.g. a river changes course)	Yes, no deforestation liabilities apply	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Forest is damaged by a disruption, such as natural event.	Offsetting forest land by establishing another forest with equivalent area and carbon stock elsewhere	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Offsetting application must be approved before the original forest is considered deforested. There is significant cost involved in this option because additional land is required to offset forest land.
	If forest land is affected by an adverse event as defined in the Forestry Regulations a participant can apply for a temporary adverse event suspension (TAE) so they do not have to surrender units.	<input checked="" type="checkbox"/>		
Forester is not able to re-establish forest land in time to meet the timeframes for re-establishing forest land due to a disruption (e.g. a natural event).	N/A			
Forester is not able to meet deforestation liability if forest land is considered deforested	Participants can apply for an exemption from (part of) the liability for deforestation.		<input checked="" type="checkbox"/>	

What scope will options be considered within?

129. This proposal aims to introduce extensions to re-establishment timeframes for forestry participants in the NZ ETS experiencing disruptions that prevent forest land re-establishment. It is largely based on the orders made under SWERLA 2023.

What options are being considered?

Option 1: Make no changes to the Act (status quo)

130. Key features: The participant needs to re-establish forest on their land within set timeframes 4-, 10- and/or 20-year after clearing regardless of a disruption occurring. The timeframes are set out in **Table 8**. The Act has some provisions to alleviate negative effects of deforestation that occurs due to external events. However, these provisions are narrow in their application and therefore only apply in the specific circumstances set out in the provision.

131. Addressing the problem: If the timeframes set out in the Act are not met the land will be treated as deforested, and the forester must surrender units. Participants can only avoid deforestation liabilities in the situations listed in **Table 7** above.

Table 8 8: Deforestation tests and their application (section 179 of the Act)

Year	Exotic species	Indigenous species
4	<ul style="list-style-type: none"> at least 500 stems per hectare of exotic forest species, or replanted with at least 100 stems of willow or poplar species for managing soil erosion, where the local authority has determined the risk of erosion is at least moderate. 	Predominantly indigenous forest species, growing in a way that the land is likely to be forest within 10 years of clearance.
10	Predominantly exotic species growing, with a tree crown cover of more than 30% from trees that are at least 5 metres high.	Predominantly indigenous forest species, growing in a way that meets the definition of forest land in the NZ ETS.
20	Not applicable	Predominantly indigenous forest species; each hectare of forest must have more than 30% crown cover from trees that are at least 5 metres high.

Option 2: Allow EPA to approve applications for extensions re-establishment timeframes

132. Key features:

- a) participant can apply to MPI if they experience a disruption that prevents them from re-establishing their forest land by the timeframes in the Act. The application must be submitted before the next test is applicable under section 179. For example, if a significant disruption occurs after the 4-year test was met, the extension application would need to be submitted before the test at 10 years is reached.
- b) if MPI is satisfied a significant disruption has affected the participant's ability to re-establish forest within the section 179 timeframes, they can grant a three-year extension to the relevant forest re-establishment timeframe. For example, the test at 10 years, would need to be met at 13 years instead.
- c) Disruptions preventing forest land re-establishment will be defined in the Forestry Regulations.²⁸

133. Addressing the problem: participants can access extensions for re-establishment timeframes as required when they are affected by a disruption that prevents them from re-establishing forest land.

Option 3: Introduce a new mechanism for group extensions to re-establishment timeframes

134. Key features: establish a mechanism in the Act for group extensions decided by the Minister or Cabinet as and when required in the face of a disruption. The Minister or Cabinet decision would outline those who are part of the group to receive an extension due to a disruption. For example, participants who are located in a defined area where a natural event has occurred. Participants would not need to apply for the extension as it would automatically apply to everyone in the group.

135. Addressing the problem: participants who are in the group as defined in the Minister or Cabinet decision would be able to access extensions for re-establishment timeframes. Participants who are not part of that group but still affected by a disruption are not able to access the extensions.

Targeted engagement

136. This proposal was discussed with the ETS TAG. No feedback was received regarding the options for introducing flexible timing for forest re-establishment following a significant disruption.

137. Māori forestry representatives from Tairāwhiti were supportive of the proposal but noted additional difficulties regarding landlocked land and rāhui. This will be considered in a separate policy process in future.

²⁸ This aligns with 'adverse events' currently being defined in regulation 103.

How do the options compare to the status quo/counterfactual?

Forestry re-establishment deadlines

	Option One – [Status Quo / Counterfactual]	Option Two – Allow EPA to approve applications for extensions re-establishment timeframes	Option Three - Introduce a new mechanism for extensions to re-establishment timeframes as a group
Consistency with purpose of NZ ETS The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets	0 Participants are not able to meet re-establishment timeframes leading to forest land becoming deforested, which negatively impacts emission reductions.	++ Forestry participants are provided more time to meet obligations, but obligations remain the same. Participants are able to re-establish their forest land and forest continues removing carbon from the atmosphere.	+ Forestry participants in the group are provided more time to meet obligations, but obligations remain the same. Only those in the group are able to replant their forest land and enable forest to continue removing carbon from the atmosphere.
Ease of implementation and cost The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants	0 If forest land becomes deforested participants must meet deforestation liabilities and the regulator will incur compliance costs if this is not submitted or if it is inaccurate.	++ Updating processes and operational policies is considered low cost and can be achieved with current resources. This option provides extensions to all participants who require it which minimises compliance costs for government and participants.	- Processes and operational policies for these extensions will have to be implemented. The process itself is time and resource intensive for Ministers and Cabinet and decisions around extensions may be low risk and highly administrative. The option would minimise compliance cost for government and some participants.
Clarity and transparency The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied	0 Participants cannot access extensions to re-establishment timeframes.	++ Situations that are considered disruptions preventing forest land re-establishment will be set out in regulations. All forestry participants affected by a disruption can apply for an extension. Applications for extensions will likely resemble applications for the extension currently available making it easy for participants to understand.	- Prior to the decision being made it may not be clear to participants whether they will receive an extension. Procedures for decisions made by the Minister may take some time due to development of advice and receiving priority for decision making. Once the Minister has decided participants may need to check whether their circumstances fall within the group. This may not be sufficiently clear resulting in participants incorrectly determining they will receive an extension.
Consistency for participants The extent to which the option ensures that NZ ETS participants are treated consistently	0 Post-1989 forest participants have more options to avoid liabilities for forest cleared by a disruption.	++ All forestry participants who experience a disruption that prevents them from re-establishing forest land can apply for an extension. Decisions are made based on the Act and regulations in accordance with any operational policy or guidance developed to support implementation of the Act.	- Only participants who experience a disruption and are in the defined group will receive extensions, while others who may experience disruptions but not qualify for an extension.
Overall assessment	0	++	-

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

138. The preferred option is *Option Two – Allow EPA to approve applications for extensions re-establishment timeframes* because it best addresses the policy problem and delivers the highest net benefits

139. The preferred options are most likely to address the problem because:

- a) participants can access extensions of up to 3 years to the re-establishment timeframes if they are affected by a disruption which will give them sufficient time to re-establish their forest land;
- b) this option provides the most clarity for participants, sufficient flexibility for the regulator to respond to participant needs and minimises the risk of the participant being unable to receive extensions if they are not in a determined group;
- c) the implementation and process for this option are considered low cost.

140. This option is also most likely to meet the policy objectives because:

- a) the integrity of the NZ ETS is maintained. Participant obligations remain the same and participants are supported to re-establish forest land after clearing has taken place. This ensures that deforestation of forest land is minimised.
- b) known gaps in the regulatory framework are addressed. Participants are able to apply for the extensions they need following a disruption to allow them to re-establish their forest land.
- c) it reduces complexity and operational burden for forestry participants in the NZ ETS and the Crown:
 - o participants: participants avoid their forest land becoming deforested which would result in having to submit an emissions return or removing the land from the NZETS. Both of these options would result in a participant being required to surrender units.
 - o the Crown: the Crown may approve the application, but does not become directly responsible for potential compliance cost of ensuring submission of the emissions returns and surrendering of units.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Ongoing - Regulated groups will bear the cost of preparing an application and any application fee (if there is one). It is possible the extension would be used by more Iwi and Māori as they own a large percentage of pre-1990 forest land.	Low to high. Any cost of applying for the extensions is likely to be substantively less than an instance of non-compliance	High
Regulators	One-off – New processes and operational policies will be required. Ongoing – Processing applications if these are not cost-recovered.	Low Any cost related to processing applications is likely to be less than addressing potential non-compliance in relation to deforestation.	High
Others	Wider government is unlikely to be affected by the proposed extensions.	Low	High
Total monetised costs	<i>Not available.</i>	<i>Not applicable.</i>	<i>Not applicable.</i>
Non-monetised costs	<i>One-off costs associated with implementing new processes and operational policy. Potential ongoing cost incurred for processing extension applications if they are not cost-recovered.</i>	<i>Low</i>	<i>High</i>
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Ongoing - Regulated groups do not become responsible for the cost of deforestation and do not incur costs of non-compliance if they are not able to surrender the unit liability.	High	High
Regulators	Ongoing – Reduced cost of addressing low risk non-compliance which is resource intensive for the regulator. This means the regulator can focus resources on high-risk non-compliance.	High	High
Others	The integrity of the NZ ETS is protected and contributes to the Government meeting its domestic and international climate change goals.	Medium	High
Total monetised benefits	<i>Not available.</i>	<i>Not applicable</i>	<i>Not applicable.</i>
Non-monetised benefits	<i>Participants avoid the costs of deforestation and the risk of becoming non-compliant. Regulators avoid the cost of addressing low risk non-compliance and can focus on high-risk non-compliance instead.</i>	<i>High</i>	<i>High</i>

Assumptions

141. Data to consider the marginal impacts of these changes is limited. Total compliance costs for regulated parties and the regulator incurred by a disruption preventing re-establishment of forest land is difficult to predict. Due to time constraints, the options considered are similar to options provided through orders created under emergency legislation in response to the severe weather events in 2023. The options have taken feedback from the regulator and regulated parties on these orders into consideration.
142. Potential cost recovery of applications will be considered as part of the periodical cost recovery review for the NZ ETS.

The benefits of the proposal outweigh the costs.

143. Costs related to an increase in processing of extension applications are assumed to be negligible. This is due to the expectation that extension applications will be fully cost-recovered.²⁹
144. The benefits of the proposed change outweigh the costs. This is because the reduction in compliance costs is expected to be significant while the implementation of the changes requires minimal resources.
145. The preferred option allows for the flexibility to respond to a range of different significant disruptions. This will significantly reduce compliance costs for regulated parties as well as the regulator. Participants who want to comply are given the opportunity to do so due to the extended due dates.
146. This option also best addresses the disproportional effect for Māori. Allowing more flexibility in re-establishing forest means deforestation liabilities and complex section 60 exemptions can be avoided.³⁰ This proposal is also positive for Māori more broadly. Forest land is often returned to Māori ownership and/or management through Treaty Settlements following harvest, but before deforestation tests are applied.³¹

²⁹ MPI currently cost-recovers extension applications through a service fee.

³⁰ Section 60 provides a pathway for exemption from deforestation of pre-1990 forest land or pre-1990 offsetting land. The exemption must be made by the Governor-General, by Order in Council made on the recommendation of the Minister. Section 60 exemptions are resource-intensive and can take a long time.

³¹ For example, through Treaty settlement processes.

2: Improving how quickly transmission of interest (TOI) notices are processed

147. When an interest in post-1989 forest land shifts to another person, this can lead to a transfer of NZ ETS responsibilities from one person to another – for example, when land is sold or a registered lease or forestry right changes hands.
148. A transmission of interest (TOI) for forestry will lead to the transfer of NZ ETS responsibilities if the two parties involved submit a TOI notice to MPI in the prescribed form. The TOI notice must be completed by both the existing person (transferor) and the new person (transferee). The transferor must submit their section of the TOI notice, including an emissions return and the processing fee for the TOI notice, and the transferee must submit their section of the TOI notice.
149. When a TOI notice is correctly submitted, participation in the NZ ETS moves from the transferor to the transferee with retrospective effect from the date of the TOI.
150. However, before a TOI notice is processed:
- a) the transferor cannot deregister from the NZ ETS with respect to that forest land; and
 - b) the transferee cannot participate or earn NZUs in the NZ ETS.
151. Reasons TOI notices take longer to process include:
- a) The TOI notice is not submitted by one or both parties;
 - b) The TOI notice is incomplete;
 - c) The transferee does not have a holding account with the New Zealand Emissions Trading Registry (the Registry).

How do these proposals fit with wider TOI challenges?

152. The proposals in this section seek better alignment with the broader statutory framework and to improve operational efficiency.
153. Future policy work will likely be undertaken to improve wider TOI processes. However, the proposals in this RIS are urgent and should be implemented first. This is because of significant non-compliance in relation to TOI notices, particularly where transferees fail to open a holding account when they purchase, or enter agreements regarding land that is registered in the NZ ETS.

2A: Shortening timeframes for non-compliant TOI notices

What is the context for the policy problem?

154. If ownership or responsibility for forest land that is registered in the NZ ETS is transferred and MPI has not been properly notified via a complete TOI notice, MPI (under delegation from the EPA) may correct matters. Reasons for a TOI notice being incomplete include not all information fields being filled in, the final emissions return not being submitted, or the notice not being submitted at all.
155. As a starting point for correcting matters, MPI issues a section 187B(3) notice to the person (the transferor or transferee as applicable), specifying that they have 90 working days to submit or correct the TOI notice. The notice is used as a directive compliance measure.
156. If the relevant party does not correct matters within the 90 working day timeframe of the

section 187B(3) notice, MPI can amend, finish or prepare the TOI notice as well as the required emissions return if this is required.

157. Around three quarters (74 percent) of TOI notices are corrected by the participant within the 90 working day period (**Table 8**). The remaining 26 percent of TOI notices are still outstanding following the 90 working day period. Around 33 percent of section 187B(3) notices are issued to unincorporated bodies, which includes Māori trusts. Unincorporated bodies have the highest rates of compliance with s187B(3) notices (88 percent), followed by incorporated bodies (74 percent), Individuals (69 percent) and joint applicants (56 percent).

Table 9: Section 187B(3) notices issued between 1 January 2023 and 22 July 2025

Participant type	S187B(3) notices issued	S187B(3) notices for which the 90 working day timeframe has ended	TOI notices corrected or completed within the 90 working days	TOI notice still outstanding after the 90 working days
Incorporated bodies	46	34	25	9
Individuals	18	16	11	5
Joint applicants	17	16	9	7
Unincorporated bodies	40	26	23	3
Total	121	92	68	24

158. The Act has another 90 day timeframe which is related to a penalty notice requiring units to be surrendered or repaid.³²

What is the policy problem or opportunity?

159. If MPI issues a notice under section 187B(3) to a transferor or transferee (as applicable) to correct or complete a failed TOI notice, they have 90 working days to do so. If the TOI notice is not corrected within the 90 working day period, MPI may then correct or complete matters.

160. The 90 working day timeframe has been found to delay processing of non-compliant TOIs significantly. Around 26 percent of TOI notices are still non-compliant after this time, and in these cases it can take up to a total of six months to resolve the matter from when the section 187B(3) notice was first issued.

161. The 90 working day notice period is unnecessarily long and slows down the resolution of a non-compliant TOI because MPI cannot take further action until the 90 working days has passed. This has negative effects on the compliant party as they cannot leave or join the scheme (as applicable) with respect to the forest land, which can have implications for business planning and cash flow. This inefficiency also undermines the integrity of the NZ ETS, because emissions returns cannot be processed until the TOI notice is processed.

Assumptions

162. Options that resolve this policy problem are expected to work together with the changes to the Forestry Regulations. While the Forestry Regulations will require the holding account number to be provided on the form, the options below are expected to speed up the

³² Sections 134 and 134AA(2)

resolution of TOIs if the transferee does not provide this number.

163. Although further changes to TOIs may be considered in the future, it is unclear what options may be considered or the timing for any consequential proposals. Immediate change is needed in the short-term, in advance of wider considerations, to help ensure the integrity of the NZ ETS through continuity of participation (as covered by the TOI process). This way transferors are able to leave the NZ ETS in a timely manner, and transferees can promptly participate and potentially receive units.

What options are being considered?

Limitations, constraints, and non-feasible options

164. In the case of unincorporated bodies, such as Māori trusts, a change in membership is not treated as a TOI as long as at least 60 percent of the members of the unincorporated body are the same following the change.³³

165. There are known difficulties for unincorporated bodies when membership changes trigger a TOI which can lead to non-compliance as either:

- a) Signatures are required from all members of the unincorporated body (both outgoing and incoming members), which can be challenging to obtain; or
- b) If the unincorporated body has a representative, they can sign on behalf of the members, but a signed representative form must first be signed by all current members of the unincorporated body, which is similarly challenging.

166. Around 33 percent of non-compliant TOI notices for which a section 187B(3) notices have been issued have unincorporated body ownership structures (**Table 8**). This includes Māori trusts, which often have frequent turn-over of trustees, for example when a trust has an annual election cycle. Unincorporated bodies also have the highest compliance rate with section 187B(3) notices, of around 88 percent.

167. During targeted engagement, Māori stakeholders suggested a different ownership vehicle such as a trust board may be more suitable for trusts with regular trustee changes, so that the change in governance does not trigger a TOI notice. This suggestion will be considered if changes to TOIs are considered in the future.

168. Improving TOI processes for unincorporated bodies is out of scope of the proposals in this RIS, and may be considered if further changes to TOI notices are considered in future.

169. Existing timeframes for notices in the Act were considered including 20 working days and 60 working days. However, 60 working days was deemed a non-feasible option because in cases when the non-compliant party does not correct matters during a 60 working day notice period it may still take up to five months before MPI can resolve matters, an improvement of only one month.

³³ Section 157A of the Act.

*Options for shortening timeframes for non-compliant TOI notices***Option 1: Make no changes to the Act (status quo)**

170. Key features: When MPI issues a section 187B(3) 'failure to give notice of TOI' notice, the non-compliant party has 90 working days to submit or correct the TOI notice. Further action to resolve the case cannot be taken until the notice period ends.
171. Addressing the problem: If the non-compliant party does not respond within the 90 working day timeframe, it may take up to six months from when the TOI notice is issued by MPI until the case is resolved. While the TOI notice remains unresolved, the compliant party (transferor or transferee) will not be able to leave or participate in the NZETS with regard to the forest land subject to the TOI.

Option 2: Shorten the timeframe for correcting TOI notices under section 187B(3) of the Act from 90 to 20 working days

172. Key features: When participants are issued a notice to correct their TOI notice, they have 20 working days to do so. Further action to resolve the case cannot be taken until the 20 working day notice period ends.
173. Addressing the problem: If the non-compliant party does not respond within the 20 working day timeframe, it may take up to 3 months from when the TOI notice is issued by MPI until the case is resolved. Twenty working days is a commonly used timeframe in the Act, and is the same as the timeframe for submitting the TOI notice following the date the forest land changes hands³⁴ and the notice to be provided if a person joins or leaves an unincorporated body.³⁵

Targeted engagement

174. The ETS TAG group indicated support for the section 187B(3) notice timeframe to be updated to 20 working days, but commented some participants will want a longer timeframe.
175. We heard in targeted engagement with Māori stakeholders that the change could be a challenge for trustees if the TOI notice correction cannot be turned around quickly, but that the proposal will not exacerbate the current challenges for Māori trusts with the TOI process.

³⁴ Section 187.

³⁵ Section 157.

How do the options compare to the status quo/counterfactual?

	Option One – [Status Quo / Counterfactual]	Option Two – Shorten the timeframe for correcting TOI notices under section 187B(3) of the Act from 90 to 20 working days
<p>Consistency with purpose of NZ ETS</p> <p>The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets</p>	<p>0</p> <p>Delays continuity of participation and undermines the integrity of the NZ ETS because MPI cannot correct matters until the 90 working days have passed.</p>	<p>+</p> <p>A faster timeframe for resolving outstanding TOI notices improves continuity of participation and associated reporting on carbon removals.</p>
<p>Ease of implementation and cost</p> <p>The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants</p>	<p>0</p> <p>Simple to implement using existing processes. The compliant party carries a burden of not being able to leave or join the NZ ETS while the TOI notice is outstanding. 90 working days is a long notice period in comparison to other notice periods in the Act.</p>	<p>+</p> <p>Simple to implement using existing processes. Reduces burden on the compliant party because they can leave or join the NZ ETS (as applicable) more quickly. Reasonable timeframe for most participants as aligns with other 20 working day notice periods.</p> <p>Compliance with the 90 working day timeframe is already high for unincorporated bodies and Māori forestry stakeholders indicated in targeted engagement that shortening the timeframe is unlikely to exacerbate problems for unincorporated bodies.</p>
<p>Clarity and transparency</p> <p>The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied</p>	<p>0</p> <p>The 90 working day response period is clearly stated on the s187B(3) notice.</p>	<p>0</p> <p>The 20 working day period would be clearly stated on the s187B(3) notice.</p>
<p>Consistency for participants</p> <p>The extent to which the option ensures that NZ ETS participants are treated consistently</p>	<p>0</p> <p>The 90 working day timeframe only aligns with a penalty notice period for surrendering or repaying units. The compliant party is disadvantaged because they must wait until either the non-compliant party takes action, or the 90 working days elapses and MPI can correct matters (such as an outstanding emissions return).</p>	<p>+</p> <p>The timeframe aligns with other relevant forestry-related notice periods, such as when the transferor and transferee first have to give notice of the transmission to MPI: within 20 working days of the date of transmission.³⁶ The compliant party is treated more fairly because the maximum TOI notice resolution time is halved, from six to three months from when the notice is issued until the case is resolved (assuming the TOI notice is not corrected during the notice period and MPI must take further action to resolve matters). A shorter timeframe to resolution is more consistent with treatment of other compliant participants who are not intentionally disadvantaged elsewhere in the Act.</p>
<p>Overall assessment</p>	<p>0</p>	<p>+</p>

³⁶ Section 187 of the Act.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

176. The preferred option is *Option Two – Shorten the timeframe for correcting TOI notices under section 187B(3) of the Act from 90 to 20 working days* because it best addresses the policy problem and delivers the highest net benefits.

177. The preferred option addresses the problem because:

- a) Non-compliant parties have a shorter timeframe to correct matters, so rates of non-compliance may rise, increasing the number of TOI notices corrected by MPI. This risk is balanced by an overall quicker time to resolution for all non-compliant TOI notices.
- b) A 20 working day timeframe is better aligned with other forestry-related notice periods in the NZ ETS.
- c) The proposal is likely to be positive for businesses because non-compliant TOI notices can be resolved more quickly and the compliant party will have greater business certainty.
- d) TOIs can be challenging for some participant structures such as Māori trusts with a frequent turnover of trustees. While this proposal will not address these broader issues, we also do not anticipate it to exacerbate them given the high rates of compliance unincorporated bodies have with s187B(3) notices and the feedback from targeted engagement.

178. The preferred option meets the policy objectives by:

- a) Reducing complexity and operational burden for compliant forestry participants in the NZ ETS and the Crown by speeding up the timeframe to resolution.
- b) Maintain the integrity of the NZ ETS in support of New Zealand's domestic and international targets and emissions budgets by increasing continuity of participation and reporting of emissions and removals.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

179. The benefits of increased certainty for compliant parties outweigh the costs to non-compliant parties and the regulator (**Table 9**).

180. The benefits of increased certainty and more efficient / timely resolution include:

- a) reduced burden for compliant parties that can have their TOI resolved more quickly;
- b) the integrity of the scheme is supported by ensuring the correct participant is recorded in the system and responsible for meeting NZ ETS obligations.

Table 10: Comparison of costs and benefits associated with shortening the s187B(3) notice period

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups: specifically non-compliant parties	One-off: shorter timeframe to become compliant may increase opportunity cost of time.	Low	Low
Regulators	One-off: processes and operational policies will require updating. On-going: the shorter timeframe may increase non-compliance with section 187B(3), which may lead to MPI correcting more TOI notices.	Low: absorbed in business as usual.	Low
Others	Wider government is unlikely to be affected by the proposed change to shorten the section 187(3) to 20 working days.	None.	High
Total monetised costs	<i>Not available.</i>	<i>Not applicable.</i>	<i>Not applicable.</i>
Non-monetised costs	<i>One-off costs associated with updating processes and operational policies. Potential ongoing cost from addressing increase of non-compliance with section 187B(3) notices.</i>	Low	Medium
Additional benefits of the preferred option compared to taking no action			
Regulated groups: compliant parties	One-off: more certainty of timeframe to resolution, benefiting their financial/ business planning	Medium: depends on individual circumstances of the compliant party, such as the size of their forestry business and the forest land subject to the TOI.	Low
Regulators	Ongoing: faster resolution of compliance cases.	Medium	High
Others	The integrity of the NZ ETS is protected and contributes to the Government meeting its domestic and international climate change goals.	Medium	Medium
Total monetised benefits	<i>Not available.</i>	<i>Not applicable.</i>	<i>Not applicable.</i>
Non-monetised benefits	<i>More certainty for participants as to the timeframe of resolution of TOIs, benefitting their financial/business planning and faster resolution of compliance cases for the regulator.</i>	Medium	Medium

2B: Clarifying that transferees need a holding account

What is the context for the policy problem?

181. Operationally, a TOI notice cannot be processed if the transferee does not have a holding account with the New Zealand Emissions Trading Register (the Register).
182. Under sections 56³⁷ and 57³⁸ of the Act, applicants entering forest land into the NZ ETS must have applied to open a holding account with the Register.³⁹ Holding accounts are necessary for receiving, surrendering or repaying units. Holding accounts also enable the regulator to undertake compliance, monitoring, and enforcement.
183. Although there is a general requirement in the Act for a participant to have a holding account, the TOI provisions themselves do not explicitly require that a transferee must open a holding account when they submit their TOI notice.
184. As of March 2025, for 67 out of 86 (78 percent) currently open TOI notices, processing was delayed because the transferee had not opened a holding account. Common reasons for not opening an account are that:
- a) the transferee's pre-sale checks did not cover whether the land was entered in the NZ ETS, so they have unintentionally acquired an interest in post-1989 forest land; or
 - b) the transferee does not want to participate in the NZ ETS because they will be liable to surrender or repay units.
185. Transferees who do not wish to engage in the NZ ETS may refuse to open a holding account, and without one, a TOI notice cannot be processed in the usual way. While a complete TOI notice is waiting to be processed:
- a) the transferor cannot deregister from the NZ ETS with respect to that forest land;
 - b) the transferee cannot participate or earn NZUs in the NZ ETS;
 - c) future land transfers are also affected. A new owner in future may be unable to meet compliance obligations, as the previous ownership change was never properly recorded;
 - d) forest land may be acquired with the intent to deforest (e.g., deforestation for a housing development, without intention to offset the lost carbon nor pay liabilities), which undermines the integrity of the NZ ETS for other foresters, the New Zealand public, and New Zealand's international climate targets.
186. MPI is often contacted multiple times by compliant transferors for delays in processing a TOI notice, but section 187B(3) notices cannot be issued when the transferee has not provided a holding account as the regulator cannot open a holding account on a transferee's behalf.
187. Currently, MPI cannot take compliance action in instances when a transferee does not open a holding account.

³⁷ Pre-1990 deforestation or pre-1990 off-setting.

³⁸ Standard or permanent post-1989 forestry.

³⁹ Section 61 of the Act.

Requiring a holding account number on the TOI notice

188. Earlier in 2025, MPI consulted on a proposal to amend the Forestry Regulations to make a transferee holding account number 'prescribed information' on the TOI notice submitted to MPI. This requirement, which will apply from 1 January 2026, means transferees are required to provide a holding account number on the TOI notice.
189. When the change to the Forestry Regulations takes effect MPI will be able to issue infringement fees and fines for failure to notify MPI of a TOI, within the time required and/or failure to provide information:
- a) an infringement fee is \$1,000 for an individual or \$2,000 in any other case;
 - b) an infringement fine is \$3,000 for an individual \$6,000 in any other case.

What is the policy problem or opportunity?

190. Participants must have a holding account,⁴⁰ and participants must apply to open a holding account on registration as a participant⁴¹, regardless of whether a holding account is needed for units at the time. However, there is currently no explicit requirement in the Act for a transferee to open a holding account by or before the time the TOI notice is provided to MPI (under section 187).
191. Transferees without or refusing to open a holding account are a significant operational burden for the regulator. There is an opportunity to clarify intent in the Act to achieve better operational efficiency through clarity of obligations and increased compliance options.
192. There may be multiple drivers for why a person may not open a holding account, ranging from a lack of awareness to a reluctance to participate in the NZ ETS. Non-regulatory options alone, including education targeted for people involved in land transactions, have not measurably increased persons opening a holding account when they need one. We consider it is necessary to make the requirement to open a holding account explicit to assist people to understand their obligations.

Assumptions

193. Options that resolve this policy problem are expected to work together with the changes to the Forestry Regulations. While the Forestry Regulations will require the holding account number to be provided on the form, there is an opportunity to clarify in the legislation at what point the participant is expected to open the holding account.
194. Although further changes to the TOI provisions may be considered in the future, it is unclear what options may be considered or the timing for any consequential proposals. Immediate change is needed in the short-term, in advance of wider considerations, to help

⁴⁰ Under section 61 of the Act.

⁴¹ Under sections 56(1)(b) and 57(3).

ensure the integrity of the NZ ETS through continuity of participation (as covered by the TOI process).

What options are being considered?

Limitations, constraints, and non-feasible options

195. As well as legislative solutions, MPI is working on guidance and education to support NZ ETS compliance during land and forestry transactions, including working with relevant industry groups.
196. Education alone was discounted as a feasible option as education to date has not made a tangible difference. Part of the reason for this is that MPI cannot identify the target audience until they become a participant. However, MPI will continue to provide guidance and work alongside industry groups including real estate agents to improve knowledge about NZ ETS obligations.
197. In considering the chain of consequence for a transferee not opening a holding account, a bespoke penalty was ruled out. This is because the consequence for not having a holding account is that a person cannot receive entitlements, or surrender units when required to do so, and there is already a penalty for not surrendering units.⁴²

Options for addressing transferees not opening a holding account

Option 1: Make no changes to the Act (status quo)

198. Key features: The requirement for transferees to open a holding account in a timely manner is not explicit in the Act. Operationally, a holding account is required for a TOI notice to be processed in the usual way, so that the transferee promptly becomes a participant in the NZ ETS. A holding account is required in order to receive or surrender units, and to submit an emissions return. A mandatory emissions return may be the first interaction with MPI that a holding account is needed for in practical terms. However, depending on the timing of the TOI, a mandatory emissions return may not be required for several years after the TOI. Until such a time, a transferee may not be aware of a practical need to have a holding account.
199. Addressing the problem: The lack of clarity in the Act makes it difficult for operational staff to articulate to transferees that there is urgency to open a holding account. The change to the Forestry Regulations to prescribe a holding account number on the TOI notice goes some way to encourage transferees to open a holding account. Though infringement fees and fines are expenses a transferee would otherwise not have, these may be insignificant for larger businesses.

Option 2: Transferees must open a holding account in the Register before submitting the TOI notice and the timeframe for submitting the notice is extended to 30 working days

200. Key features: Make it an explicit requirement that transferees must open a holding account in the Register before submitting the TOI notice.⁴³ Extend the timeframe for the TOI notice from 20 working days to 30 working days to align with new participants registering in the NZ

⁴² Ss134 and 134AA.

⁴³ For example, so that section 187A of the Act reflects the approach taken in sections 56(1)(b) and 57(3).

ETS who are required to have applied to open a holding account when they register and to provide a holding account number to the regulator within 10 working days of receiving it.

201. **Addressing the problem:** This option would align TOI processes with the requirement for any other new forestry participant to open a holding account and the longer timeframe to submit the TOI notice may reduce non-compliance. It would also allow operational staff to articulate the requirement to open a holding account to transferees and to potentially use powers to require information⁴⁴, creating a clearer incentive for transferees to open a holding account. For example:
- a) Issue a notice under section 94 of the Act, requiring the ‘prescribed information’ on the TOI notice to be provided within 20 working days;
 - b) if this information is still not provided, an infringement fee (\$1,000 for an individual or \$2,000 in any other case).
 - c) a fine liable on conviction for failing to provide information⁴⁵ (if convicted, a maximum fine of \$12,000 for an individual or \$24,000 for a body corporate).

Feedback from related consultation

202. Consultation on technical improvements to the Forestry Regulations was held in April and May 2025. That consultation included the proposal to prescribe a holding account number on the TOI notice and feedback is relevant to this proposal to amend the Act.
203. Twenty-two submitters responded to the proposed change to the Forestry Regulations, with 19 in support of the proposal, two opposed, and one commented but did not indicate a preference. The stakeholder category ‘forestry sector organisation’ was represented both in support of and opposed to the proposal. The stakeholder categories ‘forestry company or consultant’, ‘individual’, ‘farmer/farming entity’ and ‘Māori and iwi organisation’ were also represented in submissions in support of the proposal.
204. Those in support of the proposal noted that improvements to TOIs are desirable and the proposal will provide increased clarity.
205. Both of the submitters opposed to the proposal expressed concern that transferees may not be able to open a holding account within the 20 working day deadline for submitting the notice. This concern could be mitigated by extending the timeframe for submitting a TOI notice to 30 working days. We also note a holding account can be applied for prior to a sales and purchase agreement being finalised, and that some TOI notices are successfully processed within the 20 working day timeframe.
206. One of the submitters, a forestry sector organisation, expressed concern about the proposal’s ability to “offer any fixable solutions to the bulk of ToP [sic] issues”, indicating that problems with TOIs are recognised within the sector and that further ability to take compliance action to streamline TOIs would likely be supported.

Targeted engagement

207. The ETS TAG group supported the proposal to make transferee holding accounts more explicitly mandatory at the time a TOI notice is submitted. They noted the forestry sector is

⁴⁴ Under section 94.

⁴⁵ Under sections 94 and 131 of the Act.

also exploring putting the requirement for transferees to have a holding account in sales and purchase agreements.

208. Māori foresters noted that TOI processes are often triggered by trustee changes (e.g., some Māori land trusts hold annual elections), but in practice there is no change in substance. The proposal will not exacerbate the current challenges for Māori trusts with the TOI process. Further changes to TOI processes may be considered as part of MPI's continuing work programme and the difficulties for unincorporated bodies will be considered.

How do the options compare to the status quo/counterfactual?

	Option One – Status Quo	Option Two – Transferees must open a holding account in the Register before submitting the TOI notice and the timeframe for submitting the notice is extended to 30 working days
<p>Consistency with purpose of NZ ETS</p> <p>The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets</p>	<p>0</p> <p>78 percent of non-compliant TOIs cannot be processed because the transferee has not opened a holding account, impeding continuity of participation and operation of the NZ ETS.</p>	<p>+</p> <p>This option would better align TOI and NZ ETS processes and increase continuity of participation, upholding the integrity of the NZ ETS.</p>
<p>Ease of implementation and cost</p> <p>The extent to which the option is easy to implement and minimises compliance costs for government and NZ ETS participants</p>	<p>0</p> <p>MPI has few compliance tools to incentivise transferees to open a holding account. Transferors have NZ ETS obligations despite no longer owning or having a right or lease for use of the forest land.</p>	<p>+</p> <p>Transferees who are new participants will need to open a holding account more quickly and compliance action (notices, fees, fines) can be taken if they do not. This option will reduce problems for transferors and for future land transfers. The additional 10 working days for the TOI notice period will ease the burden on transferees. The process is timelier and more effective.</p>
<p>Clarity and transparency</p> <p>The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for NZ ETS participants on how it will be applied</p>	<p>0</p> <p>Officials consider the change to the Forestry Regulations to be a first step, but that an infringement fee of \$1,000 or \$2,000 may be insufficient to encourage compliance. A stronger incentive may be needed for a transferee to open a holding account. While a TOI notice remains unprocessed, the transferor has NZ ETS obligations in respect of the forest land. A new owner in future may be unable to meet compliance obligations, as the previous ownership change was never properly recorded</p>	<p>+</p> <p>Clarifies an existing area of law by making the requirement for a transferee to open a holding account before the TOI notice is submitted a legal obligation. The option also provides MPI with more compliance tools in situations where a transferee does not open a holding account. This increases the efficiency of TOI notices being processed and certainty for existing and new participants.</p>
<p>Consistency for participants</p> <p>The extent to which the option ensures that NZ ETS participants are treated consistently</p>	<p>0</p> <p>The requirement to open a holding account is less clear for transferees than for other people who enter the NZ ETS as forestry participants. There are few consequences for transferees who refuse to open holding accounts, who can largely avoid compliance action, whereas compliance action can be taken against other participants when they fail to carry out their obligations as NZ ETS participants.</p>	<p>++</p> <p>Increased fairness and greater consistency with requirements for all other forestry participants to open a holding account. The compliance regime can be applied more consistently because compliance action can be taken against transferees who do not open a holding account. The proposal will not exacerbate challenges for unincorporated bodies.</p>
<p>Overall assessment</p>	<p>0</p>	<p>+</p>

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

209. The preferred option is *Option Two – Transferees must open a holding account in the Register before submitting the TOI notice* because it is likely to best address the policy problem and deliver the highest net benefits including fairness for all participants in forestry in the NZ ETS.

210. The preferred option addresses the problem because:

- a) We do not anticipate disproportionate impacts on any population groups. This option is not anticipated to exacerbate existing difficulties for trusts and unincorporated bodies with TOI processes because a holding account already exists for the unincorporated body.
- b) The increased costs to transferees who do not open a holding account are consistent with the NZ ETS compliance regime.
- c) The anticipated benefits of the proposed option outweigh the anticipated costs. For MPI, it is anticipated that less time will be spent on unresolved TOIs.

211. The preferred option meets the policy objectives by:

- a) Reducing complexity and operational burden for forestry participants in the NZ ETS and the Crown through increased clarity and compliance options to compel transferees to open a holding account and participate in the NZ ETS; and
- b) Supporting the integrity of the NZ ETS in support of New Zealand's domestic and international targets and emissions budgets through greater continuity of participation.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups: Compliant and non-compliant transferees	One-off: Non-compliant transferees will face increased cost if compliance is action taken against them, with potential for further compliance action if matters are not resolved. Compliant transferees are unlikely to face increased cost.	Medium – the relative impact of infringements or fines will depend on the individual circumstances of the transferee, but will be a cost they would otherwise not be subject to.	High
MPI as regulator	One-off: processes and operational policies may require updating Ongoing: Cost of staff resource to take compliance action when this was not possible before.	Low – unlikely that new staff will be hired.	Low – we anticipate the change will incentivise more transferees to open holding accounts.
EPA as operator of the Register	One-off: processes and operational policies may require updating Ongoing: Cost of staff resource to open more holding accounts	Very low – unlikely that new staff will be hired.	High
Others	Wider government is unlikely to be affected by the proposed change to clarify the requirement to open a holding account at the time the TOI notice is due.	None.	High
Total monetised costs	<i>Not available.</i>	Nil	Not quantifiable
Non-monetised costs	<i>Non-compliant parties will face an increase in the cost of non-compliance, and the regulators may face an increased cost of taking compliance action they were unable to take before.</i>	Low	High
Additional benefits of the preferred option compared to taking no action			
Regulated groups	One-off: Transferors will benefit from TOI notices being processed more quickly. One-off: Transferees can be compliant and potentially receive NZUs. Compliance reduces the cost of future consequential non-compliance arising from multiple unresolved TOIs. Ongoing: Increased fairness in the compliance regime for all regulated parties.	Medium	Medium
Regulators	Ongoing: Likely to experience increased compliance with TOIs and will have greater ability to take compliance action when a transferee fails to open a holding account. Reduced time spend on administrative non-compliance and processing.	Medium	Medium
Others	The integrity of the NZ ETS is protected and contributes to the Government meeting its domestic and international climate change goals.	High	High
Total monetised benefits	<i>Not available.</i>	Nil	Not quantifiable
Non-monetised benefits	<i>Transferors will be able to leave the scheme more quickly after selling, or granting rights or leases on their land providing clarity. Transferees will be compliant more quickly and potentially receive NZUs. For the regulator there is an expected increase in compliance for TOIs and the ability to take compliance action</i>	Medium	Medium

Section 3: Delivering an option

How will the proposal be implemented?

212. The preferred options will be progressed alongside other proposals via an amendment Bill, which is anticipated to be passed mid-2026 and for amendments to come into force shortly afterwards. It is expected that this allows for sufficient time for regulated parties and MPI to prepare for the proposed change.

Consequential amendments required

213. If the preferred options are progressed some consequential amendments are required to ensure that obligations in the Act remain sequential.

Surrender and repayment deadlines should be adjusted

214. Surrender and repayment deadlines should be set at 60 working days after the EPA notifies the participant, instead of 31 May for participants who received an extension to their emissions return deadline. Without this amendment, participants would be required to surrender or repay units prior to calculating the units required to be surrendered or repaid.

Extensions should be granted for emissions returns associated to UEF applications

215. Participants who receive an extension to the deadline for their UEF application should receive an automatic 20 working day extension to the filing due date for the associated emissions return. This ensures there is sufficient time for the EPA to assess the UEF application before the return is due. Without a corresponding extension, participants may be forced to file their return using a default emissions factor or risk missing the deadline. Aligning the two deadlines supports accurate reporting and reduces administrative burden on the EPA and the participant.

Implementation of the preferred options

216. Reliance on existing institutional structures assumes that implementation of the system will be able to be absorbed by the relevant agencies. MPI is responsible for the operation of forestry in the NZ ETS, and compliance, monitoring, and enforcement for all regulated parties. The EPA is responsible for the Register, IAs, UEFs, and compliance, monitoring, and enforcement for non-forestry participants.

217. Implementation will require updating existing systems and processes, this is considered a part of existing system maintenance by the regulator. The Act enables cost recovery for operating the NZ ETS, cost recovery settings are reviewed periodically to ensure they reflect the cost and benefits of operating the system. MPI currently cost recovers services, while the EPA does not. Cost recovery may be considered for some of the proposals in this statement.

218. Internal operational policies and public facing guidance will be used to guide operation of the amendments.

Are there any implementation risks?

219. Proposal 1A requires that extensions be granted if the regulator is satisfied that a person was affected by 'significant disruption'. The Act specifies what qualifies as a significant disruption providing clarity on when a person can access an extension. The option to issue

a notice with ministerial oversight allows persons affected by a significant disruption where no state of emergency was declared to be able to receive extensions.

220. Another implementation risk is that the changes may not be well understood by regulated parties. Education will be developed to communicate the changes to participants. Examples of these initiatives for participants in forestry in the NZ ETS are:

1. The 'Forestry ETS Alert' email newsletter;
2. The 'ETS newsletter';
3. Discussion at the monthly Ops Forum, an online discussion between MPI's forestry in the NZ ETS operations staff and the forestry sector; and
4. Guidance published on EPA and MPI's websites.

How will the proposal be monitored, evaluated, and reviewed?

221. The proposals will be integrated into pre-existing regulatory systems.

222. MPI and the EPA has the responsibility as part of its regulatory stewardship role to monitor, review, and report on regulatory system performance. MPI and the EPA routinely monitor and report on non-compliance each month, including types and rates of non-compliance.

223. The uptake of the proposal 1A and 1C extensions will be tracked in the MPI and EPA processing systems and added as an agenda item to meetings between MPI and EPA operations teams.

224. The impact of proposals 2A and 2B will be tracked through on-going monthly reporting on compliance.

225. Participants and other stakeholders can contact the regulator through the methods listed on the website for general issues and concerns. Processes are in place so that problems are recorded and escalated as appropriate.

226. The Act also contains mechanisms for reviewing the operation of the emissions trading scheme, and these proposals do not suggest changes to these mechanisms.

227. Further changes to TOI processes may be considered as part of the continuing work programme and will include an evaluation of the 2A and 2B proposals.



Regulatory Impact Statement: Adjusting the penalty calculation for incorrect emissions returns through amendments to the Climate Change Response Act 2002 (2026)

Decision sought	<i>Analysis produced for the purpose of informing: final Cabinet decisions</i>
Agency responsible	<i>Ministry for Primary Industries</i>
Proposing Ministers	<i>Minister of Forestry and Minister of Climate Change</i>
Date finalised	<i>18 August 2025</i>

The Minister of Climate Change and Minister of Forestry propose to make changes to the Climate Change Response Act 2002 (the Act) to adjust the penalty calculation equation used when a participant reports incorrect amounts of carbon emissions or removals, or units, when the amount should have been 0.

The calculation will be adjusted by changing one of the three factors in the equation (factor A). The new factor A will be the difference between the amount the participant reported and 0 multiplied by 0.2.

Summary: Problem definition and options

What is the policy problem?

- Participants in the NZ ETS effectively receive no penalty when they report incorrect amounts of emissions, removals or units and the actual amount is equal to 0. The equation used for the calculation of penalties always leads to a penalty is \$0.00 in this situation, regardless of the participant’s culpability level.
- An effective penalty can deter this type of non-compliant behaviour and plays an important role in protecting the integrity of the NZ ETS.
- Participation in the scheme has increased significantly since administrative penalties were introduced in 2021. The associated risk of participants reporting an incorrect amount of carbon emitted or removed where the correct amount is 0 has increased.
- Targeted engagement indicated that stakeholders do not have concerns about the proposed changes to the equation used to calculate penalties in the situation described above. Some stakeholders noted they are comfortable with the changes as they are methodological.

- Government intervention is required because sanctioning this type of non-compliance can only be provided for through changes to the Act.
- The underlying market failure is that this type of non-compliance occurs frequently and there is no sanction available to deter non-compliance. Non-compliance in relation to reporting emission and removal of carbon has a negative impact on the integrity of the New Zealand Emissions Trading Scheme (NZ ETS).

What is the policy objective?

- The proposed changes seek to:
 - Ensure penalties adequately sanction non-compliant behaviour and encourage voluntary compliance in the NZ ETS.
 - Ensure that the integrity of the NZ ETS is maintained so that it continues to support New Zealand’s domestic and international targets and emissions budgets.
 - Ensure penalties are proportionate to the severity of the error and the participant’s commercial activity.
- Success or failure will be measured through existing monitoring and reporting functions (e.g. monthly compliance reports). A trend of increasing non-compliance for the situation outlined above would result in the regulator exploring the reasons to determine if changes to penalties are required.

What policy options have been considered, including any alternatives to regulation?

- The “do nothing” approach means that participants who report an incorrect amount of emissions or removals or units when the actual amount is 0, currently do not receive a penalty.
- The Ministers’ preferred approach is to change one of the factors (factor A) in the equation used to calculate penalties. This updated factor would be the unit difference between what the participant reported and 0 multiplied by 0.2.

What consultation has been undertaken?

- Proposals in the RIS have been subject to targeted engagement. Full public consultation was not undertaken to balance consultation fatigue. Ministers considered the high volume of NZ ETS related public consultations in train at the time and that sufficient feedback could be obtained through carefully designed targeted engagement processes for the proposed changes.
- Targeted engagement was undertaken on the proposal outlined in this RIS. This included:
 - an email questionnaire to post-settlement governance entities (PSGEs);
 - an email to Māori forestry stakeholders outlining the proposals and inviting stakeholders to participate in a hui; one hui was held;
 - a discussion with the ETS Technical Advisory Group (forestry stakeholders);
 - engagement with pan-Māori groups.
- Stakeholders support the Ministers’ preferred option.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

<p>Costs (Core information)</p> <p>Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)</p> <ul style="list-style-type: none"> • The proposals have small, unquantified, potential financial implications for MPI and EPA. These result from the adjustment of one of the factors of the equation used to calculate penalties. Responsibilities are not changed through this proposal. • Non-compliant participants could incur cost for non-compliance in relation to reporting incorrect amounts of emissions, removals or units when the correct amount is 0. The distributional impact of the proposed change falls on non-compliant regulated parties. • The proposed change is not anticipated to have any impact on competition.
<p>Benefits (Core information)</p> <p>Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)</p> <ul style="list-style-type: none"> • The proposed change is expected to encourage compliance in the NZ ETS, which protects the integrity of the NZ ETS. This benefits all participants in the scheme and aids New Zealand in meeting international climate change obligations. • The proposed intervention is not anticipated to have any impact on competition.
<p>Balance of benefits and costs (Core information)</p> <p>Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?</p> <ul style="list-style-type: none"> • The anticipated benefits outweigh the costs when considering quantitative and qualitative evidence.
<p>Implementation</p> <p>How will the proposal be implemented, who will implement it, and what are the risks?</p> <ul style="list-style-type: none"> • Ongoing operation of the new arrangements will be implemented by EPA and MPI as relevant. Officials are confident arrangements can be implemented effectively and efficiently and administered through existing funding arrangements. • The risk of participants misunderstanding changes to the equation used to calculate penalties will be mitigated through education. • The proposal will be progressed through the Climate Change (Market Governance and Other Efficiencies) Amendment Bill, which is intended to come into effect mid-2026. Transitional arrangements are not anticipated to be required.
<p>Limitations and Constraints on Analysis</p> <ul style="list-style-type: none"> • The tightly constrained timeline for policy development and limits on consultation means stakeholder engagement on the options discussed is not exhaustive. • Wider changes to penalties for incorrect emissions returns, allocations and adjustments, and alternatives to administrative penalties were out of scope.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



Bronwyn Kropp
Manager (Acting) Operational Policy - Forestry
Incentives
Te Uru Rākau – New Zealand Forest Service
Ministry for Primary Industries
15 August 2025

Quality Assurance Statement	
Reviewing Agency: Ministry for Primary Industries and Department of Corrections	QA rating: Partially meets
<p>Panel Comment:</p> <p>A quality assurance panel with members from MPI and the Department of Corrections has reviewed the Regulatory Impact Statement: Adjusting the penalty calculation for incorrect emissions returns through amendments to the Climate Change Response Act 2002 (2026), produced by MPI and dated 18 August 2025. The panel considers that it partially meets the Quality Assurance criteria. This rating is attributable to the limited consultation undertaken on the recommended option. This limits the availability of information to support cost/benefit analysis, and fully informed comparison between the options.</p>	

Terms used in this impact statement

Adjustment: This is the difference between the provisional allocation that was received by the eligible person, and the allocation as checked at the end of the year. If the adjustment number is negative, the participant will receive additional units, if it is positive the participant will be liable to repay units.

Amendment: An amendment is a correction of an emissions return that is carried out by the regulator. The correct amount of emissions or removals may be higher or lower than what was reported by a participant. In some cases, the correct amount of emissions or removals is 0. This may happen when a participant submitted an emissions return when they were not supposed to.

Culpability level: The extent to which the participant's behaviour is responsible for the difference in emissions or removals reported.

Emissions return: A report that outlines a participant's emission of greenhouse gasses into (emissions), or removal of greenhouse gasses (removals) from the atmosphere during a set period.

Entitlement: Units received by a participant if their emissions return reports that greenhouse gasses have been removed from the atmosphere.

Industrial Allocation (IA): Allocations are units that are given free of charge to certain emissions intensive and trade exposed eligible persons by the government. This is to mitigate the financial effect of the New Zealand Emissions Trading Scheme (NZ ETS) on these participants. Participants can choose to receive their allocation either in advance (provisional) or in arrears (final allocation). Provisional allocations are checked at the end of the year to align with actual industrial activity during that year.

Participant: a person or business who undertakes activities in the New Zealand Emissions Trading Scheme (as defined in the Act).¹

Reconsideration of allocation decisions: The regulator may reconsider, vary or revoke (change) an allocation given to an eligible person.

Unit: A unit can either represent one metric tonne of carbon dioxide, or the equivalent of any other greenhouse gas. For the purpose of this RIS, a unit is the New Zealand Unit (NZU) which are created by the Government.

Unit difference: As a result of an amendment or change in allocation decision a participant may receive additional units or be required to repay units. The unit difference:

- for amendments results from:
 - emissions or removals as reported by the participant in the emissions return, and
 - the correct amount of emissions or removals as determined by the regulator.
- for reconsideration of allocation decisions:

¹ In this impact statement the term participant is used for clarity, however the Act specifies that penalties apply to a person. When this statement refers to participants, this includes IA applicants and persons who have submitted emissions returns when they were no longer carrying out the activity due to a transmission of interest.

- the units the participant is required to surrender or repay, or is no longer entitled to receive as a result of the change, or
- the units the participant is no longer required to surrender or repay, or is now entitled to receive, as a result of the change

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The New Zealand Emissions Trading Scheme

1. The New Zealand Emissions Trading Scheme (NZ ETS) is a market-based tool to encourage a reduction in emissions of greenhouse gasses. The purpose of the NZ ETS is to assist New Zealand in meeting its international climate change obligations and 2050 target and emissions budgets. The Climate Change Response Act 2002 (the Act) provides the statutory framework for the NZ ETS.
2. The NZ ETS is a unique emissions trading scheme because it not only includes participants that emit carbon (non-forestry participants), but also includes participants that are able to remove carbon from the atmosphere (forestry participants). Including forestry in the scheme provides financial incentives to establish new forests, and to replace older forests if they are cleared.
3. The Ministry for Primary Industries (MPI) is the regulator for forestry in the NZ ETS under delegation from the Environmental Protection Authority (EPA). Te Uru Rākau – New Zealand Forest Service is the branch within MPI responsible for carrying out operational regulation for forestry in the NZ ETS.

Forestry participants in the NZ ETS

4. In New Zealand, the baseline date for greenhouse gas emissions is 1990. This has resulted in two categories of forest land in the NZ ETS: pre-1990 and post-1989. A forester may choose to voluntarily register in the scheme with post-1989 forest land to earn NZUs. Owners of pre-1990 forest land can harvest and re-establish their forests without registering. However, if they deforest the land, they are required to participate in the scheme and surrender units to the Crown. The differences are summarised in **Table 1**.
5. Forestry participants in the NZ ETS are required to report the amount of carbon their forest removed or emitted through emissions returns. These emissions returns are usually required to be submitted at intervals set out in the Act, when changes occur on the forest land, such as changes to landownership, rights and leases, or when participants wish to remove land from the NZ ETS.
6. If a participant's emissions return reports removal of carbon during the relevant period, they will receive NZUs. Removals occur when a participant's forest absorbs carbon from the atmosphere while the trees are growing. Participants are required to surrender units if the emissions return reports that carbon was emitted due to forest land being cleared or deforested during the relevant period. The amount of NZUs the participant receives or is required to surrender is equal to the tonnes of carbon removed or emitted during the relevant period.

Table 1: Summary of differences amongst types of forest land involved in the NZ ETS

Forest type	What forestry activities are allowed?	When must foresters become participants in the NZ ETS?
Post-1989 standard	Clearing (harvesting) and reestablishing (replanting)	When the land is first entered in the NZ ETS or when ownership* for land already entered in the NZ ETS changes
Post-1989 permanent	Must not be fully cleared for 50 years	When the land is first entered in the NZ ETS or when ownership* for land already entered in the NZ ETS changes
Pre-1990	Clearing (harvesting) and reestablishing (replanting)	When exotic forest is cleared and not replanted (deforestation) occurs. Units must be surrendered to the Crown.

* If land or a forestry right or a forestry lease is purchased

Non-forestry participants in the NZ ETS

- Non-forestry participants in the NZ ETS report on the greenhouse gases they emitted during the previous year through emissions returns.² They are required to surrender an amount of units equivalent to the emissions reported in the emissions return. Some participants can also receive units for their removal activities or apply for an allocation of units if they are affected by the rules of the NZ ETS. **Table 2** outlines obligations for non-forestry and forestry participants.

Table 2: Summary of obligations for different types of participants in the NZ ETS

Obligations for participants in the NZ ETS	Participant type	
	Forestry	Non-forestry
Submit an emissions return to report on emissions of the previous year	☑	☑
Submit an emissions return to report on emissions or removals (depending on whether forest is growing or cleared) ³	☑	☑
Surrender units equal to the greenhouse gas emissions in the emissions return	☑	☑
Submit an industrial allocation application to receive units from the government		☑
Submit an adjustment which reports on the difference between the units received ahead of the year, and the actual units required based on emissions of the year.		☑

² Non-forestry participants are made up of the following sectors: liquid fossil fuels, stationary energy, industrial processes, synthetic greenhouse gases and waste.

³ This also applies for some non-forestry participants if they have voluntarily registered.

Non-compliance and administrative penalties in the NZ ETS

8. The NZ ETS relies on “self-assessment” for reporting emissions and removals through emissions returns, allocation applications and adjustments. The NZ ETS resembles the tax system in New Zealand, so the administrative penalties introduced in 2021 were modelled on administrative penalties in the tax system. The analysis for the introduction of reporting penalties is set out in the Regulatory Impact Statement ‘NZ ETS tranche two: Improving compliance and penalties’.⁴
9. An accurate overview of emissions, removals and units is required to support New Zealand in meeting its domestic and international obligations. Compliance and enforcement tools encourage participants to submit accurate emissions returns, allocation applications and adjustments, and play an important role in maintaining the integrity of the NZ ETS.
10. The Act provides for the application and calculation of an administrative penalty when participants:
 - a. Submit an incorrect emissions return for activities relating to post-1989 forestry⁵
 - b. Submit an incorrect emissions return for other activities,⁶ and
 - c. Provide incorrect information in an allocation application or adjustment.⁷
11. The penalty amount is calculated using an equation set out in the Act. An example of a penalty calculation can be found in **Figure 1**. The equation is made up out of three factors, $A \times B \times C$, where:
 - a. Factor A is the lesser of:
 - i. the outcome of the corrected emissions return, application or adjustment, or
 - ii. the difference between the incorrect emissions return, application or adjustment and the corrected emissions return, application or adjustment.
 - b. Factor B is the price of carbon as determined in regulations.⁸
 - c. Factor C is the participants culpability factor
 - i. The culpability factor is made up of the participant’s culpability level and whether they voluntarily disclosed their error to the regulator.⁹
12. The ‘lesser than’ formula in factor A was implemented to mitigate the risk of participants becoming liable for penalties that are disproportionate to the size of their undertaking. This may happen if small entities report significantly more emissions than they are required to. For example, where a participant reports emissions in kilograms rather than in tonnes. In those cases, the amended outcome of the emissions return will more accurately reflect the size of the entity and lead to a more proportionate penalty.

⁴ [Impact Statement - NZ ETS Tranche two: Improving Compliance and Penalties - 16 May 2019 - Ministry for the Environment - Regulatory Impact Assessment](#).

⁵ The calculation for this penalty is in section 134C(5).

⁶ The calculation for this penalty is in section 134C(8).

⁷ The calculation for this penalty is in section 134D(2).

⁸ Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013.

⁹ Culpability factor can be 0.1, 0.2, 0.4 or 1.0.

Penalties where participants report too many emissions, or report too few removals

13. Penalties for participants reporting too many emissions, or reporting too few removals differ from penalties where participants report too few emissions, or report too many removals. This is because ‘the motivations for over- and underclaiming units, and the resulting risk and cost profile (with the participant facing the costs of underclaiming units and the Crown the costs of overclaiming), justify different treatment.
14. For this reason, participants who underclaim an allocation or entitlement to units, or over-report on their obligation to surrender units, receive a maximum penalty of \$1,000.

Figure 1: Example of a penalty calculation for an incorrect emissions return

Business X submitted an emissions return in 2023 reporting they removed 3,000 tonnes of carbon during the relevant period. The regulator identified that the emissions return is incorrect as the actual amount of removals for this business during the relevant period was 1,000 tonnes of carbon. The regulator will amend Business X’s emissions return to 1,000 and assess whether a penalty applies. The participant voluntarily disclosed the error to the regulator before they were informed of the error by the regulator. If a penalty applies, the amount would be $A \times B \times C$ where:

- A is the lesser of:
 - the actual amount of carbon removed by Business X (in this case 1,000), or
 - the difference between the submitted and actual amount of removals (in this case 2,000)
- B is the price of carbon. The price of carbon was \$67.63 in 2023.
- C is the participant’s culpability factor. For this example, the participant failed to take reasonable care in the preparation of their emissions return and voluntarily disclosed the error to the regulator.

The penalty will be: $1,000 \times 67.63 \times 0.1 = \$6,763$

These proposals will be progressed alongside other amendments to the Act

15. The package of forestry-related proposals in this RIS are part of a wider collection of proposed changes through the Climate Change Response Amendment (Market Governance and Other Integrity and Efficiency Changes) Amendment Bill (the Bill). The Bill is intended to make the administration of the Act easier and to support the NZ ETS to function as intended. The wider collection of changes includes annual updates to wider NZ ETS settings and an efficiency review of the Act.¹⁰
16. The other RISs prepared for the wider collection of proposed changes to the Act are:
- Technical amendments to the NZ ETS;
 - Improvements to the administration of the Emissions Trading Scheme through amendments to the Climate Change Response Act 2002 (2026).

¹⁰ The wider review does not include the review of cost recovery and efficiencies for updating fees and charges for forestry.

What is the policy problem or opportunity?

Nature, scope and scale of the problem

17. Almost a third of non-compliance where participants reported incorrect emissions or removals for forestry activities, would receive a penalty of \$0.00 if a penalty applies.¹¹ This is due to the calculation of penalties as set out in the Act. In most of these instances of non-compliance participants reported removals when they did not carry out removal activities (87%).¹² This means that they received units in relation to the removals reported that they were not entitled to.
18. For the forestry activity related non-compliance above, participants reported a median average of 1,113, and a mean average of 4,025 of incorrect removals. Because participants receive units for their removals this means they received on average 1,113 or 4,025 units in error respectively that are worth \$66,034.29 and \$238,803.25 respectively.¹³

Why do penalties of \$0.00 occur?

19. In situations where a participant reports incorrect amounts of removals, emissions or units when the actual amount of removals, emissions, or units is 0, the penalty calculation equation will be multiplied by 0 (**Figure 2**). This is because of the formulation of factor A in the penalty calculation equation set out in the Act.¹⁴
20. Factor A requires the use of the 'lesser of':
- a. the difference between the reported amount of emissions, removals or units and the actual amount, or
 - b. the actual amount of emissions, removals or units.
21. Where the actual amount of removals, emissions or units is not equal to 0, the equation leads to a penalty amount higher than \$0.00. This means that participants who make similar sized errors (report a similar amount of removals or emissions in error) may receive significantly different penalties (**Figure 2**).
22. At the time the penalty was introduced, this penalty calculation was created based on the expectation that the risk of participants receiving a penalty of \$0.00 was low. In practice, this risk has since been found to be significant. This is because a substantial amount (around 30%) of penalties for participants reporting incorrect emissions, removals or units are now resulting in a penalty of \$0.00.

¹¹ From January 2023 to 26 June 2025, 100 of the 334 (30%) of post-1989 forestry emissions returns referred for amendment investigation, were emissions returns where the actual amount is 0. This date range reflects when the new ETS forestry IT system, Tupu-Ake, went live. It does not include incorrect returns prior to the new system being in place, unless they were migrated due to being open at the time it went live.

¹² Out of the 100 participants who reported incorrect emissions or removals where the actual amount was 0, 87% reported incorrect removals, 11% reported incorrect emissions, and 2% reported 0.

¹³ These amounts are calculated at a market price of \$59.33.

¹⁴ Section 134C and 134D.

Risks if penalty calculations lead to a \$0.00 penalty

Importance of penalties to encourage accurate reporting

23. The risk of compliance action is likely to be considered low by participants if a penalty applies, but the penalty amount is \$0.00. If participants consider the risk of compliance action is low, they may continue to incorrectly report emissions, removals and units which would undermine the integrity of the NZ ETS.
24. Reporting of emissions, removals and units is a fundamental aspect of the NZ ETS as it supports national reporting and the meeting of climate change targets. Based on the emissions or removals a participant reported they are either entitled to units or required to surrender units. Accurate reporting of removals is critical to ensure that people do not receive more units than they are entitled to and the potential financial gain these units could represent. Accurate reporting of emissions incentivises participants to reduce their emissions.
25. It is important that participants submit accurate IA applications so that unfair effects of the NZ ETS on any part of the economy can be mitigated, but businesses are still incentivised to reduce emissions of greenhouse gasses.

Risk of inaccurate reporting increases as more participants join the NZ ETS

26. The amount of forestry participants and reporting obligations in the scheme have increased significantly since the implementation of administrative penalties. Even if the percentage of non-compliance remained the same or have been reduced, the absolute number of instances have increased. This means the risk of participants reporting incorrect amounts of emissions, removals or units when the actual amount is 0 is also higher.

Context of non-compliance

27. For post-1989 forestry, this type of incorrect emissions return is often linked to non-compliance in relation to transmissions of interest. Compliance rates for transmissions of interest have improved since the last mandatory reporting cycle but remain one of the biggest causes for non-compliance for forestry in the NZ ETS.
28. Changes to the broader system of transmissions of interest may be considered in future, however effective penalties play an important part in encouraging compliance in relation to incorrect emissions returns.
29. This problem does not amount to a significant portion of non-compliance for non-forestry participants. However, to ensure fairness for participants from all sectors, and consistency within the NZ ETS, the changes are proposed to apply to all participants including those who submit IA applications.

Assumptions

Reliance on previous regulatory impact statement

30. The problem in this statement is solely related to the calculation of administrative penalties that currently apply under the Act. Policy decisions have been made previously around the introduction of administrative penalties.

31. Reconsideration of the suitability of administrative penalties for incorrect reporting is out of scope for this impact analysis. This regulatory impact statement relies on, and builds from, the underlying analysis that supported the introduction of the administrative penalty for this type of offending. That analysis supports the conclusion the penalties are needed to deter this type of non-compliance and encourage accuracy in reporting. This analysis is set out in the relevant Regulatory Impact Statement.¹⁵

Maximum penalties for reporting too many emissions, or report too few removals

32. This statement assumes that the \$1,000 maximum penalty will also apply to situations where a participants overreport emissions, or underreport removals. Previous analysis outlined why these situations are treated differently because of the costs and risks associated with this type of non-compliance.¹⁶ Revisiting this analysis is out of scope for this impact statement.

Figure 2: Example of a penalty calculation for an incorrect emissions return where the actual amount of removals is 0

Business X submitted an emissions return in 2023 reporting they removed 2,000 tonnes of carbon during the relevant period. The regulator identified that the emissions return is incorrect as the actual amount of removals for this business during the relevant period was 0. The regulator will amend business X's emissions return to 0 and assess whether a penalty applies. The participant voluntarily disclosed the error to the regulator before they were informed of the error by the regulator. If a penalty applies, the amount would be $A \times B \times C$ where:

- A is the lesser of:
 - the actual amount of carbon removed by Business X (in this case 0), or
 - the difference between the submitted and actual amount of removals (in this case 2,000)
- B is the price of carbon. The price of carbon was \$67.63 in 2023.
- C is the participants level of culpability factor. For this example, the participant failed to take reasonable care in the preparation of their emissions return and voluntarily disclosed the error to the regulator.

The penalty will be: $0 \times 67.63 \times 0.1 = \0.00

Note: The amount by which the reported removals were incorrect is the same as in **Figure 1** (2,000 tonnes). The calculated penalty there was \$6,763, here the penalty is \$0.00.

¹⁵ See: [Impact Statement - NZ ETS Tranche two: Improving Compliance and Penalties - 16 May 2019 - Ministry for the Environment - Regulatory Impact Assessment](#), p. 31-34.

¹⁶ See: [Impact Statement - NZ ETS Tranche two: Improving Compliance and Penalties - 16 May 2019 - Ministry for the Environment - Regulatory Impact Assessment](#), p. 20.

Affected parties

33. The proposed changes to the penalty calculation would apply to all participants in the NZ ETS. The effect on participants is expected to be low. This is because the proposal does not alter any participant obligations in the Act and does not change when a penalty applies. It proposes to change factor A in the equation used for penalty calculations so that an effective penalty amount is charged.
34. Non-compliant regulated parties will likely have the largest interest in this issue. There are currently more than 4,600 forestry participants in the NZ ETS, the majority of which are compliant. All participants benefit from high compliance rates in the NZ ETS. New Zealand benefits from high integrity in the NZ ETS to meet climate change targets including international obligations.
35. While Māori form a large portion of participants in the NZ ETS, rights and interests analysis determined that Māori would not be disproportionately affected by this proposal. No other population groups are disproportionately affected and no special factors are involved.

Stakeholder views

36. Stakeholders were informed of the proposal to change the calculation of penalties for incorrect emissions returns, allocations and adjustments. No concerns were raised regarding the proposal. Some stakeholders noted that they were comfortable with the changes due to the problem being an imperfect methodological issue.

Consultation with MOJ

37. Ministry of Justice (MoJ) was consulted regarding the options for changing the penalty for reporting incorrect emissions, removals or units when the actual amount is 0. MoJ considers that the range of options vary as to the degree to which penalties reflect the level of moral culpability and that some options are disproportionately low or high. On balance MoJ considers that the preferred options strikes a good balance and is supportive of the preferred option in this RIS.

Impact on international emissions trading scheme

38. This proposal does not alter participant obligations and as such the impact on the international climate change obligations is low.

What objectives are sought in relation to the policy problem?

39. This proposal seeks the following objectives:
- a) Ensuring penalties adequately sanction non-compliant behaviour and encourage voluntary compliance in the NZ ETS.
 - b) Ensuring that the integrity of the NZETS is maintained so that it continues to support New Zealand's domestic and international targets and emissions budgets.
 - c) Ensuring penalties are proportionate to the severity of the error and the participant's undertaking.

What consultation has been undertaken?

40. Targeted engagement was undertaken on forestry proposals specifically, and alongside other proposals to amend the Act as outlined in paragraphs 15 to 16. Section 2 will set out specific feedback for each proposed change.

Engagement with Māori forestry stakeholders

41. A large portion of participants in forestry in the NZ ETS are Māori or Māori entities.
42. As part of targeted engagement, Māori forestry stakeholders were contacted via email with a summary of the proposals and invited to meet with us via online hui to discuss the proposals. Those contacted included Māori forestry landowners (trusts, rūnanga, iwi authorities and incorporations) representing 90% of all Māori forest land, as well as Māori forestry stakeholders such as Ngā Pou a Tāne. As a result of the email, an online hui was held with Māori forestry representatives from Tairāwhiti.
43. The forestry proposals were discussed alongside other proposals for the Bill with pan-Māori groups representative of expert in Treaty of Waitangi and Te Ao Māori.
44. An email seeking feedback on high-level proposals including the proposals outlined in this RIS was sent to Post-Settlement Governance Entities (PSGEs) via email for feedback. No feedback was received from the PSGEs.

Targeted engagement with other forestry stakeholders

45. The proposals were discussed with MPI's Forestry NZ ETS Technical Advisory Group (ETS TAG) which supports the development of NZ ETS policy through technical input from the perspective of experienced practitioners of forestry in the NZ ETS. The ETS TAG did not express any concerns regarding the proposal.

Other relevant consultation

46. Consultation on technical improvements to the Climate Change (Forestry) Regulations 2022 was held between 15 April and 16 May 2025, with late submissions accepted until 23 May.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

47. All options are assessed against the criteria shown in **Table 3**.

Table 3: Assessment criteria

Criteria	Description
Consistency with purpose of NZ ETS	The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets.
Ease of implementation and cost	The extent to which the option is easy to implement and minimises compliance costs for government and ETS participants.
Clarity and transparency	The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for ETS participants on how it will be applied.
Consistency	The extent to which the option ensures that ETS participants are treated consistently
Proportionality of penalties	The extent to which the proposed penalty is proportionate to the severity of the offence and to the participant's undertaking.

48. These criteria are consistent across all proposals described in paragraph 16.

49. A qualitative judgement is made of the effectiveness of each option using the following rubric:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

What scope will options be considered within?

50. Three matters were considered to be outside the scope of this proposal. These are:
- a. Reconsidering whether administrative penalties are a suitable tool to address non-compliance for incorrect emissions returns. Policy decisions on introducing an administrative penalty have already been made.¹⁷
 - b. Changing the calculation of penalties for incorrect emissions returns that are not amended to an outcome of 0 NZUs, including the consideration of a minimum penalty.
 - c. Changing the application of penalties, and the culpability levels of reasonable care, gross carelessness and knowing failure.
51. A new online system to administer forestry in the NZETS introduced in 2023. One of the objectives of this system was to provide more assistance for participants. This assistance encourages voluntary compliance for submitting accurate emissions returns for post-1989 forestry.¹⁸ These changes have improved overall compliance rates. However, we do not consider that further system changes can be implemented in place of an effective penalty for reporting of incorrect amounts of emissions, removals or units where the actual amount is 0.

What options are being considered?

Context for calculations of penalties under different options

52. All options considered include analysis by reference to the median and mean average amount of over-reported removals for forestry activities. This is the most representative of current non-compliance. The median amount of units received for incorrectly reported removals is 1,113 and the mean average is 4,025 units.¹⁹ This aims to show the effect of the options proposed.

¹⁷ The Regulatory Impact Statement 'NZETS tranche two: Improving compliance and penalties' contained several alternatives to reporting penalties that were considered out of scope.

¹⁸ This is achieved through functions like input returns, which allow for emissions return to be calculated by the system instead of manually.

¹⁹ This means that participants received 1,113 and 4,025 NZUs respectively too many. The current value of these units is \$66,034.29 and \$238,803.25 respectively (at a market price of \$59.33).

Option One – Status Quo

53. Key features: when a participant reports incorrect amounts of carbon emissions or removals, or units, when the actual amount is 0 they receive a penalty of \$0.00. The penalties as shown in **Table 4** apply.

54. Addressing the problem: participants who report incorrect amounts of carbon emissions or removals or units, when the actual amount in 0 effectively receive no penalty. The regulator cannot deter non-compliance and encourage voluntary compliance using a penalty. Participants may continue to report incorrect emissions, removals and units if they consider the risk of compliance action is low.

Table 4: Current penalties for incorrect emissions returns that require amending to an outcome of 0 NZUs

Culpability	Did the participant voluntarily disclose failure or error to EPA before being informed of it by EPA?	Penalty size for the median incorrect removals of 1,113 NZUs (worth approximately \$66,034.29)	Penalty size for the mean average removals of 4,025 NZUs (worth approximately \$238,803.25)
Participant did not take reasonable care	Yes	\$0.00	\$0.00
Participant did not take reasonable care	No	\$0.00	\$0.00
Participant was grossly carelessness	Yes	\$0.00	\$0.00
Participant was grossly careless	No	\$0.00	\$0.00
Participant knowingly failed	Yes	\$0.00	\$0.00
Participant knowingly failed	No	\$0.00	\$0.00

Option Two – Factor A is the unit difference

55. Key features: change factor A in the equation used to calculate penalties when a participant reports an incorrect amount of emissions, removals or units and the actual amount is 0. The new factor A will be equal to the unit difference (the difference between what the participant submitted and 0).
56. Addressing the problem: participants will receive a penalty based on the emissions, removals or units they incorrectly reported. The penalty is likely to deter non-compliance and encourage voluntary compliance. This factor A may result in penalties that are disproportionate to the severity of the offence and to the size of a participant's undertaking. Because of this it may discourage voluntary participation in the scheme. The penalties as shown in **Table 5** would apply.

Table 5: using the unit variance as factor A for penalty calculations

Culpability	Did the participant voluntarily disclose failure or error to EPA before being informed of it by EPA?	Penalty size for the median incorrect removals of 1,113 NZUs (worth approximately \$66,034.29)	Penalty size for the mean average removals of 4,025 NZUs (worth approximately \$238,803.25)
Participant did not take reasonable care	Yes	\$6,936.22	\$25,083.80
Participant did not take reasonable care	No	\$13,872.43	\$50,167.60
Participant was grossly carelessness	Yes	\$13,872.43	\$50,167.60
Participant was grossly careless	No	\$27,744.86	\$100,335.20
Participant knowingly failed	Yes	\$69,362.16	\$250,838.00
Participant knowingly failed	No	\$69,362.16	\$250,838.00

Option Three – Factor A is the 0.2 of unit difference

57. Key features: change factor A in the equation used to calculate penalties when a participant reports an incorrect amount of emissions, removals or units and the actual amount is 0. The new factor A will be 0.2 of the unit difference.

58. Addressing the problem: participants will receive a penalty that is based partially on the emissions, removals or units they incorrectly reported. The penalty is likely to deter non-compliance and encourage voluntary compliance. This factor A is unlikely to result in penalties that are disproportionate to the severity of the offence and to the size of a participant's undertaking. The penalty is likely to be consistent with penalties that apply when a participant reports incorrect emissions, removals or units where the actual amount is greater than 0. The penalties as shown in **Table 6** would apply.

Table 6: Using 0.2 of the unit variance as factor A for penalty calculations

Culpability	Did the participant voluntarily disclose failure or error to EPA before being informed of it by EPA?	Penalty size for the median incorrect removals of 1,113 NZUs (worth approximately \$66,034.29)	Penalty size for the mean average removals of 4,025 NZUs (worth approximately \$238,803.25)
Participant did not take reasonable care	Yes	\$1,387.24	\$5,016.76
Participant did not take reasonable care	No	\$2,774.49	\$10,033.52
Participant was grossly carelessness	Yes	\$2,774.49	\$10,033.52
Participant was grossly careless	No	\$5,548.97	\$20,067.04
Participant knowingly failed	Yes	\$13,872.43	\$50,167.60
Participant knowingly failed	No	\$13,872.43	\$50,167.60

Option Four – Separate factor A for small foresters

59. Key features: introduce a separate factor A for small foresters. Those with a unit difference below 25,000 NZUs would be classified as a small forestry participants.²⁰ For example, if factor A for a regular participant is 0.2 of the unit difference, the penalty calculation for small forestry participants would be:

- a. The unit difference multiplied by 0.1 for post-1989 forestry participants, or
- b. The unit difference multiplied by 0.05 for pre-1990 forestry participants.
 - i. The penalties as shown in **Table 7** would apply.

60. Addressing the problem: small foresters will receive a penalty larger than \$0.00. The penalty may deter non-compliance and encourage voluntary compliance. The penalty may be disproportionate to the severity of the offence, but is unlikely to result in penalties that are disproportionate to the participant’s undertaking.

Table 7: Using the 0.1 of the unit variance as factor A for penalty calculations

Culpability	Did the participant voluntarily disclose failure or error to EPA before being informed of it by EPA?	Penalty size for the median incorrect removals of 1,113 NZUs (worth approximately \$66,034.29)	Penalty size for the mean average removals of 4,025 NZUs (worth approximately \$238,803.25)
Participant did not take reasonable care	Yes	\$625.69	\$1,915.72
Participant did not take reasonable care	No	\$1,251.39	\$3,831.43
Participant was grossly carelessness	Yes	\$1,251.39	\$3,831.43
Participant was grossly careless	No	\$2,502.77	\$7,662.87
Participant knowingly failed	Yes	\$6,256.93	\$19,157.17
Participant knowingly failed	No	\$6,256.93	\$19,157.17

²⁰ This reflects the ‘lower amounts’ as set out in section 134AA of the Act.

Option Five – Set a minimum penalty under current provision

61. Key features: Introduce a minimum penalty amount for situations where a participant reports an incorrect amount of emissions, removals or units and the actual amount is 0. The amount for the penalty would be set at \$1,000. The penalties as shown in **Table 8** would apply.
62. Addressing the problem: ensures that participants receive a penalty larger than \$0.00. The penalty is not dependent on the size of the error and may result in a penalty that is disproportionate to the size of the offence or the participant’s undertaking. The penalty may deter non-compliance and encourage voluntary compliance. Penalties are equal for all participants making a similar error.

Table 8: Introducing a minimum penalty of \$1,000

Culpability	Did the participant voluntarily disclose failure or error to EPA before being informed of it by EPA?	Penalty size for the median incorrect removals of 1,113 NZUs (worth approximately \$66,034.29)	Penalty size for the mean average removals of 4,025 NZUs (worth approximately \$238,803.25)
Participant did not take reasonable care	Yes	\$1,000	\$1,000
Participant did not take reasonable care	No	\$1,000	\$1,000
Participant was grossly carelessness	Yes	\$1,000	\$1,000
Participant was grossly careless	No	\$1,000	\$1,000
Participant knowingly failed	Yes	\$1,000	\$1,000
Participant knowingly failed	No	\$1,000	\$1,000

How do the options compare to the status quo/counterfactual?

	Option One – Status Quo	Option Two – Factor A is the unit difference	Option Three - Factor A is 0.2 of the unit difference	Option Four – Separate factor A for small foresters	Option Five – Set penalty amount
<p>Consistency with purpose of NZ ETS The extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets.</p>	<p>0 Factor A leads to a penalty of \$0.00. The regulator cannot enforce the obligation to report accurate emissions, removals and units negatively affecting the integrity of the NZ ETS.</p>	<p>+ The regulator can enforce the obligation to report accurate emissions, removals and units which helps to maintain the integrity of the NZ ETS as a mechanism to drive reductions in emissions. Penalty amount may discourage voluntary participation in the NZ ETS for some smaller participants who will consider the risk of compliance too high to enter the NZ ETS. If voluntary participation is discouraged this would result in less removals of greenhouse gasses affecting emissions budgets and targets.</p>	<p>++ The regulator can enforce the obligation to report accurate emissions, removals and units which helps to maintain the integrity of the NZ ETS. The penalty amount is unlikely to be high enough to discourage voluntary participation.</p>	<p>+ The regulator may not be able to enforce the obligation to report accurate emissions, removals and units. This means the option may not improve the maintaining of the integrity of the NZ ETS. The penalty amount is unlikely to be high enough to discourage voluntary participation.</p>	<p>+ The regulator may not be able to enforce the obligation to report accurate emissions, removals and units. This means the option may not support improving or maintaining the integrity of the NZ ETS.</p>
<p>Ease of implementation and cost The extent to which the option is easy to implement and minimises compliance costs for government and ETS participants.</p>	<p>0 Factor A leads to a penalty amount is easy to implement but does not minimise compliance costs for government and ETS participants because participants are likely to consider the risk of compliance action low so the penalty amount does not encourage voluntary compliance.</p>	<p>+ The penalty calculation provision would require updating by introducing a new subsection for penalties for this type of incorrect emissions return. Implementation does not require system changes and requires minimal process changes for the regulator. Factor A is expected to result in a penalty that results in participants considering the risk of compliance action high and therefore encourage voluntary compliance. This means that compliance costs for government and ETS participants are minimised.</p>	<p>+ The penalty calculation provision would require updating by introducing a new subsection for penalties for this type of incorrect emissions return. Implementation does not require system changes and requires minimal process changes for the regulator. Factor A is expected to result in a penalty that results in participants considering the risk of compliance action high enough to encourage voluntary compliance. This means that compliance costs for government and ETS participants are minimised.</p>	<p>+ The penalty calculation provision would require updating by introducing a new subsection for penalties for regular and small forestry participants for this type of incorrect emissions return. Implementation does not require system changes and requires minimal process changes for the regulator. Factor A is may not result in a penalty that results in participants considering the risk of compliance action high enough to encourage voluntary compliance. This means that compliance costs for government and ETS participants may not be minimised.</p>	<p>+ The penalty calculation provision would require updating to introduce a minimum penalty amount for this type of incorrect emissions return. Implementation does not require system changes and requires minimal process changes for the regulator. Factor A is may not result in a penalty that results participants considering the risk of compliance action high enough to encourage voluntary compliance. This means that compliance costs for government and ETS participants may not be minimised.</p>
<p>Clarity and transparency The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for ETS participants on how it will be applied.</p>	<p>0 Factor A does not lead to penalties that result in clear compliance action. Participants may receive a penalty for their offending but the penalty amount of \$0.00 sets the expectation that this type of non-compliance is acceptable.</p>	<p>++ Factor A leads to penalties that result in clear compliance action. Participants receive a penalty, and the penalty amount sets the expectation that this type of non-compliance is not acceptable. Application of the penalty and the penalty amount align. Processes for determining if penalties apply will not change.</p>	<p>++ Factor A leads to penalties that result in clear compliance action. Participants receive a penalty, and the penalty amount sets the expectation that this type of non-compliance is not acceptable. Application of the penalty and the penalty amount align. Processes for determining if penalties apply will not change.</p>	<p>- Factor A leads to a penalty that may not result in clear compliance action. Participants receive a penalty, but the penalty amount may not set the expectation that this type of non-compliance is not acceptable. Processes for determining if penalties apply will not change. Different penalty calculations would apply for the same type of non-compliance. This is likely to make it harder to understand what penalty a participant will be liable for.</p>	<p>+ Participants receive a penalty, but the penalty amount may not set the expectation that this type of non-compliance is not acceptable. Processes for determining if penalties apply will not change.</p>

Classification

<p>Consistency The extent to which the option ensures that ETS participants are treated consistently</p>	<p>0 The penalty amount does not align with penalties for similar errors.</p>	<p>0 The same type of non-compliance will be treated similarly. Factor A will apply to the calculation of all penalties for non-compliance in relation to incorrect emissions returns, allocations and adjustments that require amendment to 0. Penalties will likely be larger than penalties for other incorrect emissions returns, allocations and adjustments where the corrected outcome has been used as factor A.</p>	<p>+ The same type of non-compliance will be treated similarly. Factor A will apply to the calculation of all penalties for non-compliance in relation to incorrect emissions returns, allocations and adjustments that require amendment to 0. Penalty amounts are likely to be more consistent with penalties for incorrect emissions returns, allocations and adjustments where the corrected outcome has been used as factor A.</p>	<p>-- The same type of non-compliance will be treated differently. Penalties for the same type of error will be calculated using different factors A.</p>	<p>+ Penalty amounts are the same for all for non-compliance in relation to incorrect emissions returns, allocations and adjustments that require amendment to 0. Penalty amounts do not align with penalties for incorrect emissions returns, allocations and adjustments that are amended to an outcome larger than 0.</p>
<p>Proportionality of penalties The extent to which the proposed penalty is proportionate to the severity of the offence and to the participant's undertaking.</p>	<p>0 The penalty amount is always disproportionate to the severity of the error and the size of the participant's undertaking because the amount is always \$0.00.</p>	<p>- Factor A may result in a penalty amount that larger than is proportionate to the severity of the error and the size of the participant's undertaking. This may have significant financial impact on participants.</p>	<p>++ Factor A is partially derived from the size of error. Multiplying factor A by 0.2 ensures that penalty are not larger than is proportionate to the severity of the error, and mitigates risk of participants being charged a penalty that is disproportional to the size of the participants undertaking.</p>	<p>+ Factor A is partially derived from the size of the error. Multiplying factor A by 0.1 means that the penalty will not always be proportional to the size the error, but the penalty will be proportional to the participant's undertaking if they are a small forestry entity.</p>	<p>+ Penalty amounts are not derived from the size of the error. The penalty amounts are more proportional to the size of the error than the current penalty amount. It is also unlikely to be proportional to the size of the participant's undertaking. The penalty may be too low for larger participants and too high for very small participants.</p>
<p>Overall assessment</p>	<p>0</p>	<p>+</p>	<p>++</p>	<p>0</p>	<p>+</p>

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Assumptions for the testing of options

63. For testing the options and determining the preferred option the criterion ‘consistency with purpose of NZ ETS’ has been considered in a broad sense. As set out above it means the extent to which the option is consistent with the purpose of the NZ ETS to drive emissions reductions in line with emissions budgets and targets. In practical terms this means encouraging participants to comply with the obligation to report accurate emissions, removals and enabling the regulator to enforce these obligations through effective penalties and maintain the integrity of the NZ ETS.
64. Proportionality of penalties has been considered especially important for penalty calculation options. This is because disproportionately large penalties can have severe financial effects on participants (potentially leading to bankruptcy), while disproportionately small penalties will not effectively encourage participants to comply.
65. As stated in paragraphs 66 and 67 below, the options only relate to whether the proposed new factor A will result in a penalty that deters non-compliance and is proportionate to the harm of the offence. The options do not relate to whether an administrative penalty is a suitable enforcement tool to deter the offence and proportionate to the harm of the offence.

Preferred option

66. Officials considered different options to improve the calculation of penalties for participants reporting incorrect amounts of emissions, removals or units where the actual amount is 0. Option Three is considered most likely to address the problem. This is because:
- a. changing factor A to 0.2 of the unit difference means that participants receive a penalty that is partially based on the severity of their offence.
 - b. the penalties are likely to be significant enough to deter non-compliance and encourage compliance which decreases the risk of participants incorrectly reporting emissions, removals and units.
 - c. the penalties are unlikely to be severe enough to have significant financial impact on participants (potentially leading to bankruptcy).
 - d. the penalties are likely to be more consistent with penalties for similar offending
 - e. the proposed changes are expected to require minimal resources to implement because they will only require changes to legislation and processes.
67. This option is most likely to meet the policy objectives because:
- a. The new factor A is likely to adequately sanction non-compliant behaviour and encourage voluntary compliance.
 - b. This then enables the regulator to enforce the obligation of accurate reporting placed on participants in the NZ ETS which protects the integrity of the NZ ETS. If the integrity of the NZ ETS is protected it continues to support domestic and international targets and emissions budgets.

- c. The penalty is proportionate to the harm of the participant's offending and is also unlikely to be disproportionate to the participant's commercial activity.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

- 68. The Minister's preferred option in the Cabinet paper aligns with MPI's preferred option in this statement.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i>	Impact²¹ <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Compliant regulated parties	Regulated parties will continue to bear the cost of compliance. The proposal does not change participant obligations or the application of penalties.	Low	High
Non-compliant regulated parties	Regulated parties will bear an increased cost of compliance due to penalty amounts no longer being equal to 0. This proposal does not make changes to participant obligations or the application of penalties. Based on the mean and median error sizes used to describe options (above), indicative penalties could range from \$1,387.24-\$50,167.60 per participant (this represents the largest range set out in Table 3).	Medium	Medium
Regulators	The regulator will continue to apply penalties, a change in the penalty calculation is considered a minor system and process change to operationalise. There may be an increased cost in relation to collecting of unpaid penalties. This proposal does not make changes to participant obligations or the application of penalties. The only change is the calculation of the penalty.	Low	High
Wider Government	The penalty for incorrect emissions returns, allocations and adjustments will continue to be payable to the Crown. There may be a small increase in the quantum of penalties being received.	Low	High
Other parties	Iwi and Māori will not be disproportionately affected by the changes to the penalty for incorrect emissions returns, allocations and adjustments. The obligations and situations where the penalty applies remain the same.	Nil	High
Courts	The overall number of cases is not expected to change due to these changes. If penalties higher than \$0.00 are applied there may be a slight increase in penalty decisions being challenged through reviews of decisions or appeals through the Court.	Low	High
Total monetised costs	Based on the range of indicative penalty costs for non-compliant regulated parties, the total monetised costs may initially range from \$138,724– \$5,016,760 and be expected to reduce over time. ²²	High, dependent on actual penalties issued as a response to cases of non-compliance	Low
Non-monetised costs	<i>One-off costs associated with new guidance on calculation of penalties. Ongoing costs do not change as allocation of compliance resources does not require changes.</i>	Low	High
Additional benefits of the preferred option compared to taking no action			
Compliant regulated parties	The proposed changes will ensure that non-compliance will receive a sanction, ensuring the integrity of the ETS for compliant participants.	Medium	High
Non-compliant regulated parties	The proposed changes ensure that penalties for incorrect emissions returns that are amended to an outcome of 0 NZUs align better with penalties for other incorrect emissions returns. This means penalties will be more consistent between participants for similar errors.	Medium	High
Regulators	The proposed changes ensure that compliance actions, which require regulator resources are effective. This is because the penalty amount will be proportional to the non-compliance and not equal to \$0.00. Over time, it is expected that effective penalties will promote voluntary compliance.	High	High
Wider Government	Penalties encourage compliance and protect the integrity of the NZ ETS. This positively contributes to the Government meeting its domestic and international climate change goals. The increase in penalty amount may initially contribute to Crown revenue, but is expected to reduce over time as compliance increases.	High, dependent on actual penalties issued as a response to cases of non-compliance as these are paid to the Crown	High
Other parties	The public benefits from the proposed changes as they will help maintain the integrity of the NZ ETS and help New Zealand meet international climate change obligations.	Medium	High
Total monetised benefits	There may be an initial increase in penalty revenue to the Crown, which will decrease as effective penalties encourage compliance.	<i>High</i>	High
Non-monetised benefits	All parties benefit from effective penalties that sanction non-compliance appropriately and therefore encourage voluntary compliance.	<i>High</i>	<i>High</i>

²¹ Low impact is considered less than \$10,000, medium between \$10,000 - \$100,000, high above \$100,000.

²² These calculations are based on the non-compliance as set out in paragraph 18 and the mean and median average of incorrect amounts of removals. The total amount is a hypothetical range based on 100 penalties issued to non-compliant regulated parties using this penalty. Future non-compliance is difficult to predict and the monetised costs provided may not be representative of future non-compliance.

Section 3: Delivering an option

How will the proposal be implemented?

69. The preferred options will be progressed alongside other proposals via an amendment Bill, which is anticipated to be passed mid-2026 and for amendments to come into force shortly afterwards. It is expected that this allows for sufficient time for regulated parties and MPI and EPA to prepare for the proposed change. No changes are needed to secondary legislation to operationalise the proposals.
70. Reliance on existing institutional structures assumes that implementation of the system will be able to be absorbed by the relevant agencies. MPI is responsible for the operation of forestry in the NZ ETS, and compliance, monitoring, and enforcement for all regulated parties. The EPA is responsible for the Registry and compliance, monitoring, and enforcement for non-forestry participants, and recovering all unpaid penalty debt, including debt owed by forestry participants.
71. Implementation will require updating existing systems and processes, this is considered a part of existing system maintenance by the regulator. The Act enables cost recovery for operating the NZ ETS, cost recovery settings are reviewed periodically to ensure they reflect the cost and benefits of operating the system’.

Implementation risks

72. The most significant risk is that the changes are not well understood and that regulated parties and other stakeholders expect:
- a. changes to the obligations to submit accurate emissions returns as required by the Act, and/or
 - b. changes to how penalties are applied.
73. Education will be developed to ensure that regulated parties and other stakeholders understand the changes that are implemented. Examples of education initiatives for forestry in the NZ ETS are:
- a. The ‘Forestry ETS Alert’ newsletter;
 - b. Guidance published on Te Uru Rākau – New Zealand Forest Service’s website;
 - c. The ETS participant newsletter published by the EPA.

How will the proposal be monitored, evaluated, and reviewed?

74. The proposal will be integrated into pre-existing regulatory systems.
75. MPI and the EPA have the responsibility as part of their regulatory stewardship to monitor, review and report on regulatory system performance. MPI and EPA routinely monitor and report on non-compliance, including types and rates of non-compliance and penalties applied.
76. The application of penalties affected by the proposed changes will be tracked in the MPI and EPA processing systems and added as an agenda item to meetings between MPI and EPA operations teams.

77. This data is expected to give insight into trends for non-compliance related to emissions returns that require amendment to an outcome of 0 NZUs. The application of the proposed penalty can be easily tracked in the MPI and EPA processing systems.
78. Participants and other stakeholders can contact the regulator through the methods listed on the website for general issues and concerns. Processes are in place so that problems are recorded and escalated as appropriate. The Act also allows for participants to request a review of a penalty decision or appeal to the District Court or to the High Court (on questions of law only).
79. The Act also contains mechanisms for reviewing the operation of the NZ ETS, and this proposal does not suggest changes to these mechanisms.
80. A trend of increasing non-compliance related to incorrect emissions returns or allocation application or adjustment that require amendment to an outcome of 0 NZUs would result in reasons being explored by the regulator to determine if changes to penalties are required.



Regulatory Impact Statement: Importing CO₂ as new Mandatory Activity in the New Zealand Emissions Trading Scheme

Decision sought	Analysis produced for the purpose of informing Cabinet policy decisions on new mandatory activities for NZ ETS-related amendments for a Climate Change Response Amendment Bill.
Agency responsible	Ministry for the Environment
Proposing Ministers	Minister of Climate Change
Date finalised	27/08/2025

Briefly describe the Minister's regulatory proposal

To improve the effective operation of the New Zealand Emissions Trading Scheme (NZ ETS), the following change is proposed:

- To require importers of carbon dioxide (CO₂) above a threshold to follow standard NZ ETS requirements and surrender New Zealand Units (NZUs) equal to the amount of CO₂ they import each year.

Summary: Problem definition and options

What is the policy problem?

We have identified two problems:

1. CO₂ emissions are counted in New Zealand's emission target accounting. The NZ ETS coverage of the domestic supply of CO₂ ensures those emissions are part of the Government's plan to meet emission targets. Emissions of imported CO₂ are currently outside of any emissions reduction policy and increase the economic costs from meeting emission targets.
2. Domestic supply of CO₂ is priced by the NZ ETS, but imported CO₂ is not. The lack of an emissions price on imported CO₂ means that users are incentivised to use imported CO₂. This creates a cost disadvantage for domestic suppliers, discouraging investment and increasing future supply chain risks.

What is the policy objective?

The objectives are to ensure users of imported CO₂ contribute to the achievement of emission targets and to resolve the competitiveness impacts resulting from NZ ETS coverage of domestic production but not imports.

What policy options have been considered, including any alternatives to regulation?

- Option One (Status quo): Importers will remain excluded from costing emissions from imported CO₂.

- Option Two (**preferred option**): Require importers to meet NZ ETS obligations and surrender New Zealand Units (NZUs) equivalent to the amount of CO₂ imported in the year.
- Option Three: Importers of CO₂ would pay an import levy aligned with an annual emissions price per tonne of CO₂.

What consultation has been undertaken?

Public consultation was not undertaken on these issues, but targeted stakeholder engagement was carried out with liquid fossil fuel importers and the largest importers of CO₂. The current domestic supplier and a potential new domestic supplier of CO₂ were also engaged with to ensure the problem was well understood and to inform this impact analysis.

Feedback supported the development of a level playing field between domestic suppliers and importers, but no preference was identified between the two options.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes, the preferred option in the Cabinet paper is the same as the preferred options identified in this RIS.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

The total monetised costs of including imported CO₂ in the NZ ETS is estimated to be \$500,000 for importers, which would be expected to be recovered through sales to users. This may cause some small price increases to imported CO₂ and consumers. 9(2)(b)(ii)

Consequently, NZ ETS costs will increase the market price of bulk CO₂ by the price an emission unit, or around \$60. One measure of the potential impact on consumers is the cost of a replacement CO₂ gas cylinder for soda making at home. Very small impacts are expected, being less than 0.01% or \$0.02 on its \$46 retail price. There are expected to be minimal costs associated with NZ ETS administrative processes.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

This option will

1. ensure users of imported CO₂ contribute to meeting emission targets and
2. remove a cost competitiveness barrier for future domestic suppliers.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Yes, the RIS indicates that within the preferred option, the benefits are likely to outweigh the costs. For the preferred option, the monetary costs are balanced by monetary benefits, as the NZ ETS will impose costs on the new participant through them buying NZUs, but others will have the exact same financial gain through selling those NZUs. There will be negligible new administrative costs and additional non-monetized benefits.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The proposals in this RIS will be included in the Climate Change Response Act (Market Governance and Other Integrity and Efficiency Changes) Amendment Bill. The Bill is likely to be introduced by the end of 2025 and passed by mid-2026.

Implementation will not be possible until the NZ ETS register is replaced, due to a freeze on its development to manage its fragility. A replacement is currently at least three years away from being operational. Consequently, NZ ETS obligations for importers of CO₂ will commence following an order in council by the Minister of Climate Change.

Limitations and Constraints on Analysis

The options in this RIS have been tested through public consultation. Targeted consultation occurred though engaging with the current domestic supplier of CO₂ and a potential new supplier, to ensure the problem was well understood and to inform impact analysis.

Fossil fuel importers and the largest importers of CO₂ were invited to engage on the issue. One relevant submission was received. It is considered this RIS does not contain any weakness from lacking public consultation on this proposal other than the exact quantity of a threshold that could be set for the imports eligible for NZ ETS obligations. Targeted engagement was appropriate given the proposed regulatory change only affects a small number of stakeholders and is not of broader public interest. This will be further refined through public consultation on the amendment Bill. There is a strong knowledge base to support the problem definition, the options analysis and the assessment of costs and benefits, mostly gained through experience with the NZ ETS and synthetic greenhouse gas levy operations.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



**Simon Mandal-Johnson
 Manager, Emissions Trading Scheme Policy
 27 August 2025**

Quality Assurance Statement

Reviewing Agency: Ministry for the Environment

QA rating: Meets

Panel Comment:

A quality assurance panel from the Ministry for the Environment, has reviewed the Regulatory Impact Statement (RIS): New Mandatory Activities in the New Zealand Emissions Trading Scheme. The QA panel considers that it meets the Quality Assurance criteria.

The panel found the RIS to be clear and convincing. It presents a well-defined problem statement and objectives, evaluates a suitable range of options, and provides sufficient information on costs and benefits. While the panel noted the limited consultation on the preferred option, it did not consider this to be a material constraint on the overall analysis and advice.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The New Zealand Emissions Trading Scheme prices emissions

1. This regulatory impact statement covers a proposed amendment to the New Zealand Emissions Trading Scheme (NZ ETS). The NZ ETS is legislated through the Climate Change Response Act 2002 (CCRA) and associated Regulations.
2. All sectors of New Zealand's economy, apart from agriculture, pay for their emissions through their NZ ETS obligations or through the Synthetic Greenhouse Gas Levy.¹ The NZ ETS supports reductions in net emissions by:
 - requiring businesses to measure and report on their greenhouse gas emissions
 - pricing emissions and removals
 - requiring participants to surrender credits (New Zealand emissions units, known as NZUs) for each metric tonne of carbon dioxide (CO₂) or the equivalent of any other greenhouse gas they are responsible for, and
 - limiting the volume of NZUs supplied into the NZ ETS through auctioning.
3. The NZ ETS sets an overall limit on NZUs available to emitters from auctions, overseas, and industrial allocation, in accordance with emissions budgets. The supply of units declines over time, consistent with meeting tightening budgets.
4. Participants can purchase NZUs through quarterly government auctions. The Government sets a limit on how many NZUs can be sold at auction each year. Some firms are also allocated NZUs through industrial allocation.²
5. Participants can also trade NZUs, the price of which reflects supply and demand at the time.
6. Activity that removes carbon from the atmosphere (mainly through forestry) can earn participants NZUs that they can then trade or use for surrender. Figure 1 summarises the way that the NZ ETS operates.

¹ The synthetic greenhouse gas levy applies to importers of goods or motor vehicles that contain and rely on synthetic greenhouse gases for their function. There are thousands of such importers each year. The policy resolves the competitiveness impacts on domestic manufacture and service of such goods, as those firms face NZ ETS costs from the import and use of bulk synthetic greenhouse gases.

² <https://environment.govt.nz/what-government-is-doing/areas-of-work/climate-change/ets/participating-in-the-nz-ets/overview-of-industrial-allocation/>

Figure 1: How the New Zealand Emissions Trading Scheme market operates



Obligations on participants under the NZ ETS

7. The NZ ETS was designed to include as many emission sources as possible.³ The Framework document notes wide coverage allows an ETS to ‘operate more efficiently’ and ‘create greater opportunities to realise least cost options for reducing emissions’.⁴ People who perform the activities in Schedule 3 of the CCRA are ‘mandatory participants’ and must surrender NZUs for emissions. Individuals or business must meet certain thresholds to be classified as mandatory participants, which helps to balance the objectives of the legislation with administrative and compliance costs.
8. Participants in the NZ ETS must meet a range of obligations, including:
 - applying to open a holding account in the New Zealand Emissions Trading Register (the Register)
 - registering as a participant
 - filing an emissions return at required intervals or in required circumstances
 - surrendering units in accordance with required timeframes or receiving units.⁵

³ Ministry for the Environment and Treasury. 2007. [The framework for a New Zealand Emissions Trading Scheme](#). Wellington: Ministry for the Environment and Treasury, p 41.

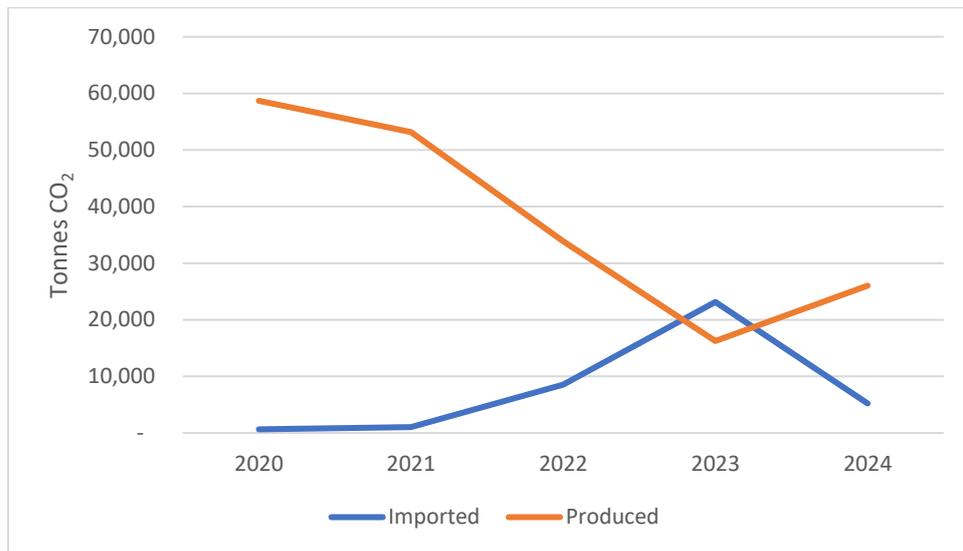
⁴ Ibid, page 30

⁵ EPA. [Compliance in the ETS](#). Retrieved 5 May 2025.

New Zealand's use of carbon dioxide

- 9. Carbon dioxide (CO₂) is used as a commodity in packaging (notably for international shipment as dry ice), industrial settings (welding and maintenance), and food and beverages. In many use cases, there is no easily available substitute. Domestic consumption of CO₂ has varied from 40,000 to 60,000 tonnes per year.
- 10. Until 2021, CO₂ was almost entirely supplied domestically from the Marsden Point refinery and the Kapuni Gas Treatment Plant (KGTP). A domestic supply shortage began in late 2022 when the refinery closed and when the KGTP required unexpected maintenance. This shortage led to the growth of imported CO₂ over 2023 to meet demand.
- 11. Imports decreased significantly in 2024 when the KGTP restarted full production, as shown in figure 2 below:

Figure 2: Kapuni Gas Treatment Plant production and imported CO₂ 2020-2024



12. New Zealand users of CO₂ are currently reliant on supply from KGTP or from imports. Domestic supply from the KGTP is itself reliant on natural gas supply and uninterrupted plant operation.

13. 9(2)(b)(ii)

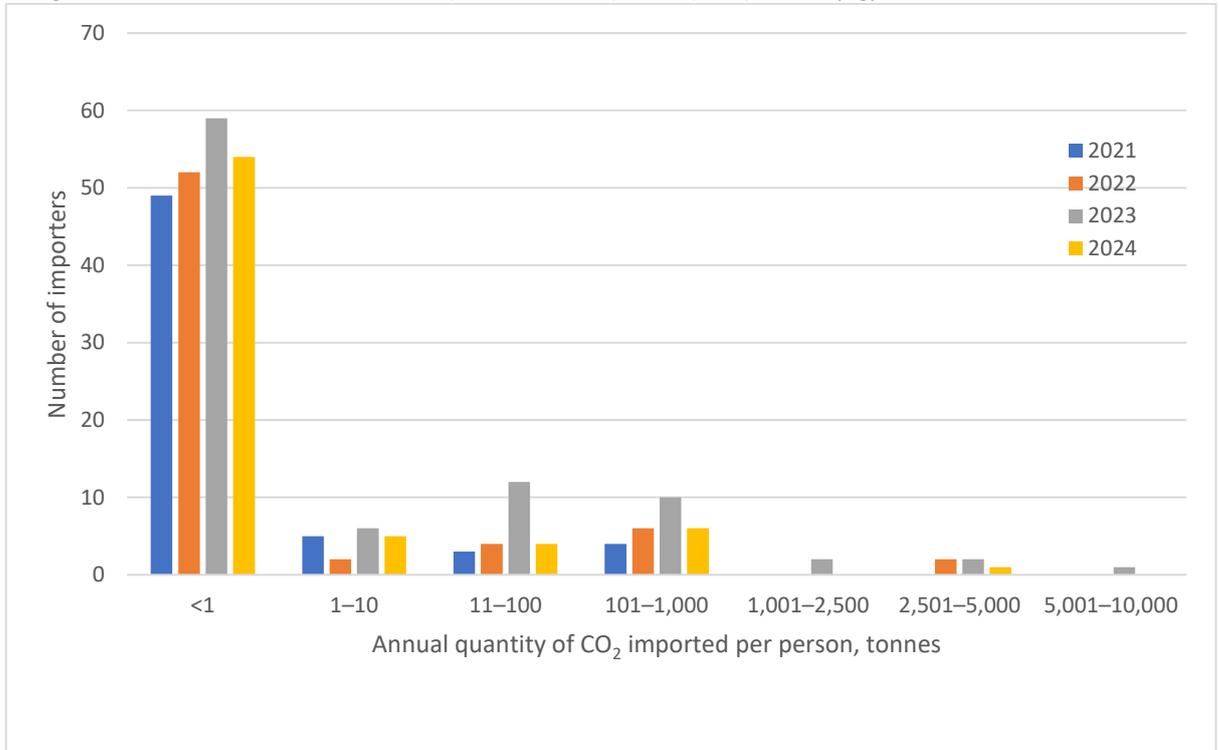
[Redacted content]

14. There are two main reasons for importing CO₂ – either to supply domestic users (“bulk imports”), or as a medium to enable the import transport of another good. Bulk imports for supplying domestic users are cost competitors for domestic production, whereas the quantities imported for transporting secondary goods are minimal and represent smaller importers.

15. Figure 3 shows the distribution of the number of importers and the quantities they imported from 2021–24. There are only a few importers who imported more than 1,000 tonnes in any given year, representing the imports which compete with domestic production. Those

importing smaller quantities are likely to have imported it as packaging for a secondary good. In contrast, the operator of the KGTP sold approximately 26,000 tonnes in 2024.

Figure 3: Number of CO₂ importers and quantity imported (kg), 2021–24



16. Emissions of domestically produced CO₂ are included in our national greenhouse gas inventory and count towards our emissions reduction targets. Imported CO₂ has not yet been included in the inventory, but it will be added in future, starting with the 2024 inventory due to be published in 2026.

17. While imports of CO₂ are not priced by the NZ ETS, emissions from KGTP-produced CO₂ are. Because the NZ ETS places obligations on the sale of natural gas and the use of geothermal fluid, all potential new domestic sources of CO₂ will be priced by the NZ ETS.

What is the policy problem or opportunity?

18. We have identified two problems:

1. CO₂ use is included in our national greenhouse gas inventory and emission target accounting. The NZ ETS coverage of the domestic supply of CO₂ ensures those emissions are part of the Government’s plan to meet emission targets. Emissions of imported CO₂ are currently outside of any emissions reduction policy and increase the economic costs from meeting emission targets.
2. In the current market, the NZ ETS creates a cost disadvantage for new domestic producers over importers of CO₂. Whilst KGTP are currently price competitive with bulk CO₂ imports, the cost disadvantage discourages investment in new CO₂ supply from domestic producers. We have heard concerns from a future domestic supplier that they expect to sell at around 9(2)(b)(ii) to higher capital costs associated with the investment and the

emissions cost. 9(2)(b)(ii)

The cost disadvantage increases future supply chain risks towards a dependency on imports and continued risk of supply side shocks.

What objectives are sought in relation to the policy problem?

19. The objectives are to ensure users of imported CO₂ contribute to the achievement of emission targets and to resolve the competitiveness impacts resulting from NZ ETS coverage of domestic production but not imports.

What consultation has been undertaken?

20. Targeted engagement was performed with liquid fossil fuel importers and the largest importers of CO₂. Written feedback was invited, and meetings were offered. One submission was received in relation to this issue.
21. The current domestic supplier and a potentially new domestic supplier were involved prior to consultation to ensure the problem was well understood and to inform impacts analysis.
22. We consider targeted engagement was appropriate given the proposed regulatory change only affects a small number of stakeholders and is not of broader public interest.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

23. The criteria set out below have been standardised for use across all parts of this RIS:

Criteria	Description
Consistency with purpose of ETS	The extent to which the option is consistent with the purpose of the ETS to drive emissions reductions in line with meeting emissions budgets and targets.
Ease of implementation and cost	The extent to which the option is easy to implement and minimises administrative costs for government and compliance costs for ETS participants.
Clarity and transparency	The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for ETS participants on how it will be applied.
Consistency between participants	The extent to which the option ensures that ETS participants are treated consistently.

24. There are no relationships between the criteria. They are weighted equally in this assessment of options.

What scope will options be considered within?

25. The options considered are emission pricing mechanisms already implemented in the CCRA and are those that have been tested through engagement.
26. Non-regulatory options will not address the substantive problem or meet the objective and so have been ruled out.
27. We have excluded the options of either banning imported CO₂ or removing the NZ ETS costs from domestic supply. A ban could create supply chain constraints should we lose domestic production in the future for any reason. The second option would be inconsistent with the principles of the NZ ETS and would be challenging to achieve practically given the indirect pricing of domestic supply through the natural gas mining activity.

What options are being considered?

Option One – Status Quo / Counterfactual

28. Offshore supply will remain excluded from emissions costs. New domestic sources will incur NZ ETS costs.
29. Cost remains greater for new domestic suppliers than for most imports, which will not encourage additional domestic supply or increase its security. However, there are a range of other cost differences between domestic production and imports that are also likely to influence future investment decisions.

Option Two – NZ ETS obligations for importers of CO₂

30. This option will require importers to meet standard NZ ETS obligations and surrender NZUs equivalent to the amount of CO₂ imported in the year. The cost of offshore-sourced CO₂ will rise and therefore address the emissions pricing part of the cost competitiveness problem.
31. The purchase of emission units by importers will either create cash for the Crown, if they are sourced from Government auctions, or cash for a seller if sourced from the secondary market. However, the scale of impacts will be very small, to the point of having no measurable impacts on the market and other market users.
32. NZ ETS participation will increase administrative costs for the government and compliance costs for importers.
33. A threshold could be set if importing CO₂ becomes a mandatory NZ ETS activity to balance the administrative and compliance costs. Thresholds currently set the minimum quantity of fuel use or emissions before mandatory NZ ETS obligations apply.
34. Options for this threshold could be:
 - i. 1 tonne (NZ ETS unit of trade, threshold for bulk synthetic greenhouse gases)
 - ii. 1000 tonnes (see evidence below)
 - iii. 4,000 tonnes (equivalent to the current geothermal fluid and coal mining thresholds)
35. A threshold will need to ensure people who import for supplying the market are covered by ETS obligations, and not those who import smaller quantities for other reasons such as use in import transportation.

36. Existing thresholds were set when the NZ ETS was first introduced in 2007-2012. They were considered against the likely costs of registering and fulfilling mandatory obligations, along with the likely sophistication of the participants. For example, a person importing liquid fossil fuels was thought to be more familiar with legal obligations and management of reporting systems than a small coal miner. Given advancements and improvements in reporting systems since 2010, including to the EPA's NZ ETS Register, and increased platforms for sourcing emission units, it is likely compliance costs have reduced significantly.
37. A threshold for importing CO₂ will need to consider that there will be no testing or monitoring of emissions as the quantity imported is obvious. Larger importers are possibly already NZ ETS participants if they import synthetic greenhouse gases.
38. An importer who imports 1000 tonnes of CO₂ in a year would need to surrender \$60,000 of emission units to meet an NZ ETS obligation, if NZUs were priced at \$60 each. There are participants in the NZ ETS who reported less emissions in 2023, including those who use sulphur hexafluoride in electrical switchgear (electricity network companies) and a couple of natural gas miners. These are all likely to be significantly sized businesses.
39. 9(2)(b)(ii) [REDACTED]
40. For the purpose of identifying costs and benefits, a threshold of 1000 tonnes of CO₂ is proposed for the import of CO₂. This avoids imposing administrative costs on many small importers while still capturing the competitors to domestic suppliers and ensures we're not targeting people who are importing minimal quantities for transport purposes. Such a threshold, in 2024, would have resulted in the NZ ETS covering 56% of imported CO₂ and just one importer. In 2023, the year of domestic supply issues, the proportion would have been 84% and five importers would have had NZ ETS obligations.
41. Further analysis on the potential threshold will be developed prior to final decisions. This will ensure competitors to domestic suppliers are included in the NZ ETS while excluding smaller importers who import for a reason other than to supply the market.

Option Three – Import levy for importers of CO₂

42. The Act allows a levy to be applied to imports of synthetic greenhouse gases in goods. This policy was used instead of NZ ETS obligations because of the many thousands of importers of varying activity and the typically small quantities of greenhouse gases in each good. It sought to address the competitiveness impacts on New Zealand manufacturers of similar goods who would compete against those imports. The levy amount is linked to the price of an emission unit, and levy rates are updated annually. Therefore 'bulk' imports of synthetic greenhouse gases, being those imported in containers for use in manufacturing and servicing, are subject to the NZ ETS.
43. This option extends this framework to imports of CO₂. Importers of CO₂ would pay a levy aligned with an annual emission unit price per tonne of CO₂.
44. There will be an inconsistency with the treatment of synthetic greenhouse gases, with importers of bulk synthetic greenhouse gases covered by the NZ ETS but imports of bulk CO₂ covered by a levy instead.

45. All importers of CO₂ would incur new costs. While this will address the current competitiveness problem between importers and domestic sources caused by emissions pricing, it would also increase costs for importers of CO₂ who do not intend to compete with domestic suppliers like the KGTP.
46. There will be some administrative and compliance costs for importers. In total, these will be smaller than NZ ETS coverage if no threshold was used, but greater if there was a threshold.
47. There will also be administrative burden and costs for the Government compared to the status quo. These will be larger than NZ ETS coverage because from experience with the synthetic greenhouse gas levy, implementation of the levy and annual updates through the Working Tariff document are not straightforward.
48. Because a levy does not require a threshold for mandatory participation, it may cover more emissions and yield larger revenue gains for the Crown than NZ ETS coverage.

How do the options compare to the status quo/counterfactual?

	Option One – [Status Quo / Counterfactual]	Option Two – NZ ETS obligations with a 1000t threshold	Option Three - Import levy
Consistency with purpose of ETS	0	<p style="text-align: center;">+</p> Pricing CO ₂ imports through the NZ ETS is consistent with its purpose, as those emissions are counted against emission targets.	<p style="text-align: center;">++</p> A levy will price emissions from imported CO ₂ and be consistent with the purpose of the NZ ETS due to it helping meet emission targets. It is marginally better than option two due to wide coverage of emissions due to no threshold being needed.
Ease of implementation and cost	0	<p style="text-align: center;">-</p> Implementation impacts on firms can be balanced through a threshold to the extent that only one firm may be required to participate. That firm is already an NZ ETS participant so there will be minimal additional administrative expenses. Little implementation impacts on the Government due to the use of existing systems.	<p style="text-align: center;">--</p> Minor increase in implementation cost on firms due to use of existing Customs processes with additional levy payment step. However, in aggregate, these costs could be larger than for option 1 as up to a hundred importers will need to meet import documentation and reporting requirements. Larger impacts on agencies due to need to establish and maintain levy regime with Customs.
Clarity and transparency	0	<p style="text-align: center;">0</p> NZ ETS coverage will be clear and transparent though there is a risk an importer maybe unaware of exceeding a threshold if importing multiple times in the year.	<p style="text-align: center;">0</p> Levy coverage will be clear and transparent though levy rates are likely to change year by year.
Consistency between participants	0	<p style="text-align: center;">++</p> Consistent with NZ ETS obligations for other importers of fuels and gases.	<p style="text-align: center;">+</p> Consistent with pricing of sources of emissions but not similar to other importers of fuels and gases.
Overall assessment	0	<p style="text-align: center;">++</p>	<p style="text-align: center;">+</p>

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

- 49. Option 2, of NZ ETS obligations for importers of CO₂ above a threshold, is the preferred option. This option will create NZ ETS obligations for the largest importers of CO₂ who will likely pass on NZ ETS costs to consumers in the same way the current domestic supplier does.
- 50. The impacts of this option, and the levy option, will vary according to how CO₂ is imported each year. Should there be a new domestic supplier enter the market, it is possible very little CO₂ will need to be imported depending on relative economics. Alternatively, should the current supplier cease operation, then all of New Zealand’s needs will be met through imports.
- 51. Regarding consultation, no person objected to including imported CO₂ in the NZ ETS. One person noted their support for the development of a ‘level playing field’ between domestic and imported suppliers of CO₂. No preference was identified between the options. Concern was expressed about potential administrative costs given the small amount of CO₂ being imported.

Is the Minister’s preferred option in the Cabinet paper the same as the agency’s preferred option in the RIS?

- Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups	Annual administrative and compliance costs	Less than \$570,000 in any year per importer, depending on the quantity imported (approximately \$60,000 per 1000/t imported). ⁶ Costs likely recovered through sales to users. In a normal year, just one importer is likely impacted.	High

⁶ This is estimated from the evidence in figure 3 above: The largest importer was responsible for 9400 tonnes of CO₂ in the years detailed (in 2023 specifically). That would result in \$564,000 of NZ ETS costs if emission units cost \$60 each.

Classification

Regulators	Ongoing costs for NZ ETS processes	Minimal given system already established	High
Others (eg, wider govt, consumers, etc.) <i>For fiscal costs, both increased costs and loss of revenue could be relevant</i>	NZ ETS costs imposed on importers are likely passed onto users of imported CO ₂	Unclear. We have been given a wide range of import prices and some are below the existing market price from the KGTP. This may include importers importing above the threshold, therefore the market price of CO ₂ may not change because of NZ ETS inclusion. We have calculated the price of a household soda cannister of CO ₂ could increase in price by a fraction of a percentage point, or \$0.02 if NZ ETS costs were fully passed on.	Low
Total monetised costs		\$570,000	Moderate
Non-monetised costs			
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Existing domestic supplier Future domestic suppliers	Moderate Could increase prices to match increase in import price if the importer subject to ETS coverage was setting the market price, or could benefit from buyers switching to their supply instead of imports. Removal of a cost competitiveness barrier.	High
Regulators	No benefit		
Others (eg, wider govt, consumers, etc.)	Foresters and the Government	\$570,000 New demand for emission units will benefit those who sell them, either the	High

Classification

		Government through auctions or foresters through NZ ETS eligible forests.	
Total monetised benefits		570,000	High
Non-monetised benefits		Medium	High

Section 3: Delivering an option

How will the proposal be implemented?

52. The proposal in this RIS will be included in the Climate Change Response Act (Market Governance and Other Integrity and Efficiency Changes) Amendment Bill. The Bill is likely to be introduced by the end of 2025 and passed by mid-2026.
53. The proposal may need to be drafted with the ability to switch on the new provision via Order in Council when they are ready to be implemented. This is because the Emissions Trading Register is currently in a development freeze and the changes are likely not able to be implemented until a new Register is operational.
54. Secondary legislation will prescribe the threshold as well as information and data needing to be collected by importers of CO₂ for the calculation of emissions. Consultation on such regulations is statutorily required and could be carried out during the Select Committee consideration of the Bill. That process also provides an opportunity to fine tune the threshold.
55. Regulations will set out the records and calculations that importers of CO₂ will be required to meet. These will be developed concurrently with the Bill or soon after.

How will the proposal be monitored, evaluated, and reviewed?

56. The annual emission reporting and emission unit surrender cycle, along with the participant registration process, provides opportunity for issues to be raised and discussed.

Appendix 10 – Overview of the Carbon Neutral Government Programme

- 1 The CNGP was established in 2020 to make a number of government organisations carbon neutral from 2025, with a focus on reducing gross emissions [CAB-20-MIN-0491 refers]. Participating organisations were expected to:
 - measure, verify, and report their emissions annually
 - set gross emissions reduction targets, in line with a 1.5°C pathway and develop and implement an ERP to achieve these
 - offset their remaining gross emissions from 2025.
- 2 Participating organisations reported a total of 1.38 MtCO₂-e in 2024. This equates to around 1.75 per cent of New Zealand's total industry and household emissions, excluding air travel. The volume of emissions is similar to that of the Glenbrook Steel Mill in 2023¹.
- 3 The public sector's emissions have been on a downward trajectory since the CNGP was established. On average, total emissions have reduced by 20 per cent (0.34 MtCO₂-e) compared to base year.
- 4 Emissions reductions achieved through CNGP have often resulted in organisational cost savings as a co-benefit, including through reducing air travel, making energy efficiency gains, and improving fleet efficiency. For example, the Ministry of Social Development reported estimated savings of \$2.3 million per annum by reducing travel and the Ministry of Education \$2 million over five years through ongoing electrification of its vehicle fleet.
- 5 The main sources of CNGP emissions are agriculture, air travel, stationary combustion (gas), transport fuels (light fleet, aviation, marine), and electricity, which total 79 per cent. Four large organisations with operational portfolios, two of which are voluntary participants, contribute the majority of the CNGP's emissions (73 per cent of the total): Landcorp, Health New Zealand, the New Zealand Defence Force, and New Zealand Post. They have also realised the biggest absolute reductions across the Programme.
- 6 I consider it useful overall to retain the CNGP – its requirements are largely to report, and are low cost for agencies to implement, and have supported agencies to identify wider cost-savings.
- 7 The CNGP aligns New Zealand with Public Sector climate goals, such as Australia, Singapore, the UK and Japan and is consistent with domestic businesses which have climate reporting obligations.
- 8 The current 2025 net zero goal for the CNGP risks the Government purchasing costly offsets unnecessarily. I seek Cabinet agreement to amend this to 2050, in line with our legislated target. This date is the most efficient as public sector abatement would be achieved through decarbonisation signals in the broader economy, including the NZ ETS price.
- 9 I considered alternative target dates for the CNGP such as 2035 and 2040. A near-term date would have higher up-front costs and administrative demands, have greater

¹ Noting corporate emissions are subject to different measuring and reporting requirements compared to national emissions.

reliance on offsets rather than emission reductions, and risk agencies replacing assets before their end of life.

- 10 The CNGP is supported by a direction under section 107 of the Crown Entities Act 2004 setting requirements for Crown Agents. I consider the change to the goal does not have a material impact on the requirements for Crown Agents set out in the direction and accordingly do not propose the Minister for the Public Service and Minister of Finance consider an amendment to this direction at this time.

Appendix 11 – Findings of Climate Implications of Policy Assessment (CIPA) review

Background

- 1 The CIPA process was established in 2019 through Cabinet Office Circular CO (20) 3.
- 2 The primary objective of the CIPA is to ensure that Ministers are aware of the implications a decision may have for New Zealand's future greenhouse gas (GHG) emissions.
- 3 CIPA requires central government agencies to estimate and disclose the GHG emission implications when policy proposals are presented to Cabinet. A CIPA is currently required if one of the following criteria are met:
 - a. an objective of the policy proposal is to decrease GHG emissions
 - b. the impact on GHG emissions is likely to be equal or above 0.5 million tonnes of carbon dioxide equivalent (CO₂-e) within the first ten years of the proposal period
 - c. for forestry-related proposals, the impact on GHG emissions is likely to be equal or above 3 million tonnes of CO₂-e within the first 30 years of the proposal period.
- 4 Detailed guidance for agencies on meeting the requirements is provided on the MfE website. MfE provides support for agencies undertaking CIPA, a quality assurance function and the disclosure statement for Cabinet papers.

Review of the CIPA for alignment with the Government's priorities and climate strategy

- 5 In May 2024, Cabinet invited the Minister of Climate Change to review the CIPA requirements, to better align with the Government's priorities [CAB-24-MIN-0182 refers].
- 6 The review identified that there is scope for the CIPA to be revised to better support Cabinet decision making.

Opportunities to improve the CIPA process to better support Cabinet decision making

- 7 The CIPA would better support Cabinet decision making if the information provided in the assessment was better linked to emission budgets and any relevant emission reduction plan actions. This would support monitoring and tracking of progress towards climate targets, including Target 9.

Updating the CIPA objective

- 8 The primary objective of the CIPA is currently to ensure that Ministers are aware of the implications a decision may have for New Zealand's future GHG emissions. However, as CIPA was introduced before the CCRA was updated to establish the zero carbon framework, the process is not well aligned with:
 - a. monitoring progress against the current climate change framework of emission budgets, ERPs, and climate targets
 - b. the CCRA overall.

- 9 I propose to reframe the primary objective of the CIPA to focus on obligations under the CCRA to monitor progress against emission budgets and develop/maintain ERPs as follows:

The purpose of CIPA is to provide Ministers with information to understand the implications of Cabinet decisions that may have a material impact on meeting New Zealand's emissions budgets or published Emissions Reduction Plans.

Aligning the CIPA threshold to the relevant emissions budget and emissions reduction plan actions

- 10 I also propose to amend the CIPA threshold to:
- a. change the quantitative criteria to a percentage-based threshold which is 0.25 per cent of the total permitted emissions of any of the notified emission budget periods
 - b. introduce a qualitative criterion so that any Cabinet decisions that could have a material impact on ERP actions and achievement of emission budgets are flagged to the CIPA team. This includes if the impacts are indirect or difficult to quantify: "The proposal relates to an action or policy within a current emissions reduction plan and has the potential to materially reduce or increase the expected emissions associated with that action and/or affect achievement of emissions budgets"
 - c. remove the separate criteria for forestry proposals.
- 11 The percentage-based threshold outlined above is higher than the current threshold and would result in fewer proposals triggering the CIPA requirement on a quantity of emissions basis.¹ This threshold, recommended by MfE based on their experience and regular engagement with CIPA, is considered appropriate to capture the most material policies. MfE also considers the risk of significant policies falling just below this threshold and not being captured to be sufficiently low.
- 12 As context, section 5ZF of the CCRA allows borrowing of up to 1 per cent of an emission budget from a future period. This means emissions from up to four proposals that each increase emissions by 0.25 per cent could be accommodated through borrowing, but beyond this, offsetting reductions would be required elsewhere.
- 13 The key difference between the current quantitative threshold and the proposed percentage-based approach is that the size of the threshold is linked to emission budgets and will decrease over time as a proposal impacts later emission budgets. This will support Cabinet decision making as steeper reductions in net emissions will be required during later emission budget periods as we get closer to the 2050 target.
- 14 The percentage-based threshold outlined above balances a focus on the most impactful proposals while ensuring the cumulative impacts of multiple smaller proposals are considered. Given the tightness in current projections against emission

¹ For the remainder of 2025, this percentage threshold would convert to 0.73 Mt (0.25% of EB1). From 1 January 2026, it would be 0.76 Mt (0.25% of EB2). From 1 January 2031, it would be 0.60 Mt (0.25% of EB3).

budgets, this threshold is likely to highlight proposals with significant cumulative impacts.

- 15 The current CIPA criteria includes a separate criteria relating to forestry proposals. I considered whether this separation should be retained but concluded that removals via forestry should be subject to the same threshold as activities that increase emissions. The longer-term nature of forestry proposals will be adequately captured by linking the quantitative criterion to emission budgets.
- 16 I also consider that the CIPA should capture Cabinet decisions that do not have a direct emissions impact but the indirect or enabling impacts could have a material impact on actions included in ERPs.
- 17 This will ensure that the impact on policies that are fundamental to ERPs and achieving emission budgets are considered when determining if a CIPA is required.
- 18 I will also use this opportunity to ensure that the guidance requires agencies to more explicitly consider whether a policy affects emissions under the ETS, emissions outside the ETS, or enables the ETS to operate more efficiently and cost-effectively.
- 19 Following Cabinet decisions, MfE will develop clear and updated guidance to help agencies understand and identify when a CIPA would apply.

Clarifying the role of MfE within the CIPA process

- 20 The current CIPA Cabinet Circular states that 'The Climate Implications of Policy Assessment Team (CIPA Team) at MfE will provide quality assurance on all CIPA disclosures'. Given the specialised and sector-specific nature of the modelling associated with many CIPA disclosures, I do not consider it appropriate or feasible for MfE to fulfil a quality assurance role across all sectors.
- 21 I propose to clarify that the role of MfE is to provide guidance, confirm compliance with CIPA requirements, and provide advice on implications for emission budgets and ERP policies. Quality assurance of CIPA modelling outputs would be undertaken by the responsible agency in most cases. This would be broadly similar to the Regulatory Impact Analysis process.
- 22 In the case of most regulatory impact analysis, quality assurance is undertaken by the responsible agency or an inter-agency panel. The Ministry for Regulation itself may undertake quality assurance, but this is typically only for very significant and complex proposals.
- 23 I consider that the above proposals will result in a more efficient use of resource by MfE and streamline the process for wider agencies.



Final policy advice on biennial ETS settings

Date submitted: 9 October 2025

Sub Security level: Classification

MfE priority: Urgent

Actions sought from Ministers

<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Simon WATTS Minister of Climate Change	Agree to biennial ETS frequency and to issue drafting instructions to PCO	10 October

Actions for Minister's office staff

Return the signed briefing to the Ministry for the Environment (advice@mfe.govt.nz).

Appendices and attachments

Appendix 1: Summary of findings from stakeholder interviews

Key contacts at Ministry for the Environment

<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Georgia Gasper		
Responsible Manager	Simon Mandal-Johnson	9(2)(a)	✓
General Manager	Kirsty Flannagan		

Minister's comments

Final policy advice on biennial ETS settings

Key messages

1. On 22 September 2025 Cabinet agreed in-principle to transition to biennial ETS settings, subject to targeted engagement with market participants [CAB-25-MIN-0324 refers]. On 25 September 2025 you also agreed to a further set of technical decisions that would be required to implement the new policy [BRF-6872 refers].
2. This briefing summarises stakeholder feedback on biennial ETS settings and seeks your final approval to proceed, including approval to issue drafting instructions to the PCO.

Targeted engagement

3. Officials conducted targeted engagement on moving to biennial ETS settings. Due to the compressed legislative timeline, this engagement was limited to six market participants. Officials from the Climate Change Commission also provided input on the proposal, noting they were not providing a formal Commission view.
4. Overall, most participants supported the proposed change and saw it as a net positive, albeit with some important trade-offs. One participant ^{9(2)(b)(ii)} noted similar trade-offs and on balance preferred the status quo (i.e., annual settings). See Appendix 1 for more detailed feedback.
5. In particular, respondents noted that:
 - i Market volatility and uncertainty within the year, caused by the annual decision-making cadence, is a real factor for market participants. This proposal offers a targeted response to help mitigate it.
 - ii The primary trade-off is the potential for biennial settings to increase volatility in settings decisions, given the longer period between decisions and the need to respond to more data.
 - iii Many respondents noted that the frequency of settings decisions was less important than other factors, especially certainty about broader policy settings
 - iv Any changes to ETS settings should be clearly signalled to ensure market participants have sufficient time to adjust.
 - v Most stakeholders did not support creating a further power to enable the Minister to decide on ETS settings in 'off-years' under special circumstances, although not all stakeholders agreed.

6. In our assessment, stakeholders broadly support your in-principle decision to move to biennial settings. Officials therefore recommend that you confirm your final approval for this transition.

7. ^{9(2)(f)(iv)}

9(2)(f)(iv)

8. 9(2)(f)(iv)

Future work

9. Consultation identified two key considerations regarding the transition to biennial ETS settings:
- i Government should provide more than five years of unit volumes and price control settings at each decision (many participants suggested 10 years). This would provide additional long-term certainty for market participants. This comes with trade-offs around certainty, especially in off-years, as longer-term settings are less likely to remain appropriate or unchanged, due to evolving market conditions, emissions data, and policy priorities. Stakeholders indicated they are comfortable with trade-offs of settings decisions covering longer periods.
 - ii Should we move to biennial ETS settings, stakeholders proposed an interim MfE-led data update during the 'off-years', especially focused on stockpile and forestry projections, to ensure that the market is provided with a clear summary of the latest analysis and can respond to emerging data patterns.

10. 9(2)(f)(iv)

Recommendations

We recommend that you:

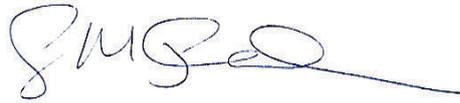
- a. **confirm** your final decision to move to biennial ETS settings

Yes | No

- b. **agree** to issue drafting instructions to the PCO required to include this change in the forthcoming CCRA Amendment Bill, including the technical changes to operationalise the biennial settings process agreed in Table 1, BRF-6872

Yes | No

Signatures



Simon Mandal-Johnson
Manager, ETS Policy

9 October 2026

Hon Simon WATTS
Minister of Climate Change

Date

Appendix 1: Summary of stakeholder interviews

Stakeholder Name	Key Points
9(2)(b)(ii)	<ul style="list-style-type: none"> • Comfortable with move to biennial ETS settings • Acknowledged that biennial ETS settings could lead to greater volatility and larger adjustments • Did not support a longer than 2-year settings gap • Proposed two adjustments to enhance market transparency: <ul style="list-style-type: none"> ○ Move to publish longer-term settings trajectory instead of 5 years (must include price controls) - suggested moving to a 10-year trajectory ○ Publish an interim data announcement during off-years • Did not support a discretionary Ministerial power to change settings in off-years under special circumstances • Highly valued stability in policy and settings
	<ul style="list-style-type: none"> • Supported change to biennial ETS settings • On balance, noted that annual settings help concentrate market attention on short-term price signals and policy direction • Understood the logic that biennial settings provide more certainty due to a less legislative change • Recognised that annual process to change settings impacts Government workload • Supported to move to a longer-term settings trajectory instead of 5 years (having 10 years in place instead) • Did not support a discretionary Ministerial power to change settings in off-years under special circumstances
	<ul style="list-style-type: none"> • Supported change to biennial ETS settings • Supported greater stability to the market • Stated that some of their clients are reluctant to trade during the period leading up to annual policy changes • Supported granting the Minister a discretionary power to change settings during off-years under special circumstances • Supported a long-term settings trajectory published by Government • Supported an interim data update during off-years published by Government
	<ul style="list-style-type: none"> • Stated that recent policy stability has supported the market and that a change in review frequency may signal a shift in approach that had produced that stability • Noted that biennial reviews could limit responsiveness to stockpile changes • Noted that flexibility in auction volumes as key to price stability • Concerned that biennial reviews may concentrate volatility around review years • Did not expect material stability gains from reduced review frequency.
	<ul style="list-style-type: none"> • Did not think that biennial reviews have a significant impact on market certainty or long-term investment decisions. Policy settings have greater influence on market stability than timing of reviews. • Stated that predictable, mechanical adjustments matter more than review frequency. • Identified a trade-off between intra-year and inter-year volatility, with potential for larger adjustments in review years.

<p>Climate Change Commission Officials (Note: This feedback reflects the views of individual officials and not the position of the Commission)</p>	<ul style="list-style-type: none"> • Distinguished between stability and predictability, noting predictability is easier to achieve in the ETS context. • Suggested annual adjustments can support predictability of decision-making, while holding settings constant for longer may reduce ability to keep NZ ETS lined up with targets. • Suggested that biennial decisions could lead to compounded surprises and market commentary raising issues (either misinformation or genuine problems) in between decisions, with reduced opportunities for government to clarify its approach. <ul style="list-style-type: none"> ○ For example, MERP years do not align well with biennial decisions, and end-of-MERP data (next available in late 2026) could bring surprises that the Government may not be able to address or act on in a timely manner. • Questioned how biennial settings align with electoral cycles, noting some cycles would only include one decision point. • Emphasised that annual decision making is not the root cause of the market instability or uncertainty in the NZ ETS, rather it is factors relating to the design of the scheme and behaviour of market participants. • Was wary of off-year decision-making powers, as different interpretations of criteria and changing appetite for their use may increase uncertainty. • Suggested very limited resource efficiencies as the Commission would need to maintain ETS expertise regardless, and especially if off-year decision making remained an option. • Suggested regular publication of data and analysis in non-decision years could help maintain transparency.
<p>9(2)(b)(ii)</p>	<ul style="list-style-type: none"> • Considered a shift to biennial settings appropriate and further suggested that extending the period to up to five years could be preferable • Believed that data availability is less of a concern, citing confidence in the quality and consistency of information provided by MPI; supported the idea of releasing data annually • Felt that the existing safeguards which limit the Government's ability to change near-term settings were ineffectual, as market participants tend to look through them • Was not concerned about the risks of increased volatility from biennial settings. Believed that in the event of significant market fluctuations under a biennial settings regime, existing safeguards such as the auction Cost Containment Reserve (CCR) would provide adequate protection • Suggested that any change to frequency of settings to market should be well communicated