



New Zealand Emissions Trading Scheme

Regulatory Impact Statement

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1. Executive Summary

A number of design elements of the New Zealand Emissions Trading Scheme (NZ ETS) are currently being reviewed. It is likely that amendment of the existing scheme design will be desirable in some areas, given various processes underway including the work of the Emissions Trading Scheme Review Special Select Committee and the work on harmonisation of the NZ ETS with the Australian Carbon Pollution Reduction Scheme (CPRS). The CPRS legislation has not yet been passed which means that there is an element of uncertainty regarding content and timing for that scheme.

Under the NZ ETS, different sectors start to have obligations under the scheme at different times. The forestry sector has an obligation to surrender units in respect of relevant emissions from 1 January 2008. Under the current legislation, further sectors will “enter” the scheme as follows:

- The stationary energy and industrial processes sectors (SEIP sector) will have obligations to surrender units in respect of their emissions from 1 January 2010.
- Participants in the liquid fossil fuels sector will have obligations to surrender units in respect of emissions from 1 January 2011.
- Participants in the waste, agriculture and synthetic gases sectors will have obligations to surrender units in respect of emissions from 1 January 2013.

A sector is said to have “entered” the NZ ETS from a certain date where it has obligations to surrender units in respect of emissions from that date.

Given that the forestry sector has already entered the NZ ETS, there are a number of implementation dates that are rapidly approaching – for example in respect of the forestry allocation plan. If the scheme is implemented under the current design, it will make it very difficult to make the changes that the government may want to make following its review.

A timing issue also arises in respect of the SEIP sector. That sector is scheduled to enter the NZ ETS on 1 January 2010, with a first surrender date of 30 April 2011. However, it will not be possible to develop an allocation plan and allocate units for at least another 12 to 18 months (i.e. June to December 2010). This causes a problem because if a participant does not know how many units it will receive through allocation, then that participant will not know how many units to purchase (or sell).

Another timing issue exists in relation to the agriculture sector. The CCRA leaves open the question of whether the point of obligation for the agriculture sector will be at processor level or farm level (but defaults to a processor level point of obligation if a contrary decision is not made by 1 July 2010). Consideration of the appropriate point of obligation for the agriculture sector is ongoing. The current timetable does not provide much flexibility to consider the issues.

Accordingly, it is proposed that the Climate Change Response Act 2002 (CCRA) will be amended urgently to change the relevant timeframes and so allow development of new policy as follows:

1. With respect to the forestry sector, it is proposed to delay certain deadlines in the CCRA by a specified period of time. In particular, it is proposed amend the date for first notification of deforestation of pre-1990 land from 31 January 2009 to 31 January 2010, and amend the first surrender deadline for pre-1990 land from 30 April 2010 to 30 April 2011. It is also proposed to remove the 30 June 2009 due date for the “less than 50ha”

exemption applications (and replace it with a date to be specified in regulations or public notice), and amend the CCRA to allow for the delay or revocation of the draft Forestry Allocation Plan,

2. For the SEIP sector, it is proposed to achieve maximum flexibility by amending the CCRA so that the date from which the sector accrues an obligation to surrender units under the NZ ETS is no longer specified in the CCRA. Instead, an empowering provision would be inserted into the CCRA that enables the entry date to be specified by way of Order in Council.
3. For the agriculture sector, it is proposed to amend the CCRA to enable a decision regarding the point of obligation for the sector, as well as reporting and entry dates, to be specified by way of Order in Council.

It is further proposed that all other sectors apart from forestry would be treated the same as the SEIP sector – that is, entry dates would be removed from the CCRA with an empowering provision inserted to enable entry dates to be specified by way of Order in Council.

In order to mitigate the uncertainty created by the entry date changes, it is proposed to signal an intention for both the SEIP sector and the liquid fossil fuels sector to enter the NZ ETS on 1 July 2010. This proposal may need further review.

The main impacts of the proposed amendments to the CCRA are:

1. There would be a negative fiscal impact of delaying the SEIP sector although this would be offset by bringing forward the entry date for the liquid fossil fuels sector.
2. There are likely to be some economic costs associated with the uncertainty generated by the amendments to sector entry dates (and reporting dates for agriculture) particularly in relation to deferred and/or foregone economic investment.

2. Adequacy Statement

The Regulatory Impact Analysis Team has reviewed this Regulatory Impact Statement (RIS) and considers that it contains the required information and accurately reflects the regulatory impact analysis undertaken in relation to the proposal, which we also consider to be adequate according to the criteria set out in the CabGuide. As a result, we consider that this RIS is adequate. This assessment is unrelated to the decision to review aspects of the scheme, which is subject to other design work.

3. Status Quo and Problem

3.1. OUTLINE OF CURRENT SITUATION

The NZ ETS came into force on 26 September 2008.¹ “Emissions trading” is a market-based approach for achieving environmental objectives where emission units are traded between participants. In effect, those emitting greenhouse gases have to pay for increases in emissions and are rewarded for decreases. This encourages emissions reductions.

The NZ ETS covers emissions of the following six greenhouse gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF₆). These are the greenhouse gases covered by the Kyoto Protocol.

The NZ ETS covers the following sectors of the economy: forestry, liquid fossil fuels (transport), stationary energy, industrial processes, synthetic gases, agriculture and waste.

In respect of each sector covered by the NZ ETS, there are a number of “participants”. Each participant must calculate the emissions from their activities and surrender to the government one emission unit for each tonne of greenhouse gas emissions for which they are responsible. There are various types of units that participants can use to meet their obligations under the emissions trading scheme.

The primary unit of trade for the New Zealand emissions trading scheme is the New Zealand unit (NZU). The NZU is a unit issued and allocated by the government under the scheme. One NZU corresponds to one tonne of carbon dioxide equivalent emissions. Participants can use NZUs to meet their obligations under the emissions trading scheme by transferring them to a surrender account.

In addition, participants can use most types of Kyoto emission units for compliance. As with NZUs, this is done by transferring the Kyoto emission units to a surrender account. Kyoto emission units are units established under the rules of the Kyoto Protocol.

The CCRA identifies who is required to be a participant under the NZ ETS. For example, in the transport sector, importers of liquid fossil fuels are required to be participants. In general, the ‘point of obligation’ is established at a high level in the supply chain so that there are relatively few participants in each sector. Householders are not participants under the NZ ETS.

Under the NZ ETS, different sectors start to have obligations under the scheme at different times. The forestry sector has an obligation to surrender units in respect of relevant emissions from 1 January 2008. Under the current legislation, further sectors will “enter” the scheme as follows:

- The stationary energy and industrial processes sectors will have obligations to surrender units in respect of their emissions from 1 January 2010.
- Participants in the liquid fossil fuels sector will have obligations to surrender units in respect of emissions from 1 January 2011.

¹ Except for the sections of the Act relating to GST which came into force on 1 January 2009.

- Participants in the waste, agriculture and synthetic gases sectors will have obligations to surrender units in respect of emissions from 1 January 2013.

A sector is said to have “entered” the NZ ETS from a certain date where it has obligations to surrender units in respect of emissions from that date.²

As well as imposing an obligation on participants whose activities are covered by the scheme, the NZ ETS provides for “allocation” of units to certain persons. Units are allocated by the government. Allocation is provided to land owners of pre-1990 forest land, to fishing vessel operators, to trade-exposed industry and to participants in the agriculture sector.

In the case of pre-1990 forest land, the purpose of allocation is to compensate land owners for the loss in value of their land as a result of the costs imposed by the NZ ETS. A similar equity rationale applies in the case of allocation to fishing vessel operators. In respect of other sectors, the purpose of allocation is to avoid economic regrets (that is, loss of economic capacity that would not have occurred if our competitors had adopted emissions pricing in the medium term). The detail of how units are to be allocated to these persons will be set out in the relevant ‘allocation plan’ for that sector. No allocation plans have yet been finalised.

The current government has committed itself to a review of the design of the NZ ETS. The government’s guiding principles include ensuring that the NZ ETS establishes the right balance between New Zealand’s environmental and economic interests, and that the NZ ETS is as closely aligned as possible to the planned Australian Carbon Pollution Reduction Scheme, with, where possible, common compliance regimes and tradability. Work is currently underway to examine certain policy options, including allocation methodologies and treatment of pre-1990 forest land (in particular, the possibility of introducing ‘offsetting’ or another flexibility mechanism).

In addition, there are a number of processes currently underway that are relevant to the review of the NZ ETS. The Emissions Trading Scheme Review Committee was established in December 2008 and has recently finished hearing submissions. The Committee is not expected to report for a number of weeks. The government is also undertaking work on possibilities for harmonisation with the Australian Carbon Pollution Reduction Scheme, and this may have implications for the design of the NZ ETS. This work programme is also ongoing. Accordingly, it will not be possible to develop new policy in these areas for some time.

However, there are a number of implementation dates in the CCRA which conflict with the development of new policy. The most pressing implementation dates are as follows:

1. **Forestry:** The Minister for Climate Change Issues has a duty to publish a Final Allocation Plan in respect of pre-1990 forest land before 30 June 2009. Exemptions from the pre-1990 forest land deforestation obligations have a legislated closing date of 30 June 2009.
2. **SEIP sector:** The SEIP sector will begin to accrue obligations under the NZ ETS from 1 January 2010. An allocation plan for this sector cannot sensibly be prepared until policy has been finalised. Under the current legislation, there is likely to be a significant time lag between obligations beginning to accrue and an allocation plan being finalised (and units transferred).

² A sector may have obligations to report on its emissions (but not surrender units) prior to its “entry” date.

3. **Agriculture sector:** At present, the CCRA requires a decision regarding the point of obligation for agriculture to be made by 30 June 2010. In practice, given that voluntary reporting for the agriculture sector is due to commence on 1 January 2011, a decision would need to be made, and discussed publicly, by December 2009 so that regulations, emissions factors and guidance material could be prepared in time.

Forestry sector

As regards the forestry sector, the main problem with the current situation is that it is not sensible to progress work on the Final Allocation Plan for pre-1990 forest land given that introduction of offsetting or another flexibility regime for pre-1990 forests may require a revision of the Forestry Allocation Plan and reconsideration of the exemption rules. However, the current legislation requires that the Final Allocation Plan is published before 30 June 2009.

In order to comply with the legislation, the government would have to publish a Final Allocation Plan that is likely to be inconsistent with the new policy it wishes to develop. This would leave the government in a position where it later introduces amending legislation that alters the basis on which allocation is made. This would create unnecessary confusion within the forestry sector. Continuing with the existing allocation would also come at a significant fiscal cost to the Crown if the allocation of free NZ Units proceeded at the level provided (the existing draft Forestry Allocation Plan provides for the free allocation of 55 million NZ Units at a total fiscal cost of \$1.375 billion³), as well as introducing a new policy enabling greater flexibility for pre-1990 forest land.

3.2. SEIP SECTOR

Preserving the status quo could place an unreasonable burden on the SEIP sector. Even if the idea of developing new allocation policy was abandoned immediately, and the development of an allocation plan was begun straight away, it would take at least 12 to 18 months to develop an allocation plan and allocate units (i.e. June to December 2010). Given that the SEIP sector is currently scheduled to enter the NZ ETS on 1 January 2010, obligations would begin accruing well before eligibility to receive units. This would cause cash-flow and planning issues for significantly affected firms.

In particular, if a participant does not know how many units it will receive through allocation, then that participant will not know how many units to purchase (or sell). Under the current timeframes, the first surrender date for the SEIP sector would be 30 April 2011. In the normal course of events, a participant would expect to surrender units equal to its emissions for a particular year – with the units surrendered being made up of any allocation it receives, plus purchased units to make up the balance. If the allocation is not known until shortly before surrender date, then this makes the purchasing process difficult.

A number of submitters from the SEIP sector expressed concern to the Emissions Trading Scheme Review Committee about the current timetable for the sector. One submitter noted the uncertainty around allocation eligibility and allocation volume, and the difficulties of managing the inevitable cash-flow and profitability implications. The same submitter noted that “we are convinced that no eligible trade-exposed business will receive final notification of its allocation before the end of 2010 – making responsible budgeting, cash flow

³ Based on carbon price of \$25/tonne.

management, and trading risk management effectively impossible. This will cripple the NZ ETS and harm our economy.”

Another submitter noted that “Trade-exposed industry is awaiting a draft allocation plan and [the submitter] is concerned that allocations to trade-exposed companies will not have been confirmed until after the SEIP sector's primary obligations are due to take effect on 1 January 2010, creating significant cost uncertainty until those allocations are confirmed.”

3.3. AGRICULTURE SECTOR

The CCRA leaves open the question of whether the point of obligation for the agriculture sector will be at processor level or farm level (but defaults to a processor level point of obligation if a contrary decision is not made by 1 July 2010). In practical terms, the current timeframes set out in the CCRA would require a decision regarding the point of obligation for the agriculture sector to be made by December 2009. Consideration of the appropriate point of obligation for the agriculture sector is ongoing. Many of the agriculture sector submissions to the Emissions Trading Scheme Review Committee focussed on the point of obligation for the sector. In particular, many submitters favoured a farm level point of obligation over a processor level point of obligation. There are, however, significant practical difficulties in implementing a farm level point of obligation. The current timetable does not provide much flexibility to consider these issues.

4. Objectives

The objective of the proposal is to make the minimum changes to the CCRA necessary to allow design elements of the NZ ETS to be reviewed and new policy to be developed whilst minimising fiscal and economic costs.

In order to achieve this objective, it will be necessary to balance competing considerations. On the one hand, there is a need for certainty on the part of participants and consumers. On the other hand, decision-makers require a level of flexibility in order to develop new policy in response to current developments.

5. Alternative Options

5.1. FORESTRY SECTOR

In respect of pre-1990 forest land, the alternative is to not pass any amending legislation and let the 30 June 2009 date lapse. The date could be amended retrospectively, possibly when and if broader legislative amendments are introduced following the Select Committee process.

However this course of action carries with it a risk of legal challenge.

In addition to the legal risk, not passing amending legislation at this time will create significant confusion for forest owners who may be contemplating applying for either an exemption or allocation, particularly as the basis for allocation or obtaining an exemption may change substantially in the future.

5.2. SEIP SECTOR

In respect of the SEIP sector, the immediate problem could be resolved by simply amending the legislation to specify a later entry date.

A problem with this option is that it would impose a fiscal cost in the order of \$200m per year. This fiscal cost arises because the Crown has to account for all emissions above 1990 levels during the first commitment period of the Kyoto Protocol, and surrender Kyoto units in respect of those emissions. If the entry of the SEIP sector is delayed, then participants in that sector will not have to account for their emissions in the first half of 2010 (and will surrender fewer units), leaving the full compliance burden with the Crown.

A refinement to this option would be to offset the delay in the entry date of the SEIP sector by bringing forward the entry date of another sector. For example, the SEIP sector could be delayed by 6 months and the liquid fossil fuels sector brought forward by 6 months so that both sectors enter the NZ ETS on 1 July 2010. This change would result in a net fiscal gain of approximately \$80m.

An advantage of amending entry dates to specify new entry dates is that this creates a high level of certainty. However, this option does not offer much flexibility. Flexibility is important because there are a number of relevant processes that are underway which have uncertain outcomes and timing. In particular, it may be desirable to make adjustments to the NZ ETS in order to align with the Australian CPRS, and the final shape of the CPRS may not be clear for some time.

If the CCRA was amended to specify a later entry date for the SEIP sector, it is possible that the new date would subsequently need to be amended to adapt to further policy developments. A need for further amendment to the CCRA would damage the credibility of the NZ ETS and create greater uncertainty.

A further option would be to adjust the entry date for the SEIP sector and all other sectors (apart from forestry) by removing the existing entry dates from legislation, and providing that new entry dates can be specified by way of Order in Council, subject to constraints regarding the earliest and latest dates on which any sector could enter the NZ ETS

The option of constraining the Order in Council process by specifying earliest and latest entry dates is not favoured because it restricts flexibility and because the latest date specified may become the sectoral entry date by default.

5.3. AGRICULTURE SECTOR

The dates in the CCRA could be left unchanged. The existing timeframes could be achieved if the point of obligation remains at the processor level. However, this would make it difficult to adopt a farm level point of obligation at this stage. Given the strong preference from the agriculture sector for a farm level point of obligation, an option that makes it difficult to consider the possibility of a farm level point of obligation at this stage is not favoured.

6. Preferred Option

6.1. FORESTRY SECTOR

The preferred option for the forestry sector is to amend the pre-1990 forest land provisions of the CCRA as follows:

1. Remove the 30 June 2009 due date for the “less than 50ha” exemption applications, and replace this deadline with a date to be specified in regulations or public notice.
2. Amend the CCRA to allow for the delay or revocation of the draft Forestry Allocation Plan while the Government considers offsetting.
3. Amend the date for the first notification of deforestation for pre-1990 forest land to 31 January 2010 (currently 31 January 2009).
4. Amend the first surrender deadline for pre-1990 land to 30 April 2011 (currently 30 April 2010).

These amendments are favoured because the government has indicated that it wants to consider greater flexibility for pre-1990 forests in the ETS, including offsetting. Offsetting is likely to require a revision to the draft Forestry Allocation Plan and reconsideration of the exemption rules. The Minister for Climate Change Issues has a duty to publish a Final Allocation Plan before 30 June 2009 under the Act. An urgent amendment to the Act is therefore required to create the space for the Government to consider offsetting and its implications without having to proceed with the current draft Forestry Allocation Plan.

The purpose of the amendments is to create a delay so as to allow policy to be developed and implemented. Any change to existing rules brings an element of confusion. However, the uncertainty is mitigated by replacing existing dates with clearly specified new dates. Accordingly, the risks associated with this delay are considered to be low. The risks associated with any policy that is ultimately developed and implemented (during the delay created by the current proposals) are not considered in this impact statement.

The proposed amendments to the CCRA in respect of pre-1990 forest land would not affect any other existing rules (aside from those contained currently in the CCRA and which are being amended as described above).

6.2. SEIP SECTOR

The preferred option in relation to the SEIP sector is to amend the CCRA so that the date from which the SEIP sector accrues an obligation to surrender units under the NZ ETS is no longer specified in the CCRA. Instead, an empowering provision would be inserted into the CCRA that enables the entry date to be specified by way of Order in Council. The ability to bring in the SEIP sector to the NZ ETS via Order in Council would be subject to the restriction that a minimum period of 6 months notice should be provided prior to the sector entering the NZ ETS.

The proposed amendments are favoured to reduce the time-lag between participants in the SEIP sector accruing obligations and them becoming eligible to receive units under an

allocation plan. Reporting obligations for the SEIP sector would remain in place meaning that some momentum would be maintained.

Delaying the SEIP sector would have a fiscal impact of \$200m per year. To mitigate this cost, it may be desirable to bring forward the entry date for another sector. For example, the entry date for liquid fossil fuels could be brought forward. This possibility is discussed in further detail below.

As noted above, there is support from the SEIP sector for a delay in the entry date for the sector. However, there are some participants who will be concerned about the uncertainty introduced with the Order in Council power. There are expected to be 80 participants in the SEIP sector. One energy sector submitter to the Emissions Trading Scheme Review Committee noted that “the mechanism through which a price of carbon is introduced is less important to [the submitter]. What really matters to us is certainty over the timing of the introduction of that price because a lack of certainty influences the nature and timing of our generation investment.”

On balance, the flexibility offered by the Order in Council process is considered sufficiently important to outweigh the uncertainty involved in the Order in Council process.

The proposed amendments to the CCRA in respect of the SEIP sector would not affect any other existing rules (aside from those contained currently in the CCRA and which are being amended as described above).

6.3. EXTENSION OF ORDER IN COUNCIL PROCESS TO ALL SECTORS OTHER THAN FORESTRY

It is further proposed that a flexible approach to amending entry dates is adopted for all sectors other than forestry as this would allow the government to delay entry dates or bring entry dates forward depending on other relevant policy developments. The ability to bring in sectors other than forestry into the NZ ETS via Order in Council would be subject to the same 6 month notice restriction mentioned above, and to the further restriction that it would not be possible for agriculture to enter the NZ ETS before 1 January 2013.

In order to manage the fiscal implications of changing entry dates, it is proposed to signal that the entry date for SEIP will be delayed 6 months (from 1 January 2010 to 1 July 2010) and that the entry date for the liquid fossil fuels sector will be brought forward 6 months (from 1 January 2011 to 1 July 2010). By contrast, if entry of the SEIP sector was delayed by 12 months to 1 January 2011, and the liquid fossil fuels sector entered the scheme on 1 January 2011 as currently scheduled, there would be a negative fiscal impact of \$200m.

Liquid fossil fuels

As noted above, it is proposed that an entry date for the liquid fossil fuels sector of 1 July 2010 would be signalled. There are expected to be between 6 and 10 participants in this sector. The economic impacts of bringing the entry date for the liquid fossil fuels sector forward by 6 months are likely to be very small and are difficult to quantify. Bringing the sector in early transfers the Kyoto liability for emissions for those six months from the Crown to the sector. This liability is estimated to be approximately \$180 million which would be raised through taxes if the government were to pay. If the cost is transferred to the sector, most of it will be passed on to the consumer as fossil fuels use is highly inelastic. So consumers will bear the cost through increased fuel costs rather than increased taxes. A carbon price of \$25/tonne will result in a rise of approximately 6 c/l for petrol.

However there would be a modest reduction in demand for fuel in response to higher prices once a carbon charge is brought in. Although there is some lack of clarity in the data on price elasticity, for every 10 percent increase in petrol prices, medium to long term fuel demand could fall by 1-3 percent. This will reduce output and profits for the industry by a small amount, but will also reduce New Zealand's Kyoto liability (a carbon price of \$25 would reduce transport sector emissions by 0.6 percent). The reduction in emissions means that the total cost that consumers pay in higher fuel prices will be slightly less than the taxes they would have paid if the government had funded the liability. The distributional effects would be different; businesses and families with high fuel use may well suffer greater effect as the cost will be related to fuel use rather than income. However the expected overall result is a small net benefit to the economy.

Firms also incur reporting and compliance costs associated with emissions trading. Mandatory reporting for the liquid fossil fuels sector is required for the year 2010, so bringing the date of entry forward will not impose any additional costs to the industry in this regard.

Waste, agriculture and synthetic gases

There are no specific proposals as to how the Order in Council process would be used in respect of the waste, agriculture or synthetic gases sectors. However, the ability to bring in these sectors via the Order in Council power does create an element of uncertainty.

There are expected to be 60 participants in the waste sector, either 50 or 40,000 participants in the agriculture sector (depending on whether the point of obligation is set at processor level or farm level) and in excess of 1,000 participants in the synthetic gases sector. It is difficult to quantify the impact of uncertainty on participants. However, it is clear that it will be more difficult for these sectors to plan investment decisions if they do not know when they will enter the NZ ETS, and that there could be a cost associated with this uncertainty.

The uncertainty associated with the Order in Council process is recognised, and it is proposed that the uncertainty should be mitigated to the extent possible. In particular, the requirement to provide at least 6 months notice before bringing a sector into the NZ ETS decreases the uncertainty.

Implications for the wider economy

In terms of the wider economy, one consequence of the uncertainty is that there may be delays to investment into low-carbon technologies or activities. Uncertainty would have a negative impact on the New Zealand economy if the international community continues moving towards imposing financial penalties for high-carbon activities.

It is difficult to quantify the impact of uncertainty on the New Zealand economy. A submitter to the Emissions Trading Scheme Review Committee stated that "lack of policy certainty...is stalling hundreds of millions in investments (forestry, clean energy and biotech) which will benefit from having a price on carbon". It is difficult to assess the accuracy of this statement. It is also noted that this statement was made in the context of general policy uncertainty surrounding the NZ ETS and the possibility of abandoning the scheme in favour of a different mechanism (such as a carbon tax). The Order in Council process involves a more constrained type of uncertainty – that is, uncertainty as to when surrender obligations will come into effect – so the impacts of this more constrained uncertainty would be expected to be smaller than for the broader uncertainty with which the submitter was concerned.

As noted above, the uncertainty associated with the Order in Council process is recognised, and it is proposed that the uncertainty should be mitigated to the extent possible. In particular,

the requirement to provide at least 6 months notice before bringing a sector into the NZ ETS decreases the uncertainty.

There would also be fiscal costs if the entry dates for the waste, agriculture or synthetic gases sectors that are set via the Order in Council power are later than the dates currently set out in the CCRA. It is estimated that a delay in the introduction of the synthetic gases sector would cost approximately \$20m per year. A delay to entry of the agriculture sector is estimated at approximately \$150m in 2013, increasing to \$350m per year in 2020 (as allocation is phased out). A delay to entry of the waste sector is estimated as costing \$30m per year.

Concluding remarks

In summary, the Order in Council process offers a high level of flexibility but also brings some uncertainty. That uncertainty is likely to have a cost, albeit one that is difficult to quantify. On balance, the ability to adapt to relevant policy developments is considered sufficiently important to warrant the level of uncertainty (and possible associated economic costs) involved in the Order in Council process.

6.4. AGRICULTURE SECTOR

The preferred option in respect of the agriculture sector is to amend the CCRA so that the decision regarding the point of obligation for the agriculture sector and reporting dates can be specified by way of Order in Council. This would provide flexibility as to timing, thereby allowing consideration of the advantages and disadvantages of a farm level point of obligation compared to a processor level point of obligation.

It is also proposed to introduce a broad power to allow the government to take a staged approach to introducing a farm-level point of obligation. Moving to a farm-level point of obligation will create significant administrative challenges because of the large number of participants that must be registered. Accordingly, it will be helpful to be able to stage the transition to the farm-level. For example, reporting obligations might be commenced one sector at a time or by size of farm.

Like the proposed sector entry date amendment, the ability to make decisions via the Order in Council process on point of obligation and reporting for the agriculture sector does introduce an element of uncertainty for the sector. Again, that uncertainty is likely to have some cost associated with it. The uncertainty will be mitigated by a requirement to provide 12 months notice between any decision regarding the point of obligation and the commencement of reporting for the agriculture sector.

Again, on balance, it is considered that the flexibility offered by the Order in Council process is sufficiently important to warrant the level of uncertainty associated with it.

7. Implementation and Review

It will be important to inform the various sectors of the changes to compliance and entry dates. Plans are in place to undertake these communications.

Sectors (other than forestry) will be brought into the NZ ETS via Order in Council. If the SEIP and liquid fossil fuels sectors are to be brought into the NZ ETS on 1 July 2010, the Order in Council will need to be gazetted by the end of December 2009. The proposal to bring the SEIP and liquid fossil fuels sectors into the NZ ETS on 1 July 2010 will require further consideration before a final decision is adopted.

8. Consultation

A draft of this Regulatory Impact Statement was circulated to the following departments for comment: the Treasury, the Ministry for Agriculture and Forestry, the Ministry of Economic Development, the Ministry of Foreign Affairs and Trade, the Ministry of Transport, the Department of Prime Minister and Cabinet and Te Puni Kokiri. The Ministry of Agriculture and Forestry provided comments which were incorporated into the Statement.

Stakeholders were not consulted due to the high level of sensitivity associated with the proposed changes to the CCRA. However, a number of relevant observations were made in the course of oral submissions recently heard by the Emissions Trading Scheme Review Committee. A number of submitters expressed concern about the level of uncertainty surrounding the NZ ETS at present, and suggested that there may be economic costs associated with this delay, particularly in terms of deferred and/or foregone economic investment. Other submitters, especially in the SEIP sector, expressed concern that current entry dates are unrealistic and need to be delayed, especially given that allocation plans have not been issued. Many submitters supported reviewing existing policy settings in the NZ ETS – particularly with regard to allocation and pre-1990 forestry. Some submitters advocated delaying the NZ ETS until review of the existing policy settings had been completed.