



Ministry for the
Environment
Manatū Mō Te Taiao

APPROVED FOR RELEASE

Joint Briefing: Deforestation from Natural Causes under the NZ ETS

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	Action Sought	Relevant dates
Minister for Climate Change issues Hon Dr Nick Smith	Note the contents of this brief	None
Minister of Agriculture and Forestry Hon David Carter	Note the contents of this brief	None

Contacts for Telephone Discussion (if required)

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Purpose

1. The purpose of this brief is to clarify the treatment of deforestation resulting from natural disturbances in the Climate Change Response Act 2002 (the Act).

Background

1. A stakeholder, **[withheld]**, has written to the Minister of Forestry and the Minister for Climate Change Issues to express concerns about the Act's treatment of deforestation from natural causes of pre-1990 forest land.
2. **[withheld]**. They argue that the potential carbon liability they face if they do not replant their forest is forcing them to make a suboptimal decision about land use.
3. The Minister for Climate Change Issues has requested clarification about the treatment of deforestation from natural causes in the Act for both pre-1990 and post-1989 forest land.

Key Points

Pre-1990 forests

4. New Zealand faces liabilities for any deforestation that takes place on pre-1990 forest land. If, however, the forest was destroyed by natural causes this does not constitute deforestation under the Kyoto Protocol.
5. Owners of pre-1990 forests are required to become participants of the Emissions Trading Scheme if their land is not exempt, and is deforested. A given hectare of forest is considered deforested:
 - if after four years the land has not: (1) naturally regenerated sufficiently to contain at least 500 stems of forest species per hectare; or (2) been replanted with at least 500 stems of forest species per hectare; or
 - if there has been a change in land use prior to (1) or (2) being achieved.
6. The liability that a forest owner would face, if they meet the definition of deforestation given in paragraph 5, would equal the total amount of carbon released into the atmosphere from the deforestation generated by the natural event.
7. It is possible that some forests destroyed by natural causes may not naturally regenerate sufficiently over four years to avoid being classified as deforested. In the event natural regeneration did not occur, the forest owner would need to either: (1) replant the area; or (2) surrender NZUs to meet the resulting liability.
8. If offsetting is included in a future international climate change agreement, the government has signalled that it intends to allow foresters to offset under the Act. In this case, foresters would have an additional option of planting an equal sized forest elsewhere.
9. While the Kyoto Protocol and the Act treat deforestation from natural causes differently, there are two reasons this difference is desirable. The first is that including an exemption for natural deforestation would potentially weaken the government's ability to ensure adequate compliance. Foresters might attempt to take advantage of this

loophole by omitting to take actions to minimise the risk of natural deforestation. Resolving these issues would probably require costly litigation. For example they may fail to take adequate measures to protect from fire, windthrow or erosion.

10. The second is that it is unlikely that deforestation from natural causes will have a significant impact on pre-1990 forest owners as a whole because historically only a small proportion (approximately 0.11% per year) of New Zealand's forestry estate has been destroyed by natural events. Further, in most cases where clearance occurs, the forest will naturally regenerate within four years and hence remain forest land for the purpose of the Act and not incur deforestation liabilities.
11. Nonetheless, deforestation from natural causes may have a significant effect on a small number of individual forest owners. This is because natural deforestation is often concentrated and therefore would have a significant impact on a single area at a single point in time.
12. Even where pre-1990 forest owners suffer significant losses from natural events, it is unlikely that they will face large carbon liabilities because in most cases – even ignoring the cost of the carbon liability – the most profitable response to a natural deforestation event is to replant the forest.
13. In addition, individual forest owners are able to partially address the risk of incurring carbon liabilities by taking out insurance policies to cover damage from a number of issues. However, only partial coverage is cost effective and there is no current insurance product that covers forest owners for carbon loss due to snow damage.
14. In the event deforestation from natural events proves to be problematic the Act provides for an exemption from these deforestation liabilities for pre-1990 forest land. Section 60 of the Act allows the Governor-General, on advice from the Minister of Climate Change to grant by Order in Council exemptions to people or groups of people provided that the Minister is satisfied: (1) the order will not materially undermine the environmental integrity of the Act; and (2) the costs of the order do not exceed the benefits. Officials consider that the provisions under section 60 of the Act are sufficient to deal with situations where deforestation has occurred from natural events.

Post 1989 forests

15. New Zealand earns carbon credits for the carbon sequestration that occurs in post-1989 forests. It also faces liabilities for the carbon emissions that take place in post-1989 forests regardless of cause. However, New Zealand's liability from harvesting a post-1989 forest cannot exceed the credits earned from that forest.
16. The Act does not require owners of post-1989 forests to take part in the Emissions Trading Scheme. If they elect to participate in the Emissions Trading Scheme, they are able to earn NZUs from their forestry activities. They must also retire NZUs when they emit carbon through their forestry. However, their liabilities are capped so that the amount of credits they are liable for, for a given piece of forest land, cannot exceed the amount of credits they have earned from that piece of forest land. Forest owners should weigh up the risks of carbon losses from natural events against their ability to mitigate or insure against them when making their decision on whether to enter the ETS.
17. For the same reasons that natural deforestation is not expected to be significant for pre-1990 forests on the national level, natural deforestation of post-1989 forests is not expected to be significant.

18. When a natural disaster causes clearing of post-1989 forest land that is part of the ETS, the forest owner faces a liability for the carbon that was released from this event. However their liability is limited to NZUs they have earned for that forest land. Further, if they replant the forest, a proportion of their liability will be offset by the credits generated from their new forest.

Recommendations

We recommend that you note the contents of this brief.

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