



PROACTIVE RELEASE COVERSHEET

Minister	Hon. Simon Watts	Portfolio	Climate Change
Name of package	Proactive release of updated allocative baselines for industrial allocation and a natural gas emissions factor	Date to be published	20 May NZ ETS Market sensitivity category 3 (release outside of trading hours)

List of documents that have been proactively released

Date	Title	Author
23 March 2026	26-CAB-00089 Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas	Ministry for the Environment
7 April 2026	CAB 26 MIN 0113 Report of the Cabinet Legislation Committee Minute	Cabinet office
2 April 2026	LEG 26 MIN 0059 Minute	Cabinet office
2 April 2026	LEG 26 SUB 0059 Summary	Cabinet office
12 February 2026	25-BRF-00188 Approval to issue drafting instructions for updated allocative baselines (industrial allocation) and a natural gas emissions factor (NZ ETS)	Ministry for the Environment
19 February 2026	26-BRF-00358 Final Cabinet paper on updated allocative baselines (industrial allocation) and natural gas emissions factor (NZ ETS)	Ministry for the Environment
23 March 2026	26-BRF-00481 Approval to lodge: Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas	Ministry for the Environment

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

The following papers will be released in-full:

- *LEG_26_MIN_0059 Minute*
- *LEG_26_SUB_0059 Summary*

Some information has been withheld from the papers, under the relevant Official Information Act (OIA) section as follows:

- *26-CAB-00089 Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas*
 - Paragraph 6.2, under OIA section 9(2)(f)(iv) 'the confidentiality of advice tendered by Ministers of the Crown and officials'
 - Paragraphs 23-26, and 33, under OIA section 9(2)(k) 'prevent the disclosure or use of official information for improper gain or improper advantage'
 - Paragraphs 30, 31, and footnote 4, under OIA section 9(2)(b)(ii) 'would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information'
 - Paragraph 32, under OIA section 9(2)(f)(iv) 'the confidentiality of advice tendered by Ministers of the Crown and officials'
- *CAB_26_MIN_0113 Report of the Cabinet Legislation Committee Minute*
 - Release relevant paper title (withhold other titles as out of scope).
- *25-BRF-00188 Approval to issue drafting instructions for updated allocative baselines (industrial allocation) and a natural gas emissions factor (NZ ETS)*
 - Paragraphs 2(iii), 24-28, 31, and recommendation 1(c) under OIA section 9(2)(k) 'prevent the disclosure or use of official information for improper gain or improper advantage'
 - Paragraphs 2(i), 13-15, under OIA section 9(2)(b)(ii) 'would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information'
- *26-BRF-00358 Final Cabinet paper on updated allocative baselines (industrial allocation) and natural gas emissions factor (NZ ETS)*
 - Text in paragraph 2 under OIA section 9(2)(k) 'prevent the disclosure or use of official information for improper gain or improper advantage'
 - Text in paragraphs 5 and 6, and footnote 3, under OIA section 9(2)(b)(ii) 'would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information'
 - Text in paragraphs 5, 6, and recommendation 2, under OIA section 9(2)(f)(iv) 'the confidentiality of advice tendered by Ministers of the Crown and officials'
- *26-BRF-00481 Approval to lodge: Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas*
 - Text in paragraph 2(a), under OIA section 9(2)(k) 'prevent the disclosure or use of official information for improper gain or improper advantage'
 - Text in appendix bullet one, under OIA section 9(2)(f)(iv) 'the confidentiality of advice tendered by Ministers of the Crown and officials'

Office of the Minister for Climate Change
Chair, Cabinet Legislation Committee

Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas

Proposal

- 1 I seek authorisation for submission to the Executive Council of the:
 - 1.1 the Climate Change (Stationary Energy and Industrial Processes) Amendment Regulations 2026
 - 1.2 the Climate Change (Eligible Industrial Activities) Amendment Regulations 2026

Executive Summary

- 2 This paper proposes amendments to regulations for the New Zealand Emissions Trading Scheme (NZ ETS). The amendments involve regular updates to industrial allocation settings and the correction of the national average emissions factor for natural gas, raised by industry.
- 3 The NZ ETS encourages emissions reductions by pricing emissions. Participating firms must acquire New Zealand Emissions Units (NZUs) and surrender them to the Government for each tonne of their emissions. The NZ ETS is the Government's key tool for achieving its emissions reduction targets.
- 4 Industrial allocation is a regime under the NZ ETS, where emissions-intensive trade-exposed firms¹ receive 'free' allocations of NZUs according to legislated criteria.
- 5 Allocative baselines are a key industrial allocation setting, as they represent the emissions associated with a product, including from electricity consumption. Changes to allocative baselines and emissions result in different allocations to firms. Industrial allocations have cash value to firms, who can surrender them to meet their NZ ETS obligations, or sell them on the secondary carbon market.
- 6 The amendment regulations include:
 - 6.1 **A retrospective update to the national average emissions factor for natural gas to account for a change to methodology.** This emissions factor relates to NZ ETS obligations involving the national gas storage facility. It is not used by any NZ ETS participant for surrender obligations, but some participants use it for commercial and reporting activities. The current factor is about ten percent greater than it should be. Without regulatory changes, there

¹ These firms face high NZ ETS costs relative to their revenue, and compete with international firms who might not experience these same costs

may be unnecessary costs for some businesses. Retrospective effect will benefit the affected persons.

6.2 **An annual update to allocative baselines for two firms** to account for variations in firms' emissions costs from electricity, which influences the amount of NZUs these firms receive. 9(2)(f)(iv)

- 7 Both firms affected by the allocative baseline update, New Zealand Aluminium Smelters Limited (NZAS) and New Zealand Steel Limited (NZ Steel), are aware of the update and methodology, but not the specific changes to their allocations.
- 8 Stakeholders support the new national average emissions factor for natural gas.

Policy

National average emissions factor for natural gas

- 9 The Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (SEIP Regulations) prescribes a national average emissions factor for natural gas. This can be used for transactions involving gas supply from the national gas storage facility. Because natural gas that leaves the facility is from several sources, the emissions factors specific to individual gas fields (eg, Kupe and McKee) cannot be accurately used. This means the buyer either uses the provided default emissions factor or develops a unique emissions factor.
- 10 The current national average emissions factor for natural gas is approximately ten percent too high due to a methodological change. While this is not impacting the NZ ETS at the moment, I understand the emissions factor is used outside the NZ ETS for commercial arrangements and emissions reporting. Correcting the emissions factor will reduce business costs.
- 11 Cabinet has authorised the Minister of Climate Change to take post-consultation decisions on purely technical changes to the NZ ETS regulations [CAB-24-MIN-0156 refers], such as updating this emissions factor. I recommend updating the emissions factor in regulation 50(7) of the SEIP Regulations from 59.03 tCO₂e/TJ to 53.71 tCO₂e/TJ.
- 12 I recommend this update has retrospective effect from the start of 2026, following the mandatory three-month delay for entry into force for regulations made under section 163 of the Act. Consultation on the proposal has found support for retrospective application as it will mitigate the risk of unnecessary business costs identified above.

Annual allocative baseline update

- 13 The Climate Change (Eligible Industrial Activities) Amendment Regulations 2026 (EIA Regulations) are a routine update, and do not require any new policy decisions.
- 14 The annual update affects two firms: New Zealand Aluminium Smelters Limited (NZAS) and New Zealand Steel Limited (NZ Steel). NZAS receives an annual allocation of NZUs for producing aluminium. NZ Steel receives allocations for

producing several eligible products. Both firms have indirect emissions costs from electricity and also receive NZUs for electricity use.

- 15 In December 2018, Cabinet authorised the Minister of Climate Change to adjust firms’ allocative baselines to reflect NZ ETS costs from electricity consumption, except when there are significant financial or policy implications. Cabinet noted this decision in March 2025, when the process was last completed [CAB-25-MIN-0070]. In March 2024, Cabinet agreed to a specific variable used in update for NZ Steel, known as an Electricity Contract Allocation Factor (ECAAF) [CAB-24-MIN-0381]. Cabinet agreed to the current ECAAF for NZAS in January 2025 [CAB-25-MIN-0014].
- 16 Allocative baselines are a key industrial allocation variable. They are the emissions associated with a product (eg, emissions created during a production process, fuel or electricity use). Allocative baselines are multiplied by the firm’s production during a calendar year to determine its total included emissions. Both are multiplied by the level of assistance, which is the portion of these emissions that are covered by the scheme on any given year. The level of assistance is slowly decreasing as industrial allocation phases out.
- 17 An ECAAF is an adjustment to a firms’ allocative baselines to account for its emissions from electricity consumed through unique electricity contracts.
- 18 Both NZAS and NZ Steel have recently provided the government electricity consumption data for the 2025 calendar year.
- 19 NZAS’ updated allocative baselines for 2025, 2026, and 2027 are:
 - 19.1 4.0714
- 20 NZ Steel’s updated allocative baselines for 2025, 2026, and 2027 are:
 - 20.1 Product A – Molten iron – 2.8505
 - 20.2 Product B – Steel slab – 0.1107
 - 20.3 Product C – Vanadium-bearing materials – 0.0959
 - 20.4 Product D – Flat hot-rolled steel – 0.1400
 - 20.5 Product E – Steel billet – 0.1185
- 21 Both firms have agreed to their final 2025 allocative baselines.
- 22 By March 30, 2026, both NZAS and NZ Steel will apply for their final allocations for 2025 and provisional allocations for 2026. The financial implications are discussed below.

9(2)(k)

23 9(2)(k)

9(2)(k)
24
25
26

Timing and 28-day rule

- 27 The changes will be notified in the New Zealand Gazette by 9 April. The industrial allocation amendments will come into force before 30 April 2026, and the natural gas amendments will take effect from 1 January 2026 following the mandatory three-month delay on entry into force under s 166(3) of the CCRA.
- 28 I am seeking agreement to waive the 28-day rule for the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 to support relevant firms to submit their applications by 30 April 2026. This waiver is necessary to ensure the purpose of the secondary legislation is not defeated.

Financial Implications

29 NZUs provided through industrial allocation are liabilities to the Crown, as they permit emissions without any financial cost to the emitter. Increased industrial allocations, for example, may reduce the number of NZUs available through future NZUs available at auction, possibly reducing Crown cash receipts. However, this depends on other factors impacting unit supply and the likelihood of units selling at auction.

30 9(2)(b)(ii) & 9(2)(f)(iv)

² All financial figures are based on the publicly available NZU spot price of \$35 per NZU for the week starting 2 February 2026, and the 2025 level of assistance of 0.85

³ NZAS' provisional allocative baseline was 4.0818

⁴ 9(2)(b)(ii)

31 9(2)(b)(ii) [Redacted]
[Redacted]
[Redacted]
[Redacted]

32 9(2)(f)(iv) [Redacted]
[Redacted]

33 9(2)(k) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

34 There are no additional fiscal impacts for the updated natural gas emissions factor.

Compliance

35 The regulations comply with:

- 35.1 the principles of the Treaty of Waitangi;
- 35.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 35.3 the principles and guidelines set out in the Privacy Act 2020 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
- 35.4 relevant international standards and obligations;
- 35.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

36 No advice was provided by the Treaty Provisions Officials Group on any Treaty of Waitangi provisions.

Natural gas emissions factor update

37 Section 3A of the Act requires consultation with iwi/Māori identified as likely to have an interest in the Regulations. Section 3B requires consultation with persons identified as likely to be substantially affected by the making of these Regulations. A short, targeted engagement was performed. Several submissions were received in support of the proposals, and none opposed.

38 Section 163(5) requires the Minister to have regard to any applicable international climate change obligations in respect of the measurement of emissions and removals from the activity. The emissions factor is not used in New Zealand’s international

⁵ NZ Steel’s 2025 provisional allocative baselines were 2.8574 product A, 0.1113 product B, 0.0983 product C, 0.1409 product D, 0.1193 product E

emissions reports, therefore international climate change reporting obligations are not relevant.

- 39 Section 166 requires a three-month delay on entry into force for regulations made under section 163, even though section 163(3) allows for the amendment to have effect retrospectively from the commencement of the year in which it is made.

Annual allocative baseline update

- 40 The statutory requirements for updating allocative baselines have been met. Cabinet agreed to both NZAS and NZ Steel's electricity contract allocation factors in accordance with Section 161C(4), following a notice given under Section 161D(1). These same electricity contract allocation factors have been applied in calculating the updated allocative baselines according to Section 161C(3). Section 161A(3B) allows amendments to allocative baselines due to a change in an electricity allocation factor.

Regulations Review Committee

- 41 I am not aware of any grounds for the Committee to draw the Regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 42 The proposed amendment regulations have been certified by the PCO as being in order for submission to Cabinet.

Impact Analysis

Regulatory impact statement

- 43 The Ministry for Regulation has confirmed that Cabinet's impact analysis requirements do not apply for the proposed updates to allocative baselines, as no policy decisions are being taken.
- 44 Cabinet's impact analysis requirements do not apply for the update to the natural gas emissions factor as the decision-making powers have been delegated to the Minister for Climate Change.

Climate implications of policy assessment

- 45 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to the proposals in this paper, as the threshold for significance is not met.

Publicity

- 46 The Climate Change (Eligible Industrial Activities) Amendment Regulations 2026 will be notified in the New Zealand Gazette after Cabinet and the Executive Council's agreement has been obtained.
- 47 The affected firms, NZAS and NZ Steel will be notified once the Gazette notice has been published, and when the Regulations come into force.

- 48 Officials will directly contact firms that responded to the engagement on the proposal to update the national average emissions factor for natural gas and inform them of Cabinet's decision. Wider communications will be made through industry and ETS newsletters.

Proactive release

- 49 I propose to proactively release this paper in whole within the 30-day limit for such releases.

Consultation

- 50 There are no statutory consultation requirements for the EIA Regulations in the Act. My officials have engaged with only the directly affected parties to the regulations, NZAS and NZ Steel. Further consultation with ETS participants and the public was not necessary.
- 51 The Ministry for the Environment has consulted with the EPA on implementation of the amendment regulations. The EPA provided feedback that improved the clarity of the updated wording in the EIA Regulations.
- 52 The Treasury, Ministry for Primary Industries, and Ministry of Business, Innovation and Employment, and Ministry of Foreign Affairs and Trade were consulted on this paper. No concerns were raised on the recommendations in this paper.

Recommendations

The Minister of Climate Change recommends that the Committee:

- 1 **note** that in March 2025, Cabinet noted the previously delegated authority for the Minister of Climate Change to update allocative baselines for two eligible activities using annual data [CAB-25-MIN-0070 refers];
- 2 **note** that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 will give effect to the decisions referred to in recommendation 1 above;
- 3 **note** that in May 2024, Cabinet delegated authority for the Minister of Climate Change to make post-consultation decisions on purely technical matters in the regulations under the Climate Change Response Act 2002 (the Act), including issuing drafting instructions [CAB-24-MIN-0156 refers]
- 4 **note** that the Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026 will give effect to decisions made by the Minister of Climate referred to in recommendation 3 above.
- 5 **authorise** the submission to the Executive Council of the
 - 5.1 Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026;
 - 5.2 Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026
- 6 **note** that a waiver of the 28-day rule is sought for the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026:
 - 6.1 so that the regulations can come into force as soon as possible;
 - 6.2 on the grounds that early commencement is necessary to avoid the purpose of the secondary legislation being defeated;
- 7 **agree** to waive the 28-day rule so that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 can come into force immediately;
- 8 **note** that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 come into force on 9 April 2026
- 9 **note** that the Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026 take effect retrospectively from 1 January 2026
- 10 **note** that the following statutory prerequisites apply under the Climate Change Response Act 2002:
 - 10.1 Section 3A(b): requires the Minister to be satisfied consultation has occurred with representatives of iwi and Māori that appear likely to have an interest

- 10.2 Section 3B(3): requires the Minister to be satisfied consultation has occurred with substantially affected persons
 - 10.3 Section 163(5): requires the Minister to have regard to any applicable international climate change obligations in respect of the measurement of emissions and removals from the activity
 - 10.4 Section 161A(3B): amendments to allocative baselines may occur due to a change in an electricity allocation factor
 - 10.5 Section 161C(3): regulations must prescribe the allocative baseline or baselines for each product in accordance with the calculation in this section
 - 10.6 Section 161C(4): the Minister may adjust the number of whole tonnes of included emissions shown in information provided by any persons carrying out a specified activity in a notice given under section 161D(1), after taking into account relevant electricity contracts, and/or changes to an electricity allocation factor
- 11 **note** the advice of the Minister for Climate Change that these requirements have been met.

Authorised for lodgement

Hon Simon Watts

Minister for Climate Change



Cabinet Legislation Committee

Minute of Decision

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Amending NZ ETS Regulations on Allocative Baselines for Industrial Allocation and an Emissions Factor for Natural Gas

Portfolio **Climate Change**

On 2 April 2026, the Cabinet Legislation Committee:

- 1 **noted** that in September 2024, the Cabinet Economic Policy Committee (ECO) authorised the Minister of Climate Change to update allocative baselines for two eligible activities using annual data [ECO-24-MIN-0201];
- 2 **noted** that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 will give effect to decisions made under the authority in paragraph 1 above;
- 3 **noted** that in May 2024, ECO authorised the Minister of Climate Change to make post-consultation decisions on purely technical matters in the regulations under the Climate Change Response Act 2002 (the Act), including issuing drafting instructions [ECO-24-MIN-0075];
- 4 **noted** that the Climate Change Response (Stationary Energy and Industrial Processes) under paragraph 3 above;
- 5 **authorised** the submission to the Executive Council of the:
 - 5.1 Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 [PCO 28808/5.0];
 - 5.2 Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026 [PCO 28810/4.0];
- 6 **noted** that a waiver of the 28-day rule is sought for the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026:
 - 6.1 so that the regulations can come into force as soon as possible;
 - 6.2 on the grounds that early commencement is necessary to avoid the purpose of the secondary legislation being defeated;
- 7 **agreed** to waive the 28-day rule so that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 can come into force immediately;

- 8 **noted** that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 come into force on 9 April 2026;
- 9 **noted** that the Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026 come into force on 9 July 2026, but Regulation 5 applies retrospectively from 1 January 2026;
- 10 **noted** that the following statutory prerequisites apply under the Climate Change Response Act 2002:
- 10.1 Section 3A(b): requires the Minister to be satisfied consultation has occurred with representatives of iwi and Māori that appear likely to have an interest;
 - 10.2 Section 3B(3): requires the Minister to be satisfied consultation has occurred with substantially affected persons;
 - 10.3 Section 163(5): requires the Minister to have regard to any applicable international climate change obligations in respect of the measurement of emissions and removals from the activity;
 - 10.4 Section 161A(3B): amendments to allocative baselines may occur due to a change in an electricity allocation factor;
 - 10.5 Section 161C(3): regulations must prescribe the allocative baseline or baselines for each product in accordance with the calculation in this section;
 - 10.6 Section 161C(4): the Minister may adjust the number of whole tonnes of included emissions shown in information provided by any persons carrying out a specified activity in a notice given under section 161D(1), after taking into account relevant electricity contracts, and/or changes to an electricity allocation factor;
- 11 **noted** the advice of the Minister for Climate Change that the requirements in paragraph 10 above have been met.

Vivien Meek
Committee Secretary

Present:

Hon David Seymour
Hon Chris Bishop (Chair)
Hon Louise Upston
Hon Judith Collins KC
Hon Tama Potaka
Hon Simon Watts
Hon Chris Penk
Hon Nicole McKee
Hon Casey Costello
Hon James Meager
Stuart Smith MP
Jamie Arbuckle MP

Officials present from:

Officials Committee for LEG



Cabinet


Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 3 April 2026

On 7 April 2026, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 3 April 2026:

OUT OF SCOPE



LEG-26-MIN-0059

**Amending NZ ETS Regulations on Allocative
Baselines for Industrial Allocation and an Emissions
Factor for Natural Gas**
Portfolio: Climate Change

CONFIRMED

OUT OF SCOPE



Rachel Hayward
Secretary of the Cabinet



Cabinet Legislation Committee

Summary

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Amending NZ ETS Regulations on Allocative Baselines for Industrial Allocation and an Emissions Factor for Natural Gas

Portfolio	Climate Change
Purpose	This paper seeks authorisation to submit the Climate Change (Eligible Industrial Activities) Amendment Regulations 2026 (Industrial Activities Regulations) and the Climate Change (Stationary Energy and Industrial Processes) Amendment Regulations 2026 (Stationary Energy Regulations) (together, the Regulations) to the Executive Council.
Previous Decisions	<p>In May 2024, ECO authorised the Minister of Climate Change to make post-consultation decisions on purely technical matters in the regulations under the Climate Change Response Act 2002 (the Act), including issuing drafting instructions [ECO-24-MIN-0075].</p> <p>In September 2024, ECO authorised the Minister of Climate Change to update industrial allocative baselines using annual data [ECO-24-MIN-0201].</p>
Proposal	The Regulations give effect to decisions made under the authorisations above. They include a retrospective update to the national average emissions factor for natural gas, to account for a change in methodology, and an annual update to allocative baselines for New Zealand Aluminium Smelters Limited and New Zealand Steel Limited, to account for variations in their emissions costs from electricity.
Impact Analysis	Not applicable.
Compliance	<p>On 24 March 2026, Parliamentary Counsel certified the Regulations as being in order for submission to Cabinet:</p> <ul style="list-style-type: none"> • subject to a waiver of the 28-day rule for the Industrial Activities Regulations; • provided that, for the Stationary Energy Regulations, the Minister has carried out the consultation required by sections 3A and 3B of the Climate Change Response Act 2002 or is satisfied that that consultation has been carried out, and has had regard to the matters referred to in section 163(5) of that Act.

Timing Matters	The Industrial Activities Regulations come into force on 9 April 2026. The Stationary Energy Regulations come into force on 9 July 2026, except for Regulation 5, which applies retrospectively from 1 January 2026.
Communications	Affected firms will be notified. Officials will directly contact firms which responded to engagement on the proposal. Wider communications will be made through industry and ETS newsletters.
Consultation	Paper prepared by MfE (Climate Change). EPA, the Treasury, MPI (Forestry), MFAT (Climate Change), and MBIE (Energy) were consulted. New Zealand Steel Limited, New Zealand Aluminium Smelters Limited, Contact Energy, Todd Energy, Clarus, and Gas Industry Company Limited were also consulted. The Minister indicates that all Ministers were consulted and that discussion has occurred with all Government parties.

The Minister of Climate Change recommends that the Committee:

- 1 note that in September 2024, the Cabinet Economic Policy Committee (ECO) authorised the Minister of Climate Change to update allocative baselines for two eligible activities using annual data [ECO-24-MIN-0201];
- 2 note that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 will give effect to decisions made under the authority in paragraph 1 above;
- 3 note that in May 2024, ECO authorised the Minister of Climate Change to make post-consultation decisions on purely technical matters in the regulations under the Climate Change Response Act 2002 (the Act), including issuing drafting instructions [ECO-24-MIN-0075];
- 4 note that the Climate Change Response (Stationary Energy and Industrial Processes) under paragraph 3 above;
- 5 authorise the submission to the Executive Council of the:
 - 5.1 Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 [PCO 28808/5.0];
 - 5.2 Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026 [PCO 28810/4.0];
- 6 note that a waiver of the 28-day rule is sought for the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026:
 - 6.1 so that the regulations can come into force as soon as possible;
 - 6.2 on the grounds that early commencement is necessary to avoid the purpose of the secondary legislation being defeated;
- 7 agree to waive the 28-day rule so that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 can come into force immediately;

- 8 note that the Climate Change Response (Eligible Industrial Activities) Amendment Regulations 2026 come into force on 9 April 2026;
- 9 note that the Climate Change Response (Stationary Energy and Industrial Processes) Amendment Regulations 2026 come into force on 9 July 2026, but Regulation 5 applies retrospectively from 1 January 2026;
- 10 note that the following statutory prerequisites apply under the Climate Change Response Act 2002:
- 10.1 Section 3A(b): requires the Minister to be satisfied consultation has occurred with representatives of iwi and Māori that appear likely to have an interest;
 - 10.2 Section 3B(3): requires the Minister to be satisfied consultation has occurred with substantially affected persons;
 - 10.3 Section 163(5): requires the Minister to have regard to any applicable international climate change obligations in respect of the measurement of emissions and removals from the activity;
 - 10.4 Section 161A(3B): amendments to allocative baselines may occur due to a change in an electricity allocation factor;
 - 10.5 Section 161C(3): regulations must prescribe the allocative baseline or baselines for each product in accordance with the calculation in this section;
 - 10.6 Section 161C(4): the Minister may adjust the number of whole tonnes of included emissions shown in information provided by any persons carrying out a specified activity in a notice given under section 161D(1), after taking into account relevant electricity contracts, and/or changes to an electricity allocation factor;
- 11 note the advice of the Minister for Climate Change that the requirements in paragraph 10 above have been met.

Tom Kelly
Committee Secretary

Hard-copy distribution:
Cabinet Legislation Committee



BRIEFING

Approval to issue drafting instructions for updated allocative baselines (industrial allocation) and a natural gas emission factor (NZ ETS)

Date:	12 February 2026	Priority:	High
Security classification:	[Classification]	Tracking number:	25-BRF-00188

	Action sought	Response by
Hon Simon Watts Minister of Climate Change	<p>Agree to issue drafting instructions to the Parliamentary Council Office to amend the:</p> <ul style="list-style-type: none"> Climate Change (Eligible Industrial Activities) Regulations 2010 Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 <p>Agree to begin Ministerial consultation on the draft LEG paper</p>	16 February 2026
Hon Nicola Willis Minister of Finance	Copy for your information	N/A

Action for Minister's Office staff

Appendices and attachments

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Kirsty Flannagan	General Manager		
Ameera Clayton	Manager		✓
Sean Rae	Author	9(2)(a) [redacted]	

The following departments/agencies have been consulted

The Treasury New Zealand, Ministry of Business, Employment and Innovation, Ministry of Foreign Affairs and Trade, and Ministry for Primary Industries will be consulted. Any feedback will be included in the revised LEG paper due to you on 19 February

Minister's office to complete:

Noted

Overtaken by Events

Approved

Needs change

See Minister's Notes

Declined

Seen

Withdrawn

Minister's Comments

BRIEFING

Approval to issue drafting instructions for updated allocative baselines (industrial allocation) and a natural gas emission factor (NZ ETS)

Date:	12 February 2026	Priority:	High
Security classification:	Classification	Tracking number:	25-BRF-00188

Purpose

1. We seek your delegated authority to issue drafting instructions to the Parliamentary Counsel Office (PCO) to draft amendment regulations for:
 - i An annual update to two firms' allocative baselines under the Climate Change (Eligible Industrial Activities) Regulations 2010 (EIA Regulations)
 - ii Correcting an error with an emission factor for natural gas under the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (SEIP Regulations)

Key points

2. This briefing seeks your agreement to issue drafting instruction to PCO on technical updates to regulations that cover industrial allocation and emission factors:
 - i **Routine update to allocative baselines** under your delegation for such updates, where there are no significant financial or policy implications. This update ensures that allocations to industry closely match firms' emissions costs from electricity. Two firms, New Zealand Aluminium Smelters Limited (NZAS) and New Zealand Steel Limited (NZ Steel) are affected. NZAS has confirmed its updated baselines. 9(2) 9(2)(b)(ii) 9(2)(b) NZ Steel will confirm its updated baselines by February 19. The assessment is undergoing a thorough internal quality assurance process, given recent NZ ETS data quality issues.
 - ii **Retrospective update to the natural gas national average emission factor** due to a methodological change. Firms have notified us the change is needed to better reflect the natural gas market and to reduce business costs. The current factor is about 10 per cent too high.
 - iii 9(2)(k)

¹ This figure is based on the publicly available NZU spot price of \$35 per NZU for the week starting 2 February 2026, and the 2025 level of assistance of 0.85

9(2)(k)

3. Your approval is needed on these matters to begin drafting amendment regulations and seek Cabinet's agreement at the Legislation Committee on 5 March 2026. The updated allocative baselines must be in force by April 30, 2026, for NZAS and NZ Steel to apply for their allocations. There is no deadline for the retrospective emission factor update. We have provided a draft Cabinet paper for your feedback.
4. We considered whether we could include corrections to natural gas and geothermal emissions factors, recently agreed by you [26-BRF-00255]. However, these require further consultation and decisions before amending regulation. We will progress those updates separately, ideally combined with another LEG paper.

Allocative baseline and emissions factor update & mitigating a fiscal risk

Updating allocative baselines reflects emissions from electricity consumption

5. In December 2018, Cabinet authorised the Minister of Climate Change, in consultation with the relevant Ministers, to adjust allocative baselines for New Zealand Aluminium Smelters Limited (NZAS) to reflect NZ ETS costs from electricity consumption without referring to Cabinet, except when there are significant financial or policy implications [ENV-18-MIN-0051]. Cabinet noted this decision in March 2024, when the process was last completed for both NZAS and another firm, New Zealand Steel Limited (NZ Steel), [CAB-24-MIN-0381].
6. Allocative baselines represent the emissions associated with a product, including from electricity consumption. They are a key variable for determining allocations of NZUs to industry.
7. In March 2024, Cabinet also agreed to a specific variable, known as an Electricity Contract Allocation Factor (ECAF), for NZAS and NZ Steel. Both firms' ECAFs are used in a technical process along with the previous years' electricity consumption data to calculate updated allocative baselines.
8. An ECAF is an adjustment to NZAS' and NZ Steel's allocative baselines, accounting for their unique electricity contracts, which have fewer emissions costs than standard electricity purchases. The default allocative baselines include emissions from standard electricity purchases. Consumption data shows the electricity consumed from each source. See Appendix One.
9. The update ensures that firms' allocations closely match their emissions costs from electricity consumption.
10. We have worked with NZAS and NZ Steel to update their allocative baselines. They have provided electricity consumption data for the 2025 calendar year. NZAS have verified our calculations and agreed to the updated allocative baselines (below). We will

² \$35 per NZU

confirm with NZ Steel its allocative baselines by 19 February. We will also provide final assessment of the changes to NZAS' and NZ Steel's allocative baselines over 2024/25.

11. On 30 March 2026, both NZAS and NZ Steel will apply for their final allocations for 2025 and provisional allocations for 2026.

NZAS' updated allocative baselines

12. The updated allocative baselines for 2025, 2026, and 2027 are:

i 4.0714

13. 9(2)(b)(ii)

14.

15.

NZ Steel's updated allocative baselines

16. The draft updated allocative baselines for 2025, 2026, and 2027 are:

i Product A – Molten iron – 2.5693

ii Product B – Steel slab – 0.0836

iii Product C – Vanadium-bearing materials – 0.1082

iv Product D – Flat hot-rolled steel – 0.1448

v Product E – Steel billet – 0.1229

17. We are seeking confirmation from NZ Steel of the updated allocative baselines, and 2025 production volumes by 19 February. Analysis of the changes to allocative baselines will follow, pending final QA.

Updating a natural gas emission factor in the NZ ETS

18. In early 2026, you agreed in-principle to update the national average emission factor for natural gas in regulation 50(7) of the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 from 59.03 tCO₂e/TJ to 53.71 tCO₂e/TJ [26-BRF-00255]. You also agreed in-principle that the update would apply retrospectively from the start of 2026. Retrospective application ensures that NZ ETS costs are accurately estimated by participants and passed through to consumers. Your in-principle decisions were subject to consultation.

19. We have engaged with key stakeholders in the natural gas market through the Gas Industry Company (the relevant industry body) and directly with Contact Energy, Todd Energy and the operator of the national gas storage facility, Clarus. All feedback

³ This figure is based on the publicly available NZU spot price of \$35 per NZU for the week starting 2 February 2026, and the 2025 level of assistance of 0.85

received has been positive. No issues were raised regarding the retrospective application.

- 20. You are also required to consult with representatives of iwi and Māori that appear to the Minister or chief executive likely to have an interest in the regulations under sections 155 and 3A of the Climate Change Response Act 2002 (CCRA). No iwi/Māori were identified among the key stakeholders for natural gas.
- 21. Cabinet has delegated authority to the Minister of Climate Change to make post-consultation decisions on purely technical matters in the NZ ETS regulations, such as updating this emission factor. This includes decisions to issue drafting instructions [CAB-24-MIN-0156 refers].
- 22. Section 163(5) of the CCRA requires the Minister of Climate Change to have regard to any applicable international climate change obligations in respect of the measurement of emissions and removals from the activity. The emission factor is not used in New Zealand's international emissions reports, therefore international climate change reporting obligations are not relevant.
- 23. Consequently, we recommend you issue drafting instructions to amend the relevant regulation.

9(2)(k)

24. 9(2)(k)

25.

26.

27.

28.

⁴\$35 per NZU

Financial implications

29. We will provide finalised fiscal impacts in the revised LEG paper due to you by 19 February.
30. Increased industrial allocations, for example, may reduce the number of NZUs available through future NZ ETS settings decisions, possibly reducing Crown cash receipts. However, this depends on other factors impacting unit supply and the likelihood of units selling at auction.
31. 9(2)(k) [REDACTED]
32. We understand that the incorrect emission factor has not been used in Ministry of Business Innovation and Employment fiscal forecasting to date. We are investigating whether there are any further fiscal impacts (for example, whether the emission factors are used in any other fiscal modelling). We will confirm this in the revised LEG paper on 19 February.

Timeline for the updates

33. Cabinet's agreement on the amendment regulations is needed by early- to mid-March to enable NZAS and NZ Steel to apply for their final allocations by 30 April 2026.
34. We have attached the draft LEG paper for your feedback. We will provide you with an updated version on 19 February, subject to your feedback, agency consultation and final quality assurance. We will send the final paper electronically for your approval as this is a routine update with a strict deadline.
35. We are finalising our assessment of the changes to NZAS' and NZ Steel's allocative baselines over 2024/25. The assessment is undergoing a thorough internal quality assurance process, given recent NZ ETS data quality issues. The assessment will be completed for the next version we provide you on 19 February.
36. An indicative timeline is below.

Briefing seeking approval for issuing drafting instructions Draft LEG paper for Minister review	12 February 2026
Agency consultation	12 – 19 February 2026
Final Cabinet paper	19 February 2026
Ministerial consultation & PCO drafting	19 – 26 February 2026
Lodgement of Cabinet paper	26 February 2026
Cabinet Legislation Committee meeting	5 March 2026
Cabinet and Executive Council	9 March 2026

⁵ \$35 per NZU

Recommended action

<p>The Ministry for the Environment recommends that you:</p> <ol style="list-style-type: none"> 1. agree to instruct the Parliamentary Counsel Office to draft amendments to the Climate Change (Eligible Industrial Activities) Regulations 2010 to: <ol style="list-style-type: none"> a. prescribe the allocative baselines for aluminium smelting by New Zealand Aluminium Smelters Limited for 2025, 2026 and 2027 as 4.0714 b. prescribe the allocative baselines for manufacture of iron and steel from iron sand by New Zealand Steel Limited for 2025, 2026, and 2027 as 2.5693 for Product A, 0.0836 for Product B, 0.1082 for Product C, 0.1448 for Product D, and 0.1229 for product E. c. 9(2)(k) 2. note that NZ Steel's updated allocative baselines are undergoing final quality assurance and confirmation with NZ Steel, which will be completed by 19 February 	<p><i>Agree / Disagree</i></p>
<ol style="list-style-type: none"> 3. agree to instruct the Parliamentary Counsel Office to draft amendments to the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 to: <ol style="list-style-type: none"> a. update the national average emissions factor for natural gas in regulation 50(7) of the from 59.03 tCO₂e/TJ to 53.71 tCO₂e/TJ. b. Ensure this amendment has effect from 1 January 2026 	<p><i>Agree / Disagree</i></p>
<ol style="list-style-type: none"> 4. agree to begin ministerial consultation on the draft LEG paper (attached), following any changes you might wish to make 	<p><i>Agree / Disagree</i></p>
<ol style="list-style-type: none"> 5. refer this briefing to the Minister of Finance 	<p><i>Agree / Disagree</i></p>

Kirsty Flannagan
General Manager
Markets, Ministry for the Environment

Hon Simon Watts
Minister of Climate Change

12/02/2026

___ / ___ / 2026

9(2)(a)

Next steps

37. To support Ministerial consultation, a final version of the attached LEG paper will be provided to you on 19 February, reflecting any feedback from you and agency consultation.
38. Subject to Executive Council approval we will communicate:
 - i directly with NZAS and NZ Steel about the annual update to allocative baselines.
 - ii the changes to the natural gas emissions factor with targeted engagement participants, the Gas Industry Company and Contact Energy.

Appendices

Appendix 1: Updating allocative baselines for NZAS and NZ Steel

Appendix 1: Updating allocative baselines for NZAS and NZ Steel

Allocative baselines represent the emissions associated with production

1. Industrial allocation refers to the free allocation of units through the New Zealand Emissions Trading Scheme (NZ ETS) provided to Emissions Intensive Trade Exposed (EITE) firms according to a legislated formula in the Climate Change Response Act 2002 (CCRA).
2. Allocative baselines are a key variable for determining industrial allocations. They reflect several factors, including the emissions associated with an EITE firm's electricity consumption and from other fossil fuel use and chemical processes on site. Electricity-related emissions costs significantly impact EITE firms, such as NZAS and NZ Steel.
3. Allocations are made according to this formula:
 - i Allocation (NZUs) = allocative baseline (tCO₂e/unit of product) × annual production (units of product) × level of assistance (%)
4. The level of assistance for both NZ Steel and NZAS is 84% in 2026 and is being phased out 1 percentage point each year until 2030.

Firms' emissions relating to electricity vary

5. NZAS' and NZ Steel's allocative baselines are updated annually to capture variations in their emissions from electricity use.
6. Cabinet has set an ECAF for both firms' unique electricity contracts. These contracts have lower prices than the market rate, due to the contract's length or size. They may also have fewer emissions associated with them than standard electricity purchases, which the default allocative baseline in Schedule 2 of the CCRA are based upon. The ECAF adjusts the electricity allocation factor to better match the emissions associated with firms' contracts. Consumption data shows the amount of electricity consumed from each source.
7. Firms provide electricity consumption data from the previous calendar year. Ministry for the Environment officials receive this data and calculate the updated allocative baselines.
8. The updated allocative baselines for the previous calendar year and the following two are finalised before March. In April, NZAS and NZ Steel will apply to the Environmental Protection Agency for their final allocations for 2025 and provisional allocations for 2026 using the updated allocative baselines.



BRIEFING

Final Cabinet paper on updated allocative baselines (industrial allocation) and natural gas emissions factor (NZ ETS)

Date:	19 February 2026	Priority:	Urgent
Security classification:	Classification	Tracking number:	26-BRF-00358

	Action sought	Response by
Hon Simon Watts Minister of Climate Change	Note the finalised allocative baselines, natural gas emissions factor, and associated financial impacts Refer the final draft Cabinet paper to relevant Ministers	23 February 2026

Action for Minister's Office staff

Appendices and attachments

26-CAB-00089: Amending NZ ETS regulations on allocative baselines for industrial allocation & an emissions factor for natural gas

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Kirsty Flannagan	GM/Dep Sec		
Ameera Clayton	Manager		✓
Sean Rae	Author		

The following departments/agencies have been consulted

Ministry for Business, Innovation and Employment, Ministry of Foreign Affairs and Trade, New Zealand Treasury, Ministry for Primary Industries, Environmental Protection Authority

- Minister's office to complete:
- | | | |
|--|---|------------------------------------|
| <input type="checkbox"/> Noted | <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Overtaken by Events | <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen |
| | <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Minister's Comments

BRIEFING

Final Cabinet paper on updated allocative baselines (industrial allocation) and natural gas emissions factor (NZ ETS)

Date:	19 February 2026	Priority:	Urgent
Security classification:	Classification	Tracking number:	26-BRF-00358

Purpose

1. This briefing provides you with the final draft Cabinet legislation committee (LEG) paper for ministerial consultation on updates to New Zealand Steel Limited's (NZ Steel) and New Zealand Aluminium Smelters Limited's (NZAS) allocative baselines, a minor change to the wording of regulations, and updating a natural gas emissions factor.

Key points

Quality assurance of final 2025 allocative baselines

2. On 12 February 2026, you agreed to a routine update to NZ Steel's and NZAS' allocative baselines in the Climate Change (Eligible Industrial Activities) Regulations 2010 (the EIA Regulations) and a retrospective update to a natural gas emissions factor in the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009. 9(2)(k) [redacted]
3. The updated allocative baselines and financial implications of both changes were subject to further quality assurance, confirmation with NZ Steel, and agency consultation. We have now finalised the LEG paper (attached). Both NZ Steel and NZAS have agreed to their updated allocative baselines (below). Agencies have been consulted on the updates and raised no issues.

Confirmed allocative baselines and financial implications

4. Allocative baselines are a key industrial allocation setting, as they represent the emissions associated with a product, including from electricity consumption. Changes to allocative baselines and emissions result in different allocations to firms. Industrial allocations have cash value to firms, which can surrender them to meet their NZ ETS obligations, or sell them on the secondary carbon market [refer to 25-BRF-00188].
5. NZAS' final 2025 allocative baselines are 4.0714. 9(2)(b)(ii) & 9(2)(f)(iv) [redacted]

¹ All financial figures are based on the publicly available NZU spot price of \$35 per NZU for the week starting 2 February 2026, and the 2025 level of assistance of 0.85

² NZAS' provisional 2025 allocative baseline was 4.0818

³ 9(2)(b)(ii) & 9(2)(f)(iv) [redacted]

6. NZ Steel's final 2025 allocative baselines have been finalised following final quality assurance and consultation with NZ Steel. NZ Steel's allocative baselines are now 2.8505 for Product A, 0.1107 for Product B, 0.0959 for Product C, 0.1400 for Product D, and 0.1185 for product E. 9(2)(b)(ii)

7. 9(2)(f)(iv)

8. There are no additional fiscal impacts for the updated natural gas emissions factor.

Next steps

9. Your office will share the draft LEG paper (attached) with your Ministerial colleagues for their feedback by 26 February 2026. We will incorporate any feedback into the final paper, along with the proposed amendment regulations, due to be lodged on 5 March 2026 for consideration by LEG on 12 March 2026.

10. The Parliamentary Counsel Office has indicated that drafting of the amendment regulations might take longer than the short period we have allocated for drafting. If necessary, we advise progressing the paper to LEG on 26 March 2026 and obtaining a waiver of the 28-day rule, so that NZAS and NZ Steel can apply for their final allocations before the statutory deadline of 30 April.

11. The updated timeline is below:

Ministerial consultation	23 February – 3 March 2026
Lodgement of Cabinet paper	5 March 2026
Cabinet Legislation Committee meeting	12 March 2026
Cabinet and Executive Council	16 March 2026
Gazette notice	From 17 March 2026
NZAS and NZ Steel apply for final 2025 allocations	By 30 April 2026

⁵ NZ Steel's 2025 provisional allocative baselines were 2.8574 product A, 0.1113 product B, 0.0983 product C, 0.1409 product D, 0.1193 product E

Recommended action

<p>The Ministry for the Environment recommends that you:</p> <p>1. Note the changes to NZ Steel’s updated allocative baselines for 2025, 2026, and 2027 to be prescribed in the EIA Regulations, as follows:</p> <p style="padding-left: 40px;">a. 2.8505 for Product A, 0.1107 for Product B, 0.0959 for Product C, 0.1400 for Product D, and 0.1185 for product E.</p>	<p><i>Noted</i></p>
<p>2. 9(2)(f)(iv)</p> <div style="background-color: #cccccc; width: 100%; height: 100%; min-height: 150px;"></div>	<p><i>Noted</i></p>
<p>3. Note that the attached final draft LEG paper is provided to support ministerial consultation in time to lodge the paper by 5 March.</p>	<p><i>Noted</i></p>
<p>4. Agree to seek a waiver of Cabinet’s 28-day rule if required to enable entry in force before 30 April.</p>	<p><i>Agree / Disagree</i></p>

9(2)(a)

Kirsty Flannagan
General Manager
 Markets, Ministry for the Environment

Hon Simon Watts
Minister for Climate Change

19 / 02 / 2025

___ / ___ / 2025

BRIEFING

Approval to lodge: Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas

Date:	23 March 2026	Priority:	Urgent
Security classification:	Classification	Tracking number:	26-BRF-00481

	Action sought	Response by
Hon Simon Watts Minister of Climate Change	Approve lodgement of the attached Cabinet paper - <i>Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas</i>	25 March 2026

Appendices and attachments

Appendix 1: Suggested talking points for LEG – 2 April 2026

Appendix 2: 26-CAB-00089: Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Kirsty Flannagan	GM Markets		
Ameera Clayton	Manager	9(2)(a)	✓
Sean Rae	Author		

- Minister's office to complete:
- | | | |
|--|---|------------------------------------|
| <input type="checkbox"/> Noted | <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Overtaken by Events | <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen |
| | <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Minister's Comments

BRIEFING

Approval to lodge: Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas

Date:	23 March 2026	Priority:	Urgent
Security classification:	Classification	Tracking number:	26-BRF-00481

Purpose

1. We seek your approval to lodge the attached Cabinet paper by 26 March, for discussion at the Cabinet Legislation Committee (LEG) meeting on Thursday 2 April.

Advice

2. The Cabinet paper seeks your approval for two amendments to regulations:
 - a. An annual update to two firms, New Zealand Steel Limited's (NZ Steel) and New Zealand Aluminium Smelters Limited's (NZAS), allocative baselines under the Climate Change (Eligible Industrial Activities) Regulations 2010 (EIA Regulations). 9(2)(k)
 - b. Retrospective update to an emissions factor for natural gas under the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (SEIP Regulations) due to an error.

Consultation

3. On 22 February, you agreed to circulate a draft Cabinet paper for ministerial consultation [26-BRF-00358]. Ministers have been consulted and have raised no issues.
4. The Environmental Protection Authority (EPA), which operates the Emissions Trading Scheme (ETS) including the industrial allocation system, has been consulted on the proposed change to EIA Regulations wording. It provided feedback that improved the clarity of the updated wording.

Allocative baseline update requires a waiver of the 28-day rule

5. On 22 February, you agreed to seek a waiver of Cabinet's 28-day rule on delay of regulations coming into force for the EIA Regulations, if required to enable entry in force before 30 April [26-BRF-00358]. Officials needed additional time to carry out final quality assurance, before confirming the allocative baselines with NZ Steel and NZAS. For that reason, we recommend progressing the waiver of Cabinet's 28-day rule for the EIA Regulations.

6. According to MfE's new internal data quality assurance process, all data inputs, calculations and final values in our advice are internally tested with a wide range of experts. The process was implemented due to recent ETS data quality issues. This was the first time the new process was applied to NZ Steel's and NZAS' allocative baseline update. As a result, there was a delay in confirming the final, quality assured, allocative baselines, but officials are confident the updated baselines are correct.
7. The EIA regulations' entry into force as soon as possible allows NZ Steel and NZAS to apply for their final 2025 and provisional 2026 allocations before the statutory deadline of April 30. If regulations are not in force, NZ Steel and NZAS will not be able to apply for their allocations, therefore defeating the secondary legislations' purpose.
8. No waiver is needed for the SEIP regulations as they will apply retrospectively after the statutorily required 3-month delay on entry into force. We have been told that affected firms, such as Contact Energy, Todd Energy, and Clarus have been using the corrected emissions factors until the retrospective update can be made.
9. The attached Cabinet paper has been updated accordingly. The recommendations have also been simplified (See: Appendix 2).

Next steps

10. The Parliamentary Council Office (PCO) has completed drafting of the *Climate Change (Eligible Industrial Activities) Amendment Regulations 2026* and the *Climate Change (Stationary Energy and Industrial Processes) Amendment Regulations 2026*. PCO will lodge the amendment regulations for consideration at the LEG meeting on 2 April.
11. We have provided suggested talking points to support you at the LEG meeting (See: Appendix 1).

Annual update to allocative baselines

12. The recommended waiver of Cabinet's 28-day rule enables the EIA regulations to come into force on 9 April.
13. We will notify NZ Steel and NZAS of Cabinet's agreed changes via email. Both firms are expected to apply for their final and provisional allocations before 30 April.

Retrospective update to a natural gas emissions factor

14. The SEIP Regulations will come into force on 9 July 2026 and have effect retrospectively, from 1 Jan 2026.
15. We will communicate Cabinet's agreed changes with Contact Energy, Todd Energy, Clarus and the Gas Industry Company (the relevant industry body) via email. These firms will then use the updated emissions factor as needed.

Recommended action

The Ministry for the Environment recommends that you:

1. **approve** lodgement of the Cabinet paper, Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas. *Approved / Not approved*
2. **note** that because of timeline changes, the attached Cabinet paper requests a waiver of the 28-day rule for the EIA Regulations. *Noted*

9(2)(a)

Kirsty Flannagan
General Manager
Markets, Ministry for the Environment

Hon Simon Watts
Minister for Climate Change

20 / 03 / 2026

___ / ___ / 2026

Appendix 1: Suggested talking points for LEG – 2 April 2026

Summary of updates

- I propose amending emissions trading scheme (ETS) and industrial allocation (IA) regulations giving effect to two updates:
 - **Routine updates to allocative baselines** for two firms, New Zealand Steel Limited and New Zealand Aluminium Smelters Limited. The updated baselines better reflect their emissions from unique electricity contracts and electricity consumption.9(2)(f)(iv)
 - **A retrospective update to a natural gas emissions factor** to correct an error. The current factor is about 10 per cent too high. My officials have advised that firms have been using the corrected emissions factor since the error was identified. Firms have not, as yet, been adversely affected by the error and this retrospective update will avoid unnecessary costs for affected firms.
- The updates ensure the technical accuracy of the ETS and IA systems, making them more credible.
- A waiver of Cabinet's 28-day rule is required for the update to allocative baselines, to ensure that firms can apply for their allocations before the statutory deadline.

Back-pocket materials on emissions factors and allocative baselines

NB: use this material as needed to explain the variables being updated in regulations

ETS system and variables

- **Emissions factors** are used by firms when reporting their emissions to the government. They determine a product's emissions and therefore emitting firms' ETS surrender obligations (and ETS costs).

Industrial allocation system and variables

- Industrial allocation is a regime under the ETS, where emissions-intensive trade-exposed firms receive 'free' allocations of NZUs according to legislated criteria.
- **Allocative baselines** are a key industrial allocation variable, as they represent the emissions associated with a product, including from electricity consumption. Changes to allocative baselines result in different allocations of NZUs to firms.
- **Industrial allocations have cash value to firms**, which can surrender them to meet their ETS obligations, or sell them on the secondary carbon market.

Appendix 2: 26-CAB-00089: Amending NZ ETS regulations on allocative baselines for industrial allocation and an emissions factor for natural gas

Attached