

New Zealand Emissions Trading Scheme

Regulations for Pre-1990 Forest Land Offsetting in the New Zealand Emissions Trading Scheme

Prepared for Ministry for Primary Industries

ISBN No: 978-0-478-40419-7 (0)

September 2012

Further Copies

Downloadable copies of this publication are available at:

www.mpi.govt.nz/consultation

You can also request hard copies of this publication from:

Forestry Regulations Consultation
Resource Policy
Ministry for Primary Industries
PO Box 2526
Wellington 6014

Published By
Ministry for Primary Industries
Pastoral House
25 The Terrace
PO Box 2526
Wellington 6140
New Zealand

Web: www.mpi.govt.nz

© Crown copyright – The Ministry for Primary Industries, September 2012

Contents

Purpose of this document	3
How to submit	3
Release of submissions	3
Introduction	4
New Zealand Emissions Trading Scheme	4
Amendments to the ETS	4
Proposed changes to the Climate Change (Forestry Sector) Regulations 2008	5
New provisions for the operation of pre-1990 forest land offsetting	5
Proposed approach to determining carbon equivalence	5
Proposed usual rotation periods	7
Land status notices	8
Minor and technical changes to existing provisions	9
Summary	9
Further description of the issues	9
Regulatory impact assessment	10
Next steps	11
Useful links	11
Glossary	12
Appendix 1: Proposed offsetting amendments to the Climate Change Response Act	17
Appendix 2: Proposed offsetting process	18
PART 2: Submission forms	20

Purpose of this document

This document describes proposals for amending the forestry sector regulations for the New Zealand Emissions Trading Scheme (ETS). The key proposals are for pre-1990 forest offsetting which is an option that allows pre-1990 forest landowners to deforest their land provided they establish a carbon-equivalent forest elsewhere.

The criteria, conditions and requirements for offsetting are included in a Bill being considered by a Select Committee that will amend the Climate Change Response Act 2002. A description of the proposed amendments to the Act and the offsetting process are included in Appendices 1 and 2.

New regulations are also required to provide for the effective operation and implementation of pre-1990 forestry offsetting, and these are the main subject of this consultation document.

Also, other minor and technical amendments to forestry in the ETS are proposed as a result of experience with implementation. These are corrections and minor changes that are consistent with existing policy.

The Ministry for Primary Industries (MPI) invites comments on these proposed changes.

The closing date for submissions is 5pm Friday 19 October 2012.

How to submit

You can make a submission by sending the form attached to the back of this document to:

Forestry Regulations Consultation
Resource Policy
Ministry for Primary Industries
PO Box 2526
Wellington 6014

Or email your submission to etsforestry@mpi.govt.nz.

Release of submissions

The Ministry for Primary Industries may publish all or part of any written submission on the Ministry for Primary Industries website (www.mpi.govt.nz). We will consider you to have consented to such publishing by making a submission, unless you clearly specify otherwise in your submission.

The content of submissions is subject to the Official Information Act 1982. Copies of submissions sent to MPI will normally be released in response to an Official Information Act request from a member of the public. If you object to the release of any information contained in your submission, please clearly state this in your submission, including which part(s) you consider should be withheld, together with the reason(s) for withholding the information. We will take into account all such objections when responding to requests for copies of, and information on, submissions to this document.

If you do not wish your name and any identifying details in your submission to be released in response to a request, please clearly state this in your submission. At your request, we will make your submission anonymous before it is published on the Ministry for Primary Industries website. However, please note

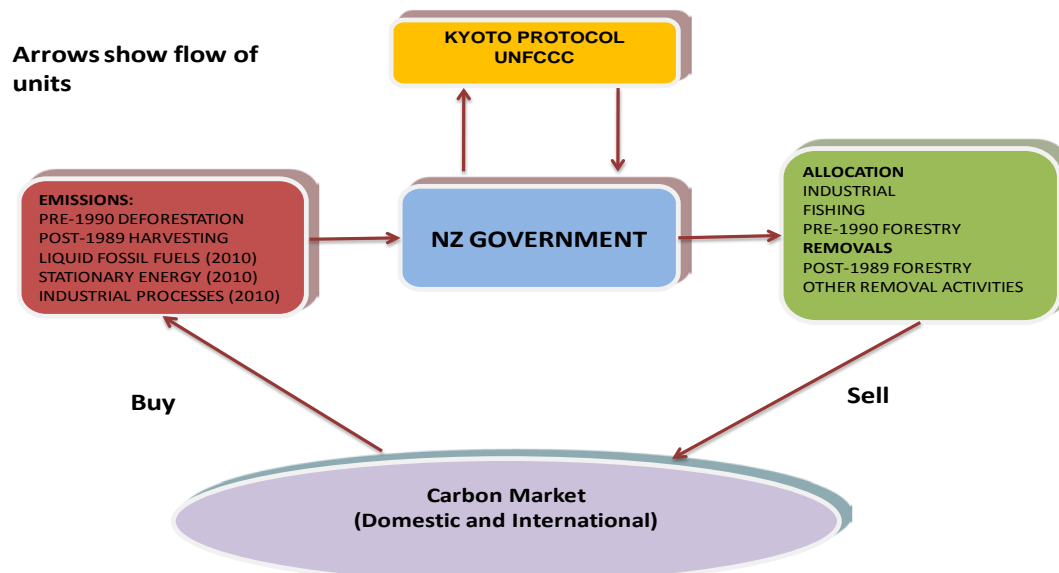
that the Ministry for Primary Industries will not be able to withhold any information if doing so would contravene the requirements of the Official Information Act.

Introduction

New Zealand Emissions Trading Scheme

The Emissions Trading Scheme (ETS) puts a price on emissions from sectors such as industry, transport, electricity and forestry. It also provides New Zealand Units (NZUs) for eligible forests that absorb emissions. In this way, the ETS creates a price on emissions and a market for reducing them. The following diagram shows the components of the ETS and the flow of units.

Figure 1: The New Zealand ETS



Amendments to the ETS

In July 2012, the Government announced a number of changes to the New Zealand Emissions Trading Scheme (ETS) to be implemented through the Climate Change Response (Emissions Trading and Other Matters) Amendment Bill – the Bill - which was introduced in late August 2012. The Bill is expected to be passed later in 2012¹ and to come into force on 1 January 2013.

For the forestry sector, the changes include introducing 'offsetting' as an option for pre-1990 forest landowners. These landowners will have the flexibility to convert their forest land to a non-forest use, but avoid ETS deforestation costs provided they plant a carbon-equivalent forest elsewhere. The offsetting design in the ETS is to be consistent with the Flexible Land Use rule agreed for the second commitment period (CP2) of the Kyoto Protocol at Durban. Further flexibility is being considered by the Select Committee considering the amendment Bill.

¹ More information on the full set of amendments to the ETS can be found on the Government climate change website at www.climatechange.govt.nz.

The Bill contains the requirements, criteria and obligations for the offsetting process. These aspects are being consulted on in the Select Committee process, and are not part of this consultation document. A description of these is provided in Appendix 1 to provide context.

The proposed amendments to the Regulations cover further detail on certain aspects of implementing offsetting, and some minor and technical amendments to existing regulations. These are described in detail in the following sections.

PROPOSED CHANGES TO THE CLIMATE CHANGE (FORESTRY SECTOR) REGULATIONS 2008

New provisions for the operation of pre-1990 forest land offsetting

In summary, matters to be addressed through regulations are:

- how to determine the size of the offset forest so that carbon equivalence is met;
- the usual rotation periods for forest species;
- land status notices for pre-1990 offsetting forest land;
- minor and technical changes to existing regulations.

Proposed approach to determining carbon equivalence

Issue

To ensure that the offsetting forest sequesters equivalent carbon to that emitted from the deforested pre-1990 forest land, it must meet two conditions:

- the offsetting forest land must be at least the same area as the pre-1990 forest land; and
- it must sequester at least the same carbon stock that was contained in the deforested pre-1990 forest at the time of harvest, within the usual rotation period of the pre-1990 forest.

Proposal

It is proposed to use the lookup tables in Schedules 4 and 6 of the Regulations² to determine carbon stocks. The pre-1990 look-up tables would be used to calculate the emissions from deforested pre-1990 forest land, and post-1989 look-up tables would be used to calculate the area of offsetting forest land required.

It is proposed that the area of offsetting forest land required to meet carbon equivalence is determined as follows:

- (a) Calculate the emissions from the pre-1990 forest land that is to be, or was, deforested at the age of clearing. This follows the existing method and rules in the regulations for calculating emissions for deforestation of pre-1990 forest land (Regulations 15 and 16);
- (b) Calculate the area of offsetting forest land required to sequester the same carbon as would be emitted from the deforested pre-1990 forest land, at the usual rotation length of the deforested pre-1990 forest land. This calculation follows the existing method and rules for carbon stock for post-

² A link to the Regulations is provided on page 12

1989 forest land in Regulations 20 and 21 but uses a specified usual rotation length. Note that the area must be at least the same as the area of the deforested pre-1990 forest land.

Example

A pre-1990 forest landowner with 100 hectares of 30-year old Radiata pine in Auckland decides to deforest and plant an offsetting Radiata pine forest in Hawke's Bay.

Step 1: Calculate the emissions from clearing the 30 year old Radiata pine in Auckland using the pre-1990 lookup tables (Schedule 4 of the Regulations) – 860 tonnes CO₂/hectare * 100 hectares = 86,000 tonnes.

Step 2: Obtain the usual rotation period for Radiata pine from the Regulations – 28 years.

Step 3: Calculate the area of offsetting forest required to meet the carbon equivalency condition – divide the emissions from the pre-1990 forest land by the carbon stock that a Radiata pine forest in Hawke's Bay would store in the usual rotation period (28 years) of the deforested Auckland forest. (Schedule 6 of the Regulations) - 86,000/797 = 107.9 hectares.

This means that 107.9 hectares of Radiata pine forest in Hawke's Bay is needed to meet the carbon equivalency condition.

Step 4: Ensure that the offsetting forest land is at least the equivalent area as the pre-1990 forest land. In this example, the area equivalency condition of 100 hectares is met.

The area equivalency condition that requires the offsetting forest area to be at least the same as the deforested area is also met by this proposal.

The following table illustrates two more examples of equivalency calculations. The first section shows the calculation of the emissions from the deforested pre-1990 forest land, and the second section shows the corresponding area of forest land that is needed to offset these emissions.

Table 1: Further Examples of Equivalency Calculations

Land type	Inputs	Example 1	Example 2
Pre-1990 forest land	Species	Radiata pine	Corsican pine
	Area deforested (ha)	100	100
	Region	Auckland	Canterbury
	Age when deforested	30	40
	Emissions per hectare	860	525
	Total emissions	86,000	52,500
Offsetting forest land	Species	Douglas fir	Radiata pine
	Region	Otago	East Coast
	Usual rotation period of the deforested pre-1990 forest land	28 (Radiata Pine)	45 (Corsican pine)
	Carbon storage per hectare	468	1220

	Minimum offsetting area:		
	with carbon equivalence	183.8	43.0
	with area and carbon equivalence	183.8	100.0

The pre-1990 and post-1989 lookup table values are different because the pre-1990 tables are for second rotation forest and include residual carbon from previously cleared trees. The pre-1990 tables also begin at age 9 because emissions from deforestation of forest younger than this age are calculated by reference to the previous rotation. Further information on the application of the lookup tables is in the publication : *Guide to Lookup Tables for Forestry in the Emissions Trading Scheme*. A link is provided on page 12.

Proposed usual rotation periods

Issue

An offsetting forest is required to sequester carbon equivalent to the emissions from the deforested pre-1990 forest land within the usual rotation period of the deforested pre-1990 forest land.

Proposal

The proposal is to set usual rotation periods for each of the four exotic forest types already defined in the Regulations, with a further breakdown of exotic hardwoods into pulp and saw log regimes.

A. Radiata pine

The average clear fell age of Radiata pine from the annual National Exotic Forest Description (NEFD) for the year ending 31 March 2011 was 28.6 years³. This average has increased by 1.8 years from 26.8 years since 2000.

This is similar to a 2011 survey⁴ of small-scale forest owners that found a harvesting age range of between 24 and 35 years for Radiata pine. The survey report also noted that large-scale forest owners commonly harvest between ages 28 and 32 years.

It is proposed that the usual rotation period for Radiata pine is 28 years.

B. Douglas fir

Since the harvesting of old-crop Douglas fir in the central North Island has been completed, the average age of clear fell for this species, according to NEFD data, has fallen to between 37 and 43 years from a range of 46 to 58 years.

It is proposed that the usual rotation period for Douglas fir is 40 years.

C. Exotic softwoods

This forest type consists of all exotic softwoods (e.g. Corsican pine) other than Radiata pine and Douglas fir. The average age of clear fell for this forest type, according to NEFD data, ranges from 38 to 58 years.

It is proposed that the usual rotation period is 45 years.

³ National Exotic Forest Description as at 1 April 2011. Ministry of Primary Industries.

⁴ Julie Rodenberg and Bruce Manley 2011. *Small Forests in New Zealand – A Survey of Landowner Objectives and Management*, NZ Journal of Forestry, August 2011, Vol. 56, No.2, pp 15-19, New Zealand Institute of Forestry, Wellington.

D. Exotic hardwoods

This forest type consists of all exotic hardwood species. Setting a usual rotation period for this forest type is difficult as exotic hardwoods are grown for two primary purposes – either the production of logs suitable for wood pulp, or the production of saw logs.

Exotic hardwoods such as *Eucalyptus* or *Acacia* are commonly grown on a short rotation to produce logs used for wood pulp. Average rotations are around 15 years.

It is proposed that the usual rotation period for pulp log regimes is 15 years.

Other exotic hardwoods are grown on more conventional rotation lengths primarily for the production of saw logs.

It is proposed that the usual rotation period for hardwood saw log regimes is 30 years.

In summary, the following usual rotation periods are proposed:

Forest Type	Description	Usual Rotation Period
Radiata pine	Where the predominant forest species is Radiata pine	28
Douglas fir	Where the predominant forest species is Douglas fir	40
Exotic softwoods	Where the predominant forest species is an exotic softwood	45
Exotic hardwoods	Where the predominant forest species is an exotic hardwood grown on a short rotation for the purpose of producing pulp logs.	15
Exotic hardwoods	Where the predominant forest species is an exotic hardwood grown primarily for the purpose of producing saw logs.	30

Where mixed species and/or mixed ages are present in the pre-1990 forest land or the offsetting forest land, it is proposed to use the existing rules in Regulations 4 and 22 for determining predominance and forest age, and the existing definitions of exotic softwoods and exotic hardwoods in Regulation 4.

Land status notices

Issue

Currently in the ETS, when the Environmental Protection Agency⁵ (EPA) is satisfied that land has become post-1989 forest land, pre-1990 forest land or exempt land under the ETS, a notice to this effect is registered on the affected land titles to provide public notice of the status of the land under the Act to inform prospective purchasers of the land.

With offsetting, a new class of notice is required for pre-1990 offsetting forest land i.e. the new land planted as the offsetting forest.

⁵ In practice, most of the administrative functions relating to forestry are delegated to the Ministry for Primary Industries.

Proposal

It is proposed that a notice is placed on affected land titles stating that part or all of the title is pre-1990 offsetting forest land subject to the Climate Change Response Act 2002. This requires an amendment to Regulation 10 so that when the declaration is made that an area of offsetting forest land has become pre-1990 offsetting forest land, the EPA must give notice to the Registrar-General of Land, the Registrar of the Maori Land Court or the Registrar of Deeds (as applicable) that part or all of the affected land titles are pre-1990 offsetting forest land. Schedule 3 in the Regulations would also be amended to provide the form of the notice.

Regulation 12 also requires amendment so that if any pre-1990 offsetting forest land is deforested the EPA must cancel or partially cancel the notice.

Minor and technical changes to existing provisions

These are proposed as a result of experience with implementation of forestry in the ETS. They include corrections, and minor changes that are consistent with existing policy.

Summary

There are four issues that should be addressed to enhance or to clarify the existing regulations. These are:

- (i) An improved definition of age for regenerating indigenous forest;
- (ii) More consistent residual carbon stock tables for Douglas fir and indigenous forest;
- (iii) Add an entry for age zero to the residual carbon table for post-1989 Radiata pine forest;
- (iv) Amendment to Regulation 7 to allow guidelines or standards to be issued for forest land mapping methodology, for alignment with the proposed Bill.

Further description of the issues

Improved definition of age for regenerating indigenous forest

Issue

Trees in a regenerating indigenous forest are for simplicity all considered to have an age determined as the "time since first regeneration began". However, in some cases there could be a few old trees present that act as seed sources. The current definition of age would result in the age of these trees being the determined age, whereas the large majority of trees that are actively accumulating carbon on the site are much younger. This unintentionally disadvantages ETS participants that are required to use the Field Measurement Approach and all ETS participants if the age of the old trees is greater than the last age in the carbon tables used for emissions returns (50 years).

Proposal

Change the definition of age for regenerating indigenous forest land to better reflect the intent and improve the accuracy of carbon accounting, to the "time since first regeneration began following the

change in circumstances which initiated the conversion from land that was not forest land to forest land”.

Residual carbon stock tables for Douglas fir and indigenous

Issue

The basis for calculating the harvest residue tables associated with the current Douglas fir and Indigenous forest carbon tables is not consistent with that used for other forest types, and should be expressed more correctly as a function of above-ground biomass rather than simply by age. This is due to earlier-calculated residue factors for Douglas fir being applied to the later revised table, and proportionally to the new Indigenous forest residue table, by age rather than as a function of above-ground carbon stock. The changes due to this correction are minor, and no ETS participants will be affected by them for some time. However, the changes should be made for consistency.

Proposal

Revise these two harvest residues tables. The revised tables are appended.

Add age zero to the residual carbon stock table for post-1989 Radiata pine forest land

Issue

This table should for completeness have a line showing zero carbon stock at age zero. This was inadvertently omitted when the last amendments were made to the regulations.

Proposal

Correct Table 3 in Schedule 6 by adding an entry for age zero.

Guidelines and standards for forest land mapping

Issue

Currently there is no regulation-making power in the Act that explicitly allows the EPA to issue guidelines or standards for methodologies for the mapping of forest land. The proposed Bill includes an amendment to section 163 of the Act that would allow a regulation to be made that would authorise the EPA to issue guidelines or standards for the method and format for determining the spatial extent of an area of forest land. Alignment of the regulations with the proposed Bill is required.

Proposal

Amend Regulation 7 to provide for the EPA to issue guidelines or standards for the method and format for determining the spatial extent of an area of forest land.

REGULATORY IMPACT ASSESSMENT

The RIS covering the proposed changes to the Act for pre-1990 forestry offsetting is available on the Treasury website at www.treasury.govt.nz/publications/informationreleases/ris.

NEXT STEPS

Submissions will be analysed by MPI and reported to Ministers for final decisions. Changes to the regulations are expected to be made before 31 December 2012 and come into force from 1 January 2013.

Updates about the process will be provided on the Ministry for Primary Industries website (www.mpi.govt.nz), via the Sustainable Forestry Bulletin (www.mpi.govt.nz/forestry/forestry-in-the-ets/sustainable-forestry-bulletins.aspx), and on the Government climate change website (www.climatechange.govt.nz).

You can sign up to receive the bulletin by email by sending a message to sustainableforestrybulletin@mpi.govt.nz with **Sustainable Forestry Bulletin Subscription** in the subject line.

The opening date for offsetting applications will be announced later in 2012.

If you have questions, please phone the Climate Change Contact Centre on 0800 CLIMATE (254 628).

Useful links

Information pages

Government's announced changes to the ETS climatechange.govt.nz/emissions-trading-scheme/ets-amendments/index.html

Forestry in the Emissions Trading Scheme www.mpi.govt.nz/forestry/forestry-in-the-ets

Government climate change website www.climatechange.govt.nz

Guides

A Guide to Forestry in the Emissions Trading Scheme www.mpi.govt.nz/sustainable-forestry/ets/guide

A Guide to Look-Up Tables for Forestry in the Emissions Trading Scheme www.mpi.govt.nz/sustainable-forestry/ets/guide/lookup-table-guide.pdf

Geospatial Mapping Information Standard www.mpi.govt.nz/sustainable-forestry/mapping-standard.pdf

Legislation (including existing regulations)

Climate Change Response Act 2002 www.legislation.govt.nz/act/public/2002/0040/latest/DLM158584.html

Climate Change (Forestry Sector) Regulations 2008
www.legislation.govt.nz/regulation/public/2008/0355/latest/DLM1633759.html

Change Response (Emissions Trading and Other Matters) Amendment Bill <http://www.parliament.nz/en-NZ/PB/Legislation/Bills/Default.htm>

Glossary

Assigned Amount Unit (AAU)

The units allocated to Annex 1 countries (see <http://unfccc.int/2860.php>) under the Kyoto Protocol on the basis of their quantified emission target for the first commitment period, 2008–2012. One AAU is equal to one tonne of carbon dioxide.

Carbon Dioxide (CO₂)

A naturally-occurring gas which is also a by-product of burning and breakdown of fossil fuels and biomass, land-use changes and other industrial processes. It is the principal human-induced greenhouse gas that contributes to global warming.

Carbon Dioxide Equivalent (CO₂-e)

The quantity of a given greenhouse gas multiplied by its global warming potential, which equates to its global warming impact relative to carbon dioxide. This is the standard unit for comparing the degree of warming that can be caused by emissions of different greenhouse gases.

Carbon equivalence

Carbon equivalence means that the offsetting forest land achieves, within the usual rotation period for forest species on the pre-1990 forest land, the same carbon stock as was contained in the pre-1990 forest land at the time of the clearing. The carbon stock is determined in accordance with regulations. [New definition proposed in the Bill, currently before the Finance and Expenditure Select Committee]

Carbon stocks

The total carbon stored in a forest, including that in stem wood, bark, branch, leaves, litter, woody debris, stumps and roots.

Clearing

Clearing means in relation to a tree and includes:

- the felling, harvesting, burning, removing by mechanical means, spraying with herbicide intended to kill the tree, or undertaking any other form of human activity that kills the tree; and
- the felling, burning, killing, uprooting, or destroying by a natural cause or event; but does not include pruning or thinning.

Deforestation

Deforest, in relation to forest land means:

- to convert forest land to land that is not forest land; and
- includes clearing land, where the following applies:
 - (a) *four years after clearing, the hectare has not—*
 - (i) *been replanted with at least 500 stems of forest species; or*
 - (ii) *regenerated a cover of at least 500 stems of exotic forest species; or*

(iii) been replanted with at least 100 stems of willows or poplars in a manner consistent with managing soil erosion; or

(iv) regenerated predominantly indigenous forest species growing in a manner in which the hectare is likely to be forest land 10 years after the hectare was cleared; or

(b) 10 years after clearing —

(i) predominantly exotic forest species are growing, but that hectare does not have tree crown cover of at least 30% from trees that have reached five metres in height; or

(ii) predominantly indigenous forest species are growing, but that hectare is not forest land; or

(c) 20 years after clearing –

predominantly indigenous forest species are growing, but that hectare does not have tree crown cover of at least 30% from trees that have reached five metres in height.

Deforestation does not include forest land that is replanted or allowed to regenerate after harvesting has occurred. Deforestation is treated as occurring on the date the hectare is cleared as part of the deforestation process. The only exceptions are *where land is subject to an offsetting forest land application*, or where deforestation is deemed to have occurred four, 10 or 20 years after clearance in the circumstances outlined above.

[text in italics is the amended definition proposed in the Bill]

Exotic forest

An exotic forest is a forest in which the predominant species does not occur naturally in New Zealand – that is, it is not an indigenous species.

Forest land

a) Forest land:

- means an area of land of at least one hectare that has, or will have, tree crown cover from forest species of more than 30% in each hectare; and
- includes an area of land that temporarily does not meet the requirements specified in above because of human intervention or natural causes but that is likely to revert to land that meets the requirements;

b) Forest land does not include –

- a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 metres; or
- an area of land where the forest species have, or are likely to have, a tree crown cover of an average width of less than 30 metres, unless the area is contiguous with land that meets the requirements specified in a) above.

If an area of forest land temporarily does not meet the forest species and crown cover requirements because of human action or natural events (it may have just been harvested, or trees may have been blown over by strong winds), but is likely to meet these requirements in the future, it is still considered to be forest land. Such areas are termed “temporarily unstocked”.

Forest species

Tree species capable of reaching at least five metres in height at maturity in the place that it is located, but not including tree species grown or managed primarily for the production of fruit and nut crops.

For the purposes of the ETS, any woody vegetation (including tree ferns) capable of reaching five metres in height in the place it is growing is considered to be a “tree”.

Forest type

Forest type, in relation to a hectare of forest land, means:

- *Pinus radiata* if the predominant forest species on the land is *Pinus radiata*; or
- Douglas fir if the predominant forest species on the land is Douglas fir; or
- exotic softwoods if the predominant forest species on the land is an exotic softwood; or
- exotic hardwoods if the predominant forest species on the land is an exotic hardwood; or
- for post-1989 forest land, indigenous forest if the predominant forest species on the land is indigenous.

Harvesting

Harvesting is when the forest species are cleared from the land, and new forest species seedlings are either planted or naturally regenerate. In this case, there is no land use change involved when the trees are harvested. The harvested area remains forest land, and is referred to as being temporarily unstocked.

Indigenous forest

Indigenous forest is forest that comprises tree species that occur naturally in New Zealand or have arrived in New Zealand without human assistance. Strict definitions may relate to the original method of forest establishment (and the direct involvement of people in the process), the mixture of flora and fauna, and the conditions believed to have been present prior to human intervention.

Kyoto Protocol

A protocol that sits under the United Nations Framework Convention on Climate Change that includes emissions limitation or reduction commitments for countries listed in its Annex B Developed Countries and Economies in Transition (see unfccc.int/resource/docs/convkp/kpeng.html for further information).

Landowner

The legal owner, or owners, of the freehold estate in the land. Note: a holder of a registered forestry right; leaseholder with a registered lease; or party to a Crown conservation contract are also eligible to participate in the ETS.

New Zealand Emissions Unit Register (NZEUR)

See www.eur.govt.nz

New Zealand Unit (NZU)

A greenhouse gas unit specific to the New Zealand Emissions Trading Scheme.

Offsetting forest land

Offsetting forest land means land that the EPA has approved as offsetting forest land but has not yet been established in forest.

[New definition proposed in the Bill, currently before the Finance and Expenditure Select Committee]

Pre-1990 offsetting forest land

Pre-1990 offsetting forest land means offsetting forest land that has been established in forest.

[New definition proposed in the Bill, currently before the Finance and Expenditure Select Committee]

Orthographically corrected aerial photograph

An aerial photograph that has had all the distortions due to camera tilt and surface relief removed. An orthophotograph has the advantages of a photograph in that all the visible features are displayed. It also has the constant scale and accuracy of a map.

Participant

A person becomes a mandatory Participant if they undertake certain activities covered by Schedule 3 of the ETS (for example, deforesting pre-1990 forest land). Other people may become participants by voluntarily registering in respect of activities listed in Schedule 4 (for example, post-1989 forest land).

Post-1989 forest land

Forest land that:

- was not forest land on 31 December 1989; or
- was forest land on 31 December 1989 but was deforested (that is, converted to another land use) between 1 January 1990 and 31 December 2007; or
- was pre-1990 forest land, other than exempt land:
 - that was deforested on or after 1 January 2008; and
 - in respect of which any liability to surrender units arising in relation to deforestation has been satisfied; or
- was exempt land:
 - that has been deforested; and
 - in respect of which the number of units that would have been required to be surrendered in relation to deforestation, had the land not been exempt land, have been surrendered.

Both exotic and indigenous forest species are eligible to participate in the ETS as post-1989 forest land.

Pre-1990 forest land

Forest land that:

- was forest land on 31 December 1989;
- remained as forest land on 31 December 2007; and
- where the forest species on the forest land on 31 December 2007 consisted predominantly of exotic forest species.

Does not include any forest land that meets the definition above but:

- has been deforested and any liability arising from that deforestation has been satisfied;
- was declared to be exempt land, has been deforested and the New Zealand Units that would have been required to be surrendered had the land not been exempt have been surrendered.

Only forests comprising predominately exotic forest species are subject to the ETS as pre-1990 forest land (noting that the definition above prevents exotic forest from being converted to indigenous forest after 31 December 2007 and then deforesting the indigenous forest without obligations).

Registered forestry right

Registered forestry right means a forestry right registered under the Forestry Rights Registration Act 1983.

Registered lease

Registered lease:

- in relation to a lease in respect of land registered under the Land Transfer Act 1952: means a lease registered under that Act; and includes a lease registered under the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- in relation to a lease in respect of land that is not registered under the Land Transfer Act 1952, means a lease registered under the Deeds Registration Act 1908.

Removals

The amount of greenhouse gases removed from, or not released into, the atmosphere due to an activity (expressed in CO₂ equivalents, CO₂-e).

Shapefile

An electronic file used for digital mapping and which is a standard mapping format used within the New Zealand forest industry. The Climate Change (Forestry Sector) Regulations 2008 use the term “geospatial mapping information” to refer to what is commonly known as a shapefile. Schedule 5 of the Regulations provides more detail on when a shapefile must be provided. For people who do not have access to the software necessary to create a shapefile, MPI provides an online mapping tool for landowners to meet this requirement.

Woody species

A shrub or tree species with a woody stem or stems. Areas of woody species may comprise non-forest species (for example gorse, broom, tauhinu), forest species, or a mixture of both.

Appendix 1: Proposed offsetting amendments to the Climate Change Response Act

The Bill includes the following conditions in relation to offsetting:

- the pre-1990 forest land to be deforested was first established through direct human-induced planting and/or seeding of non-forest land before 1 January 1990, and, if it was re-established, that this last occurred on forest land through direct human induced planting and/or seeding after 1 January 1960;
- the offsetting forest land is of at least equivalent area as the pre-1990 forest land, and is established through direct human-induced planting and/or seeding of non-forested land that did not contain forest on 31 December 1989;
- the offsetting forest will reach at least the equivalent carbon stock that was contained in the deforested pre-1990 forest at the time of harvest, within the usual rotation period of the pre-1990 forest.
- land harvested in the first commitment period that is currently unstocked and not classified as deforested is eligible for offsetting.

Further flexibility

The Select Committee will consider a proposal to add flexibility to the classification of land eligible as 'offset forest'.

It is proposed to extend the land eligibility criteria for offset forests so they are the same as those for post-1989 forests in the NZ ETS, that is:

- any deforested pre-1990 forest land, for which any NZ ETS liabilities have been paid, would be eligible land for an offset forest; and
- any deforested pre-1990 forest land that has been offset would be either:
 - (i) eligible land for an offset forest to offset the deforestation emissions of another pre-1990 forest; or
 - (ii) eligible to be registered as post-1989 forest land in the NZ ETS and earn carbon credits once replanted.

Appendix 2: Proposed offsetting process

The proposed criteria and conditions for the pre-1990 forest land offsetting process (as set out in the Bill or being considered by the Select Committee) are described below:

Applications

Pre-1990 forest landowners may apply to offset deforestation of their land instead of paying the emissions liability. In the case where the proposed offsetting forest land and the pre-1990 forest land are owned by different persons, the application must be submitted jointly by those persons.

The application will need to contain prescribed information for the pre-1990 forest land to be deforested and the offsetting forest land, such as applicant's contact details, title/legal description, location, forest age, forest type, geospatial shapefile and area.

Approval criteria

The land must meet eligibility requirements and have:

- a total area that is equal to or greater than the total area of the pre-1990 forest land that is to be offset by that land; and
- each individual parcel that makes up the total area of the offsetting forest land is at least one hectare with an average width of at least 30 metres; and
- The EPA is satisfied that the land is likely to:
 - (i) achieve carbon equivalence with the pre-1990 forest land that is to be offset by that land within the usual rotation period for forest species of the pre-1990 forest land; and
 - (ii) become forest land before the pre-1990 forest land that is to be offset by that land is deforested.

Conditions of approval

Once approved, the offsetting forest land must:

- become forest land within the timeframe specified below; and
- be established by direct planting activities, including direct seeding but excluding natural forest regeneration; and
- be established on the offsetting forest land specified in the application approved by the EPA; and
- achieve carbon equivalence with the relevant pre-1990 forest land.

The owner of the pre-1990 forest land at the date of application must repay the NZUs that were allocated as part of the second tranche of the forestry allocation. If the pre-1990 forest land has been transferred, the new owner must acquire and surrender NZUs. If only part of the pre-1990 forest land is to be offset, then the surrender/repay requirement is calculated on a pro-rata by area basis. If the owner surrenders the second tranche of their units, but approval for offsetting is subsequently revoked, the Crown must reimburse the owner for those units surrendered or repaid.

When must the offsetting forest land be established in forest?

Usually pre-1990 forest land is treated as deforested when the land is harvested or cleared. However, this rule does not apply to pre-1990 forest land that is the subject of an approved offsetting application. Special rules are provided in the Bill that means conversion of the pre-1990 forest land can begin once an offsetting application is approved without the land being treated as deforested.

The pre-1990 forest land is not treated as deforested until the earlier of -

- two years after the date of the offsetting approval, or
- four years after the date that the pre-1990 forest land was cleared.

This means that the offsetting forest must be planted within these timeframes.

Declaration

The owner of the offsetting forest land must submit a declaration within the specified timeframe stating that the offsetting forest land has been planted and meets the definition of forest land in the Act.

If the offsetting forest land has not become forest land within the specified timeframe, the application is revoked, and the pre-1990 forest landowner must surrender units for the deforested pre-1990 forest land.

If the offsetting forest land has become forest land within the specified timeframe, the EPA must record the following information:

- that the offsetting forest land is pre-1990 offsetting forest land; and
- any conditions placed on that forest land; and
- the emissions for the relevant pre-1990 forest land.

The EPA must also register a land status notice on the relevant land titles that will notify that all or part of the land contained in the titles is pre-1990 offsetting forest land subject to the Climate Change Response Act.

Deforesting pre-1990 offsetting forest land within the usual rotation period

If pre-1990 offsetting forest land is deforested before the usual rotation period for forest species on the relevant pre-1990 forest land is completed, its owner must surrender units equivalent to the emissions for the relevant pre-1990 forest land.

If this occurs, the land status notice must be removed from the land titles.

Deforesting Pre-1990 offsetting forest land after usual rotation period

If pre-1990 offsetting forest land is deforested after the usual rotation period, its owner must surrender units equivalent to the emissions from the pre-1990 offsetting forest land.

If this occurs, the land status notice must be removed from the land titles.

PART 2: SUBMISSION FORMS

Office use only
Submission Number:

New Zealand Emissions Trading Scheme Forestry Regulations

Send your feedback to:

Forestry Regulations Consultation
Climate Change Policy
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Or email: etsforestry@mpi.govt.nz

Submissions close at: 5:00pm Friday 19 October 2012

Contact Details

Name

Company/Organisation (if relevant):

Address:

Email:

Phone:

Please indicate your sector(s)/interest(s)/type(s) of organisation:

Agriculture – description/type:

Forestry – description/type:

Māori – description/type:

Local government – description/type:

Other – description/type:

NB: Save a copy of your submission for your own records.

Are there any other relevant problems, alternatives, or impacts from the proposed regulations that should be considered?

