



Climate Change (Forestry Sector) Amendment Regulations 2010

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 28th day of June 2010

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 163, 168, and 184 of the Climate Change Response Act 2002, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister for Climate Change Issues made after complying with the requirements of sections 3A(g) and 166(1) and (2) of the Climate Change Response Act 2002, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the Climate Change (Forestry Sector) Amendment Regulations 2010.
- 2 Commencement**
 - (1) Regulations 9 and 12 come into force on the day after the date of their notification in the *Gazette*.
 - (2) The rest of these regulations come into force on 1 October 2010.
- 3 Principal regulations amended**
These regulations amend the Climate Change (Forestry Sector) Regulations 2008.

4 Interpretation

- (1) Regulation 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**basal area** means the cross-sectional area of the stem of a tree measured over bark at a point that is 1.4 metres from ground level on the uphill side of the tree and expressed in square metres

“**predominant forest species**, in relation to an area of forest land, means the particular forest species with the greatest total basal area”.

- (2) Regulation 4(1) is amended by revoking the definition of **regenerate** and substituting the following definition:

“**regenerate** means the commencement of growth of seedlings that are present as a result of a process other than planting”.

5 New regulation 5 substituted

Regulation 5 is revoked and the following regulation substituted:

“5 Rounding rules

- “(1) If a participant is required under these regulations to collect information or calculate emissions or removals in relation to an area in hectares, the area must include any fraction of a hectare rounded to 1 decimal place by—

“(a) expressing the area as a decimal number truncated to 2 decimal places; and

“(b) if the number in the second decimal place—

“(i) is 5 or more, increasing the number in the first decimal place by 1; or

“(ii) is less than 5, leaving the number in the first decimal place unchanged.”

- “(2) For the purposes of calculating—

“(a) total emissions for deforestation of pre-1990 forest land under regulation 15, the total emissions in tonnes of carbon dioxide must be rounded to the nearest whole tonne; or

“(b) emissions or removals from a carbon accounting area under regulation 20(1), the emissions or removals must

be rounded to the nearest whole tonne of carbon dioxide.

- “(3) If the emissions or removals in tonnes of carbon dioxide consist of a whole number and half a tonne, the tonnage must be rounded up to the nearest whole tonne.”

6 Rules for application of tables in Schedule 4

- (1) Regulation 16(d), including the example, is revoked.
- (2) Regulation 16 is amended by revoking paragraph (f), including the example, and substituting the following paragraph:

“(f) if a hectare of forest land contains trees of mixed ages, the age of the trees is to be calculated as a weighted average by—

 - “(i) determining—
 - “(A) the total basal area of all the trees; and
 - “(B) the total basal area of the trees of each age group; and
 - “(C) the fraction of the total basal area of each age group with respect to the total basal area of all the trees (by dividing the value obtained under subsubparagraph (B) by the value obtained under subsubparagraph (A)); and
 - “(ii) for the trees of each age group, multiplying the age of the age group by the value obtained in subparagraph (i)(C); and
 - “(iii) adding together the results for all the age groups:

Example

A participant has a hectare of intermingled *Pinus radiata* of 2 ages: 30-year-old trees and 15-year-old trees. The 30-year-old trees comprise 70% of the total basal area and the 15-year-old trees comprise 30% of the total basal area. The age of the trees is their basal area-weighted average age of 25.5 years $((30 \text{ years} \times 0.7) + (15 \text{ years} \times 0.3) = 25.5 \text{ years})$, which is rounded to 26 years.

- (3) Regulation 16 is amended by adding the following paragraph:

- “(h) if a hectare of forest land contains trees of both mixed species and mixed ages, the average age of the trees in that hectare—
 - “(i) is that of the predominant forest species; and
 - “(ii) is determined in the manner specified in paragraph (f) by using values of the basal area for the predominant forest species only.”

7 Calculation of carbon stock

The definition of Y in regulation 21(3) is amended by adding “(including the year in which the trees were cleared)”.

8 Rules for application of tables in Schedule 6

- (1) Regulation 22 is amended by revoking paragraph (b), including the example, and substituting the following paragraph:
 - “(b) if a tree that is an exotic species regenerates on land from which a forest species has been cleared, and the regeneration occurs in the same calendar year as the clearing, the tree is to be treated for the purposes of paragraph (a) as having regenerated in the year following the year in which the forest species was cleared:

Example

An area of post-1989 forest land contains regenerating *Pinus radiata*. The *Pinus radiata* was last felled in 2008. For the purposes of determining the age of the trees under paragraph (a), the current *Pinus radiata* is treated as having regenerated in 2009.

- (2) Regulation 22(d), including the example, is revoked.
- (3) Regulation 22 is amended by revoking paragraph (f), including the example, and substituting the following paragraphs:
 - “(f) if a hectare of forest land contains trees of mixed ages and paragraph (fa) does not apply, the age of the trees is to be calculated as a weighted average by—
 - “(i) determining—
 - “(A) the total basal area of all the trees; and
 - “(B) the total basal area of the trees of each age group; and

- “(C) the fraction of the total basal area of each age group with respect to the total basal area of all the trees (by dividing the value obtained under subsubparagraph (B) by the value obtained under subsubparagraph (A)); and
- “(ii) for the trees of each age group, multiplying the age of the age group by the value obtained in subparagraph (i)(C); and
- “(iii) adding together the results for all the age groups:

Example

A participant has a hectare of intermingled *Pinus radiata* of 2 ages: 30-year-old trees and 15-year-old trees. The 30-year-old trees comprise 70% of the total basal area and the 15-year-old trees comprise 30% of the total basal area. The age of the trees is their basal area-weighted average age of 25.5 years $((30 \text{ years} \times 0.7) + (15 \text{ years} \times 0.3) = 25.5 \text{ years})$, which is rounded to 26 years.

- “(fa) if a hectare of forest land contains regenerating indigenous forest species of mixed ages as the predominant forest species, the age of all of the trees in that hectare is calculated from the time since regeneration of the first of the indigenous forest species in that hectare began.”.
- (4) Regulation 22 is amended by adding the following paragraph:
 - “(i) if a hectare of forest land contains trees of both mixed species and mixed ages, the average age of the trees in that hectare—
 - “(i) is that of the predominant forest species; and
 - “(ii) is determined—
 - “(A) in the manner specified in paragraph (f) by using values of the basal area for the predominant forest species only; or
 - “(B) in the case of regenerating indigenous forest, in accordance with paragraph (fa).”

9 New heading and regulations 23 to 28 inserted

The following heading and regulations are inserted after regulation 22:

*“Tree weed exemptions***“23 Designation of certain trees as tree weeds**

For the purposes of section 184(9)(b) of the Act, the trees listed in Schedule 7 are tree weeds.

“24 Applications for declarations of exempt land

An application under section 184(3) of the Act for a declaration that pre-1990 forest land specified in the application is exempt land must be accompanied by the following information, in addition to the information required by section 184(4) of the Act:

- “(a) the name and contact details of the applicant; and
- “(b) documentation to establish the legal interest of the applicant in the pre-1990 forest land, including,—
 - “(i) if the applicant is the landowner,—
 - “(A) a copy of the computer freehold register for the pre-1990 forest land; or
 - “(B) if there is no computer freehold register for the pre-1990 forest land, documentation that gives evidence of the applicant’s interest in that land, such as the relevant Maori Land Court records; or
 - “(ii) if the applicant is a third party for the purpose of section 180 of the Act, further documentation to verify the applicant’s status as an eligible third party; and
- “(c) the name and contact details of a person who is able to grant access to the pre-1990 forest land for the purpose of determining any matter relevant to the application; and
- “(d) a declaration that, in relation to the pre-1990 forest land, the applicant—
 - “(i) has not applied for, or been granted, an allocation of units under section 77 of the Act; and
 - “(ii) has not applied for, or been granted, a declaration that the pre-1990 forest land is exempt land under section 183 of the Act; and

- “(e) a declaration that all the information provided with the application is true and accurate to the best of the applicant’s knowledge and belief.

“25 Further information required in relation to application

- “(1) An application made under section 184(3) of the Act must, in relation to the pre-1990 forest land specified in the application, include the following information:
 - “(a) the tree weed species to which the application relates; and
 - “(b) the legal description of the pre-1990 forest land where the applicant proposes to undertake deforestation of tree weeds; and
 - “(c) the total area in hectares of the pre-1990 forest land for which the applicant seeks a declaration that the land is exempt land; and
 - “(d) the geospatial mapping information about the pre-1990 forest land; and
 - “(e) any relevant characteristics in relation to the risk of seed dispersal, including (but not limited to)—
 - “(i) the topography and slope of the pre-1990 forest land;
 - “(ii) the direction of the prevailing wind and the exposure of the pre-1990 forest land to wind;
 - “(iii) the use of any other land within 2 kilometres of the boundary of the pre-1990 forest land specified in the application.
- “(2) An applicant may include any other relevant information that the applicant considers ought to be taken into account in determining the application.

“26 Information required in relation to land under statutory protection or control

- “(1) This regulation applies if any part of the pre-1990 forest land specified in the application is within an area for which there is—
 - “(a) a pest management strategy, as defined in section 2(1) of the Biosecurity Act 1993; or

- “(b) a plan, policy, standard, or other document relating to the management of tree weeds prepared under any other enactment.
- “(2) The application must include the name of the strategy, plan, policy, standard, or other document referred to in subclause (1).
- “27 Information required in relation to land within or near legally protected area**
- “(1) This regulation applies if an applicant knows that any part of the pre-1990 forest land specified in the application—
- “(a) is within a protected area; or
- “(b) is within 2 kilometres of a protected area.
- “(2) The application must include the name of the protected area and the statutory basis for its protection.
- “(3) In this section, **protected area** means an area where the natural, cultural, or historic values of the area are protected under an enactment.
- “28 Other documentation to be included with application**
- If a notice of any kind has been issued, or any other action taken, under any enactment against the applicant or any other person to require clearance of tree weeds on the pre-1990 forest land specified in the application, a copy of the notice or other documentation must be included with the application.”
- 10 Schedule 5 amended**
- (1) Schedule 5 is amended by omitting “188(2)” in each place where it appears and substituting in each case “188(3)”.
- (2) Schedule 5 is amended by omitting “192(2)” and substituting “192(3).”
- (3) Schedule 5 is amended by omitting “193” and substituting “192(3)”.
- 11 Schedule 6 amended**
- Table 2 of Schedule 6 is amended by omitting the figures in the indigenous forest column and substituting the figures set out in Schedule 1 of these regulations.

12 New Schedule 7 added

The Schedule 7 set out in Schedule 2 of these regulations is added.

Schedule 1
Amendment to table 2 of Schedule 6

r 11

Age (yrs)	Douglas fir	Exotic softwoods	Exotic hardwoods	Indigenous forest
1				0.6
2				1.2
3				2.5
4				4.6
5				7.8
6				12.1
7				17.5
8				24.0
9				31.6
10				40.2
11				49.8
12				60.3
13				71.5
14				83.3
15				95.5
16				108.1
17				120.8
18				133.6
19				146.3
20				158.7
21				170.9
22				182.6
23				193.9
24				204.7
25				215.0
26				224.6

Age (yrs)	Douglas fir	Exotic softwoods	Exotic hardwoods	Indigenous forest
27				233.7
28				242.2
29				250.1
30				257.5
31				264.3
32				270.6
33				276.3
34				281.6
35				286.5
36				290.9
37				295.0
38				298.7
39				302.0
40				305.1
41				307.8
42				310.4
43				312.6
44				314.7
45				316.5
46				318.2
47				319.7
48				321.1
49				322.3
50				323.4

Schedule 2
New Schedule 7 added

rr 9, 12

Schedule 7
Forest species that are tree weeds

r 23

Alder species (*Alnus* spp)

Ash (*Fraxinus excelsior*)

Birch species (*Betula* spp):

Hairy/White birch (*B. pubescens*)

Silver birch (*B. pendula*)

Cedar species (*Cedrus* spp):

Atlas cedar (*C. atlantica*)

Deodar cedar (*C. deodara*)

Douglas fir (*Pseudotsuga menziesii*)

Larch species (*Larix* spp):

European larch (*L. decidua*)

Japanese larch (*L. kaempferi*)

Lawson's cypress (*Chamaecyparis lawsoniana*)

Leyland cypress (*Cupressocyparis leylandii*)

Pine species (*Pinus* spp):

Big cone pine (*P. coulteri*)

Bishop pine (*P. muricata*)

Contorta or lodgepole pine (*P. contorta*)

Corsican pine (*P. nigra*)

Dwarf mountain pine (*P. mugo*)

Maritime pine (*P. pinaster*)

Mexican weeping pine (*P. patula*)

Mountain pine (*P. uncinata*)

Ponderosa pine (*P. ponderosa*)

Radiata pine (*P. radiata*)

Scots pine (*P. sylvestris*)

Western white pine (*P. monticola*)

Poplar species (*Populus* spp)

Redwood (*Sequoia sempervirens*)

Rowan (*Sorbus aucuparia*)

Sierra redwood (*Sequoiadendron giganteum*)

Sycamore (*Acer pseudoplatanus*)

Western hemlock (*Tsuga heterophylla*)

Western red cedar (*Thuja plicata*)

Wild cherry or gean (*Prunus avium*)

Willow species (*Salix* spp):

Crack willow (*S. fragilis*)

Grey willow (*S. cinerea*)

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Climate Change (Forestry Sector) Regulations 2008.

Regulations 9 and 12 come into force on the day after the date of their notification in the *Gazette*. They prescribe the information that must be provided in any application for a declaration that land is exempt land for the purpose of clearing tree weeds; and designate the species that are tree weeds for this purpose.

The rest of these regulations come into force on 1 October 2010. They refine the rules regarding the calculation of carbon stock and adjust the carbon sequestration rate figures for indigenous forests.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 1 July 2010.

These regulations are administered by the Ministry of Agriculture and Forestry.
